

IN PARLIAMENT  
HOUSE OF COMMONS  
SESSION 2013-14

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

Against – on Merits – 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 TB Resort Holdings SARL and TB Resort Operations Limited referred to herein as 'Your Petitioner'

SHEWETH as follows:-

- 1.1 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."
- 1.2 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.
- 1.3 Clause 1 authorises the construction and maintenance of the works for the delivery of a railway which is known as Phase One of High Speed 2. The works are listed in Schedule 1 and shown on the plans and sections deposited with the Bill. Clause 2 authorises the carrying out of ancillary works and provisions relating to these works are detailed in Schedule 2.
- 1.4 Clauses 1 to 36 (together with Schedules 1-18, 25 and 26) set out the mechanics for authorising and constructing the railway, including: authorising ancillary works; taking temporary possession and compulsory acquisition of land (and interests in land) in connection with the works; the extinguishment of private rights over land within the limits of deviation and within the limits of land to be acquired or used; the grant of deemed planning permission for development authorised by the Bill; the disapplication of controls relating to historic buildings; the modification of sections 60 and 61 of the Control of Pollution Act 1974 and the prohibition of orders being made in proceedings brought by a person aggrieved by statutory nuisance, in specified circumstances.

- 1.5 Clause 10 provides that the compulsory purchase powers conferred by Clause 4(1) will be live for a period of 5 years from the date the Bill receives Royal Assent but may, by order of the Secretary of State, be extended for a further period of up to 5 years.
- 1.6 Clause 18 applies section 10(1) of the Compulsory Purchase Act 1965 (compensation for injurious affection) so that liability for compensation for land injuriously affected by the Phase One HS2 works falls to the nominated undertaker, rather than to the Secretary of State.
- 1.7 Clauses 37 - 42 of the Bill establish a regulatory regime for the proposed railway. Clause 43 make provision for the appointment of a nominated undertaker to carry out some, or all, of the works specified in the Bill. Under Clause 44 the Secretary of State may put in place a transfer scheme to transfer any property, rights and liabilities from High Speed (HS2) Limited (or any subsidiary thereof) to any person.
- 1.8 Clause 47 authorises the compulsory acquisition of land for regeneration or relocation opportunities arising as a result of the works. Clause 48 makes provision for the carrying out of reinstatement works within the limits of deviation and within the limits of land to be acquired or used.
- 1.9 Clauses 49 - 52 make provision for further high speed rail works. Clauses 53 - 56 authorise the exercise of the powers in the Bill in specified circumstances in relation to Crown land, highway for which the Secretary of State is highway authority and royal park land. Clauses 57 to 65 are miscellaneous provisions.
- 1.10 Your first-named Petitioner is a body corporate and carries on business as a property holding vehicle. Your first-named Petitioner is the freehold owner of The Belfry Golf and Leisure Centre ("The Belfry"). The Belfry is a prestigious golfing venue which has hosted the Ryder Cup on four occasions - more than any other venue in the world. The Belfry has also staged numerous European Tour events. The Brabazon Course, one of The Belfry's three courses, is widely recognised as one of the most prestigious and technically challenging golf courses in the world. The Belfry is home to the headquarters of the Professional Golfers' Association of Great Britain and Northern Ireland. In addition to the golf business, The Belfry includes a leisure/spa centre and a 324-room hotel with conference facilities and four bars and restaurant. Approximately 550 staff are employed across The Belfry site.
- 1.11 Your second-named Petitioner is a body corporate who trades as 'The Belfry' and carries on business as a leisure and sporting resort operator. Your second-named Petitioner holds the leasehold interest in The Belfry.
- 1.12 Your second-named Petitioner holds the following property interests which are included in the Bill:
- a) Lessee and occupier of private access road and footpath (The Belfry Golf Club), (west of Tamworth Road, A4901) (Plot 19 in the County of Warwickshire);
  - b) Lessee and occupier of the Golf course (The Belfry) (Plot 28 in the County of Warwickshire);
  - c) Lessee and occupier of the Golf course (The Belfry) (Plot 29 in the County of Warwickshire)
  - d) Lessee and occupier of the Golf course, pylon and overhead electricity cables (The Belfry) (Plot 30 in the County of Warwickshire); and

e) Lessee and occupier of the Golf course, pylon and overhead electricity cables (The Belfry) (Plot 32 in the County of Warwickshire).

