

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013–14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

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 FRIENDS LIFE LIMITED AND
AXA REAL ESTATE INVESTMENT MANAGERS 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.
- 3 Clauses 1 to 36 of the Bill set out the Bill's objectives in relation to the construction and operation of the railway transport system mentioned in paragraph 1 above. They include provision for compulsory acquisition of land, deemed planning permission, heritage issues, trees and noise. Clauses 37 to 56 of the Bill establish a regulatory regime for the railway transport system and clauses 59 to 65 of the Bill deal with miscellaneous and general provisions.
- 4 Clause 1 of the Bill will authorise the nominated undertaker to construct and maintain the works specified in Schedule 1 to the Bill ("the scheduled works"), being works for the construction of Phase One of High Speed 2 ("HS2") and works consequent on, or incidental to, such works. The lines, situations and levels of the scheduled works and the limits of deviation within which the works may be carried out are shown on the deposited plans and sections referred to in the Bill.

- 5 The scheduled works include works numbers 205, 205A, 205B, 208, 208A, 209, 209A, 209B, 210, 211 for the construction of works relating to the railway on the Washwood Heath site in the City of Birmingham.
- 6 Clause 2 of the Bill will authorise the nominated undertaker to carry out certain additional works for the purposes of or in connection with the scheduled works or otherwise for the purposes of Phase One of HS2.
- 7 Under clause 4 of the Bill, the Secretary of State will have power to acquire compulsorily so much of the land within "the Act limits" as may be required for Phase one purposes (as defined in Clause 62 of the Bill). By clause 63(2), land is within the Act limits if it is within the limits of deviation for the scheduled works or within the limits of land to be acquired or used, as shown on the deposited plans. Those lands include the Washwood Heath site in the City of Birmingham as shown on the deposited plans (Sheet Numbers 3-107 to 3-114). This plot is within the Act limits and is therefore subject to the power of compulsory acquisition under the Bill.
- 8 Clause 5 of the Bill provides that the power to compulsorily acquire land under section 4(1) includes power to acquire such easements or other rights over land to which the power relates as may be required for Phase One purposes by creating new easements or other rights, or acquiring easements or other rights already in existence.
- 9 Clause 11 of the Bill introduces Schedule 14 to the Bill which contains provision about the extinction of private and other rights over land.
- 10 Clause 14 of the Bill introduces Schedule 15 to the Bill which contains provisions about temporary possession and use of land in connection with the works authorised by the Act.
- 11 Under clause 47(1) of the Bill, if the Secretary of State considers that the construction or operation of Phase One of HS2 gives rise to the opportunity for regeneration or development of any land, the Secretary of State will have power to acquire that land compulsorily. Clause 47(2) of the Bill will give the Secretary of State power to acquire land compulsorily to relocate the whole or part of an undertaking (which is defined in Clause 47(9) to include a business or facility) if, as a result of the exercise of any of the powers under the Bill, the former site of the undertaking or part of it is no longer capable of being used for the undertaking.

Your Petitioners and their properties

- 12 Your first Petitioner is Friends Life Limited ("First Petitioner") (company number 04096141 whose registered office is at Pixham End, Dorking, Surrey, RH4 1QA) and your second Petitioner is AXA Real Estate Investment Managers Limited ("Second Petitioner") (company number 03961977 whose registered office is at 155 Bishopsgate, London, EC2M 3XJ) (together the "Petitioners").
- 13 Your First Petitioner is the freehold owner of a significant part of a large development site in east Birmingham known as Washwood Heath. The Washwood Heath site as a whole (including the sites of existing businesses UK Mail and Cemex) comprises 64 hectares (159 acres) of employment land. The area of the Washwood Heath site owned by your First Petitioner ("the Site") extends to approximately 25 hectares (63 acres) and is managed and operated by your Second Petitioner. The Site is located within Community Forum Area 26 (CFA26) of the Environmental Statement assessing the environmental effects of the Bill. It was the former manufacturing base of LDV commercial vehicles and is currently cleared and ready for development.
- 14 The land comprising the Site is shown on the deposited plans as plots 192, 195, 217. The Bill authorises the compulsory acquisition of all 64 hectares (159 acres) of land at Washwood Heath including the Site. Part of the Washwood Heath site has been identified for the line from the stem of the Y network to Curzon Street station, but the majority is for the purposes of the rolling stock maintenance depot ("RSMD") for the entire phase one fleet of rolling stock, balancing ponds and land required during construction.
- 15 Your Petitioners object to the works proposed to be carried out as referred to above at the Site. 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.
- 16 The objections and concerns of your Petitioners have been set out in more detail in correspondence with High Speed Two Limited ("HS2 Ltd") including the most recent letter dated 24 April 2014 from your Second Petitioner to the Chief Executive of HS2 Ltd.

