

**IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2005-06**

CROSSRAIL BILL

PETITION OF THE BRITISH BROADCASTING CORPORATION

AGAINST,

BY COUNSEL

CROSSRAIL BILL

Petition against the Bill - on Merits - Praying to be heard by Counsel etc.

To the Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled

THE HUMBLE PETITION OF the British Broadcasting Corporation of Broadcasting House, Portland Place, London W1A 1AA (hereinafter referred to as "**your Petitioner**").

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 (the "**Secretary of State**"). In the Explanatory Notes to the Bill prepared by the Department for Transport it is stated at paragraph 3 that "the main purpose of this Bill is to secure the powers necessary to build Crossrail. Crossrail will consist of new rail tunnels running west-east through central London connecting directly with existing surface rail routes to Maidenhead and Heathrow in the west and Shenfield and Abbey Wood in the east. By connecting the main London rail terminals of Paddington and Liverpool Street, Crossrail will enable interconnecting mainline services to cross the centre of London via a number of new purpose-built stations."
- 3 The Bill applies certain provisions from legislation relating to compulsory purchase. It also applies other railway legislation.
- 4 By Clause 1 the Bill proposes to authorise the "nominated undertaker" to construct and maintain the works specified in Schedule 1 to the Bill ("the Scheduled Works").
- 5 By Clause 1(3) the Bill proposes lateral deviation and vertical deviation.
- 6 By Clause 13 of the Bill, the nominated undertaker will be either a person or persons specified as such by the Secretary of State by order or, in the absence of such a specified person, the Secretary of State.
- 7 By Clause 2 of the Bill it is proposed to authorise the nominated undertaker to carry out the additional works specified in Schedule 2 to the Bill including, amongst others, the underpinning of buildings and the carrying out of preparatory works.
- 8 By Clause 6 the Bill proposes to authorise the Secretary of State to acquire compulsorily certain lands shown on the deposited plans within the limits of deviation for the Scheduled Works as may be required for or in connection with the works proposed to be authorised by the Bill or otherwise for or in connection with Crossrail or within the limits of land to be acquired or used. The purposes for which land may be acquired if the proposed Act is passed are specified in Schedule 6 to the Bill. By Clause 6(5) the powers of compulsory

purchase under the Bill would expire five years after the date of the passing of the proposed Act.

- 9 By Clause 7 the Bill proposes that the Secretary of State should be empowered to acquire compulsorily land outside the limits of deviation which is required for or in connection with the Scheduled Works. In addition, the Bill provides that Secretary of State may acquire land compulsorily within the limits of deviation in excess of that specified in Schedule 6 in order to mitigate the effect on the environment of the works or to relocate apparatus.
- 10 The Bill will, if enacted, enable the nominated undertaker to affect adversely as hereinafter set out the property rights and interests of your Petitioner arising from its interest in premises at Villiers House, Broadway, Ealing which premises are described in the deposited book of reference and are numbered 127, 128, 129, 130, 131 and 132 on the deposited plans (referred to hereinafter as "Villiers House") and its interest in car parking premises west of Haven Green, which premises are described in the deposited book of reference and are numbered 109, 112 and 113 on the deposited plans (Villiers House and the car parking together referred to hereinafter as the "Property").
- 11 The leasehold title (office premises and parking) to the Property is vested in your Petitioner. The Property is occupied by Media Accounting Services Limited as tenant to your Petitioner. Your Petitioner outsources its accounting functions to Media Accounting Services Limited who work exclusively for your Petitioner. Your Petitioner charges no rent to Media Accounting Services. At present two floors of Villiers House are vacant and are being considered for occupation by your Petitioner in connection with the proposed relocation of space as a result of the Crossrail proposals.
- 12 The Property lies above and adjacent to Ealing Broadway Station. Villiers House comprises and is operated as one building; to the south and above the station, the building comprises two storeys consisting of a parade of shops and parking fronting the Broadway with (approximately 700 sq m (7,500sq ft) of) offices above at first floor level, to the north, a nine storey office block. In total, Villiers House comprises approximately 4,671 sq m (50,276 sq ft) of floor space. Although operated as one building, the building was designed to allow loss of the southern two storey element without affecting the structural integrity of the remainder.
- 13 Your Petitioner is a public corporation established by Royal Charter to provide public service broadcasting.
- 14 Your Petitioner, in principle, supports the aims and objectives of the Bill and accepts that there will be substantial benefits to London, its people and its economies due to the east to west railway, but it is concerned that the works proposed should not be carried out to the detriment of your Petitioner and its rights and interests. Your Petitioner and its rights, and interests are affected by certain consequences of the proposal and by matters of important detail in the Bill, to which your Petitioner objects for the reasons hereinafter appearing.

