

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: CANAL & RIVER TRUST

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.

*Clauses of the Bill*

- 3 Clauses 1 to 3 of the Bill, together with Schedules 1 to 4, make provision for the construction and maintenance of the proposed works including the ‘Scheduled Works’ set out in Schedule 1. Provision is included to confer powers for various works and operations, including railway, highway and other building and engineering works and operations. Powers are also included to enable entry onto and interference with land and buildings for investigatory, protective and other purposes, together with powers to enable occupiers to be required to undertake works to trees, powers to use watercourses, public sewers and drains for drainage purposes and powers temporarily to interfere with and use waterways.
- 4 Clauses 4 to 18 of the Bill, together with Schedules 5 to 15, make provision for the compulsory acquisition and the temporary use of land and for the extinction or exclusion of certain rights in land. Provision is also included for the application or variation of compensation provisions.

- 5 Clauses 19 to 36 of the Bill, together with Schedules 16 to 26, make provision for the grant of planning permission and other consents and for the disapplication or modification of various controls, including those relating to heritage, water, building control, party walls, street works, lorries, noise and local legislation.
- 6 Clauses 37 to 42 of the Bill, together with Schedules 27 and 28, make provision for railway matters. Provision is included for the application (with modifications) and disapplication in parts of the existing railways regulatory regime, enabling agreements to be required to be entered into between the nominated undertaker and controllers of railway assets and other railway facilities and for the transfer of statutory powers in relation to railway assets.
- 7 Clauses 43 to 65 of the Bill, together with Schedules 29 to 31, contain general and miscellaneous provisions. These include provision for the designation of nominated undertakers, the making of transfer schemes, provision for statutory undertakers, provision for the compulsory acquisition of land for regeneration and for relocation purposes, and powers for the reinstatement of land. Provision is also included to apply powers of the Bill to further high speed works, to confer a power of entry for further high speed works, as to the application of the Environmental Impact Assessment Regulations and as respects the application of arbitration.

*Your Petitioner*

- 8 Your Petitioner is a charity registered with the Charity Commission and a company limited by guarantee registered in England & Wales which was set up to care for England and Wales' legacy of 200-year-old waterways, holding them in trust for the nation forever. Your Petitioner is among the UK's largest charities, with responsibility for 2,000 miles of canals, rivers, docks and reservoirs, along with museums, archives, 63 Sites of Special Scientific Interest, over 1,000 wildlife conservation sites, and the country's third largest collection of protected historic buildings.
- 9 Your Petitioner was launched in July 2012, taking over responsibility from British Waterways and The Waterways Trust in England and Wales from which it inherited its statutory duties to ensure continuous navigation on its waterways for vessels of specified dimensions; to maintain the safety and structural integrity of waterway infrastructure, water supply, discharges and drainage, waterway management and maintenance operations, including maintaining water levels for navigation purposes; to protect and safeguard the natural environment, landscape character and built heritage of waterways; as well as to encourage public access to and recreation use of the inland waterways.

- 10 In addition, as a registered charity, your Petitioner has a range of charitable objects including:
- (a) to preserve, protect, operate and manage inland waterways for navigation, for walking on towpaths and for recreation or other leisure-time pursuits of the public in the interest of their health and social welfare;
  - (b) to protect and conserve sites, objects and buildings of archaeological, architectural, engineering or historic interest on, in the vicinity of, or other associated with inland waterways;
  - (c) to further the conservation, protection and improvement of the natural environment and landscape of the inland waterways;
  - (d) to promote, facilitate, undertake and assist in the restoration and improvement of inland waterways;
  - (e) to promote and facilitate awareness, learning and education about inland waterways, their history, development, use, operation and cultural heritage; and
  - (f) to promote sustainable development in the vicinity of any inland waterway.
- 11 Your Petitioner is also subject to statutory and common law duties applicable to all charities, including the restrictions on disposals of interests in its land in Part 7 of the Charities Act 2011.
- 12 Your Petitioner holds its operational property (its waterways, towpaths and associated infrastructure) as sole trustee for the Waterways Infrastructure Trust and may not dispose of any of this land without the prior consent of the Secretary of State pursuant to the terms of the Trust Settlement between your Petitioner and the Secretary of State for Environment, Food and Rural Affairs, dated 28 June 2012.
- 13 Your Petitioner and its rights, interests and property are injuriously affected by the Bill, to which your Petitioner objects for the reasons amongst others, hereinafter appearing.
- 14 The Bill affects your Petitioner's rights, interests and property at the following locations:
- (a) Regent's Canal, Camden;
  - (b) Grand Union Canal, Paddington Arm, Scrubs Lane;
  - (c) Grand Union Canal, Paddington Arm, Northolt;
  - (d) Grand Union Canal, Denham;

