

IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2013–14

HIGH SPEED RAIL (LONDON - WEST MIDLANDS) BILL

P E T I T I O N

Against – on merits – 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) LORD RICHARD WELLESLEY
- (2) LADY JOANNA WELLESLEY
- (3) MRS SARAH WOOD
- (4) MRS NATASHA HALLIDAY
- (5) MR TOM HALLIDAY
- (6) MR STEPHEN GOODWIN

SHEWETH as follows:-

1. A Bill (hereinafter referred to as “the Bill”) has been introduced and is now pending in your honourable House entitled “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 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 the Environmental Impact Assessment Regulations.
6. The works proposed to be authorised by the Bill are specified in clauses 1 and 2 of and Schedules 1 and 2 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 and Schedules 2 and 3 to the Bill.
7. 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.
8. 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.

#### **The Petitioners**

9. Your Petitioners are:
  - (a) Lord Richard Wellesley and Lady Joanna Wellesley ('the Owners') as freehold owners of Stutchbury Manor Farm, a farm on the Marston St Lawrence Estate which is situated near Brackley in Northamptonshire (in respect of plots 1, 4, 5, 6, 7, 8, 9 and 11 in the Parish of Marston St Lawrence);

- (b) Lord Richard Wellesley, Lady Joanna Wellesley and Mrs Natasha Halliday ('the Partners') as partners in the Marston St Lawrence Farm Partnership: a farming business (in respect of plot 14 in the Parish of Marston St Lawrence and plots 86, 89, 91, 98 and 99 in the Parish of Greatworth);
- (c) Lord Richard Wellesley, Lady Joanna Wellesley and Mrs Sarah Wood ('the Trustees') as Trustees of Lady Joanna Wellesley's 1987 Children's settlement (in respect of plots 13, 15, 17 and 23 in the Parish of Marston St Lawrence and plots 3 and 8 in the Parish of Thorpe Mandeville);
- (d) Mr Stephen Goodwin as tenant of The Trustees (in respect of plots 13, 15, 17 and 23 in the Parish of Marston St Lawrence and plots 3 and 8 in the Parish of Thorpe Mandeville); and
- (e) Lord Richard Wellesley and Mr Tom Halliday ('the Directors') as directors of Marston Power Limited ('MPL')

### **The Marston Estate**

10. The Marston Lawrence Estate ('the Estate') was assembled by Lady Wellesley's father and the majority of the Estate is now owned absolutely by the Owners. It is a traditional farming estate occupied as both a business and a home for many years.
11. The Stutchbury Manor Farm ('the Farm') is farmed by the Partners. The Farm is an arable and dairy farm, including a 150 dairy unit. The farm will be bisected by HS2 during the works to construct the Greatworth Green Tunnel, programmed to be undertaken over a six and a half year period. 41.7ha (c.100acres) of the farm's grass and arable land is required by the Promoter during the works, and the scale of construction effect is identified in the Promoter's Environmental Statement as 'major/moderate adverse due to proportion of holding required, severance during green tunnel construction and high sensitivity of holding'. The consequences to management of the farm as a whole and the dairy unit in particular are significant.
12. Upon completion of the Greatworth Green Tunnel 39.7ha is proposed to be returned to the Partners, however the Promoter has not provided any information about ownership and occupancy arrangements subsequent to completion of the works. Your petitioners also have concerns about the effect of the HS2 works on the quality of the land to be returned to them, as the methodology for soil storage and reinstatement has not been specified.
13. The Farm grows arable crops and maize in a rotation for both the dairy unit and MPL's Anaerobic Digestion Plant ('AD Plant'). Much of the land growing maize for

both businesses is to the south of the Estate; uninterrupted access for these businesses is critical and must be maintained without interruption to prevent disruption to the businesses.