Acquisition of land

- 15 The book of reference describes the aforementioned plots of land as follows:

Number on plan	Description of Property	Lessee/Occupier
109	Raft carrying car park, hardstanding and land	Your Petitioner and others

	(east of Haven Green)	
112	Raft carrying car park, hardstanding and land (rear of Central Buildings, Haven Green)	Your Petitioner and others
113	Raft carrying car park, hardstanding and land (Central Buildings, Haven Green)	Your Petitioner and others
127	Railway (Great Western Main Line), works and land, beneath raft carrying parking, private road and footways (Ealing Broadway Station)	Your Petitioner and others
128	Railway (Great Western Main Line), works and land beneath raft carrying parking, hardstanding and land (Ealing Broadway Station, The Broadway)	Your Petitioner and others
129	Shop, offices and premises (1 – 2, New Ealing Broadway)	Your Petitioner and others
130	Railway (Great Western Main Line), works and land, beneath raft carrying shops, offices, passageway and premises (6 – 11, New Ealing Broadway and Villiers House)	Your Petitioner and others
131	Railway station (Ealing Broadway Station), ticket hall, shops and premises (The Broadway), beneath offices and premises	Your Petitioner and others
132	Shop, basement, land and premises (12, The Broadway)	Your Petitioner and others

- 16** The said plots are all included in part 1 of Schedule 6 to the Bill thereby authorising the Secretary of State to compulsorily acquire the lands described within the limits of deviation.
- 17** The Environmental Statement (the “ES”) prepared for the Department of Transport on the Crossrail project describes in chapter 9 the permanent and temporary works to be carried out along the western section of Crossrail by reference to “route windows”. The Property falls within route window W5. Paragraphs 9.24.6 and 9.24.7 of Volume 3 describe the permanent works in the vicinity of the Property, including, a new ticket hall, 8m high and 40m wide, to be constructed on the site of the existing retail units, namely, the southern part of Villiers House. Figure 9.11 shows a visualisation of the new station layout.
- 18** It appears that the Bill and the ES are inconsistent in the description of the extent of land required for the Scheduled Works. Your Petitioner accordingly objects and requires clarification as to the extent of land required for those works.
- 19** Whether or not the Property, and more particularly Villiers House, is capable of beneficial occupation will depend upon detailed design work yet to be undertaken for the Crossrail works in the vicinity of the Property. If not capable of beneficial occupation, your Petitioner will seek compensation for injurious affection as an additional head of compensation and many of the issues raised below (regarding, for example, noise, dust and access) will no longer remain objections. If capable of limited occupation due to the extent or timing of the

works, your Petitioner will seek the right to claim compensation for severance in addition to compensation for the value of land purchased. Your Petitioner objects to the uncertainty as to its future ability to use and enjoy the Property and the adverse effect this has on the good estate management of the Property.

The ES and plans – in general

- 20** Your Petitioner submits that the deposited plans, the deposited sections, the deposited book of reference and the ES do not give sufficient detail of the station and other works to be undertaken in the vicinity of the Property. As required by Council Directive 85/337/EC (as amended by Directive 97/11/EC), the ES is required to describe the project and its likely significant effects on the environment. The ES is also required to describe the measures that will be taken to avoid or reduce any adverse impact on the environment. Your Petitioner submits that the ES is deficient in a number of ways, including, an inadequate description of the likely significant effects of the Scheduled Works, insufficient detail of the proposed mitigation measures and assessment of their effectiveness in avoiding, reducing or remedying significant adverse effects and insufficient analysis of alternatives.

The ES – specific issues

- 21** The ES notes in Chapter 9 that there will be a number of significant adverse impacts during construction including construction noise impacts which will affect occupants of 39 residential properties, and disruption to all rail and Underground passengers travelling through Ealing Broadway station, in particular, during the two-week line closure (blockade) at Paddington, and delays to road users in the vicinity. Paragraph 9.24.42 states that high noise levels will be generated by construction works at Ealing Broadway station affecting local residents. Paragraph 9.24.50 notes that dust will be generated by construction activity. Paragraph 9.24.60 states that there will be a loss of retail jobs due to the removal of the existing retail units.
- 22** The ES states that the Haven Green worksite, immediately opposite the Property, will be served by four lorries per day, including during the 12 week construction peak, and the Ealing Broadway Station Forecourt, adjacent to the Property to the south, will be served by four lorries per day during the 31 week peak and two at other times. The lorry route for both sites will be clockwise around Haven Green utilising the station forecourt to access the latter worksite. The Property fronts the station forecourt and Haven Green.

