

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 R.B. DRUMMOND INVESTMENTS 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 Her Majesty’s Government.
- 3 (a) Clause 1 authorises the construction and maintenance of the works for the delivery of the railway transport system, which is known as Crossrail Line 1. The works are listed in Schedule 1 and shown on the plans and sections deposited with the Bill.  
(b) Clauses 2 and 3 authorise ancillary works and give effect to Schedules 2 and 3 respectively.  
(c) Clause 5 and Schedule 5 enable the nominated undertaker for Crossrail to take temporary possession of land in connection with the Crossrail works.  
(d) Clause 6 authorises the Secretary of State compulsorily to acquire so much of land within the limits shown on the plans and sections accompanying the Bill as may be required for the Crossrail works. Clause 6(3) and Parts 2 and 3 of Schedule 6 apply certain legislation relating to compulsory purchase compensation, subject to modification. The power of

compulsory acquisition is subject to a five year time limit, extendable by order of the Secretary of State.

- (e) Clause 7 provides, among other things, authority for the Secretary of State by further compulsory purchase order to acquire land outside the limits shown on the plans and sections or land within the limits but not subject to the powers under clause 6, if required in connection with the Crossrail works.
- (f) Clause 8 extinguishes private rights of way over land within the limits of deviation and within the limits of land acquired and held in connection with the authorised works.
- (g) Clause 10 provides for the grant of deemed planning permission for development authorised by the Bill and Clause 10(5) in particular applies Schedule 7 which sets out certain controls in favour of local planning authorities over detailed aspects of the Crossrail works.
- (h) Clause 11 provides that deemed planning permission for the scheduled works will be subject to a 10 year time limit, extendable by order of the Secretary of State.
- (i) Clause 19 modifies Sections 60 and 61 of the Control of Pollution Act 1974 so that appeals relating to control of noise from construction sites are dealt with by the Secretary of State or through arbitration as opposed to the Magistrate's Court.
- (j) Clause 20 prohibits an order being made by the Court in the event that any proceedings are brought by a person aggrieved by a statutory nuisance, in circumstances where (a) the nuisance complained of is noise emitted from premises or noise emitted by vehicles machinery or equipment in a street and (b) these arise in consequence of the exercise of powers under the Bill in accordance with notices or consents issued under the Control of Pollution Act 1974.
- (k) Clauses 45 and 46 make provision for transfer schemes and nomination of undertakers respectively.
- (l) Clause 47 and Schedule 12 disapply and modify certain statutory controls.
- (m) Clause 50 applies Section 10(1) Compulsory Purchase Act 1965 (compensation for injurious affection) subject to the proviso that liability for compensation for land injuriously affected by the Crossrail works falls to the nominated undertaker, as opposed to the Secretary of State.
- (n) Clause 54 provides a power to modify deposited plans or the book of reference if they are inaccurate.

### **Introductory**

- 4 Your Petitioner is a wholly owned subsidiary of The Royal Bank of Scotland plc and the owner of the long leasehold interest in 5 Canada Square, Canary Wharf, London E14. The building is a 16 storey office block with a net floor area of 49,830 square metres, which is currently occupied by Credit Suisse First Boston and Bank of America. It is located adjacent to West India North Dock.

- 5 Your Petitioner's building was completed in or around 2002. It is a steel frame structure with a four level basement extending down to the bed level of the adjacent Dock. The structure founds on a ground bearing base slab and deep-bored piles.
- 6 Your Petitioner understands that a new station to serve the Isle of Dogs is proposed for construction in West India North Dock and that the estimated duration of the works is five years. Your Petitioner further understands that the proposed station will be constructed in a 475 metres long concrete box within the Dock. Although the Dock will be reinstated, Your Petitioner understands that the permanent works will include a new station building on the surface of the Dock with access to the station taken from the Great Wharf Bridge over the Dock, which will be re-built following its demolition during the construction period. Your Petitioner understands that no interests in your Petitioner's building are required for the purpose of the proposed works. However, your Petitioner's building line is approximately 20 metres from the proposed station box and immediately adjacent to the boundary of plot 735, which is required for the works.
- 7 Your Petitioner and its rights, interests and property are injuriously affected by the Bill. Your Petitioner does not object to the principle of the proposed railway transport system. However, Your Petitioner is greatly concerned by the provisions of the Bill as they may affect 5 Canada Square. For this reason and having regard to the more detailed particulars referred to below, your Petitioner objects to the Bill.

