

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.

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

THE HUMBLE PETITION OF

(1) MR ANDREW SHAW

(2) MRS TAMSIN SHAW

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. The Bill is presented by Mr Secretary McLoughlin, supported by the Prime Minister, the Deputy Prime Minister, Mr Chancellor of the Exchequer, Secretary Theresa May, Secretary Vince Cable, Secretary Iain Duncan Smith, Secretary Eric Pickles, Secretary Owen Paterson, Secretary Edward Davey, and Mr Robert Goodwill.
3. 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.
4. Clauses 37 to 42 of the Bill deal with the regulatory regime for the railway.
5. 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.
6. 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.
7. Your Petitioners are the freehold owners and occupiers of Fordway Farm and Brook Farm which are farms located at Bangley Lane, Hints, Tamworth

Staffordshire B78 3ED. They trade as Brook Farm and Bassett Farm Ltd of which Mr Andrew Shaw and Mrs Tamsin Shaw are directors

8. It is proposed by the Bill to authorise the compulsory acquisition of certain interests in land or property of your Petitioners, to which they object, 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.
9. Your Petitioners and their rights, interests and property will be injuriously affected by the provisions of the Bill, and your Petitioners accordingly object thereto for the reasons, amongst others, hereinafter appearing.
10. The proposed railway line will sever your Petitioners' landholding. Your Petitioners farm around 717 acres of land from which it is suspected that 60-70 acres of land will be taken by permanent acquisition although some may be temporary.

Your Petitioners' farm arable crops, pigs and sheep and the severance of their farm without the inclusion of accommodation works such as access tracks, underbridges, conduit ducts and the suchlike will have a devastating effect. The farm's machinery and equipment are geared to be maximised on the acreage that your Petitioners' farm and contract and the effects of HS2 may mean their equipment is incorrectly specified for the future of their business.

11. Your Petitioners' residential properties located on the farm will also be injuriously affected by the provisions of the Bill.

#### **Extent of land take**

12. Land in the ownership of your Petitioners is liable to compulsory acquisition, to which they object, 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 Petitioners are unsure why that is. Your Petitioners may seek to enter into an agreement with the promoter of the Bill that the extent of compulsory purchase should be

limited to only that land which is required for the construction of the railway. Any land which is not permanently required for the operation of the railway should be taken only on a temporary basis or handed back to your Petitioners such that they may continue to farm it and help supply food to the nation.

13. Your Petitioners are particularly concerned by the possibility of land being acquired permanently for a temporary purpose and consider it inappropriate for the Bill to contain compulsory purchase powers in respect of their land when the nominated undertaker's requirement is for a temporary use only. There are also certain areas of landtake which appear to be acquired for the creation of landscape mitigation measures to which your Petitioners object.
14. Your Petitioners also wish to ensure that they are properly compensated as regards the acquisition and use of their land, and are concerned to note that the compensation regime proposed by the Bill is inadequate and needs to be improved.

#### **Inappropriate mitigation measures on farmland**

15. The Bill proposes various environmental mitigation measures which are not appropriate to our clients' landholding.
16. For instance, there is a series of substantial "false embankments" proposed which are presumably to shield the railway line from the view of anyone who may walk or live or travel within its vicinity. The line's location is secluded and your Petitioners consider it more important that the best quality agricultural land is protected at all costs and that these false embankments are kept to a minimum. Your Petitioners suspect that many of these embankments are in place also to minimise the movement of materials on site and to make the cut and fill operation during the civil engineering process more cost effective. This, however, does not help your Petitioners' land holding and will have an adverse impact on their farm and their business. Your Petitioners consider that any compensation claim would be greatly reduced if the embankments were kept to a minimum.

17. Your Petitioners also note that certain of their fields are proposed to be given over to grassland habitat and wildlife mitigation schemes. Your Petitioners contend that if the promoter needs to offset some of the environmental impacts that it will create then the Bill should be amended to allow them to acquire farms and lands which willingly come to the market and to create wildlife habitats in other parts of the country. This would minimise the impact on your Petitioners' land holdings and would potentially allow better wildlife areas in the countryside allowing for perhaps public access to them where the vendor is willing to do so.
18. Your Petitioners have had no information as to the amount of water run-off from the embankments but note that there is provision for the construction of a balancing pond on their land. Your Petitioners respectfully request that the Bill provides that these proposals should be explained fully.
19. Your Petitioners do have concerns about water run-off and how it may flood and affect their land and again consider that the Bill should make provision for drainage matters to be analysed prior to entry to the land to ensure the risk of flooding is minimised.

