

## HIGH SPEED RAIL (WEST MIDLANDS - CREWE) BILL

### THE RIGHT OF PETITIONERS TO BE HEARD BY THE LORDS BILL COMMITTEE

#### PROMOTER'S NOTE

##### Introduction

1. Petitioners against a hybrid Bill do not have an automatic right to have their petitions considered by the Lords Committee to which the Bill has been referred. Generally speaking, Petitioners are not entitled to appear before the Select Committee on their petitions unless their petitions allege, and they prove, that their property or interests are directly and specially affected by one or more provisions of the Bill. This entitlement is called "the right to be heard". In addition, the Standing Orders of the House of Lords relating to Private Business ("Lords S.O.s") prescribe certain cases in which the Select Committee may, at their discretion, allow a Petitioner a right to be heard.
2. The Select Committee will only consider whether a Petitioner has the right to be heard, or whether their petition should be considered as a matter of discretion, if the Promoter has raised the issue by challenging the Petitioner's right to be heard.
3. When the High Speed Rail (London – West Midlands) Bill ("the Phase One Bill") was considered in the House of Commons, the Promoter took a cautious approach to challenging the Petitioners' right to be heard and the Select Committee therefore heard many Petitioners without having the opportunity to consider, and determine, whether they should be allowed a right to be heard. The House of Commons Select Committee commented in its Second Special Report that the Promoter's initial approach was "understandable". The Committee continued:

*"At the start of proceedings and without the benefit of a recent comparable hybrid bill on which to base its decisions, a hybrid bill committee could be expected to want to show latitude to petitioners. (On Crossrail, the promoters challenged no petitions at all.) With the benefit of nearly two years' experience, we believe that there should be a stricter approach to locus standi [the right to be heard]." (House of Commons Select Committee on the High Speed Rail (London – West Midlands) Bill, Second Special Report of Session 2015-16, HC 129, 22 February, paragraphs 393-4).*

The stricter approach was approved by the House of Lords Select Committee on the Phase One Bill (Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83; 13 June 2016, Appendix 2, paragraph 6).

4. The purpose of this note is to outline the framework the Promoter will use to decide whether to challenge a Petitioner's right to be heard by the Select Committee.

##### The right to be heard

5. Petitioners are **entitled** to appear before the Select Committee on their petitions only if their petitions allege, and they prove, that their property or interests are directly and specially affected by one or more provisions of the Bill.

6. That principle, as stated in *Erskine May Parliamentary Practice* (Twenty-fifth Edition), is set out in Appendix 2 to this note. The House of Lords Select Committee on the Phase One Bill encapsulated it in the following way:

*"...an individual petitioner's right to be heard as a right...depends on that petitioner establishing the prospect of direct and material detriment to his or her property interests, either by compulsory acquisition or by interference with his or her property rights which amounts to a common law nuisance, or some other interference which would be actionable if not authorised by Parliament."* (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83; Appendix 2, 13 June 2016, paragraph 8.)

Appendix 2 to the House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, which sets out the Select Committee's rulings on the Promoter's challenges to the right to be heard in that House, can be found using the following link:

<https://publications.parliament.uk/pa/ld201617/ldselect/ldhs2/83/83.pdf>

7. Some of those rulings are also summarised by way of example in Appendix 2 to this note.

#### ***Members of Parliament***

8. In addition, Members of Parliament whose constituencies are directly affected by the works proposed by the Bill have a right under Lords S.O. 117A to have their petition against the Bill considered.

#### **Cases where other persons may be permitted to be heard on their petitions at the discretion of the Select Committee**

9. In some cases prescribed by Lords S.O.s, the Lords Select Committee has a discretion to permit persons or organisations to be heard on their petitions.

