

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 CENTRAL LONDON COMMERCIAL ESTATES 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.

**Relevant clauses of the Bill**

- 3 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 and deposited with the Bill. An Environmental Statement (the "ES") has also been prepared in respect of Phase One of HS2 and accompanied the Bill.
- 4 The scheduled works include Works Nos. 1/1, 1/2, 1/10, 1/11, 1/11A, 1/11B and 1/12 in the London Borough of Camden. Those works are described as follows:

- (a) Work No. 1/1 is a proposed railway (partly in tunnel) that will run through various local authority areas including the London Borough of Camden. Work No. 1/2 is a proposed railway (partly in tunnel), being a realignment of the West Coast Main Railway Line in the London Borough of Camden. Works Nos. 1/1 and 1/2 include the reconfiguration and enlargement of Euston Mainline Station and London Underground Euston Station Ticket Hall;
- (b) Work No. 1/10 is a cycle track and footpath commencing at a point 60 metres east of the junction of Varndell Street with Hampstead Road and terminating at the junction of Eversholt Street with Barnby Street. Work No. 1/10 includes a bridge over Works Nos. 1/1 and 1/2 and the West Coast Main Line Railway;
- (c) Work No. 1/11 is a realignment of Hampstead Road commencing at a point 65 metres south of its junction with Robert Street and terminating at a point 53 metres south of its junction with Harrington Square. Work No. 1/11 includes a bridge over Works Nos. 1/1 and 1/2 and the West Coast Main Line Railway;
- (d) Work No. 1/11A is a temporary cycle track commencing by a junction with Work No. 1/11 at a point 108 metres south-east of the junction of Mackworth Street with Harrington Street and terminating by a junction with Work No. 1/14 at a point 58 metres south-west of the junction of Harrington Square with Lidlington Place. Work No. 1/11A includes a bridge over Works Nos. 1/1 and 1/2 and the West Coast Main Line Railway;
- (e) Work No. 1/11B is a temporary bridge over Work No. 1/2 and the West Coast Main Line Railway commencing at a point 108 metres north-east of the junction of Mackworth Street with Harrington Street and terminating at a point 60 metres south-east of the junction of Granby Terrace with Hampstead Road; and
- (f) Work No. 1/12 is a diversion of a sewer in Hampstead Road commencing beneath a point 5 metres north-west of the junction of Hampstead Road with Robert Street and terminating beneath a point 57 metres north of the junction of Hampstead Road with Varndell Street.

5 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, including the demolition of the whole or part of any building or structure.

6 Clause 3 of the Bill introduces Schedule 4 to the Bill which contains provisions relating to highways including power to stop up and interfere with highways.

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 the purposes of or in connection with Phase One of HS2 or any high speed rail transport system of which it forms or is to form a part. 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 plots 74, 75 and 76 in the London Borough of Camden as shown on the deposited plans (Sheet No. 1-01). These plots are within the Act limits and are therefore subject to the power of compulsory acquisition under the Bill.

8 Clause 19 of the Bill provides that planning permission is deemed to be granted for the carrying out of development authorised by the Bill, subject to certain limitations.

9 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 petitioner**

10 Your Petitioner is Central London Commercial Estates Limited, a wholly owned subsidiary of Derwent London plc. Derwent London plc is the largest central London-focused real estate investment trust with a property portfolio valued at £3.4 billion as at December 2013, comprising 5.7 million square feet of predominantly commercial floorspace (97% of which is in central London).

11 Your Petitioner is the freehold owner of the property at 132 - 142 Hampstead Road (the "Site") in the London Borough of Camden. The Site is located on the east side of Hampstead Road at its junction with Cardington Street immediately to the south

west of the existing railway leading out from the Euston Mainline station. The Site occupies an area of approximately 0.7 hectares. It contains two substantial buildings (at 132 - 140 Hampstead Road) which are currently occupied and in commercial use, a disused petrol station at 142 Hampstead Road and a private service road which runs along the rear of the Site and serves buildings on the Site as well as providing access to Network Rail's infrastructure.

