

IN PARLIAMENT  
HOUSE OF COMMONS  
SESSION 2013–14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

Against – on Merits – 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 Fredric von Oppenheim, Baroness Marie-Rose von Oppenheim and Kimberley Ltd.

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 Teresa 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 of the Bill set out how Phase 1 of the proposed high speed railway known as HS2 will be constructed. In particular, these sections of the Bill provide for powers to carry out the works required for the construction of the railway line, for the compulsory acquisition of required land, for the exclusion of rights over land and for deregulation. The remainder of the Bill deals with regulatory and miscellaneous issues raised by the Bill including railways matters, further works and statutory undertakers.

- 4 The Scheduled Works proposed by the Bill are set out at Schedule 1 to the Bill. These works may only be carried out by nominated undertakers (as defined in the Bill). Further works authorised under the Bill are set out at Schedule 2. These works together are known as the Associated Works.
- 5 Your Petitioners are Fredric von Oppenheim and Baroness Marie-Rose von Oppenheim of Boswells Farm, Wendover, HP22 6PJ and Kimberley Ltd, c/o Trafalgar Court, St.Peter Port, Guernsey, GY1 2JA. Kimberley Ltd is the freehold owner of Boswells Farm, Baroness Marie-Rose von Oppenheim is the freehold owner of Hartley Farm and Fredric von Oppenheim is the tenant farmer of both Boswells Farm and Hartley Farm. Fredric von Oppenheim and Marie-Rose von Oppenheim live at Boswells Farm.
- 6 Your Petitioners' property is within the limits of the land to be acquired and used as shown on the plans deposited by the Bill and parts of the property are therefore liable to be compulsorily acquired. 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.
- 7 Your Petitioners have sought to participate in previous stages of the HS2 process, having submitted consultation responses to the Environmental Statement that accompanied the Bill and attended a meeting with representatives of HS2 Limited on 4 February 2014.
- 8 The works to be carried out in the vicinity of Boswells Farm are shown on Sheet 2-30 of Volume 2.1 of the deposited plans which accompany the Bill and include Scheduled Works 2/14 and 2/24-2/27 (*check this*). These works include the acquisition of part of your Petitioners' property for the construction of the Small Dean Viaduct Satellite Compound, the Small Dean Viaduct and the Rocky Lane Underbridge. The proposed works will also cut across your Petitioners' drive which provides the principal access to their home, farmland and five cottages. The Bill will therefore have a serious effect on your Petitioners.

*Landscape and visual impact*

- 9 Boswells Farm is a rural estate of historical significance, the former home of Sir Thomas Barlow, Queen Victoria's physician and his wife the grand-daughter of Charles Darwin. The estate is centred around Boswells farm house, which is some 550 metres from the proposed line and 450 metres from the edge of the construction boundaries as designated by the Bill. The estate includes a substantial agricultural business and plays an important part in the socio-economic fabric of the Chilterns Area of Outstanding National Beauty and provides local employment for three employees who work on the farm. In addition to the farmhouse the property includes five further dwellings and a range of modern and traditional buildings. The main driveway to the estate is formed as an avenue of mature beech trees and is of local and national recognition. The Ridgeway Path, a right of way of national importance, runs through Boswells Farm along a route close to the line and the working boundaries. Users of the Path will also be exposed to both the works and the finished line with little or no suitable mitigation measures to limit its impact.

- 10 Whilst the railway will be screened from the house by woodland, the adjacent fields which form part of the landholding, and are amenity space for the dwelling, will have direct open views to the Small Dean viaduct. Further, the viaduct will cross the main entrance to the property opening up a view of the viaduct, which will be a significant visual intrusion into an otherwise rural landscape of the AONB. The western end of the driveway and thus the main access to the property, will be severely affected.
- 11 The setting, and approach to, your Petitioners' property will therefore be substantially altered by the Bill both during the construction and operational phase of the scheme. In particular, during the construction phase part of the Small Dean Viaduct Launch Satellite Compound will be on your Petitioners' land. This will significantly affect your Petitioners' enjoyment of their property by way of noise and effect on visual amenity. The Small Dean Viaduct Main compound will also be very visible and intrusive.
- 12 During the operational phase of HS2 the current proposals forming part of the Environmental Statement (but not guaranteed by the provisions of the Bill) show limited landscaping mitigation planting, presumably seeking to screen the view of the embankment and balancing pond that will be constructed. Your Petitioners submit that the proposed landscaping, which simply seems to consist of replacing the trees removed during construction, is completely inadequate for screening the proposed scheme. The proposed single line of hedgerows, which will provide an ecological corridor, will also obviously not be adequate to screen the trains passing as well as a 10 metre high embankment.
- 13 Your Petitioners argue that there is no detailed indication of what mitigation is to be provided (for example planting detail or cross-section), no certainty provided in the Bill that the mitigation will actually be provided and it appears to your Petitioners that such mitigation will in any event be wholly inadequate. It will not satisfactorily compensate for the loss of amenity resulting from the removal of trees and the construction of the line on the embankment and Small Dean viaduct across the avenue leading to Boswells Farm.

*Agriculture, forestry and soils*

- 14 Your Petitioner Fredric von Oppenheim is the agricultural tenant of Boswell Farm and Hartley Farm which operates as a commercial farming business. This business will be significantly affected by the Bill, under which approximately 17 hectares (c. 42 acres) of agricultural land will be acquired. The whole of Hartley Farm land, which extends to 23.54 hectares (58.17 acres), will be unusable throughout the duration of the construction period and the limitations on access, created by the proposals will mean that the retained land at Hartley Farm will have restricted access there afterwards. The impact will be to remove 5% and 10% of the farmable area of the estate. Parts of the farm will be "land locked". This will inevitably affect the farm's viability and impact on staff numbers. The proximity of the Works will affect the ability to move around the holding freely during the period of the works.