#### ***Certain representative bodies***

10. Lords S.O. 117(1) gives the Select Committee a discretion to permit a society or association which sufficiently represents a trade, business or interest in a district which is alleged in the petition to be injuriously affected by the Bill to be heard. Under Lords S.O. 117(2) the Select Committee is also given a discretion to permit a society, association or other body which sufficiently represents amenity, educational, travel or recreational interests alleged in the petition to be adversely affected to a material extent by the Bill to be heard. The text of Lords S.O. 117 is set out in Appendix 1 to this note.
11. Where the right to be heard of an ad hoc group is challenged, it is not normally permitted to be heard on its petition.

*"The general practice has been [for Bill Committees] not to hear petitions presented by an ad hoc group, mainly because the public interest in full examination of environmental and ecological issues, including traffic management and the control of pollution of all sorts, is better achieved by petitions presented by local authorities large and small, and by established bodies with expertise in those areas."* (House of Lords Select Committee on the Phase One Bill, Appendix 2 to the Special Report; 13 June 2016, paragraph 7.)

12. Action groups are usually not allowed to be heard on their petitions where their right to be heard has been challenged. In contrast, the practice of Select Committees in both Houses has been to grant a right to be heard to local authorities at different levels of local government and well-established national organisations with relevant expertise. (See Appendix 2 to the House of Lords Select Committee Special Report on the Phase One Bill; 21 June 2016, paragraph 7.)
13. Further statements in the House of Lords Special Report and summaries of some precedents relevant to the right to be heard under Lords S.O. 117(2) are included in Appendix 2 to this note.

#### ***Local authorities or inhabitants of an area***

14. Lords S.O. 118 gives the Select Committee a discretion to permit local authorities or any inhabitants of an area the whole or part of which is alleged in the petition in question to be injuriously affected by the Bill to be heard on their petition. The text of Lords S.O. 118 is set out in Appendix 1 to this note.
15. The precedents reflect the convention that S.O. 118 is directed at groups of persons who are petitioning as representatives of inhabitants of the area. Individual inhabitants are not normally treated as covered by S.O. 118.
16. Although local authorities do not have an automatic right to appear before the Select Committee, the Promoter will not challenge the right to be heard on their petition of any local authority in whose area any of the works authorised by the Bill are to be constructed.
17. The Select Committee may decide not to exercise the discretion to permit Petitioners to be heard under S.O. 118 on the basis that they do not sufficiently represent inhabitants of an area or that the points made in the petition are similar to those made by a local authority for the area in question or by some other well-established amenity body with relevant expertise.
18. Some precedents relevant to the right to be heard under Lords S.O. 118 are summarised in Appendix 2 to this note.

#### **Petitions which challenge the principle of the Bill**

19. The principle of the Bill is approved by the House of Lords at the Second Reading of the Bill. The Select Committee does not therefore have a remit to hear points raised on a petition that relate to the principle of the Bill as approved at Second Reading.

#### **The Promoter's approach to challenging a Petitioner's right to be heard**

20. In the light of the recommendations of the House of Lords on the Phase One Bill (see paragraph 3 above), the Promoter's approach on this Bill is generally to challenge the right to be heard of persons petitioning not as of right but as the inhabitants of an area who make generic points relating to adverse impacts allegedly caused to that area; and to leave it to the Select Committee to decide whether to exercise their discretion under Lords S.O. 118 to permit the Petitioner to be heard on the petition. As mentioned in paragraph 16, the Promoter will not challenge the right to be heard on their petition of any local authority in whose area any of the works authorised by the Bill are to be constructed.

21. This approach follows the recommendation of the 1988 Joint Committee on Private Bill Procedure which in its Report stated:

*"The Committee consider that it is a fundamental principle of private legislation procedure that only parties specifically affected should be entitled to be heard, and that the rules of locus standi [the right to be heard] must be upheld. If they are allowed to lapse, more of members' time will be taken up in private bill committees. **They recommend that promoters should be encouraged to police the rules of locus standi, and that private bill committees should not treat a reasonable but unsuccessful challenge as a point of prejudice.**"* [paragraph 101 of the Report HL Paper 97, HC 625 – emphasis in original]

