

Hybrid Bill Petition

House of Commons

Session 2017-19

High Speed Rail (West Midlands – Crewe) Bill

Do not include any images or graphics in your petition. There will be an opportunity to present these later if you give evidence to the committee.

Your bill petition does not need to be signed.

Expand the size of the text boxes as you need.

1. Petitioner information

In the box below, give the name and address of each individual, business or organisation(s) submitting the petition.

The National Farmers Union
Agriculture House
Stoneleigh Park
Stoneleigh
Warwickshire
CV8 2TZ

In the box below, give a description of the petitioners. For example, “we are the owners/tenants of the addresses above”; “my company has offices at the address above”; “our organisation represents the interests of...”; “we are the parish council of...”.

The National Farmers Union of England and Wales (“the NFU”) was formed in 1908. The NFU represents 55,000 members in England and Wales and is involved in 46,000 farming businesses. It is regularly consulted by the government on policy proposals across all departments. The railway that is proposed to be authorised by the Bill would be constructed through a large number of farms that are either owned, or tenanted, by farmers who are members of the NFU.

2. Objections to the Bill

In the box below, write your objections to the Bill and why your property or other interests are specially and directly affected. Please number each paragraph.

Only objections outlined in this petition can be presented when giving evidence to the committee. You will not be entitled to be heard on new matters.

Background

1. The NFU represents trades, businesses and interests in the area to which the Bill relates, and those trades, businesses and interests will be injuriously affected by the Bill. A significant number of the NFU's members are liable to have their land compulsory acquired under the Bill.
2. The NFU received a number of assurances from the promoter in relation to Phase One of the Bill as a result of its petitioning against the High Speed Rail (London – West Midlands) Bill (“the Phase One Bill”) in the House of Commons and the House of Lords. However, there are a number of instances where no assurances were given, or where the assurances given did not, in the NFU's view, go far enough in meeting its concerns. In addition, NFU members now have experience of the beginning of the implementation of Phase One, and that has raised some new concerns.

Temporary possession powers: capital value and interim compensation payments

3. **Issue:** The Bill allows the promoter to acquire land permanently (under clause 4) or take possession of it temporarily (under Schedules 15 and 16). In implementing Phase One of HS2 under the Phase One Act, the nominated undertaker is exercising the equivalent powers of temporary possession over large areas of land, including land required for the permanent railway, during the very long construction period, and will follow up later by using powers of compulsory acquisition over the land that is required for the permanent works. The temporary possession provisions of the Bill allow the Nominated Undertaker to remain in possession of land for as long as is required for the construction of the works, and then for a further maintenance period of up to one year after the works are completed. In total, this could amount to a considerable number of years.
4. This presents a number of problems. The first relates to the timing of compensation payments for the capital value of the land. Paragraph 4 of Schedule 15 requires the Nominated Undertaker to pay compensation to the owners and occupiers of land of which possession is taken for any loss which they may suffer. But, unlike the case where land is acquired compulsorily, there is no procedure in place for advanced payments of compensation for the capital value. This means that if land is occupied using the temporary powers, even though it may be clear that it will eventually be acquired permanently, the landowner may not obtain any compensation for capital value for many years. This could present farmers with serious cash flow issues. This problem is compounded by the lack of certainty about when the land will be returned or permanently acquired.
5. **Request 1:** The first request under this heading is that where it is clear that the land will be required on a permanent basis for the railway tracks and associated earthworks and cuttings then the Nominated Undertaker must be required to exercise compulsory purchase powers at the outset rather than temporary powers, if the farmer has indicated that as a preference.
6. **Request 2:** The Nominated Undertaker should be required to provide interim payments in respect of losses suffered as a result of the exercise of the temporary possession powers. The Nominated Undertaker has indicated that it will do so in appropriate cases, but the NFU would like to see this formalised in an appropriate assurance, requiring that payments be made in advance on a monthly, six monthly or annual basis, depending on the circumstances of the case. The NFU notes that there are provisions in Chapter 1 of Part 2 of the Neighbourhood Planning Act 2017 relating to advance payments in the case of temporary possession for other schemes.

