

IN PARLIAMENT  
HOUSE OF COMMONS  
SESSION 2013–14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

PETITION

Against the Bill– On Merits – 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 POST OFFICE LIMITED

SHEWETH as follows:-

- 1 A Bill (hereinafter referred to as “the Bill”) has been introduced 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 (hereinafter called “the Promoter”), supported by The Prime Minister, The Deputy Prime Minister, Mr Chancellor of the Exchequer, and 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 3 of the Bill, together with Schedules 1 to 4, make provision for the construction and maintenance of the proposed works including the ‘Scheduled Works’ set out in Schedule 1. Provision is included to confer powers for various works and operations, including railway, highway and other building and engineering works and operations. Powers are also included to enable entry onto and interference with land and buildings for investigatory, protective and other purposes, together with powers to enable occupiers to be required to undertake works to trees, powers to use

watercourses, public sewers and drains for drainage purposes and powers temporarily to interfere with and use waterways.

- 4 Clauses 4 to 18 of the Bill, together with Schedules 5 to 15, make provision for the compulsory acquisition and the temporary use of land and for the extinction or exclusion of certain rights in land. Provision is also included for the application or variation of compensation provisions.
- 5 Clauses 19 to 36 of the Bill, together with Schedules 16 to 26, make provision for the grant of planning permission and other consents and for the disapplication or modification of various controls, including those relating to heritage, water, building control, party walls, street works, lorries, noise and local legislation.
- 6 Clauses 37 to 42 of the Bill, together with Schedules 27 and 28, make provision for railway matters. Provision is included for the application (with modifications) and disapplication in parts of the existing railways regulatory regime, enabling agreements to be required to be entered into between the nominated undertaker and controllers of railway assets and other railway facilities and for the transfer of statutory powers in relation to railway assets.
- 7 Clauses 43 to 65 of the Bill, together with Schedules 29 to 31, contain general and miscellaneous provisions. These include provision for the designation of nominated undertakers, the making of transfer schemes, provision for statutory undertakers, provision for the compulsory acquisition of land for regeneration and for relocation purposes, and powers for the reinstatement of land. Provision is also included to apply powers of the Bill to further high speed works, to confer a power of entry for further high speed works, as to the application of the Environmental Impact Assessment Regulations and as respects the application of arbitration.

*Your Petitioners and their property*

- 8 Your Petitioners are Post Office Limited (hereinafter referred to as "Your Petitioners"). Your Petitioners are the leasehold owners of a property at Castle Bromwich Business Park known as Merlin House with title number WM539172. Merlin House is a specialist secure handling facility, forming part of a network of offices serving the retail function of Your Petitioners' business.
- 9 The Bill seeks to authorise the construction of a tunnel passing underneath Castle Bromwich Business Park. The Bill also seeks to authorise the compulsory acquisition of Merlin House in order to reconfigure the Business Park (paragraph 2.2.13 of the Environmental Statement, Community Forum Area Report CFA25 (the "CFA25 Report")). However, whether Merlin House will be acquired has not yet been confirmed by the

Promoter and, in the alternative should it not be acquired, the impacts of the proposed works under and around the property have not been clearly set out.

10 In the ordinary course, Your Petitioners understand that a project of this sort would be subject to much more detailed design work than it appears has been undertaken to date. In consequence, the impacts upon Your Petitioners' property interests are at present ill-defined and your Petitioners are handicapped in their ability to engage with the Promoter in a positive fashion to safeguard their interests.

11 For this reason, and having regard to the more detailed particulars referred to later in this petition, Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which Your Petitioners object for reasons amongst others, hereinafter appearing.

*Compulsory acquisition of Merlin House*

12 Your Petitioners' principal concern centres around the lack of certainty as to whether or not Merlin House is due to be acquired for the purposes of the scheme.

