

IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2013-2014

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

PETITION

Against – On merit – 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

Mr Patrick Dillon of Dunton Hall in the Parish of Curdworth, North Warwickshire

SHEWETH as follows;

1. A Bill (hereinafter referred to as “the Bill”) has been introduced and now is 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 (hereinafter referred to as ‘the Promoter’), 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 Patterson, Secretary Edward Davy, and Mr Robert Goodwin.
3. Clause 1 to 36 set out the Bill’s objectives in relation to the construction and operation of the railway mentioning 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 display 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 of the railway.
 5. Clauses 43 to 65 of the Bill set out a number of miscellaneous and general provisions, including provisions 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, provisions about the compulsory acquisition of land for a regeneration, reinstatement of works and provisions about further high speed rail works. Provision is also made about the application of 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.

Locus Standi

7. Your Petitioner is Mr Patrick Dillon. Your Petitioner has *locus standi* as the owner of Dunton Hall, Kingsbury Road in the Parish of Curdworth. Your Petitioner's landholding includes plots 87, 95, 96, 99, 100, 101, 102, 103, 103a, 106, 108, 108a, 109 and 110 in the Parish of Curdworth in the District of North Warwickshire, as identified on the Promoter's Parliamentary Plans and within the Book of Reference.

Overview

8. Your Petitioner's landholding extends to approximately 100 acres. The residential property of Dunton Hall and its associated land, buildings and structures are Grade II listed and of significant historical importance. Your Petitioner has owned and occupied Dunton Hall for 37 years, and the property has been in the ownership of your Petitioner's family for over 70 years. The property is within a quiet rural setting and benefits from direct access to Kingsbury Road, providing easy access to the M42 and other major highways.
9. Your Petitioner has utilised the landholding to establish a diverse range of business uses, as identified within the Promoter's Environmental Statement (see paragraph 3.3.30 of Community Forum Area ('CFA') Report 20). Those uses include a kennels business, a dog grooming business, a veterinary clinic, greyhound training and equestrian uses, as well as utilisation of the land for regular car-boot sales, music festivals and grazing of livestock. Your

Petitioner also has advanced proposals for part of the landholding to be let for use as a solar farm, and future plans include the extraction of sand and gravel, with an access route across your Petitioner's land agreed with neighbouring landowners to enable associated vehicles to access directly on to Lichfield Road.

10. The Promoter's proposed scheme will require the permanent acquisition of circa 42 acres of your Petitioner's landholding, and will sever a further circa 43 acres, leaving your Petitioner with only circa 15 acres of accessible land. Additionally, the works will necessitate the demolition of a number of your Petitioner's buildings, and the construction of the railway will interfere with access to your Petitioner's residential property, kennels, dog-grooming business, greyhound training track, veterinary clinic and stables. Both the construction and operation of the railway will have a detrimental impact on the rural setting of the Listed property and garden, which will be impacted by noise, dust and vibration amongst other physical factors.
11. Your Petitioner and their rights, interests and property are injuriously affected by the Bill, to which your Petitioner object for reasons amongst others, hereinafter appearing.

Points of objection

12. Your Petitioner has grave concerns relating to property, compensation and administrative matters and objects to the Bill on the grounds as follows:

- a) **Objection: Severance**

Your Petitioner objects to his retained land being severed and no means of access being provided to part of his retained land. Your Petitioner also objects to the Bill providing for the dis-application of the Railway Clauses Consolidation Act 1845 which removes any obligation on the Promoter to provide accommodation works to enable landowners to access retained land which is severed.

Amplification:

The Bill identifies that land parcels 87, 95, 100, 110 are included in the Limits of Deviation for the purpose of Works number 3/35, 3/36, 3/39C and 3/40, being works to construct a railway, two spur railways and a temporary railway respectively.

The high speed railway is proposed to run within a cutting through your Petitioner's landholding, and the Promoter's Environmental Statement recognises that the proposed acquisition will equate to 40% of your Petitioner's total landholding. This loss of land will re-define the characteristics of your Petitioner's landholding, to the extent that the

Promoter's Environmental Statement identifies the impact as 'major adverse' (table 11 within CFA Report 20). The impact on the setting and characteristics of the landholding are not capable of being financially compensated.

