

IN PARLIAMENT
HOUSE OF
COMMONS
SESSION
2013 - 2014

HIGH SPEED RAIL (LONDON TO WEST MIDLANDS) BILL

Against – 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 **Ivydrive Development Company Ltd.**

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, 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.
3. Clauses 1 to 36 set out the Bill’s objectives in relation to the construction and operation of the railway mentioned in paragraph 1 above. They include provision for the construction of works, highways and road traffic matters, the compulsory acquisition of land and other provisions relating to the use of land, planning permission, heritage issues, trees and noise. They include clauses which would disapply and modify various enactments relating to special categories of land including burial grounds, consecrated land, commons and open spaces, and other matters, including overhead lines, water, building regulations and party walls, street works and the use of lorries.
4. Clauses 37 to 42 of the Bill deal with the regulatory regime for the railway.
5. Clauses 43 to 65 of the Bill set out a number of miscellaneous and general provisions, including provision for the appointment of a nominated undertaker (“the Nominated Undertaker”) to exercise the powers under the Bill, transfer schemes, provisions relating to statutory undertakers and the Crown, provision about the compulsory acquisition of land for regeneration, reinstatement works and provision about further high speed railway works. Provision is also made about the application of Environmental Impact Assessment Regulations.

6. The works proposed to be authorised by the Bill ("the Authorised Works") are specified in clauses 1 and 2 of and Schedule 1 to the Bill. They consist of scheduled works, which are described in Schedule 1 to the Bill and other works, which are described in clause 2 of the Bill.
7. Your Petitioner is the freehold owner of land which is leased to Denham Waterski Club and the Herts & Middlesex Wildlife Trust in the Colne Valley. Parts of the site are within the safeguarded area, including Denham Waterski Club's clubhouse. The whole site is within the Colne Valley Site of Special Scientific Interest (SSSI) part of the site contains ancient woodland (Battlesford Woods). The HS2 route is proposed to dissect the ancient woodland. The main construction compound (Colne Valley Viaduct North Launch Satellite Compound) is almost opposite the site and the Colne Valley Viaduct Laydown Satellite Compound is close proximity to the site's northern boundary. The Petitioner is concerned that his tenant's waterski business will be adversely affected by land-take by HS2, by the impact on the sporting experience as a result of deterioration in air quality, the loss of trees which currently provide shelter from wind and traffic noise to those using the water and the loss of the aesthetic value and tranquillity of the site, which is a major attraction for participating customers and spectators. It is identified in the HS2 Environmental Statement (paragraph 11.4.8) that there will be a significant noise effect on the clubhouse for a period of 15 months. Customers and staff access the site from the North Orbital Road which is major 'A' road due to be used by construction traffic. There are concerns as to journey times, congestion and road closures detracting from customer experience and the reliability of staff and customers arriving on time for bookings. The Petitioner is also concerned that his tenant, the wildlife trust, will suffer harm to the ecological value of the site and the educational and recreational facility that they offer as a result of land-take by HS2 (including part of the Korda Lake), deterioration in air quality, the impact of water pollution, direct ecological harm, and the loss of the aesthetic value and tranquillity of the site. The Petitioner is also concerned about customers and staff accessing the site, for the same reasons as set out in relation to the Denham Waterski Club's business. The Petitioner is the Ivydrive Development Company Ltd.
8. Your Petitioner requests that the SSSI and ancient woodland be protected from these effects by ensuring that the line passes throughout the surrounding area in a bored tunnel. Ancient woodland is not a habitat that can be recreated and therefore the habitat created as a result of translocation will never be as valuable as the one lost. This would substantially mitigate the adverse effects objected to in this petition, and the need for the less effective remedies proposed below.
9. Your Petitioner seeks an assurance that the Secretary of State will acquire no greater amount of land than is reasonably required for the construction and operation of the works authorised by the Bill. Your Petitioner requests that the Bill and the deposited plans be amended to exclude land that is not required, or that the Secretary of State be required to enter into legally binding agreements with your Petitioner that land that is not required will not be compulsorily acquired. In addition, you Petitioner requests that the Bill be amended so that any land which is only required temporarily for construction purposes should be categorised as such and not subject to permanent powers of acquisition. In addition you Petitioner respectfully requests that clause 47 be removed from the Bill.