14. MPL operates from a site adjoining the dairy unit at Stuchbury Farm with the benefit of a 21 year lease granted in March 2012 with 19 years unexpired at the date of this petition. This represents a £3,000,000 million investment by the Owners and MPL in a Green renewable energy enterprise. No land is being taken from MPL, however access between the AD Plant and the maize being grown to power it will be affected by the HS2 proposals, which could have a significant impact on MPL's ability to operate the AD Plant should there be any interference with crucial activities including the harvest and delivery of maize and the spreading of digestate.
15. Part of the Estate is in the separate legal ownership of the Trustees and includes two let farms and other let residential properties. The Trustees' ownership includes Home Farm and Costow Farm, which are currently let under a single tenancy to Mr Goodwin. Both of Mr Goodwin's farms are currently capable of being let and farmed independently of one another, however the effect of the HS2 land-take will mean that Costow Farm will not be capable of being let and farmed independently in the future.
16. 20.2ha (c.49acres) of land is proposed to be permanently acquired from Costow Farm, an arable and livestock unit. The land is included in the Bill for the purpose of the Greatworth Green Tunnel North Portal and associated infrastructure, the railway and for environmental mitigation purposes.
17. The Owners and The Trustees also own other property close to the proposed route of the railway which is the subject of the Bill ('HS2').
18. The Owners, the Trustees, the Partners and Mr Goodwin are very concerned, amongst other aspects of the proposals, about the impact of HS2 on water supply: both the Trustees and the Owners provide spring-fed pumped water supplies to the Farm and Costow Farm respectively. There are also historic field under-drainage systems which serve the farms. The heavy soil in the locality requires drainage and there is great concern at the impact on field drainage of returned restored land with a tunnel traversing the spring line.

## Your Petitioners' Objections

19. Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioner(s) object for reasons amongst others, hereinafter appearing.

- a. Objection: The scheme design has not investigated local field hydrology or under-drainage.

Amplification: There will be significant disturbance to soil structure: top and subsoil may be mixed, there is a risk of compaction, a change in levels and other factors will alter the natural drainage patterns.

The fields contain under-drainage systems to assist the natural drainage and enable later autumn or earlier spring cultivations. The line will sever pipe runs to mains and ditches.

Your petitioners note that the draft Code of Construction Practice commits the Promoter's nominated undertaker to:

- |            |                                                                                                                                                                                                           |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Para 6.1.1 | 'identify watercourses and, where known, field drainage layouts and outfalls into watercourses or ditches, fixed irrigation pipes and sources of irrigation water and fixed water supplies for livestock; |
| Para 6.2.2 | undertake surveys 'to record drainage, irrigation and water supplies' prior to commencing works; and                                                                                                      |
| Para 6.2.6 | take 'reasonable precautions during the design and construction of the Proposed Scheme to identify, protect and maintain existing land drainage, irrigation and livestock water supply systems'.          |

However, your petitioners are concerned that there is no commitment by the Promoter to prepare models to anticipate the potential effect of the Works on soil structures or drainage systems, or to agree mitigation measures with the Petitioners in advance of commencement of the Works. Damage caused to the Petitioner's retained land and land which will be restored to the Petitioners as a result of damage or severance of existing drainage systems, or by mixing or compaction of soils may result in uncompensated losses.

**Proposal:**

**A detailed local hydrological survey should be carried out of the current hydrology, models made to anticipate the potential effect, mitigation measures agreed with your Petitioners and incorporated as an element of the design.**

- b. **Objection: the scheme design has not taken account of The Trustees' RAM water supply system used by Mr Goodwin in his farming system. This could potentially leave Costow Farm without water.**

The Owner's and Partner's water supply at the Farm is from a pumped spring fed supply: the Petitioners are gravely concerned at the disturbance that the tunnel excavations may cause to underground watercourses.

Amplification: RAM powered siphon-gravity systems are almost impossible to move and it appears that the Greatworth Green Tunnel North Portal removes the critical highest point of the system, which would cause a reduction in water pressure throughout the system.

The impact on water supply to the Farm has been assessed only by a desk-top hydrology assessment in the Environmental Statement which concluded that there was potential for disruption. Your Petitioners note that the Code of Construction Practice commits the Promoter to take reasonable precautions to 'identify, protect and maintain' livestock water supplies, but this commitment does not extend to water supplies required in connection with other purposes, for example in connection with the operation of AD Plant.

Your Petitioners also note that surveys will be undertaken to identify water supplies in advance of the commencement of works, however your Petitioners are very concerned that no commitment is provided by the Promoter in relation to the monitoring of water supplies during the carrying out of the Works or upon completion of the Works to anticipate or provide for any impact on the spring systems. Your Petitioners are also concerned that no commitment is provided by the Promoter to provide any corrective measures subsequent to completion of the Works in the event of disruption to water supplies caused by the Works.

Neither the Farm's dairy unit nor the livestock enterprise at Costow Farm could continue without these water supplies. Furthermore, there would be a grave threat to the feasibility of MPL's Anaerobic Digestion Plant without this water

supply, which could result in significant losses which are not currently capable of being compensated under the provisions of the Compensation Code.

