

Objection to Planning Application 2020/1681/HS2

Application for approval under Schedule 17 of High Speed Rail (London - West Midlands) Act 2017 relating to the construction of an external staircase, re-locatable equipment building and artificial walkway lighting at Mornington Terrace (Euston up Sidings) and artificial walkway lighting at Gloucester Avenue (Camden Carriage Sidings) all required in association with extended railway sidings.

The Objector lives at 52A Mornington Terrace, London NW1 7RT opposite the construction site. Under the Schedule 17 procedures it is intended that the applicant has complied with the previous requirements of the Planning Regime applicable and the requirements High Speed Rail (London - West Midlands) Act 2017. The Act notes only a number of specific circumstances where permission cannot be granted. However, the basis of this objection is that the controls and protections described in the Hybrid Bill and related documents have not operated as intended and therefore it is unreasonable for the application to seek permission under Schedule 17. Further under the same legislation, the local authority does not have the authority to approve such an application and effectively authorise the works that have not complied with the planning requirements.

The Covering letter attached to the application notes that it is accompanied by a bringing into use application. *"A Schedule 17 'Bringing into Use' submission accompanies this application with 'Bringing into Use' approval sought for scheduled work no. 1/17 and 1/27."* It should be noted that the majority of the construction work has already been completed with previous applications under alternative applications. This also implies that the works are separate to scheduled works No 1/17 which accompanied the Bill.

Network Rail has acknowledged that the works to the sidings and to the access building on Mornington Terrace with the addition of an external staircase are related to HS2. This only occurred after a significant number of complaints and unanswered queries. [see Network Rail letter dated 4 July 2019].

It is unclear whether the applied for works are included within Schedule 1 however in any case the sidings in scheduled works No 1/17 and described in this application were not described or the impacts assessed in the Environmental Impact Assessment that accompanied the hybrid bill. Consequently individuals impacted by the proposals have not had an opportunity to comment on them and for their comments to be considered by the decision maker. Further given the construction of the staircase has been completed in part this application is retroactive. Schedule 17 does not allow for consideration of comments in the manner described. An environmental impact assessment has not accompanied any of the planning documents. This objector has been significantly impacted by the construction of the staircase as well as the preparatory works for the staircase and the building. The Objector is also concerned that the access building and staircase appears to already be in use by Network Rail operatives working on other parts of the rail infrastructure. The disturbances caused have already been raised as formal complaints following the HS2 and Network Rail complaints procedures however substantive responses are still outstanding.

Planning Framework

It is a fundamental part of the planning regime that individuals impacted by development have an opportunity to comment on proposals, their construction and the environmental impacts that result which may impact them. This is enshrined in European Directives and Human Rights legislation. Under the Environmental Impact Assessment (EIA) Directive (92/2011/EU) ("the EIA Directive"), decision making bodies are required to consider the environmental effects of projects when deciding whether or not they should be allowed to proceed. The objective of the EIA Directive is to identify and assess the likely significant environmental effects of a project, with a view to informing the

decision maker as part of the development consent process. In UK law this has been adopted within the planning regime with Part II of Schedule 4 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (S.I. 1999, No. 293), and so much of the information referred to in Part I of that Schedule as is reasonably required to assess the environmental effect of the works.

In the case of the HS2 Phase One Bill, the objectives of the EIA Directive, including that of supplying information, are achieved through the parliamentary process. Standing Order 27A requires that, when a Bill which authorises the carrying out of works is submitted for approval through the parliamentary process, it shall be accompanied by an Environmental Statement (ES) containing specified information. The ES is a document provided for the purpose of enabling Parliament to make an assessment of the likely impacts on the environment arising from the project. The ES also provides stakeholders and the public with a basis on which to make representations to Parliament, as appropriate, on the environmental impacts of the project. The rights to consultations are included with compliance with standing order 224A.

s20 of the Hybrid Bill grants deemed planning permission for the works authorised by it, which are described in Schedule 1 subject to the conditions set out in Schedule 17. Schedule 17 includes conditions requiring the following matters to be approved or agreed by local authority including Construction arrangements, plans and specifications and bringing into use requests.

Included in the wider controls to assist local authorities is a document to assist with planning entitled "HS2 context report" which includes a list of schedule 17 matters.

