

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2005-06

CROSSRAIL BILL

AGAINST – ON MERITS – PRAYING TO BE HEARD BY COUNSEL. &C.

TO THE HONOURABLE THE COMMONS OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND IN PARLIAMENT ASSEMBLED.

THE HUMBLE PETITION of TESCO STORES LIMITED
and TESCO PROPERTY HOLDINGS LIMITED

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 transport system running from Maidenhead, in the County of Berkshire, and Heathrow Airport, in the London Borough of Hillingdon, through central London to Shenfield, in the County of Essex, and Abbey Wood, in the London Borough of Greenwich; and for connected purposes".
- 2 The Bill is promoted by the Secretary of State for Transport.
- 3 Under clause 1 (Construction and maintenance of scheduled works) of the Bill the nominated undertaker may construct and maintain the works specified in Schedule 1 ("the Scheduled works") to the Bill. The Scheduled works include Works Nos. 1/3A and 1/3B and Work No. 2/12.
- 4 Works Nos. 1/3A and 1/3B are lengths of railway (in tunnel) which will run through various local authority areas including the City of Westminster and the City of London.

Those works will include the construction or alteration of various stations one of which will be Tottenham Court Road Station in the City of Westminster.

- 5 Work No. 2/12 in the London Boroughs of Redbridge and Barking & Dagenham is a railway forming a freight loop line, commencing by a junction with the Up Main Line of the Great Eastern Main Line Railway at a point 155 metres west of the junction of Ashgrove Road with Granton Road, passing eastwards and terminating by a junction with that railway at a point 75 metres south-east of Heath Road with Junction Road West; continuing eastwards and terminating at a point 65 metres north of the junction of Barbers Road with Pudding Mill Lane.
- 6 Under clause 5 (Temporary possession and use) of, and Schedule 5 to, the Bill the nominated undertaker may enter upon and take temporary possession of land for the purposes stated in that Schedule.
- 7 Under clause 6 (Acquisition of land within limits shown on deposited plans) and clause 7 (Acquisition of land not subject to the powers under section 6(1)) of the Bill the Secretary of State is authorised to acquire compulsorily the lands shown on the deposited plans within the limits of deviation for the scheduled works and also outside those limits. These lands include plot 612 in the City of Westminster, plot 174 in the City of London and plot 96 in the London Borough of Redbridge. The purposes for which certain land may be acquired or used are identified in Schedule 6 to the Bill.
- 8 Plot 612 in the City of Westminster is within the limits of deviation and therefore subject to powers of compulsory acquisition for the purposes of the erection of the Tottenham Court Road Station and construction of the running tunnel for Work No. 1/3A.
- 9 Plot 174 in the City of London will be subject to acquisition of subsoil as the running tunnels for Works Nos. 1/3A and 1/3B will be constructed under this site.
- 10 Plot 96 in the London Borough of Redbridge, which is described in the book of reference to the deposited plans as "access road, traffic islands and land (off High Road)" is within the limits of land to be acquired or used and is adjacent to the northern side of the limits of deviation for Work No. 2/12 (a railway forming a freight loop line). Part 3 of Schedule 6 to the Bill limits the powers of compulsory acquisition to powers to create and acquire easements or other rights over the land.
- 11 Clause 2 (Works: further and supplementary provisions) of, and Schedule 2 to, the Bill will authorise the nominated undertaker to carry out additional works listed in that Schedule and will also authorise the carrying out of mitigation and protection works,

underpinning of buildings, discharge of water and entry on land for preparatory purposes.