Temporary possession powers: uncertainty

7. **Issue:** In addition to the problem of delayed compensation for capital value, there is the uncertainty of what will happen to the land in the long term. As mentioned above, it appears likely that the Nominated Undertaker will use temporary possession powers at the outset even when it is clear that the land is to be needed permanently. Where land is required permanently for ecological mitigation, for example tree planting, the nominated undertaker is likely, eventually, to offer the landowner the choice as to whether to keep the land and manage it in accordance with arrangements prescribed by the Nominated Undertaker, or to require the Nominated Undertaker to acquire the land permanently so it can make other arrangements for its stewardship. The landowner should be given the opportunity to make that choice as soon as the Nominated Undertaker gives notice of its intention to take possession of the land. One of the problems that farmers on Phase One are encountering is that they are not being provided with drafts of management agreements which they would have to sign up to if they were to retain ownership of land which is being used for environmental mitigation – that in turn creates uncertainty and makes it difficult for the farmer to decide what to do. Furthermore, farmers need to be told in advance about the proposed period of planned temporary occupation, and kept updated.
8. **Request 1:** The Bill should be amended so that it includes provisions which enable landowners to serve a counter-notice on the Nominated Undertaker in cases where the Nominated Undertaker has served a notice under paragraph 4(1) of Schedule 15 of its intention to enter and take possession of land, in cases where the Bill or the environmental statement indicates that the land is required permanently for purposes of ecological mitigation, or the Nominated Undertaker has given that indication in some other manner. The counter-notice would have the effect of requiring the Nominated Undertaker to acquire the land compulsorily at an early stage, hence providing certainty and enabling compensation for capital value to be obtained, and an advanced payment requested.
9. **Request 2:** The promoter should be required to provide a management agreement template before the end of the House of Commons select committee proceedings finish, in order to address the issue identified above about lack of certainty in deciding whether to ask that land be acquired permanently.
10. **Request 3:** The promoter should be required to provide an assurance that farmers whose land is to be occupied temporarily will be given an indication of the period of planned occupation, and kept updated.

Temporary possession powers: notice periods

11. **Issue:** Under paragraph 4(1) of Schedule 15 to the Bill, the Nominated Undertaker is required to give only 28 days' notice to the landowner before entering the land and taking possession. This contrasts with the period of 3 months that is required to be given for permanent acquisition.
12. Were the powers of temporary possession to be limited to small periods of time and small areas of land, then the shorter notice period might be easier to justify. But as mentioned above, the nominated undertaker is likely to exercise the powers of temporary possession over large areas of land for long periods. The period of 28 days' notice in those circumstances is inadequate, particularly given the need for farmers to be able to make plans for the use of their land a long

time in advance.

13. **Request:** Paragraph 4(1) of Schedule 15 should be amended to provide for a notice period of at least 3 months before the powers of temporary possession are exercised. This would bring the provisions into line with section 20 of the Neighbourhood Planning Act 2017, which although not yet in force at the time of writing this petition is a clear recent national precedent which the NFU sees no reason for dispensing with for HS2.

