

What can the committee do?

- Changes in the route alignment – so long as they are within the “broad alignment” of the railway
- Amend the bill and/or the deposited plans
- Require the promoter to give an undertaking or assurance about a particular matter
- Require the promoter to amend one of the Bill’s supporting documents (eg the code of construction practice, the environmental minimum requirements)
- Require the promoter to carry out a further environmental assessment on a particular aspect
- Provide encouragement for promoters/petitioners to reach agreement
- Make recommendations to government/give “warm words”

How will the committee decide?

- It is likely that in most cases it will simply be a case of cost vs benefit
- Quote from the report of the Commons Committee on HS1:
“We have said that in making our decisions we have been mindful of cost: we have had to reach a compromise between the cost and the benefit of proposals to alter the link. Cost was not the only consideration, however: often the promoter and the Petitioner sought to call into question the practicality of one another’s proposals, and we had to gauge whether or not either or both were possible.”
- Committee will reject expensive engineering alterations where they are unconvinced that they are justified: an example on HS1 being Boxley long tunnel (where alternative improvements were secured instead), and other tunnel proposals

Locus

- Even though locus standi may not have been challenged at the outset, be prepared for HS2's counsel to suggest to the committee that the points you make are not within your remit and/or are more appropriately dealt with by others

Preparation and exchange of evidence

- Statements to be read by petitioners and written proofs of evidence to be given orally need not be submitted to HS2 or the committee
- Exhibits (documents to be handed to the committee) have to be exchanged 2 days in advance

Proofs of evidence

- Name, address and occupation of witness; involvement with project
- Summarise what the evidence covers and what the committee is being asked to do
- Explain the problem being tackled
- Explain the solution
- Refer to exhibits throughout

Technical evidence

- If promoter agrees an alternative design is achievable in engineering terms, then no need to provide detailed engineering evidence: give it to them well in advance (no rabbits out of hats) and seek to agree feasibility
- If technical reports and evidence is going to be relied on, seek to agree in advance if possible

Exhibits

- Essential part of the case: this is what the committee will have in front of them, on screen and in hard copy
- Number each one “A1”, “A2” etc
- Use photographs, maps, tables, short textual extracts, bullet points
- Set out what you want the committee to do
- Let the exhibits tell the story: imagine someone picking them up having not heard the evidence: would they still be able to see what was being sought and understand why?

Example of exhibit: text

A26 (21)

Quintain Position - 2

3. Land Acquisition policy (Information Paper C4) states that:

“The Bill generally includes full land acquisition powers. However, in any individual case, the exercise of these powers will operate on the basis that the Secretary of State will acquire no greater amount of land than appears to him to be reasonably required following the detailed design of the scheme.

If it is practicable to acquire a smaller area of land without compromising the Secretary of State’s ability to secure the construction and implementation of the project in a timely and economic manner and it becomes clear that not all the land within limits is required, the Secretary of State will not generally seek to acquire this land and will be prepared to give necessary assurances to the landowners in question.”

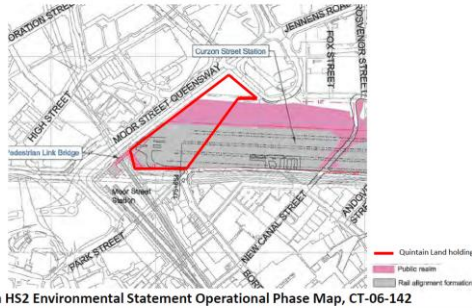
- so why not an assurance here?



Example of exhibit: plan

Effect on the Site – The Operational Phase

A26 (12)



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Example of exhibit: request

Request to the Committee

A26 (23)

Quintain request that the Committee requires the Promoter to provide an undertaking that:

1. the station will be designed with the development potential of Quintain's land in mind;
2. Quintain will be consulted on the design as it affects their plot, either in conjunction with the Curzon Street Design Panel or similar process; and
3. it will not acquire more land than is permanently needed for railway and associated infrastructure, as identified following completion of the detailed design process, with the remainder to be used temporarily only.

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Assumptions to be made

- Assume:
 - The committee will not read any document given in advance
 - The committee will not read any lengthy or complicated document
 - The committee will not spend time “out of hours” working on the documents
 - The committee will be familiar with HS2’s counsel and main witnesses

Negotiations

- Will there be any? Chairman has encouraged HS2 to agree things
- HS2 are leaving things late: Birmingham examples
- Is there value in negotiating? Absolutely: Staffordshire and Lichfield
- Better to meet together with other petitioners or will it be “divide and rule”?
- If meeting together – make sure you are coordinated
- Accepting offers before Select Committee – can you accept some, but fight on other points?
- When to stop pushing for more mitigation – what are the committee realistically likely to accept?
- Withdrawing the petition
- Second House undertakings/reserving your rights to the Lords