Noise and Vibration

- 23** Your Petitioner is concerned about the effects of noise and vibration particularly during construction of the Scheduled Works. Your Petitioner is particularly concerned about the effect of noise on your Petitioner's working conditions but also the effect of vibration on the integrity of the Property. The effect of construction noise on the office working environment has not been assessed. The assessment only concerns residential properties. Nor is there an assessment of the cumulative impacts of construction noise and construction traffic. Your Petitioner therefore objects on the basis of this omission.
- 24** Your Petitioner requires an effective noise monitoring system in place before commencement and during construction of the works. There must, in your Petitioner's submission, be a threshold agreed between your Petitioner and the nominated undertaker: if that threshold is exceeded the nominated undertaker should be obliged to cease

construction until such time as remedial measures are in place which will reduce noise levels below the agreed threshold.

- 25 Measures should also be agreed to ensure the absence of impact induced vibration during construction and your Petitioner requires an effective monitoring system in place before commencement of and during construction of the works to give effect to such measures.

Services

- 26 It is essential that there will be no disruption to statutory or other services provided to the Property to ensure full operational use may continue. In your Petitioner's submission a co-ordinated programme of works to any such services leading into the Property needs to be established by the nominated undertaker and agreed with your Petitioner so as to ensure that in carrying out the Scheduled Works any works to such services do not cause unnecessary disruption to the use of the Property such use being IT dependant.

Air quality and dust

- 27 Your Petitioner is concerned to secure the preservation of clean air to the air intakes for air conditioning and cooling purposes. Your Petitioner would wish to see an effective monitoring system in place before commencement and during construction of the works to ensure that the air taken into the Property is maintained at a quality no worse than at present available.

Highway and access

- 28 Clause 3 and Schedule 3 of the Bill make provisions in relation to highways. Paragraph 5 of Schedule 3 provides for temporary interference with any highway. Paragraph 5(2) provides that the nominated undertaker is to provide reasonable access for pedestrians going to or from premises abutting an affected highway. Paragraph 5(3) requires prior consultation with the highway authority, however, only in so far as to ensure public safety and, as far as reasonably practicable, to reduce public inconvenience. Haven Green and the Mall, inter alia, may be temporarily affected within the relevant limits. Any highway which is temporarily stopped up may be used as a working site if it is within the limits of deviation for the scheduled works.
- 29 Your Petitioner objects to Clause 3 and Schedule 3 of the Bill in that these provisions allow the Secretary of State to stop up the large areas of highway for lengthy periods possibly extending to a number of years and for those areas to be used as a working site. Your Petitioner submits that these powers are too broad particularly in that the only access that the nominated undertaker is required to provide is pedestrian. There are no provisions relating to the servicing or maintenance of properties or reasonable access for taxi drop off.
- 30 Your Petitioner requires that consultation with it (among others) prior to the stopping up, temporarily or permanently, of any highway adjacent to or in the vicinity of the Property. Although the ES notes that there will be significant adverse impact to all rail and Underground users of Ealing Broadway station during the blockade of Paddington, the ES is deficient in that there is no assessment of the impact of the works on access (vehicular and pedestrian) to the Property generally during the period of enabling and construction works. Your Petitioner requires confirmation that reasonable access and means of escape is maintained to the parts of the Property to be retained at all times during the Scheduled Works to allow full operational use of those parts of the Property.

Scheduled works and settlement

- 31** The ES provides insufficient information on the Scheduled Works within route window W5, in particular, how the demolition of the existing retail units and construction of the new station will impact on the integrity of the retained Property, namely, Villiers House. Your Petitioner therefore objects on the basis of this omission.
- 32** The ES does not provide sufficient information on settlement. The authors of the ES have estimated settlement contours, but insufficient information is included in the deposited plans or the ES to confirm that this will be achieved. Your Petitioner submits that prior to any works being effected, the nominated undertaker should be required, at its own cost, to carry out a survey of the parts of the Property to be retained and to agree a Schedule of Condition with your Petitioner. Such assessment to be undertaken by your Petitioner at the Secretary of State's cost or alternatively to be carried out following full consultation with your Petitioner or with its prior agreement.

