

Application No:	Consultees Name:	Received:	Comment:	Response:
2021/4110/P	David Auger	03/10/2021 21:54:36	OBJ	Objection to Planning Application 2021/4110/P

The Application is for approval under Town and Country Planning 1990, however the access point is required due to the removal of infrastructure on the west side of the cutting to provide replacement access. The significance of this is not made clear in the application however has been confirmed during the meetings held by the applicant.

It would have been more appropriate if the permission had been provided by the High Speed Rail (London - West Midlands) Act 2017 relating to the construction of HS2 as part of the enabling works which these works are. Residents impacted by the proposals would have had a number of opportunities to comment as well as access to mitigation and compensation which is being denied using this application method. It should be noted that while Network Rail did hold a number of consultation events, a number of statements made regarding the protections and controls that HS2 related works would apply, there is no provision for this actually being honoured.

The Objector lives at 52A Mornington Terrace, London NW1 7RT.

The basis of this objection is that the controls and protections described in the Hybrid Bill and related documents relating to HS2 enabling works (which the access point and ramp is) have not operated as intended and therefore it is unreasonable for the application to seek permission under Town and Country Planning Act 1990 in the terms and details provided. 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 around the HS2 enabling works and in particular remedy the fact that residents were denied the opportunity to petition parliament on the impacts given the statements as to completeness of the works made during the Parliamentary process which this application demonstrates was incorrect. This has not been acknowledged by the applicant or HS2.

An environmental impact assessment as not accompanied any of the planning documents. A comment has been made in the application that it is not required per an email from Camden Planning. It is unclear what the basis for this exclusion is, however it is disputed, and for whatever reason the absence of an appropriate impact assessment breaches the rights of residents. It should be noted the construction and use of an access point to the north on Mornington Terrace has already caused considerable disruption.

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

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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. Since the proposals are HS2 related and the application does not include an assessment nor was the assessment included in the Hybrid Bill then the opportunity for residents has been denied. So too has the mitigation including noise insulation that may be triggered by the works and protection from the monitoring that takes place, where any noisy works from this application will be excluded despite being HS2 related.

Works not described in the HS2 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.

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 the proposals cannot be granted as to do so would breach the planning rules

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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.

The objector will be impacted by the use of Mornington Terrace by the traffic related to the site both during construction and operation. Further, the objector having represented residents of Clarkson Row and Mornington Crescent during the Parliamentary Process, the comments raised above apply.

Conclusion

The proposals relate to HS2 related works, the access point being required as part of the changes from HS2 works in the area.

The planning regime included in the Hybrid Bill has not been complied with. It does not appear building and walkways are included as a Scheduled work, 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 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.

There is also an obligation to protect the rights of residents, which would be impacted if the application was approved. Given the absence of an impact assessment or consideration of how construction would be undertaken, for example demolition methodologies, or whether the construction would be required outside standard hours then comment is not possible.