

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013-2014

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

Against – on Merits – 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 Michael Patrick Fosberry, Susan Lavinia Fosberry and Jack David Fosberry

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, 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 and occupiers of Cedar Grange, Tilehouse Lane, Denham, Uxbridge, Middlesex UB9 5DG. We acquired the property in 1997 when our son Jack was born and have lived there ever since other than a period in 2009 when we moved out for a few months as we were having extensive building works carried out. Our reasons for moving to Tilehouse Lane were the rural nature of the area and our wish to bring up our son in a rural environment but with ready access to London. We feel that our entire lifestyle is under threat as a result of HS2 with the proposed line running very close to our property so that we will suffer both during the construction process and once HS2 is in operation. The damage to the ecology of the Colne Valley area if HS2 proceeds is irreversible and as an area of Special Scientific Interest we believe it must be protected for generations to come.

8 Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioners object for reasons amongst others, hereinafter appearing.

9 (a) Diversion of the River Colne - impact upon ecology

Your Petitioners are concerned about the potential negative impacts diverting the River Colne will have on ecology in the area. Your Petitioners' property lies close to the River Colne and your Petitioners walk every day with their dogs to enjoy the extensive wildlife and ecology in this wonderful area.

Your Petitioners request that the diversion of the River Colne is carried out some years prior to construction works commencing to give the local wildlife and habitat the time and opportunity to re-establish itself ecologically before any construction works commence and this must then be subject to regular monitoring thereafter

(b) Public Rights of Way (PRoW)

Your petitioners are regular users of PRoW around the Colne Valley and are concerned about the impact of works authorised by the Bill on PRoW in this area. The PRoW running alongside our property is known as Shire Lane and is the ancient boundary between Mercia and Wessex. It will be impassable during and post the construction process. This has a major impact upon connectivity of PRoW in the area and the current proposals will result in a 2km detour to this route which would directly impact upon the Petitioners and effectively prevent the use of the PRoW.

Your Petitioners request that the only way of preventing the significant local impact on PRoW arising from the construction of the high speed railway would be to build a tunnel under the Colne Valley connecting underground with the proposed high speed railway tunnel under the Chalfonts.

(c) Noise from HS2

Your Petitioners are also concerned about the level of noise from the high speed

railway as the line will run in very close proximity to their property which is identified on the HS2 Ltd map as one that will be impacted by increased noise. This concern is exacerbated by the fact that the noise thresholds chosen by HS2 Ltd do not reflect current World Health Organisation standards or the latest research which confirms adverse health impacts from prolonged exposure to noise above the World Health Organisation limits.

Your petitioners request that HS2 Ltd be required to ensure that the noise levels of HS2 once in operation should not exceed the World Health Organisation's stated threshold of 40dB which is considered appropriate for ensuring no long term health issues for persons living nearby. The noise thresholds currently chosen by HS2 Ltd exceed these limits. Allied to this the nominated undertaker should be compelled to use best available techniques in the construction and operation of the high speed railway and its associated development to ensure that no noise can be felt in the Petitioners' property and that there are no other adverse effects. In this regard there should be no element of cutting corners to stay within Budgets as this has a direct health impact upon the Petitioners. Noise levels will therefore need to be monitored so there should be binding mitigation measures in place including an effective noise mitigation and monitoring system which should be in place prior to commencement and during the construction and operation of the high speed railway and associated developments. Responsibility for and agreement of the appropriate measures and ongoing assessment should be the responsibility of a truly independent panel of experts in this area. Your Petitioners are concerned that Clause 35 of the Bill and Schedule 25 provide that appeals against notices or failure to give consent or the giving of qualified consent under the Control of Pollution Act 1974, section 60 (noise control) and section 61 (prior consent for work on construction sites) may be referred to the Secretary of State for arbitration. Your Petitioners are also concerned that Schedule 25 would provide a defence to statutory notice for the nominated undertaker of the works. This could result in works being permitted even though they may impact upon the health of the Petitioners. This is unfair and unjust given that this may result in noise levels exceeding those prescribed by the World Health Organisation. Your Petitioners request therefore that Clause 35 and schedule 25 are deleted from the Bill to ensure that noise levels do not exceed 40dB as specified.

(d) Vibration

Your Petitioners are concerned about the effects of vibration arising from the construction of the high speed railway and associated development including vibration caused by heavy construction traffic. In addition your Petitioners are also concerned that the operation of the high speed railway will result in significant vibration impacting on their property. Vibration will have a major impact upon the Petitioners use and enjoyment of their property as well as creating another potential health hazard.

Your Petitioners request that there must be binding mitigation measures in place to include vibration and resultant damage mitigation and monitoring and that this is in place prior to commencement and during construction and operation. These should include but not be limited to an express obligation to undertake specific measures to limit structural and other damage to the Petitioners' property, installation of noise barriers which ensure compliance with WHO acceptable peak sound levels and the integration of full barriers into the structural design of the Colne Valley viaduct with

shallower support structures beneath track level.

(e) Dust

Your Petitioners are concerned about dust and dirt which will be generated during construction and operation of the high speed railway and associated development and the impact this will have on their property and environmental quality of the neighbourhood. Your Petitioners are concerned that there are no binding mitigation measures in relation to emissions, especially in the light of the sustainable placement areas for spoil, many in close proximity to the Petitioners' property, prevailing wind direction and the sheer amount of earth to be moved.