Land-take for mitigation

14. The NFU does not dispute the principle of providing replacement land for habitat land and woodland being taken as a result of the construction of the works. The NFU considers, however, that the amount of the replacement land should not be any greater than that which has been lost and so disagrees with the promoter's aim of promoting mitigation that adheres to the Lawton report principles of "bigger, better, and more joined up". To illustrate the NFU's concern, the ES Non-technical summary says at paragraph 9.5: *"Approximately 107.8ha of habitats of principal importance will be lost overall, including up to 42.7ha of lowland mixed deciduous woodland. Where reasonably practicable, ecological compensation areas will be created to provide habitats of principal importance. A total of approximately 394ha of habitats of principal importance will be created."* Indeed, the NFU is unconvinced that larger areas of mitigation equates to better mitigation. As far as the NFU is concerned, the quality of the material being planted, and the way it will be managed, is more important than the surface area of the replacement land.
15. In addition, the NFU is concerned by the way in which habitat losses and gains will be measured using a modified version of the Defra biodiversity offsetting metric and in particular is concerned that compensatory mitigation planting and other ecological mitigation must be implemented in the right areas on the right type of land, and on a "like for like" basis in terms of the amount of land used. The NFU also notes that the promoter is continuing to say that decisions about the location, size and type of environmental mitigation will be made on the basis of their professional judgment. This creates considerable uncertainty and gives no indication as to why the 394 ha of habitats of principle importance is the correct area to be created.
16. The NFU is also concerned that significant areas which have been earmarked for habitat creation and tree planting will be taking some of the best and most versatile land out of agricultural production. The NFU considers this to be unacceptable, given the amount of agricultural land already being lost to the scheme. It makes no sense to compensate for the loss of habitat and woodland by acquiring even more agricultural land.
17. The NFU would also stress that where the construction works result in fields being left in awkward shapes, it should not follow that those fields are chosen automatically for mitigation habitat. Good quality agricultural land, regardless of the awkwardness of its shape, should be retained as such. After all, it is possible that the awkwardly-shaped fields could be incorporated into other fields owned by farmer and could continue to be farmed.
18. **Request:** The NFU considers that the Promoter should be required:
- (a) to publish a metric which sets out with certainty how the Nominated Undertaker will assess the amount and type of mitigation that will be required to meet its aims, rather than using the less certain "professional judgment" method;

- (b) to comply with a stated aim of “no net loss” in terms of ecological mitigation.

Interest on payments

19. **Issue 1:** The Acquisition of Land (Rate of Interest after Entry) Regulations 1995 ("the 1995 Regulations") specify the rate of interest that must be paid by an acquiring authority from the date of entry onto the land (which is the valuation date for compulsory purchase cases) until payment of compensation. This applies both in relation to advance payments and outstanding final payments of compensation. Currently the rate specified is 0.5% below the standard rate, which in turn is defined in broad terms as meaning the base rate. Since March 2009, this has meant that no interest has been payable when compensation amounts have been agreed or determined but not paid, removing any incentive for acquiring authorities to make payments to claimants promptly, particularly under current circumstances where property values are generally increasing at a higher rate.
20. The issue in relation to advanced payments was recently addressed in the government's consultation on further reform of the compulsory purchase system (March 2016). Paragraphs 43 and 44 set out their proposal, which is to introduce a penal interest rate of 8% above base rate. The consultation was followed up by the enactment of s196 of the Housing and Planning Act 2016, which enables the Treasury, by regulations, to set a rate of interest for outstanding advanced payments. So far, no rate has been set.
21. **Request 1:** The NFU proposes that the Bill should be amended so that the 1995 Regulations are disapplied in relation to compensation claims made in relation to the acquisition of land and interests in land under the Bill. Instead, the NFU proposes that the Bill should specify that compensation payments will attract interest from the date of entry at a figure which is above the standard rate and that it should require that all payments of compensation due to claimants are made within 30 days of the amount being agreed or determined and that compound interest should apply to all overdue payments.
22. **Request 2:** The NFU suggests that this proposal of a rate of 8% should be taken up in respect of the Bill.
23. **Request 3:** The Bill should be amended so as to provide that interest should accrue on outstanding final payments of compensation, not just on advanced payments.