- (e) Grand Union Canal, Wendover Arm, near Wendover;
- (f) Oxford Canal, Boddington Feeder, near Boddington;
- (g) Oxford Canal, near Wormleighton;
- (h) Grand Union Canal, near Longhole Bridge;
- (i) Birmingham & Fazeley Canal, Curdworth Flight;
- (j) Wyrley & Essington Canal and Lichfield Canal, Cappers Lane, Lichfield;
- (k) Birmingham & Warwick Junction Canal, Saltley;
- (l) Birmingham & Warwick Junction Canal, Digbeth;
- (m) Trent & Mersey Canal, Fradley.

15 Your Petitioner owns or has an interest in properties that are subject to compulsory acquisition or use under the Bill at those locations listed at paragraph 14.

*Your Petitioner's concerns*

16 Your Petitioner does not object to the principle of the Bill. However, your Petitioner has substantial concerns that the powers conferred on the Promoter will enable the Promoter to interfere with and compromise the use and enjoyment of your Petitioner's waterways and associated property in the vicinity of the proposed works, and may cause significant permanent and lasting damage to this valued national asset. The proposed works may also prejudice the restoration of a historic waterway. Your Petitioner is further concerned that the Promoter has not proposed adequate protective provisions for the protection of the waterways and land in the ownership of your Petitioner. Your Petitioner is concerned that the exercise of the powers conferred on the Promoter will interfere with your Petitioner's ability to carry out its statutory duties and its charitable objects as set out above.

17 For these reasons, and having regard to the more detailed particulars referred to below, your Petitioner objects to the Bill and it alleges and is prepared to prove that it and its property, rights and interest are injuriously and prejudicially affected by the Bill for the reasons (amongst others) hereinafter appearing. Your Petitioner remains hopeful that a large number of its concerns will be met by agreement with the Promoter, but is concerned that no binding commitments have yet been offered by the Promoter to address your Petitioner's concerns and many of the details that are needed to inform such an agreement have not yet been supplied by the Promoter.

- 18 Your Petitioner objects to the provisions of Clause 4 of the Bill, which it apprehends could adversely affect and interfere with its property. Under these provisions, and those in Clause 5, the Promoter would be able to acquire compulsorily any one or all of those parcels of land set out in the Book of Reference (which fall within those locations detailed at paragraph 14) and which are within the limits of deviation, or such easements or other rights over the land as the Promoter may require for Phase One purposes.
- 19 In respect of these Properties your Petitioner questions the need for such extensive powers and it is not convinced of the need for the proposed powers. Your Petitioner is unfairly prejudiced by the breadth of the powers sought by the Promoter as against your Petitioner's property and your Petitioner seeks clarification from the Promoter of the extent to which these powers will be exercised and for what specific purpose.
- 20 Your Petitioner is further prejudiced by the Promoter's intention to impose restrictive covenants over, acquire temporary rights over, and/or acquire the subsoil of its property. Your Petitioner's use of its property would be unfairly restricted by such actions of the Promoter. Your Petitioner seeks clarification from the Promoter of the extent to which these powers will be exercised and for what specific purpose.
- 21 Your Petitioner has concerns on the impact of the provisions of the Bill in respect of each of the locations listed in paragraph 14, which are covered by the general concerns set out in paragraphs 41 to 62 below.
- 22 In addition to these impacts, your Petitioners wish to draw specific attention to the following major concerns.

