

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 DEAN O'REILLY

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, Mr Chancellor of the Exchequer, the Deputy Prime Minister, 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 of the railway referred to at paragraph 1 above (hereinafter referred to as "the Railway"). They include the construction and maintenance of works, compulsory acquisition, highways, cranes, planning permission, heritage issues, trees and noise.
4. The works proposed to be authorised by the Bill are specified in Schedule 1 to the Bill. The scheduled works are defined in the Bill as the works specified in Schedule 1 to the Bill, which are works for the construction of the Railway and works consequent on, or incidental to, such works to be constructed by the nominated undertaker (as defined in the Bill).
5. Your Petitioner is Mr Dean O'Reilly (hereinafter referred to as "the Petitioner") in his capacity as: (i) a registered proprietor of Heartlands House, Aston Church Road, Saltley, Birmingham B8 1QF (hereinafter referred to as "Heartlands House"); and (ii) Managing Director of Cargo Express Limited (hereinafter referred to as "Cargo"), for whom Heartlands House is its business headquarters.
6. The Bill would authorise the construction of the Railway and its associated development through and adjacent to Heartlands House, blighting your

Petitioner's private property rights. Your Petitioner objects to that part of the scheduled works outlined below.

7. Your Petitioner objects to the following works proposed to be undertaken in the City of Birmingham:
  - (a) Work No.3/205 – a railway (5.09 kilometres in length) partly on viaduct commencing by a junction with Work No.3/203 at its termination, passing south-westwards and terminating at a point 545 metres north-west of the junction of Freeman Street with Park street: Work No. 3/205 includes a bridge over the Grand Union Canal and a new station (Curzon Street);
  - (b) Work No. 3/205A – a railway (2.41 kilometres in length) commencing by a junction with Work No. 3/205 at a point 190 metres south-east of the junction of the access road to Hurricane Park with Heartlands Parkway, passing westwards then south-westwards and terminating by a junction with Work No. 3/205 at a point 165 metres south-west of the junction of Crawford Street with Cranby Street. Work No. 3/205A includes a bridge over the Grand Union Canal;
  - (c) Work No. 3/209A – a railway (2.66 kilometres in length) commencing at a point 80 metres north-east of the western limit of Wolseley Drive, passing westwards then southwards and terminating by a junction with Work No. 3/205A at a point 134 metres north-west of the junction of Crawford Street with Cranby Street;
  - (d) Work No. 3/210 – a railway (1.69 kilometres in length) being a realignment of Washwood Heath through siding of the Birmingham and Derby Line, commencing at a point 332 metres south-east of the junction of Hurricane Park Access with Heartlands Parkway, passing westwards and terminating at a point 179 metres west of the junction of Arley Road with Aston Church Road;
  - (e) Work No. 3/211 – a diversion of a sewer commencing in the Common Lane beneath a point 85 metres south of the northern limit of Common Lane and terminating beneath a point 170 metres south-west of the junction of Chartist Road with Arley Road;
  - (f) Work No. 3/212 – a diversion of a sewer commencing in Pennine Way beneath a point 320 metres north-west of the roundabout junction of Washwood Heath Road, Alum Rock Road, Adderley Road and High Street and terminating beneath a point 195 metres north-west of the roundabout junction of Pembroke Way with Pennine Way;
  - (g) Work No. 3/215 – a realignment of Aston Church Road commencing at a point 125 metres south-east of the junction of Arley Road with that road and terminating at the junction of that road with Heartlands Parkway. Work No. 3/215 includes bridges over Works Nos. 3/217, 3/205, 3/205A and 3/209A and the Birmingham and Derby Line 20 railway;
  - (h) Work No. 3/215A – an alteration of the level of Arley Road commencing by a junction with Work No. 3/215 in Aston Church Road and terminating in Arley Road at a point 80 metres south of its commencement;
  - (i) Work No. 3/217 – a diversion of the River Rea Overflow Channel commencing at a point 35 metres north of the junction of Watson Road East with Heartlands Parkway and terminating at a point 240 metres south-west of the roundabout junction of Heartlands Parkway with Aston Church Road;

- (j) Work No. 3/217A – a diversion of a gas main commencing at a point 155 metres north-east of the Aston Church Road/Heartlands Parkway roundabout and terminating at a point 300 metres south-west of that roundabout;
- (k) Work No. 3/218 – a railway (0.84 kilometres in length) commencing at a point 20 metres east of the bridge carrying the Birmingham and Derby Line over the Grand Union Canal continuing in a generally southerly direction and terminating at a point 205 metres south of the bridge carrying Duddeston Mill Road over the Birmingham and Derby Line;
- (l) Work No. 3/220 – a realignment of Washwood Heath Road, High Street and Saltley Viaduct, including replacement of the existing Saltley Viaduct commencing at a point 40 metres north-east of the 5 centre of the Alum Rock Road/Adderley Road/High Street roundabout and terminating at a point 35 metres east of the Mainstream Way/Saltley Road/Nechells Place/Heartlands Parkway roundabout; and
- (m) Work No. 3/224 – a railway (0.99 kilometres in length) being a realignment of Duddeston Junction track layout, commencing at a point 11 metres south of the bridge carrying the Birmingham and Derby Line over the Grand Union Canal, continuing in a generally southerly direction and terminating at a point 310 metres south of the bridge carrying Duddeston Mill Road over the Birmingham and Derby Line

