

**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 PROLOGIS UK CCLV SABL; PROLOGIS UK CCLVI SABL;
PROLOGIS UK PROLOGIS UK CCLVII SABL; PROLOGIS UK CCLVIII SABL;
PROLOGIS UK CCLIX SABL; PROLOGIS UK CCLX SABL AND PROLOGIS PARK
MIDWAY 2 MANAGEMENT COMPANY 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 (referred to in this Petition as the "the Promoter"), 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.

Clauses of the Bill

3. Clauses 1 to 23 of the Bill together with Schedules 1 to 16 to the Bill make provision for the construction and maintenance of the proposed 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 consequential on, or incidental to, such works.

Provision is included to confer powers for various building and engineering operations, for compulsory acquisition and the temporary use of and entry upon land, for the extinction and exclusion of certain rights over land, and for the grant of planning permission and other consents.

4. Clauses 24 to 36 of the Bill together with Schedules 17 to 26 to the Bill make provision for the disapplication or modification of certain controls such as those relating to heritage, trees, commons and open spaces, street works and noise.
5. Clauses 37 to 42 of the Bill together with Schedules 27 to 28 to the Bill make provision for railway matters such as the application (with modifications) and disapplication in part of the existing railways regulatory regime. In particular, they provide for the inclusion of the proposals in the objectives of the Office of Rail Regulation, the disapplication of certain licensing requirements, the disapplication of railway closure requirements, as well as the application (or disapplication) of other railway legislation. Provision is also included to enable agreements between the nominated undertaker and controllers of railway assets and to provide for the transfer of statutory powers in relation to railway assets.
6. Clauses 43 to 65 of the Bill together with Schedules 29 to 31 to the Bill contain general and miscellaneous provisions. Particularly, these provide for the designation of nominated undertakers, the making of transfer schemes, the power to carry out regeneration and reinstatement works, the application of certain powers in the Bill to future high speed rail works, the treatment of Crown Land, the effect of the Environmental Impact Assessment Regulations and the application of arbitration.

Your Petitioners

7. Your Petitioners are Prologis UK CCLV Sarl; Prologis UK CCLVI Sarl; Prologis UK CCLVII Sarl; Prologis UK CCLVIII Sarl; Prologis UK CCLIX Sarl; Prologis UK CCLX Sarl; collectively referred to as the "Sarls" and Prologis Park Midway 2 Management Company Limited.
8. Your Petitioner Prologis UK CCLV Sarl is the freehold owner of unit DC1, Midpoint Park, Sutton Coldfield, Birmingham.
9. Your Petitioner Prologis UK CCLVI Sarl is the freehold owner of unit DC2, Midpoint Park, Sutton Coldfield, Birmingham
10. Your Petitioner Prologis UK CCLVII Sarl is the freehold owner of unit DC3, Midpoint Park, Sutton Coldfield, Birmingham
11. Your Petitioner Prologis UK CCLVIII Sarl is the freehold owner of unit DC4, Midpoint Park, Sutton Coldfield, Birmingham.