## Summary

22. To summarise, the issues to be determined by the Lords Select Committee at a "right to be heard" hearing are:
- (a) Whether the Petitioner is entitled to be heard because they can show that their property or interests are directly and specially affected by the Bill.
  - (b) Where the Petitioner is a society, association or body which is alleged to represent local trade or business interests or community, educational, travel or recreational interests, whether (i) the society, association or body sufficiently represents that interest and (ii) if so, whether that interest will be adversely affected to a material extent by the Bill as introduced and (iii) if so, whether the discretion of the Select Committee should be exercised to permit the Petitioner to be heard because, for example, the points made in the petition would otherwise not be considered by the Select Committee.
  - (c) Whether the Petitioners have alleged in the petition, and can show, that they are sufficiently representative of inhabitants of an area which is adversely affected by the Bill to be covered by Lords S.O. 118 and, if so, whether the discretion of the Select Committee should be exercised so as to permit the Petitioners to be heard. In exercising its discretion, the Select Committee may wish to consider whether the points made in the petition are covered by matters raised in a petition of a local authority for the area or in another petition which has not been challenged.
  - (d) Whether the petition calls into question the principle of the Bill as approved by the House of Lords at Second Reading, in which case the petition is beyond the Select Committee's remit.

**9 July 2019**

## **APPENDIX 1**

### **EXTRACT FROM**

#### **STANDING ORDERS OF THE HOUSE OF LORDS RELATING TO PRIVATE BUSINESS**

##### **117A. Right of Members of Parliament to have petitions considered<sup>1</sup>**

Any Members of Parliament whose constituencies are directly affected by the works proposed by a bill shall be permitted to have their petition against the bill considered by the select committee.

##### **117. Power [of committee] to allow associations, etc. to have petition considered<sup>2</sup>**

**(1)** Where any society or association sufficiently representing any trade, business, or interest in a district to which any bill relates, petition against the bill, alleging that such trade, business, or interest will be injuriously affected by the provisions contained therein, it shall be competent for the select committee to which the bill is committed, if they think fit, to permit the petitioners to have their petition considered by the committee on such allegations against the bill or any part thereof.

**(2)** Without prejudice to the generality of paragraph (1), where any society, association or other body, sufficiently representing amenity, educational, travel or recreational interests, petition against a bill, alleging that the interests they represent will be adversely affected to a material extent by the provisions contained in the bill, it shall be competent to the select committee, if they think fit, to permit petitioners to have their petition considered by the committee on such allegations against the bill or any part thereof.

##### **118. General power to allow local authorities or inhabitants to have petition considered<sup>3</sup>**

It shall be competent for the select committee to which the bill is committed, if they think fit, to permit petitioners, being the local authority of any area the whole or any part of which is alleged in the petition to be injuriously affected by a bill or any provisions thereof, or being any of the inhabitants of any such area, to have their petition against the bill or any provisions thereof considered by the committee.

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<sup>1</sup> House of Commons equivalent = HC S.O. 91B

<sup>2</sup> House of Commons equivalent = HC S.O. 95

<sup>3</sup> House of Commons equivalent = HC S.O. 96

## APPENDIX 2

### EXAMPLES OF RULINGS ON RIGHTS TO BE HEARD

#### 1. RIGHT TO BE HEARD

##### The General Principles

- 1.1 *"Generally speaking, it may be said that petitioners are not entitled to be heard by the committee on the Bill unless it is proved that their property or interests are directly and specially affected by the bill. As a corollary, it has been accepted as an established principle that the owners of land proposed to be compulsorily taken – and also the lessees and occupiers on whom, as on owners, the notices required by the standing orders of both Houses are to be served – should always be heard against both the preamble and the clauses of a bill."* (Erskine May Parliamentary Practice Twenty-fifth Edition at paragraph 44.5.)
- 1.2 *"In order to be heard as of right, petitioners against hybrid bills need to be able to show that provisions of the bill directly and specially affect them in respect of their own property rights: the function of the petitioning process being specifically to protect those who may suffer particular adverse effects beyond effects felt by the public at large. Petitioners who cannot show that they are specially and directly affected by the bill are ruled to lack locus standi. This means that they are not permitted to present their petitions before the Select Committee, except possibly under the discretions in Standing Orders (SO) 117 and 118<sup>4</sup> of the House's Standing Orders relating to Private Business."* (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, paragraph 31)
- 1.3 *"It is also important to note that an individual petitioner's right to be heard as a right, and not under the discretionary powers in Standing Orders 117 and 118<sup>5</sup>, depends on that petitioner establishing the prospect of direct and material detriment to his or her property interests, either by compulsory acquisition or by interference with his or her property rights which amounts to a common law nuisance, or some other interference which would be actionable if not authorised by Parliament."* (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 13 June 2016, paragraph 8.)