pursuant to clause 1 of section 1 and paragraph 1 of Schedule 1 of the Bill

- 8. Your Petitioner avers that it is not necessary to compulsorily acquire any part of Heartlands House (being part of property 257 per plan numbers 3-112 and 3-114) in order to carry out the scheduled works.
- 9. Your Petitioner considers that if the Railway is to be constructed, then an alternative site(s) for the scheduled works must be considered, which does not give rise to such significant economic and social impacts and/or requires the acquisition of Heartlands House.
- 10. Your Petitioner and his rights, interests and property are directly, specially and injuriously affected by the Bill, to which your Petitioner objects for the reasons (amongst others) hereinafter appearing.

*Heartlands House*

- 11. Heartlands House comprises a modern warehouse facility and three storeys of office accommodation, totalling 62,710 square feet. It also benefits from (amongst other things): (i) secure fencing; (ii) loading access to the front and rear elevations; (iii) extensive car parking; and (iv) a large secure yard to the rear. Further, and importantly, it has the benefit of exceptional accessibility, with close/direct links to Junctions 5 and 6 of M6 (Spaghetti Junction).

*Cargo*

- 12. Your Petitioner established Cargo in 1984 at a site approximately two miles from Heartlands House. At that time, Cargo owned only one vehicle. As a direct result of the significant time and money invested by your Petitioner, Cargo has grown into a business that provides a comprehensive range of transport and logistics services to a variety of clients.

13. Cargo specialises in the delivery of non-standard parts and equipment to businesses on demand, operating twenty four hours a day, six days a week. In the main, it has pursued a strategy of self-financing (i.e. retaining and reinvesting its net profits), rather than reliance on third party funding, which enabled it to weather the recession in 2008. From 2009 to 2012, lucrative contracts with major stakeholders in the local automotive sector, namely JCB and Jaguar Land Rover, facilitated a significant rise in sales to £6.2 million.
14. In order to accommodate this growth in business (and to enable further expansion), in July 2012 your Petitioner (together with Cargo and Hornbuckle Mitchell Trustees Limited) purchased (at considerable cost to your Petitioner) Heartlands House. It retained its existing operating centre nearby.
15. Heartlands House was purchased in the knowledge that it benefits from additional truck and trailer parking as well as excellent accessibility. Indeed, it can accommodate seventy vehicles, thirty trailers and sixty cars. Its proximity to the M6 motorway provides excellent access to other regions of the country, which is crucial to enabling Cargo to efficiently meet the needs of its customers. In addition, its ability to operate around the clock and in close proximity to Cargo's existing operating centre, allows Cargo to provide an integrated logistics and transport solution for its customers.
16. Prior to its acquisition in July 2012, Heartlands House had been vacant for several years and was in a dilapidated condition. In particular, it had been stripped of all electrical cabling and copper piping and had a leaking roof. Since acquiring Heartlands House, Cargo has invested approximately £250,000 to fully repair the property. Further, it has installed (amongst other things): (i) bespoke loading bays; (ii) security cameras and barriers; (iii) CCTV; and (iv) truck parking areas. This significant investment has transformed Heartlands House into a very successful asset for your Petitioner and Cargo.
17. Today, Cargo employs in excess of one hundred people and generates sales of approximately £8.5 million pounds per annum.
18. Not only is Heartlands House a significant and successful asset of the Petitioner, its ongoing use for industrial purposes, both of itself and in conjunction with the neighbouring Saltley Business Park, is (i) an important business hub for Birmingham's industrial and service industries; and (ii) a major employer, providing jobs in Washwood Heath, which is one of the most deprived wards in England. As at February 2014, Washwood Heath ward had an unemployment claimant rate of 17.7% compared to 9.0% for Birmingham and the national average of 3.7%. The Washwood Heath ward also has the highest number of youth JSA claimants in Birmingham (source: Birmingham City Council's Unemployment Briefing March 2014).
19. The pre-submission version of the Birmingham Development Plan (December 2013) (hereinafter referred to as the "Emerging Development Plan") recognises that the maintenance of the industrial sector and the provision of sufficient land and premises to enable the economic base to diversify and grow are critical to the future prosperity of Birmingham. Heartlands House is recognised (pursuant to policy TP18 of the Emerging Development Plan) as part of a core employment area to be: (i) retained in employment use; and (ii) the focus of economic regeneration activities and additional development opportunities.