Application 2020/1681 details

The application is accompanied by a written statement prepared by HS2. Para 3.3 describes works for approval and details as follows:

"3.3.1 The relevant scheduled works as set out under Schedule 1 of the Act to which this Schedule 17 submission relates are:

- *'Work No. 1/17 - A railway siding (0.50 kilometres in length) commencing at a point 81 metres north-east of the junction of Stanhope Street with Granby Terrace passing north westwards and terminating at a point 60 metres south-east of the junction of Delancey Street with Mornington Terrace;'*

There is no evidence that the works described in the application are actually included in works No 1/17.

The construction method per para 3.4 of the HS2 statement includes

3.4.1 The works subject to this request for approval of Plans and Specifications will be undertaken in accordance with the HS2 Code of Construction Practice and the Class Approval issued by the Secretary of State (March 2017).

3.4.3 A road closure of Mornington Terrace was required to allow a concrete pump to be utilised for the foundations of the access staircase. The road was closed for 4 days to allow for the concrete pump to be used.

Section 5 includes pre submission with the LPA and statutory consultees. Table 3 notes applications for TTRO and under part 18 GPDO.

Works not described in the Environmental Statement and during the Parliamentary Process

The works are not described in the Environmental Statement.

HS2 Information paper E1 notes in para 2.5 the impact of the controls described in the EMRs.

This will ensure that where EIA is legally required, works will not take place unless they have been assessed already as part of the ES or are subject to a further EIA and consent process.

HS2 has suggested the omission is due to the impacts not being significant.

The objector, on behalf of the Camden Cutting Group raised concerns on the Environmental Statement before the Examiners who reviewed compliance with standing orders as part of the Parliamentary Process on 20th October 2015.

It should be noted that the Agent for the Hybrid Bill on behalf of the Promoter, noted per the transcript para 208

MS GORLOV: The ES is indeed designed to reveal the environmental impact of proposed works. It must, therefore, reveal what the works are, assess their significance and report on those that are materially significant, and, in the case of the amendments, if they effect material changes.

Further Peter Miller the HS2 Environment Director noted on behalf of the Promoter per para 216

216. The Promoters' submission is that the supplementary environmental statement 2 (SES 2) and additional provision 3 environmental statement (AP3 ES) comply with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and Standing Order 27A and that none of the complaints made by the Camden Cutting Group is substantive.

It follows that even if the impacts were not significant, the works should still have been included possibly albeit briefly and they were not and therefore the works were not part of an Environmental Impact Assessment. Consequently permission under schedule 17 cannot be granted as to do so would breach the planning rules regarding environmental impact assessments, the reporting and the consultation.

During the Parliamentary process there was no reference to the works in the Petition Response Documents or the Promoter's exhibits before the Select Committees in both houses despite other works with similar impacts being included.

Issues and Complaints during construction

During the construction, the objector and neighbours were disturbed on numerous occasions. Further for part of the works the noise monitors were located too far from the works, and considerably further away than residential properties to record the noise impacts in accordance with the Code of Construction Practice.

This was compounded by the failure to install secondary glazing on a timely basis as set out in the CoCP, Out of hours working, frequently outside the s61 constraints as well as inappropriate behaviour by Contractors causing a disturbance. This behaviour included excessive use of residential

parking for contractors personal vehicles, revving personal car engines at antisocial hours waking residents.

The road closure and use of large machinery for periods of time also caused a significant impact.

Issues and Complaints in apparent operation

The works have been substantially complete relating to the staircase and access. They appear to already be in use by Network Rail contractors engaged in other activities on the rail network. This has been at antisocial hours, with shouting, slamming of both car doors on arrival and the steel door to the access building. Comprehensive responses to complaints to both HS2 and Network Rail are outstanding.

It is therefore not accepted that the omission from the Environmental Statement was as a result of impacts of construction or operation being insignificant.

Conclusion

The planning regime included in the Hybrid Bill has not been complied with. It does not appear the staircase, building and walkways are included as a Scheduled work under 1/17, the works are not described or assessed in the environmental statement and therefore a separate Environmental Impact Assessment on both construction and operation is required as part of any planning process. The application under Schedule 17 does not include this. Further the Environmental Impacts must be consulted on, and given they have not been described this has also not taken place. s20 of the Hybrid Bill has not been complied with and this application must be rejected since it is not within the powers of the Local Authority to waive the requirements. They also have an obligation to protect the rights of residents, which would be impacted if the application was approved.