Negotiations: points to remember

- Keep copies of correspondence
- Keep a note of meetings and seek to agree minutes
- “Without prejudice” correspondence and notes can’t be used as evidence

Undertakings and assurances

- See information paper B4
- Register of undertakings and assurances
- Overarching undertaking to Parliament given in opening address

Nature of undertakings and assurances

- Legally binding formal agreements: the best option but likely to be agreed by HS2 only where there is a “land” interest. Enforceable in the courts
- Assurances and undertakings in a letter or in the PRD: make sure that HS2 agree that they will be entered in the Register of Undertakings and Assurances
- Information Papers: these are not binding unless they are reflected in an undertaking or assurance that itself is in the Register. Possibly might give rise to legitimate expectation claim in courts if breached
- How binding are assurances and undertakings? Unlikely to be enforceable in the courts – Bill of Rights: but consider the precedents (HS1 and Crossrail) and future Bill promotions

Examples of success

- HS1 – House of Commons (1)
 - Boxley long tunnel rejected but lowering required
 - Assurances on HS1 and M2 works to be constructed together so no “double whammy”
 - Ashford: Urging DfT to provide county council with extra funding for an associated road
 - Aylesford: Additional crossing point to be provided
 - Certain demolished listed buildings to be reconstructed without delay
 - Leacon: A rural lane not to be used by HGVs
 - Harrietsham: A short additional rural tunnel to be provided

Examples of success

- HS1 – House of Commons (2)
 - Hoo Junction: Not to be used as railhead (promoters said it was never going to be)
 - Waterloo spur: must be constructed
 - Northfleet Station: consideration to be given to pedestrian link
 - Support use of spoil to reclaim land
 - Mardyke: Line diverted away from housing estate
 - Barking tunnel extension approved (major change)
 - King's Cross/Caledonian Rd: Fully tunnelled option (major)

Examples of success

- HS1 – House of Lords (1)
 - Boxley long tunnel again rejected but further lowering required
 - Retained wall cuttings for certain ancient woodlands
 - Islington horizontal alignment
 - Charing: lowering of viaduct if practicable (shows importance of having idea of costs)
 - Eyhorne St: extension of tunnel and lowering
 - M2 at Sellindge: undertaking given that noise levels would not increase – backed by requirement that M2 would be resurfaced if they did
 - HGVs not to use a further rural road
 - Construction bridge across Regents Canal to minimise use of public roads
 - Newington: construction site should not be used

Examples of success

- HS1 – House of Lords (2)
 - Forum to be set up to resolve location of a feeder station
 - Inter-departmental working group on blight (set up after Commons should investigate 2 particularly bad cases)
 - Further efforts to be made in providing rehousing solution for King’s Cross residents
 - CTRL required to purchase 3 houses even though occupiers failed the hardship test and 1 further should receive extra compensation for moving costs
 - Undertaking to provide businesses with full information about date and terms of any relocation required
 - Farmers whose land is taken temporarily for construction should retain the freehold
 - Encouraged DfT funding for Medway Towns northern relief road

Examples of failure

- HS1 – House of Commons
 - Boxley long tunnel – not allowed, but more mitigation and lowering required
 - Central railways group freight requests
 - Extended tunnel at Sandling
 - Lowering of line at Saltwood
 - Sandway tunnel extension
 - Longer tunnel at Harrietsham
 - Moving construction site at Harrietsham

Examples of failure

- HS1 – House of Commons (2)
 - Tunnel extension at Eyhorne Street, but lowering of line encouraged if practicable
 - Reduction in number of Medway bridges
 - M2 park and ride and other highway improvements at Medway
 - Tunnel beneath Ashenbank and Cobham woods
 - South Thameside development roads
 - North Kent line connection on viaduct not embankment
 - Changes to St Pancras station
 - Requirement for parish councils to be consulted

Examples of failure

- HS1 – House of Lords
 - Boxley long tunnel: but further mitigation secured
 - Bluebell Hill tunnel extension
 - Rainham horizontal alignment
 - Marlowe Park M2 horizontal alignment
 - Sandling tunnel
 - Cobham tunnel
 - Increase in countryside management scheme funding and Inner Thames Marshes compensatory scheme funding
 - Noise from vent shafts
 - Moving Harrietsham construction site
 - Marley pit: Use of alternative spoil disposal site

Examples of failure

- HS1 – House of Lords (2)
 - King's Cross residents: better temporary rehousing during construction (but better efforts should be made)
 - Special compensation for named individuals (but encouragement given for them to be treated better)
 - Changes to deed relating to ground settlement
 - Protection for businesses outside limits of bill
 - Statutory undertakers cases
 - Minimum railway services
 - Use of St Pancras chambers to be found within 2 years
 - Disputes over heritage deeds

Useful links

- Select Committee website:
<http://tinyurl.com/p8koc9x>
- Watching proceedings: www.parliamentlive.tv
- HS2 Information papers:
<http://tinyurl.com/pf8uk97>