

MINUTES OF ORAL EVIDENCE

taken before the

**HIGH SPEED RAIL (CREWE - MANCHESTER) BILL SELECT COMMITTEE**

PETITIONS AGAINST THE BILL

Tuesday, 19 September 2023 (Afternoon)

In Committee Room 8

A video of the proceedings can be found [here](#).

PRESENT:

Andrew Percy (Chair)

Grahame Morris

Holly Mumby-Croft

Martin Vickers

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FOR THE PROMOTER:

Cain Ormondroyd, Counsel, Department for Transport

Exhibits referred to by the promoter during the hearing with Free Hale and Hale Barns from HGVs can be found [here](#).

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FOR THE PETITIONER:

1. Free Hale and Hale Barns from HGVs
  - Oliver Carroll
  - Cllr Nathan Evans

Exhibits referred to by the petitioner during the hearing can be found [here](#).

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**IN PUBLIC SESSION**

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(At 2.14 p.m.)

1. THE CHAIR: Welcome to this afternoon's meeting of the High Speed Rail Hybrid Bill Select Committee. We're just hearing one right to be heard petition today. The process will be, we'll hear from the would-be petitioners first and then we will hear from the promoter, Mr Ormondroyd, today. Before I pass over to the petitioners, just for direction, it's important, we don't want to hear the content of the petition; we just want to hear the arguments around why you believe, as a group, you have a right to be heard, bearing in mind the Standing Orders that exist. So if you could stick to the arguments around that, please, rather than the content of the petition, which would obviously be considered if the Committee deemed you had a right to be heard.

2. So we've got Mr Carroll and Cllr Evans. I don't know who's starting. Mr Carroll, so over to you, on behalf of Free Hale and Hale Barns from HGVs.

### **Free Hale and Hale Barns from HGVs**

#### **Submissions by Mr Carroll and Cllr Evans**

3. MR CARROLL: Thank you very much, Chair. And I just do want to echo your remark in that we will touch on some of the substance of the objection but only insofar as it relates to the direct and special effects threshold that we have to meet.

4. So let me first of all say what we are not. This is not a campaign group who are campaigning to stop HS2. We are not a campaign group seeking to stop the reformulation of the M56 works, which is at the core of the objections that we make. We are, rather, making a narrower objection and we are a group of local residents who have come together organically, at short notice, to be heard through a single organisation and that is the organisation that appears before you today.

5. So we have just under 1,400 members, of which Cllr Nathan Evans and I are two, and we object to this Bill in one respect alone, and that is for the provision of a construction route running through dense residential areas of Hale Barns in the southern corner of the Metropolitan Borough of Trafford. If I can ask for exhibit A108(4), just to show you the route that this takes and, apologies, it's a washed-out background. But the green route there is the route that is proposed that, on HS2's estimates, hundreds of HGVs may transit through per day and there are very good reasons why we object to the

provision for this construction route. If I can ask for exhibit number 1. These roads are narrow. They are dominated by on-street parking, as you can see. And exhibit number 2, please. The same is true on all of the roads that make up this proposed construction route, namely, Chapel Lane, Longsides Road and High Elm Road, which is proposed to link to construction compounds to be used by HS2.

6. Finally, if I can take the Committee to exhibit number 13, please. This is a diagram which we have commissioned from structural engineers and our consultants, which shows the swept path analysis of an HGV on two of the roads proposed to be used by HS2 for hundreds of HGVs per day. The yellow you can see there are two HGVs attempting to pass each other. This assumes no on-street parking and you can see that the only way of doing so involves HGVs going on to the pavements of these roads. These roads are unsuitable. Now, I won't go any further, conscious of the need not to delve into the substance of the objections, but that is to give you a flavour of them.

7. Now, who are we? Well, as a group, of the total number of households which lie on this route, we have 44% of them in our petition. If I can take you to exhibit number 9, please. Of the households whose properties are situated on roads directly connecting to the construction routes, 52% are members of our group and, on this diagram, you can see in black the households and in green, of those households, which are signed-up members of the petition. So this gives you a very clear idea of the presence of people who are directly affected in our group. And just taken as a whole, of the total members of the petitioning group, 38% of those members either are residents on the proposed construction route or roads directly leading from it.