David Auger

From: David Auger
Sent: 13 June 2019 14:18
To: 'Maguire Hazel'
Cc: 'DREW, Noemi'
Subject: RE: Complaint regarding Mornington Terrace access work

Dear Ms Maguire

There have been a considerable number of complaints made to HS2 and Network Rail regarding the works relating to the sidings adjacent to Mornington Terrace, but rather than delaying any response further, I think it best that I receive a written response to our discussions, namely that the works are HS2 related. I would note that complaints were raised regarding sidings work and demolitions in 2018 and the access buildings in January 2019 and again in February 2019, all with HS2 in the first instance, and at no time has it been suggested these works are anything but HS2 enabling. I first raised the concern as to Networkrail's approach in April in that inappropriate control frameworks were being used and sought to escalate the complaints process in May. I was informed that I would receive a response on the 4th June. To date I have received no substantive or meaningful explanation as to the differing treatments or explanations behind the incorrect information that would have been provided previously if your assertions are correct. I believe my previous correspondence is clear and am disappointed that yet again Networkrail are delaying providing any proper meaningful response to complaints. Separately I am still waiting a proper response from the findings of the HS2 construction commissioner who reported in September 2018 following the works on the sidings. During the Construction Commissioner's investigation which took place over several months it was never suggested that these works were anything but HS2 related. HS2 state that this is with Networkrail and yet there is a similar prevarication and failure to provide proper responses, no doubt driven by a reluctance to admit that Networkrail is in error.

In reviewing your published complaints procedure, this should now be escalated to a National Director, who is independent of the works in the Euston area and was not involved in the decisions that resulted in the disturbance to residents. It would appear therefore that Mr Duckmanton would not be an appropriate person in the first instance, and in any case I would prefer a proper written response in the first instance prior to any meeting. My previous experience is that meetings have simply been a reiteration of policy rather than a proper investigation of the issues and response.

Please note that this has been raised with Sir Keir Starmer QC MP, our local MP, and I have copied his office for completeness

Yours sincerely

David Auger

David Auger
52A Mornington Terrace,
London, NW1 7RT

From: Maguire Hazel
Sent: 07 June 2019 16:23
To:
Subject: Complaint regarding Mornington Terrace access work
Importance: High

Good afternoon Mr. Auger,

Further to my colleague's email response to you earlier this week, dated Tuesday 4 June, we have been investigating and discussing your complaint with our Senior Sponsorship team for Euston. We can assure you that we are taking your concerns very seriously and It is important to us that we can address your questions thoroughly and to your satisfaction. Therefore, we would like to offer you a meeting with our Lead Euston Sponsor Tom Duckmanton and myself for week commencing 17 June to discuss this further.

If you would like to proceed with this meeting, please let us know and we will share possible dates and times with you next week.

Kind regards

Hazel

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Machinery used during staircase works



Pictures taken from doorstep 52
Morningside Terrace on 21 March and
17 April 2019

Mr David Auger
52A Mornington Terrace
London
NW1 7RT

Baskerville House
Broad Street
Centenary Square
Birmingham
B1 2ND

4th July 2019

RE: Raitwav works in Mornington Terrace April 16 - April 19 2019

Dear Mr Auger

I am writing to you in response to your most recent email to Hazel Maguire of 13 June. That email follows on from a number of other emails that have passed between you and members of the Network Rail project team dealing with works currently being undertaken by Network Rail in the approaches to Euston Station to accommodate the HS2 Project. You have raised a number of specific points of concern regarding the execution of a particular piece of work relating to the creation of a track access point and stairway off Mornington Terrace ('back access works').

Firstly, can I begin by acknowledging that it does appear to me that you have not been given consistent information regarding the relationship between the track access works and the wider HS2 Project and I apologise for that. I can also see that responses have taken some time to reach you, and again I apologise for that. I want to assure you that the way in which your queries have been dealt with will be reviewed and any necessary adjustment will be made to our Community Engagement Strategy, so that, in the future, questions and concerns are dealt with as seamlessly and quickly as possible.

You have a number of other issues that you are raising separately with our colleagues at HS2 regarding other aspects of the construction of the HS2 Project and I understand that a meeting recently took place to discuss those particular points of concern.