Programme

- 33** The ES states that the construction of the new station will take place over approximately two years. In addition to which, enabling works, including diversion of utilities and services will be undertaken in advance of the main construction works. Hours of work are stated to be 0700 to 1900. Works are to be carried out from three main worksites, including, the Haven Green and Ealing Broadway Station Forecourt worksites.
- 34** Your Petitioner submits that there is insufficient information on the programming of the works to enable a proper assessment of the impact of the works on the use of the Property.
- 35** The Supplementary ES considers impacts if the construction period were to run from 2009 to 2015 and also if hours of work were to be reduced to 0800 to 1800. However, as noted above, the position remains that there is insufficient information to properly assess the impact of the Scheduled Works on the use of your Petitioner's Property.

Code of Construction Practice

- 36** Your Petitioner submits that there needs to be a systematic and specific evaluation of the likely impacts of the construction works on the Property, including hours of working, heavy goods and other construction vehicle movements, traffic flows, road and footpath closures, visual intrusion of construction activities, amenity value, nuisance, noise, light, dust, vibration and settlement. Your Petitioner submits that the nominated undertaker should provide detailed plans, method statements, work programmes and delivery schedules in relation to the works and use of the adjacent worksites well in advance of the commencement of the Scheduled Works.
- 37** Your Petitioner submits that its approval should be sought by the nominated undertaker in the drawing up of a site-specific code of construction practice in order to ensure that satisfactory construction mitigation measures are adopted. Your Petitioner is concerned to ensure that the nominated undertaker is required to adopt the very highest standards of mitigation of the effects of, inter alia, noise, dust, vibration and access caused during the construction period.

Deviation

- 38** Your Petitioner objects to Clause 1(3) of the Bill in that the effect of the aforesaid Clause is to give the Secretary of State the power to deviate laterally from the lines shown on the deposited plans to any extent within the limits of deviation and vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to any extent downwards. Your Petitioner submits that the limits proposed in Clause 1(3) of the Bill cause uncertainty in view of the possible effects and likely impacts of the works. Your Petitioner submits that the vertical and lateral limits of deviation should be reduced.

Supplementary provisions

- 39** Clause 2 and Schedule 2 of the Bill contains further and supplementary provisions regarding the scheduled works. The nominated undertaker may also underpin or strengthen a building within 50m of the works giving at least 28 days notice to the owners and occupiers of the building and the undertaker may enter the land (not the building) to carry out the work. The undertaker may also enter any building within 50m of the works to survey that building (paragraph 5). For preparatory purposes, the undertaker may survey or investigate any land within the limits of deviation or within the limits of land to be acquired or used which includes making trial holes to investigate the nature of the soil (paragraph 9(1)).
- 40** Your Petitioner objects to the provisions of Clause 2 and Schedule 2 as there is no requirement giving the owners or occupiers of buildings the option to carry out any necessary underpinning or strengthening works themselves at the expense of the nominated undertakers. Your Petitioner further objects to the aforesaid Clause in that it does not place the Secretary of State or the nominated undertaker under a duty to consult with the owners or occupiers of the buildings concerned to agree, inter alia, the specification, timing and means of carrying out any such works, if such works should be carried out by the nominated undertaker. Control over any such works is essential to your Petitioner.
- 41** Your Petitioner submits that, when remedial measures become necessary as the works proceed, they should be entitled to require the nominated undertaker to carry out those measures immediately, rather than delaying such measures until the conclusion of the works.
- 42** Your Petitioner submits that, if damage is caused to the Property as a direct or indirect result of the works proposed in the Bill, the Secretary of State should be required to ensure that the works of restoration are to a specification and to a standard to be agreed by your Petitioner and, following agreement, are to be carried out by your Petitioner at the Secretary of State's cost. These requirements to be in addition to your Petitioner being entitled to full compensation for any adverse or injurious affects to its property, rights, interests or business due to the provisions in the Bill.
- 43** Your Petitioner will incur expenses in relation to monitoring any effects of the construction of the works on the Premises and of taking appropriate steps to ensure that their interests are adequately protected and they submit that the costs incurred by their so doing should be reimbursed by the nominated undertaker.
- 44** This Honourable House is petitioned that should your Petitioner suffer damage to the Property it will need to be fully compensated by the nominated undertaker for its direct and

indirect loss and indemnified against all and any consequential loss resulting from the provisions of the Bill.

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

YOUR PETITIONER therefore prays that the Bill may not be allowed to pass into law as it now stands and that it may be heard by its officers Counsel or Agent and witnesses in support of the allegations of the Petition against so much of the Bill as affects the rights and interests of your Petitioner and in support of such other clauses amendments or provisions as may be necessary or expedient for its protection or that such other relief may be given to your Petitioner as your Honourable House shall deem meet.

AND your Petitioner will ever pray etc.,