

Introduction to Hybrid Bills

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What is a hybrid Bill?



- A public Bill which affects a particular private interest in a manner different from the private interest of other persons or bodies of the same category or class
- A hybrid Bill is subject to petition and scrutiny before Select Committees of both Houses additional to the normal stages in the enactment of a public Bill
- A hybrid Bill attracts the provisions of Standing Orders relating to private business – eg HC SO27A (environmental assessment) and HC SO224A (public comments on environmental statement)

Hybrid Bills in modern times



- Three hybrid Bills enacted since 1992
 - Channel Tunnel Rail Link Bill (enacted 1996)
 - Crossrail Bill (enacted 2008)
 - High Speed Rail (London – West Midlands) Bill (enacted 2017)
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Forthcoming hybrid Bills



- Queen’s Speech - High Speed Rail (West Midlands – Crewe) Bill – Phase 2a of HS2
 - This Parliament - High Speed Rail Phase 2b Bill?
 - Crossrail 2 Bill?
 - HS3 Bill?
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Characteristics of modern hybrid Bill



- Railway Bill promoted and sponsored by Government
 - Inappropriate for projects promoted by local government or private interests (Heathrow third runway, local mass transit schemes - Planning Act 2008 or Transport and Works Act 1992)
 - Authorises works to construct and operate railway
 - Grants development consent (deemed planning permission)
 - Authorises compulsory purchase of land and rights required for Bill purposes
 - Authorises wide range of ancillary and incidental activities
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Characteristics of modern hybrid Bill



- Broadly speaking, applies compensation provisions of Land Compensation Acts
 - No special compensation regime for construction impacts
 - Section 10 Compulsory Purchase Act 1965 applies
 - No special compensation regime for operational impacts
 - Part 1 Land Compensation Act 1973 applies
 - Statutory blight regime applies under Town and Country Planning Act 1990
 - Government prefers to address generalised blight through non-statutory schemes
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Control of environmental impacts



- Established model is mixture of statutory and non-statutory measures
 - Existing environmental protection legislation
 - Control of Pollution Act 1974 – construction site licensing
 - Habitats Regulations 2010 – EPS licensing
 - Controls under hybrid Bill
 - Local highway authority approves lorry routes
 - Protective provisions for statutory regulatory bodies
 - Non-statutory controls
 - Environmental minimum requirements (EMRs)
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Environmental minimum requirements



- EMRs
 - Code of Construction Practice
 - Planning, environmental and heritage memoranda
 - Register of undertakings and assurances given by promoter in published information papers (IPs), letters of assurance, recorded in agreements or given directly to Parliament
 - Published in draft on introduction of Bill - negotiated or settled during passage of Bill through Parliament
 - Adopted at Royal Assent
 - Enforced through construction contracts or via Secretary of State
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Planning regime



- Bill seeks deemed planning permission
 - Broadly similar to outline planning permission
 - Detailed scheme for approval of detailed design, mitigation arrangements, construction arrangements and restoration of working sites by local planning authorities
 - Bill disapplies related regulatory controls (listed building consent, ancient monuments) and replaces with non – statutory regime under EMRs (heritage memorandum and heritage agreements)
 - Enforcement of planning control rests with LPAs
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Environmental impact assessment



- EIA Directive and 2017 Regulations procedures for EIA do not apply as Bill grants development consent upon enactment
 - Supreme Court decision in Buckinghamshire CC [2014]
 - Standing Orders 27A and 224A procedures fulfil the objectives of the EIAD, including as to public participation
 - Environmental statement to be deposited with Bill under SO 27A
 - Environmental information to be included as specified in schedule 4 to EIA Regulations 2017
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Information Papers



- Published on introduction of Bill into First House
 - Include wide range of policy commitments given by promoter on construction and operation of railway
 - Noise design, construction, operational and maintenance controls
 - Property policies – ground settlement, accommodation works
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Rights of specific private and local interests

- Right to petition both Houses seeking remedy or relief to protect that interest (eg amendment to Bill, commitments from promoter)
 - Petitions heard by Select Committee
 - Right may be exercised in both Houses
 - Oral procedure
 - Petitioner has right to begin and reply
 - Promoter has right to respond if Select Committee finds case to answer
 - Formal decisions of Select Committee published in Special Report
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Right to appear (locus standi)



- Persons whose property or interests are specially and directly affected by the Bill
- Select Committee has power also to admit local authorities and other established representative bodies
- Promoter has right to challenge locus standi before Select Committee in both Houses
- Standing is broadly similar to right to appear under section 11 of Transport and Works Act 1992
- Current practice on standing - House of Lords Select Committee on HS2 Phase One Bill (Special Report Appendix 2)

Jurisdiction of Select Committees



- Select Committee membership and terms of reference are set on instruction of House at Second Reading of the Bill
- Established convention that Select Committee may not question or hear petitions against the principle of the Bill
- Promoter not required to prove the expediency of the Bill (contrast TWAOs and, in absence of NPS, DCOs).
- Established convention that Second House Select Committee will not require the amendment of the Bill by way of an Additional Provision (i.e. broadly speaking, a rehybridising amendment)
- See HL Special Report on HS2 Phase One Bill at [21]-[26].

Scope of petitions and remedies



- Within these stated limits, Select Committees may make or direct wide ranging changes to the Bill
- Woolwich station and Liverpool Street station – Crossrail
- Removal of CPO power for redevelopment – HS2 Phase One
- Select Committee may also require policy change or action by Promoter
- Changes to non-statutory property protection – HS2 Phase One
- Select Committee acts as ‘honest broker’ – gives steer to parties following hearing of petition