##### Precedents

- 1.4 **The High Speed (London - West Midlands) Bill – House of Lords Select Committee**
- 1.4.1 ***Examples where petitioners were not found to be specially and directly affected so as to have a right to be heard***

Individual petitioners from Ballinger, Lee Common and King's Ash - The petitioners' properties were some distance from the works but they complained that the value of their properties would be depreciated by the prospect of diverted traffic or rat-running on narrow lanes and damage to their views across a valley of great natural beauty.

The Select Committee did not grant them a right to be heard: *"It is clear that non statutory blight has never been treated as a ground for petition, though it may in some cases be relieved under the promoter's need to sell scheme. Rights to drive on highways, to ride on bridleways and to walk on footpaths are public rights. They do not depend on ownership of land in the district, and their protection is the concern of local authorities at different levels of local government."* (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 21 June 2016, paragraph 16)

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<sup>4</sup> Equivalent to Commons S.O.s 95 and 96.

<sup>5</sup> Equivalent to Commons S.O.s 95 and 96.

Wendover Financial Ltd – the petitioner was a financial adviser firm based in Wendover employing 8 staff. The petitioner alleged that travel to the office by staff and clients would be affected by traffic impacts caused by Phase One and the business would be also affected by construction impacts such as dust.

The Select Committee ruled that the petitioner had not established the prospect of direct and special detriment to its property interest and so did not have the right to be heard. (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83 , Appendix 2, 13 June 2016, paragraph 15).

1.4.2 ***Examples where petitioners were found to be specially and directly affected so as to have a right to be heard***

14 house owners in Three Oaks Close petitioned on the basis of prospective nuisance from noise and possible flooding from the siting of a spoil heap 3 metres high on open ground in the near vicinity of their properties, together with increased traffic on roads which were already very congested.

The Select Committee ruled they had a right to be heard: “*We allow this petition but strongly urge the petitioners to cooperate with the local authorities and any other petitioners whose petitions are to be heard in avoiding repetition in the cases they present. This is a case for which positive case management may be needed.*” (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 21 June 2016, paragraph 31).

Lionel Abel-Smith Trust – the Petitioner was a charity which owned 14 tenanted properties near to the proposed tunnel. The properties were ancient grade II listed buildings built on chalk with little or nothing by way of foundations.

The Select Committee ruled that the petitioner had a right to be heard: “*We admit this petition, but strongly urge the charity to cooperate with Wendover Parish Council to avoid duplication in the preparation and presentation of evidence.*” (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 21 June 2016, paragraph 22).

1.5 **Kings Cross Railways Bill – Petitions of Patrick Roper and 13 others – 10 petitions disallowed [session 1988-89]**

The Bill authorised railway works including the temporary closing and dewatering of the Regent’s Canal near Kings Cross Station and the construction of a new bridge over the canal.

Petitioners (1), (2), (3), (6), (8), (11), (12), (13) and (14) were individual boat owners who moored their boats along the canal, most of them under licence from the British Waterways Board. They claimed the right to be heard as canal users whose interests would be adversely affected by the canal works.

The promoters objected to the petitioners’ right to be heard on the grounds that no land or property of the petitioners would be acquired under the powers of the Bill, nor would they suffer any pecuniary loss or injury themselves. The holding of a mooring licence granted by the British Waterways Board was not a sufficient “interest” to give the licence holder a right to be heard.

