

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.

TO THE HONOURABLE THE COMMONS OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND IN PARLIAMENT ASSEMBLED.

THE HUMBLE PETITION OF (1) ROBERT DAVIES
(2) GORDON DAVIES
(3) JANE DAVIES AND
(4) JUDITH DAVIES

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 Middleton House Farm, Tamworth Road, Middleton, Tamworth, Staffs. B78 2BD. Holding number 43/099/0008, which is an area of predominantly arable land, and an extensive range of farm buildings, many converted to office and storage use and three dwellings. These can be found in HS2 Map numbers CT-01-57 and also in CT-06-114 and CT-06-113. Middleton House Farm is listed in the Book of Reference which accompanied the Bill as plot numbers 18 and 25 in the parish of Middleton in the district of North Warwickshire.
8. 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.
9. Your Petitioners and their rights, interests and property will be injuriously affected by the provisions of the Bill, and your Petitioners accordingly objects thereto for the reasons, amongst others, hereinafter appearing.
10. Your Petitioners are severely affected by these proposals outlined in the Bill. For instance, the rail line crosses your Petitioners' holding from corner to corner, taking approximately 24 of their 80 hectares of quality arable land and will leave your Petitioners with two triangles of land.
11. In addition, the majority of your Petitioners' farm buildings will be in the way of the line and therefore demolished. Some of the buildings are used for machinery and crop storage, the rest have been converted to B1 and B8 office and storage lets. The whole complex provides in excess of 30 full time jobs and many part time jobs, all of which will be lost, or have to relocate, with the subsequent disruption that will entail. There are also three dwellings within the 100 metres zone of the line or road relocations, and these will be rendered inhabitable. The line also cuts in half your Petitioners seven hectares of ancient woodland, which dates back to 1066 AD- 1539 AD, damaging the ancient balance of infrastructure that feeds two ancient moated islands, which are recorded as a National Scheduled Monuments.

12. Your Petitioners' farm business will be injuriously affected by the provisions of the Bill. The crop storage facilities and all buildings used to store farm machinery will be demolished. Your Petitioners believe that to continue to farm the land will require contractors to arrange storage elsewhere. This will reduce the profitability of the arable enterprise and render the business unviable. The Bill contains wide ranging powers to enable the Secretary of State to acquire land compulsorily outside the limits of land required including for regeneration; retained dwellings and remaining buildings will be blighted and uninhabitable. Access to any of the remaining buildings will be severely compromised.

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. Your Petitioners seek to enter into an agreement with the promoter of the Bill that the extent of compulsory purchase should be limited, because your Petitioners consider the area to be removed from food production will, with other areas of excessive land take along the line, have too great an impact on national food production.
14. Your Petitioners are particularly concerned by the possibility of land being acquired permanently for temporary purposes 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. Your Petitioners will have a "proposed Satellite Compound" on their land and two access tracks and your Petitioners are concerned about their permanence which impacts upon farm security.
15. Your Petitioners also wish to ensure that their losses 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.
16. Your Petitioners have been very deeply disappointed by the poor, and in the most part non-existent, levels of communication from HS2 Ltd. and the Minister of Transport. Your Petitioners respectfully request that your honourable House should call for an urgent review of communication with landowners affected. Your Petitioners learnt about the project from a press announcement on the BBC news in March 2010, maps online showed the effects, and consequently your Petitioners wrote three letters: one to the Minister, one to the Department of Transport, and one to HS2 Ltd. In these letters, your Petitioners asked questions about the plans and suggested an alternative route with reduced impact. One reply was received, a standard letter that did not address any of the points.
17. Your Petitioners propose that liaison officers be appointed for each area, similar to the way utility companies work when a gas or sewer pipeline is planned across farmland. These people could be approved by the National Farmers Union and Country

Landowners Association and act as a link between landowners, tenants and rural businesses.

18. Your Petitioners have sought to engage with HS2 Ltd. regarding the provision of suitable replacement access to the farm but have not received any adequate response.

Inappropriate mitigation measures on farmland

19. Your Petitioners were told at a meeting with HS2 Ltd. in autumn 2012 that there would be consultation on areas used for planting of replacement woodland, and now find that HS2 has already decided where replanting should take place. Your Petitioners cannot understand why fields of quality arable land have been earmarked for replanting trees, yet other areas proposed to HS2 have been ignored. Your Petitioners cannot understand the phrase used by HS2 and government when they say they can transport soil to relocate ancient woodland when the Woodland Trust state this is not possible.
20. Your Petitioners are concerned about the rerouting of "Bodymoor Heath Lane" which entails excessive land take and brings the lane very close to a dwelling, cutting off its access drive. Your Petitioners would like the route of the new lane to be reconsidered after consultation with your Petitioners.
21. Your Petitioners are also concerned by the movement of an existing public footpath on to your Petitioners' property and the impact on security and trespass this will entail, and requests that the new path route is only made after appropriate consultation.
22. Your Petitioners have two balancing ponds proposed on their land plus two areas of replacement flood storage. Your Petitioners cannot understand the positioning of these or the need to take so much land out of food production. The biggest proposed pond and flood storage area is not on the lowest part of the plain. Your Petitioners are of the opinion water will travel to the lowest point in an area of arable land and so siting a flood storage area on higher ground will lead to flooding on the lower ground. Your Petitioners seek an effective solution to prevent this.
23. Your Petitioners would like more consultation on siting of replacement woodland, a reduction in the area of land take and siting of the same and on siting of balancing ponds and flood storage.

Maintenance of bunds and made-up ground

24. It is clear from the 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. Your Petitioners cannot understand why good arable land has been included in the Bill to create gently sloping areas of mitigation near a cutting, when a steeper bund is possible. Your Petitioners can only assume this is to find somewhere to dispose of soils removed by the cutting, rather than incurring disposal fees. Your Petitioners consider this move is unfair and that

removing excessive arable land from food production is not in the long term interests of our country.

25. Your Petitioners submit that 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

26. Your Petitioners' 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 to your Petitioners. Well-designed accommodation works which meet your Petitioners' needs are likely to substantially reduce 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. 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.
27. 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.

Planning consent for replacement buildings and associated dwellings

28. The construction of the Authorised Works will necessitate the demolition of agricultural buildings, including farm buildings, storage facilities, workshops and office and industrial storage units, together with associated dwellings. Since your Petitioners' farm remains, albeit reduced in size, your Petitioners are 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.
29. 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.
30. Your Petitioners propose that the Bill should be amended so as to ensure that the process for relocating farm buildings that are lost is 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.

31. 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

32. 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.
33. 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

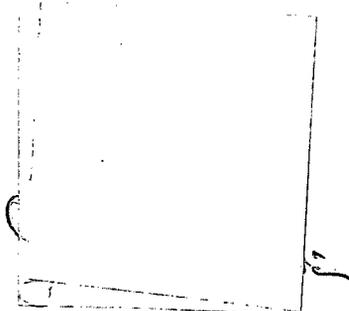
34. The compensation regime set out in the Bill is inadequate and must be improved. In any event, any payment of compensation that is due to your Petitioners must be made as early as possible and must carry interest at a commercial rate generally available, higher than is proposed under the Bill.

General

35. 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.



- (1) ROBERT DAVIES
- (2) GORDON DAVIES
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AGAINST,

BY COUNSEL, &c.

(1) ROBERT DAVIES
(2) GORDON DAVIES
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