#### **Structural Damage**

- 8 Your Petitioner is greatly concerned by the extent of excavation, piling works and diaphragm walling in the immediate vicinity of its building to form the station box in West India North Dock. In particular the sheet piles required to form the proposed cofferdam and the diaphragm wall to the station box will be particularly close to the building line. Furthermore whilst it is intended that the cofferdam will ensure cut-off from the water table Your Petitioner is concerned that the proposed de-watering of the Dock and the water table will cause ground settlement. Your Petitioner fears that ground movement associated with construction activities in the Dock will jeopardise the stability and structural integrity of Your Petitioner's building. Insufficient detail has been provided by the Promoter of the Bill in the Environmental Statement to understand the likely effects of ground settlement in individual cases and the effectiveness of any mitigation measures.
- 9 Your Petitioner is also extremely concerned about the possible structural response of Your Petitioner's building to ground-borne vibration caused by the proposed works. Insufficient data has been provided by the Promoter in the Environmental Statement to understand the likely effects of vibration on the structure and the effectiveness of any mitigation measures.
- 10 Ground movement and settlement and ground-borne vibration arising from the works may cause Your Petitioner significant loss and damage. Your Petitioner questions the need for such extensive excavation in this area. Inadequate consideration has been given in the Environmental Statement accompanying the Bill to alternative construction methods, configurations and locations for the proposed station. Your Petitioner submits that the Promoter should not be permitted to interfere with your Petitioner's private property rights and interests unless and to the extent (if any) that this is

demonstrated to be strictly necessary and in the public interest, having regard to a full and comprehensive assessment of these matters. Furthermore, Your Petitioner seeks provision within the Bill and further or alternatively binding assurance from the Promoter providing for the assessment of these matters and agreement with Your Petitioner as to the necessary strategies and measures to be undertaken.

11 If, which is not admitted by your Petitioner, the powers sought by the Promoter in this regard can be justified, your Petitioner submits that there is insufficient provision for mitigating the risk of or actual damage to your Petitioner's building. Your Petitioner humbly submits that the Promoter be required:

- (a) To take all reasonably practicable measures to prevent damage to the building;
- (b) To conduct a full survey of the condition of the building before and after construction of the works and to undertake comprehensive monitoring of the structure during the works;
- (c) To carry out a full geotechnical survey in the vicinity of the building before commencement of the works;
- (d) To give advance notice of each phase of the works and undertake advanced consultation in relation to their construction;
- (e) To use all available working methods to minimise the risk of ground movement, settlement and ground-borne vibration.

12 Your Petitioner seeks provision within the Bill and further or alternatively binding assurances from the Promoter to ensure Your Petitioner is fully and sufficiently indemnified in respect of any loss, damage, costs and claims associated with the impact of the works on the structure of the Property.

#### **Environmental Effects of construction**

13 Your Petitioner is greatly apprehensive of the environmental effects of the extensive works in the immediate vicinity of your Petitioner's building.

14 Your Petitioner is concerned about the potentially high levels of noise and vibration from the excavation, piling, other works, and equipment and construction traffic associated with the proposed station box in West India North Dock.