The petitioners were not given a right to be heard.

Petitioners (7), Edmundson and Martin Cottis, used their narrowboat to run a business as coal carriers and dealers in coal from the canal basin where they moored their boat.

The petitioners claimed that they would suffer a pecuniary loss as a result of the canal works.

The petitioners’ right to be heard was allowed.

1.6 **The Channel Tunnel Rail Link Bill – Petition of Mr Gunn – Disallowed [H.C. 21 and 22 February 1995]**

This was a hybrid bill authorising a railway from London to Kent.

The petitioner claimed a right to be heard right to be heard as the owner of property and as the inhabitant of an area injuriously affected. He lived 1.35km from the proposed works and alleged that the traffic generated by the proposed Ebbsfleet Station and the M2 widening would adversely affect his health. He also alleged that the Bill would cause loss of amenity in that the two nearest pieces of countryside used by him for walking would be lost.

The Promoter responded that the effects of the traffic alleged by the petition were indirect effects and not sufficiently specific to the petitioner's property or interests. In walking in the countryside, the petitioner was not exercising a legal right peculiar to him but a public right.

The petitioner was not given a right to be heard.

1.7 **Kings Cross Railways Bill – Petition of Caroline Holding – Disallowed [Session 1988-89]**

The Bill authorised railway works which it was alleged would have adverse effects including the temporary closure both of the Regent's Canal and the Camley Street Natural Park, near Kings Cross Station.

The Petitioner was an elected representative of Somers Town area who lived about 750m from the area of the works. She stated that as a Councillor she was often in the Town Hall across the road from Kings Cross Station, her two children were members of a canoeing club and used the canal for leisure facilities and that the family used the Natural Park.

The promoters responded that the petitioner was not directly or specially affected by the Bill.

The petitioner was not given a right to be heard.

This can be distinguished from the case of another petitioner against the Bill, Jim Brennan, who was a Council tenant living about 50 yards from a railway bridge to be extended whose right to be heard was allowed.

2. **STANDING ORDER 117 (GROUPS REPRESENTING BUSINESS INTERESTS OR AMENITY, EDUCATIONAL, TRAVEL OR RECREATIONAL INTERESTS)<sup>6</sup>**

**The General Principle**

- 2.1 The Select Committee has a discretion to permit persons falling within S.O. 117 to be heard on their petitions. They do not have a right to be heard.

**Precedents**

2.2 **The High Speed Rail (London – West Midlands) Bill – the petition of Wendover Chamber of Commerce**

Wendover Chamber of Commerce had existed for over 25 years and represented the interests of over 60 member businesses. The petitioner alleged that the construction of the railway works authorised by the Bill would significantly and adversely affect the member businesses.

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<sup>6</sup> House of Commons equivalent = HC S.O. 95



The Promoter accepted that the petitioner constituted an association which sufficiently represented trade and business interests within Wendover and therefore fell within the ambit of S.O. 117(1) [Commons S.O. 95(1)] but that the Select Committee should not exercise their discretion in favour of admitting the petitioner because the concerns raised in the petition essentially duplicated the environmental concerns as to the construction phase which were comprehensively covered in the petition of the Wendover Parish Council.

The petitioner was not given a right to be heard. (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 13 June 2016, paragraph 14).

2.3 **The Channel Tunnel Rail Link Bill – Petition of the Rail Development Society – Disallowed [H.C. 21 and 22 February 1995]**

This was a hybrid bill authorising a railway from London to Kent.

The petitioners were a national rail lobby group which was an umbrella body for many user groups campaigning for better rail services. It claimed to have over 4,000 members of which over 100 lived along the line of the channel tunnel link.

The promoters sought amendments to the bill such as the relocation of Ebbsfleet Station and the reduction in car parking.