Rights of entry for further high speed railway works and exercise of rights of entry

24. **Issue:** Section 54 of the High Speed Rail (London – West Midlands) Act 2017 enables an authorised person to enter land, in connection with a Bill or proposed Bill authorising a high speed rail line, for the purpose of conducting surveys or facilitating compliance with EU protection legislation. It therefore applies in relation to the Phase 2A proposals.
25. The NFU is aware that in exercising its rights to enter land for the purposes of taking surveys, in relation to Phase One and Phase 2A, difficulties have arisen because of the form of notice used and the lack of liaison with landowners in advance. In particular, the form of notice does not specify what type of survey is to take place. A long list of possible types of survey is attached to a schedule and the landowner is told any of them might happen. Some are simply inspections of the land but others are more substantial, like borehole drilling with heavy machinery. Unlike the power to survey that is contained in paragraph 1 of Schedule 2 to the Bill, the power under section 54 does not apply provisions of the Housing and Planning Act 2016 which make requirements about the form of notice that should be used. Also, with lack of liaison, the

powers can be exercised at inappropriate times, for example during harvesting.

26. **Request:** That the Nominated Undertaker be required to comply with the provisions of section 174 of the Housing and Planning Act 2016 in respect of notices served under section 54 of the High Speed Rail (London-West Midlands) Act 2017 and that an assurance is given that discussions take place in advance with farmers to ensure that surveys are not carried out at inappropriate times.

Borrow pits

27. **Issue:** The Promoter has identified a shortage of high quality aggregates needed for the construction of the railway, and has decided that this is to be addressed by creating a number of borrow pits along the line of the railway, from which material will be excavated. Six sites have been identified:
- (a) Crawley Lane, Kings Bromley (up to 35 ha)
 - (b) Land adjacent to A515 Lichfield Road, Kings Bromley (up to 12 ha)
 - (c) Land adjacent to Shaw Lane (up to 19 ha)
 - (d) Land adjacent to proposed River Trent viaduct (up to 20 ha)
 - (e) Land west of Netherset Hey Farm (up to 28 ha)
 - (f) Land to the north of Checkley Lane (up to 40 ha).
28. Each of these areas represents a significant proportion of each farmer's land, and the total amount is up to 144ha (or 380 acres). The pits would be filled in again (including with material not required for the scheme) and would be restored in accordance with a scheme, after it is no longer required. All of them are to be located on farmland.
29. The NFU is very concerned about the use of valuable farmland for borrow pits and believes that if there is another suitable source for the materials that are needed, particularly if they are available from a quarry that is already active, then that should be used. The NFU has commissioned a report from Mineral Surveying Associates, specialist minerals surveyors, who concludes that the need for the borrow pits is unproven. The report highlights the fact that there are four major mineral operators controlling in excess of 40Mt of proven sand and gravel reserves within the Kings Bromley area, within reasonable haulage distance (6-9 miles). All of the sites identified have direct access onto the A38 and can supply HS2 without the need for significant disruption to local communities.
30. **Request:** The Select Committee will be asked to consider whether the inclusion of each of the borrow pits is necessary and, assuming the farmer concerned wants the borrow pits to be removed, will be asked to require the deposited plans to be amended to remove the land required for the borrow pit in question.

Earthworks

31. **Issue:** There will be significant lengths of bund, made-up ground, depositing of spoil and ground reprofiling alongside the proposed railway, much of it on good quality agricultural land. The NFU is concerned about the long term responsibility for safety of earthworks on farmland.

32. **Request:** The NFU requests that the promoter be required to give an assurance that the Nominated Undertaker will:
- (a) remain responsible for the safety and structure of all bunds, landscape earthworks including embankments and sustainable placement areas; and
 - (b) be responsible for the liability for any losses associated with the failure of any type of earthworks.