8. So a very short potted history. I know you heard from a group yesterday who referenced this. So members of the community came together organically; we held a public meeting; over 300 people attended; and we are properly constituted. We're chaired by a former president of the Institute of Chartered Accountants in England and Wales. We are well funded. We have instructed consultants, as you have seen, and we're not, by any stretch, seeking to frustrate the process in making our objection.

9. I am conscious of the Standing Orders of the House, namely the requirement to demonstrate direct and special effects. I will just refer the Committee to a passage in HS2's own documentation, which I've alerted the clerk to the Committee to earlier.

This is in the supplementary environmental statement to additional provision 2. And in that document, HS2 states clearly that, 'As a result of the changes in construction traffic and changes to sound, noise and vibration assessments, there will be new adverse neighbourhood quality effects for residents at the properties along these roads. People in this community are likely to experience these effects as changing the quality of the neighbourhood and to regard that change as adverse, diminishing the amenity of the settlement'.

10. And if you needed further evidence of the effects on amenity to these residents, we have it at exhibit numbers 14 and 15. This is a letter from an independent and award-winning local estate agent who speaks to the drop in amenity value of these properties. Particularly, I would like to draw the Committee's attention to the paragraph starting, 'However', just down the page, and it states clearly, 'This is going to affect demand further, specifically within this otherwise relatively unaffected area. This route plan will almost certainly add an extra layer of buyer resistance to the whole of Hale Barns, not just the fringe areas where the route itself goes'.

11. And that goes some distance to explain why we have some members who are very directly affected and others who are indirectly affected but off those initial roads. So those are the two classes of members that we have.

12. I'm also conscious of the need, based on the Committee's precedents, to demonstrate that, absent parliamentary authorisation, these residents would otherwise have an action for the interference at common law. It is our submission to the Committee that, absent parliamentary authorisation, there may well be a claim for private nuisance against HS2 if this were any other construction site, for the running of potentially hundreds of HGVs with the noise, pollution and the disruption of the construction which goes past their houses. So I just want to make that point.

13. Finally, before I pass on to Cllr Evans, let me just say this, that we have examined in detail every map for Phase One and Phase Two of HS2, including all of the maps for Phase 2B. This, as far as we're concerned, is the only proposed construction route which proposes to run hundreds of HGVs through a primarily residential area. If that isn't a special effect, frankly, I don't know what is. So, with that, I just want to hand over to Nathan Evans who is going to address the position of the local authority.

14. CLLR EVANS: Thank you, and thank you to the Committee for their time today. You'll be aware, I'm Councillor Nathan Evans, one of three elected councillors for Hale Barns area and leader of the Trafford Metropolitan Borough Council Conservative group. I've been nominated by our constituted group, Free Hale and Hale Barns from HGVs, to speak on their behalf.

15. Set before you are the books that are suggested reading, to residents, to make an informed decision, running up to thousands of pages, and I argue that it's so complex that it's virtually impossible for residents to access and submit a petition on their own behalf. It is wholly inaccessible to residents. We have a steering committee of 18 members reviewing these documents: accountants, railway engineers, road consultants, councillors. We are here today to argue for our right to be heard.

16. We can evidence that the suggested route of the HGV construction traffic is totally unacceptable, detrimental to our members and our residents' way of life, neighbourhood and, I daresay, wallets. We can and have evidenced that fact. As has been demonstrated in slides 9, 10 and 11, we represent many of the members, 43% of the members, on the affected construction route – so we are wholly representative – 46% of the households on all connecting roads and 52% of households directly connecting to the construction route. Up to 1,400 affected people have gone to the effort to join our constituted group, and I and my colleague have been asked to advocate on their behalf.

17. The promoter asserts that our residents' interests are covered within the Trafford Council petition. This would be the same council that refused to meet with my residents, refused to walk the route with me and the residents, and the same council that refused to attend our public meeting. It is true that the petition alludes in some way – their petition – to the construction route, but it is essentially copied and pasted from HS2's own AP2 publications. Very little original content. It offers no alternatives and, clearly, the construction routes are peripheral to its main objectives.

18. To date, Trafford haven't communicated with my residents in any way to elicit their views and thoughts. Following the promoter's failure at engagement with our residents, and the fact that, if you attempt to elicit an answer from HS2, it takes weeks to respond, which means that you miss the window of opportunity to respond with a petition, because you'd be out of time, of course, it fell to the elected councillors to help

and look to decipher and explain the information around the newly added construction routes. It was the residents' demands on my resources that led to the public meeting, initially for 100 people at a church hall, but by public demand, shifted at short notice to a larger synagogue for over 300 residents, with some craning through open windows to hear.

