

HIGH SPEED 2 - AUTHORITY TO PETITION IN PARLIAMENT

Reporting Officer: Borough Solicitor

SUMMARY

This report asks Council to determine whether it is expedient to oppose the High Speed Rail [London - West Midlands] Bill and if so, to authorise the deposit of a petition in Parliament pursuant to Section 239 of the Local Government Act 1972.

RECOMMENDATIONS: That

1. **in the judgment of the Hillingdon London Borough Council it is expedient for the Council to oppose the High Speed Rail [London - West Midlands] Bill deposited in the Session of Parliament 2013-14.**
2. **the Leader of the Council and the Deputy Chief Executive and Corporate Director of Residents Services be authorised to take all necessary steps to carry the foregoing Resolution into effect, that the Common Seal be affixed to any necessary documents and that confirmation be given that Sharpe Pritchard [Parliamentary Agents] be authorised to sign the Petition of the Council against the Bill.**

INFORMATION

Background

1. The High Speed 2 [HS2] rail line is the most significant major infrastructure proposal since the third runway. Cabinet considered a detailed report at its 13 February meeting, which provided a comprehensive update on the proposed scheme.
2. The report sought Cabinet approval to the Council's response to the Government's Environmental Statement [ES], endorsement of the 51M group's response to the Government's consultation exercise on Phase Two of HS2 and finally, it provided an update on the legal challenges against the HS2 scheme which the Council has been involved in.
3. A brief reference to the petitioning process was also made in the Cabinet report and this report provides further details of the steps that the Council will be required to take, should it wish to oppose the High Speed Rail [London - West Midlands] Bill [the HS2 Bill].

The Hybrid Bill and Environmental Statement

4. The HS2 Bill was published by the Government on 25 November 2013 and it was given a first reading in the House of Commons on this date. It was accompanied by a 50,000 page ES. The ES is subject to a public consultation exercise which was originally due to end on 24 January 2014. However, there were a number of important pages missing from the ES and the matter was therefore referred to the House of Lords Standing Orders Committee which decided that the period for commenting on the ES should be extended to 27 February 2014.

5. The Council has responded robustly to the consultation, both in its capacity as an environmental authority and as a landowner. Cabinet has formally approved the Council's response.
6. The HS2 Bill is a Hybrid Bill. It has some of the characteristics of a Public Bill which affects the whole country and it also shares some of the characteristics of a Private Bill which only affects a specific individual or group of individuals or an area. The Hybrid Bill process is often used in relation to major infrastructure projects; for example, the most recent Hybrid Bill to pass through Parliament was the Crossrail Bill in 2008.
7. The HS2 Bill, if enacted, will authorise compulsory acquisition of land, rights to occupy land, rights to stop up and divert highways and will give outline planning permission to construct and operate a new high speed railway - initially between London and Birmingham. The land affected will include many thousands of acres over a sixty miles route. Four stations are proposed as part of Phase One - two in London [Euston and Old Oak Common] and two in Birmingham [Birmingham International Airport and Curzon Street].

What is a petition?

8. A petition is a formal document which is deposited in Parliament. It sets out objections to particular aspects of the Bill and it allows the petitioner to put forward proposed amendments to the Bill together with suggested mitigation measures. However, it is important to note that no objections can be raised in relation to the principle of the Bill.
9. Examples of objections which can be raised are to:
 - the route alignment;
 - noise impacts and how they can be reduced and mitigated;
 - traffic issues including access to and from construction sites, how spoil is disposed and whether better alternative sites in the locality exist;
 - the impact of changes to the road network, footpaths and bridleways;
 - measures to protect or preserve wildlife, flora and fauna.
10. Any individual, group of individuals or organisations 'directly and specially affected' by the HS2 Bill will be able to petition against it. The promoter of the Bill, the Secretary of State, can object to a petitioner's right to be heard before a Select Committee [see below] and it is for the Committee to decide if the petition can be accepted.
11. A number of Hillingdon residents and organisations in the borough will wish to petition against the HS2 Bill. No challenges were made to anyone's right to object in relation to the Crossrail Bill and hopefully, all those who wish to object to the HS2 Bill will be allowed to do so by the Select Committee.
12. The Council has an automatic right to be heard before the Select Committee as the proposed works authorised by the HS2 Bill are in its area. The Council will therefore be preparing a detailed petition for the purpose of attempting to secure improvements to the HS2 scheme and to safeguard the interests of its residents. The Council will use its response to the ES as a basis for the petition. In order for the Council's petition to be valid, it must be signed by its appointed Parliamentary Agent.