The construction of the railway will sever your Petitioner's landholding. Your Petitioner's retained land will be split in to two disconnected parcels, respectively lying to the east and west of the railway. Your Petitioner's residential property and remaining barns and outbuildings will be located to the west of the railway, with access retained directly on to Kingsbury Road. Your Petitioner will also retain circa 43 acres of land to the east of the railway, to which no means of access is proposed to be provided.

The effect of paragraph 1 within Schedule 6 to the Bill, dis-applying the Railway Clauses Consolidation Act 1845, is that there is no requirement on the Promoter to provide any accommodation works to enable access to severed land. The effect of this in relation to your Petitioner's land is that the Promoter is not proposing to provide any means of access to the land to be retained to the east of the railway, whereby that land will be incapable of being put to any beneficial use by your Petitioner.

The retained land which will be severed to the east of the railway includes part of the land which is currently used for car-boot sales, music festivals and grazing of livestock. Your Petitioner has entered in to an option agreement with Renewable Elements Projects Limited to lease that land, together with land to be permanently acquired by the Promoter, for use as a solar farm.

Additionally, the retained land to the east of the railway and the land to be permanently acquired by the Promoter is identified within Warwickshire County Council's Minerals Core Strategy. Surveys have indicated that circa one million tonnes of sand and gravel lie beneath your Petitioner's land and that of his adjoining landowners. Your Petitioner has entered in to an agreement with neighbouring landowners to enable sand and gravel to be removed via a route over his land, to the A4097 Lichfield Road. No viable alternative means of removing excavated materials is available.

Upon completion of the Works authorised by the Bill your Petitioner will be unable to use its retained land to the east of the railway for any of the abovementioned uses, owing to the fact that no access is being provided to it either directly from your Petitioner's retained land to the west of the proposed railway, or from the highway network.

The Promoter's Environmental Statement states that the effect of severance on your Petitioner's landholding is 'low' (Table 11 within

Community Forum Area Report 20). Your Petitioner considers this analysis to be wholly inaccurate for the aforementioned reasons. Neither the Code of Construction Practice nor any of the Promoter's Information Papers provide any comfort in this regard.

Proposals:

1. **Your Petitioner requests that the Bill be amended to remove paragraph 1 of Schedule 6 to the Bill.**
2. **Your Petitioner requests that the Bill be amended to provide for a road overbridge to be constructed by the Promoter to provide direct access between your Petitioner's retained land to the east and west of the proposed railway. Without a road overbridge being provided over 43 acres of your Petitioner's retained land to the east of the railway will be inaccessible and incapable of beneficial use.**

b) **Objection: Utility connections**

Your Petitioner's landholding to the east of the railway will not be served by water, electricity or other utilities.

Amplification:

On the basis that your Petitioner is provided with a means of access to his severed land, as requested to overcome the aforementioned point of objection, your Petitioner would expect to be able to use that land for the same purposes as it is currently capable of being used. In order to enable that it will be necessary for utilities to be available on the land.

Your Petitioner is currently able to run a private electricity supply across his landholding. Additionally, the land that will be severed by the railway benefits from a mains water supply. The Promoter has provided no indication that any utilities will be provided to the severed land after the railway has been constructed.

Proposal:

Your Petitioner requests an undertaking that the Promoter will retain his private electricity supply to the severed land from the point of connection, and provide a mains water supply to the severed land.

c) **Objection: Construction access**

Access to your Petitioner's primary residence, the veterinary clinic and other properties at Dunton Hall will be unnecessarily interfered with during the Phase One Works, for a period of up to four and a half years, causing damage to the businesses operating from Dunton Hall and your Petitioner's use of the property as his primary residence.

Amplification:

The Promoter is proposing to utilise your Petitioner's sole access / egress route throughout the period of the Phase One Works. The existing access road is unsuitable for two-directional traffic and will need to be upgraded significantly to be capable of being regularly used by heavy construction vehicles and machinery.

If the Promoter does use this means of access it will have a detrimental effect on your Petitioner's businesses and on his use of his primary residence. It is reasonable to assume that customers will be disinclined to use the veterinary business, kennels and equestrian facilities if access to the property is impeded by construction vehicles, and the noise and dust emanating from large construction vehicles using the access road is likely to have a detrimental impact on the health of dogs and horses at the property.

Your Petitioner has informed the Promoter that he is prepared to make available an alternative means of access through his landholding, so that the existing access route can be retained for the exclusive use of your Petitioner and the businesses operating from Dunton Hall.

