

Major infrastructure projects: the hybrid Bill experience

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What is authorisation for?

- Clause 39 of the Magna Carta states that people cannot be deprived of their liberty or their land
- Human Rights Act 1998 incorporates these rights
- Building a big infrastructure project involves interfering with these fundamental rights
- Authorisation is a process whereby such rights can be taken from people in a lawful manner
- Land can only be taken from a person where it is the public interest, and in accordance with processes set out in law
- Key objective is to achieve certainty for the promoter and justice for affected parties

Historical perspective

- Seeking rights above others has always been an issue – usually resolved by getting Private Act of Parliament
- First mention is a petition to the Crown dated 1290 to levy tolls on a road
- First Act is dated 1421, relates to a road at Abingdon
- First turnpike road Act – 1663, part of Great North Road
- First canal Act – 1759, Bridgewater canal
- First railway Act – 1758, Middleton colliery
- First steam railway Act – 1821, Stockton to Darlington
- Railway mania of the 1840s - in one year there were 700 railway Bills in Parliament

How do we do it now?

- Until the 1990s, use of private Acts was the norm
- No longer use private Acts – considered to be too much of a burden on Parliament
- There are now several authorisation routes:
 - schemes where no powers are needed, or small scale schemes – normal planning legislation
 - medium sized schemes – Transport & Works Act 1992
 - nationally significant schemes – Planning Act 2008, as amended by the Localism Act 2011
- Exceptional schemes – Act of Parliament – enables Parliament to act as decision maker

Act of Parliament

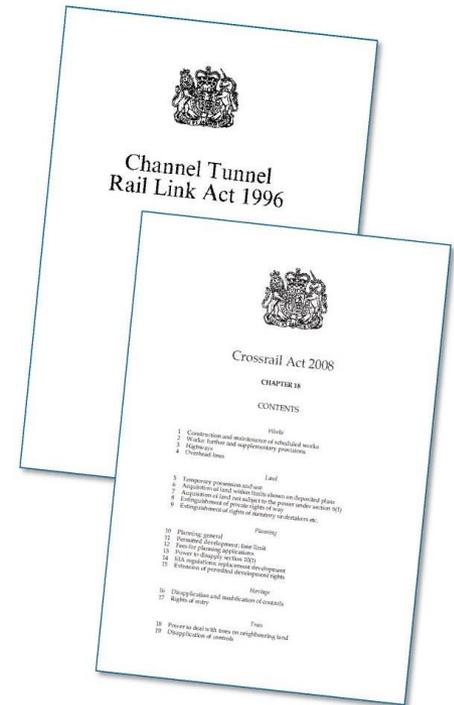
- Main benefits:
 - Shows Government support for project
 - Principle of the scheme is established early, at Second Reading of the Bill in the House of Commons
 - Can amend existing primary legislation or create bespoke legislative regime
 - Changes can be introduced during the process

Acts of Parliament

- Used relatively infrequently - examples include:

- Channel Tunnel 1987
- Dartford-Thurrock Crossing 1988
- Severn Bridge 1992
- Channel Tunnel Rail Link/HS1 1996
- **Crossrail 2008**
- **Phase 1 of HS2 2013**
- Phase 2A of Hs2
- Phase 2B of HS2
- Crossrail 2

- Obtained by promoting a 'hybrid' Bill in Parliament



Hybrid Bill

Has characteristics of public and private Bills:

- Public: legislation that affects us all
- Private: affects specific individuals/organisations in a particular way

Promotion of a hybrid Bill combines elements of public and private Bills:

- The principle of the proposal is debated in Parliament
- Details are scrutinised by a Select Committee in both Houses
- Individuals directly affected by the proposal have a right to petition and be heard by the Committees
- Bill also goes through normal 'public' Bill stages just like other primary legislation

Bill documents

- The Bill itself
- Plans and Sections
- Estimate of Expense
- Book of Reference
- Supporting documentation:
 - Environmental Statement (50,000+ pages)
 - Additional documents (eg consultation report, impact assessments)
- Rules for preparing and promoting *private* Bills are set out in the Parliamentary Standing Orders of both Houses – rules originally prepared in the 1840s which have evolved over time and been amended to reflect legal and policy changes
- For example, SO27A relates to environmental assessment and SO224A relates to public participation

