

A whistle-stop tour of HS2 proceedings

Meyric Lewis explains the procedure by which objectors to the high-speed rail link – and other hybrid bills – can present a parliamentary petition



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H S2 is coming. Two thousand petitions opposing it were heard in the House of Commons. Two challenges under EU environmental directives have been rejected, one by the Supreme Court. The House of Lords is three months into hearing petitions from those who did not gain satisfaction in the Commons.

But nothing has happened so far to 'derail' the project. Barring a complete change of mind about HS2's funding (not anticipated), construction will commence in early 2017.

Since HS2 is being promoted by the government as a hybrid bill, its principle – the creation of a London-Birmingham high-speed rail link – cannot be disputed.

Objections to the project are therefore necessarily confined to seeking mitigation or localised variations, such as requesting acoustic screening, or moving

the line slightly further away from one's property (and so potentially preventing its being compulsorily purchased), or tunnelling under it.

So long as an objection does not go so far as challenging the principle of the Bill, it will be admissible. A case which highlights the distinction is the suggestion by many that the London terminus of the line should be Old Oak Common rather than Euston. This was resisted by HS2 both on the merits and as being 'as close as you can get to disputing the principle of the Bill'.

'Your Petitioner will ever pray'

Objections to the Bill are by way of parliamentary petition – somewhat arcane documents with idiosyncratic formalities. Objectors are described in the third person as 'your Petitioner'.

They have to state why they are 'directly and specially affected' by the Bill proposals and identify with particularity the clauses in or works under the Bill they object to.

Petitions are signed off with the time-honoured words 'and your Petitioner will ever pray'.

Locus standi

If the promoter thinks a petitioner is not 'directly and specially affected', they can challenge their right to be heard (for example, if they live too far away from the line to be significantly affected or they would only suffer remote

knock-on effects when it was in place). But anyone with land to be taken by the Bill or living right beside the line would be regarded as having a sufficient interest.

Whereas on the Crossrail Bill the government made no challenges to rights to be heard, HS2 brought hundreds of *locus* challenges in the Lords as part of an attempt to cut down the number of petitions. Certain challenges were successful but, equally, HS2 withdrew its challenges to other cases in the light of the Lords' initial rulings.

There are discretionary grounds for hearing parties, so representative bodies – amenity groups and business organisations – can air their views. But the Lords recently ruled that constituency MPs are not entitled to appear as petitioners, although they can be called as witnesses in support of others.

Local authorities are entitled to appear, and are often heard first when the committee turns to consider a new area, since they will cover many concerns of locals, potentially saving hearing time and also incurring the cost of instructing experts on technical issues, sparing some individuals from having to do so.

Petition hearings

Hearings are conducted orally with exchange of 'exhibits' (no witness statements) just two clear days in advance. Advocates should produce a two-page

summary of arguments to focus the committee's attention on key points.

HS2 produces a formal promoter's response document three weeks before the hearing but the issues debated on the day are often not prefigured by it. So cross-examination of HS2's experts and the petitioner's final reply have to be appropriately reactive.

Petitioners commonly only have an hour or two to get their points across.

Arguments run include:

- If compulsory purchase compensation and tunnelling costs are similar, then tunnelling is preferable to expropriation;
- If compensation law will not make full recompense for losses, then additional protective measures should be imposed; and
- If someone live in the urban area next to the line without having any land taken, then they should be able to require HS2 to buy their land as they would in a rural area.

Despite recent consultation on streamlining and modernising the petition system, the procedure is here to stay. HS2 phase 2 and Crossrail 2 (and HS3) are likely to be promoted as hybrid bills and will have to be opposed by petition followed by hearings in parliament.

So rail projects promoted as hybrid bills will not be 'hitting the buffers' any time soon. **SJ**