- 1.13 Your first-named Petitioner holds the freehold interest in the above named property.
- 1.14 Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioner objects for reasons, amongst others, hereinafter appearing.
- 1.15 Your Petitioner objects to the following Clauses of the Bill:
- (i) Clauses 1 and 2, Schedules 1 and 2
  - (ii) Clauses 4 and 5, Schedules 5, 7, 8, 11 and 12
  - (iii) Clause 19, Schedule 16
  - (iv) Clauses 51 and 52
  - (v) Schedule 25
- 1.16 Your Petitioner does not object to the principle of the proposed railway. However, your Petitioner is greatly concerned by the provisions of the Bill as they may affect the operation and unique amenity of The Belfry in the ways detailed below.
- 1.17 For these reasons and having regard to the more detailed particulars referred to below, your Petitioner objects to the Bill on the grounds that it authorises the scheduled works without making provision for the protection of the rights, interests and property of your Petitioner, either absolutely or compared to others who might be affected.
- 1.18 Your Petitioner will be affected by the scheduled works in a number of ways which, without provision being made to protect it, will seriously affect its occupation and enjoyment of its property and its ability to carry on business from it. Given the nature of your Petitioner's operations, your Petitioner is highly sensitive to the impacts of noise, dust and vibration on its amenity. In this context, to the extent that the works and the operation of the railway (once constructed) affects the ability of your Petitioner to deliver the service and experience expected of it by its visitors, or directly affects the ability of visitors to partake in the full leisure experience at your Petitioner's property, the Bill will have an adverse effect on the rights, interests and property of your Petitioner.
- 1.19 Accordingly, your Petitioner is acutely sensitive to the effect on its visitors and reputation of any works which might temporarily or permanently affect the leisure experience enjoyed by those visitors. As a result of disruption frequent guests, particularly golfers, are likely to visit elsewhere and, depending on length of disruption/closure, are prone to continue their alternative arrangements.
- 1.20 The potential harm to your Petitioner's rights, interests and property arises in the following ways:

Alternative access arrangements

- 1.21 Your Petitioner understands that access is sought access your Petitioner's land to facilitate the diversion of overhead electricity cables associated in connection with the construction of the railway. The Bill authorises access to the pylons over an existing track (Plot 19) and parts of the golf course (Plots 28 and 29). The HS2 team has informed your Petitioner that as a

result of the diversion works the pylons (located in Plots 30 and 32) will require re-tensioning, and possibly other modifications.

- 1.22 Wayleave agreements dated 20 December 1976 and 7 March 1977 provide rights of access in relation to the existing pylons, including for the purposes of re-tensioning.
- 1.23 To the extent that the existing wayleave agreements do not provide sufficient works and access rights (which your Petitioner believes they do), your Petitioner has been in discussions with National Grid and have expressed their willingness to enter into an alternative wayleave agreement. The HS2 team have indicated that if a form of agreement can be reached with National Grid, the exercise of acquisition powers will not be necessary. Your Petitioners are confident that an agreement can be reached between the parties. As a result your Petitioners interests should not be included in the Bill.