- 12 Clause 3 (Highways) of, and Schedule 3 to, the Bill will authorise the stopping up of various highways or parts of highways.
- 13 Clause 19 (Control of construction sites: appeals) of the Bill would modify sections 60 and 61 of the Control of Pollution Act 1974 in relation to works carried out in exercise of the powers conferred by the Bill. Clause 20 (Proceedings in respect of statutory nuisance: defence) of the Bill would provide an additional defence in proceedings by persons aggrieved by statutory nuisance.
- 14 Your first-named Petitioners are a body corporate whose principal activity is food retailing. Your first-named Petitioners operate a network of stores. These include their Tesco Metro store at 2-4 Dean Street in the City of Westminster ("the Dean Street Metro") which is listed in the Book of Reference as plot 612 in the City of Westminster, their Tesco Metro store at 158-164 Bishopsgate ("the Bishopsgate Metro") in the City of London which is listed in the Book of Reference as plot 174 in the City of London, and their Tesco Express store on Hutton Road in the Borough of Brentwood ("the Shenfield Express"), of all of which your first-named Petitioners are leaseholders and occupiers. They also include your first-named Petitioners' Superstore at Goodmayes in the London Borough of Redbridge ("the Goodmayes Superstore") which your first-named Petitioners own. Your first-named Petitioner's network of stores also includes their Bromley-by-Bow store, Hancock Road, Bow, their Hackney Metro, Well Street, Hackney, their Bethnal Green Metro, Bethnal Green Road, their Cheapside Metro in the City of London, their Southampton Row Express, Southampton Row, their Strand Express, the Strand, their Tottenham Court Road Express, their Russell Square Express, Bernard Street, their Goodge Street Express, Goodge Street, their Uxbridge Road store, Slough, their Slough Extra, Brunel Way and their Maidenhead Metro, Nicholson Walk. Your second-named Petitioners are a body corporate who hold property including an access road and other land off the High Road at Goodmayes which gives access to the Goodmayes Superstore and which is listed in the Book of Reference as plot 96 in the London Borough of Redbridge.
- 15 Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioners object for reasons amongst others, hereinafter appearing.
- 16 Your first-named Petitioners are particularly concerned about the effects of the Crossrail works on the Dean Street Metro. It is proposed that the western ticket hall for the Crossrail Tottenham Court Road station would be built on Dean Street directly opposite

the Dean Street Metro. Work No. 1/3A, one of the Crossrail railway lines in tunnel, and station platform would be built beneath the basement of the Dean Street Metro. The Dean Street Metro also sits above the proposed main escalator shaft down from the ticket hall and above a cross passage connecting the bottom of the escalator with the two platforms. The crown of the escalator shaft would be within 2 to 3 metres of the existing foundations of the building of which the Dean Street Metro is part.

- 17 The Dean Street Metro includes a basement that is used by your first-named Petitioners for storage, and without this storage area the store cannot function. Your first-named Petitioners have been informed by the Crossrail team that access to and use of at least part of the basement of the Dean Street Metro would be required for an as yet undetermined period to enable the nominated undertaker to carry out strengthening works to the substructure of the site. Crossrail's precise requirements have not yet been identified. The nominated undertaker may need to clear the whole of the basement of the store temporarily to carry out its works, rendering the store inoperable. Temporary use by the nominated undertaker of part only of the basement of the store may likewise render the store inoperable. Investigations for the purposes of Crossrail may result in proposals for a raft to be constructed in the basement, making the basement permanently unusable, rendering the store permanently inoperable. Your first-named Petitioners would ask that the nominated undertaker be obliged to minimise the impact on the Dean Street Metro footprint both temporarily and permanently, whilst ensuring that sufficient protection is provided for the building. Any access to the basement by the nominated undertaker or its contractors must be separate from the public access to the store. The design solution must ensure that it remains safe and practical for trading to continue at the Dean Street Metro and must not result in intermittent disruption to trading. Your first-named Petitioners further submit that all measures directly affecting the Dean Street Metro including technical proposals and the timing of such measures should be agreed with your first-named Petitioners. The nominated undertaker should rectify any damage to the building.