- 12 The land comprising the Site is shown on the deposited plans as plots 74, 75 and 76. Plot 74 is the private road to the rear of the Site. Plot 75 is the part of the Site occupied by the building at 132 Hampstead Road. Plot 76 is the part of the Site occupied by the building at 140 Hampstead Road and the disused petrol station at 142 Hampstead Road. These plots are subject to compulsory acquisition under the powers of the Bill.
- 13 Your Petitioner and its rights, interests and property are injuriously affected by the Bill, to which your Petitioner objects for reasons amongst others, hereinafter appearing.

#### **The Site**

- 14 Your Petitioner purchased the Site in 2007 with a view to developing it by way of a mixed use scheme that would realise the potential of the existing buildings and regenerate and enhance the local area. To that end, your Petitioner obtained from the London Borough of Camden planning permission on 4 February 2011 (2010/4683/P) for development comprising the refurbishment, extension and change of use of the existing buildings at 132 - 140 Hampstead Road to provide for a mixed use of offices and flexible storage/light industrial; demolition of the petrol station at 142 Hampstead Road and construction of a new 12-storey residential building (including affordable housing provision) and retail unit; and landscaping and other works, including alterations to the service road. The proposed development made provision for a communal amenity space to the rear of the residential block, a service road running between the commercial and residential blocks and improvements to public accessibility to open space at the south end of the Site.
- 15 The planning officer's committee report recommended the grant of planning permission for the proposed development and concluded, amongst other things, that the proposed development:

- *"is in general accordance with the policy requirements of the London Borough of Camden";*
- *"would provide a sustainable solution for the future of this site which offers valuable affordable housing along with continued employment use"; and*
- *"succeeds in achieving the main objectives for the site as stated in the adopted Euston Planning Framework by increasing public access to open space and links across the site, respecting the scale, form and character of the surrounding area and providing housing including affordable housing".*

16 Planning permission for the proposed development was granted by the London Borough of Camden on 4 February 2011, subject to an agreement being entered into under section 106 of the Town and Country Planning Act 1990. On 4 February 2011 your Petitioner entered into a section 106 agreement with the London Borough of Camden relating to the Site.

The planning permission has been lawfully implemented. This was confirmed in a Certificate of Lawfulness of Existing Use or Development issued by the London Borough of Camden on 2 December 2013 under section 191 of the Town and Country Planning Act 1990.

### **Your petitioner's concerns**

#### *Land acquisition*

17 The Site is within the Act limits and is therefore subject to being acquired compulsorily for the purposes of Phase One of HS2. The Site is listed in Schedule A of the book of reference and is therefore subject to an unrestricted power of compulsory acquisition.

18 The ES that accompanied the Bill indicates that the buildings at 132-140 Hampstead Road and the disused petrol station at 142 Hampstead Road will need to be demolished to accommodate the proposed scheme (see Table 1 of section 2.4, Volume 2 'CFA1: Euston – Station and Approach'). The ES goes on to conclude that the loss of the buildings at 132 – 140 Hampstead Road will give rise to significant adverse socio-economic effects (see paragraph 10.4.26 of Volume 2 'CFA1: Euston – Station and Approach'). Although it is not entirely clear from the documents that accompanied the Bill, it is understood that the permanent acquisition of the Site and the demolition of the buildings occupying the Site is

proposed to accommodate the western extension and remodelling of Euston station and the widening of the rail corridor, and possibly for a construction compound.

19 Whilst your Petitioner supports the principle of Phase One of HS2 it is concerned that the provisions of the Bill insofar as they relate to the Site go beyond what is necessary in the public interest. In particular, your Petitioner considers that there may well be an alternative means of bringing about the redevelopment of Euston Station which:

- (a) would enable the provision of both the operational infrastructure required for HS2 and also a beneficial commercial development of the Site, so as to secure the regeneration and enhancement benefits that, but for HS2, would have been achieved by your Petitioner's proposed development; and
- (b) would not require acquisition of the entirety of your Petitioner's freehold interest as currently proposed.

