

HIGH SPEED RAIL (LONDON TO 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 **NICHOLAS DAVID AND NICOLA CATHERINE HILLARD**

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 Petitioner is Nicholas David and Nicola Catherine Hillard (hereinafter referred to as "the Petitioner"), *the owner of 11 Crackley Crescent (Coventry Road), Kenilworth, Warwickshire CV8 2FF* ("the Property").

## 8. **Safeguarding and Eligibility for Statutory Blight**

- 8.1 Your Petitioner received a letter from HS2 in July 2013 stating part of their property fell within the Safeguarded Area for Phase 1 of HS2. The part of the property constitutes a large ecologically and hydrologically significant pond and surrounding land at the end of the Petitioner's garden adjacent to the sensitive Greenbelt area known as the "Crackley Gap". Your Petitioner subsequently submitted a Statutory Blight Notice which, after a period of 7 weeks and 5 days, was rejected. This was on the grounds that the "Secretary of State for Transport ... does not propose to acquire any part of the hereditament in the exercise of any relevant powers".
- 8.2 Your Petitioner has concerns that, having identified the significance of the pond in works associated with the Environmental Statement, the subsequent decision to serve a Counter Notice against the Petitioner's Statutory Blight Notice was not based on the technical information available at that time.
- 8.3 Your Petitioner believes that the significant civil engineering works associated with moving the Canley Brook and subsequent construction of HS2 will have major deleterious effects on the water and ecological environment associated with the Petitioner's property. It will materially impact on the characteristic nature of the property.
- 8.4 Your Petitioner requests that the decision to reject your Petitioner's Statutory Blight application is reviewed without the Petitioner having to suffer any further severe hardship associated with appealing the decision.

## 9. **Compensation**

- 9.1 Your Petitioner submits that the compensation provisions in relation to property that is not compulsory acquired and other matters are not sufficient to compensate your Petitioner adequately for the loss and damage they may incur as a result of construction and operation of the high speed railway and associated development.
- 9.2 The massive scale, and in particular width, of the proposed earthworks at the Crackley Gap means that the zones currently identified for suitable compensation, which are determined in relation to distance from the centre of the track are wholly inadequate as they are within the proposed area of the Works. Your Petitioner is very close to the intended Works and will be subjected to significant noise and dust during construction and a modified landscape afterwards. Your Petitioner requests that the Promoters be required to modify and extend the compensation scheme to cover such exceptional circumstances..

- 9.3 Your Petitioner requests that the Bill should be amended to ensure your Petitioner and other persons outside the safeguarded area who are injuriously affected and adversely affected by loss of value should be entitled to claim compensation.
- 9.4 Your Petitioner requests that the voluntary purchase announced on 9 April 2014 should be extended to all properties outside of the safeguarded area and should not be limited to rural areas
- 9.5 Your Petitioner requests an undertaking that costs associated with applying for Statutory Blight or Exceptional Hardship should be borne by the Nominated Undertaker so as not to prevent those affected being able to undertake or appeal against the process or decisions.
- 9.6 Your Petitioner requests that communication and correspondence are acted on in a timely manner by the Nominated Undertaker and not the 8 week deadline set by Government Departments so as to help those seeking compensation whom are held to a deadline.
- 9.7 Your Petitioner requests that the Nominated Undertaker offers to purchase houses along Crackley Crescent at full market value before the construction of the realigned Canley Brook and HS2 line.
- 9.8 Your Petitioner requests that the home owner cash payments should be extended to all areas within the vicinity of the proposed high speed railway line and the payment should be calculated so that all diminution in value is compensated.
- 9.9 Your Petitioner submits that the Bill should be amended to ensure that your Petitioner is 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 Petitioner requests 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.

## 10. Ecology

- 10.1 Your Petitioner is concerned about the adverse impacts of the construction and operation of the high speed railway and associated development on fauna and flora at their property and within its immediate vicinity.
- 10.2 The ecological surveys that have been carried out in the Petitioner's garden have confirmed the presence of many protected vertebrates and invertebrates. These include reptiles (grass snake), amphibians (Great Crested Newts, toads, frogs), mammals (bats, badgers) and birds. The natural pond, established over centuries, is the key to this activity. It is understood to be an ancient drovers' pond and is fed by natural and man-made drainage from surrounding fields. The Environmental Statement has confirmed that the Petitioner's pond supports a small breeding population size of great crested newt (CFA Report – Stoneleigh, Kenilworth and Burton Green / No. 18 Ecology – Table 13). This water body also supports other amphibians (smooth newt, common frog and toad). The Environmental Statement

also states that "the metapopulation (AMP 11 north-west of A429) is partially within the land required for construction of the Proposed Scheme". This appears contradictory to the information provided in the Counter Notice to the Petitioner's Statutory Blight application.