**Proposals:**

- 1 A detailed survey of the existing RAM water supply, the source of the supply and the potential impact on that supply and the operation of the system should be undertaken prior to commencement of the Works.**
  - 2 Proposals should be incorporated as an element of the scheme design to protect the existing supplies and the operation of the systems.**
  - 3 The Promoter should take all reasonable measures to identify, protect and maintain all water supplies to the Petitioner's properties throughout the Works, irrespective of the purpose of the supply.**
  - 4 The Promoter should ensure that the water supplies provided to Costow Farm and Stutchbury Manor Farm throughout and upon completion of the Works are no less commodious than the existing supply.**
  - 5 The Promoter should undertake to carry out any works required to maintain and/or repair the water supply within the land to which it undertakes Works for a period of five years after completion of the Works, or otherwise undertake to reimburse the Petitioners the reasonable costs associated with undertaking such maintenance and/or repair works.**
- c. **Objection:** The Petitioners are concerned that there is no proposal for the title basis upon which land will be returned to the Owners subsequent to completion of the Works to construct the Greatworth Green Tunnel.

Amplification: Table 5 within Volume 2 of the Community Forum Area ('CFA') Report for CFA 15 states that the land above the Greatworth Green Tunnel will be restored upon completion of the Works. Your Petitioners understand that it is intended that the land will be returned to them for their farming use. The legal mechanism for this is unclear: whether the freehold of the land will be retained by the Owners subject to rights granted to the Promoter; or whether the Promoter will acquire the freehold and grant a licence.

**Proposal:**

Upon completion of the Works and prior to the railway coming in to operation the Promoter shall undertake to return the restored land to the Partners and the Promoter shall limit its use of the compulsory acquisition powers contained within the Bill to acquire only such rights that it reasonably requires to operate and maintain the railway. For the avoidance of doubt your Petitioners consider that there is no compelling case for the freehold interest in the land to be acquired by the Promoter and therefore your Petitions seek an undertaking that the freehold interest shall be retained by the Owners.

- d. Objection: Your Petitioners are concerned at the absence of any reference to post scheme noise monitoring and mitigation.

Amplification: The Promoter's document reference ES 3.5.2.15.10 contains information on current ambient noise generation which can be regarded as a base line. Documents ES 3.5.2.15.11 and ES 3.5.2.15.12 make reference to subsequent projected noise levels during construction and when the railway becomes operational respectively (in language that is not understandable to the layman).

Your Petitioners are concerned to ensure that properties further away from the line, whether or not they qualify for compensation pursuant to Part I of the Land Compensation Act 1973, are protected in the event that there is demonstrable harm to the amenity and ambience enjoyed by the property in the 'no-scheme world'.

**Proposals:**

- 1 Pre and post scheme background ambient noise surveys should be made in respect of each property in your Petitioner's ownership
  - 2 An undertaking should be provided by the Promoter that noise emanating from the carrying out of the Works and from the operation of the railway shall not exceed a pre-agreed threshold at all residential property, as has been agreed for other infrastructure schemes promoted through Transport and Works Act Orders.
- e. Objection: your Petitioners are concerned at the potential for interference with, in particular, maize harvest agricultural traffic.

Amplification: The Anaerobic Digestion Plant is fuelled by maize which is harvested in mid to late October over two weeks from fields further south and

'clamped' on site. This involves up to 800 tractor and trailer movements over a short period of time. The weather at the time of year can mean that if the opportunity is missed because of the inability to move the maize for whatever reason the maize can be lost.

Paragraph 12.4.12 of the Promoter's document reference ES3.2.1.15 states:

'Construction of the Proposed Scheme is expected to result in changes in traffic flows and delays to vehicle users due to increased traffic flows from workers and construction vehicles accessing compounds and also temporary road closures and diversions'

The following paragraph states that 'these changes in traffic flows will lead to significant increases in delays to vehicle users and congestion' at a number of junctions which are used by the Petitioners during the maize harvest period.

There is no protection for MPL against disruption and losses that may be caused in the event that delays are caused by increased traffic volumes, in whatever form, using the Public Highway. This may lead to uncompensated losses.