I am writing to you now to specifically address issues you have raised with us around the carrying out of the track access works. In order to reply fully to your concerns, I set out below my comments responding to the principle issues raised in your email of 13 June. If there are any further points you wish to raise with me in respect of the track access works or otherwise then please do let me know.

1. OVERVIEW OF WIDER HS2 WORKS IN THE EUSTON AREA

As you will know, proposed works in the approach to Euston Station and changes to Euston Station itself to accommodate the HS2 Project have been the subject of extensive environmental assessment, as reported in the Environmental Statement lodged with the Bill in November 2013 and the supplementary Environmental Statements which accompanied each of the Additional Provisions to the Bill. In addition, the Environmental Minimum Requirements (EMRs) have been published, which set out the government's high level environmental and sustainability commitment that accompany the 2017 Act. Network Rail is focused on delivering HS2 related works that are subject to those

commitments, where applicable.

2. RELATIONSHIP BETWEEN TRACK ACCESS WORKS AND WIDER HS2 WORKS

I can see from the correspondence with us that you have asked the question as to whether or not the track access works are, in fact HS2 related. So far as the track access work are concerned, I can say that those works, as well as the works relating to the siding adjacent to Mornington Terrace, are HS2 related works in that they are required to be constructed to either accommodate or be required to be provided as a direct consequence of the allocation of HS2 rail capacity between the HS2 tunnel portal and Euston Station under the High Speed Rail (London — West Midlands) Act 2017 (the 2017 Act).

3. TRACK ACCESSWORKS

In order to carry out the track access works, a concrete pump was required to be delivered to Mornington Terrace. The concrete was needed for the installation of a set of stairs to track level from an existing access on Mornington Terrace. The concrete was then pumped to track level for the foundations of the stairway structure which was part of the track access works.

Due to the size of the concrete pump and attendance vehicles, a short road closure and diversion was required between 15 and 19 April 2019. This was agreed with the local highway authority, LB Camden, through an application made by Network Rail under section 14 of the Road Traffic Regulation Act (1984) ("RTRA"). All concreting works at street level in Mornington Terrace took place during daytime working hours only and emergency services were advised of the road closure as part of procedures set in place by Camden Council when granting a temporary road closure under the RTRA.

4. TEMPORARY ROAD TRAFFIC ORDER

To make an order under the RTRA the local highway authority is required to advertise the proposed order and post street notices giving notice of the temporary closure. In addition, a letter was sent by the Network Rail Community Engagement Team to local residents on 29 March 2019, 17 days in advance of the commencement date of the temporary closure. That letter provided details of the works and supplied contact details for the local Community Engagement Team and advised that details of any sudden changes to the closure would be provided via the HS2 in Camden Commonplace website.

I know that you are concerned that Network Rail did not seek the temporary closure of Mornington Terrace under paragraph 6 Schedule 4 of the 2017 Act, but obtained a separate order under the RTRA. Under paragraph 6(3) of Schedule 4 to the 2017 Act consultation is required with the local highway authority in respect of temporary road closures. Network Rail did not approach LB Camden pursuant to Schedule 4 of the 2017 Act. However, consultation did take place with LB Camden in connection with the publication and making of the RTRA Order. In the case of both paragraph 6 of Schedule 4 of the 2017 Act and section 14 of the RTRA the local highway authority is required to have regard to public safety and public *inconvenience*. The fact that Schedule 4 of the 2017 Act identifies temporary street closures does not preclude an order being otherwise obtained under the RTRA to authorise temporary closure by other means.

In summary, I understand that concerns affecting local residents need to be addressed in a joined-up way and that there appears to be a need for greater transparency in the way in which differing aspects of the- HS2 related works being carried out by Network Rail in and around the Euston area fit into the overall framework of authorisations for the HS2 Project. Please be assured that we are committed to working with all stakeholders to ensure that HS2 related works undertaken by Network Rail are carried out fully in accordance with all relevant policies and engagement strategies which underpin the delivery of the HS2 Project in the Euston area.

I apologise again for any inconvenience caused to you in respect of the track access works and the way in which your concerns have been dealt with internally. Should you have any further matters that you wish to discuss then please do contact me directly.

Yours sincerely

David Golding
Acting Route Managing Director

North West & Central Region, Network Rail

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