Planning consent for replacement buildings and associated dwellings

33. **Issue:** The construction of the Authorised Works will necessitate the demolition of agricultural buildings, including farm buildings, together with associated dwellings. Where the core farm business will survive, the farmer is likely to want to replace those buildings and the dwellings associated with them. In most cases this will require a full planning application. The uncertainty over whether an application will be approved and the time delays that can arise if a case goes to appeal can all be very difficult for a business to manage. This is particularly acute where (as is often the case) the replacement building is to be located in protected land, such as the green belt.
34. As a result of concerns raised by the Select Committee of the House of Commons on the Bill for Phase One, the then minister for planning wrote to local planning authorities about this issue and the promoter has provided assurances to the NFU which go some way to meeting its concerns. But there are matters of detail in respect of those assurances which remain outstanding.
35. **Request 1:** The NFU asks that the assurance given on this subject by the Promoter of the Phase One Bill (assuming it is replicated in relation to Phase 2A) be altered so that it provides that the Nominated Undertaker would give reasonable consideration to providing a statement in support of a planning application in cases where this issue applies, and that the Nominated Undertaker would respond promptly to any reasonable request by a farmer about the scope and likely amount of compensation that would be payable in the event that the farmer is displaced.
36. **Request 2:** The NFU seeks a recommendation from the Select Committee that the Department for Housing, Communities and Local Government should provide further guidance to local planning authorities on the subject of planning conditions:
- (a) ensuring replacement of existing dwellings will be permitted;
 - (b) discouraging an agricultural tie on replacement premises where none exists on the current premises;
 - (c) ensuring that conditions should only relate to design, materials used and access.

Utilities and conduits

37. **Issue:** The NFU is concerned to ensure that farmers are able to install utilities such as cables and pipes under the railway if land in their ownership is severed by the railway. This can be achieved by the construction of culverts underneath the railway by providing them at regular intervals along the route as part of the construction, in order to provide future proofing and to help ensure that connectivity (particularly high speed broadband for rural communities) is not stifled by the scheme. Furthermore, any HS2 infrastructure, such as bridges or culverts, that

provides a connection between areas of severed farmland should be made available for the use of farmers, subject to safety and operational requirements, without any premium or ransom payment having to be made by the farmer.

38. **Request:** The NFU request that the promoter be required to give the following assurances:

- (a) conduits will be provided at regular intervals under the railway line as it passes through agricultural land (say every 300m) to take cabling or other utilities across the railway both now and in the future;
- (b) after construction, if a farmer makes a reasonable request for the use of an existing culvert, conduit or bridge or to construct a new one, then such use or construction should be permitted (payment by the farmer being limited to the actual cost of the works and additional maintenance).

Severance and hedgerows

39. **Issue:** The severance of agricultural land by such a long linear scheme will result in some fields being left in awkward shapes. A common element of a claim for severance is the cost of removing hedges and fences in order to re-shape fields into a sensible layout. Since the introduction of the Hedgerows Regulations 1997, the removal of any hedge which is more than 20 metres long requires the consent of the local planning authority. This will add time, cost and uncertainty for farmers who are affected.

40. **Request:** The Bill should be amended by the addition of the following clause:

“Hedgerows

(1) The Hedgerows Regulations 1997 are amended s follows.

(2) After regulation 6(1)(h) insert—

“(ha) for rationalising field layouts where fields are severed by works constructed under the High Speed Rail (London-West Midlands) Act 2016;”.

Interruption of private water supplies

41. **Issue:** The impact on private water supplies, on which many of the NFU's members rely, should be considered and mitigated. The NFU submits that it is essential that the potential impact on the water supply for livestock farms and irrigation systems is properly assessed and suitable mitigation is provided. The promoter has provided assurances to the NFU on this subject, and again, the NFU is concerned that they need to be strengthened.

42. **Request:** That the assurances given to the NFU in respect of Phase One should apply to Phase Two but modified so as to provide that if a farmer makes a reasonable request to the Nominated Undertaker for an alternative water supply then it should be provided within 24 hours of notification by the farmer and until the issue that gave rise to the request has been remedied.

Accommodation crossings

43. **Issue:** A large number of farms will be severed by the construction of the proposed railway line. Crossing points to provide access to severed land is essential and the loss of even small

areas of land to some farm businesses could lead to the business not being viable. Accommodation crossings should be future proofed at the design stage so that they will be able to cater for the width, length and weight of modern agricultural machinery. Farmers need to have some certainty about the dimensions of proposed underpasses and overbridges.

