

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:

THE RAIL FREIGHT GROUP

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.

Clauses of the Bill

- 3 Clauses 1 to 3 of the Bill, together with Schedules 1 to 4, make provision for the construction and maintenance of the proposed works including the ‘Scheduled Works’ set out in Schedule 1. Provision is included to confer powers for various works and operations, including railway, highway and other building and engineering works and operations. Powers are also included to enable entry onto and interference with land and buildings for investigatory, protective and other purposes, together with powers to enable occupiers to be required to undertake works to trees, powers to use watercourses, public sewers and drains for drainage purposes and powers temporarily to interfere with and use waterways.
- 4 Clauses 4 to 18 of the Bill, together with Schedules 5 to 15, make provision for the compulsory acquisition and the temporary use of land and for the extinction or exclusion of certain rights in land. Provision is also included for the application or variation of compensation provisions.

- 5 Clauses 19 to 36 of the Bill, together with Schedules 16 to 26, make provision for the grant of planning permission and other consents and for the disapplication or modification of various controls, including those relating to heritage, water, building control, party walls, street works, lorries, noise and local legislation.
- 6 Clauses 37 to 42 of the Bill, together with Schedules 27 and 28, make provision for railway matters. Provision is included for the application (with modifications) and disapplication in parts of the existing railways regulatory regime, enabling agreements to be required to be entered into between the nominated undertaker and controllers of railway assets and other railway facilities and for the transfer of statutory powers in relation to railway assets.
- 7 Clauses 43 to 65 of the Bill, together with Schedules 29 to 31, contain general and miscellaneous provisions. These include provision for the designation of nominated undertakers, the making of transfer schemes, provision for statutory undertakers, provision for the compulsory acquisition of land for regeneration and for relocation purposes, and powers for the reinstatement of land. Provision is also included to apply powers of the Bill to further high speed works, to confer a power of entry for further high speed works, as to the application of the Environmental Impact Assessment Regulations and as respects the application of arbitration.

Your Petitioners

- 8 Your Petitioners are the representative body for rail freight in the UK, and aim to increase the volume of goods moved by rail. As a membership organisation your Petitioners represent around 120 companies active in rail freight, including train operators, ports, end customers, suppliers and support services.
- 9 Almost all of your Petitioners' members are specially and directly affected by the Bill as there will be a serious impact on rail freight capacity caused by trains joining and leaving the railway it authorises at its northern end and also an inadequate share of the benefits of the construction of the railway on your Petitioners' members' interests.
- 10 Your Petitioners' members' rights, interests and property are injuriously affected by the Bill, and as they have largely common concerns, it is appropriate that your Petitioners rather than their members individually object to the Bill for the reasons amongst others, hereinafter appearing.

Your Petitioners' concerns

- 11 Your Petitioners are not opposed in principle to the construction of the new railway transport system for which the Bill provides, but are greatly concerned about the inadequate provision for rail freight safeguarding and growth that is made in the Bill. The Bill is an opportunity to ensure that rail freight growth and the subsequent benefits that can be delivered the UK economy and environment can be realised. Your Petitioners object to the Bill as it currently stands as it does not provide appropriate measures to secure the future benefits of rail freight.

- 12 Your Petitioners are also concerned as to the impact that the works and system will have on their members' ability to operate their businesses. Your Petitioners object to the Bill on the grounds that it does not afford sufficient safeguards to the continued and continuous operation of facilities used in the daily operation of your Petitioners' members' and their customers' businesses in the areas concerned, and that as a result your Petitioners' members' will suffer reduced rail freight carriage tonnage which will be displaced onto other modes, most likely roads. The works proposed by the Bill will disrupt and impact on the ability of your Petitioners' members' to manage their business operations during, and after, construction works.

Reservation of Released Capacity for Rail Freight

- 13 The Environmental Statement suggested that HS2 could release capacity on the classic network that could be used to increase the number of freight services on the West Coast Main Line. However, your Petitioners are concerned that the Bill makes no provision for the capacity released to be allocated to freight services in this way, and are concerned that without any requirement for released capacity to be shared by freight and passenger services, it will all be taken up by passenger services. The West Coast Main Line is a critical artery for rail freight and the released capacity which Phase 1 delivers is essential to allow freight to be delivered to the major conurbations in the West Midlands and the North West. Substantial investments have been made to gauge clear this route, which is used by 95% of all intermodal trains at some part of their journey. Network Rail's 2013 Freight Market Study forecasts rail freight volumes could double in size by 2043 driven by growth in the intermodal sector. The Network Rail forecasts show that additional capacity along the West Coast Main Line will be crucial to support this growth, with an extra three paths per hour in both directions between London and Crewe being required by 2033. By releasing capacity on the classic network HS2 provides the opportunity to accommodate this growth.

- 14 Your Petitioners aver that there is a compelling economic case for supporting growth in rail freight volumes. The value to the UK economy of delivering freight by rail is clear with productivity, environmental and congestion benefits currently worth £1.5bn a year to the UK economy. As rail freight volumes grow over the next three

decades, estimates suggest that these benefits could be worth over £4bn per annum.

- 15 Your Petitioners submit that reserving the released capacity on the West Coast Main Line following the completion of Phase 1 of HS2 will be crucial to ensure the predicted and desired growth of rail freight and to increase the economic benefits to the UK. Your Petitioners therefore respectfully submit that the Bill should not be allowed to pass into law without ensuring that sufficient network capacity released by Phase 1 is reserved for rail freight growth. This requires a minimum binding commitment that three additional paths per hour off-peak on the West Coast Main Line between London and Crewe will be reserved for rail freight.