13 Paragraph 2.2.13 of the CFA25 Report states that "*[p]roposals will be developed for the reconfiguration of the business park and industrial estate so as to minimise the effects on the businesses, residents and social infrastructure and to allow as many as possible to stay in the area*". The intention to develop a scheme to accommodate businesses dislodged as a result of the construction of the scheme was confirmed in a meeting held between Your Petitioners and the Promoter on 10 February 2014.

14 However, to date no confirmation has been provided as to whether or not the reconfiguration of Castle Bromwich Business Park will be pursued, or that Your Petitioners' interests will be acquired.

15 Furthermore, whilst Your Petitioners' interests are listed as being subject to a potential Compulsory Purchase within the Book of Reference (plan numbers 86, 87, 87a, 87b and 87c of Volume 4, City of Birmingham, pages 128 and 129) deposited in Parliament alongside the Bill, their interest is not identified as land to potentially be acquired in the Map Books of the CFA25 Report. The result therefore is that the information contained within the CFA25 Report is incomplete and insufficient. This further compounds the lack of certainty experienced by Your Petitioners.

16 Should the acquisition of Your Petitioners' property progress, Your Petitioners do not believe the relocation of the facility will best serve the

public interest, due to the cost of relocating a highly specialised unit. Your Petitioners estimate that relocation could take around 2-3 years, depending whether the move is to a new build or to a suitable property for conversion, either of which need to meet strict security measures commensurate with the risk, both in construction and perimeter protection.

- 17 The proximity of adjacent buildings to Merlin House currently provides a level of protection from incursion and this would have to be a consideration in relocation. In addition, any relocation would need to take into account the need for easy access to major road networks, which means that Your Petitioners are likely to be considering premium sites. Your Petitioners' therefore consider that a more cost effective location should be sought for relocation of displaced businesses so as to limit the expenditure of public funds.

*Impacts in the event the property is not acquired*

- 18 In the alternative, should the scheme progress without acquiring Your Petitioners' interest in Merlin House, the long term security of the facility and the impact on the wider business of Your Petitioners remains ill-defined.
- 19 Merlin House is a high security unit. Security measures are a top priority for Your Petitioners and any works likely to interfere with the security of the property need careful consideration. Your Petitioners' particular concern, should the scheme progress without acquiring Your Petitioners' interest, is the location of a tunnel directly beneath the property.
- 20 Your Petitioners fear that tunnelling could lead to damage to the property due to settlement or subsidence, with the result that significant loss and damage could be suffered by Your Petitioners. Subsidence could create weaknesses in the building which affects structural integrity, and the security of the building could therefore be compromised.
- 21 The noise and vibration arising from the construction and operation of the railway and its associated works and structures are also a matter of concern to Your Petitioners, particularly relating to the potential impact on the operation of equipment and machinery which are very sensitive. The security and incursion detection measures at Merlin House would be affected by underground tunnels, especially during the construction period. Modifications to the security systems may also be required to ensure that vibrations from passing trains do not cause activations.
- 22 Your Petitioners are concerned about dust, dirt, vehicle and plant movements, hazardous materials, disruption to access during construction

and the lack of detail regarding the same in relation to the subsequent impacts on Your Petitioners' enjoyment of the property. In particular, uninterrupted access to and from the Business Park for HGV vehicles and circa 35 members of staff driving to and from work will be critical for Your Petitioners' operations to be maintained.

- 23 In addition, equipment used for the construction of the railway may be relatively easy to steal and could even be used to breach Your Petitioners' security. The proximity of such equipment to Your Petitioners' property is a risk if adequate security safeguards are not enforced. Additional security measures would accordingly be required at Your Petitioners' property whilst construction of the railway takes place.