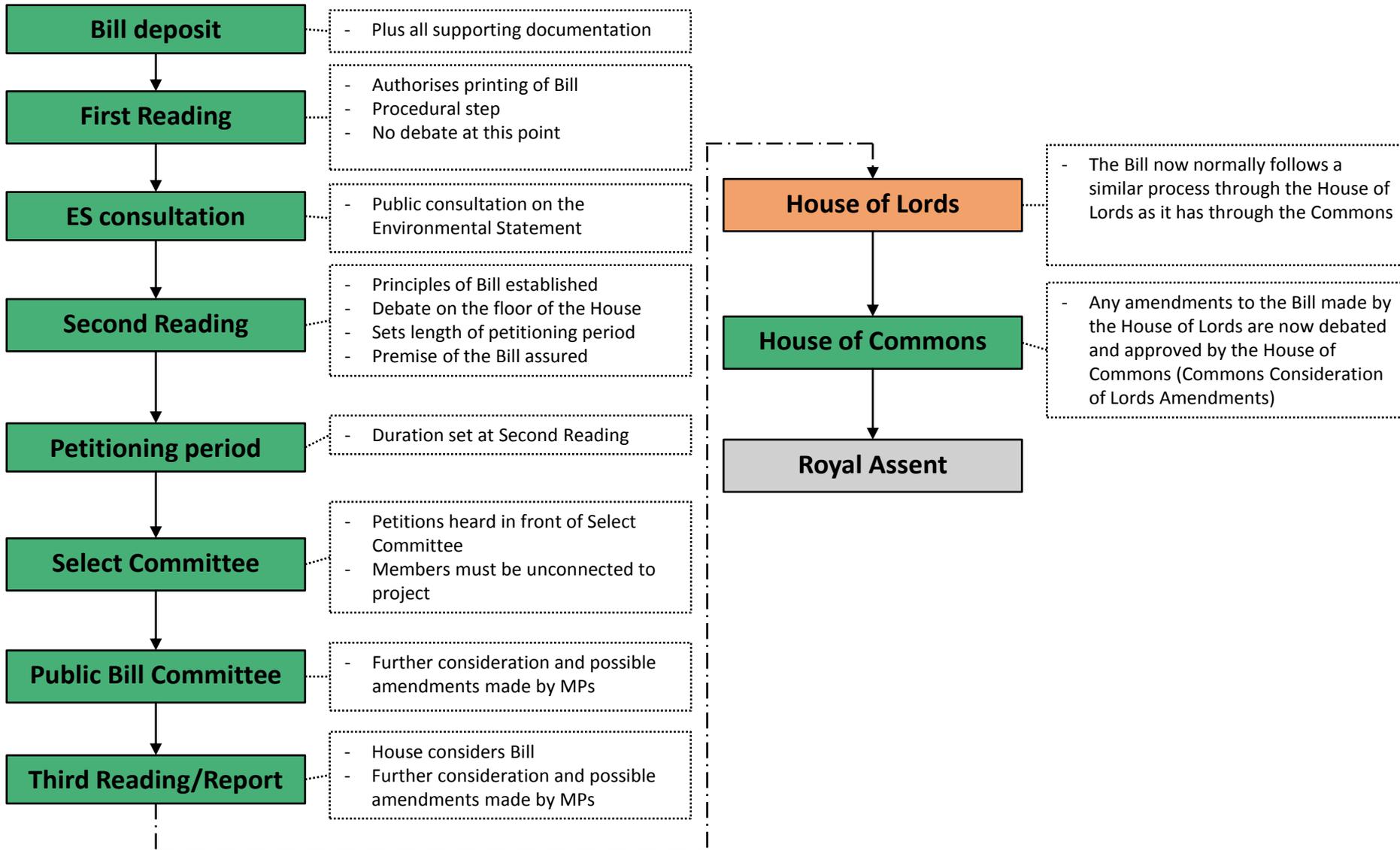


Environmental Minimum Requirements

- Code of Construction Practice
- Planning Memorandum
- Heritage Memorandum
- Environmental Memorandum

- Register of Undertakings and Assurances
- Information Papers

Hybrid Bill process



House of Commons Select Committee

- Similar but different to Departmental Select Committees
- No route MPs or MPs linked to the construction or railway industries
- Membership drawn from proportional make-up of the House (i.e. Government majority)
- Quasi-judicial (operates more like a court)
- Often given an instruction (motion passed at Second Reading) seeking to clarify principle of the Bill
- Decides locus standi challenges
- Anyone 'directly and specially affected' by the Bill can petition
- Hears petitions against the Bill presented to it
- Can amend but cannot reject the Bill (principle assured at Second Reading)

