Objecting to the HS2 Bill by petition in Parliament

If you plan to object to the HS2 Bill the main deadline for taking action is fast approaching.

The procedure for objecting to the HS2 Bill is by “petition” in Parliament. A petition is a formal legal document which must set out comprehensively all your grounds of objection. It must explain how you will be “specially and directly affected” by the Bill proposals. It must identify every clause of the Bill you object to and every point of objection to it, and it must detail how the Bill should be altered to take account of your concerns.

The deadline for lodging petitions objecting to the HS2 Bill will be in around May 2014, although the deadline has not yet been set.

Anyone who wants to see an improvement in the HS2 proposals can petition. This could include affected landowners, residents and businesses, as well as local authorities, parish councils, residents' associations, amenity societies and representative groups.

As HS2 is a “hybrid” Bill, you cannot dispute the principle of HS2 in your petition, you can only propose changes – which can include alternatives like tunnelling and other measures for mitigating its impact. This could cover for example: mitigation and accommodation works; design changes; changes in construction access, process, management and the like; the extent of land take, temporary possession, etc; adjustments to route alignment; alternative land acquisition; alternative locations for structures, access, work sites and the like; and, alternative means of construction.

HS2 are likely to focus their negotiations with those who petition against the Bill. Changes or undertakings are sometimes offered by promoters to satisfy those who petition against a Bill. But if you are going to petition, you should try to present your case properly and professionally, to ensure that it is taken seriously. If not, it is unlikely to achieve anything.

The Bill and petitions against it will be scrutinised by select committee(s) – in both the House of Commons and House of Lords. The committees hear argument and evidence from the promoters of the Bill and then from petitioners and reach decisions on the point in issue. The process is rather like court litigation, with counsel in wigs and gowns appearing before the Committee. The committees can then recommend changes to the Bill to take account of what they have heard.

There is a £20 fee for petitioning. You may engage a “Roll A” Parliamentary Agent to lodge it for you – although appropriate people, eg a local solicitor, can apply to become a “Roll B” agent to act for you.

Barristers at FTB specialise in planning and infrastructure projects such as HS2. They have been involved with a number of private or hybrid Bills in Parliament, including Crossrail and CTRL/HS1. They would be able to provide advice about the best points to take in a petition and how best to prepare and present a case, as well as acting as advocate before the Committee.

Barristers are specialist legal advisers and advocates who are able to provide a range of services from early advice on the strategy for presenting a case through to advocacy. There are many myths and misunderstandings about the way modern barristers work, often based on experience of barristers gained many years ago or under previous regimes of barristers’ regulation. Barristers are in reality like any other professional service provider. You no longer need to use a solicitor to instruct a barrister. It is possible for members of the public to instruct a barrister directly.

As they operate from chambers on a self-employed basis, they can provide remarkably good value for money compared to other professionals, especially junior barristers. They are also happy to operate on a fixed or capped fee basis.

The Bar Council website contains guidance on instructing a barrister, including for lay clients using the public access process (http://www.barcouncil.org.uk/instructing-a-barrister/public-access/). You can find out more about instructing a barrister from FTB at: http://www.ftb.eu.com/administration/instructing-us.asp.

If you would like to discuss how a barrister from FTB could assist with petitioning and presenting a case on HS2, and what this might cost, please contact Paul Coveney on 020 7353 8415 or paul.coveney@ftb.eu.com.