**Proposal:**

**The Promoter shall undertake to liaise with the Petitioners and have reasonable regard to the Petitioner's requirements for transporting maize from the south of the Estate to the Farm within a time-critical period, usually around October of each year. Upon being informed by the Petitioners of the commencement of the maize harvesting period the Petitioners request that the Promoters use reasonable endeavours to minimise the number of vehicle movements along Welsh Road and Welsh Lane for a two week period, or otherwise agree an alternative route between the south of the Estate and the Farm which the Promoters will undertake not to use in connection with the Works during that period.**

- f. Objection: The Petitioners understand that the land above the Greatworth Green Tunnel is intended to be restored to agricultural use upon completion of the Works. However, the Promoter has provided no detailed information about whether the land affected will be capable of being used and managed in the same way as it is currently used and managed, or what rights in favour

Amplification: The Promoter has indicated that the load bearing capacity of the land above the Greatworth Green Tunnel will be sufficient for agricultural vehicles to operate. It is not clear what the practical and operational limitations may be on this and whether there may be limitations which will affect the

business. For example, will the load-bearing capacity allow for a loaded grain cart?

Furthermore, ordinary agricultural activities include for example sub-soiling and field drainage activities which require the use of sub-soil. The section drawing of work number 2/111 on sheet no. 5.31 of the Promoter's document reference PLN2.1.5.1 indicates that at the most shallow point the soffit level of the Greatworth Green Tunnel will be 3.49m below ground level. Whilst this depth does provide for ordinary agricultural activities, your Petitioners understand that the Promoter may acquire rights or register restrictive covenants to enable a 'protection zone' around the tunnel structure, and at present there is no indication of a) what the extent of the protection zone will be or b) what activities will be restricted within the protection zone.

**Proposal:**

**The Promoter shall undertake to use all reasonable endeavours to ensure that the restored land will be capable of being used for the same agricultural purposes to those for which it is presently used. In the event that the Partner's use of the restored land above the Greatworth Green Tunnel is to be restricted in any way the Promoter shall undertake to acquire the freehold interest in the land and, in the event that the freehold interest in the land above the Tunnel is acquired, the Promoter shall provide accommodation works to enable the Partners to access any of their retained land which would otherwise be severed.**

- g. **Objection:** A barn known as Dean's Barn is within the Limits of Deviation on the Parliamentary Plans and is safeguarded for HS2. Consequently it is not capable of being sold due to the impact of HS2. Sale monies will not be receivable until the compensation process begins and then only when agreed.

**Amplification:** Dean's Barn is a traditional stone barn which was on the point of being repaired with a view to applying for change of use for residential purposes. Upon receipt of notification that the barn would need to be demolished, the repairs scheme was cancelled and, during the storms of last winter, a wall and the roof collapsed. In April 2014 legislation was introduced allowing greater flexibility in the planning regime under which, upon giving prior notice to the local planning authority, the barn could have been used for residential purposes, and could reasonably be expected to have been sold for £500,000. This option and significant business opportunity is now no longer available and has made bank negotiations difficult.

**Proposal:**

**Your Petitioner's request that the Promoters immediately acquire Dean's Barn and pay compensation to reflect its residential conversion value. Otherwise the Petitioner's request that the Promoters acquire Dean's Barn immediately upon the HS2 Act receiving Royal assent.**

- h. **Objection:** The proposed compensation does not allow for the management and specialist time and costs involved since the date the proposed HS2 scheme was first announced for consultation.

The statutory compensation code does not specifically provide for the recovery of additional costs involved as a result of the very specialist areas of both law and valuation arising out of the proposed scheme in order to protect your Petitioner's interests. Furthermore your Petitioners are under a duty to mitigate their potential losses which, in relation to large estates such as that of your Petitioners, requires the retention of specialist advisors.

**Amplification:** The Petitioners, owning property and managing significant businesses, need to anticipate and plan for the potential impact of HS2 as the scheme impact and design become clearer. This has involved obtaining specialist consultancy and legal advice, which has entailed additional costs to the Petitioners. Although these costs have been kept to a minimum by using internal resources wherever possible, there has also been an additional amount of management time committed to dealing with the impact of HS2 on the Estate.

**Proposal:** Your Petitioners request that all reasonable professional fees and costs reasonably incurred by your Petitioners in pursuit of mitigating losses should be reimbursed by the Promoter on an ongoing basis. Your Petitioners understand that a Fee Memorandum has been agreed with agents acting for other affected landowners, and request that a similar basis of reimbursement should be offered to their agent, Mr David Sherborn-Hoare. To date your Petitioners have incurred costs totalling £15,000 in that regard, details of which can duly be provided in evidence.

- i. **Objection:** The compulsory nature of the proposed acquisition is not reflected in the compensation code.