Your Petitioners concerns

Loss of Employment Land at Washwood Heath

- 17 The Site is identified as best quality employment land in a Core Employment Area in the emerging Birmingham Development Plan. It is a strategically critical employment site in Birmingham where there exists a clear and significant shortage of employment land on a city wide basis and particularly in the best quality category. Acute socio-economic deprivation exists in the locality.
- 18 Your First Petitioner purchased the LDV site by way of a sale and leaseback in 2003. LDV was subsequently placed into liquidation in May 2009 and the lease was forfeited in November 2010. As soon as the site was returned by the receivers in November 2010 your Second Petitioner commenced work on the redevelopment proposals for the Site, including the demolition of existing buildings, the breaking out of substantial concrete foundations and below ground structures, clearance of the Site and preparation of the ground for redevelopment.
- 19 However through the inclusion of this extensive area of employment land in the Bill, the entire Site is blighted and effectively prevented from attracting inward investment or beneficial new development. Your Petitioners have invested substantial capital in site clearance and preparation works to make the Site ready for redevelopment, and both funding and a development partner were in place to deliver the scheme. In 2012-13 advance discussions with Kuehne + Nagel, one of the world's largest logistics businesses, about locating a significant facility at the Site which would have generated a significant number of jobs for local people were halted when the plans for HS2 were made public.
- 20 A regeneration opportunity exists to comprehensively masterplan and redevelop the Washwood Heath site with modern buildings for employment uses delivering thousands of jobs for Birmingham. The Site represents a very valuable resource within Birmingham and an opportunity to attract new investment and jobs which will be lost if the RSMD is located on the Site.
- 21 Your Petitioners therefore strongly object to the location of the RSMD, balancing ponds and accompanying works at the Site given the significant impact it would have on the regeneration of the Site, the wider area around the Site and east Birmingham. The Site is located in an area with one of the highest youth unemployment rates in the country and where the overall unemployment rate is three times the national average.

22 HS2 Ltd have estimated that the proposed RSMD would create at best 500 jobs, however it is your Petitioners view that the number of jobs created will be significantly less. Furthermore the jobs for the RSMD would not be delivered until 2026 when phase one is anticipated to become operational.

23 In contrast, the Washwood Heath site as a whole could, if redeveloped by your Petitioners and other landowners, deliver approximately 4,000 jobs, at least 8 times more than the proposed RSMD. The Site alone could deliver over 2,000 jobs and could do so in the next three to four years. Removing the blighting effect from the Site could enable the Site to be brought back into productive use enabling early investment and jobs to come forward.

24 Key objectives of HS2 include: creating jobs, generating investment in neglected areas and driving growth and regeneration. Locating the RSMD and balancing ponds on the Site undermines these key objectives of the high speed line as it would result in the loss of the opportunity to create almost 4,000 jobs the delivery of which could start well ahead of the proposed Bill works and be fully built out over 8-10 years from commencement on site. Such job opportunities are particularly important to one of the most deprived parts of the country with high numbers of claimants seeking a range of jobs.

25 Valuable employment land should not be taken up for use as balancing ponds for the RSMD and the mainline when there are other attenuation options. Moreover locating balancing ponds at Washwood Heath will only serve to perpetuate the socio economic impact on an area of extreme deprivation.

Loss of existing jobs

26 The RSMD would also result in further loss of existing jobs at Saltley Business Park as a direct result of accommodating the short branch line to Curzon Street from the Site with no guarantee of relocation of these jobs in Birmingham.

Impact on green belt

27 Furthermore, removing the Site from the existing employment land supply increases the pressure for release of land in the green belt. It would be likely to result in the loss of further green belt land in Sutton Coldfield, which Birmingham City Council would require to replace the lost employment land at the Site. Moreover, making up for the loss of employment land at the Site by the release of additional green belt land would also relocate such employment development to

areas that are not as accessible to the people who need the job opportunities the most.

- 28 In light of the points made above, your Petitioners submit that the Bill should be amended to relocate the proposed works to an alternative site and ensure your Petitioners' interests in the Site are not prejudiced.

Temporary construction impact

- 29 Your Petitioners note from the plans accompanying the Environmental Statement that part of the Site is to be used during construction for a temporary material stockpile and construction compounds. Your Petitioners object to the blighting of this key employment site for use of the land during construction. This is of particular concern where the area designated for a material stockpile is directly adjacent to housing in an area of extreme deprivation. The works proposed will only serve to exacerbate the deprivation further.