10. If land at the site is to be acquired, then your Petitioner requests that the Bill be amended or the promoter required to give sufficient notice to both the owner and occupiers before taking the land. The proposals in the Bill for the giving of notice are inadequate. The proposals for compensation in the Bill are also inadequate and should be amended.
11. If it is necessary to translocate habitat, your Petitioner requests that the nominated undertaker should provide detailed translocation management plans in advance of any translocation of wildlife and ancient woodland and these plans should be agreed with the Woodland Trust. Your Petitioner requests that the nominated undertaker should provide detailed translocation management plans in advance of any translocation of wildlife and ancient woodland and these plans should be agreed with the Woodland Trust. Your Petitioner is concerned about the responsibility and accountability for the management of all mitigation and compensatory habitat creation and the monitoring of habitats and species. Your Petitioner requests that the nominated undertaker should be subject to a binding management and mitigation strategy, and compensatory habitat creation. Your Petitioner is concerned that the environmental statement contains very few details about the habitats that are to be provided and the steps that will be taken to create broadly similar habitats. Your Petitioner requests that the nominated undertaker should be required to construct a new area of habitats to compensate for habitats being lost to the construction and operation of the high speed railway and associated development.
12. Your Petitioner requests that the nominated undertaker makes a binding commitment to effective travel planning for the construction and operation of the high speed railway and associated development including agreeing a travel plan with the relevant local authority for businesses in the area.
13. Your Petitioner requests that the nominated undertaker is subject to binding mitigation measures to mitigate the impacts of the works. These binding mitigation measures should include but not be limited to restrictions on noise, dust, vibration, construction hours, vehicle movements, operating hours, design of structures to ensure the Denham Waterski Club and the Herts & Middlesex Wildlife Trust can continue to function during the construction of HS2 and thereafter when HS2 operates.
14. Your Petitioner submits that the nominated undertaker has no incentive to minimize harmful environmental impacts arising from the construction and operation of the high-speed railway and submits that measures designed to ensure effective monitoring of compliance with these restrictions and enforcement of these restrictions be introduced to the Bill. The nominated undertaker should also mitigate the impact of noise, dust, vibration and impacts on visual amenity through measures such as noise insulation and barriers, sheeting of haulage vehicles, hand piling, and sympathetic design in keeping with the surrounding area.
15. Your petitioner is concerned about the impact of noise on the site as trains from the high speed line pass the area. Noise from passing trains will directly impact on the experience of customers using the waterski club, in particular the clubhouse, which is used in part for coaching and educational training, and on the wildlife trust's activities including of the welfare of animals, and resource available for education and recreation.