House of Commons Select Committee



House of Lords Select Committee

- Similar but different to Departmental Select Committees
- No Peer with a conflict
- Traditionally chaired by a Crossbencher, with membership drawn from proportional make-up of the House (i.e. no Government majority)
- Quasi-judicial (operates more like a court)
- Decides locus standi challenges
- Anyone 'directly and specially affected' by the Bill can petition
- Hears petitions against the Bill presented to it
- By convention cannot require Promoter to bring forward an Additional Provision (when the second House)
- Can amend but cannot reject the Bill (principle assured at Second Reading)

Past experience (1)



Introduced

November 1994

Second Reading

January 1995

Start of Select Committee

February 1995

End of Select Committee

January 1996

993 petitions (2 batches of APs with 51 petitions): 71 sitting days

Lords Second Reading

May 1996

Start of Lords Select Committee

June 1996

End of Lords Select Committee

October 1996

293 petitions: 31 sitting days

Royal Assent

December 1996

Past experience (2)



Introduced

February 2005

Second Reading

July 2005

Start of Select Committee

January 2006

End of Select Committee

October 2007

365 petitions (4 batches of APs with 99 petitions): 84 sitting days

Lords Second Reading

January 2008

Start of Lords Select Committee

February 2008

End of Lords Select Committee

May 2008

113 petitions: 29 sitting days

Royal Assent

July 2008

HS2 Phase 1



Introduced

November 2013

Second Reading

April 2014

Start of Select Committee

July 2014

End of Select Committee

February 2016

1,918 petitions (5 batches of APs with 668 petitions): 159 sitting days

Lords Second Reading

April 2016

Start of Lords Select Committee

May 2016

End of Lords Select Committee

December 2016

822 petitions: 64 sitting days

Royal Assent

February 2017

Select Committees in the Commons and Lords



3,408 petitions - objections - received against the Bill in the Commons and Lords

1,892 petitions heard by the Select Committees

230 petitions withdrawn/ petitioner did not appear



21,500+ exhibits exchanged



3,500+ assurances given



3,000 Promoter's Response Documents issued



400+ significant changes made to the proposals by means of APs in the House of Commons

From start to finish



1,337 petitions – 2 years 2 months

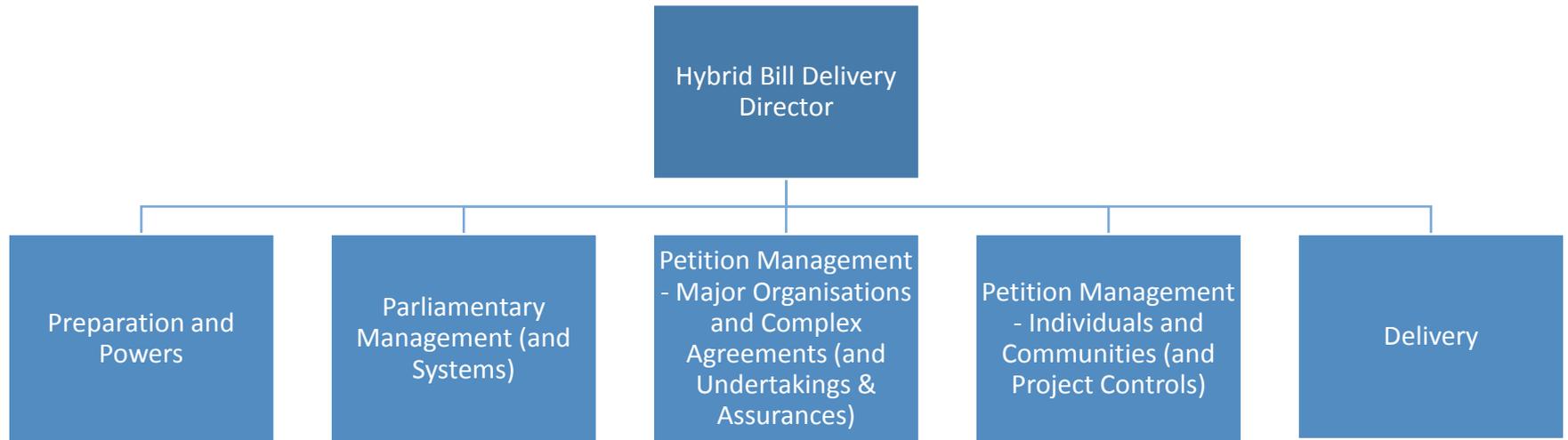


577 petitions – 3 years 6 months



3,408 petitions – 3 years 4 months

The Hybrid Bill Delivery Directorate



Managing the process (1)



Managing the process (2)

“I beseech you, in the bowels of Christ, think it possible that you may be mistaken”

Oliver Cromwell, 1650

Questions?