### *Site Specific Concerns*

#### *Parish of Fradley and Streethay and the Parish of King's Bromley in the District of Lichfield – Trent & Mersey Canal*

- 23 The Bill provides for this section of your Petitioner's canal to be crossed by four permanent railway bridges and two temporary bridges for construction traffic. These crossings are at close proximity and at different levels which, together, make this the location where your Petitioner's waterway network is most significantly adversely affected.
- 24 This part of your Petitioner's waterway network is exceptionally attractive and tranquil. The Trent & Mersey Canal through Fradley is a conservation area and

Woodend Lock, Woodend Bridge and Woodend Lock Cottage are all listed buildings, dating from the original construction of the canal by the renowned engineer James Brindley in 1770. The visual impacts of the proposed viaduct and embankments would be hugely detrimental to the canal's heritage, landscape, character and amenity. The proposals would also lead to significant other impacts both during construction and from the subsequent operation of the railway. Your Petitioner is therefore greatly concerned about the proposals put forward by the Promoter concerning this area and given the tremendous negative effect that the proposals would have, questions whether alternative route alignments were properly considered by the Promoter.

25 Given the serious nature of these impacts, your Petitioner, together with the Inland Waterways Association, commissioned a study to assess the justifications for the proposed alignment for this section of railway in the Bill and other possible alternative alignments which would avoid the impacts on your Petitioner's network. This report (which was submitted by your Petitioner with its response to the Phase One Environmental Statement in February 2014) demonstrates that an alternative alignment for this section of the railway is technically feasible, meets the design criteria of the Promoter and has a number of other significant advantages, namely:

- (a) it significantly reduces the visual and noise impacts on the Trent & Mersey Conservation Area and the setting of the listed buildings;
- (b) it minimises the impacts from construction and subsequent operation of the railway on users of the Trent & Mersey Canal and towpath, including temporary closures, loss of moorings and the loss of tranquillity;
- (c) it reduces the wider negative impacts on the economic and social value of this part of your Petitioner's network;
- (d) it removes the need to cross over the waterway network at numerous points and, therefore, significantly reduces the height of the railway above ground level at this location, with consequential reduction in noise transmission and visual impact over a wider area; and
- (e) it avoids the cost (estimated to be £50 million at a minimum) of constructing three viaducts over the canal, two viaducts over the Pyford Brook and two temporary bridges over the canal, in addition to a reduction in the height and length of embankments, as well as a reduction in construction time and other impacts on local communities such as construction traffic on the local road network.

Your Petitioner therefore asks that the current proposals at this property are prevented from forming part of the works and that instead the Promoter revises the current proposed route in the Bill to take account of the Petitioner's alignment proposals by way of promoting an Additional Provision authorising an improved alignment.

*Parish of Fradley & Streethay and Parish of Whittington and Fisherwick in the District of Lichfield – Wyrley & Essington Canal and Lichfield Canal*

- 26 Your Petitioner's charitable objects include the restoration and improvement of all inland waterways (not just those owned or operated by your Petitioner) and the trustees of your Petitioner made a public commitment in March 2013 to promote, facilitate, undertake and assist in, for public benefit, the restoration and improvement of all inland waterways.
- 27 Your Petitioner has concerns that the proposed works will prejudice the restoration of the Lichfield Canal, currently being restored by the Lichfield & Hatherton Canals Restoration Trust, to the west of the proposed alignment of the railway by encroaching into the channel and towpath of the historic line of the canal. Your Petitioner therefore seeks a commitment from the Promoter that this important local project will not be prejudiced by the exercise of the powers contained within the Bill.
- 28 In addition, your Petitioner's Wyrley & Essington Canal to the east of the proposed alignment of the railway includes existing moorings and associated essential boating facilities put in place by your Petitioner's tenant, the Lichfield Cruising Club. Your Petitioner seeks a commitment from the Promoter that these facilities will not be adversely affected by the proposed works or that, in the event that any interference is unavoidable, provision will be made for equivalent replacement facilities and for your Petitioner and your Petitioner's tenant to be fully compensated for any loss (including but not limited to loss of income).