15 The Environmental Statement accompanying the Bill provides inadequate data to ascertain the likely actual effects of noise and vibration. Furthermore, insufficient consideration is given in the Environmental Statement to the perceived nuisance effects of vibration and noise; no information is included on the likely subjective response of individuals to such effects. Your Petitioner is greatly concerned that no site-specific mitigation measures have been identified by the Promoter. In the context of noise and vibration in particular, special consideration needs to be given to alternative piling methods, screening measures and hours of work given the proximity of buildings to the works, the height of buildings and the area's predominantly commercial character and Your Petitioner seeks provision in the Bill and further or alternatively binding assurances from the Promoter providing for a commitment to such measures and agreement with Your Petitioner in this regard prior to the commencement of the works.

- 16 Your Petitioner is also apprehensive of the potential for migration of contamination due to the construction works. The Environmental Statement accompanying the Bill acknowledges that there will be significant ground breaking in areas with potential for significant contamination in and around West India Dock North due to historic industrial uses. Your Petitioner requires the Promoter to be wholly responsible for any migration and resulting damage or liability that is suffered by your Petitioner and seeks provision within the Bill and further or alternatively binding assurances to that effect from the Promoter.
- 17 Your Petitioner is also concerned to note that the Environmental Statement accompanying the Bill does not appear to consider the potential for unexploded World War 2 bombs. Your Petitioner is aware that this area of London was heavily bombed during the War and supposes that tracking of ordinance was not always possible within the Docks due to lack of visible craters. Your Petitioner requires the Promoter of the Bill to undertake a full risk assessment, to take all reasonable preventative measures and to be fully responsible for any loss or damage or interruption suffered by your Petitioner as a result of any incidents involving unexploded devices and Your Petitioner seeks provision within the Bill and further or alternatively binding assurances from the Promoter in this respect.
- 18 The Promoter recognises that adverse environmental effects will be caused by the construction of the works and proposes a code of construction practice, a series of individual agreements under the Control of Pollution Act 1974 and statements of policy to which the Promoter will purportedly adhere. Your Petitioner is concerned that none of these measures will take into account the particular circumstances of your Petitioner's building and the significant scale of the works in the immediate vicinity. Your Petitioner requires that the effects of the works be fully and properly explored by the Promoter and that all mitigation measures be thoroughly assessed. Your Petitioner also requires the Promoter to be bound personally by a specific code of construction practice for works in the vicinity of the building in order to mitigate and regulate all environmental and operational effects.

#### **Operational consequences of construction**

- 19 Your Petitioner seeks protection in relation to all operational consequences of construction activities in order to ensure the office building is able to function normally during the works. In particular, any interference with means of escape, access and services would be unacceptable and in this respect Your Petitioner requires the Promoter to be personally bound to Your Petitioner by specific obligations to safeguard the continued operation of the building throughout the period of the works.

#### **Operational railway impacts**

- 20 Your Petitioner is extremely concerned by the impacts on the building of the operational railway. In particular, your Petitioner is very apprehensive about the potential noise and vibration effects of running trains particularly as they accelerate and decelerate at the proposed station. Insufficient data is included in the Environmental Statement accompanying the Bill to enable a proper assessment of the likely impacts of these operational effects. For example, there is inadequate information regarding the assumptions used in the assessment for train speed, track fixing and track foundations. Your Petitioner requires the Promoter to incorporate all reasonably available mitigation

measures including track laying and foundation techniques in order to ensure the vibration and noise effects of operating trains are minimised.

21 Your Petitioner is similarly concerned about the noise effects of the proposed ventilation shaft and other features associated with the new station, once the railway becomes operational.

22 Your Petitioner is also concerned by the potential for pedestrian congestion of the walkways and footways around your Petitioner's building from the 20,000 passengers per hour which are predicted to use the station in peak periods. Your Petitioner is apprehensive that access could be impeded and security could be compromised. Your Petitioner requires the Promoter to provide full details of all access arrangements for the proposed station (including emergency access and means of escape) and full details of the likely impacts on Your Petitioner's property and requires the Promoter to agree access arrangements with Your Petitioner before the Bill is allowed to pass. Further, Your Petitioner requires the Promoter fully to consult on the management of pedestrian flows and to be personally bound to your Petitioner to ensure that access to and the security of your Petitioner's building is not adversely affected. Your Petitioner seeks provisions to this effect within the Bill and further or alternatively binding assurances from the Promoter in respect of these matters.