19. The promoter refused to attend but, more worryingly, Trafford Council refused to attend and engage with my residents. 'Too busy' and 'on holiday' was the response from the Trafford team, though they did allow me to collect some noticeboards to pin our maps to. It was more a case of how not to follow process and how not to engage with my residents. I requested that officers from the council, or the elected portfolio holders, meet with our team on the roads affected but we were met with, 'We can do a run through on Google Street View'.

20. I would argue that there are other forces at play within the council petition and, in this context, the promoter suggests that our group, up to 1,400 residents currently, but expanding daily, directly affected, do not have a right to be heard. We have, in record time, set up a constituted group with a bank account and we all know how hard it is to set a bank account up for an association. We have financial pledges to support our further work and we have engineers, as you have seen, who have already contributed, ready to show that we have a credible alternative to these construction routes. We have shown our residents are on the construction route and are directly affected both financially and their amenity, health and wellbeing will be potentially affected for a generation.

21. The blight on their homes has already begun and will remain for between 10 and 20 years, even if the construction goes to schedule. We have included in evidence an estate agents' statement that interests are already and will continue to be adversely affected. I have here subsequent evidence, only made available after our Thursday deadline, further evidencing that homes are already blighted on the property market and are failing to sell because of the construction route. Many of our members and residents will never see their property values return in their lifetime.

22. I think we have clearly demonstrated our right to represent our members. We have clearly demonstrated our members' interests have been impacted in property value,

amenity reduction and even now suffering long-term blight. Our group, Free Hale and Hale Barns from HGVs, must have a right to be heard by this Committee and we request that you look kindly on the plight of our residents. Thank you, Chair.

23. MR CARROLL: And if I could just finally add on matters of precedent, we are, of course, mindful of the previous decisions of this Committee and of the Court of Referees, which bind this Committee. I would like to draw your attention just to two of those. The first of the petition of Domestic Doggess, which this Committee heard. That petition was denied but on the basis that the local authority, or I think it was the parish council in that case, raised substantially the same points. As Cllr Evans has said, our petition raises substantially different points. It raises further alternative proposals, which will simply not be ventilated before you if our right to be heard is not recognised.

24. The second precedent is that of the CARE Residents Group. This was a petition heard in the context of the Midland Metro Bill and, in that case, there were three competing residents' groups and CARE Residents Group was the only petition to be allowed. That is because they had, amongst their members, residents on the affected route itself. We say that is directly analogous to our case and so it is, accordingly, our case that we are comprised of individuals who are directly and specially affected. We prevail on your discretion under the Standing Orders, in particular Standing Order 96, to recognise that right to be heard. Thank you.

25. THE CHAIR: Thank you. Members, any questions? Grahame?

26. MR MORRIS: Is there a Hale Barns Parish Council and have they submitted any petition or comments?

27. CLLR EVANS: There is no Hale Barns Parish Council, no.

28. MR MORRIS: It's just part of –

29. CLLR EVANS: Trafford Metropolitan Borough Council.

30. MR MORRIS: Yes.

31. CLLR EVANS: It's on the periphery edge. That's it, really.

32. MR MORRIS: Okay, thanks.



33. THE CHAIR: Holly?

34. MS MUMBY-CROFT: 38% of members are residents on the construction route or those feeder roads into the route.

35. MR CARROLL: Correct.

36. MS MUMBY-CROFT: Where do the other 62% come from? Are they all local people who are directly affected in your opinion or are some of them –

37. MR CARROLL: In the immediately surrounding areas. And what you'll find in our petition – I didn't want to delve into this because it goes to the substance but just to address your point – these roads are, in the most part, arterial, in that they sit next to the motorway; they are necessary for people to get from Manchester Airport into the centre of Altringham. As a result, this was a very well-attended public meeting. It drew in people from the immediately surrounding areas. Now, I've addressed today the point around people whose properties lie on the route will be affected by construction noise, emanations of pollutants, but you are absolutely right that there are a large number of other residents from the immediately surrounding areas – I am one of those – who depend on these roads and are worried about the congestion that this will cause. So that is the remainder.

38. MS MUMBY-CROFT: Thank you.

39. CLLR EVANS: Chair, could I perhaps have a review of a couple of the slides, which would explain that in a little bit more depth?