#### Uncertainty as to the nature of the proposed acquisitions

- 1.24 Your Petitioner was served with notice on 25 November 2013 which included all the above named plots in Schedule A (acquisition of land). That notice also included Plots 19, 28 and 29 under Schedule D (the imposition of new rights over the land and access rights over any road). Your Petitioner strongly objects to the acquisition of the plots detailed in that notice on the grounds that it is unnecessary to acquire these interests in order to facilitate the scheduled works.
- 1.25 The Bill, as introduced on 25 November 2013, is inconsistent with the notice of the same date. The Bill authorises the acquisition of the following in respect of your Petitioner's property interests:
- a) Plot 19 - acquisition of rights for the provision of access for construction and maintenance of utility diversions (Sch. 8)
  - b) Plot 28 - acquisition is restricted to the subsoil or under-surface of the land more than 9 metres below the surface (Sch. 11) and for purposes including, but not limited to, the provision of environmental mitigation (Sch. 5); and the imposition of restrictive covenants in relation to protection above tunnels (Sch. 7);
  - c) Plot 29 - acquisition is restricted to the subsoil or under-surface of the land more than 9 metres below the surface (Sch. 11); the imposition of restrictive covenants in relation to protection above tunnels (Sch. 7); acquisition of rights for the provision of access for construction and maintenance of utility diversions (Sch. 8); restriction on the power to use subsoil and acquire land in respect of highways (Sch. 12)
  - d) Plot 30 - acquisition of rights for the provision of access for construction and maintenance of utility diversions (Sch. 8); restriction on the power to use subsoil and acquire land in respect of highways (Sch. 12)

The Bill makes no reference to Plot 32.

- 1.26 The notice identified Plots 28, 29, 30, 32 as being in the County of Warwickshire, Parish of Middleton in the District of North Warwickshire. Plot 19 is identified as being in the County of Warwickshire, Parish of Wishaw in the District of North Warwickshire. Your Petitioner is concerned that the Bill does not identify the above-named plots by their parishes. In each case your Petitioner's plot interest is grouped with other plots located in other parishes and districts. The drafting does not make clear the nature of the acquisition proposed. As a

result, your Petitioner cannot be certain as to the impact of the proposed acquisition and the impact on its property.

- 1.27 To the extent the compulsory acquisition of all your Petitioner's interests is proposed, your Petitioner strongly objects. Your Petitioner was advised by HS2 that as a default position, access rights are shown as a permanent acquisition. It is inappropriate in the exercise of any compulsory acquisition powers to seek an acquisition more extensive than that which is legitimately required. In the present circumstances the acquisition is particularly unnecessary in light of the arrangements in place with National Grid. There are no on-going operational needs which would necessitate the permanent compulsory acquisition of any of your Petitioner's land once the scheduled works are complete.
- 1.28 To the extent that temporary acquisition and the acquisition of rights is sought, your Petitioner strongly objects. The acquisition of such interests would detrimentally impact on your Petitioner's operations and amenity. Plot 19 comprises the service entrance to The Belfry and includes a strip of car parking. The unimpeded use of this service entrance is essential to your Petitioner's business, in particular for the hosting of large events for which it is renowned.
- 1.29 Plots 28 and 29 both comprise playing areas of the Belfry's PGA golf course, which is recognised by the PGA as a world class tournament course. The golf course is the only PGA branded course in England and has hosted two European Tour events. The acquisition of land or rights in respect of these plots would seriously frustrate the playing of golf on the surrounding land which would have a detrimental impact on your Petitioner's business. Any acquisition would severely comprise your Petitioner's ability to offer a full 18 hole course to its players and to host large events. Your Petitioner requires control over this land to ensure the effective management of its estate. As detailed above, your Petitioner's are willing to grant to National Grid access rights required to carry out the works at appropriate times, to the extent that they are not already available under the existing wayleaves, which makes the compulsory acquisition unnecessary.
- 1.30 The Bill authorises the acquisition of the subsoil of Plot 28 for the purposes of carrying out environmental mitigation. The Environmental Statement is deficient in explaining the nature and purpose of these works and your Petitioner seeks the deletion of Plot 28 from Schedule 5.
- 1.31 Your Petitioner notes that Plots 29 and 30 are included in in the Bill under Schedule 12 which relates to highways. Plot 29 comprises part of the playing area, whilst Plot 30 comprises a pylon footing. Both plots appear to have been included under Schedule 12 in error. Your Petitioner seeks the removal of all its interests from the Bill, including, the deletion of Plots 29 and 30 from Schedule 12.