Your Petitioners submit that there should be a precise, comprehensive and binding management plan in relation to dust levels, with a clearly defined authority for the monitoring of its implementation. The nominated undertaker should provide forecasts confirming the quantity and types of emissions that the construction will create based on the Guidance on the planning for mineral extraction in plan making and the application process issued on 6th March 2014. Your Petitioners also request that there should be provisions made to ensure that the nominated undertaker takes responsibility for reimbursing the Petitioners for any additional expenses caused by dust and dirt.

(f) Air Quality

Your Petitioners are concerned about the potential adverse impacts on air quality as a result of the construction and operation of the high speed railway line and associated development, particularly as their son Jack is an asthma sufferer.

Your Petitioners request that prior to construction commencing there should be an air quality baseline monitoring study benchmarked against the Air Quality Standard Regulations 2010 and a copy of this report should be provided to the relevant local authorities. The local authorities (3 Rivers District Council and South Bucks District Council) should be provided with funding to undertake responsibility, compliance and enforcement for the monitoring of air quality in accordance with binding mitigation plans and the results of such monitoring should be made publically available.

(g) Disruption to services

Your Petitioners are concerned that there is the potential for disruption to utilities and other services provided to the Property. Any such disruption is unacceptable to the Petitioners as it will impact upon the quality of our lives and may result in our Property being untenable.

Your Petitioners request that the nominated undertaker should be subject to binding measures in relation to any disruption to services and contingency measures in the event of disruption to services. These measures should include implementing alternative proposals prior to any relocation of utilities and indemnifying the Petitioners for any loss or damage arising from such works.

(h) Hydrology

Your Petitioners are concerned about the impact upon the aquifer in the area and the danger of water pollution. In the field next to the Petitioners' residence which is on the route of the high speed railway there has been a recent planning application for gravel extraction. This has been turned down by Hertfordshire County Council based upon a report from the Environment Agency advising that the extraction could result in contamination of the aquifer. The land also contains asbestos which was buried there many years ago.

Your Petitioners request that before construction begins the Environment Agency should produce a report confirming that the construction of the high speed railway and associated development across the land known as Pynesfield carries with it no risk of contamination of the aquifer. At the same time the Environment Agency should be required to investigate the levels of asbestos buried in Pynesfield to ensure that the construction and associated disturbance of the asbestos will not impact upon the health of all local residents in the Colne Valley. This report should be made publically available to allay local concerns.

(i) Impact on the ecology of the Colne Valley

The Colne Valley is often referred to as the lungs of West London. The construction of the high speed railway line and associated development carries with it the threat of scarring this beautiful area forever. The amenity use for the Petitioners and many of those who live in West London will be significantly reduced and impaired. Once construction starts there is no turning back.

Your Petitioners suggest that there is a solution given the potential destruction of the local environment in what is an area of Special Scientific Interest. That is to build a tunnel under the Colne Valley for the high speed railway and link this underground to the high speed railway Chalfont tunnel as this will ensure the survival of the ecology of the Colne Valley.

(j) Tilehouse Lane

Your Petitioners are regular users of Tilehouse Lane which is within the limit of land to be acquired and used under the Bill. The road will be closed during the construction of the high speed railway line causing significant traffic problems in this area of Denham and beyond particularly if there are problems on the M25 as the Lane is used as a relief road in such circumstances. There is a danger therefore that the whole area could come to a halt if the M25 is closed for any reason. For the Petitioners closure of one end of the Lane means a diversion of almost 4 miles to take their son to school in the morning.

Your Petitioners request that a detailed traffic survey is conducted prior to the commencement of the construction work for the high speed railway and associated development to map out various scenarios during the period of construction and test how easily these could be coped with. Dependent upon the outcome consideration would need to be given to what other mitigation measures might be put in place in these circumstances.

(k) Compensation

Your Petitioners do not believe that the current compensation proposals are fit for purpose as they do not adequately compensate all those affected by the significant property blight which has impacted upon property values all the way along the length of the proposed high speed railway and associated development. The simple fact is that we should all have a right to sell our property at a time of our choosing, not be told by the Government that we can only sell it in the event of specific circumstances such as divorce or death. Your Petitioners should also have the right to sell it at its full market value without the impact of HS2 blight as this was the direct result of a Government decision in which we played no part. Against this background your Petitioners submit that the compensation provisions in relation to property that is not compulsorily acquired and other matters are not sufficient to compensate your Petitioners adequately for the loss and damage they may incur as a result of construction and operation of the high speed railway and associated development.

Your Petitioners request that the Bill should be amended to ensure that your Petitioners and other persons outside the safeguarded area who are injuriously and adversely affected by loss of value should be entitled to claim compensation. Your Petitioners request that the voluntary purchase announced on 9th April 2014 should be extended to all properties outside the safeguarded area and should not be limited to rural areas. All compensation payments should be calculated so that all diminution in value is compensated. Your Petitioners submit that the Bill should also be amended to ensure that your Petitioners are entitled to claim compensation where their property is not compulsorily acquired for, among other matters, structural damage to the property, settlement impacts from noise and dust, impacts on visual amenity, interference with access, interference with supplies of services and for injurious affection caused by the construction and operation of the high speed railway and associated development. Your Petitioners request a provision to enable such claim to be made separately from any claim for compensation in respect of the acquisition of land or interests under the powers of compulsory acquisition in the Bill. Your Petitioners also require an indemnity from the nominated undertaker that the proposed works will not be of long term or irreversible detriment to the land and interests of your Petitioners. Such indemnity would also remedy any damage, claims, demands, proceedings, costs, damages, expenses and disruption arising from the construction and operation of the high speed railway and associated development.

- 10 There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners.

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.

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AGAINST, By Counsel, &c.

Michael Patrick Fosberry