**Amplification:** The compensation is based upon market value, injurious affection and severance, and disturbance with the relevant date for the assessment of

compensation being the date of entry onto the land. No costs are expressly allowable prior to that date. Compulsory acquisition on this scale and the law and procedures associated with these processes are complicated and require specialist advice. This need is an imposition directly arising out of the compulsory nature of the process and for which no recognition is made.

Neither does the Compensation Code recognise and compensate for the re-organisation of a business or the purchase of property under the threat of compulsory acquisition. The very fact that an action is being compelled without choice is a matter that should of itself be compensated. There is 'Purchase Compensation' but not 'Compulsory Purchase Compensation'.

**Proposal:**

**The statutory compensation code should be amended to reflect the compulsory nature of the acquisition. This could be done quite simply by offering a specific enhancement in addition to the agreed open market value based compensation (as happens elsewhere on the continent).**

J Objection: The compensation provisions under Schedule 15 of the Bill are inadequate

Amplification: Your Petitioners are concerned that there is no certainty that costs incurred in connection with HS2 Limited's temporary occupation of the Petitioner's land will be capable of being satisfactorily compensated under the provisions of Schedule 15 of the Hybrid Bill. Paragraphs 4(4) and 7(3) of Schedule 15 of the Bill state that landowners may be compensated 'for any loss which they may suffer by reason of the exercise'. This differs from provisions usually incorporated within Transport and Works Act Orders, which generally provide for 'all costs and losses' to be compensated where land is temporarily possessed. The limitation of Schedule 15 to 'any loss' appears to exclude costs which may reasonably be incurred by a landowner (for example the cost of additional diesel required in order to use alternative routes to access retained land), and runs against the principle of equivalence upon which the Compensation Code is based.

**Proposal:**

**Your Petitioners request that Paragraph 4(4) and Paragraph 7(3) of Schedule 15 of the Hybrid Bill be amended to state:**

**4(4) "...for any loss which they may suffer and any costs or expenses incurred by reason of the exercise in relation to the land..."**

**7(3) “The nominated undertaker must pay compensation to the owners and occupiers of the land for any loss which they may suffer *and costs or expenses incurred* by reason of the exercise in relation to the land of the powers under paragraph 6”.**

**Otherwise, your Petitioners request that a personal undertaking be provided to enable the Petitioners to recover reasonable costs and expenses incurred in addition to losses suffered in consequence of HS2 Limited occupying any of the Petitioner’s land on a temporary basis.**

20. Your Petitioners object to the powers that are proposed to be provided by the Bill to the Secretary of State and the Nominated Undertaker and respectfully submit that the Bill should be amended or undertakings should be required so that HS2 Limited, the Secretary of State and/or the Nominated Undertaker should review the construction strategy, mitigation proposals and compensation provisions for the HS2 project and its related works by considering their cumulative impacts on the Petitioners’ various business interests which are carried out at the Estate .
21. Your Petitioners have made proposals for meeting their objections and respectfully suggest that either these or other changes that would meet the objections (to be proposed to and agreed with your Petitioners) should be incorporated before the Bill passes in to law.
22. For the foregoing and connected reasons your Petitioners respectfully submit that, unless the Bill is amended as proposed above, so far affecting your Petitioners, should not be allowed to pass into law.
23. 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 they 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.

Sharpe Pritchard LLP

Agents for

Lord Richard Wellesley  
Lady Joanna Wellesley  
Mrs Sarah Wood  
Mrs Natasha Halliday  
Mr Tom Halliday  
Mr Stephen Goodwin

HOUSE OF COMMONS

SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS)

P E T I T I O N

of

- (1) LORD RICHARD WELLESLEY
- (2) LADY JOANNA WELLESLEY
- (3) MRS SARAH WOOD
- (4) MRS NATASHA HALLIDAY
- (5) MR TOM HALLIDAY
- (6) MR STEPHEN GOODWIN

---

AGAINST,

BY COUNSEL, &c.

Sharpe Pritchard LLP  
Elizabeth House  
Fulwood Place  
London WC1V 6HG  
Parliamentary Agent

Sharpe Pritchard LLP  
Elizabeth House  
Fulwood Place  
London  
WC1V 6HG

Dear Sirs

I hereby authorise Sharpe Pritchard LLP to act as Agent on my behalf in all matters relating to the High Speed Rail (London – West Midlands) Bill.

Signed

A rectangular area that has been redacted, obscuring the signature of the authorizing party.

NAME: STEPHEN JOHN GODDWIN

Date: 12<sup>th</sup> MAY 2014

The Estate Office,  
Marston St Lawrence,  
Banbury,  
Oxon,  
OX17 2DA.