

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2005-06

CROSSRAIL BILL

**PETITION AGAINST THE BILL – 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:

MS INGRID LOUISE MELDAL-JOHNSEN OF 51 BATHURST MEWS,
LONDON, W2 2SB

MRS ALISON PHYLLIDA HUMAN OF 52 BATHURST MEWS, LONDON
W2 2SB

MR ANTOINE NICOLAS HENRI LUROT OF 24 BATHURST MEWS, LONDON
W2 2SB

SHEWETH as follows-

1. A Bill ("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 Cross London Rail Links Ltd and the Department for Transport ("the Promoters").
3. The Bill provides, among other things, for the construction by the nominated undertaker of a new underground railway between, in the west, a tunnel portal at Royal Oak in the City of Westminster and, in the east, tunnel portals at Custom House and Pudding Mill Lane in the London Borough of Newham. It also provides that in constructing or maintaining any of the scheduled works the nominated undertaker may deviate laterally and vertically to some extent.

4. The Bill also provides for the compulsory acquisition by the Secretary of State of, broadly, land necessary for the construction of the works.
5. The Bill will, if enacted, enable the Promoters to affect adversely in the ways set out below the property rights and interests of your Petitioners arising from their respective interests in the properties at 51, 52 and 24 Bathurst Mews, London W2 2SB ("the Properties") in the City of Westminster, which are numbered 189, 188 and 176 respectively on the plans deposited in February 2005 in connection with the Bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons. The Properties comprise two storey buildings built of brick.
6. The honourable House requires under Standing Order 27A that appropriate Private Bills are accompanied by an Environmental Statement in accordance with European Community Directive 85/337. The Statement is required to describe the project and its likely significant environmental effects. The Statement is also required to describe the measures that will be taken to avoid or reduce any adverse impact on the environment. Your Petitioners submit that the Honourable House should take into account the content of the Environmental Statement presented to it by the Promoters. Your Petitioners nevertheless submit that having regard to the level of information in the Statement and the lack of finality in the proposals of the Promoters generally it would be premature to enact the Bill as it stands.

Compulsory acquisition of land

7. The Bill includes powers to acquire land compulsorily for the purposes of the works, including a power to acquire subsoil or under-surface of the land comprising the Properties which lies more than 9 metres beneath the level of the surface of the land. As your Petitioners understand it, clause 6(6) of the Bill limits the period in which the powers of compulsory acquisition can be used to 5 years from the day on which the Act is passed. Your Petitioners object to clause 6(7) and (8) of the Bill, which allows the Secretary of State by order to extend that 5 year period. Your Petitioners recognise that such an order would be subject to special parliamentary procedure but nevertheless submit that they (and others similarly affected) are entitled to more certainty than these provisions provide in respect of the time period in which the powers of acquisition can be exercised.

Noise and vibration

8. Your Petitioners object to the lack of any provision in the Bill relating to the mitigation of noise and vibration resulting from either the carrying out of the works or the subsequent operation and maintenance of the railway. Your Petitioners also object to the lack of provision in the Bill requiring the Promoters to ensure that the operation of the railway complies with suitable defined standards as to noise and vibration levels.

9. Your Petitioners respectfully submit that the Promoters should be required to ensure that groundborne noise and vibration during the construction period, operation (throughout the lifespan of the railway) and maintenance is kept to an absolute minimum by the use of the most advanced tunnelling technology, machinery and other equipment.
10. In this regard, your Petitioners understand that the Promoters have stated that trains under Bathurst Mews will run on continuous welded track supported on resilient base plates, which should help to reduce adverse noise and vibration levels considerably. Your Petitioners submit that the Promoters should undertake to them that such track will be used.