*City of Birmingham – Birmingham & Fazeley Canal (Digbeth Branch)*

- 29 Your Petitioner has substantial concerns regarding the potentially severe adverse impact that the proposed viaduct and associated infrastructure at Curzon Street would have upon the Birmingham & Fazeley Canal (Digbeth Branch). This section of the waterway is within the Warwick Bar conservation area. The canal has been identified within the Birmingham Curzon HS2 Masterplan as a significant asset to the local community, which will contribute substantially to the area if developed appropriately. However, the Promoter's current plans would jeopardise the enjoyment and potential regeneration of this space and blight the waterway permanently.
- 30 Your Petitioner is aware of the aspirations of Birmingham City Council and others (as expressed in the aforementioned Masterplan and elsewhere) for Curzon Street Station and the surrounding area, and fully supports the view expressed by the City Council that the current proposals fail to achieve the aims of permeability and

connectivity in and around the proposed station and risks causing severance and irreparable long-term damage to the regeneration of the area.

- 31 Your Petitioner is particularly concerned over the location of railway infrastructure, including the electricity substation and service roads proposed alongside the Digbeth Branch Canal off Curzon Street which would have a significant adverse impact on the quality of environment within the Warwick Bar conservation area and result in the permanent loss of prominent regeneration sites alongside the canal corridor.
- 32 Your Petitioner has extensive experience with canal-side regeneration projects in Birmingham, for example Brindley Place, Gas Street Basin, the Mailbox and Icknield Port Loop, and indeed further afield at Kings Cross Station in London and Piccadilly Station in Manchester. It is therefore imperative that it is involved in the design of the scheme as it affects its property at this location.
- 33 Your Petitioner seeks a commitment from the Promoter that there will be an agreed mechanism by which the Promoter will secure the approval of your Petitioner (which will include prior consultation with your Petitioner during the detailed design process and before the submission of requests for planning approval) for the design of the viaduct as it passes over the canal, which will include the following elements:
- (a) a number of light wells (to be agreed with your Petitioner) in the deck of the viaduct, to allow light and rain onto the Canal and towpath below the viaduct;
  - (b) a single-faced, enclosed arch extending from the eastern extent of the towpath to the top of the off-side wash wall on the western bank, avoiding views east and west along the Canal under the railway from underneath the arch;
  - (c) a smooth design of arch which avoids alcoves that could potentially encourage anti-social behaviour and which also avoids potential roosting for pigeons and other birds;
  - (d) the relocation of the proposed Curzon Street auto-transformer station shown from its proposed location just to the east of the Canal, to avoid the enclosure of the Canal corridor at this location and to enable this area to be used for further re-generation;
  - (e) the relocation of the proposed access ramp (leading down alongside the west of the canal from Curzon Street to the proposed under-station parking) from its proposed location to a location further away from the Canal, to avoid the enclosure of the Canal corridor at this location and to enable this area to be used for further re-generation;
  - (f) the relocation of the access road and balancing pond currently proposed alongside the east of the canal between Curzon Street and the rail



maintenance depot, to avoid the enclosure of the Canal corridor at this location and to enable this area to be used for further re-generation;

