

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

PETITION

Against the Bill – Praying to be heard by counsel, &c.

TO THE HONOURABLE THE COMMONS OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND IN PARLIAMENT ASSEMBLED.

THE HUMBLE PETITION OF NEW FARM PRODUCE LTD

Park View, New Farm
Elmhurst, Lichfield
Staffordshire WS13 8EX

SHEWETH as follows:

1. A Bill (hereinafter called "the Bill") has been introduced into and is now pending in your honourable House intituled "A Bill to Make provision for a railway between Euston in London and a junction with the West Coast Main Line at Handsacre in Staffordshire, with a spur from Old Oak Common in the London Borough of Hammersmith and Fulham to a junction with the Channel Tunnel Rail Link at York Way in the London Borough of Islington and a spur from Water Orton in Warwickshire to Curzon Street in Birmingham; and for connected purposes".

2. Clauses 1 to 36 set out the Bill's objectives in relation to the construction and operation of the railway mentioned in paragraph 1 above. They include provision for the construction of works, highways and road traffic matters, the compulsory acquisition of land and other provisions relating to the use of land, planning permission, heritage issues, trees and noise. They include clauses which would disapply and modify various enactments relating to special categories of land including burial grounds, consecrated land, commons and open spaces, and other matters, including overhead lines, water, building regulations and party walls, street works and the use of lorries.
3. Clauses 37 to 42 of the Bill deal with the regulatory regime for the railway.
4. Clauses 43 to 65 of the Bill set out a number of miscellaneous and general provisions, including provision for the appointment of a Nominated Undertaker ("the Nominated Undertaker") to exercise the powers under the Bill, transfer schemes, provisions relating to statutory undertakers and the Crown, provision about the compulsory acquisition of land for regeneration, reinstatement works and provision about further high speed railway works. Provision is also made about the application of Environmental Impact Assessment Regulations.
5. The works proposed to be authorised by the Bill ("the Authorised Works") are specified in clauses 1 and 2 of and Schedule 1 to the Bill. They consist of scheduled works, which are described in Schedule 1 to the Bill and other works, which are described in clause 2 of the Bill.
6. Your Petitioner is the freehold owner/occupier and tenant of land affected by HS2 located off Shaw Lane, Lichfield which is in the county of Staffordshire, adjacent to the West Coast mainline. The land is located between the B5014, Shaw Lane and the West Coast mainline.
7. It is proposed by the Bill to authorise the compulsory acquisition of certain interests in land or property of your Petitioner and in accordance with the

standing orders of your honourable House notice has been served on your Petitioners of the intention to seek such compulsory powers.

8. Your Petitioner and its rights, interests and property will be injuriously affected by the provisions of the Bill, and your Petitioner accordingly objects thereto for the reasons, amongst others, hereinafter appearing.
9. Your Petitioner grows strawberries and soft fruit on the land in question. This is a very highly technical operation which has involved many millions of pounds of investment into the business over recent years.
10. The construction of HS2 at present shows a link into the West Coast mainline at Handsacre and it is the associated works along the West Coast mainline which are the subject of this petition.
11. Your Petitioner respectfully points out that none of these works were cited in the June edition of the Draft Environmental Statement but in the November edition they came to light. Little opportunity has therefore been available to discuss these issues with HS2.
12. At the particular point access is required to your Petitioner's land there is a highly technical "command centre" which is the heart of the soft fruit growing enterprise in this area.
13. Initially, there is a water borehole from which water is filtered to remove any unwanted elements which may hinder the growth of the soft fruit. The water is then piped through a sophisticated unit which allows the relevant amounts of nutrition and trace elements which are to be added to be piped in different quantities and mixtures to various parts of the site. Plants at various stages of growth need different levels and quantities of nutrition. The myriad of pipes and electrical equipment around the site deliver feed to the plants at the correct time and in the correct quantities.
14. The entire site is covered in polytunnels and your Petitioner is currently engaged in the final stage of installing table top production with plants grown

in a coir medium in controlled environments. Their clients via the Berry Gardens Co-operative are predominantly Sainsburys and Aldi growing the unique and highly prized Marivea raspberry.

15. The business at this location works on a 12-14 month lead in time for production and orders and hence in January this year contracts were in place with supermarkets to supply a certain tonnage of produce which was then guaranteed for the 2015 growing season.
16. Any disruption of this site will have major financial implications for the Petitioner and the in excess of 300 employees that work for them at peak season. Your Petitioner cannot stress enough the importance of this location.
17. Access to the site by cranes and heavy equipment will potentially have a catastrophic effect on the business. This must be avoided at all costs.
18. Once contracts are lost it is very difficult to regain them. Access to your Petitioner's land at this location should be avoided at all costs.

Extent of land take

19. Land in the ownership of your Petitioner is liable to compulsory acquisition under clauses 4 to 8 of the Bill. The limits of deviation and of land to be acquired and used are drawn very widely and your Petitioner is unsure why that is. Your Petitioner may seek to enter into an agreement with the promoter of the Bill that the extent of compulsory purchase should be limited geographically where possible and so that acquisition and use of your Petitioner's land is on a temporary basis only.
20. Your Petitioner is particularly concerned by the possibility of land being acquired permanently for a temporary purpose and considers it inappropriate for the Bill to contain compulsory purchase powers in respect of its land when the nominated undertaker's requirement is for a temporary use only. Your Petitioner wishes to ensure that access to its land at any point is only

temporary and that there will be no permanent landtake. Your Petitioner has yet to receive this confirmation from the promoters.

21. Your Petitioner also wishes to ensure that it is properly compensated as regards the acquisition and use of its land, and is concerned to note that the compensation regime proposed by the Bill is inadequate and needs to be improved.