44. **Request:** The Promoter should be required to provide an assurance that in designing and constructing the authorised works, the Nominated Undertaker will ensure that—

- (a) all accommodation overbridges provided for farmers shall be no less than 5 metres wide and capable of taking a loading of 60 tonnes;
- (b) all underbridges provided for farmers will be no less than 5 metres wide and 5 metres high;
- (c) any new or modified vehicular farm access to the highway is at least 20 metres long and capable of use by all road legal agricultural vehicles.

Land drainage

45. **Issue:** The construction of the works will inevitably lead to alterations to field drainage along the line of the railway. The Promoter's Information Paper E16 (Land Drainage) sets out a number of commitments and other information about how the Promoter intends to deal with that issue, and some of the commitments are listed in the register of undertakings and assurances (entries A129 and 130). The NFU is concerned about two aspects of the assurances: first, the onus is on the farmer to maintain any new drainage systems and secondly, there is no requirement on the Nominated Undertaker to ensure that new drainage system is as effective as those which they replace. In other similar infrastructure schemes, the NFU has secured commitments on behalf of farmers which meet those concerns.

46. **Request:** That the Promoter be required to alter the assurances recorded in the register of undertakings and assurances in line with other infrastructure schemes, so as to:

- (a) remove the onus on farmers to maintain drainage systems that have been imposed on them (unless the farmer agrees otherwise);
- (b) ensure that any new land drainage systems are put back in a condition that is at least as effective as the condition of those which they replace;
- (c) provide for a dispute resolution mechanism, based upon adjudication by a jointly appointed expert (or in default appointed by the President of the Institute of Civil Engineers.
- (d) provide that where it is appropriate and reasonable to do so, and the consent of the relevant landowner has been obtained, the Nominated Undertaker will carry out works involving the reinstatement of drainage outside of the Bill limits.

Soil aftercare

47. **Issue:** The NFU secured assurances of general application in relation to the Phase One Bill which set out a number of requirements on the Nominated Undertaker about aftercare of soil that it is temporarily disturbed during the construction period.

48. **Request:** The assurances given to the NFU in relation to Phase One should apply to Phase 2A (a

general point about the application of Phase One assurances is made later in this petition but this is seen to be one of particular importance)

Capital Gains Tax

49. **Issue:** The NFU considers that there should be a capital gains tax exemption in respect of compulsorily acquired property. The majority of farmers do not sell their land: it is passed from one generation to the next and so the prospect of paying capital gains tax is not one which arises often. Under the Bill, the NFU's members are likely to be faced with the prospect of paying the tax following the acquisition of their land. In the light of the involuntary nature of the acquisition process, the NFU considers that having to pay capital gains tax following acquisition would be unreasonable and that an exemption should be provided. In the absence of such an exemption, the NFU considers that the regime described in the following paragraphs should apply.
50. If the equivalence rule was always observed in compensation claims, no claimant should suffer uncompensatable losses due to taxation. In practice this is not always the case and, with the HS2 project, there are likely to be particular difficulties with the replacement of business assets in the form of farmland.
51. In the usual course of business, the Taxation of Chargeable Gains Act 1992 ("TCGA") allows for rollover relief from capital gains tax when the funds released by the sale of one business asset are re-invested in another business asset within one year prior to the sale or three years after it. Sections 247 to 248 of TCGA make provision about rollover relief in the case where land is acquired by way of compulsory acquisition. The linear nature of the scheme means that many farmers and landowners are likely to seek to acquire farmland to replace that lost to the railway within a relatively narrow geographical area of search. Replacement land is most valuable to a farmer when it is physically very close to the rest of the holding. It does not make economic sense for the business if the replacement land is remote. Two issues therefore arise: the first is that land in a suitable location may not become available on the market within the timescale prescribed by the rollover relief rules; and the second is that there is likely to be an imbalance of supply and demand close to the line of the railway which could force land prices upwards.
52. The NFU attracted sympathy for their case from the Phase One Bill Commons Select Committee. In its final special report it says, in paragraph 364, that "as it will take HS2 some ten years to bring its Phase One rail project to fruition, there is a case for allowing farmers a comparable period for reinvestment". The NFU acknowledges that HMRC can use its discretion to amend the time limits, but farmers require more certainty when they are acquiring new assets.
53. **Request 1:** In order to deal with the issue of lack of available land, the NFU has two alternative solutions, both of which could be met by recommendations to the government for changes to taxation legislation. The proposed recommendations for the select committee to consider are:
- (a) an amendment to the Taxation of Chargeable Gains Act 1992 to the effect that any disposal arising from the compulsory acquisition of farm land is exempted from Capital Gains Tax. It is likely that farmers unable to claim roll over relief would seek redress through individual claims for compensation from the promoter and recent case law suggests that such a claim is possible. An exemption would simply remove the need to pay tax to the government (HMRC) only to then claim back the same amount as compensation from the government (HS2); or