#### **Maintenance of bunds and made-up ground**

20. It is clear from the 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 Petitioners consider that these bunds and false embankments could be minimised to allow for a much smaller area of land take and to keep the disturbance to the best quality agricultural land to a minimum. The imposition of these bunds will have a substantial effect on the severance of the land holding leaving many strange and awkward field shapes. This will have a huge effect on the efficiency of the land holding and the way in which the land can be farmed. The embankments will mainly be on the eastern side of the railway line and, it is considered, will be created to prevent

substrata having to be moved off site. The embankments will create areas of infill, which no matter how good the reinstatement, will be difficult to farm for years to come. Your Petitioners understand from HS2 Ltd. that the slopes' gradient will be approximately 1:8 which in itself may well be farmable but will also create unnecessary gradients that do not already exist. Your Petitioners' remit is to try to ensure that their land remains as productive as possible in order to help provide food for the nation. These areas of made up ground forming the embankments are likely to be unproductive for many years to come. Your Petitioners request that the Bill be amended to include for adequate reinstatement and aftercare plans to allow your Petitioners to bring back as much land into agricultural production as is possible.

21. Your Petitioners submit that 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**

22. As mentioned, your Petitioners' farm will be severed as a result of the construction of the proposed railway. Accommodation works in general and crossing points in particular are matters of significant importance to your Petitioners. Well-designed accommodation works which meet your Petitioner's needs are likely to reduce substantially a claim for compensation. HS2 Ltd or the Nominated Undertaker should, at a very early stage, seek to agree a specification for accommodation works with your Petitioners. That would help to mitigate the impact of the scheme. For crossing points, such a specification might include the width, height, weight limit and final surface. Once agreed, the specification should be binding on the Nominated Undertaker. Your Petitioners have had discussions with HS2 Ltd on a number of occasions but have had no positive feedback from them. It is noted that "Hints Footpath 9" crosses your Petitioners' land and that the promoters have made provisions for

an underpass to allow this footpath to remain in place. Your Petitioners request that the Bill be amended to allow this underpass to be increased in height and width so as to allow for the passage of vehicles and machinery to reduce the effect of severance.

Much of the access around the farm is currently field to field with very little access being taken on the main highway. Your Petitioners request that the Bill be amended to allow suitable access tracks to be constructed along its severed fields to allow for machinery and equipment to be kept off the land as much as is possible.

Your Petitioners also request that certain conduit points are left in situ passing underneath the railway line to allow for services such as water, mains electric fencing and the suchlike to pass through from time to time. Your Petitioners presently have full and unfettered access across their entire land holding and there are likely to be instances in the future, which are not yet envisaged, where problems will occur as a result of the severance.

It is also proposed that a new overbridge will be constructed along Bangley Lane. Your Petitioners have requested details of this from HS2 Ltd. to ensure that it provides for the passage of agricultural machinery and equipment. At present the entire length of Bangley Lane is situated on solid ground with no bridges to contend with so that any bridges that are built need to be of a size and capacity to allow for the passage of heavy machinery in the future.

23. Your Petitioners propose to your honourable House that HS2 Ltd 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 and farm tracks**

24. The construction of the Authorised Works will necessitate the demolition of various access ways around the farm. Since your Petitioners' core farm business will survive, your Petitioners are likely to want to replace those accesses. 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.
25. Your Petitioners note 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.
26. Your Petitioners propose that the Bill should also be amended so as to ensure that the process for relocating farm buildings and other items requiring planning consent 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.
27. 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.

### **Severance and hedgerows**

28. The severance of agricultural land by such a long linear scheme will result in some of your Petitioners' fields being left in awkward shapes. A common element of a claim for severance is the cost of removing hedges and fences in order to re-shape fields into a sensible layout. Since the introduction of the Hedgerows Regulations 1997, the removal of any hedge which is more than 20 metres long requires the consent of the local planning authority. This will add time, cost and uncertainty for farmers who are affected.
29. Your Petitioners propose to your honourable House that the Hybrid Bill should be amended to provide that the Hedgerow Regulations 1997 do not apply to hedges which have to be removed to allow the reasonable re-organisation of field boundaries where land has been acquired by HS2.

### **Compensation, generally**

30. 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. Your Petitioners also seek clarification on the tax regime given that they are being "forced" to sell and hence forced to turn hard won assets into potentially taxable cash.

### **General**

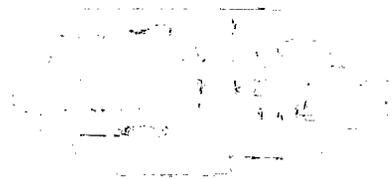
31. There are other clauses and provisions in the Bill which, if passed into law as they now stand, will prejudicially affect the rights and interest of your Petitioner and other clauses and provisions necessary for their protection and benefit are omitted therefrom.

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

Agents for

ANDREW SHAW

TAMSIN SHAW

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BILL

PETITION

of

MR ANDREW SHAW  
MRS TAMSIN SHAW

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AGAINST,

BY COUNSEL, &c.

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