

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 Mr PAUL C PUSEY

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 Petitioner is the farm tenant of Middlegrove Farm, Hyde End, Great Missenden, Bucks, HP16 0RD which is an arable and grassland farm in Buckinghamshire, as well as the freehold owner of a block of land located to the South of the Chesham Road. It is proposed by the Bill to authorise the compulsory acquisition of certain interests in land or property of your Petitioner to which he objects 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 Petitioner and his rights, interests and property will be injuriously affected by the provisions of the Bill, and your Petitioner accordingly objects thereto for the reasons, amongst others, hereinafter appearing.
9. Your Petitioner's property as a whole will be significantly affected by the scheme as it completely divides the farmstead in half. The main concern of Your Petitioner is the realignment of the Chesham Road, as this is going to have a great impact on the farming and other business operations. Your Petitioner object to this specific point because it will result in splitting the main farmstead into two land parcels leaving inconvenient land parcels that will have restrictive use. The viewpoint of Your Petitioner is that if it is essential to realign the Chesham Road then his preference would be the construction of the roundabout as shown within the Environmental Statement CT-05-032/CT-06-032. This would

have a far lesser impact on the land compared to the original design of the realignment of the road shown within the Draft Environmental Statement. Your Petitioner is also concerned that as a result of the realignment of the Chesham Road, effectively there will be two roads, one of which will become redundant. This raises concern for Your Petitioner from a security perspective in that a redundant road could cause issues with fly tipping and dumping of burnt out cars etc within close proximity to his property. Your Petitioner would request that if the Chesham Road is realigned, then measures need to be put in place to prevent such issues becoming a problem. Within the Environmental Statement, an over bridge across Hyde Lane has been included within the design. Your Petitioner is concerned as to whether this over bridge is going to be constructed to a specification which is capable of transporting large agricultural machinery between the severed land holdings. This over bridge would need to be built to a minimum carriageway width of 6m with a weight capacity of up to 40 tonnes in order to accommodate his farming practices.

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

10. Land in the ownership of your Petitioner 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 Petitioner is 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.

11. Your Petitioner is 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.
  
12. Your Petitioner also wishes 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. The land in which your Petitioner is the freeholder of has been designated to accommodate both a satellite compound referred to as 'South Heath Green Tunnel Satellite Compound 1, as well as a portal referred to as 'Chiltern North Portal'. It is clear from the Environmental Statement that the timescale for the compound has been extended from 3.5 years to 7 years and 9 months (CFA 9, p. 26 para 2.3.46). Your Petitioner objects to this specific point as the portal and compound will significantly impact on the ability to continue to farm the land, leaving marginal areas of land with restricted use. Your Petitioner recommends that the location of this compound and the portal are reconsidered and repositioned in order to reduce the quantity of prime agricultural land being taken.

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

13. 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 into the

surrounding area. It is clear from the Environmental Statement CFA 9 Map number CT-06-032, that the land to the North of Chesham Road, which Your Petitioner is the leaseholder of, has been designated as a 'woodland habitat creation' area. This is wholly inappropriate as the land which has been designated for such use has historically been used for the siting of a twice yearly craft fair which serves the local community. The business which Your Petitioner operates will struggle to function without such revenue and the local economy will lose a valuable service. Given the size of the woodland habitat creation areas and the location, very marginal areas of land are going to be retained and the use of these land parcels are going to have restrictive use mainly due to their size, as well as they will be completely cut off from the remainder of the property and because no provision for access has been provided. Your Petitioner objects to this specific issue as the proposed plantation will have no benefit to them and requests that the placement of this plantation area is reconsidered and moved to a more suitable location which will have a less devastating effect on the property and business.

14. Balancing ponds will be introduced to control the rate, volume and quality of runoff. A balancing pond and land drainage pond has been positioned on the land which Your Petitioner occupies to the South East of the Chesham Road (CFA 9 Map number CT-06-032). It is understood from the Environmental Statement that this balancing pond is required for highway drainage however; it is not clear what the land drainage pond is required for. Furthermore, two balancing ponds have been positioned on the land which Your Petitioner owns to the South of the

Chesham Road, and again it is not clear what these are required for. The position of these balancing ponds and land drainage ponds is a particular concern to Your Petitioner as it will severely impact the ability to practically use the land for agriculture.

15. Your Petitioner is also concerned that the water flow will be damaged as a result of these balancing ponds, and measures need to be taken to ensure that the water flow is maintained at existing levels. Your Petitioner objects to this specific issue and requests that the location of this balancing ponds and land drainage ponds are repositioned in order to avoid leaving marginal areas of land which will have limited agricultural use.

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

16. It is clear from the draft 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. The land which Your Petitioner owns to the South of the Chesham Road has been designated as a 'Material Stockpile' area. Your Petitioner is concerned that the designation of these areas will temporarily reduce the areas of land which are available and make it extremely difficult to continue with current farming arrangements leaving Your Petitioner with limited options. Your Petitioner is also concerned that these stockpile areas will have a negative impact on the remainder of the farmland if they are not properly managed. Your Petitioner therefore objects to this point and requests that these

material stockpile areas are kept to a minimum in order to avoid losing large areas of prime agricultural land on a temporary basis.

17. The land which Your Petitioner occupies and the land which Your Petitioner owns to the South of the Chesham Road been designated as 'engineered embankment earth works and landscape earth works'. Your Petitioner is concerned that the loss of this prime agricultural land is going to have a significant impact on the ability to continue farming the land. Your Petitioner requests that the areas required for earthworks are kept to a minimum in order to preserve the loss of irreplaceable agricultural land. Furthermore, where these embankment areas are not required permanently; they should be designed so that they will be capable of being farmed in the future.

18. In your Petitioner's 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**

19. Your Petitioner's 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 Petitioner. Well-designed accommodation works which meet your Petitioner's 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 Petitioner. 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.

20. Your Petitioner proposes 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 Petitioner 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.

21. Your Petitioners propose to your Honourable House that the promoter should be required to construct a tunnel for the accommodation of the route for the duration of its journey through the Chilterns Area of Outstanding Natural Beauty. This would remove the vast majority of the highly-damaging impacts of the current proposals including the loss of ancient woodlands as well as damage to scheduled monuments.

#### **Planning consent for replacement buildings and associated dwellings**

22. The construction of the Authorised Works will necessitate the need to identify a new site for a proposed agricultural building which has approval under the General Permitted Development Order 1995 and demolition of an associated dwelling known as Meadow Ley Bungalow. Since your Petitioner's core farm business will survive, your Petitioner is likely to want to replace those buildings

and the dwellings associated with them. 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.

23. Your petitioner notes 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 Petitioner 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.
24. Your Petitioner proposes 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.
25. 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**

26. The severance of agricultural land by such a long linear scheme will result in some of your Petitioner's 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.

27. Your Petitioner proposes to your honourable House that the Hybrid 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**

28. 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 Petitioner must

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

### **General**

29. 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 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 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 Mr PAUL C PUSEY

HOUSE OF COMMONS  
SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST  
MIDLANDS)

P E T I T I O N

of

**Mr PAUL C PUSEY**

AGAINST,  
BY COUNSEL, &c.

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