#### Noise

- 1.32 Your Petitioner's property lies in close proximity to Work No. 3/48 which comprises the construction of a railway of 19.23km. Your Petitioner has serious concerns regarding the impact of noise associated with the works. Your Petitioner operates a leisure environment which relies on its tranquillity and idyllic countryside setting. Golf players, spa visitors and hotel guests come to The Belfry to play or rest without noise interruption or disturbance. It is disappointing that no regard has been had to the particular sensitivities of your Petitioner in this regard.

- 1.33 Your Petitioner seeks undertakings that strategies for avoiding (or, as a far less preferable alternative, reducing) the impact of noise arising from construction works will be agreed with it prior to the relevant construction works taking place and thereafter adhered to. In addition, your Petitioner requires indemnities in respect of any losses, damages, claims and expenses caused by or suffered as a result of noise arising from construction works.

#### Dust and emissions

- 1.34 The scenic environment and clean, fresh air are essential to your Petitioner's business. In addition to its famous golf courses, the Belfry has conference facilities and hosts weddings. It is not acceptable that your Petitioner's premises be perceived by existing and potential customers as being ones which, because of their proximity to works, do not meet the standards expected of such venues. Such a perception will act as a deterrent to guests. Your Petitioner's business will be adversely affected unless measures are imposed on construction activities which prevent and minimise the effects of dust.
- 1.35 Your Petitioner seeks undertakings that strategies for avoiding (or, as a far less preferable alternative, reducing) the impact of dust and other emissions will be agreed with it prior to the relevant construction works taking place and thereafter adhered to. In addition, your Petitioner requires indemnities in respect of any losses, damages, claims and expenses caused by or suffered as a result of dust and emissions arising from the works.

#### Vibration

- 1.36 Your Petitioners are most concerned that vibration will cause long-term damage to the structures of their buildings. Vibration, even of an short-term nature, will have a critical effect on your Petitioners' business operations for which the Bill makes no provision as to mitigation. In particular, vibration may cause the unexpected failure of generators etc. with profound consequences for the hosting of large events for which The Belfry is known.
- 1.37 Your Petitioners seek undertakings that strategies for removing and/or reducing the impact of vibration will be agreed with them prior to the relevant construction works taking place, guarantees that such undertakings will be complied with and indemnities in respect of any losses, damages, claims and expenses caused by or suffered as a result of vibration. Your Petitioner also seeks to include in the Bill provisions to mitigate any adverse long term effects which arise as a result of the operation of the railway.

#### Clauses 51 and 52 - Rights of entry for further high speed works

- 1.38 The Bill includes at Clause 51 a very wide power to enter any land within 500 metres of the proposed route of the line for the purposes of surveying land or investigations for future phases of HS2. Your Petitioner notes that in the case of non-residential land the consent in writing of the Secretary of State is required. Your Petitioners seek an undertaking that a programme will be agreed in advance with your Petitioners before any survey or investigation works are carried to avoid disruption.

#### Schedule 25 - Statutory Nuisance

- 1.39 This Schedule disapplies and provides a defence against proceedings brought by persons aggrieved against statutory nuisance caused as a result of the works. This would seriously prejudice your Petitioner's rights to the statutory protection afforded by the Environmental Protection Act 1990 and the Bill makes no appropriate provision for persons aggrieved to

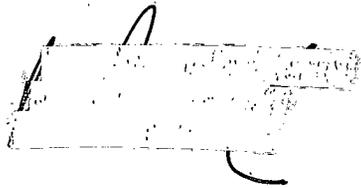
seek redress against such nuisances. Your Petitioner seeks an amendment to Schedule 25 to provide for a procedure to redress these adverse effects in an appropriate manner.

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

1.41 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 they 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.



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**PETITION OF TB Resort Holdings SARL and TB  
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