- (b) an amendment to the Taxation of Chargeable Gains Act 1992 to provide alternative statutory time limits for the replacement of farm assets purchased compulsorily by HS2 under the Bill. The NFU suggests either a period of 9 years, beginning three years before and ending six years after the deemed date of disposal in line with HMRCs delegated discretion, or a period of 10 years in line with the Phase One Bill Select Committee's view in their Final Report.

54. **Request 2:** The Promoter should be required to alter its "Guide for Farmers and Growers" to include guidance on CGT and compensation with examples of the actions HS2 would expect farmers to take in seeking to mitigate any capital gains tax liability and acting reasonably for the purposes of making a compensation claim. This guidance should address the position both where a suitable replacement is found outside of the statutory period for rollover relief and where no suitable replacement can be found despite the claimant making every effort to do so.

Inheritance tax

55. **Issue 1:** Where an estate is worth more than £325,000 an Inheritance Tax ("IHT") charge of 40% applies to the excess. There are a number of reliefs that may first be applied to an estate which would reduce the taxable value. For farmers the two main reliefs are Agricultural Property Relief (APR) and Business Property Relief (BPR) which can relieve up to 100% of the value of agricultural land or other business property. The availability of APR and BPR is dependent on their being qualifying assets held for at least two years prior to death or a lifetime transfer (seven years in the case of let agricultural property).
56. Where land is purchased under a compulsory purchase order it is likely to change the asset from one that qualifies for up to 100% IHT relief to cash which doesn't. New assets may be acquired which, if held long enough before death, would then qualify. There are also rules which allow a replacement asset to be acquired and for it to qualify for IHT reliefs immediately by virtue of the combined length of ownership of the old and new asset.
57. However there is a clear risk that a farmer might die before replacing the monies received with further assets with the result that they incur IHT which would not otherwise have been payable. Similarly, there could be instances where the farmer is unable to find suitable replacement assets quickly enough and so finds that he does not then receive relief on the replacement asset.
58. **Issue 2:** Similar issues arise where land is taken temporarily, which under the Bill could be for some years. If the farmer were to die during the period when land is in occupation by the Nominated Undertaker, again the asset is likely to change from one that qualifies for up to 100% to one that does not.
59. **Request 1:** The Select Committee recommend that HMRC add guidance to their Inheritance Tax manual to include a case study of a farmer affected by HS2. This should acknowledge the specific difficulty in replacing farmland taken for a major national infrastructure project such as HS2 and that there will be a positive presumption that the money will be reinvested in the farm business in the event of an untimely death unless there is clear evidence to the contrary.
60. **Request 2:** That HS2 Ltd be required to amend the relevant section of its Guide for Farmers and Growers, dealing with compensation so that it points out that Inheritance Tax will be compensated for where the deceased had taken reasonable steps to mitigate the liability and gives an indication of what the promoter suggests would be reasonable mitigation or how such

a claim should be made if the original compensation claim has been closed.

61. **Request 3:** That HMRC be recommended to alter its management powers (or if that is not an appropriate method, the government be recommend to make legislative changes) so that in cases where land taken temporarily is to be returned to agricultural use, the land shall be deemed for IHT purposes to remain in agricultural use throughout the period of temporary occupation.