12. Your Petitioner Prologis UK CCLIX Sarl is the freehold owner of unit DC5, Midpoint Park, Sutton Coldfield, Birmingham.
13. Your Petitioner Prologis UK CCLX Sarl is the freehold owner of unit DC6, Midpoint Park, Sutton Coldfield, Birmingham.
14. Your Petitioner Prologis Park Midway 2 Management Company Limited owns the estate roads and other common parts at Midpoint Park, Sutton Coldfield, Birmingham, which company is owned by the aforementioned Sarls and Prologis UK Limited.
15. The Sarls are owned by either Prologis Inc. or are real estate funds managed by (and invested in by) Prologis Inc.. Between them therefore your Petitioners own and control the freehold interest in Prologis Park Midpoint, Minworth, Birmingham, ("the Site").
16. Prologis Inc. is the leading owner, operator and developer of industrial logistics real estate across the Americas, Europe and Asia. It has \$51 billion in total assets under management and approximately 574 million square feet of industrial logistics real estate owned, managed or under development. Its operating portfolio is approximately 3,000 industrial properties in 21 countries across the Americas, Europe and Asia.
17. Prologis Inc. is a publicly traded Real Estate Investment Trust (REIT) on the New York Stock Exchange (NYSE) and is a member of the Standard and Poor's 500 (S&P 500). It is also among the top 100 most sustainable companies in the world.
18. Prologis Inc., through its wholly owned subsidiary, Prologis UK Limited is the leading provider of distribution buildings in the UK. Working with retailers, manufacturers and third party Logistics operators the company owns and manages 20 million sq ft of industrial space in prime locations across the United Kingdom. Prologis Inc. is one of the few real estate companies able to take a leading role in both global and regional markets in the United Kingdom – as a property developer, owner and manager, providing customers and investors with modern accommodation that is designed and built to high standards of sustainability.
19. The Site in your Petitioners' ownerships extend to some 65 acres in all. Of this land plot 17 is identified in the Bill for acquisition of permanent rights by the Promoter as more particularly described below.
20. Your Petitioners are directly and specially affected by the Bill as collectively they own the freehold of the Site which is a high quality industrial and logistics park.
21. The Book of Reference (Volume 4) deposited with the Bill by the Promoter lists plot 17, within the City of Birmingham, as a private road and roundabout (Midpoint Way)

in which your Petitioner Prologis Park Midway 2 Management Company Limited holds the freehold interest. Plot 17 is indentified in Sheet No. 3-101 of the HS2 City of Birmingham Plan.

22. Your Petitioners' interest in this plot is subject to the permanent acquisition of unrestricted rights of access under Schedule 8 to the Bill which states the right is required for the provision of access for construction and maintenance.
23. Although the exact nature of the access requirement is not clear the plans in the HS2 Environmental Statement (ES) clearly indicate that the access is only required during the construction phase of the HS2 scheme. It is therefore unclear why permanent access rights are being sought by the Promoter in the Bill.
24. There are a number of Scheduled Works contained in the Bill for which access to Plot 17 may be required during the construction phase of the HS2 scheme. These include:
 - (i) Scheduled Work Number 3/200 which authorises a railway (2.06 kilometres in length) commencing by a junction with Work No. 3/157 at its termination, passing generally westwards and terminating at a point 165 metres south of the junction of Cadbury Drive and Beale Close. Work No. 3/200 includes a viaduct over Work No. 3/202 and bridge over a Work No. 3/202A;
 - (ii) Scheduled Work Number 3/201 which authorises a diversion of a fuel pipeline beneath a point 205 metres south-west of the bridge carrying the Birmingham and Derby Railway Line over the River Tame and terminating beneath a point 200 metres south-east of the junction of Lancaster Drive with Blenheim Way;
 - (iii) Scheduled Work Number 3/202 which authorises a diversion of the River Tame commencing at a point 505 metres west of the bridge carrying the Birmingham and Derby Railway Line over the River Tame and terminating at a point 210 metres east of the junction of Orton Way with Tameside Drive;
 - (iv) Work No. 3/202A which authorises a diversion of Plants Brook commencing by a junction with Work No. 3/202 at a point 72 metres south-east of the culvert carrying Plants Brook beneath the Birmingham and Derby Railway Line and terminating at the southern end of that culvert;
 - (v) Work No. 3/202B which authorises a diversion of the Dunlop Channel commencing by a junction with Work No. 3/202 at a point 140 metres south-east of the of the culvert carrying Dunlop Channel beneath the Birmingham and Derby Railway Line and terminating at a point 165 metres south-east of the junction of Lancaster Drive with Blenheim Way;

- (vi) Work No. 3/202C which authorises an access road commencing at a point 245 metres west of the bridge carrying the Birmingham to Derby Railway Line over Plants Brook and terminating by a junction with Javelin Avenue at a point 140 metres north-west of its commencement.

