

IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2005-2006

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 BELVEDERE INVESTMENTS LIMITED AND BELVEDERE INVESTMENTS 2 LIMITED

SHEWETH as follows:-

1. A Bill (hereinafter referred to as the "Bill") has been introduced and is now pending in Your Honourable House entitled a bill to make provision for a railway 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 (hereinafter referred to as the "Secretary of State").

The Bill

3. Clauses 1 to 20 of the Bill together with Schedules 1 to 9 make provision for the construction and maintenance of the proposed works including the main works set out in Schedule 1. Provision is included to confer powers for various building and engineering operations, for compulsory acquisition and the temporary use of and entry upon land, for the grant of planning permission and other consents, for the disapplication or modification of heritage and other controls and to govern interference with trees and the regulation of noise.
4. Clauses 21 to 44 of the Bill together with Schedule 10 make provisions for the application with modifications and the disapplication in part of the existing railway regulatory regime,

which is contained in and arrangements made under the Railways Act 1993 (c. 43) and associated legislation. In particular, the provisions allow the disapplication of licensing requirements, the imposition of special duties upon the Office of Rail Regulation, the modification of railway access contracts and franchising agreements and the disapplication of railway closure procedures and of the need for consent from Transport for London in relation to key system assets. Provision is also included to enable agreements to be required as between a nominated undertaker for the Crossrail Works and controllers of railway assets, to govern the basis of arbitration and to provide for the transfer of statutory powers in relation to railway assets.

5. Clauses 45 to 59 of the Bill together with Schedules 11 to 14 contain miscellaneous and general provisions. These include provision for the making of transfer schemes, the designation of nominated undertakers, the devolution of functions and other actions to be taken by the Secretary of State; Provision is also made for the disapplication or modification of various additional miscellaneous controls, for the treatment of burial grounds, for the application of various provisions of the Bill to future extensions of Crossrail, for the protection of certain specified interests and in respect of arbitration.

Your Petitioners

6. Your Petitioners are the freehold owners of two adjacent properties at Isis Reach, also known as Manor Wharf, in the London Borough of Bexley, together being the property known as the Iron Mountain Warehouse ("the Property"). The Property is accessed by a private road leading from Manor Way, known as Isis Reach (but which appears as "Isis Roach" on the deposited plans accompanying the Bill). The Property is leased to a tenant, known as Iron Mountain (UK) Limited ("the Tenant").
7. The Property comprise large storage and distribution buildings. These are accessed by a mixture of public and private roadways, access to which is required by Your Petitioners and the Tenant at all times of the day and night.
8. Your Petitioners and their rights and interests and property are injuriously affected by the Bill, to which Your Petitioners object for reasons amongst others hereinafter appearing. This effect is significant and, it is alleged, particular to the location of the Property in relation to the works comprised in Crossrail and the spoil disposal operations associated with the construction of those works.

Effect of the Bill

9. The Bill makes provision for the compulsory acquisition of land or rights over land comprised in parcels 87, 92, 93, 99, 102 and 106 shown on the deposited plans. The acquisition of these parcels on a permanent basis would render the Property unusable, as would their acquisition for any extended period, even on a temporary basis. Your Petitioners and the Tenant require access to the Property at all times by reason of the business of the Tenant, or indeed any alternative tenant, which would be impeded by the acquisition of these parcels or any use of those parcels sufficiently intense as to interfere with their use by Your Petitioners. The Bill should not include these parcels or should make provision to prevent any such effect as described above, providing for compensation where any such effect occurs.
10. The acquisition of parcel 106 adjacent to the River Thames is likewise objected to because it is required for the proper operation of the Property. It contains water attenuation works which are required for the functioning and protection of the Property. It is not necessary for the Crossrail Works, which could be carried out without acquiring this land. The conveyor proposed for this location could be built wholly within parcel 105, which is not owned by Your Petitioners. Parcel 106 also comprises part of the access to the whole of the perimeter of the buildings on the Property. Such access should be maintained at all times so Your Petitioners and the Tenant can ensure access, in particular access by the emergency services, to all part of the Property and the buildings on the Property. Parcel 106 should be excluded from the powers of compulsory acquisition contained in the Bill.
11. The Environmental Statement submitted by the Secretary of State in accordance with Standing Order 27 of Your Honourable House and the notice served upon Your Petitioners show that rights over Isis Reach would be taken for construction traffic. The Bill provides that whereas a property may not be deprived of access, the use of a roadway so intensively as to render access enjoyed at present no more than nugatory is not prevented. It is proposed that Isis Reach will be intensively used for the construction and works at this location. If this is the case, the use of Isis Reach will impede access to the Property for the duration of the construction of these works. Provision should be made in the Bill or by undertaking requiring acceptable, adequate and unimpeded access to be maintained to the Property for the duration of the Crossrail works or that, as discussed below, Saxon Way should be available to construction traffic before construction commences.
12. The Environmental Statement shows that a private road known as Saxon Way and running parallel to Isis Reach will be used for the lorry transfer of spoil arising from construction of

tunnels for Crossrail. The Environmental Statement states that this will result in a very high number of lorry movements. Saxon Way connects with Manor Way at the same point as Isis Reach. A very high number of lorry movements would unacceptably affect the functioning of the Property and access thereto via the Saxon Way/Isis Reach/Manor Way junction. The Bill should require the imposition of a routeing plan and timetable for lorry movements to the satisfaction of Your Petitioners and for traffic management measures, including measures for the protection of pedestrians, to be imposed prior to the use of Saxon Way for the Crossrail project.