Phase One Assurances

62. **Issue:** During the promotion of the Phase One HS2 Bill, the NFU secured a number of assurances from the promoter, which are of general applicability to farmers affected by the Phase One route. These assurances should also apply to Phase 2A. In some cases, the assurances have not been offered at all, and in others, they have been offered, but with modifications which are not acceptable. It is very difficult to understand why identical assurances on general issues cannot be offered. Examples of subjects where assurances have not been offered or have been offered in a different and unsatisfactory form are:

- (a) provision of an agricultural liaison officer (who should be appointed by HS2, not the individual contractor, to ensure continuity);
- (b) prompt payment of compensation;
- (c) provision of Nominated Undertaker's estimate of compensation;
- (d) agreements relating to relocation of businesses;
- (e) liability and claims;
- (f) provision of information;
- (g) relocation of agricultural buildings;
- (h) land acquisition policy;
- (i) use of private roads;
- (j) field drainage;
- (k) detailed design;
- (l) aftercare of agricultural soils.

63. **Request:** The Promoter should be required to add to the register of undertakings and assurances for Phase 2A those assurances of general application given to the NFU on Phase One, subject to any alterations agreed between the NFU and the Promoter or resulting from recommendations of the select committee following consideration of the points raised in this petition.

Compliance with Farmers and Growers Guide

64. **Issue:** During the promotion of the Phase One Bill, the Promoter published a document called the Farmers and Growers Guide, in discussion with the NFU and others. A similar Guide has

been produced for Phase 2A. The Guide contains useful information about the implementation of the Bill, and also includes a number of statements which are in the form of a commitment or assurance, but which have not appeared in the register of undertakings and assurance and/or which have not been complied with on Phase One.

65. **Request:** The Promoter should be required to give an assurance that the Promoter or Nominated Undertaker will comply with all the commitments in the Farmers and Growers and that the NFU will be consulted on any changes to the Guide.

Enforcement of assurances and agricultural liaison officer

66. **Issue 1:** The procedures relating to how breaches of assurances are to be reported and dealt with is unclear for farmers, based on reported experiences on Phase One. Information Paper B5 (compliance with undertakings and assurances) gives very basic information about this subject. It says that the Promoter will give an undertaking to Parliament that he will take such steps as he considers reasonable and necessary to secure compliance with the EMRs. It gives no detail about how breaches of assurances should be reported, to whom, how they will be considered and what avenues are open should a farmer disagree with the outcome.
67. **Request 1:** The Promoter should be required to provide a guide to farmers setting out details of how allegations of breaches of assurances will be dealt with, including information on the format of complaints, contact details of an individual to whom they should be made, details about how allegations will be handled (including timescales and opportunities for farmers to provide further input) in a day to day online guide of what to do.
68. **Issue 2:** The NFU secured an assurance on Phase One requiring an agricultural liaison officer to be appointed to deal with day to day issues raised by farmers. One issue that NFU members have encountered on Phase One is that as responsibility passes from the Nominated Undertaker to its contractors and sub-contractors, so does the identity of the agricultural liaison officer. This is unfortunate, because farmers have so far found that they have built up good relations with liaison officers only to find that they are likely to change when the main works contracts start.
69. **Request 2:** That the agricultural liaison officer be appointed directly by the Nominated Undertaker so as to provide more consistency.

3. What do you want to be done in response?

In the box below, tell us what you think should be done in response to your objections. You do not have to complete this box if you do not want to.

The committee cannot reject the Bill outright or propose amendments which conflict with the principle of the Bill. But it can require changes to the Government's plans in response to petitioners' concerns, which can take the form of amendments to the Bill or commitments by HS2 Ltd.

You can include this information in your response to section two 'Objections to the Bill' if you prefer. Please number each paragraph.

Please see the "Objections to the Bill" section above, and the requests set out in it.

Next steps

Once you have completed your petition template please save it and go to our website to submit it during the petitioning period.