

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) RICHARD JOHN PHILLIP HUBBARD
- (2) CHARLES OWEN RICHARD HUBBARD

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 and occupiers of Little Beanit Farm and Maplefield House, Waste Lane, Balsall Common, Coventry, West Midlands, CV7 7GH which is a farm in the parish of Berkswell in Solihull Metropolitan Borough. The plot numbers in the Book of Reference are 17, 18, 19, 26, 26a, 27, 29, 30, 31, 32, 43, 44, 45, 46, and 47 for the parish of Berkswell.
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 Petitioner accordingly objects thereto for the reasons, amongst others, hereinafter appearing.

Specific alterations to works

10. In addition to the compulsory acquisition of land for the construction of the railway and environmental landscaping, the Bill authorises the acquisition of compulsory, temporary rights to land for the north-south road-head materials storage compound and temporary rights to construct a public right of way cycle path for five years three months through the middle of the working farm. The route of this temporary public right of way cycle path would be injurious to the agricultural and livery businesses of your Petitioners and would have implications for biosecurity and for the health and safety of pedestrians and riders. Your Petitioners would need numerous crossing points for the movement of horses, cattle and machinery on a daily basis. Your

Petitioners propose to your honourable House that they would be prepared to agree to a repositioning of this temporary public right of way which would cause a less detrimental effect to the businesses.

11. The farmhouse and cottage will be 50 metres from the centre line of the railway. Parts of the house date from the early 1700's and could be adversely affected by the demolition of the Waste Lane road bridge and the construction of the Burton Green retaining structure and of the new Waste Lane over-bridge. Your Petitioners ask your honourable House for an undertaking from HS2 Ltd that any damage to the property would be made good.
12. The re-alignment of the B4101 Waste lane, over the new Waste Lane over-bridge, could give rise to restricted access to Little Beanit Farm and Maplefield House and J.Hubbard & Son Ltd, the fencing and supply business. Your Petitioners ask your honourable House to require the Secretary of State and or HS2 Ltd. to give an undertaking that access will be maintained at all times and that the design of the access from the newly aligned B4101 should take into account the needs of articulated heavy goods vehicles.
13. The Bill provides for a temporary access route, No 44 on sheet No 2-116, which runs through the middle of the farm buildings, between the cattle yards and alongside the cattle handling facility, the grass silo and the manège. This route is totally unsuitable for large heavy vehicles and would compromise biosecurity. Your Petitioners have a verbal assurance that this is will be used as a restricted access for light vehicles associated with modifications to the electricity supply network. Your Petitioners would ask your honourable House to require an undertaking from HS2 Ltd that it will not be used for any other purpose and that its restricted use will be clearly defined as to the extent and hours of use.
14. The positioning of the footpath M186 over-bridge, which is also the farm access bridge, as shown on map No CT/06/100a, work No 2/184, sheet No 2/114, does not indicate how the bridge will be connected to your Petitioners' land and to their road to Hodgetts Lane. If the bridge could be moved a few metres north, nearer to the position of your Petitioners' existing bridge over the disused railway, it would be easier to make a connection to land in their ownership without the need to establish a right of way over land belonging to others. It would also enable the re-instated Greenway to leave the existing railway cutting with a very shallow incline. Your Petitioners ask your honourable House to request HS2 Ltd to provide detailed drawings of a better solution to the problem of the Greenway and your Petitioners at this location.

Extent of land take

15. As mentioned, 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 so that acquisition and use of your Petitioners' land is on a temporary basis only.

16. 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. An example is the construction of a temporary public right of way cycle path.
17. 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.

Accommodation works

18. Your Petitioners' farm will be severed as a result of the construction of the proposed temporary public right of way cycle path. Accommodation works in general and crossing points in particular 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 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.
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.

Planning consent for replacement buildings

20. The construction of the Authorised Works will necessitate the demolition of the manège, work No 2/185, sheet No 2-116. The manège is used extensively by the livery business. Since your Petitioners' livery business will continue during and after the construction phase, your Petitioners would ask that the Nominated Undertaker be required to construct a replacement prior to the commencement of works. Your Petitioners are concerned for the integrity of the farm storage facilities, the grass silage store and the farmyard manure store. These are essential for the working of the agricultural livestock business. Until more detailed design work is available your Petitioners are uncertain as to how they will be affected. Your Petitioners would ask

your honourable House to request an undertaking from HS2 Ltd that, if there is a risk that these buildings will be damaged, they should be replaced prior to construction.

21. Since your Petitioners' core farm business will survive, your Petitioners are likely to want to replace those buildings. 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.
22. 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.
23. Your Petitioners propose 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.
24. 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

25. 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.

26. Your Petitioners propose 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

27. 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

28. 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.



SHARPE PRITCHARD LLP

Agents for Richard John Phillip Hubbard, and
Charles Owen Richard Hubbard

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AGAINST THE BILL – ON MERITS - BY
COUNSEL, &c.

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