Commitment to expedite Phase 2 to Crewe

- 16 Your Petitioners welcome the statement from Sir David Higgins that Phase 2 should be built to Crewe at the earliest opportunity. This is critical, as a significant bottleneck would occur where HS2 trains rejoin the West Coast Main Line at the Handsacre Junction prior to the completion of Phase 2. The West Coast Main Line is a key artery for freight traffic with an average of over three freight trains per hour operating along this part of the line in both directions, and it is crucial that this traffic is protected. Forecasts indicate significant growth over this section, with an additional three paths per hour off-peak required to satisfy demand by 2033. Therefore your Petitioners submit that the Bill should not be allowed to pass into law without a binding commitment from the Promoter that Phase 2 to Crewe will be expedited and completed at the earliest possible opportunity to facilitate freight growth, and that the period during which trains join and leave the West Coast Main Line at Handsacre is at best eliminated or at least minimised.

Protection of Freight Capacity Following Completion of Phase 1

- 17 Your Petitioners recognise that if the Handsacre junction becomes operational, there will be an intervening period between the completion of Phase 1 and the completion of Phase 2 to Crewe, where HS2 trains will rejoin the West Coast Main Line and create a bottleneck. Although your Petitioners have not seen any timetable analysis they understand that without the extension to Crewe at the Handsacre Junction, seven HS2 trains will rejoin the classic network per hour, compared with the estimated three inter-city services which will have been removed. These additional services will need to fit onto the existing network through bottlenecks at Colwich Junction and other locations. Your Petitioner's understanding is that these additional services on the classic line could not be accommodated alongside rail freight growth. Your Petitioners respectfully submit that the Bill should not be allowed to pass into law without a binding commitment from the Promoter that makes provision for ameliorating measures that will accommodate freight growth until Phase 2 to Crewe

is complete. Such measures could include reservation of additional paths for freight or an acceptable diversion.

Possessions Regime

- 18 Your Petitioners accept that the Promoter will require engineering access to the classic network in order to undertake necessary work to facilitate the construction of HS2. However, there needs to be a balance between access for works and business as usual, noting that rail freight customers have a choice of transportation and will transfer their business to road if their services are severely disrupted.

- 19 Rail freight companies operate in the private sector and the five largest operators compete with each other and with other modes of transportation. Restricting access to the classic network during construction of HS2 would create uncertainty and instability for all rail freight companies and risks undermining the £2bn of rail freight operator investments made since privatisation. Disruption on the classic network could mean rail freight companies are unable to fulfil customer contracts or meet customer expectations which risks damaging confidence in the sector. In addition, rail freight companies will not be able to utilise their capital assets which will undermine their business operations. Your Petitioners submit that disruption to network access should be kept to an absolute minimum and where access is required the Bill be amended to require the promoter to agree access via Network Rail, using normal industry processes. In particular, nothing in the Bill should disapply Network Rail's Network Change policy or override the policy and current practices on agreeing possessions.

Use of Rail Freight to Support Construction

- 20 Your Petitioners are concerned that while the Bill makes provision for some rail served construction compounds it does not compel the promoter to make maximum use of rail freight during construction. Experience of other projects such as HS1, Heathrow Airport Terminal 5, Crossrail and the Olympic Park has shown that rail freight can play a pivotal role in the supply of materials, removal of waste and in construction activities. There are also compelling economic and environmental benefits for maximising the use of rail freight in the construction of HS2. Rail freight reduces congestion by removing HGVs from the roads and produces around 76% less CO₂ than the equivalent journey by road, making a significant contribution to the UK's carbon reduction targets. Your Petitioners respectfully submit that the Bill should not be allowed to pass into law without an amendment requiring the Promoter to make maximum use of rail freight during construction and also to ensure a guaranteed minimum level of rail freight services to support construction.

HS2 to be Built Freight Capable

- 21 While recognising that HS2 is principally a passenger railway, your Petitioners strongly believe that HS2 should be constructed to be freight capable. This would ensure that at some future point freight may be able to utilise the line, as the gradients and platforms would be suitably constructed. HS2 should therefore be built in accordance with European Union rules on GC Gauge (decision 2008/217/EC). Your Petitioners submit that the Bill should not be allowed to pass into law without a binding commitment from the Promoter that they will build HS2 to be freight capable. In particular, the commitment should ensure that the Promoter will not seek exemptions to European Union rules on GC Gauge, including requirements for station platform dimensions.
- 22 The services which rail freight companies operate on HS1 are able to take advantage of larger containers and the use of standard sized European wagons, which offer cost advantages to customers. There is an expanding market for the use of high gauge rail freight from Europe to the UK. Your Petitioners strongly believe that HS2 should be also be built in such a way that it will be capable to take high gauge freight at some point in the future. Your Petitioners submit that the Bill should not be allowed to pass into law without a requirement that HS2 is built to be freight capable, with particular reference to the Interoperability standards and gauge requirements.
- 23 While not questioning the removal of the HS1-HS2 link at Old Oak Common, your Petitioners remain supportive of a strategic link from HS1 to HS2 at some future point. Were such a link to be promoted then you Petitioners submit that future capacity on HS2 should be reserved for rail freight, and also that freight would be capable of using the line 24 hours a day.
- 24 For the foregoing and connected reasons your Petitioners respectfully submits that, unless the Bill is amended as proposed above, so far affecting your Petitioners, the Bill should not be allowed to pass into law.
- 25 There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners' members' rights, interests and property and for which no adequate provision is made to protect your Petitioners' members.

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.

Bircham Dyson Bell LLP

Parliamentary Agents for the Rail Freight Group.

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WEST MIDLANDS) BILL

PETITION OF
The Rail Freight Group

AGAINST, By Counsel, &c.

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Solicitors and Parliamentary
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15 May 2014