- (g) a lighting scheme for the underside of the viaduct to be approved by your Petitioner; and
  - (h) a schedule of maintenance works for the underside of the viaduct to be approved by your Petitioner and obliged to be carried out by the Promoter during the construction and operation of the railway, including washing down, graffiti and litter removal and lighting maintenance.
- 34 Your Petitioner has been in discussions with Birmingham City Council and Centro (the West Midlands Passenger Transport Executive) to ensure that the canal corridor is integrated into the redevelopment vision for the City around the proposed railway and fully supports the position of the City Council in this respect.
- 35 Your Petitioner seeks a commitment from the Promoter there will be an agreed mechanism by which the Promoter and your Petitioner can agree a series of measures to be carried out by the Promoter, to maximise the life and activity on this part of canal and towpath and to ensure connectivity along the canal between Digbeth and Eastside as part of the detailed design process for Curzon Street Station.
- 36 Your Petitioner considers that these measures must include commitments on the following:
- (a) the improved visibility of canal and the proposed viaduct and the stretch of the towpath leading to the viaduct for pedestrians crossing Curzon Street Bridge, through the lowering of the existing parapet walls and the provision of an appropriate visually permeable barrier;
  - (b) the comprehensive hard landscape treatment of the canal-side space between Curzon Street (including the lock-side) and the portal of the existing viaduct to the south of Curzon Street consistent with the quality and standard of the public realm at Eastside City Park and the key threshold public spaces to the proposed HS2 station;
  - (c) the inclusion of wide, open pedestrian access from Curzon Street to the canal towpath;
  - (d) the provision (in accordance with the Masterplan referred to in paragraph 29) of public space either side of the canal between Curzon Street and the portal of the existing viaduct to the south of Curzon Street;
  - (e) new built development further back from the canal addressing these public spaces and active frontages to these developments which face and use the public spaces and the canal; and

- (f) a mechanism to be agreed between your Petitioner and the Promoter for a schedule of improvements to the area beneath the existing viaduct to the south of Curzon Street, including improvement to the towpath surface, the removal of graffiti, a lighting scheme, the replacement of the existing fence between the Canal and the towpath with a suitable handrail, and the cleaning of the underside of the viaduct and the installation of anti-roosting measures.

37 Your Petitioner further seeks a commitment from the Promoter that it will be indemnified for any additional maintenance costs incurred by your Petitioner (including any additional costs in accessing the lock below the proposed viaduct) as a result of the proposed works or the proposed railway at this location.

*Grand Union Canal, Paddington Arm, Scrubs Lane Area*

38 The Bill provides for the railway to pass along the existing line at the bottom of a long retaining wall in this location. This retaining wall is in the sole ownership and responsibility of Network Rail and retains the Canal pound of 27 miles in length, containing approximately 300 million gallons of water.

39 Your Petitioner is very concerned that the location of the proposed high speed railway increases both the potential risk and consequences of catastrophic breach of this retaining wall and requests a binding commitment from the Promoter to demonstrate to the satisfaction of your Petitioner that the construction and operation of the railway shall have no adverse impact on the structural stability of this wall.

40 In addition, your Petitioner seeks an indemnity from the Promoter in respect of any breach of this retaining wall and consequent damage or loss to any party arising from the escape of water from the Canal.

*General*

*Design of Works*

41 Your Petitioner has substantial concerns regarding the impact on the landscape and visual amenity that the proposed works will have on the waterways and their surrounding environments. The waterways are particularly valued as a result of their visual aesthetic. Poor or inappropriate structures across or beside the waterways would significantly affect the enjoyment and value of the waterways and the impact would be significant and permanent. Your Petitioner seeks a commitment from the Promoter that it will obtain your Petitioner's prior approval of the design and

appearance of works that materially affect its waterways, including but not limited to bridges and viaducts. Your Petitioner has over many years given much consideration to how such works should be designed and requests a commitment from the Promoter that the design principles that your Petitioner has developed for proposed crossings of its waterways are adopted.