*Noise and vibration*

15 The documents accompanying the Bill show that your Petitioners' home at Boswells Farm will be subject to "major adverse" noise effects from the operation of HS2 of over 10dB. The plans accompanying the Bill show that there is a noise barrier proposed for the Rocky Lane Bridge but this stops about 220 metres north of the Bridge. There are then no further noise mitigation measures over a further 660 metres of the viaduct. Your Petitioners are therefore seriously concerned about the noise levels at their property during the operation of HS2 which will have a significant impact on their quiet enjoyment of their property, which is currently in an extremely quiet rural environment. Furthermore, no assurances have been given that the limited noise barriers proposed will be effectively maintained in perpetuity..

16 Your Petitioners are also concerned about the noise effects at Wellhead Farm, part of Boswells Farm. Your Petitioners are not aware of any mitigation proposed for noise effects at Wellhead Farm.

*Traffic and Transport*

17 The existing tree-lined avenue leading into Boswells Farm will be directly underneath the Small Dean viaduct. The proposed works to the entrance onto the A413,, to presumably avoid structural supports and possibly resolve visibility splays requirements, is not justified or defined in any detail and therefore the impacts are not adequately defined.

18 The location of this access point immediately beneath the viaduct will also be intrusive and be a significant deterioration in the facility that is currently provided for access to the property.

*Water resources and flood risk*

19 Your Petitioners are concerned to understand the implications for their land of the balancing pond which is proposed to the North of the Small Dean viaduct. The plans provide very little information and therefore your Petitioners have not been able to assess any effects that this may have on existing drainage at their property. Your Petitioners are also concerned that changes to the water table may affect the trees on their land.

*Construction*

20 Your Petitioners are very concerned about the location of the Small Dean Viaduct Launch Satellite Compound on their land and the Small Dean Main Compound on the land close to their Property. The draft Code of Construction Practice does not provide enough information to allow your Petitioners to assess the disruption which will occur as a result of these compounds, however it will no doubt be significant. The influx of plant and machinery, as well as resident workers, into this rural area will have a significant effect on the nature of the area and on your Petitioners' quality of life and farming operations. Further, your Petitioners are very concerned about the noise, dust and lighting associated with the construction on both their land and adjacent land. Your Petitioners are also worried about the overall deterioration in the amenity of their land and the wider area.

*Effects on the AONB and Ridgeway Path*

21 Objection is also taken to the works proposed to be undertaken in the Chilterns Area of Outstanding Natural Beauty ("AONB") and close to the nationally important Ridgeway Path which runs through your Petitioners' property. These works include the building of the railway line, the construction of tunnels, cutting, viaducts and access roads, the diversion of existing roads, the removal of woodland and the demolition of listed buildings. Your Petitioners are also concerned that at least five electricity pylons west of the A413 will be raised by at least five metres as a consequence of the Works which will have an additional adverse effect on their enjoyment of their property.

22 Your Petitioners support the petition made by Conserve the Chilterns and Countryside ("CCC") regarding the damage that will be caused to the AONB by the Bill. In particular, your Petitioners are concerned about the effect of the construction and operation of HS2 on the landscape, ecology, economy and cultural heritage of the Chilterns AONB as well as the noise, traffic and segregation of the local area which will arise.

23 **Mitigation**

24 Your Petitioners argue that the only acceptable form of mitigation to the issues outlined above is a continuous tunnel under the Chilterns AONB.

25 In the absence of a continuous tunnel your Petitioners conclude that the harmful effects of the works described in paragraph 9 to 22 above cannot adequately be mitigated. The following mitigation would be required as an absolute minimum:

- (a) Your Petitioners believe that further environmental bunding could be constructed on the land within their ownership, situated between the route of the line and the homestead at Boswells. This bunding could be further landscaped with appropriate planting to be compatible with the immediate surroundings and also to maintain the setting of Boswells Farmhouse. The materials for such bunding could be re-directed from Hunts Green Farm in The Lee on which it is proposed to deposit significant quantities of material.
- (b) The partial noise fencing proposed for the Small Dean Viaduct should be extended along the whole route to the Rocky Lane Underbridge. The existing noise models recognise the major adverse impact on Boswells Farmhouse but have not properly allowed for the significance of the property nor the other dwellings on the estate – all of which are similarly affected.
- (c) The access arrangements over Rocky Lane to Hartley Farm need to be changed to allow continued access for large machinery and livestock without taking access along the main A413 which will be dangerous to both slow moving vehicles and livestock.
- (d) The access to Boswells Farm needs to be changed to maintain the status of the existing access which will be significantly affected by the proposals. The newly aligned access should run from Wellhead Road to the existing driveway.

26 For the foregoing and connected reasons your Petitioners respectfully submit that, unless the Bill is amended as proposed above, Schedule 1: Scheduled Works 2/14 and 2/24-2/27, so far affecting your Petitioners, should not be allowed to pass into law.

27 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 it 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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Simon Ricketts

King & Wood Malletsons, Agent for the petitioner

BACKSHEET:

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PETITION OF FREDRIC VON OPPENHEIM, BARONESS MARIE-ROSE VON OPPENHEIM,  
AND KIMBERLEY LTD

Against the Bill – On Merits – By Counsel &c

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