- 18 The Bill also authorises various road closures including temporary closure of Dean Street, Carlisle Street and part of Soho Square. Your first-named Petitioners are most concerned about the impact of road closures on access for service vehicles and pedestrians to their store. Your first-named Petitioners understand from the Crossrail team that Dean Street will have to be completely closed to vehicular traffic for a period whilst work is undertaken relating to utilities apparatus, and may also be closed to pedestrian traffic, making access to the store impossible for customers. The Crossrail team have admitted that at the very least pedestrian access to the store would be more difficult. In your first-named Petitioners' submission this is bound to have an adverse

- effect on trading at the store. Your first-named Petitioners submit that measures to mitigate these effects should be agreed with your first-named Petitioners and that programming of significantly disruptive works should be agreed with your first-named Petitioners.
- 19 Your first-named Petitioners are extremely concerned that the extent of Crossrail works in Dean Street both to their store and in Dean Street more generally will in any event for a period of years adversely affect visibility of the Dean Street Metro. Also for some 5 years, whilst the station tunnels are under construction, the worksite opposite the Dean Street Metro will be a major construction site, with large numbers of HGV movements delivering materials to the site and removing waste from it and with associated issues of noise, dust, vibration and general nuisance. This will result in Dean Street being an unattractive and unpopular shopping location. In your first-named Petitioners' submission these activities will severely adversely affect numbers of shoppers using the Dean Street Metro and therefore trading at the store. In your first-named Petitioner's submission the nominated undertaker should take steps to mitigate this. Specific mitigation provisions should be agreed with your first-named Petitioners and included in the Code of Construction Practice to maximise visibility and access to the Dean Street Metro and to minimise adverse impacts. These should include adoption of your first-named Petitioners' usual standards relating to visibility and signage, and should provide for your first-named Petitioners to be involved in management of the area during the works.
- 20 Vehicular servicing of the Dean Street Metro takes place at the rear of the store via Soho Square. Your first-named Petitioners understand that there will be works in Soho Square and restrictions to vehicle movements. Your first-named Petitioners are concerned that these and other temporary road closures and traffic management and the presence of construction vehicles may prevent or adversely affect deliveries to the store and therefore trading at the store. Your first-named Petitioners ask that the nominated undertaker should be obliged to ensure that deliveries of the size and frequency required to service the Dean Street Metro can be maintained via a route agreed with your first-named Petitioners.
- 21 Your first-named Petitioners have been advised by the Crossrail team that there will be settlement effects to the Dean Street Metro from the escalator works and the deep running tunnels. These, or strengthening works to the building, or deformations or damage should strengthening works not be successful, may affect the value of your first-named Petitioners' interest as well as trading at the store.

- 22 The powers of compulsory purchase in the Bill extend to possible acquisition of the whole of your first-named Petitioners' interest in the Dean Street Metro, but the Secretary of State will not necessarily exercise these powers to the full. Your first-named Petitioners are advised that the compensation they are likely to receive may not fully compensate them for the losses that they are likely to suffer to their business at the Dean Street Metro on account of the Crossrail works. The precise extent and timing of works is not yet determined and your first-named Petitioners are unable to assess fully the effects on the Dean Street Metro and on trading at the store. In your first-named Petitioners' submission if it transpires that compensation will not adequately meet their losses they should have the option to require the whole of their interest to be acquired.
- 23 Your first-named Petitioners are also concerned about the effects of the Crossrail works on the Bishopsgate Metro. The Bill authorises compulsory acquisition of subsoil or under-surface of land lying more than 9 metres beneath the level of the surface of this site and it is proposed that the running tunnels for Works Nos 1/3A and 1/3B would be constructed under this site.
- 24 Your first-named Petitioners are concerned about possible settlement effects on the Bishopsgate Metro. In your first-named Petitioners' submission the nominated undertaker should be obliged to carry out monitoring of the Bishopsgate Metro site at the nominated undertaker's expense and should be obliged to rectify any settlement effects.
- 25 The Bill also authorises temporary closure of various roads including part of Bishopsgate. The area would be significantly affected by temporary traffic management measures in support of the construction works including road and footway closures, public parking bays would be lost and there would be large numbers of HGV construction vehicles on an already congested road network. Your first-named Petitioners submit that the nominated undertaker should be obliged to ensure that access to the Bishopsgate Metro, both for customers and delivery vehicles is not impeded by reason of the works, worksites in the vicinity and their use, road closures or temporary traffic management measures. Your first-named Petitioners also ask that works for Crossrail in the vicinity of the Bishopsgate Metro should be carried out in such a way that disruption to Bishopsgate and to the Metro store is minimised.
- 26 Your first-named Petitioners are also concerned about possible effects on the Bishopsgate Metro of noise, dust and vibration. In your first-named Petitioners' submission the nominated undertaker should be obliged to comply with suitable local authority requirements.