- 42 Your Petitioner is of the view that the synthesis of the proposed crossings with its waterways would be greatly enhanced by the addition of artwork. As the waterways are assets of their local communities, it is important that those communities are included and engaged in the works and this would therefore present an opportunity for suitable engagement. Your Petitioner therefore seeks a commitment from the Promoter for the provision of funding for art to be commissioned by your Petitioner.

### *Landscape*

- 43 Your Petitioner considers that the early implementation of soft landscaping measures are required to reconcile the new crossing structures into the waterway corridor and the wider landscape, and mitigate the visual impact of any new structures, prior to the commencement of the works. The specification of landscape planting should be carefully developed to respond to and support the local landscape character and to promote local biodiversity. Your Petitioner therefore seeks a commitment from the Promoter that it will mitigate the effects of the proposed works and the proposed railway by undertaking a scheme of landscaping measures to be approved in advance of implementation by your Petitioner.

### *Biodiversity*

- 44 Your Petitioner requests that site specific surveys for protective species and habitats and non-native invasive plants are carried out in the vicinity of the waterway prior to the commencement of any works authorised by the Bill at a particular location on or near your Petitioner's land, with appropriate mitigation measure to be agreed with your Petitioner and carried out to protect these species and habitats or eradicate and prevent the spread of any non-native invasive plants.

### *Heritage*

- 45 Your Petitioner requests a commitment from the Promoter that it will treat your Petitioner's infrastructure as 'non-designated assets of high value' for the purposes of avoidance and mitigation measures and that it will preserve and be mindful of the existing fabric and setting of your Petitioner's waterways in carrying out any works authorised by the Bill.

- 46 Your Petitioner also requires a commitment that the Promoter will carry out a site specific heritage based assessment to be approved by your Petitioner prior to the commencement of works authorised by the Bill at each location and that the Promoter will repair and conserve, at the direction of the Petitioner, any heritage asset owned or managed by your Petitioner within a specified distance from the works authorised by the Bill.

### *Noise*

- 47 Your Petitioner is significantly concerned about noise arising during the construction of the proposed works and during the operation of the proposed railway. Your Petitioner is concerned that the waterways are not treated for the purposes of the Environmental Statement as 'noise sensitive receptors' and that the Promoter has erroneously noted within that document that there will be no significant noise effect on the waterways as a result of the proposed works and railway as a result of the waterways' transient nature. Your Petitioner has concerns that the Promoter has not properly understood the purpose of the waterways as quiet corridors for people and wildlife to enjoy and that the waterways are crucially also the primary residence for some users. Your Petitioner is concerned that as a result of the Promoter's misunderstanding, adequate mitigation measures have not been put in place.
- 48 Your Petitioner requests that the Promoter give proper thought to the effect that the proposed works will have on these important national assets and that provision is made for effective noise mitigation and monitoring systems to be put in place prior to the commencement of works and for their duration, as well as for the subsequent operation of the railway in the same way as other noise sensitive receptors.

### *Water management*

- 49 Your Petitioner's waterways play a vital role in flood defence. Your Petitioner is concerned that the Promoter has not provided any indication as to the quantitative and qualitative impacts which surface water discharges will have to your Petitioner's waterways, whether caused directly or indirectly by the proposed works and the proposed railway. Neither has the Promoter provided any detail as to the quantitative impacts which the proposed works and proposed railway will have on stream-flow to the waterways and the groundwater yield from your Petitioner's boreholes. Consequently, your Petitioner has concerns as to flooding, structural damage, reductions in water supply and environmental harm which could arise from the proposed works. Your Petitioner seeks a commitment from the Promoter that all altered surface water discharge will be thoroughly assessed and mitigated in line with your Petitioner's Code of Practice for works affecting its waterways to ensure flood protection, protection of waterway assets, protection of water quality and the waterway environment.

