

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) Ivan Gerald William Banister,
- (2) Heather Rose Banister, and
- (3) Nancy Openshaw Banister

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 freeholder of Warden Farms run from Warden Hill, Chipping Warden Nr Banbury OX17 1AJ which is a Farm in the County of Northamptonshire. The Petitioners also farm, under contract farming agreements, other land adjoining Warden Farms affected by the provisions of the Bill. Your Petitioners also farm further land in the area which will be affected by the provisions of the Bill due to the location of the farm buildings at Chipping Warden Airfield and due to access to the buildings being closed as a result of the provisions of the Bill. Your Petitioners additionally farm land rented on Farm Business Tenancies also directly affected by the provisions of the Bill. Your Petitioners are the freeholders of land which is acquired and which is listed in the Book of Reference as plot numbers : 77, 81, 86, 87, 95, 99, 104 and 105 in the Parish of Chipping Warden and Edgcote in the district of South Northamptonshire. The Plot numbers of land that is farmed under contract farm agreements are Plots 92, 94, 96, 101 and 102. The Plot number for land in which there is a Leasehold interest are 70. Your Petitioners are not aware of all the Plot numbers for all their leasehold interest as they have not received the

Books of Reference for all land in which they have an interest. The Book of Reference does cite your Petitioners as having an interest in certain plots when, in fact, they have none and so the Book of Reference requires updating and correcting.

8. It is proposed by the Bill to authorise the compulsory acquisition of certain interests in land or property of your Petitioner, 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. Works to take place over the holding owned and leased by your Petitioners include, but are not limited to, construction of HS2, the Chipping Warden Green Tunnel, the Chipping Warden Green Tunnel Main Compound, storage of soil while the green tunnel is constructed on your Petitioners' land, diversion of rights of way, tree planting to screen the railway, temporary diversion of the A361 and other works unknown at this stage due to engineering drawings of the proposed railway being unavailable.
9. Your Petitioners and their 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.

Extent of land take

10. 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 under a lease to allow construction of green tunnels, soil storage, site compounds and similar work. It is unclear from the Bill whether such an opportunity to allow temporary use of land under a lease on market terms will be allowed under the provisions of the Bill.
11. Your Petitioners are particularly concerned by the possibility of land being acquired permanently for a temporary purpose and consider it not appropriate for the Bill to contain compulsory purchase powers in respect of their land when the nominated undertaker's requirement illustrated on the plans in the Environmental Statement show land being required for a temporary use only, such as for the construction of green tunnels, soil storage and site compounds.

12. 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.

Assessment of Impact on Farm Business

13. The promoter's factual information on the scale and nature of the farm business run by your Petitioners was prepared some years ago and is out of date. The farm business has changed since the information was prepared and the Environmental Statement fails to address concerns raised by the Petitioners in their response to the draft Environmental Statement.
14. There are two important parts of the business that have not been properly considered in terms of the impact the railway will have. Cool Contours was built and opened shortly before plans for HS2 were announced. Cool Contours offers a wide range of arts and crafts courses as well as rural activities, space for meetings and a thriving bed and breakfast in self-catering rooms/cottages. It involved a substantial capital outlay and its importance was recognised by the award of grant aid by the East Midlands Development Agency. Whilst it is noted in the Environmental Statement (Table 3 CFA 15) that farm buildings at Warden Farms have been converted to an art studio this understates the importance of Cool Contours and the range of uses made of the buildings.
15. Secondly, the promoters have failed to appreciate the importance of the green waste business at Chipping Warden Airfield which makes a significant contribution to the farming business through the production of green waste fertiliser, which is high in nutrient value, at low cost. The fertiliser produces substantial cost savings for the business of the Petitioners. The Petitioner's business relies on the perimeter roads on the Airfield to store the green waste. The majority of useable hardstanding required for this business to operate is due to be acquired and used for the construction of the green tunnel. The impact of the proposals on your Petitioners' business may have serious implications for staffing, as the diversification creates justification for employing staff over the quieter winter months. As a diversified business Warden Farms depends on the contribution made by all aspects of the business to employ those currently employed. Since the promoters have not taken account of the full range of the businesses comprising Warden Farms, your Petitioners consider that the assessment on the impact on the farm business is wrong and needs to be fully reviewed.

16. The Environmental Statement states that 52.3ha of Warden Farms is affected, which is shown as 6% of the total land area. This is incorrect as it includes land farmed by Warden Farms under contract farming agreements and does not refer just to the area owned. The area of Warden Farm owned and affected by HS2 is over 16%. The impact on individual farm holdings set out at Table 3 (clause 3.5.16) of the Environmental Statement is therefore wrong and misleading. In addition, owing to the impact on the green waste business, the overall impact of the proposals on Warden Farms needs to be re-assessed by the promoter as it is considered to be "high" rather than "low". The boundaries for Warden Farms shown in Volume 5 of the Environmental Statement (Volume 5 Map Books) are therefore wrong and misleading and should be corrected with the sensitivity to change reassessed. This is particularly true following the significant area of additional land on the Airfield required for the construction of the green tunnel and soil storage. The disruptive effects of HS2 should also be reassessed as the Environmental Statement takes no account of the importance of the green waste business to Warden Farms. The disruptive effects are considered "high" rather than "negligible". Your Petitioners also believe the scale of construction effect should be reassessed from "moderate" to "adverse" due to the proportion of the holding now required, the effects of severance and the overall impact on the farming business.
17. The Tables in the Environmental Statement fail to take into account the implications of capital taxes payable on the compensation to be received by owners of land and which, depending on the age of the owner, can be significant both in terms of Capital Gains Tax and Inheritance Tax. The impact of this should be considered when analysing the impact of the Bill on farming businesses which cannot just move to new premises.