23 Your Petitioner is greatly concerned by the effect of the operational railway on the capacity of utility services and seeks provision with the Bill and further or alternatively requires binding assurances from the Promoter to the effect that the station and railway infrastructure (including their construction) will not adversely affect the provision, quality or capacity of the existing supplies.

24 Your Petitioner also notes with concern the proximity of the proposed surface station structure to the north façade of Your Petitioner's building and the adverse effect that this will have on visual amenity compared with the existing open views across the Dock. Your Petitioner questions whether sufficient consideration has been given to alternative locations and designs for the surface structure and submits that the Promoter should be required to demonstrate this before the Bill is allowed to pass. Your Petitioner also seeks provision within the Bill and further or alternatively binding assurance from the Promoter to the effect that the location and design of the final structure will be fully consulted upon and agreed with Your Petitioner prior to commencement of the relevant works.

#### **Ambit of powers**

25 Powers sought to be conferred on the Promoter by the Bill are extremely wide and your Petitioner submits that such powers ought to be more constrained in the interests of your Petitioner and other members of the public.

26 In particular, clause 7 authorises the Promoter to acquire compulsorily land outside the limits of deviation for the scheduled works and the limits of land to be acquired or used, where it is required for or in connection with the works authorised by the Bill or otherwise for or in connection with the proposed railway system. Your Petitioner respectfully submits that such powers, particularly in the context of Central London, are unacceptably wide and threaten to blight property in the immediate vicinity of the limits of deviation, including your Petitioner's building. Further express authority for the acquisition of land outside the limits of deviation should be necessary, considered in specific

instances on its merits and only given if proven at the relevant time to be necessary for the construction of the railway system.

- 27 Your Petitioner is also concerned that the provisions in the Bill for renewal of compulsory purchase powers and planning permission (clauses 6(7) and 11(2) respectively) are too widely drawn and prolong the period of blight suffered by your Petitioner's property and others. Whilst the renewal of compulsory acquisition powers is subject to special Parliamentary procedure, your Petitioner humbly submits that greater protection should be given to owners and occupiers of land affected by the proposed works through regulation of the circumstances in which such renewal may be ordered. In the event that the validity of the powers or the planning permission is extended, your Petitioner seeks provision for affected land owners and occupiers to be consulted and to be given the opportunity to make representations. Your Petitioner submits that as it currently stands the Bill fails to provide for such matters. This is a significant omission. During the time limit for compulsory acquisition powers (5 years) and for implementation of planning permission (10 years) circumstances can change significantly and so too the impact of the exercise of such powers or the implementation of such permission. It is essential that impacts should be comprehensively reassessed. Your Petitioner submits that the same considerations should apply to the power to correct deposited plans (Clause 54).
- 28 Your Petitioner is also concerned by the absence of any specific provision to compel the Promoter to implement mitigation measures identified in the Environmental Statement accompanying the Bill. Failure to include such provision will, your Petitioner humbly submits, be contrary to the purposes of Council Directive 85/337/EC, as amended by Council Directive 97/11/EC.
- 29 Your Petitioner also submits that such compulsion should include an express obligation on the Promoter to undertake specific measures to limit structural and other damage to properties along the route of the works including your Petitioner's building. Such measures should include establishing a schedule of condition prior to commencement of the works, the incorporation of specific measures agreed with owners of the affected properties in order to strengthen and protect individual buildings, continuous monitoring of properties during the course of the works, a revised schedule of condition following completion of the works and regular monitoring of properties in the first few years of railway operation. Without such provision, there is inadequate protection for property owners and occupiers against the potential effects of the works.