### *Impacts on Navigation and Use of the Towpath*

- 50 Your Petitioner has substantial concerns that certain parcels included in the Book of Reference and falling within those locations listed in paragraph 14 are parcels in which your Petitioner holds an interest as sole trustee of the Waterways Infrastructure Trust. Any disposal of this property (which would include any acquisition of rights over or restrictive covenants affecting the property) would likely require your Petitioner to obtain the consent of the Secretary of State notwithstanding the powers in the Bill. As such, your Petitioner humbly requests that the Promoter be restricted from acquiring such property and that these parcels do not form part of that property which is the subject of the Bill.
- 51 Your Petitioner notes the notice provisions of Schedule 31 Part 4 but believes that they are inadequate. Your Petitioner submits that the Bill should not permit any lengthy stoppages of its canal network during the construction phase of the works or during any future maintenance works and any shorter term closures should only be permitted between November and March and in conformity with your Petitioner's Code of Practice for works affecting its inland waterways. Your Petitioner therefore seeks a commitment from the Promoter to that effect.
- 52 Your Petitioner seeks a commitment from the Promoter that it will be consulted on a detailed construction programme as affecting the whole of the canal network in advance of the commencement of works. This will ensure that the works as affecting the network will be co-ordinated and that simultaneous closures, which would inevitably have a severe impact on the users of your Petitioner's waterways, will be avoided.

### *Asset resilience*

- 53 Your Petitioner's assets are water-retaining, heritage assets of up to 250 years old and were not built to modern standards of construction. As such, the assets are subject to occasional breaches and failures. These breaches and failures could affect the infrastructure or works of the Promoter and as such your Petitioner seeks assurance that any works undertaken by the Promoter on or in the close vicinity of your Petitioner's property will include appropriate reinforcement works to your Petitioner's assets. Your Petitioner also requests that the Promoter indemnify your Petitioner against any potential claims by the Promoter or its successors in relation to any such damage or loss to the works or proposed railway caused by the Promoter's decision to locate its railway on or near to your Petitioner's assets.

### *Access*

- 54 Your Petitioner believes that, notwithstanding the acquisition of any land belonging to your Petitioner (whether temporarily or permanently) or any construction activities being carried out pursuant to the proposed works, your Petitioner should be at liberty at all times to gain access to execute and do all such works and things in, upon or under any such land as may be reasonably necessary to enable it to carry out its statutory duties.

### *Construction Impacts*

- 55 Your Petitioner is concerned about the siting of construction compounds near to its waterways and towpaths. This is likely to cause dust, silt and potentially polluting run-off which would likely affect the amenity and ecology of the waterways. Your Petitioner would wish to see binding commitments imposed on the Promoter to require adherence to agreed measures to reduce dust, run-off and other construction impacts, and to carry out additional mitigation if these factors continue to be a nuisance at your Petitioner's properties. Your Petitioner requests that provision be made to ensure that the Promoter takes responsibility for the reimbursement of your Petitioner for additional expense caused by mitigating or remedying these impacts.

### *Vibration and Settlement*

- 56 Your Petitioner is concerned about the impacts of vibration both during construction and during operation of the proposed railway. Your Petitioner also fears that tunnelling and other works under or near to its water-retaining heritage infrastructure will cause disturbance leading to possible breaches. Your Petitioner seeks a commitment from the Promoter that provision will be made to mitigate these impacts to its satisfaction and indemnify it in the event of any detriment.

### *Lighting*

- 57 Your Petitioner is concerned that the Bill does not provide your Petitioner with adequate powers to protect the waterways (including wildlife) from the impact of the works both in relation to the provision of lighting for navigation and safe use of the towpath, and in relation to light pollution from construction sites and the completed railway, particularly in tranquil, rural areas. It is respectfully submitted that the Bill should not be allowed to pass into law without making provision for your Petitioner to approve a permanent lighting scheme at each location where it is affected and require temporary lighting on or adjacent to waterways and towpath during construction.