*Undertakings sought*

- 24 Your Petitioners would seek undertakings from the Promoter on the following:-

- a) The Promoter should not be permitted by means of the Bill to interfere with private property rights and interests unless, and except to the extent (if any) that this can be demonstrated both to be necessary for the purposes of the Bill and to be in the public interest. Your Petitioners have not been provided with full details or justification for the proposals in the Bill affecting Merlin House and Your Petitioners submit that the Promoter should demonstrate and be put to strict proof of the need for and desirability of the proposals in the Bill as affecting that property.
- b) Confirmation is therefore required from the Promoter as to whether Merlin House is to be acquired for the purposes of the scheme. Considering the highly specialised nature of Your Petitioners' occupation, Your Petitioners will need to make plans for relocation outside of Castle Bromwich Business Park as a matter of urgency, particularly given the specialist nature of the replacement property that is required.
- c) Your Petitioners would reiterate that a more cost effective location for relocated businesses should be sought rather than acquiring Merlin House, so as to limit the expenditure of public funds on the relocation of this highly specialised unit. Therefore in the alternative, Your Petitioners respectfully request that Merlin House is not identified by the Promoter as land to potentially be acquired.
- d) In the event that the scheme does progress without acquiring Your Petitioners' interest, further information is required from the Promoter and their engineers as to how they will protect the security of the

property both during construction of the tunnel and during the ongoing operation of the finished line. Your Petitioners seek inclusion within the Bill, or alternatively agreement with the Promoter, of provisions protecting Merlin House from interference, damage or other injurious affection by the proposed works.

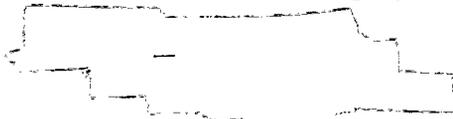
- e) In addition, Your Petitioners would wish to see an effective and agreed monitoring system in place before commencement and during construction of the works, to measure the exact effect of any settlement on Your Petitioners' property. There must in Your Petitioners' submission be a threshold agreed between Your Petitioners and the Promoter for ground movement within the vicinity of the property. If that threshold is exceeded then it is imperative that the Promoter is obliged to cease construction until such time as remedial measures are in place which will minimise settlement and consequently avoid distress to the property.
- f) Any necessary safeguarding or remedial measures relating to ground movement should be agreed between Your Petitioners and the Promoter. Your Petitioners would wish that full provision be made for the Promoter to meet the full cost of carrying out any remedial or safeguarding work, and that such provisions should include a requirement that the Promoter repay to Your Petitioners the costs, charges and expenses incurred by Your Petitioners in consulting with their professional advisers (including structural engineers and legal advice) in relation to proposed works affecting Your Petitioners' interests, and in inspecting the impact of the Promoter's work as it progresses.
- g) Provision should be made so that noise and vibration during construction are minimised by reference to agreed thresholds. If those thresholds are exceeded, the Promoter should be obliged to cease construction until such time as remedial measures are in place which will reduce noise and vibration levels below the agreed threshold. The Promoter should also be required to consult with your Petitioners with regard to noise and vibration monitoring.
- h) Your Petitioners wish to see the Promoter undertake to adhere to strict measures to reduce disturbance on the ground during construction and to carry out additional mitigation measures if dirt, vehicle and plant movements, hazardous materials or disruption to access will be a nuisance to Your Petitioners' property.

*Conclusions*

- 25 For the foregoing and connected reasons Your Petitioners respectfully submit that, unless the Bill is amended as proposed above, clauses 4 to 10, 15 and those seeking to authorise compulsory acquisition together with the deposited plans so far affecting Your Petitioners, should not be allowed to pass into law.
- 26 Your Petitioners submit that the Bill fails to safeguard and protect the interests of Your Petitioners and should not be allowed to pass into law without these issues mentioned above being addressed.

YOUR PETITIONERS therefore humbly pray your Honourable House that the Bill may not be allowed to pass into law as it now stands and that they may be heard by 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 provisions as may be necessary or expedient for their protection, or that such other relief may be given to Your Petitioners in the premises as your Honourable House shall deem meet.

AND Your Petitioners will ever pray, &c.

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**Signed by Richard Guyatt of Bond Dickinson LLP as agent for Your Petitioners**

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MIDLANDS) BILL

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OF

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AGAINST, agreed by your Petitioners  
the Bill –

On Merits –

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