- 10.3 Your Petitioner contends that the hydrology and hydrogeology of this area is complex. Your Petitioner is very concerned that the relocation of the Canley Brook closer to their property (including the pond) will significantly alter water flows in the area and lead to a deterioration (and likely disappearance) of the pond.
- 10.4 Your Petitioner contends that in not acquiring the property, the current proposals will indirectly result in the deterioration in the metapopulation of a protected species.
- 10.5 Your petitioner therefore requests that more detailed assessment of the ecological impact associated with the totality of engineering works in the Crackley Gap is undertaken. Detailed long-term ecological risk assessment at species, population and community level should form part of this work.

## 11. Noise

- 11.1 Your Petitioner has concerns with regards to matters of noise and vibration caused by the construction and operation of the high speed railway. Your Petitioner is concerned as there appears to be no mechanism in the Bill to deliver a properly noise mitigated railway.
- 11.2 Your Petitioner is concerned that the complex noise environment created in the Crackley Gap has been inadequately assessed to date. In order to pass over the Canley Brook flood plain, it is currently proposed to pass from cutting across viaduct and back into cutting. This creates a significant issue associated with localised noise break out. The realignment of the Canley Brook prevents the use of earth bunding to alleviate the problem between the track and the Petitioner's property and others along Crackley Crescent.
- 11.3 The noise barriers that have been proposed have not been visualised and their effectiveness in attenuating all noise sources to the levels reported in the Environmental Statement are questioned.
- 11.4 The Petitioner is concerned that adverse noise effects have not been correctly identified and have been set too high in the Environmental Statement, leading to material underestimation of the adverse noise and significant adverse noise impacts likely to arise from the high speed railway. The Petitioner lives in a rural area with low background noise levels and considers that the impact of the construction and operation of HS2 will be devastating on the tranquil enjoyment of their property.
- 11.5 Your petitioner is particularly concerned at the adverse health effects of noise on their young children.
- 11.6 Your petitioner therefore requests that detailed noise modelling and visualisation of attenuation proposals are used to inform the process for appropriate compensation for their property and others in the vicinity of the Crackley Gap.

12. **Hydrology**

- 12.1 Your Petitioner is concerned that the increased risk of flooding to their property has not been adequately assessed to date. The Flood Risk Assessment of the effects of the proposed works so far carried out relates to the risk of flooding to the new railway rather than to the nearby properties
- 12.2 The current Environment Agency maps showing the risk of flooding from rivers shows a floodplain that is a significant distance away from properties along Crackley Crescent. The Petitioner believes that HS2 engineers have underestimated the importance of increased flood risk in the re-engineering of the Canley Brook. To admit that "the final detailed design of the Canley Brook viaduct crossing is yet to be confirmed" and that "replacement flood storage will be incorporated where necessary in order to reduce any residual impact" is entirely unacceptable. The movement of Canley Brook will likely bring the functional floodplain closer to the Petitioner's property, thereby increasing flood risk and associated insurance premiums
- 12.3 Your Petitioner is not convinced that sufficiently detailed engineering studies on this aspect have as yet been carried out and ask your honourable House to require a detailed assessment and ensure that the Nominated Undertaker implements any mitigation measures required as a result.
13. In light of the above, the 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 and publication of reports, any possible revisions that may be made to current work site proposals or any other matters relevant to our expressed concerns that may occur in due course and prior to our representation before the Select Committee.
14. For the foregoing and connected reasons your Petitioner respectfully submits that, unless clauses of the Bill are removed or amended, then the Bill should not be allowed to pass into law.
15. There are other clauses and provisions in the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and their rights, (including their human rights) interests and property and for which no adequate provision is made to protect your Petitioner and other clauses and provisions necessary for their protection and benefit are omitted therefrom.

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 such of the clauses and provisions of the Bill as affect 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 Petitioners will ever pray, &c

SIGNED .....

IN PARLIAMENT  
HOUSE OF  
COMMONS  
SESSION  
2013-2014

HIGH SPEED RAIL (LONDON TO WEST MIDLANDS BILL)

PETITION OF *Nicholas David and Nicola Catherine Hillard*

AGAINST, By counsel, &c

*Nicholas David and Nicola Catherine Hillard*