### *Vehicles, plant and machinery*

- 58 Your Petitioner is concerned that the Bill does not provide your Petitioner with adequate powers to protect its waterways, towpaths and bridges from the impact of works vehicles, plant and machinery used by the Promoter or a nominated undertaker on the waterways and surrounding lands. It is respectfully submitted that the Bill should not be allowed to pass into law without making provision for your Petitioner to approve and control the use of vehicles, plant and machinery on or adjacent to its property and structures.

### *Survey of waterways*

- 59 Your Petitioner believes that the Bill should provide protection for waterways in the case of detriment emanating from works failing or causing damage to your Petitioner's property due to un-surveyed waterways. It is respectfully submitted that the Bill should not be allowed to pass into law without making provision for the Promoter to carry out surveys of waterways to the satisfaction of your Petitioner and provide copies of the surveys to your Petitioner.

### *Interference with services*

- 60 Your Petitioner wishes to be satisfied that there will be no disruption to statutory services provided to your Petitioner's properties as a result of the construction of the proposed works. In your Petitioner's submission a co-ordinated programme of works to services leading into your Petitioner's properties needs to be established by the Promoter and the details provided to your Petitioner to prevent a succession of statutory undertakers' works to and reinstatement of your Petitioner's properties.

### *Detriment*

- 61 Your Petitioner is concerned that the Bill fails to provide for any protection against any detriment caused by the construction or failure of the works authorised under Clause 1 of the Bill. It is submitted that a protective provision should be included in the Bill to ensure that the Promoter's responsibility to make good any detriment caused by the construction or failure of the works is clear. In making good the detriment it must be at your Petitioner's discretion to allow or instruct the Promoter or nominated undertaker to carry out the works required to make good the detriment or carry out the works itself. Your Petitioner submits that the Bill should not be allowed to pass into law without providing adequate provision for detriment protection and the reimbursement of any costs incurred by your Petitioner in addressing detriment.

### *Worksites*

- 62 There are cases where the proposed use for the land throughout the scheme is as a worksite which will only be required for the construction of the works and not permanently. Your Petitioner maintains that compulsory acquisition of much worksite land is therefore not justified, and that those parcels concerned should be moved to Schedule 15 (temporary possession and use of land).

### *Full and proper reimbursement*

- 63 As a general matter, your Petitioner submits that provision should be made for the Promoter to repay to your Petitioner all proper costs, charges and expenses (including the proper fees of such professional advisers as they may instruct) reasonably incurred in consequence of the Bill or of any provision made as a result of this Petition.
- 64 Your Petitioner seeks full indemnity and compensation for all costs, loss and damage to its property and operations due to any adverse effect caused by the proposed works and proposed railway (including any necessary improvements required to be made to its property and infrastructure as a result of the proposed works).
- 65 Your Petitioner submits that the Promoter should be required to indemnify it from all claims and demands which may be made in consequence of the construction, use or maintenance of the works under the Bill, or their failure or want of repair, or in consequence of any act or omission of the Promoter, his contractors or agents in carrying out the works under the Bill.
- 66 For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended as proposed above, so far affecting your Petitioner, the Bill should not be allowed to pass into law.
- 67 There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and its rights, interests and property and for which no adequate provision is made to protect your Petitioner.

YOUR PETITIONER therefore humbly prays 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 its 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 Petitioner and in support of such other clauses and provisions as may be necessary or expedient for its protection, or that such



other relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioner will ever pray, &c.

A handwritten signature in black ink, reading "Bircham Dyson Bell". The signature is written in a cursive, flowing style with large, rounded letters.

Bircham Dyson Bell LLP

Parliamentary Agents for *Canal & River Trust*

IN PARLIAMENT  
HOUSE OF COMMONS  
SESSION 2013-14

HIGH SPEED RAIL (LONDON –  
WEST MIDLANDS) BILL

PETITION OF  
CANAL & RIVER TRUST

AGAINST, By Counsel, &c.

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Solicitors and Parliamentary  
Agents

23 May 2014