20 Your Petitioner also wishes it to be noted that it has direct and relevant experience in promoting development above a major rail infrastructure project, through its work as a development partner under a Collaboration Agreement with Crossrail Limited to deliver a mixed-use scheme above Tottenham Court Road Crossrail and London Underground Station. Your Petitioner believes that there would be scope for your Petitioner delivering an over-site development at or in the vicinity of the Site which could help to achieve the regeneration objectives for Euston in a manner that better meets the objectives of planning policy. Your Petitioner has discussed the potential for an over-site development with the Promoter and is willing to pursue those discussions. Your Petitioner believes it is well-placed to be a development partner given its direct and relevant experience in promoting an over-site development in connection with the Crossrail project.

21 In that context, your Petitioner notes that the report by Sir David Higgins entitled 'HS2 Plus' (the "report"), which was published on 17 March 2014, questions whether the current proposals for Euston Station under the Bill are ambitious enough and suggests that an alternative proposal should be pursued. Specifically, on page 13 the report states:

*"...an alternative proposal that the Government could consider is a level deck design, which would enable access from one side of the station to the other, better connecting the station to the local area and the community. It could also create the potential for considerable over-site development,*

*which could combine housing, retail and commercial development. As in St Pancras and King's Cross, this would maximise both the aesthetic and jobs impact of the development. Further work can and should be done to develop this alternative – and explore, in particular, how the private sector would help deliver a Euston that lasts, without additional contributions from the tax payer."*

22 In a written statement of Parliament on 17 March 2014, Mr Secretary McLoughlin welcomed the 'HS2 Plus' report and in particular stated that:

*"I also agree with the report that more can be made of Euston station. It is a significant opportunity to maximise the economic potential of the line and regenerate a site that has been neglected. It is also a significant opportunity to generate private sector investment that can reduce the overall burden on the taxpayer. I will, therefore, ask HS2 Ltd and Network Rail to develop more comprehensive proposals for the redevelopment of Euston, working with the rail industry and the local community. This work should include proposals for the Euston arch which should never have been knocked down and which I would like to see rebuilt."*

23 Your Petitioner further notes that on 26 March 2014 oral evidence was given to the House of Commons Environmental Audit Committee on behalf of the Promoter in response to Questions 113 and 114 concerning the proposals for Euston station following the findings of the report. The representative of the Promoter said:

*"The process for making changes to the project during the parliamentary process is set out in Standing Orders. If we come forward with a different Euston proposal, and that leads to a different environmental effect in that area, we will have to provide what is called the supplementary environmental information. That will then be subject to a consultation of a minimum of 42 days, in the same way as the ES consultation was tackled."*

...

*"Once we have decided that we want to make an amendment we will table what is called an additional provision, so that there will be a motion in the House to agree that this additional provision can be made. As part of that process we will provide essentially the ES for the change. That will be subject to a public consultation with those views fed back to the House, and then that change will also be subject to people who are directly and*

*especially affected being able to petition. This will all happen during the Commons Select Committee part of the Hybrid Bill process."*

24 In the light of the clear acceptance by the Promoter that the current proposal for Euston station should be redesigned with a view to creating opportunities for over-site development, and given the procedural consequences that would ensue from any such scheme changes in terms of the ES and public consultation, your Petitioner objects to the compulsory acquisition provisions of the Bill (as it currently stands) insofar as they relate to the Site. In the circumstances, your Petitioner respectfully submits that the acquisition of its entire interest in the Site is not at present adequately justified and that the Site should be removed from the scope of the compulsory acquisition powers of the Bill.

