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Monday, 11 June 2018

HS2 PROLONGED DISTURBANCE COMPENSATION SCHEME ("The Proposed PDC Scheme")

Dear Sir

I am writing in response to the proposed compensation scheme for the residents of Camden, now called The HS2 Prolonged Disturbance Compensation Scheme. **The proposed PDC scheme is fundamentally flawed and should be rejected in its entirety.** It is neither fair compensation to those adversely affected by HS2 in the Camden area. nor a rational response to the recommendations made by the House of Lords Select Committee, and indeed does not follow the stated intentions of the Promoter in response to the Select Committee's recommendations.

The Proposed PDC Scheme uses the criteria around the need for re-housing and the associated trigger levels per HS2 policy E23 as the starting point for assessing qualification. Indeed the criteria for qualifying under this proposed scheme appear to be significantly harder to satisfy than the criteria for rehousing in E23.

HS2 has already stated on numerous occasions, including before Parliament, that it is unlikely that anyone will need to be re-housed due to noise in Camden. Therefore this scheme is also such that no one will qualify and no compensation will be paid.

In the circumstances, the proposed PDC scheme appears to be worthless, and to consult on it is no more than a box-ticking exercise – the consultation is a waste of time.

Stepping back, the scheme is fundamentally inconsistent with the House of Lords Select Committee report and at odds with the preceding House of Commons Select Committee report which stated in para 237:

"Camden is exceptional, and needs special treatment. Many residents are going to have to put up with disturbance on a scale beyond the experience in most other locations".

The House of Lords looked separately at the impacts on Camden residents and considered HS2's evidence on mitigation and, where they thought this was adequate in a particular part of Camden, this was stated. For example per para 200 of their Lordships' Report:

"On the whole, and apart from some houses in Delancey Street, we regard the mitigation being offered to the residents and business-owners in this area as adequate."

This adds weight as to their recommendations that areas more impacted by the scale and duration of construction works should be compensated.

The House of Lords Select Committee Report made specific reference to communities to both the east and west of the Euston approaches as well as the Regents Park and Amptill estates and their need for additional compensation as per paragraphs 196, 203 and 207 for example. The Proposed PDC scheme does nothing to compensate these residents despite the recommendations of the Select Committee.

The Select Committee went further and set out a number of specific recommendations, obviously after careful consideration of a very large body of evidence given in its lengthy hearings. It made the "strong" (see [215]) recommendation that the following schemes should be extended to "houses and flats identified as likely to suffer such severe detriment in terms of noise to be entitled to noise insulation" ([265]):

(i) **Owner-occupiers** should be entitled to participate in the **Voluntary Purchase Scheme**. This is the right to require the government to acquire the property at the unblighted price.

(ii) **Owner-occupiers** should also benefit from the **Cash Option**. This is 10% of the unblighted value with a minimum of £30k and a maximum of £100k. The HLSC considers that this would be the preferred option

(iii) **Residential tenants** who do not qualify as owner-occupiers should be entitled to a "**lump sum of £10k**". This is a new payment.

In Para 221 of their report, their Lordships recognised the difficulties around such compensation issues and noted (my underline and bold),

*"But we do make a **strong** recommendation that a **substantial** concession on these lines should be made to those urban householders who will be most severely affected, and who feel, with some justification, that they are not receiving fair treatment."*

The Proposed PDC Scheme follows none of these recommendations not even their spirit, as it has been designed to compensate a situation that is not predicted to occur.

The Promoter's response to the House of Lords Select Committee report included the following:

para 73. "The Government accepts the Committee's strong recommendation that, in the case of those households in Camden and Old Oak Common, those households (if any) in Hillingdon and Birmingham and those households in close proximity to a construction compound or spoil heap that are subject to severe and prolonged noise and disturbance resulting from the construction of HS2, compensation should be offered in addition to any statutory remedy for which they may be eligible."

para 75. "The scheme will be founded upon a clear and objective eligibility criterion or criteria tailored to its intended purpose. The Government will ensure that the scheme is fair, reasonable and proportionate, in the spirit of the strong recommendation of the Select Committee."

The Proposed scheme, with its lack of anticipated pay-out, meets none of these statements – statements that were given in the passage of the hybrid bill through Parliament and that residents would expect to be honoured.

To make detailed observations on the proposed PDC scheme risks giving it a legitimacy that would be inappropriate. However, in recognition that a new alternative scheme needs to be developed, I would make the following brief observations.

- 1) The scheme is strictly noise based with no allowance made for other significant aspects of construction, for example road closures and access, which the Environmental Statement listed as significant adverse and major adverse with durations of decades.
 - 2) The scheme is designed to start in the future but Camden residents have already been enduring the impacts of HS2 related construction for over a year since Royal Assent, and the residents of Regents Park Estate even longer with the construction of the replacement homes programme. No allowance has been made for this.
 - 3) A scheme dependent on predicted and actual noise levels is reliant on these processes being done accurately and properly. Experience to date has been that some residents have suffered repeated disturbance where these processes have been less than indicated in the Parliamentary process.
 - 4) The scheme requires that Noise Installation has been installed and yet HS2 are hopelessly behind in the installation programme and appear incapable of finding a reasonable solution to some of the issues identified. It should be noted at the present time HS2 have reneged on a number of statements made before the Select Committee. Any proposal should be on qualification where non standard issues have been identified rather than being used as a route to impose an unreasonable insulation solution on residents.
 - 5) The scheme is capped at £30,000. This appears to be an arbitrary figure and is considerably below what the Select Committee would have anticipated for a Camden homeowner qualifying for noise insulation. The cap should be removed.
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It is extremely disappointing that HS2, despite the length of time since Royal Assent, has been unable to develop meaningful proposals for discussion. Further it is disappointing that, yet again, HS2 staff were unable to provide papers promised on a timely basis. The Proposed scheme was only provided mid afternoon on Thursday 7th June, while details of the format of the workshop that were supposed to be provided in advance (per the invite of 24th May) remain outstanding. It appears that HS2 have not made sufficient effort in either devising an appropriate scheme or considering how to engage with residents impacted.

As noted at the outset, I believe it would be a waste of time to attend a "consultation" on a scheme that is calculated to result in no payments whatever to residents. This scheme does not even attempt to meet the House of Lords Select Committee's recommendations, the

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Promoter's response, and HS2's obligations under the European Convention on Human Rights to provide fair and proportionate compensation to those whose rights are being breached.

Consequently I will not be attending this evening's meeting given the fundamental flaws in the proposals and lack of transparency around the purpose of the meeting itself, with the concerns that it is another disingenuous "engagement" event.

Please treat this letter as my feedback on the proposed PDC scheme, which I would be grateful if you could acknowledge.

Yours faithfully

David Auger