The promoters responded that S.O.95(2) did not apply since the “travel interests” in the context of S.O.95(2) relates to an interest that is a legal concern, right or title and is not concerned with those who are simply interested in the wider sense like any other members of the public. Further, while the petition sought certain amendments of the bill it did not assert any injury to a special or particular interest of the organisation.

The petitioners were not given a right to be heard.

2.4 **The Channel Tunnel Rail Link Bill – Petition of the National Council on England Transport and Transport 2000 [H.C. 21 and 22 February 1995]**

This was a hybrid bill authorising a railway from London to Kent.

The NCET and Transport 2000 represented public and general views about the importance of certain transport issues. Transport 2000 was an umbrella group and had members in civic societies and union branches attached to it. The petition made a number of wide criticisms of the project including the location of Stratford Station, Ebbsfleet Station, the Waterloo Link and car parking at St Pancras.

The petitioners did not purport to represent transport users but relied on the fact that many people in both organisations were users of railways.

The Promoter responded that the petitioners did not represent interests within S.O.95(2).

The petitioners were not given a right to be heard.

2.5 **The Channel Tunnel Rail Link Bill – Petition of the Green Party of England, Wales and Northern Ireland – Disallowed [H.C. 21 and 22 February 1995]**

This was a hybrid bill authorising a railway from London to Kent.

The petitioner was a political party which claimed a right to be heard under S.O.95(2) since the party represented its members and (a) at least one of whom was a householder who was injuriously affected by the bill and (b) in general, its supporters and members might not otherwise have an effective means of bringing their concern before the committee.

The petition supported the principle of the Bill but opposed the widening of the M2 on the grounds that there would be increased noise and pollution from the consequential increase of traffic. The petition also included proposals for additional railway works such as junctions

with existing railway lines so as to facilitate an orbital rail service to be provided in the future.

The Promoter responded that the Green Party, as a political party, did not sufficiently represent amenity or travel interests for the purposes of S.O.95(2). Further, there were no allegations in the petition of specific injury to interests sufficiently represented by the petitioner. The Green Party's interests were general public concerns.

The petitioner was not given a right to be heard.

**2.6 Kings Cross Railways Bill – Petition of the Goodway Boat Users Association Disallowed [Session 1988-89]**

The Bill authorised railway works including the temporary closing and dewatering of the Regent's Canal near Kings Cross Station and the construction of a new bridge over the Canal.

Petitioner (5) was the Goodway Boat Users Association. The petitioner claimed to represent boat owners who would be adversely affected by the canal works. The Association was described by the petitioner's Agent as "a loose association" of 8 or 9 owners of boats moored at the Regent's Canal at Goods Way having no constitution.

The Promoter responded that the Association did not sufficiently represent anyone to come within Commons S.O. 95(2), because (a) the persons they sought to represent had no sufficient interest and (b) the group was not sufficiently constituted for the purposes of S.O. 95(2).

The petitioners were not given a right to be heard.

**2.7 British Railways (Penalty Fares) Bill – Petition of Railway Development Society – Disallowed [H.L. 26 April 1988]**

The Bill enabled penalty fares to be charged.

The petitioner claimed to represent affected rail users. It also claimed an interest by virtue of (a) promoting rail services by chartering trains to use for leisure; and (b) giving money for railway improvements.

The petitioner claimed to have 2,000 individual members and some 80 affiliated user associations, the latter with some 18,000 members.

The Promoter objected on the grounds that (a) it was not apparent that the petitioner was a society etc., within the SO; (b) the petitioner was interested in rail travel but did not represent any financial interest in the railway, which was the Bill's concern; (c) the petitioner was not representative of injuriously affected people within the SO; (d) the petitioner was not itself adversely affected; and (e) if the Bill would have any effect on the petitioner it would be same as for general public.

The petitioner was not given a right to be heard.

