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IN PARLIAMENT  
HOUSE OF COMMONS  
SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

PETITION

Against the Bill – Praying to be heard by counsel, &c.

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TO THE HONOURABLE THE COMMONS OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND IN PARLIAMENT ASSEMBLED.

THE HUMBLE PETITION OF  
**(1) WILLIAM HENRY SHEPHERD**  
**(2) WILLIAM JOHN SHEPHERD**

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, Mr Chancellor of the Exchequer, and 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 agricultural tenants of land at Coleshill in Warwickshire with the land known as Windmill Farm, Coleshill.
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 from your Petitioners for the purpose of the construction of HS2 and also to provide mitigation measures including landscape planting. The land to be acquired includes grassland and arable land, together with agricultural buildings used for the housing of cattle.

9. The land retained by your Petitioners will be affected by severance and injurious affection as a result of the construction works and this will have an adverse effect on your Petitioners' ability to farm the retained land in a practical and economic manner.
10. Your Petitioners and their rights, interests and property will be injuriously affected by the provisions of the Bill, and your Petitioners accordingly object thereto for the reasons, amongst others, hereinafter appearing.

#### **Extent of land take**

11. It is estimated that some 39.2 hectares of your Petitioners' land will be acquired of which some 4.8 hectares are estimated to be acquired temporarily and will be returned to your Petitioners after completion of the works. The acquisition represents some 23% of your Petitioners' land holding at Coleshill which represents a very significant proportion and will have a major bearing on the operation of the business.
12. The overall area of your Petitioners' agricultural operations extend to some 170 hectares or thereabouts with the principal enterprise being the growing of combinable arable crops and the keeping of some 250 to 300 beef cattle. The loss of land will necessitate a major amendment to the overall farming operation particularly in view of the fact that much of the land to be acquired is valuable grazing land which is utilised on a year round basis. The farm buildings used for the housing of cattle will be lost and replacement is required.
13. The infrastructure of the land will be severely affected and mitigation measures are required to ensure appropriate reinstatement of drainage (all the land is currently underdrained), fencing, access and facilities for cattle handling. The question of

suitable fencing is paramount in order to ensure safety of livestock, particularly in view of the proximity of major roads, overlooking the M42 and M6 Toll. Access is required to be maintained at all times to retained land.

14. 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 that the extent of compulsory purchase should be limited geographically.
15. 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 their land when the Nominated Undertaker's requirement is for a temporary use only for a construction compound and materials storage.
16. Your Petitioners also wish to ensure that they are properly compensated as regards the acquisition and use of their land, and are concerned to note that the compensation regime proposed by the Bill is inadequate and needs to be improved.

#### **Inappropriate mitigation measures on farmland**

17. Significant areas are proposed for landscape planting. Your Petitioners consider that the size of these areas is excessive.
18. The proposal for planting of trees and other vegetation on productive agricultural land is considered excessive. Your Petitioners suggest that such planting be reconsidered and be confined in this location to areas of poorer quality land in the immediate proximity to the route of HS2.
19. A balancing pond is proposed on your Petitioners' land to deal with run off of water from HS2. Your Petitioners are concerned from past experience over the success of such features in view of limited maintenance carried out to both the ponds themselves and outfalls. Your Petitioners request that assurances be given over the future

maintenance of both the balancing pond itself and the outfall to ensure that there is no adverse effect on drainage to adjoining land.

20. The route is adjacent to and crosses the River Cole. Your Petitioners are concerned that there will be an increased risk of flooding as a result and request that adequate measures be taken to minimise food risk and to ensure that retained land is adequately drained.

### **Maintenance of bunds and made-up ground**

21. 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. Embankments are to be constructed through your Petitioners’ land and considerable concern is expressed over the effect of such embankments on drainage – surface water and ground water - and remedial drainage systems should be installed to minimise the risk.
22. 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**

23. 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 Petitioners. Well-designed accommodation works which meet your Petitioners’ 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 Petitioners. 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.

24. Your Petitioners propose 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 Petitioners 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**

25. The construction of the Authorised Works will necessitate the demolition of agricultural buildings. 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.
26. 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.
27. 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.
28. 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**

29. The severance of agricultural land by such a long linear scheme will result in some of your Petitioners' 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.
30. Your Petitioners propose 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**

31. 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 Petitioners must be made as early as possible and must carry interest at a rate higher than is proposed under the Bill.

### **General**

32. 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 Petitioners 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.

WILLIAM HENRY SHEPHERD and

WILLIAM JOHN SHEPHERD

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AGAINST,

BY COUNSEL, &c.