

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

P E T I T I O N

Against the Bill – 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 A.E. MOGFORD

SHEWETH as follows:

1. A Bill (hereinafter called “the Bill”) has been introduced into 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 freeholder of Bank Farm which is a farm in Buckinghamshire and which is listed in the Book of Reference that accompanies the Bill as plot no 170 in the parish of Wendover in the district of Aylesbury Vale.

8. It is proposed by the Bill to authorise the compulsory acquisition of certain interests in land or property of your Petitioner, to which he objects, and in accordance with the standing orders of your honourable House notice has been served on your Petitioner of the intention to seek such compulsory powers. The land is to be used for the main railway line and to dispose of spoil along with a new water course.

9. Your Petitioner and his rights, interests and property will be injuriously affected by the provisions of the Bill, and your Petitioner accordingly objects thereto for the reasons, amongst others, hereinafter appearing.

10. Your Petitioner's main objective is to persuade your Honourable House to lower the line into a fully bored tunnel as it passes through Wendover.

11. Your Petitioner considers it unacceptable that the Environmental Statement describes Hill Farm's sensitivity to change as being of "medium" sensitivity. This description is surprising because the proposal will lead to the farm's main production being cut to such a level as to be uneconomic, and will make around 50% of his farm staff redundant. Your Petitioner considers that Hill Farm's sensitivity should be reappraised.

12. In addition, noise and traffic congestion will make your Petitioner's life and his way of going about his business extremely difficult for a considerable number of years.

13. Your Petitioner is also concerned that there is no clear indication of how he will be able to access the remaining hectare of his land after 30 ha have been compulsorily purchased.

Extent of land take

14. Land in the ownership of your Petitioner is liable to compulsory acquisition under clauses 4 to 8 of the Bill. The limits of deviation and of land to be acquired and used are drawn very widely and your Petitioner is unsure why that is. Your Petitioner will seek to enter into an agreement with the promoter of the Bill that the extent of compulsory purchase should be limited.

15. Your Petitioner is particularly concerned by the possibility of land being acquired permanently for a temporary purpose and considers it inappropriate for the Bill to contain compulsory purchase powers in respect of his land when the Nominated Undertaker's requirement is for a temporary use only, for instance, land acquired for disposal of spoil. Where land could possibly return to agricultural use after construction your Petitioner earnestly seeks to retain ownership. To this effect the new watercourse should follow the boundary of the railway line and the spoil disposal site be restored for possible agricultural use.

16. Your Petitioner also wishes to ensure that he is properly compensated as regards the acquisition and use of his land, and is concerned to note that the compensation regime proposed by the Bill is inadequate and needs to be improved.

Maintenance of bunds and made-up ground

17. It is clear from the Environmental Statement that there will be significant lengths of bund, made-up ground, "sustainable placement" and ground reprofiling alongside the proposed railway, much of it on good quality agricultural land. The new watercourse and spoil disposal area will greatly reduce availability of land for possible return to agricultural use.

18. In your Petitioner's submission, the Bill should be amended so as to include a provision requiring the Nominated Undertaker, unless the landowner agrees otherwise, to remain responsible for the safety and maintenance of land which is altered in that way and to be responsible for liability for any losses associated with the failure of such operations, such as settlement or slippage.

Accommodation works

19. Your Petitioner's farm will be severed as a result of the construction of the proposed railway. Accommodation works in general and crossing points in particular are matters of significant importance for your Petitioner. Well-designed accommodation works which meet your Petitioner's needs are likely to reduce substantially a claim for compensation. HS2 Ltd or the Nominated Undertaker should, at a very early stage, seek to agree a specification for accommodation works with your Petitioner. That would help to mitigate the impact of the scheme. For crossing points, such a specification might include the width, height, weight limit and final surface. Once agreed, the specification should be binding on the Nominated Undertaker.

20. Your Petitioner proposes to your honourable House that HS2 Ltd should be required to undertake that it will, at a very early stage, seek to agree with your Petitioner a suitable specification for accommodation works where they are required as a result of the

construction of the Authorised Works, and that the specification, once agreed, will be binding on the Nominated Undertaker.

Planning consent for replacement buildings and associated dwellings

21. The construction of the Authorised Works will necessitate the demolition of storage facilities. Your Petitioner is likely to want to replace the demolished buildings. In most cases this will require a full planning application. While the cost of dealing with planning can be factored into the compensation payable by the promoter, the uncertainty over whether an application will be approved and the time delays that can arise if a case goes to appeal can all be very difficult for a business to manage. The development of some agricultural buildings is already permitted development, subject to conditions, including limits on size.