**3. STANDING ORDER 118 (INHABITANTS OF AN AREA AFFECTED BY THE BILL)<sup>7</sup>**

**The General Principles**

- 3.1 *"We have already referred to the settled practice of regarding local authorities as the most appropriate petitioners on matters of public interest such as public health and safety, public highways including bridle paths and footpaths, and environmental and ecological issues. The practice has been to supplement the contributions of local authorities, where appropriate, by petitions and evidence from established bodies with specialised interests such as those mentioned in paragraph 7 above [i.e. the Ramblers' Association, the Campaign for the Protection of Rural England, the National Farmers' Union and the*

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<sup>7</sup> House of Commons equivalent = HC S.O. 96

Woodland Trust].” (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 21 June 2016, paragraph 32.)

## **Precedents**

### **3.2 The High Speed Rail (London – West Midlands) Bill**

#### **Petitions by Councillors as representatives**

In general Councillors were not given the right to be heard by the House of Lords Select Committee who ruled that individual councillors or groups of councillors acting without the authority of the council could not claim the special preference accorded to local authorities. (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83 , Appendix 2, 5 July 2016, paragraphs 6 and 7).

In one special case, Mr Williams, a Councillor for Chelmsley Wood, Birmingham, was given the right to be heard on the basis that he was representing residents of a particularly socially and economically deprived area who might otherwise have presented petitions based on direct and special detriment. (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 13 June 2016, paragraph 16).

### **3.3 The High Speed Rail (London – West Midlands) Bill**

#### **Petitions by individuals raising generic environmental issues i.e. community interests**

Individual petitioners raising issues affecting their community such as traffic management and construction noise and nuisance but whose property or property interests were not directly and specially affected by the Bill were in general not given a right to be heard by the House of Lords Select Committee. (For examples see House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 28 June 2016, paragraphs 8 to 10).

As an exception, Mr Andrews of Chiltern Road, Wendover, who raised a point relating to noise effects which had not been raised by any other petition, was granted a right to be heard limited to that point. (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 28 June 2016, paragraph 10).

### **3.4 Channel Tunnel Rail Link Bill – Petition of Dr Simpson – Disallowed [H.C. 21 and 22 February 1995]**

This was a hybrid bill authorising a railway from London to Kent.

The petitioner was a Kent County Councillor for part of Maidstone Rural North which consists of five parishes. She lived 1,000 metres from the proposed rail line. At the hearing she mentioned her interest as a resident in that she rode and drove horses in the area and was concerned about the impact of noise but this was not directly alleged in the petition. She claimed a right to be heard under S.O.96 as a local county councillor who was representing the views of the parish councils within the county.

The Promoter responded that her interest as a resident was not directly alleged in the petition and that, in any event, that use was as a member of the public and did not provide her with the right to be heard. She did not have a right to be heard under S.O. 96 because that provision does not apply so as to allow the County Council to represent the views of other bodies. Also since the County Council had itself petitioned, a person represented by that petition would not be given a separate right to be heard.

The petitioner was not given a right to be heard.

3.5 **Midland Metro Bill – (4) Petition of Bromford and Firs Residents Group (5) Petition of the Residents against Metro (RAM) [H.C. Session 1989-90]**

The Bill authorised works to extend the West Midlands light rapid passenger transport system and included some railway works and some tramway works running over streets.

The Bromford and Firs Residents Group was an ad hoc group formed to oppose the Bill. The committee forming the Group had been elected by 30 – 40 residents. The petition raised concerns about the effects of the works on a residential estate and a local football pitch.

RAM was an ad hoc group formed to oppose the Bill. The committee running RAM had 11 members who had been elected at a meeting where 60 persons were present. There were 1,463 signatories to the petition. RAM claimed that it should be allowed to be heard under S.O. 96 as representing residents in an area affected by the Bill. The petition raised concerns including loss of local amenities including a local park, invasion of privacy caused by the elevated tram section, safety and traffic.

The Promoter objected on the basis that neither the Bromford and Firs Residents Group nor RAM were sufficiently representative of the inhabitants of the area affected by the bill to come within S.O. 96.

Neither petitioners were given a right to be heard.