Impact on Chipping Warden Village

18. Land owned by Warden Farms is used to assist in dropping off and collecting children at Chipping Warden Primary School, which makes a significant contribution to the safety of children due to the A361 passing through Chipping Warden. No charge for the use of this land is made by Warden Farms. The Environmental Statement identifies that HGV movement along the A361 and use of the main compound at Chipping Warden will have a major adverse effect on residential amenity and the amenity of users of Chipping Warden Primary School, which is considered to be significant. But there has been no consideration of the parking made available on land owned by Warden Farms and the fact that children cross the A361. We believe the

promoter should consider a by-pass for Chipping Warden which has been proposed by Chipping Warden and Edgecote Parish Council. This will overcome the major adverse effect of construction on Chipping Warden and in particular the Primary School. The Petitioner owns most of the land required for the bypass being proposed and urges support for a bypass to be included in the proposals.

Access to Farm Buildings

19. Insufficient provision has been made in the proposals for access to the farm buildings used by Warden Farms which are located on the airfield at Chipping Warden. There can be 380 trailer movements (many more than to the compound to the green tunnel) to and from the farm buildings in a typical harvest year. Access is taken across the airfield for health and safety reasons and to avoid Chipping Warden village. The Bill's proposals need to make provision for similar access during construction and prior to reinstatement following completion of the green tunnel. Despite use of the airfield for construction of the green tunnel, soil stock piling and the site compound, this is easily achievable, but has not been provided in the proposals and needs to be considered.

Rights of Way

20. Temporary alternative routes for various footpaths are proposed in the Environmental Statement, including AE12, AE20, AE21, AE16 and AE17. It is unclear from drawing CT-06-075 where such alternative routes will be located and clarification is required. Your Petitioners are concerned at the bridleway alignment following the closure of Culworth Road, which they believe to be totally unsuitable for equestrian use as horses using the crossing over the green tunnel and the bridleway running on the eastern side of HS2 will be too close to the South Portal entrance to the tunnel. Noise and the impact of airflows as trains enter or emerge from the green tunnel are likely to spook horses. The same problem will exist in respect of bridleways running alongside HS2.

Soils and Drainage

21. Warden Farms will have significant areas of soil stripped and stored for construction of the green tunnel. The land being used for this purpose is the best land owned by the Petitioners. Your Petitioners believe it is important that the promoter appoints an independent soils expert to provide advice to ensure the quality of disturbed land is maintained and proper

reinstatement takes place. No land drainage plans exist for the majority of land to be acquired as they were installed when the Airfield was constructed. This needs to be checked to ensure the excellent drainage is maintained after construction and what is the largest (24.3 hectares) flattest and best drained field farmed by your Petitioners is restored to produce the same quality land as was the case before acquisition.

Environmental Impact

22. Your Petitioners are equally concerned that no surveys have been undertaken on the farm to judge the impact of construction and also operation of the railway on the ecology of the area despite agreements being entered into to allow such surveys to take place. For example surveys for Great Crested Newts were due to take place in April 2014, but were cancelled a few days before. No surveys have been undertaken in 2013 or in earlier years. It is unclear to your Petitioners whether full consideration has been given to the environmental impact of the proposals on land they own or farm. For example the land being used for soil storage and the compound is used by large flocks of Golden Plover during the winter as well as Grey Partridge and your Petitioners are unaware of HS2 having undertaken surveys on that land.

Visual Screening

23. Taller screening is proposed for Chipping Warden at paragraph 11.3.7 of the Environmental Statement (CFA15) but the location of such screening is unclear and the promoter should clarify the proposals.

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 or over the proposed railway, much of it on good quality agricultural land. In the case of Warden Farms a significant area of land is required for construction of the Chipping Warden green tunnel which requires major excavation and reinstatement of land over a period of approaching five years, with the site compound being used for over five years.

25. In your Petitioners' 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

26. Your Petitioners' farm will be partly severed as a result of the construction of the proposed railway, both during construction and on operation. Accommodation works in general and crossing points in particular are matters of significant importance for your Petitioner. 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. 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. In the case of Warden Farms land is severed by the proposals but no means of access to the severed land has been provided in the drawings seen by your Petitioners. This situation needs to be rectified urgently.
27. Your Petitioners will wish to re-start their green waste business after construction and it is important that the perimeter roads currently on their land are re-instated to allow this.
28. 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 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.

Severance and hedgerows

29. 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.

30. 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

31. 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

32. 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 PETITIONERS THEREFORE HUMBL Y 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.

Sharpe Pritchard LLP

Agents for
Ivan Gerald William Banister,
Heather Rose Banister, and
Nancy Openshaw Banister

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HIGH SPEED RAIL (LONDON – WEST MIDLANDS)

BILL

PETITION

of

- (1) IVAN GERALD WILLIAM BANISTER,
- (2) HEATHER ROSE BANISTER, AND
- (3) NANCY OPENSHAW BANISTER

AGAINST,

BY COUNSEL, &c.

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