*Impact*

20. The Bill would permit the acquisition and demolition of the entirety of Heartlands House, which would: (i) be hugely detrimental to the private property interests of your Petitioner; and (ii) extinguish Cargo's operations.
21. Moreover, your Petitioner avers that the threat of compulsory acquisition of Heartlands House fatally undermines Cargo's ongoing operation. Strictly without prejudice to your Petitioner's contention that no part of Heartlands House should be compulsorily acquired for the purposes of carrying out the scheduled works, if the relevant clauses of the Bill are allowed to pass into law in their current form your Petitioner avers that the Secretary of State ought to acquire the entirety of Heartlands House as soon as reasonably practicable in view of the significant impact of the proposed scheduled works on: (i) the continuity of Cargo's business operations in the intervening period; and (ii) your Petitioner's private property and financial interests and the difficulty of locating and securing suitable alternative premises.
22. Your Petitioner refers to the following impacts arising out of the threat of compulsory acquisition of Heartlands House:
  - (a) your Petitioner's clients are already choosing to locate their products at warehouses, which are not at risk as a result of the scheduled works;
  - (b) your Petitioner's employees are expressing concern as to their future with Cargo;
  - (c) your Petitioner was advancing plans to let 8,000 square feet of office accommodation at Heartlands House for transport-related uses (i.e. driver training or driver recruitment agencies). However, in light of difficulties already experienced (per (a) above) and, in order to maintain sufficient reserves, these plans have been abandoned. The growth and modernisation plans of Cargo are, therefore, already suffering as a result of the proposed Railway;
  - (d) there is a very real risk that your Petitioner and Cargo will experience further difficulties (amongst other things) maintaining a steady income, retaining existing clients and employees and attracting new business as a direct result of the scheduled works. Such losses will be compounded by insurance and ongoing maintenance and repair costs. In short, the impact of the scheduled works is likely to render Heartlands House inoperable as a socio-economic resource and an investment property in advance of its proposed acquisition; and
  - (e) your Petitioner has conservatively managed Cargo's finances in order to meet working capital requirements, grow and strengthen its financial position and plan for contingencies. However, in order to take advantage of the opportunity for expansion and greater efficiency presented by Heartlands House, it was acquired with the assistance of a mortgage. This additional liability may need to be met from decreasing returns, again thwarting any further plans for expansion.
23. Should the Bill be brought into force and include those clauses in relation to Heartlands House:

- (a) your Petitioner will be forced to seek alternative premises for the operation of Cargo. Premises which have a suitable open space truck parking area to warehouse space ratio are very rare and are likely to: (i) be at significant cost; and (ii) require major reconfiguration by Cargo in order to be brought into beneficial use;
- (b) your Petitioner is also likely to need to spend considerable time viewing such premises and, on the assumption that suitable premises can be found, negotiating a purchase. This is in addition to legal and professional advisers' fees. During this period of delay, and in the knowledge that Heartlands House is to be acquired, it is reasonable to assume that Cargo's ability to operate will be severely compromised or even extinguished;
- (c) on the assumption that suitable premises are available, the nature of Cargo's business operations is such that it requires a location with good accessibility. Significantly, virtually all of Cargo's fleet access the M6 Motorway or A38 Road at Salford Circus in order to distribute products throughout the United Kingdom. Delays to its fleet accessing these important transport corridors can incur costs of over £80,000 per annum and jeopardise established business relationships. Moreover, any impacts on service delivery will compromise your Petitioner's reputation in the marketplace and, consequently, his ability to attract new clients;
- (d) crucial to Cargo's success is its ability to provide a responsive service twenty four hours a day. Subject to suitable premises being available, re-locating Cargo will inevitably disrupt and disturb its normal business operations to the detriment of the business and your Petitioner; and
- (e) should alternative premises not be found to accommodate Cargo, a significant part of its business operations in the United Kingdom will be forced to cease. In addition to the harm that would result to the financial and personal interests of your Petitioner, this would be damaging to the local economy.

24. Further, the scheduled works are contrary to policy TP18 of the Emerging Development Plan, which seeks to protect employment land as a valuable resource to the economy and safeguard such for employment development.

25. Your 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 or publication of reports and any possible revisions that may be made to the scheduled works or any other matters relevant to your Petitioner's expressed concerns that may occur in due course and prior to representation before the Select Committee.

26. For the foregoing and connected reasons your Petitioner respectfully submits that, unless those clauses of the Bill referring to Heartlands House and the surrounding area are removed or amended, the Bill should not be allowed to pass into law.

27. There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and their rights,

interests and property and for which no adequate provision is made to protect your Petitioner.

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 so much of the Bill as affects 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 Petitioner will ever pray, &c.

---

IN PARLIAMENT  
HOUSE OF COMMONS  
SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL  
PETITION OF DEAN O'REILLY

AGAINST, By Counsel, &c.

Ian Ginbey, Clyde & Co LLP, St Botolph Building, 138 Houndsditch, London EC3A  
7AR (0207 876 5000)