

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) Baroness LYDIA ANN VON MALTZAHN
(2) Mr JOSEPH CHARLES JEKYLL VON MALTZAHN
of Home Farm, Shelswell Park,
Fringford, Bicester, OX27 8EH

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 freeholders of Shelswell Park, Fringford, Bicester which is a predominantly arable farm with some livestock together with forestry and woodchip enterprises and rental properties located in Oxfordshire. 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.
8. 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.

Planning consent for and construction of replacement building

9. The construction of the Authorised Works will necessitate the demolition of a recently constructed portal framed barn at Widmore Farm. This is currently used in connection with the farm's forestry and woodchip business supplying wood fuel and firewood to the local market. Your petitioner will need to replace this building and in order to ensure continuity of supply the replacement building will need to be erected before the existing building is demolished. Your petitioner will therefore require an undertaking from the Nominated Undertaker that a replacement building of similar size and specification will be erected in a suitable

location on the farm to enable this business to continue and maintain continuity of supply. The nearby timber storage area for drying wood in advance of chipping will also need to be replaced with a suitable area of hard standing.

10. Your petitioner is concerned that there could be a risk and delay in planning permission for any replacement building. Your petitioner therefore proposes that the Bill should be amended so as to ensure that the process for relocating farm buildings that are lost will enable them to be 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.

11. 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 and any associated dwelling which is acquired under the provisions of the Bill will be permitted development subject only to the prior notification procedure. Permitted development should allow for modern building materials and, if appropriate, modern design and layout. 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.

Construction Access

12. The current proposals show a construction access running across their land and close to Widmore farmhouse. This is of concern to your Petitioners because it is

does not follow existing farm tracks and will also be very close to an isolated residential property and will cause major disturbance to the residents during the construction phase. Your petitioners request that this temporary access route is relocated further to the north to run alongside the new line and/or use existing farm tracks.

Extent of land take

13. 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 or so that acquisition and use of your Petitioners' land is on a temporary basis only.

14. Your Petitioners are particularly concerned by the possibility of land being acquired permanently for a temporary purpose and considers 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. The proposed scheme also shows significant areas of land being turned into trees and scrub land. It is wholly inappropriate to misuse such a valuable resource.

15. 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

16. The Bill includes powers for the Secretary of State and the Nominated Undertaker to plant trees, grass and vegetation along the route to provide visual screening and reduce visual impacts and integrate the railway in to the surrounding area. Your Petitioners request that the reallocation and relocation of tree planting should be linked to the actual area lost in this specific location rather than the scheme as a whole. Your Petitioners request that the use of prime agricultural land needs to be kept to a minimum and that any additional tree planting deemed vital is done with the agreement of your Petitioners on areas of the holding where the impact on the viability of the holding could be lessened. Where land is converted to grassland your petitioners request that these areas are fenced and water troughs provided so that the grassland can be grazed and managed.

Balancing Ponds and Diversion of water courses

17. Balancing ponds will be introduced to control the rate, volume, and quality of runoff. The current position of the balancing pond on your Petitioners' land is a concern as it is close to Barleyfields farm. This is a complex of farm buildings and a former farm cottage that are currently used by the farming business but have potential for conversion to a house or houses. Your petitioners are concerned that the proposed embankment, stream diversions and balancing pond will increase the risk of flooding. It also shows water travelling uphill in one location. Your petitioner's request that the balancing pond is located further north

towards the railway or east adjoining the main road, so further away from the buildings.

Accommodation works

18. Your Petitioners' farm will be affected as a result of the construction of the proposed railway. Accommodation works 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. Once agreed, the specification should be binding on the Nominated Undertaker.

19. 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.

20. 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.

Severance and hedgerows

21. 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.

22. 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

23. 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

24. 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.



Agent for Baroness L A von Maltzahn and Joseph C J von Maltzahn

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(1) Baroness Lydia Ann von Maltzahn &
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AGAINST,

BY COUNSEL, &c.

Paul Allen MA MRICS FAAV



Agent for the Petitioners