16. Your Petitioner requests that the nominated undertaker should be compelled to use best available techniques in the construction and operation of the high speed railway and its associated development to ensure that no noise can be felt from within the club's site and there are no other adverse effects.
17. Your Petitioner requests that there should be binding mitigation measures including an effective noise mitigation and monitoring system in place before commencement and during construction and operation of the high speed railway and associated development.
18. The binding mitigation and monitoring measures should be decided by a panel of independent experts on the basis of independent expert evidence. For example the House of Commons Environmental Audit Committee's report entitled HS2 and the environment thirteenth Report of Session 2013-2014 dated 7 April 2014 recommended an independent body to monitor and publically report on all aspects of environmental protection needed for 60 years. Binding mitigation measures should include but not be limited to full noise barriers and noise insulation for buildings and re-housing. The trigger levels at which point noise mitigation becomes necessary should reflect prevailing World Health Organisation guidance.
19. Your Petitioner is concerned that Clause 35 of the Bill and Schedule 25 provide that appeals against notices or against failure to give consent or the giving of qualified consent under the Control of Pollution Act 1974, section 60 (control of noise) and section 61 (prior consent for work on construction sites) may be referred to the Secretary of State or arbitration. Your Petitioner is also concerned that Schedule 25 would provide a defence to statutory nuisance for the nominated undertaker. Your Petitioner requests that Clause 35 and schedule 25 are deleted from the Bill.
20. Your Petitioner is concerned about the use of unsuitable highways by large vehicles delivering equipment and supplies, and removal of spoil during the construction works as well as use of highways by other vehicles. The disruptive effect of these vehicle movements will be compounded by road closures which will impact the ability of staff and visitors to get to the business premises, as set out above.
21. Your Petitioner requests that hours for the movement of construction traffic is prohibited between 07:30 to 09:00 and to 15.00 to 17:00 Monday to Friday, and in particular at weekends, when the Denham Waterski Club and the Wildlife Trust is at its busiest, and there are limits on the number of vehicle movements, limits on the size of vehicles to ensure that disruption is minimized.
22. Your Petitioner further requests that binding mitigation measures should include traffic management plans to be agreed between the nominated undertaker, the relevant local authority and the relevant highway authority to be monitored and enforced by environmental health officers employed by the local authority.
23. Your Petitioner is concerned that the nominated undertaker's ongoing accountability to is unspecified. The Code of Construction Practice does not identify how any lead contractors will be made to comply and the redress and appropriate action that might be taken in the event that the contractors do not comply with the Code of Construction Practice. Assessment in the environmental statement is made on the assumption that the Code of Construction Practice and the strategies will be fully effective, however, the Code of Construction Practice has no legal status.

24. Your Petitioner submits that the Code of Construction Practice should be incorporated into the Bill. Parliament and not the nominated undertaker should be accountable for the project. Any monitoring required under the Code of Construction Practice should involve the relevant local authority as well as independent experts.
25. The standards set out in the environmental statement and the Code of Construction Practice is of "reasonableness" and "reasonable endeavours". Your Petitioner submits that this should be replaced by a higher standard, i.e. "best practical means" and the measures should be agreed with the relevant local authority and Community Forum Area. Measures should be subject to independent assessment verifiable and challengeable. This applies to noise as well as other effects that are to be addressed in the Code of Construction Practice.
26. Your Petitioner submits that clear and easy to follow enforcement mechanisms for local communities and local authorities should be included in the Bill. This will provide a commitment to rectify or compensate for environmental impacts.
27. Your Petitioner is concerned about the potential adverse impacts on air quality as a result of the construction and operation of the high speed railway line and associated development on customers carrying a sporting activity and on wildlife.
28. Your Petitioner requests that before construction there should be an air quality baseline monitoring study benchmarked against the Air Quality Standards Regulations 2010 and a copy of this report should be provided to the Petitioner. Your petitioner submits the nominated undertaker be required to ensure its activities do not breach the standards detailed in such regulations and if such standards are breached, your Petitioner requests that the Nominated Undertaker be required to cease its activities until air quality standards are brought into line with such standards.
29. Your Petitioner requests that the local authority should be provided with funding to undertake responsibility, compliance and enforcement for the monitoring of air quality in accordance with these binding mitigation plans and that the results of monitoring are made publicly available.
30. In light of the above, the Petitioner reserves the right to raise the above matters and any further matters of concern relating to the substance of the Bill and this Petition that may arise from continuing discussions, the preparation and publication of reports, any possible revisions that may be made to current work site proposals or any other matters relevant to our expressed concerns that may occur in due course and prior to our representation before the Select Committee.
31. For the foregoing and connected reasons your Petitioner respectfully submits that, unless clauses of the Bill are removed or amended, then the Bill should not be allowed to pass into law.
32. There are other clauses and provisions in the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and their rights, (including their human rights) interests and property and for which no adequate provision is made to protect your Petitioner and other clauses and provisions necessary for their protection and benefit are omitted therefrom.

YOUR PETITIONER 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 such of the clauses and provisions of the Bill as affect the property, rights and interests of your Petitioner 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 Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioners will ever pray, &c


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SIGNED