Impact on existing accesses

- 30 Your Petitioners note from the deposited plans that the bridge access from the A47 Heartlands Parkway into the site is to be removed for construction of the line. Your Petitioners object to the removal of this access as it would have a significant effect on the ability to develop the Site. Your Petitioners seek an undertaking from the Secretary of State for Transport (the "Promoter") that the bridge will be reinstated once the works to construct the line in this location have been completed.

- 31 The decision to locate the RSMD and balancing ponds on this prime employment site over other more suitable locations and allocate part of the Site for use during construction will not only impact on the Petitioners' interests, cost Birmingham thousands of jobs and block a key regeneration opportunity but, as outlined below, will also cost significantly more financially than the provision of the facility on one of the alternative sites your Petitioners have identified below. All these adverse consequences can be avoided by relocating the proposed works to one of the alternative sites identified.

Weaknesses of proposed RSMD

- 32 There are fundamental flaws in the design of the RSMD as proposed at the Site. The initial design provided access from both the London and Birmingham directions but this was abandoned in the 'refined' 2013 scheme because the mainline is to be in tunnel to the east. As a result the RSMD is now only connected in a westerly

direction with the connection to be made via a newly constructed branch line alongside the mainline. There remain significant operational issues.

33 First, all rolling stock from the RSMD will have to be routed via Curzon Street before being released elsewhere on to the network. As the RSMD at the Site is to accommodate all the networks' rolling stock, the whole network will be vulnerable to network breakdown if a fault arises between the depot and Curzon Street.

34 Secondly, most empty trains will have to manoeuvre in and out of the station using the one or two platform tracks (and associated switches) that happen to be vacant with significant implications for efficiency of the route.

35 Your Petitioners submit that the evidential basis underpinning the selection of the Site for the RSMD is flawed in that the Promoters have failed to consider fundamental points in favour of alternative sites, particularly with regard to operational considerations, land acquisition costs and the socio-economic effects.

36 Furthermore, for reasons set out in your Second Petitioner's submission on the Environmental Statement, the environmental impact assessment undertaken on behalf of HS2 Ltd, failed to meet minimum statutory requirements and the report of the Independent Assessor did not reflect your Second Petitioner's submissions.

37 A number of alternative sites are considered below. There may be sites in addition to these.

Alternative Sites

38 It is wholly misconceived and damaging to both your Petitioners' interests and the public interest generally to remove the opportunity to redevelop and generate many thousands of jobs for the local population when there are other sites which:

- (a) are capable of providing the RSMD facilities which are equally good or better from a technical and operational perspective;
- (b) are significantly cheaper when land acquisition costs are taken into account (in excess of £70 million); and
- (c) would not compromise a strategically important employment site but enable the preservation of considerable employment opportunities to address the high levels of deprivation currently suffered in Birmingham.

39 Importantly, use of any of the alternative sites proposed could accommodate a RSMD without a need for the line of the route to be altered and each of the alternatives proposed would be a significant improvement operationally on the current proposal for the Site.

A site adjacent to the planned Birmingham Interchange (BI) station

40 The Birmingham Interchange site (BI) is located to the north of the A45, between the east side of the proposed HS2 Birmingham Interchange and the A452 Chester Road. It is wholly green belt land; however it is already identified as land to be acquired under the Bill, principally for car parking, no additional land would be needed. It would simply be a matter for this car parking to be built above the RSMD or concentrated on the west side of the line.

41 HS2 Ltd accept that the BI site is suitable for the RSMD. It was listed as HS2 Ltd's second choice site in its own site assessment document before taking into account land acquisition costs and socio economic effects (on which issues and selection process its approach was flawed).

A site next to Chelmsley Wood - north of the Interchange station

42 This site lies north-west of the Birmingham Interchange site and at least half of the area which would be required for the RSMD is already within the limits of land acquisition for the high speed line. This location is bounded to the east by the proposed HS2 line adjacent to the M42 and the off-slip at junction 7 linking with the M6, the A452 Chester Road on the west, and Coleshill Heath Road to the north. It is principally composed of a number of agricultural fields in arable production separated by farm tracks, hedges with some trees (Brickfield Farm).

43 Trains would leave the depot area via the 'same' flyover arrangement as proposed for BI to reach the BI platforms and run on parallel tracks to the main line to reach the site. Trains could either turn here to be routed to Curzon Street or pass directly from the Interchange platforms towards London.