Inappropriate mitigation measures on farmland

22. Some of the environmental mitigation works proposed on this land is inappropriate for your Petitioner's farming business.
23. For instance, there are certain areas coloured pink on the plans accompanying the Environmental Statement indicating "land potentially required during construction". The whole of this area then appears to transfer into permanent landtake with landscape mitigation and scrub/woodlands measures being allocated to strips of land throughout your Petitioner's site. It would seem clear that the promoters have not visited site yet to ascertain what operations are being undertaken there. Indeed, these scrub/woodland areas pass through swathes of polytunnels where extremely expensive machinery and equipment is installed and which indeed should be avoided at all costs. For example, the Kings Bromley Footpath 6 Underpass Extension together with a surrounding area of tree planting and mitigation measures is located exactly in the location of your Petitioner's "nerve centre" for soft fruit production.

Your Petitioner respectfully suggest that if any gantries and catenaries are needed to be placed over the railway line at this point then they should be done by a larger crane on the north western side of the railway line.

24. Your Petitioner is pleased to note there is no balancing pond proposed on its landholding.
25. Your Petitioner is pleased to note there are no flood plain extension works proposed on its land holding.

Maintenance of bunds and made-up ground

26. It is clear from the draft Environmental Statement that there will be significant lengths of bund, made-up ground, "sustainable placement" and ground reprofiling alongside the proposed railway, much of it on good quality agricultural land. Your Petitioner is pleased to note however that there are no particular bunds proposed for its land.
27. In your Petitioner's submission, the Bill should be amended so as to include a provision requiring the Nominated Undertaker, unless the landowner agrees otherwise, to remain responsible for the safety and maintenance of land which is altered in that way and to be responsible for liability for any losses associated with the failure of such operations, such as settlement or slippage.

Accommodation works

28. Your Petitioner's farm will have land taken from it as a result of the construction of the proposed railway. Accommodation works, in general, may be of significant importance to your Petitioner. Crossing points, in particular, are matters of significant importance to your Petitioner. Well-designed accommodation works which meet your Petitioner's needs are likely to reduce substantially a claim for compensation. The promoter or the Nominated Undertaker should, at a very early stage, seek to agree a specification for accommodation works with your Petitioner. That would help to mitigate the impact of the scheme. If the Petitioner's land cannot be avoided then a re-design of the site may need to be undertaken with the drilling of a new borehole, and relocation of machinery and equipment, solenoids, pipes, wires and other equipment necessary to accommodate the growing of soft fruit upon the site. Once agreed, the specification of any accommodation works should be binding on the Nominated Undertaker.
29. Your Petitioner proposes to your honourable House that the promoter should be required to undertake that it will, at a very early stage, seek to agree with your Petitioner a suitable specification for accommodation works where they

are required as a result of the construction of the Authorised Works, and that the specification, once agreed, will be binding on the Nominated Undertaker.

Planning consent for replacement buildings and associated dwellings

30. The construction of the Authorised Works will necessitate the demolition of agricultural buildings, plant and fixed equipment. Since your Petitioner's core farm business will survive, your Petitioner is likely to want to replace those buildings and the dwellings associated with them. In most cases this will require a full planning application. While the cost of dealing with planning can be factored into the compensation payable by the promoter, the uncertainty over whether an application will be approved and the time delays that can arise if a case goes to appeal can all be very difficult for a business to manage. The development of some agricultural buildings is already permitted development, subject to conditions, including limits on size.
31. Your petitioner notes that the Bill contains provision, in clause 48, enabling the Nominated Undertaker to carry out reinstatement works within the Act limits. In theory, that clause could be utilised so as to meet the concerns of your Petitioner but there is no certainty in that regard, for a number of reasons, most notably that it only applies to reinstatement works within the Bill limits.
32. Your Petitioner proposes that the Bill should be amended so as to ensure that the process for relocating farm buildings that are lost are capable of being reinstated more easily. This could be achieved by clause 48 being amended so as to ensure that it will apply in any case where land is available for reinstatement works, and to remove other uncertainties.
33. Alternatively, the Bill should make provision for an amendment to the Town and Country Planning (General Permitted Development) Order 1995 so that the replacement of any building used for business purposes and any associated dwelling which is acquired under the provisions of the Bill will be permitted development subject only to the prior notification procedure. The permitted development should allow for modern building materials and, if appropriate,

modern design and layout, but the size of the replacement building will be restricted to the size of the original. A local planning authority would then be able to consider siting and access under the prior notification process, as for other permitted development.

Compensation, generally

34. The compensation regime set out in the Bill is inadequate and must be improved. In any event, any payment of compensation that is due to your Petitioner must be made as early as possible and must carry interest at a rate higher than is proposed under the Bill.

General

35. There are other clauses and provisions in the Bill which, if passed into law as they now stand, will prejudicially affect the rights and interest of your Petitioner and other clauses and provisions necessary for their protection and benefit are omitted therefrom.

YOUR PETITIONERS THEREFORE HUMBLY PRAY your Honourable House that the Bill may not pass into law as it now stands and that they be heard by themselves, their counsel, agents and witnesses in support of the allegations of this petition, against so much of the Bill as affects the property, rights, and interests of your petitioners and in support of such other clauses and amendments as may be necessary and proper for their protection and benefit.

AND YOUR PETITIONERS will ever pray, &c.

C R Bedson BSc MRICS FAAV

Agent for New Farm Produce Ltd

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HIGH SPEED RAIL (LONDON – WEST MIDLANDS)

PETITION

of

NEW FARM PRODUCE LTD

AGAINST,

BY COUNSEL, &c.

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