Settlement and other damage

11. The Environmental Statement indicates that the Promoters intend that various mitigation measures will be taken during construction to protect buildings from settlement that might otherwise affect their structural integrity.
12. Your Petitioners understand that the preliminary assessment of the Promoters suggests that settlement in the Bathurst Mews area will be up to 25mm and impact to buildings in the negligible category but your Petitioners note that they do not know how this estimate has been arrived at. Your Petitioners also note that the Promoters have stated that they will carry out an objective settlement assessment of any property where the predicted settlement is more than 10mm and that building specific monitoring before, during and after the construction period will be scheduled on a case by case basis depending on the results of the specific building settlement reports.
13. Nevertheless your Petitioners submit that, given that the railway will run underneath the Properties, the Promoters should undertake to your Petitioners to set up, at the expense of the Promoters and before commencing construction of so much of the works as will or may affect the Properties, a continuous monitoring exercise to check for any movement in or damage to that property. This monitoring exercise should include the drawing up of schedules, to be agreed with your Petitioners, of the condition of the buildings comprising the Properties prior to the commencement of the works and following the completion of the works. Your Petitioners submit that the nominated undertaker should be required to rectify any damage found to have occurred as a result of the works, at its cost and to the satisfaction of your Petitioners.
14. Your Petitioners object to the power of the nominated undertaker in paragraphs 5 and 6 of Schedule 2 of the Bill to underpin or strengthen a building within the relevant distance of the work for the following reasons. This power would appear to enable the nominated undertaker to enter the buildings of your Petitioners (and others) without notice in order to survey them in deciding how to exercise its powers in paragraph 5. The provision does not give the owners or occupiers of buildings concerned the option to carry out the necessary underpinning or strengthening themselves (at the

expense of the nominated undertaker). In addition, the nominated undertaker is not to be under a duty to consult with the owners or occupiers of buildings concerned to agree, among other things, the specification, timing and means of the carrying out of the underpinning or strengthening, if such works should be carried out by the nominated undertaker.

15. More generally, the Bill empowers the Promoters to construct the works specified in the Bill but is silent on the proposed mode of construction of the tunnels included in the works. In particular, the Bill does not require that the works are constructed in accordance with the measures that the Promoters have indicated will be taken in the Environmental Statement. Your Petitioners accordingly object to the provisions of the Bill on the basis of this omission. Your Petitioners further submit that the Promoters should be required by the Bill to utilise the best available tunnelling method for minimising the impact of settlement on their Properties.

Other

16. Your Petitioners object to paragraph 3 of Schedule 10 to the Bill insofar as it incorporates into the Bill provisions of the Railway Clauses Consolidation Act 1845, which have no justification in the urban environment of the Bill's proposals. Your Petitioners note that the Promoters have stated that section 32 (power to take temporary possession of land without previous payment) of the Railways Clauses Consolidation Act 1845 could not apply in practice to the Properties and submit that the Promoter should undertake to them that that will be the case.
17. Your Petitioners object to the lack of provision in the Bill obliging the nominated undertaker to ensure that any interference with supplies of power, drainage, telephones and other such essential services to the Properties (and other properties) is kept to an absolute minimum during the construction, operation and maintenance of the works.
18. Your Petitioners object to the powers given to the nominated undertaker in paragraph 9 of Schedule 2 to the Bill. For example, the power would appear to enable the nominated undertaker, having given notice to your Petitioners, to enter into their Properties and make trial holes on the land comprising them to investigate the nature of the surface layer and subsoil. Your Petitioners acknowledge that there is provision for compensation for damage incurred by way of such actions but nevertheless submit that the power is inappropriate for residential properties and that the nominated undertaker should only be able to take any such steps in relation to such properties with the consent of the owner.
19. Your Petitioners object to the lack of provision in the Bill for adequate compensation for loss and damage suffered by them as a result of the construction, operation or maintenance of the works, including by way of potential third party claims made against them.

20. In particular, your Petitioners are concerned that they will be adversely affected once the Bill passes into law by the diminution in value of their interests in the Properties.
21. There are various other clauses and provisions in 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 and other Clauses and provision necessary for this protection and benefit are omitted from the Bill.

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 Petitioners in the premises as your Honourable House shall deem meet.

AND your Petitioners will ever pray, &c.