44 The mainline is already proposed to run right through the centre of this site and consequently the proposed RSMD would be located directly adjacent to the mainline.

45 One of the advantages of using the BI or Chelmsley Wood sites is that trains could collect passengers from BI station and be in service immediately. Furthermore, an advantage of the alternative sites for the future operation of the route is having a

grade separated junction which would increase the available network capacity and improve the robustness and efficiency of the line.

Costs

46 HS2 Ltd has suggested that Birmingham Interchange would cost £48m more to construct than the proposal for the Site. This rough calculation (no details have been provided as to how this figure has been reached) does not take into account land acquisition costs. This is a very material omission. Since that comparison was made it would appear that further modifications have been made to the proposed track layout at Washwood Heath, further adding to costs for its construction.

47 Your Petitioners have commissioned their own assessment of construction costs for the alternative sites in comparison to Washwood Heath. The use of alternative sites could result in substantial cost savings to HS2. Moreover, in the case of the BI site, it is already earmarked for car parking for HS2 and the entire site is within the limits of land acquisition under the Bill and so there would be no additional land acquisition cost.

Crewe

48 Your Petitioners note that the report by Sir David Higgins entitled 'HS2 Plus' (published on 17 March 2014), proposes that phase 1 should bring forward the extension to Crewe. HS2 Ltd have recognised that it would be preferable to extend the phase one works as far at least as Crewe instead of building an expensive new junction south of Stafford that would have a very short useful life before phase two was built. If this were to occur it would make the effect of acquiring the Site even more disproportionate and objectionable. Although not currently part of the Bill it would be open to the Promoter to promote additional provisions to bring forward the extension to Crewe in advance of phase two.

49 Crewe is a major centre of rail engineering expertise with several suitable sites for the RSMD immediately adjacent to the mainline. If Crewe does not come forward as part of phase one, there will be expensive abortive works for a short term junction at Handsacre which has inadequate capacity for the number of trains expected to use it.

General

50 Your Petitioners submit that there are other more suitable locations for the works proposed which are better operationally, more cost effective, reduce pressure for

release of land from the Green Belt and which preserve the opportunity to create nearly 4,000 jobs in an area of extreme deprivation.

51 Your Second Petitioner has written to HS2 Ltd on a number of occasions (most recently on 24 April 2014) summarising the available alternative sites for the RSMD and requesting an opportunity to meet to discuss further its objections to the Bill proposals and the possible solutions involved in the alternative sites. Your Petitioners remain ready and willing to pursue those discussions.

52 Your Petitioners seek an amendment to the Bill to relocate the RSMD, balancing ponds and associated works to an alternative location and remove these works from the Bill for the Washwood Heath site to ensure that your Petitioners' concerns as set out herein are addressed to your Petitioners' satisfaction. On this basis your Petitioners also seek an undertaking from the Promoter that no part of the Site will be compulsorily acquired under the Bill (including under the powers under Clause 47 of the Bill) and that no rights will be acquired over the Site.

53 To the extent to which the Site will still be affected by the spur to Curzon Street Station, your Petitioners seek an undertaking from the Promoter that such works will be agreed with your Petitioners and implemented in such a way which avoids any adverse impacts on potential development of the Site by your Petitioners.

54 In terms of the proposed use of the Site for construction for HS2, your Petitioners submit that the Site should not be blighted temporarily for construction of HS2 preventing much needed redevelopment of the Site. Your Petitioners seek an undertaking that none of the land within the Site will be acquired temporarily for the construction of HS2.

55 Your Petitioners seek assurances that the construction and subsequent operation of HS2 will not impact or interfere with your Petitioners operation and use of the Site. Your Petitioners seek a further undertaking that the existing accesses for the site will be maintained and the bridge access from the A47 Heartlands Parkway into the Site will be reinstated.

56 For the foregoing and connected reasons your Petitioners respectfully submit that, unless the Bill is amended as proposed above, the Bill should not be allowed to pass into law.

There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners.

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.



Berwin Leighton Paisner LLP

Agents for the above-named Petitioners

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013-14

**HIGH SPEED RAIL (LONDON - WEST
MIDLANDS) BILL**

PETITION OF

FRIENDS LIFE LIMITED (1) AND
AXA REAL ESTATE INVESTMENT MANAGERS
LIMITED (2)

Against the Bill – on Merits – Praying to be heard
by Counsel, &c

Berwin Leighton Paisner LLP
Adelaide House
London Bridge
London
FC4R 9HA

Parliamentary Agents