

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 P MOULTON AND SONS

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 Petitioner is P Moulton and Sons (comprising Robert Moulton, Peter Moulton and Andrew Moulton) the freeholder and occupier of Bucks Head Farm, which is a farm in the county of Staffordshire. The property is listed in the Book of Reference that accompanies the Bill as plots no 80 and 81 in the parish of Hints in Lichfield district.

8. It is proposed by the Bill to authorise the compulsory acquisition of certain interests in land or property of your Petitioner, to which your Petitioner objects, and in accordance with the standing orders of your honourable House notice has been served on your Petitioner of the intention to seek such compulsory powers.
9. 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.
10. Your Petitioner owns and occupies around 445 acres of land at the above address, largely within a ring fence, and rents a further 24 or so acres.
11. Your Petitioner is an agricultural grower and so produces a range of arable combinable crops together with high quality and high value vegetables and other root crops for sale to the open market. The construction of the HS2 railway line will sever your Petitioner's land and in its current proposals will provide no access to around 280 acres of its land. Your Petitioner suggests that this is a huge oversight on the part of the promoter and despite making representations to the promoter on four separate occasions there has been little feedback as to what will be done to remedy this. The proposals within the Bill will also cause the demolition of several of your Petitioner's buildings which will require replacement.
12. The construction of the railway line will also sever a further parcel of land to the south of the farm and thus your Petitioner remains gravely concerned as to the effects of the construction of the railway line on the property.

Extent of land take

13. 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 so 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 Petitioner so that it may continue to farm it and supply food to the nation.

14. 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. Examples of your Petitioner's land which is to be acquired permanently for a temporary purpose include material storage areas, temporary accesses, soil bunds, compounds and the suchlike.
15. 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

16. Your Petitioner has noted many environmental mitigation measures that are proposed on land that it owns and farms. The Petitioner wants to maintain as much land as possible in good agricultural production for the benefit of maintaining its business and helping to feed the nation.
17. Many of the environmental mitigation measures which are proposed for your Petitioner's land are inappropriate. For instance, 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. Your Petitioner will have sizeable bunds and embankments constructed on some of its land as a result of the proposed railway. These additions are likely to be unfarmable for many years to come. They will comprise made up or infilled ground which will largely be unproductive. It is also noted that woodland habitat creation

schemes are likely to be planted upon them which will effectively take them out of production completely.

18. There are other areas of land where grassland habitat creation is proposed which, it is assumed, will limit the use of this land to a wildlife sanctuary and so it too will be unproductive for modern farming methods.
19. Elsewhere on your Petitioner's property, a sizeable woodland habitat creation scheme is proposed on good productive agricultural land that is away from the proposed railway line. Your Petitioner objects most strongly to this land being taken out of agricultural production when so much land has already been identified to be acquired for the construction of the railway line. Your Petitioner considers that as much of your Petitioner's land as possible should remain in agricultural production and certainly no less than is currently put to that use. This would help mitigate the effects of the proposal on your Petitioner and would also go some way towards allowing its business to continue as productively as possible in the difficult circumstances that it will face.
20. Your Petitioner considers that, rather than acquiring agricultural land for habitat creation purposes from those whose land is already to be acquired under the Bill, the promoter should seek to purchase land on the open market for the creation of wildlife habitats.
21. Your Petitioner has received no information as to the amount of water run-off that will arise from the proposed embankments but notes that there is provision for the construction of a balancing pond on its land. Your Petitioner respectfully requests that these proposals should be explained more fully.
22. Your Petitioner has noted that part of its farm has also been allocated as an area to be excavated and lowered so that flood plains can be extended on it. There has been no consultation with your Petitioner in this regard and this proposal will take further land out of agricultural production and have a further

adverse impact on the business of P Moulton and Sons. It would indeed seem sensible to have the flood plain and grassland habitat areas in one location.

Maintenance of bunds and made-up ground

23. 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. Despite a significant part of the railway line being in cutting upon the Petitioner's farm there area significant amount of bunds particularly on the east side of the railway line towards the south of the landholding. Your Petitioner is unsure at this stage whether these bunds and embankments will be handed back to enable farming to continue of whether the acquisition will be of a temporary nature allowing farming of a sort to recommence thereafter. Whilst productivity on the bunds and embankments is likely to be low for many years there may be some way in which the farm can be managed to make some use of these areas.
24. 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

25. Your Petitioner's 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 Petitioner. 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 Petitioner. 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 Petitioner's farm was severed by the recently constructed A5 trunk road. The former A5 trunk road (Watling Street) was upgraded with a new trunk road some distance to the north. There are approximately 280 acres of land located to the north of the new A5 trunk road and as part of that scheme a 120 tonne capacity bridge was installed to enable your Petitioner to gain access to its land for agricultural and other purposes. The scheme proposed under this Bill demolishes that new overbridge and makes no provision for its replacement other than with a "bridleway overbridge". This is a massive oversight and effectively means your Petitioner has no means of access from the remaining farm buildings to the land it continues to farm.

26. Much of the land in question is subject to option agreements with Cemex concrete and cement works for the extraction of gravel and aggregates. The purpose of the overbridge was therefore twofold: it was to allow the farming operations to continue and also to allow for the future extraction of gravel over the land when the time was appropriate. Indeed, some of the land is already being quarried although access is being taken by an alternative route across third party land at some expense. The latest phase of quarrying is scheduled to come out over the overbridge which HS2 Ltd. seek to demolish. If this overbridge is not replaced then your Petitioner will seek considerable compensation. The overbridge is also the only access to a further substantial farmhouse.
27. It should also be noted, for example, that there is a reservoir to the north of the farm which is filled up by pumping water from Hints Brook and Black Brook at the south of the farm. The railway line will sever the water ring main which provides the irrigation facilities for the whole farm. It is vital that this irrigation system is maintained to allow the best land to continue producing the best vegetables possible. Replacement irrigation systems will be required and your Petitioner considers that the promoters should be responsible for providing them.

28. While your Petitioner will continue to grow carrots, potatoes, peas, parsnips and other valuable vegetable crops on its land it is essential that the suitable accommodation and infrastructure works are in place to allow this to happen effectively.
29. Your Petitioner proposes 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

30. The construction of the Authorised Works will necessitate the demolition of agricultural buildings, storage facilities, workshops and manufacturing units, and associated dwellings. 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.

Severance and hedgerows

34. The severance of agricultural land by such a long linear scheme will result in some of your Petitioner's 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.
35. Your Petitioner proposes 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

36. 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

37. 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 P Moulton and Sons

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HIGH SPEED RAIL (LONDON – WEST MIDLANDS)

BILL

PETITION

of

P MOULTON & SONS

AGAINST,

BY COUNSEL, &c.

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