- 27 Your first-named Petitioners are concerned that if there are adverse effects on the Bishopsgate Metro or on trading at the Metro store as a result of the Crossrail works they will not be compensated adequately. In your first-named Petitioners' submission the Secretary of State should be obliged to provide an indemnity to your first-named Petitioners for any damage to their property or losses to their business on account of the Crossrail works and their construction.
- 28 Both of your Petitioners are concerned about the effects of the exercise of the powers of the Bill on their interests at the Goodmayes Superstore. Your first-named Petitioners own and operate the superstore including the associated car parking area and petrol filling station. Your second-named Petitioners own the road that gives access to the car park and the petrol filling station and to Goodmayes Retail Park ("the access road"). The access road is within the limits of land to be acquired or used and is adjacent to the northern side of the limits of deviation for Work No. 2/12 – a railway forming a freight loop line.
- 29 The powers of compulsory acquisition are limited to powers to create and acquire easements or other rights over the land for the passage of persons or vehicles with or without materials, plant and machinery for the purpose of or in connection with the construction or maintenance of the works authorised by the Bill. Your Petitioners understand from the Crossrail team that it is intended to acquire rights to use the access road in order for construction vehicles including HGVs to access the Goodmayes Station worksite. The worksite would be within railway land adjacent to the Superstore. The access point would be directly opposite the petrol filling station at the Superstore.
- 30 Your Petitioners are concerned that use by the nominated undertaker of the access road may interfere with use of it by your Petitioners and their servicing vehicles and by your Petitioners' customers, which in turn may adversely affect trading at the Goodmayes Superstore. Your Petitioners submit that use of the access road by the nominated undertaker should be regulated by agreement with your Petitioners to avoid conflict of use or obstruction of the access road.
- 31 Your Petitioners are also concerned that use of the surrounding road network including the A118 by construction vehicles may interfere with access to the Goodmayes Superstore for deliveries and for customers. Your Petitioners seek assurances to ensure this does not happen.
- 32 Your Petitioners are concerned that use of the access road by construction vehicles including HGVs may damage the access road and submit that the nominated undertaker should be obliged to undertake condition surveys of the access road, repair any damage

caused and resurface the road including at the end of the period of its use by construction vehicles to access the Goodmayes Station worksite. Your Petitioners are concerned that use of the access road by construction vehicles may result in dirt and detritus being deposited on the access road and ask that the nominated undertaker should be obliged to clean the access road regularly to ensure a satisfactory state of cleanliness is maintained. Your Petitioners are also concerned that dirt and detritus may block the drains and ask that the nominated undertaker should clean and as necessary unblock the drains regularly.

33 Your Petitioners are concerned that their car park at the Goodmayes Superstore may be used for parking by construction vehicles or construction workers' vehicles. Your Petitioners would be particularly concerned if this happened at peak trading times and prevented use of the car park by customers. Your Petitioners submit that the nominated undertaker should be obliged to ensure this does not happen.

34 Your Petitioners are also concerned about the proximity of the proposed Goodmayes Station worksite to the Goodmayes Superstore and petrol filling station and possible effects of noise, vibration, and settlement and of dust being deposited on the car park and customers' cars. Your Petitioners submit that these matters should be regulated by agreement with your Petitioners.