Your Petitioner acknowledges that the Promoter's Information Paper D11 includes a commitment that the Promoter's nominated undertaker will retain access to residential and commercial property during construction 'where reasonably practical'. However, your Petitioner is concerned that this commitment is not legally binding and your Petitioner considers that the commitment is not satisfactory in relation to Dunton Hall, where any disruption to vehicular access will result in significant disruption both to the business uses and your Petitioner's use of his primary residence.

Proposals:

- 1. Your Petitioner requires an undertaking that uninterrupted vehicular access to Dunton Hall along the existing access route will be retained throughout the Promoter's works.**
- 2. Your Petitioner is prepared to allow the Promoter to construct an alternative means of access across his landholding for use by the Promoter in connection with the Works. Your Petitioner would require the land used for the alternative means of access to be reinstated to an agreed specification upon completion of the Promoter's Works, unless agreed otherwise.**
- 3. Alternatively, if the Promoter is to use the existing access your Petitioner requests an undertaking that the Promoter will upgrade**

the existing access to highway standards, to enable it to be used for two-directional traffic.

d) Objection: Working hours

The Promoter's proposed core working hours clash directly with the key weekday hours of the businesses operating from Dunton Hall.

Amplification:

As explained above, a number of businesses operate from Dunton Hall. The core operating hours for the veterinary practice and the check-in and check-out period for dogs at the kennels business is between 0900 and 1700 on weekdays. The core working hours identified within the Promoter's Code of Construction Practice clash directly with those hours, and your Petitioner considers that this is likely to lead to disruption to the businesses and loss of profits.

Notwithstanding that your Petitioner occupies Dunton Hall as his primary residence, his preference would be for night time working to be undertaken in this area, so as to minimise disruption to the business activities.

Proposal:

Your Petitioner requests that any works which require access over his land be undertaken outside of the hours of 0900 and 1700 on weekdays, and that this commitment be reflected within the Local Environmental Management Plan for this area.

e) Objection: Noise during construction and operation of the railway

Noise during the carrying out of the Phase One Works and emanating from the operation of the railway will have a detrimental effect on Dunton Hall and the businesses operating from the property. The mitigation measures proposed by the Promoter do not include measures suitable to Listed Buildings such as Dunton Hall.

Amplification:

Your Petitioner is concerned as to the impact of noise on his use of Dunton Hall as his primary residence and on the commercial businesses which provide animal welfare facilities. The Promoter's Environmental Statement (para 11.3.11 of CFA Report 20) states that Dunton Hall will experience noise levels above the noise insulation trigger levels as defined in the draft Code of Construction Practice during the carrying out of the Works.

Furthermore, the Environmental Statement recognises that the kennels and equestrian services operating from Dunton Hall are sensitive to change in noise and vibration levels (Table 7 within CFA Report 20), and that the introduction of train noise will adversely affect the setting and character of Dunton Hall, resulting in a high adverse impact (para 6.5.9 of CFA Report 20).

Your Petitioner acknowledges that Information Paper E23 includes a range of mitigation measures to be implemented by the Promoter's nominated undertaker. However your Petitioner is concerned that measures such as installing secondary or thermal double glazing may not be permissible in relation to Dunton Hall, due to it being a Listed Building.

Your Petitioner has no desire to be temporarily re-housed during the carrying out of the Works, as that would mean that his businesses would need to be closed down for that period.

Your Petitioner acknowledges that he may be entitled to claim compensation for the injurious affect of the railway on the value of Dunton Hall. However, he is concerned that the impact of the noise emanating from the railway on his commercial uses will have an ongoing detrimental effect, potentially prejudicing the future use of Dunton Hall and its associated buildings for animal welfare purposes. This impact is not capable of being financially compensated under the provisions of the Compensation Code.

Proposal:

- 1. Your Petitioner requires the Promoter to undertake to implement noise mitigation measures at source during the carrying out of the Works, and to use all reasonable endeavours to ensure noise levels at Dunton Hall do not exceed 65dB.**
- 2. Your Petitioner requires the Promoter to install noise barriers and screening along the top of the railway cutting to a specification that is agreed with your Petitioner and which ensures that noise emanating from the operation of the railway will not exceed 65dB at Dunton Hall.**

- f) **Objection: Costs need to be incurred in advance of compulsory acquisition.**

Your Petitioner will need to incur significant costs in advance of his land being compulsorily acquired, to enable the business uses currently undertaken at Dunton Hall to continue during and after completion of

the Promoter's works. Your Petitioner does not have sufficient funds to incur the costs that will be required.