4. **AD HOC ORGANISATIONS FORMED TO OPPOSE THE BILL PETITIONED AGAINST**

**The General Principles**

- 4.1 *"The other general issue was a series of challenges to the settled practice of Select Committees of this House and the Court of Referees in the House of Commons of not granting locus standi [the right to be heard] to action groups. Instead their practice has been to grant it to local authorities at different levels of local government and well established national organisations such as the Ramblers' Association, the Campaign for the Protection of Rural England, the National Farmers' Union and the Woodland Trust."* (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 21 June 2016, paragraph 7.)
- 4.2 *"The settled practice is not, excepting various special circumstances, to hear ad hoc action groups. This Committee is bound to follow that practice."* (House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 21 June 2016, paragraph 33.)

**Precedents**

4.3 **The High Speed Rail (London – West Midlands) Bill**

4.3.1 ***Examples of actions groups which were not given a right to be heard by the House of Lords Select Committee***

Conserve the Chilterns – the Group was established in 2010 with the purpose of protecting the Chiltern Hills and area from the effects of HS2 and equivalent transport projects. The Promoter responded that this is an ad hoc organisation formed to oppose the Bill and that the points raised were dealt with in the petitions of the relevant local authorities and other bodies which had not been challenged.

Stoneleigh Action Group – the Group had been formed before the Bill was proposed and raised points of concern as regards the effects of the works on Stoneleigh Park. The Promoter responded that the points raised were dealt with in the petitions of the relevant Parish Council which had not been challenged.

The Southam Area Action Group – the Group was established to oppose the Bill and claimed to represent the interests of the people of Southam and the surrounding areas. The petition raised concerns as regards the effect of the works on Southam and those areas. The Promoter responded that the points raised were dealt with in the petitions of the Southam Town Council and other bodies which had not been challenged.

4.3.2 ***Action groups which were given a right to be heard by the House of Lords Select Committee as special cases***

The HS2 Action Alliance were given the right to be heard limited to operational noise and statutory and non-statutory compensation.

The HS2 Euston Action Group were given a right to be heard.

See the House of Lords Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83, Appendix 2, 13 June 2016, paragraph 14.

4.3.3 ***Action Groups which were given a right to be heard by the House of Commons Special Committee as special cases***

The HS2 Action Alliance and Stop HS2 were both given a right to be heard limited to route wide issues. See the House of Commons Select Committee on the Phase One Bill, First Special Report, Session 2014-15, paragraph 149.

4.4 **Midland Metro Bill – Petitions of (1) Auckland Drive against Metro (ADAM) Group (2) Bacon’s End against the Metro (BEAM) Group (3) CARE Residents Group [H.C. Session 1989-90]**

The Bill authorised works to extend the West Midlands light rapid passenger transport system and included some railway works and some tramway works running over streets.

ADAM, BEAM and CARE all claimed a right to be heard a representing groups of residents living in specific parts of the wider area which was alleged to be injuriously affected by the proposed works. All were groups formed specifically to oppose the Bill. The residential areas covered by ADAM and BEAM were separated from the railway works by a bund. However the residential area covered by CARE included streets where there were proposed to be street running tram works.

The Promoter responded that ADAM and BEAM were ad hoc groups formed to oppose the Bill and that they did not have a greater interest than that of the public at large. However, while responding that CARE too was an ad hoc group formed to oppose the Bill, the Promoter conceded that the frontagers of the streets within the CARE area had a valid interest and concern in respect of the tramway proposed to be constructed in their streets.

ADAM and BEAM were not granted a right to be heard. CARE was allowed a right to be heard limited to representing the frontagers of the streets in which the tramway was proposed to be constructed.

5. **FURTHER INFORMATION**

The House of Lords, Select Committee on the High Speed Rail (London – West Midlands) Bill, Special Report, Session 2016-17. HL Paper 83ppendix 2 can be found using the following link:

<https://publications.parliament.uk/pa/ld201617/ldselect/ldhs2/83/83.pdf>

A full version of the precedents which are summarised above can be found using the following link: <https://www.gov.uk/government/publications/hs2-locus-challengeguidance>