13. A large number of lorry movements along Isis Reach or Saxon Way will adversely affect the surface of the road in this location. It is necessary for a requirement to be imposed through the Bill to ensure that damage to these roads and any other assets in the ownership of Your Petitioners affected by Crossrail is made good. It should also be required that the roads are maintained free of mud or other deposits.
14. Your Petitioners consider that the Bill or an undertaking to Your Petitioners should make particular provision for the imposition of reasonable dust, emission, noise and vibration management measures at this location and for the ability of Your Petitioners to enforce those measures.

General

15. There are a number of other general concerns arising from the Bill which are of great importance to Your Petitioners. In Your Petitioners' submission, the Bill is deficient in various respects, in relation to Your Petitioners' premises, as detailed below. They submit that the Bill should be amended to provide them proper protection in these respects. The matters in relating to which protection is requested are:-

- 15.1 The construction of the works could cause damage to Your Petitioners' premises. Your Petitioners would wish the promoters to agree that a schedule of condition should be prepared, in accordance with a specification to be agreed with Your Petitioners, at the expense of the nominated undertaker, before the works commence. The effect of the works on the premises should be regularly monitored at the expense of the nominated undertaker, in accordance with arrangements to be agreed with Your Petitioners so as to minimise interference with business at Your Petitioners' premises and at the conclusion of the works a further schedule of condition should be prepared

at the nominated undertaker's expense, to ascertain what matters require to be remedied;

- 15.2 If, during the course of the construction of the works Your Petitioners notice damage occurring to their property which requires attention, the nominated undertaker should be obliged, on request, to carry out the works of repair and suitable protective works, to Your Petitioners' satisfaction, without waiting until the conclusion of the construction of the works;
- 15.3 The construction of the works and exercise of other powers under the Bill could interfere with or cause disruption to services to and from Your Petitioners' premises including power, drainage and telecommunications services. The nominated undertaker should be required to ensure that these services will be suitably protected and secured, that supplies and services will not be interrupted and that the capacity of supplies and services will not be impaired by reason of the works;
- 15.4 Your Petitioners are concerned about the exercise by the nominated undertaker, in relation to Your Petitioners' premises, of the powers contained in paragraphs 4, 5 and 6 of Schedule 2 to the Bill relating to mitigating and safeguarding works to buildings including the associated powers of entry. Your Petitioners would wish to have control over such works, have the works overseen by independent engineers, be satisfied as to the quality of such works and be assured of proper and adequate access to Your Petitioners' premises being maintained at all times. Your Petitioners seek assurances accordingly;
- 15.5 Your Petitioners are concerned about exercise by the nominated undertaker of the powers of paragraph 9 of Schedule 2 to the Bill with regard to preparatory works, and in particular the making of trial holes, and that the nominated undertaker could seek to do this at Your Petitioners' premises. This power should only be exercisable with the consent of Your Petitioners;
- 15.6 Your Petitioners are concerned that exercise by the nominated undertaker of the powers of the Bill in relation to street and pavement closures or openings in streets or pavements could result in vehicular access to Your Petitioners' property being denied or pedestrian access being impeded. Your Petitioners are particularly concerned about the adverse impact of possible access difficulties on Your Petitioners' tenants. Your Petitioners require to be notified sufficiently in advance of any temporary road

closures or obstructions in the vicinity of the Property and on Isis Reach, Saxon Way and Manor Road;

- 15.7 Your Petitioners are concerned about the possible duration and programming of the proposed works. Your Petitioners require assurance that the nominated undertaker will notify them of the construction programme and timetable so far as practicable and that the nominated undertaker will arrange the construction programme and timetable so as to minimise disruption and disturbance to Your Petitioners' premises; and
- 15.8 For compensation purposes, Your Petitioners submit that the nominated undertaker should be obliged to treat separately a claim for injurious affection from any claim which may be made in respect of land taken compulsorily under the Bill. The nominated undertaker should be obliged to indemnify Your Petitioners fully against costs or loss to Your Petitioners by reason of material damage to Your Petitioners' premises or otherwise occasioned as a result of the Bill and its proposals
16. As a general matter Your Petitioners submit that petition should be made for the Secretary of State to repay to Your Petitioners 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.
17. For the foregoing and connected reasons Your Petitioners respectfully submit that, unless the Bill is amended as proposed above, clauses permitting the compulsory acquisition of land or the construction of works, so far as affecting Your Petitioners, should not be allowed to pass into law.
18. 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.

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