

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013-14

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

(1) GEORGE COOPER AND

(2) JOHN COOPER

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 Petitioners are the freehold owners of land at Mullensgrove Farm, Kingsbury Road, Curdworth, Sutton Coldfield B76 0DF in the County of Warwickshire. Your Petitioners' land is listed on the Book of Reference that accompanies the Bill as plot no 113 in the parish of Curdworth in the district of North Warwickshire.
8. It is proposed by the Bill to authorise the compulsory acquisition of certain interests in land or property of your Petitioners, to which they object, and in accordance with the standing orders of your honourable House notice has been served on your Petitioners of the intention to seek such compulsory powers. It is proposed to acquire land on both a permanent and temporary basis for the purpose of the construction of HS2 to include land required for mitigation purposes and land on a temporary basis for construction purposes. The land and property to be acquired includes arable land plus a substantial range of farm buildings and industrial/commercial units.

9. Retained land particularly that which is proposed to be used temporarily during the construction period, will be subject to injurious affection by the scheme.
10. Your Petitioners and their 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.

Extent of land take

11. It is estimated that some 23 hectares of land is to be acquired, of which it is estimated that some 7.1 hectares is to be returned after completion of the works. As the overall land holding within your Petitioners ownership is some 24.3 hectares, this represents a very significant loss, particularly as it includes the area of the farm buildings and industrial/commercial units. The total area farmed by your Petitioners extends to some 162 hectares and the loss of the land, to include the farmstead, will have a devastating effect on the business.
12. The principal farming operations are the growing of arable crops with some 81 hectares of potatoes grown. The farm buildings at Mullensgrove Farm are the only buildings available to serve the entire operation and provide storage facilities for the produce grown – including potatoes grown on contract for major processors including McCains. The buildings include a farm shop which sells produce on both a retail and wholesale basis.
13. The commercial/industrial buildings include 17 units, mostly classified as B2 (light manufacturing and commercial use) but also include B8 (storage) use and a retail/wholesale butcher. Part of the land is also utilised for car boot sales on up to 14 occasions per year.
14. The farmstead is very well situated being in a very convenient location, for example, for potato merchants/hauliers to access the site and provide easy access to customers to the farm shop.
15. The land is good quality arable land having been used in the past for the growing of market garden crops. The land has been under drained and also has the benefit of irrigation main served via an abstraction licence from the adjacent canal.
16. The drainage system and irrigation main will be severed by the proposed works and reinstatement is required in order to serve the retained land.

17. Your Petitioners require the relocation of the farm buildings on retained land as it is considered that there will be sufficient land available to provide the area required for replacement agricultural buildings, farm shop plus the industrial/commercial units. Your Petitioners requests that priority be given to pursuing the proposals put forward by your Petitioners to relocate to retained land so as to ensure the continuation of your Petitioners' business.
18. The area proposed to be acquired on a temporary basis is considered excessive and there is concern as to the management of this land during the construction period and the length of time that will be required to restore the land to full production. A comprehensive aftercare package will be required which it is anticipated will cover a period in the region of 5 to 10 years.
19. Adequate fencing, to include rabbitproof fencing to the boundaries, is also required to reduce the risk of damage to arable crops..
20. Land in the ownership of your Petitioners 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 Petitioners are unsure why that is. Your Petitioners may seek to enter into an agreement with the promoter of the Bill so that the extent of compulsory purchase should be limited geographically.
21. Your Petitioners are particularly concerned by the possibility of land being acquired permanently for a temporary purpose and consider 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 construction compound and material storage.
22. Your Petitioners also wish to ensure that they are properly compensated as regards the acquisition and use of their land, and they are concerned to note that the compensation regime proposed by the Bill is inadequate and needs to be improved.

Inappropriate mitigation measures on farmland

23. Land is to be acquired for landscape planting. It is considered that this is excessive and should be reduced so allowing a greater area to be returned to agricultural use.

Maintenance of bunds and made-up ground

24. It is clear from the draft 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 route, as it passes through your Petitioners' land, will involve the creation of cuttings and embankments plus realignment of the Kingsbury Road and construction of the A4097 Kingsbury Road overbridge.
25. In your Petitioners' 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

26. Your Petitioners' 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.
27. 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

28. The construction of the Authorised Works will necessitate the demolition of agricultural buildings, farm shop, workshop, industrial/commercial units. Since your Petitioners' core farm business will survive, your Petitioners wish to replace those 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.

29. Your Petitioners note 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 Petitioners 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.
30. Your Petitioners propose 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.
31. 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.

Compensation, generally

32. 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.

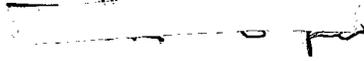
General

33. 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.



GEORGE COOPER AND JOHN COOPER

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BILL

PETITION

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GEORGE COOPER AND JOHN COOPER

AGAINST,

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