Section 239 Local Government Act 1972

13. Where a local authority is satisfied that it is expedient to oppose a Bill in Parliament, section 239 of the Local Government Act 1972 requires it to pass a resolution in full Council which authorises it to deposit a petition against the Bill.
14. The resolution must be passed by a majority of Members, consisting of more than half the membership of the Council.
15. Section 239 also requires that at least ten clear days' notice of the full Council meeting at which the resolution is to be passed must be advertised in one or more local newspapers circulating in the area of the local authority.
16. The Council advertised a notice in the Gazette on 15 January 2014 to the effect that full Council would take into consideration and determine the expediency to oppose the HS2 Bill and if so, to pass a resolution authorising the opposition to the Bill at its meeting on 20 February 2014.

Second Reading Stage and the Select Committee process

17. The second reading of the HS2 Bill will be the stage where the House of Commons defines and approves the principle of the HS2 Bill. This is a political debate and it will be whipped. If the majority vote is in favour of the HS2 Bill, the time limits for petitions to be submitted will be fixed.
18. As is indicated in paragraph 4 above, the deadline for responding to the ES has been extended to 27 February 2014. This has pushed the indicative timetable for petitioning back. Given the Easter recess, the earliest date for the second reading of the HS2 Bill is 28 April 2014. It is likely that the date by which petitions must be submitted will be around 12 May 2014.
19. A Select Committee of up to ten MPs will be appointed to consider the petitions in the House of Commons. It is important to note that direct approaches to the MPs are not permitted and they are only able to respond to petitions which have been submitted. The Committee has the ability to amend the HS2 Bill in favour of a petitioner and it can also require the Secretary of State for Transport to for example, give undertakings and assurances in relation to certain aspects of the HS2 Bill.
20. The decisions of the Committee are likely to be announced in stages, and the Government will provide a formal response setting out how it intends to implement them. The Committee will produce a special report setting out its findings.
21. After the Select Committee stage, the Bill is considered by a Public Bill Committee and it will then be referred back to the floor of the House of Commons for its remaining stages of consideration and third reading.
22. A similar process then follows in the House of Lords, where petitioners can have a 'second bite at the cherry' before an appointed Select Committee. The procedure followed closely mirrors the one followed in the House of Commons.

Appointment of Parliamentary Agent and costs

23. The petitioning process is a very specialised and technical area and the Council does not have the expertise in-house to ensure that the petition which is to be deposited in Parliament is as robust as possible. It has therefore appointed a Parliamentary Agent, Sharpe Pritchard, to assist it with the petitioning process.
24. Sharpe Pritchard is a renowned expert in the field and played a major role in petitioning against the Crossrail Bill.
25. With regard to the HS2 Bill, Sharpe Pritchard will be responsible for drafting a petition and depositing it in Parliament on behalf of the Council, advising on potential negotiations with the Secretary of State including securing undertakings, agreements and negotiating on planning and heritage memoranda, codes of construction practice etc. and assisting in the preparations before a Select Committee in either House.
26. Sharpe Pritchard will also instruct, with the Council's agreement, a senior barrister to represent the Council before the Select Committee[s].
27. It is difficult to precisely quantify the costs which the Council will incur in petitioning against the HS2 Bill. However, if the Council were to appear before a Select Committee in both Houses, it is estimated that Sharpe Pritchard's and the barrister's fees would together amount to approximately £100,000 - £150,000. These costs would not be recoverable even if the Council was successful in securing both amendments to the HS2 Bill and agreement that a number of mitigation measures in respect of the HS2 scheme will be adopted.

Financial Implications

The draft 2014/15 budget presented to Council from approval at this session contains £200,000 within Development and Risk Contingency to fund opposition to HS2, potential costs detailed throughout this report would be met from provision. The wide-ranging financial implications for both the authority and residents are detailed throughout the body of this report.

Legal Implications

The Borough Solicitor is the author of the report and the legal implications are therefore contained in the body of the report.

Background papers: None