#### **Compensation provision**

- 30 Your Petitioner further submits that provisions within the Bill regarding compensation in respect of compulsory acquisition and other matters are not sufficient to compensate Your Petitioner adequately for the loss, damage and inconvenience which it may suffer as a result of the construction and subsequent use of the proposed railway system. Your Petitioner seeks further provision within the Bill for indemnifying your Petitioner against any loss caused by the adverse effects of the proposed works.
- 31 Of particular concern to your Petitioner is the position in relation to compensation where no interest is acquired in your Petitioner's building. In those circumstances, although the building may be

adversely and injuriously affected by the proposed works and the operation of the railway system, the compensation provisions within the Bill will be wholly inadequate.

- 32 Your Petitioner humbly submits that the Bill should be amended in this respect to ensure that your Petitioner is entitled to claim compensation in such circumstances for, among other things, structural damage to the office building by the execution of the works, for interference with access and supplies of services and for injurious affection caused by the execution of works and the subsequent operation of the railway system. Your Petitioner seeks provision to enable such claim to be made separately from any claim for compensation in respect of the acquisition of land or interests under the powers of compulsory acquisition in the Bill. Furthermore, your Petitioner submits that any such claim should be permitted at any time before the expiry of 5 years following the opening of the proposed railway system for use by members of the public.
- 33 Furthermore, to the extent that the powers under the Bill are not exercised following its enactment, your Petitioner's office building may suffer blight and your Petitioner submits that there is no provision or alternatively that there is inadequate provision within the Bill for compensating your Petitioner in this regard.
- 34 Your Petitioner submits that provision should also be made within the Bill to enable your Petitioner to recover its reasonable expenditure including the full costs of making good any damage to the structure of the office building, the full cost of any works undertaken in mitigation of the proposed works and Your Petitioner's costs in co-operating with the Promoter and participating in the Parliamentary process, including the costs incurred by Your Petitioner in engaging consultants and other third parties to act on its behalf. Your Petitioner also seeks inclusion of provisions within the Bill to compel the Promoter to indemnify owners and occupiers of affected properties from claims and demands made in consequence of the construction, use or maintenance of the works or any act or omission of the Promoter and the nominated undertaker including their contractors and agents.

#### **Environmental Impact Assessment**

- 35 Your Petitioner considers that the Environmental Statement is deficient in several respects and therefore fails to satisfy the requirements of Council Directive 85/337/EC, as amended by Council Directive 97/11/EC. In particular:
- (a) There is inadequate description of the likely significant effects of the project, particularly in the vicinity of your Petitioner's building.
  - (b) Insufficient data has been provided in order to identify and assess the main effects of the works, particularly in the vicinity of your Petitioner's building where major works are proposed.
  - (c) There is insufficient detail of proposed mitigation measures, no assessment of their effectiveness in avoiding reducing or remedying significant environmental effects and no provision within the Bill compelling the Promoter to undertake identified mitigation measures.

- (d) There is insufficient analysis of alternatives in the context of each work section and in particular in the vicinity of your Petitioner's building there is no analysis of alternative methods of construction, alternative configurations and alternative locations for the proposed new station.

### **Human Rights**

- 36 Your Petitioner submits that in its current form and without further amendment or provision as sought by your Petitioner, the Bill is incompatible with the right of your Petitioner peacefully to enjoy its property and to carry on its business. The Bill would unfairly interfere with such right contrary to Article 1 of Protocol 1 to the European Convention on Human Rights and fails to provide your Petitioner with sufficient right of participation in future determinations of your Petitioner's rights (for example in relation to the extension of the time limit for planning permission) contrary to Article 6 of the Convention. In particular, in your Petitioner's submission, the wide and extendable powers available to the Promoter and the inadequate provision for compensation in the particular circumstances with which your Petitioner may be presented renders the Bill incompatible with the Convention.

### **General**

- 37 For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended as proposed above, the Bill should not be allowed to pass into law.
- 38 There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and its rights, interests and property and for which no adequate provision is made to protect your Petitioner.

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

AND your Petitioner will ever pray, &c.

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AGAINST, By Counsel, &c.