40. MS MUMBY-CROFT: Please do.

41. THE CHAIR: I mean, we've seen the slides already, so I don't think we need to see them again, to be honest. So we'll leave it at that. Mr Ormondroyd?

### **Response by Mr Ormondroyd**

42. MR ORMONDROYD (DfT): Well, yes, sir, and the petitioner, as has been very clearly stated in what you've heard, is an action group formed in response to the scheme and it's an action group with a single issue, which again has been very clearly and fairly stated, namely the impact of construction traffic and, specifically, one particular

construction traffic route.

43. And so there are three clear reasons why I submit there's no right to be heard here. First, because the petitioner is not the sort of body that has a recognised right to be heard. It's an ad hoc action group. Could we have R8(5), please? And the relevant Standing Order here is 95, in terms of societies or associations representing a trade, business or interest, including amenity interests. And that's taken as referring to pre-existing amenity societies, not ones that have been formed specifically for the purpose of objecting to the Bill.

44. And if we go to R8(2), please, and just down to the bottom of the page, this is a citation that you saw yesterday from the House of Lords report on Phase One, a report which the petitioner clearly acknowledges the authority of, as it has cited that in correspondence. And what is set out here is that 'the general practice is not to hear petitions presented by an ad hoc group because the public interest in full examination of environmental and ecological issues, including traffic management, is better achieved by petitions presented by local authorities, large and small'.

45. And then if we go over the page to R8(3), 'Action groups are usually not allowed to be heard on their petitions'. So that is the ordinary and settled approach to bodies like this and what is effectively being said is that you should make an exception because the petitioners are not satisfied with how Trafford Council have responded to them so far. I would suggest that's not a matter that we can or should go into in this forum. Trafford Council might have a very different account of its conduct and, in any event, it's a public authority; it's a highway authority with statutory responsibilities and it's democratically accountable.

46. So the thing that we can be sure of, though, is that the scope of Trafford Council's petition is wide enough to cover points about traffic, about traffic impacts and specifically about construction traffic. So it's open to Trafford Council to pursue points about that when it comes to make more detailed representations. But the essential point here is that the ordinary standard practice is for action groups like this not to be heard.

47. The second point is because the petitioner hasn't made out that the property or interests of those they represent are directly and specially affected by one or more provisions of the Bill. And the petitioner, you notice, hasn't focused on this whole

interest group angle. Instead, it's saying that the members of it, or some percentage of them, would be specifically and directly affected, but I would submit differently.

48. The basis of the argument seems to be that, well, there will be construction traffic, that will affect property values and so that is a direct and/or special effect. I can't clearly take a position today on whether or not there will be an impact on property values but, assuming there is an impact on those from construction traffic, that wouldn't amount to a direct and special effect of the provisions in the Bill.

49. And the reason for that is a somewhat technical one but, essentially, the idea of direct and special effect has been interpreted fairly generously by the House of Lords Phase One Committee to extend to any actionable nuisance, so a nuisance that people would be able to sue for in court, and the petitioner referenced that standard and, I think, acknowledges that they have to meet it. But construction traffic would not give rise to the right to bring legal proceedings for nuisance for the simple reason that it is not a nuisance at law for traffic to drive down a public road where it has every right to be, unless some sort of restriction is brought in to prevent it.

50. So construction traffic just doesn't engage that sort of effect and, indeed, as this very Committee said in its decision on the right to be heard of Graham Stringer MP in the first report, 'Traffic and congestion issues have not historically been interpreted as grounds to grant a petitioner the right to be heard'. And, with respect, that is clearly right and the reason for it is because that general effect of general disturbance caused by increased traffic doesn't give rise to a right to sue in nuisance. So that's the second reason; it hasn't demonstrated a special and direct effect of the sort that would give rise to a right to petition.

51. And third, and finally, and if you're not with me on those slightly more technical points, and if you feel that there is a discretion to hear this petitioner, I would invite you to exercise your discretion not to hear the petitioner and that is essentially because of the nature of the issue that it raises, which is fairly and squarely one of construction traffic and that's been made very plain. That issue of construction traffic is an issue which the Committee has indicated in its first report that it will generally not make specific recommendations on and it seems unlikely that the Committee would want to get into the nitty gritty of the construction routing, one particular construction route, rather than

the general approach, which is to leave that to be dealt with through the process of preparing construction traffic management plans.