Your Petitioners' concerns

25. Your Petitioners support the principle of the Bill, but are concerned that the Bill in its current form will result in the HS2 scheme seriously disrupting the current logistics occupiers of the Site, and in doing so disrupt your Petitioners' operation at the Site. The HS2 scheme in its current form will also prevent your Petitioners from letting the remaining vacant properties at the site due to the uncertainty surrounding the access.
26. Your Petitioners submit that without relevant amendments to the Bill relating to the effect on your Petitioners' Site, the Park will not be able to function properly, potentially leading to complaints from existing tenants, increased management costs, difficulties in securing tenants for the unlet units and in the worst case, the closure of the Site and the inevitable consequence of a substantial loss of local employment, consequential loss of business rates and loss of future opportunities for economic growth in the local community.
27. The specific issues and effects of the current HS2 proposals on your Petitioners are set out in more detail below.

The importance of Your Petitioners' Development

28. The Site consists of a high quality industrial and logistics park with four substantial high quality logistics premises with a total internal area of over one million sq. ft. with planning permission and all relevant permits in place for the construction of an additional two units totalling 250,000 sq ft. One of the 4 logistics buildings (DC4) is developed but vacant and available to lease. There has been some interest but no deals have been agreed. At the moment this has been on the basis that there is little knowledge of the need for the estate road to be used as part of the current HS2 proposals. As these details go into the public domain (and the Petitioners would be required to inform any interested parties of these proposals), the serious concern is that they will affect the letting of the building.
29. The largest unit is 368,000 sq ft is let to TPN, an international distribution and delivery company. The other 2 let units are also both occupied by international logistics companies. There are therefore a high number of lorry movements in and out of the Site as well as staff movements.
30. The site provides substantial employment for the local community as well as future

opportunities as further units become occupied.

31. Sites able to support the development of accommodation of this size and quality are in very short supply nationally.
32. The central location of the Site provides an important base for the logistics companies to distribute around the country. The Site's proximity to Birmingham also allows for a reliable source of employment.

Impacts of the scheme HS2 (issues)

33. As referred to above, the Promoter intends to acquire permanent access rights over Plot 17 for the 'Provision of access for construction and maintenance' under Schedule 8 to the Bill. This right of access could extend to the closure of the road at plot 17 (known as Midpoint Way) to both public and private traffic. Closure of Midpoint Way, which is the only access road into the Site would prevent the Site from operating resulting in the closure of the businesses at the park, loss of employment, loss of rental income to your Petitioners and loss of further investment into the Park in the form of construction of the final units.
34. Your Petitioners are gravely concerned that even with Midpoint Way remaining open to the occupiers, the heavy construction traffic required for the bulk removal of earth, and other works to and from the HS2 site would restrict the operation of the existing businesses, which are all logistics companies needing 24 hour access to the Site and potentially prevent the construction of the final units.
35. Significant disruption of these established businesses could ultimately lead to their extinguishment and result in the loss of a number of jobs. The uncertainty over the access, both temporarily and permanent, is also likely to make it impossible for your Petitioners to attract new occupiers/tenants to the Site.

Amendments to the Bill

36. Your Petitioners respectfully submit that an alternative route of access to the east of the relevant HS2 work sites can be found for the construction traffic which does not adversely affect the day to day operation of the Site and your Petitioners seek amendment to the Bill accordingly to exclude Plot 17 from the ambit of the Bill or otherwise to ensure that your Petitioners' interests are protected.
37. Your Petitioners hope that the Promoter will enter into meaningful discussions with your Petitioners to resolve the issues that your Petitioners have identified. Your Petitioners' sole aim is to ensure that the operation of the Site remains uninterrupted both during construction of the high speed rail line, and during its operation.

Conclusion

38. For the foregoing and connected reasons your Petitioners respectfully submit that the Bill fails to safeguard and protect and so injuriously affects the interests of your Petitioners and should not be allowed to pass into law without these issues being addressed.
39. 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 Petitioner.

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 it may be heard by its 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 its 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 Prologis UK CCLV Sarl; Prologis UK CCLVI Sarl; Prologis UK Prologis UK CCLVII Sarl; Prologis UK CCLVIII Sarl; Prologis UK CCLIX Sarl; Prologis UK CCLX Sarl and Prologis Park Midway 2 Management Company Limited

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