Amplification:

The Promoter has confirmed that three barns belonging to your Petitioner are likely to be required to be demolished as part of the Phase One Works. These barns are used in connection with your Petitioner's kennels and dog grooming businesses. In order to avoid the kennels business being extinguished your Petitioner has recognised that, subject to obtaining planning consent, it will be necessary to erect new kennels elsewhere on his landholding in advance of the Promoter's works commencing.

The same situation applies in relation to the greyhound training track, which will be lost to the scheme, and facilities associated with your Petitioner's equestrian business.

These costs will be significant and the Promoter has refused to assist financially with the up-front costs, and has refused to agree that the costs will be recoverable as part of your Petitioner's compensation entitlement following compulsory acquisition, whereby your Petitioner is disinclined to carry out the works.

Proposal:

Your Petitioner requests an undertaking that the Promoter will pay all reasonable costs associated with your Petitioner obtaining planning consent and undertaking works to provide replacement facilities for the kennels, dog-grooming, greyhound training and equestrian businesses operating from Dunton Hall.

Your Petitioner is aware of the provisions of the statutory Compensation Code and is concerned that it provides insufficient certainty that costs incurred and losses suffered in advance of the service of acquisition notices will be reimbursed.

Without the requested undertaking from the Promoter your Petitioner is unable to afford the costs that would need to be incurred in order to provide replacement facilities for the businesses that will be affected and buildings that will be demolished by the Promoter's works. This may result in an increased compensation entitlement due to one or more of your Petitioner's commercial uses being extinguished, which your Petitioner considers would be unsatisfactory for all parties.

- g) Objection: Kingsbury Road overbridge should be constructed as a dual carriageway**

Your Petitioner considers that the roadbridge proposed to be constructed to enable Kingsbury Road to cross over the railway, between Blackgreaves Lane and the M42/Lichfield Road roundabout, should be constructed as a dual carriageway.

Amplification:

Having regard to the Promoter's Traffic and Transport report, your Petitioner does not believe that a meaningful assessment of the future volume of traffic using that section of road has been undertaken. The tables within the Promoter's Traffic and Transport report which assess traffic flows and queue times at junctions do not consider the period beyond 2021. Your Petitioner considers the report to be inadequate in that regard, not least because the report identifies that increases in the number of journeys along that road will not peak until between 2023 and 2027, when the Kingsbury Road railhead compound is planned to be used.

Your Petitioner is of the opinion that if assessments had been undertaken to consider the number of vehicle movements along Kingsbury Road beyond 2021, and the queue time at the Kingsbury Road / Lichfield Road / M42 roundabout beyond 2021, the report would conclude that a single carriageway road is inadequate, and that a dual carriageway roadbridge is the appropriate measure.

Proposal:

Your Petitioner proposes that the Kingsbury Road overbridge be constructed as a dual carriageway, or alternatively that it is constructed in such a manner to provide passive provision for it to be widened to a dual carriageway in the future.

h) Objection: Location of lay-by on west-bound Kingsbury Road

Your Petitioner considers that the proposed location of the replacement layby on the westbound carriageway of the realigned Kingsbury Road is located too close to the access / egress to Dunton Hall.

Amplification:

Your Petitioner is concerned that the proposed location of the lay-by is unsafe and will impinge on the line of sight for vehicles turning right from the Dunton Hall access road.

Proposal:

Your Petitioner proposes that the replacement lay-by should be provided at an alternative location.

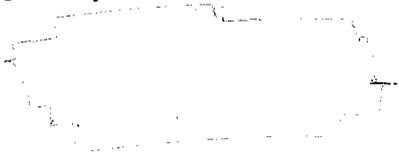
Conclusion

13. 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 to overcome your Petitioners objections.
14. 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.
15. There are other clauses and provisions in the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners and their rights, (including their human rights) interests and property and for which no provision is made to protect your Petitioners and other clauses and provisions necessary for their protection and benefit are omitted therefrom.
16. 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.

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.

Signed by Jonathan Stott MRICS



Agent for and on behalf of:
Mr Patrick Dillon

IN PARLIAMENT

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SESSION 2013-14**

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