#### *Compensation provisions*

25 As set out above at paragraphs 14 to 16, having purchased the Site in 2007, your Petitioner had planned to redevelop it. For that purpose, your Petitioner had secured planning permission for a mixed use scheme in February 2011, had entered into agreements to terminate existing occupational leases and was in advanced negotiations with prospective occupiers to take space in the commercial buildings once the consented development had been completed. The redevelopment of the site was programmed to be commenced in June 2012 and completed by September 2014. However, your Petitioner's redevelopment and investment plans were effectively brought to an end by the Government's announcement to Parliament in January 2012 that it had decided to proceed with Phase One of HS2 and of the detailed proposed route for that scheme. Your Petitioner has evidence that the prospective occupiers of the commercial buildings withdrew from negotiations, or else insisted on terms that were materially worse than market expectations, as a direct result of the January 2012 announcements.

26 Whilst your Petitioner has made reasonable efforts to mitigate its losses and costs arising from the HS2 proposals, it is clear that those proposals have had a substantial blighting effect on the Site. Consequently your Petitioner has sought to engage with the Promoter with a view to agreeing either a Collaboration Agreement that will enable the redevelopment of the Site or, failing that, an early acquisition of the Site by the Promoter. However, as at the date of the deposit of this Petition, no such agreement has been concluded and the Petitioner is therefore having to assume that an agreement will not be reached.

- 27 As to the compensation proposals of the Promoter, your Petitioner notes that on 30 January 2013 it responded to the consultation document entitled "Property and Compensation consultation (London to the West Midlands)". In that consultation response your Petitioner observed that, despite the Promoter's recognition that there should be enhanced compensation terms offered to landowners that go beyond what is required in law and its acknowledgment of the significant impact that comes with the construction of a high speed line and the effects on local property markets particularly during the planning, design and construction phase, the "discretionary adjustments" and "wholly additional measures" proposed at that time were confined to residential landowners and hence did not address the situation of owners of commercial properties and contained no measures for mitigating the blighting effect which arose upon the January 2012 announcement. Your Petitioner noted that the compensation proposals should recognise the blighting effect of the HS2 announcement by (a) making additional specific provision for compensating commercial landowners for the blighting effect of having to manage their properties under the "shadow" of anticipated compulsory acquisition and (b) providing a clear commitment to the early acquisition of commercial properties most seriously affected by this blight.
- 28 Having made those suggestions, your Petitioner was disappointed to see that the compulsory acquisition aspects of the Bill do not contain specific provisions to ensure that commercial landowners are properly compensated for losses suffered in the "shadow" of anticipated compulsory acquisition. The policy set out in the paper entitled "High Speed Two Information Paper C4: Land Acquisition and Disposal" dated 7 March 2014 does not provide for discretionary measures to compensate commercial landowners for such losses. Your Petitioner also notes that the policy document does not provide an express commitment to pursue early acquisition of seriously affected commercial properties such as the Site.
- 29 Whilst your Petitioner has notified the Promoter of its view that there is a basis for claiming all losses incurred in the "shadow" of the anticipated compulsory acquisition of the Site for the HS2 scheme, your Petitioner considers that the Bill should make specific provision in respect of such losses in full so as to put beyond any doubt the entitlement to compensation rather than requiring your Petitioner to rely on the general principles set out in or derived from the Compensation Code, and seeks amendment of the Bill accordingly.
- 30 Your Petitioner is therefore concerned that there is no specific provision within the current compensation proposals sufficient to put beyond any doubt its entitlement

to recover the full losses and expenses that it will incur in the period up to a compulsory acquisition of the Site. As a result, it is not clear that the core principle of equivalence (i.e. that the owner should be paid neither less nor more than his loss) would be achieved. Your Petitioner seeks amendment to the Bill to achieve this.

**General**

31 Your Petitioner therefore asks that the Bill be amended to ensure that all of your Petitioner's concerns as set out herein are addressed to your Petitioner's satisfaction.

32 For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended as proposed above, the clauses of and schedules to the Bill referred to above, so far as affecting your Petitioner, should not be allowed to pass into law.

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

YOUR PETITIONER therefore humbly prays 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 Petitioner 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 Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioner will ever pray, &c.

Berwin Leighton Paisner LLP

Agents for the above-named Petitioner

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PETITION OF

CENTRAL LONDON COMMERCIAL ESTATES  
LIMITED

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