35 Your first-named Petitioners are concerned about possible adverse impacts of construction of the Crossrail scheme on the Shenfield Express and on trading at that store. The service yard at the back of the Shenfield Express backs onto plot 34 in the London Borough of Brentwood. This plot would be used as a worksite for works to Shenfield station. The entrance to the worksite would be on Friars Avenue adjacent to the entrance to the service yard. Your first-named Petitioners are concerned that there may be conflicts of vehicle movements on Friars Avenue between your first-named Petitioners' service vehicles and vehicles including HGVs going to and from the worksite, and seek an agreement with the nominated undertaker to ensure this does not happen and that there is no interference with access to and from the service yard.

36 Your first-named Petitioners are also concerned about possible impacts of a construction site in close proximity to the area where deliveries are unloaded and received into the Shenfield Express, including noise, vibration and dust. Your first-named Petitioners seek assurance that these matters will be addressed to your first-named Petitioners' satisfaction in the Code of Construction Practice.

37 Your first-named Petitioners note that the Crossrail proposals include loss of a significant number of car parking spaces for significant periods of time at car parks in

the vicinity of the Shenfield Express. Your first-named Petitioners are concerned that this reduction in parking may deter your first-named Petitioners' customers from shopping at the Shenfield Express. Your first-named Petitioners ask that they should be compensated for any loss of trade resulting from loss of parking that their customers would normally use.

38 Your first-named Petitioners are concerned about possible adverse impacts of HGV movements, of temporary road and footway closures and temporary traffic management measures and of loss of parking, to facilitate the Crossrail works, on various other of your first-named Petitioners' stores, including their Bromley-by-Bow store, Hancock Road, Bow, their Hackney Metro, Well Street, Hackney, their Bethnal Green Metro, Bethnal Green Road, their Cheapside Metro in the City of London, their Southampton Row Express, Southampton Row, their Strand Express, the Strand, their Tottenham Court Road Express, their Russell Square Express, Bernard Street, their Goodge Street Express, Goodge Street, their Uxbridge Road store, Slough, their Slough Extra, Brunel Way and their Maidenhead Metro, Nicholson Walk. Your first-named Petitioners seek assurances to minimise adverse consequences of these measures on trading at your first-named Petitioners' stores.

39 Your Petitioners further ask that your Petitioners should be fully compensated for any damage or adverse effects on any of your first-named Petitioners' stores or your second-named Petitioners' access road or on trading at the stores. They should also be indemnified from any claims or demands on them in consequence of the construction, use or maintenance of the works or the failure or want of repair thereof or in consequence of any act or omission of the nominated undertaker. They should be consulted on construction methods to be employed at all sites in the vicinity of their stores during the works and construction methods for works directly affecting their stores should be agreed with them.

40 Your Petitioners' hope that it may be possible for all the issues referred to in this Petition to be resolved by an agreement with your Petitioners. However if this cannot be achieved your Petitioners submit that the Bill should be amended to include provisions for the protection of your Petitioners' interests as sought in this Petition.

41 For the foregoing and connected reasons your Petitioners respectfully submit that, unless the Bill is amended as proposed above, the clauses of, and Schedules to, the Bill referred to above, so far as affecting your Petitioners, should not be allowed to pass into law.

- 42 There are other clauses and provisions of the Bill which, if passed into law as they now stand, will prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners.

YOUR PETITIONERS therefore humbly pray your Honourable House that the Bill may not be allowed to pass into law as it now stands and that they may be heard by their Counsel, Agents and witnesses in support of the allegations of this Petition against so much of the Bill as affects the property, rights and interests of your Petitioners and in support of such other clauses and provisions as may be necessary or expedient for their protection, or that such other relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioners will ever pray, &c.

Agents for the above-named Petitioners

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AGAINST, By Counsel, &c.