22. Your Petitioner notes that the Bill contains provision, in clause 48, enabling the Nominated Undertaker to carry out reinstatement works within the Act limits. In theory, that clause could be utilised so as to meet the concerns of your Petitioner but there is no certainty in that regard, for a number of reasons, most notably that it only applies to reinstatement works within the Bill limits.

23. Your Petitioner proposes that the Bill should be amended so as to ensure that the process for relocating farm buildings that are lost are capable of being reinstated more easily. This could be achieved by clause 48 being amended so as to ensure that it will apply in any case where land is available for reinstatement works, and to remove other uncertainties.

24. Alternatively, the Bill should make provision for an amendment to the Town and Country Planning (General Permitted Development) Order 1995 so that the replacement of any building used for business purposes (and any associated dwelling which is acquired under the provisions of the Bill will be permitted development subject only to the prior notification procedure. The permitted development should allow for modern building materials and, if appropriate, modern design and layout, but the size of the replacement building will be restricted to the size of the original. A local planning authority would then be able to consider siting and access under the prior notification process, as for other permitted development.

Severance and hedgerows

25. The severance of agricultural land by such a long linear scheme will result in some of your Petitioner's fields being left in awkward shapes. A common element of a claim for severance is the cost of removing hedges and fences in order to re-shape fields into a sensible layout. Since the introduction of the Hedgerows Regulations 1997, the removal of any hedge which is more than 20 metres long requires the consent of the local planning authority. This will add time, cost and uncertainty for farmers who are affected.

26. Your Petitioner proposes to your honourable House that the Bill should be amended to provide that the Hedgerow Regulations 1997 do not apply to hedges which have to be removed to allow the reasonable re-organisation of field boundaries where land has been acquired by HS2.

Compensation, generally

27. The compensation regime set out in the Bill is inadequate and must be improved. In any event, any payment of compensation that is due to your Petitioner must be made as early as possible and must carry interest at a rate higher than is proposed under the Bill.

28. Your Petitioner also considers that compensation should be paid to all affected property owners whether inhabited or not.

The Benefits of a fully bored tunnel

29. Your Petitioner proposes that part of the scheduled works be replaced by a fully bored tunnel from Little Missenden to the end of the AONB to the north of Wendover.

30. HS2 Ltd has said that such a tunnel would cost £330 million more than the present proposal. However, it has refused to divulge any detail of this figure, or even the tender documents on which it was based.

31. Moreover, it seems that HS2 Ltd has not taken into account the benefits which a fully bored tunnel would bring, such as the money saved by not having to compulsorily purchase properties and land, or move electricity pylons, and not damaging the environment. These benefits are valued at over £500 million.

32. For the foregoing and connected reasons your Petitioner respectfully submits that unless the Bill is amended by the inclusion of a fully bored tunnel from Little Missenden to the end of the AONB to the north of Wendover, then the Bill should not be allowed to pass into law.

33. In addition, your Petitioner considers that –

(a) Sound absorbent fences should be erected on both sides of the viaduct, particularly protecting the ancient Wendover church of St Marys.

(b) The Chiltern Hills AONB will be severely damaged and scarred by the obtrusive viaduct and embankment 13 meters above the ground level with gantries a further 5 metres high.

(c) Special construction measures should be put in place to prevent vibration damage to Village Trust listed properties in Pound Street, Wendover, that go back to the 16th century. Your Petitioner considers that the effect of damage to the properties would be detrimental to both your Petitioner and the local community.

General

34. There are other clauses and provisions in the Bill which, if passed into law as they now stand, will prejudicially affect the rights and interest of your Petitioner and other clauses and provisions necessary for their protection and benefit are omitted therefrom.

YOUR PETITIONERS THEREFORE HUMBLY PRAY your Honourable House that the Bill may not pass into law as it now stands and that they be heard by themselves, 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 amendments as may be necessary and proper for their protection and benefit.

AND YOUR PETITIONERS will ever pray, &c.

A.E.MOGFORD MBE.

HOUSE OF COMMONS

SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS)

BILL.

PETITION

of

A.E.Mogford MBE.

AGAINST,

BY COUNSEL, &c.

A. E. Mogford MBE.