52. So, in my submission, not much purpose would be served by hearing the substance of this petition because the likely result would be, well, that's a matter for further down the line. But insofar as the Committee does feel, perhaps on the basis of today's presentation, that this is a case in which the Committee wishes to make an exception and wishes to enquire into this in more detail, then the more appropriate vehicle for that is through the petition of Trafford Council or, indeed, if the petitioners are going to say Trafford Council aren't adequate, you also have Graham Brady, the local MP, who's petitioning on this and whose right to be heard is not challenged.

53. So insofar as there's a discretion, I would invite you not to exercise it and I would just respectfully observe that these petitioners clearly have some fairly powerful guns lined up, but they just need to go and fire them in the right direction, and that direction is not here but it will be in discussions with the local highway authority, either as part of the petitioning process or later as part of the process of drawing up traffic management plans.

54. THE CHAIR: In terms of Standing Order 96, just following the argument here, so your argument is that it doesn't apply to groups of individuals.

55. MR ORMONDROYD (DfT): I was addressing 95.

56. THE CHAIR: But 96 is what the petitioners were arguing, which is that, as inhabitants, 'to allow local authorities or inhabitants to have petitions considered'. And the document that we were just at previously – go back to that – at 14 and 15, '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 precedents reflect the convention that Standing Order 96 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 Standing Order 96'.

57. Given that the petitioners were seeking to rely on Standing Order 96, I'm keen to know what your response is to that.

58. MR ORMONDROYD (DfT): I hadn't understood that they were relying on that.

59. THE CHAIR: I think, Mr Carroll, you did reference Standing Order 96, didn't you?

60. MR CARROLL: Well, we would prevail on your discretion on 95 and 96 but, yes, 96.

61. THE CHAIR: You mentioned 96.

62. MR CARROLL: I did indeed, yes, yes.

63. MR ORMONDROYD (DfT): Well, as I say, insofar as there is a discretion to hear this petitioner then you've heard my response on that, which is that I'd invite you not to exercise that discretion.

64. THE CHAIR: I'm just confused by, at 15, 'Individual inhabitants are not normally treated as covered by Standing Order 96', yet Standing Order 96 is specifically related to inhabitants of an area and it says, 'The precedents reflect the convention that Standing Order 96 is directed at groups of persons who are petitioning as representatives of inhabitants of the area'. So Standing Order 96 seems to suggest that individual inhabitants are not covered by it, which is what we're saying the precedents say, but that it refers only to groups of individuals, but the argument has been put forward that groups of individuals are not, in and of themselves, able to petition.

65. MR ORMONDROYD (DfT): Well, I think 96 is really about local authorities. So that's the context for you. It's saying a local authority – so can we just go back to the Standing Orders? So you have 95, which is about societies or associations representing a trade, business or interest including, under 95(2), amenity, educational, travel or recreational interests. So, those interest groups are under 95. 96 is about – well, it starts with local authorities and that's the context in which it then talks about inhabitants. So it's looking at it in terms of a body, which represents inhabitants generally, is what I would suggest is the distinction there. And that's why an individual local inhabitant wouldn't normally be accorded the right to be heard because they're not there representing inhabitants generally. So when you have the local authority petitioning, in my submission, it wouldn't normally be appropriate to allow groups of local residents to

petition alongside it.

66. THE CHAIR: Okay. Members, any questions?

67. MS MUMBY-CROFT: No.

68. THE CHAIR: Any questions? I mean, the position you've set out, Mr Ormondroyd, in terms of where I've expressed from the Chair's position here that this Committee is not ordinarily going to involve itself in traffic management issues, is a correct one. I'm just a little bit confused still around Standing Order 96 as to whether that gives a right to inhabitants or not, given that it seems a bit contradictory.

69. MR ORMONDROYD (DfT): Well, what it says is, it shall be competent to you if you think fit. So, at the most, that would give you a discretion and then the point about, will the Committee, in any event, get into individual traffic routes, is relevant to the question of whether you exercise that discretion.

THE CHAIR: No, that's understood, yes. Okay, well, can I thank the petitioners for attending today? I will now close the Committee but we will have a discussion afterwards and then of course we will inform you, as appropriate, as to what the decision is we have made. But we have no further business today so, on that basis, I thank you both for attending and I'll call the Committee to a close.