

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

P E T I T I O N

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 MR GERALD ARTHUR BURTON &
THE TRUSTEES OF MR S H BURTON

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 joint freehold owners of Fulfen Farm, Capper's Lane, Whittington, Lichfield WS14 9JP which is a farm in the county of Staffordshire.
8. 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. Your Petitioners are dismayed to learn that almost the entirety of their land will be located under a main construction compound and a materials stockpile area. This will have a devastating impact on the Petitioners' farm for many years to come with the quality of the land suffering immensely under the weight of stockpiled material.

9. In addition, your Petitioners have a retirement plan in place to dispose of certain parts of their land at certain times in the most tax effective way. The acquisition by the promoter will ultimately mean that their retirement planning has been thrown into jeopardy and they are likely to incur a great deal more tax as a result for which a provision needs to be made within the Bill.
10. Your Petitioners will almost certainly be forced to sell their entire landholding in one go which will ultimately generate a tax liability which would not have existed but for the Bill and the proposed rail scheme.
11. Your Petitioners and their 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.

Extent of land take

12. Land in the ownership of your Petitioners 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 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 geographically and where possible so that acquisition and use of your Petitioners' land is on a temporary basis only.

13. Your Petitioners are 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 their land when the nominated undertaker's requirement is for a temporary use only. The proposed use of their land as temporary stockpile areas and sidings is not seen by your Petitioners as a permanent use of the land. It is therefore important that it is made clear whether the acquisition will be permanent or temporary and if it is a permanent acquisition that the land could be handed back at some point in the future if required. Despite our Petitioners asking the question of the promoter, no answer has been forthcoming.
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. Your Petitioners note that once the work is complete there are inappropriate mitigation measures planned for their land. For instance –
16. Trees, grass and vegetation will be planted along the route to provide visual screening, reduce visual impacts and integrate the railway into the surrounding area. There are great swathes of land given over to tree planting and bunds which will only serve to reduce the farmable area. There is also a large area noted as “grassed area” upon which no consultation has been given and which forms a strange shape through the landholding.
17. Your Petitioners note that there is a balancing pond located on the land and your Petitioners request further information as to why this pond is located in this position, and further information in respect to the rate, volume and quantity of water run-off onto their land.

Maintenance of bunds and made-up ground

18. 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 Petitioners note that this is also denoted as tree planting and mitigation areas to which they object. The removal of these planting and mitigation areas would undoubtedly reduce the value of your Petitioners' compensation claim.
19. In your Petitioners' 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

20. 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 for your Petitioners. Well-designed accommodation works which meet your Petitioners' 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. If the land is handed back to your Petitioners at the end of this scheme then access tracks and roadways will need to be constructed to gain an east/west link on either side of the West Coast mainline. If this is not undertaken then there will be significant areas of land which are severed and to which your Petitioners will have no access.

21. 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 Petitioners 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.

Severance and hedgerows

22. 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.
23. 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 the promoter.

Compensation, generally

24. 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

25. 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 Mr Gerald Arthur Burton &

The Trustees of Mr S H Burton

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P E T I T I O N

of

MR GERALD ARTHUR BURTON

&

THE TRUSTEES OF MR S H BURTON

AGAINST,

BY COUNSEL, &c.

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