

IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2005-06

CROSSRAIL BILL

PETITION

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 BLAXMILL 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 presented by Mr Secretary Darling, supported by The Prime Minister, Mr Chancellor of the Exchequer, Secretary Margaret Beckett, Mr Secretary Hain, Mr Secretary Alan Johnson, Secretary Tessa Jowell and Mr Derek Twigg.
- 3 Your Petitioners objects to the following Clauses of the Bill:
 - (i) Clause 1, Schedules 1 and 2
 - (ii) Clause 10 and Schedule 7
 - (iii) Clause 6 and Schedule 6 Part 1 and 2

- (iv) Clause 6 and Schedule 6 Part 3
- (v) Schedule 5
- (vi) Clause 20

4 Your Petitioners are Blaxmill Limited and are the owners of the property identified as Plots 806, 809 and 811 in the London Borough of Tower Hamlets. Land which is in the ownership of your Petitioners is liable to compulsory acquisition under the Bill.

5 Your Petitioners and their rights, interest and property are injuriously affected by the Bill, to which your Petitioners object for reasons, amongst others, hereinafter appearing.

6 Your Petitioners object to the Bill on the grounds that it authorises the acquisition of land and works without making express provision to protect your Petitioners. The effects are summarised as follows:

- (a) Construction activities will give rise to significant noise impact and affect the visual amenity of the occupants of the development for which the Petitioners have planning permission.
- (b) Your Petitioners have recently obtained planning permission (15 June 2005 reference PA/03/0151) for the development of Blackwall Yard consisting of residential, leisure business and retail uses. The Works will result in a significant increase in the cost of constructing the consented development due to the requirement to alter the design and deepen the foundations of the consented development to accommodate the Works. Further, construction activities could materially delay the implementation of this planning permission given that the land the subject of compulsory acquisition under the Bill is within the parameters of the development; in particular the use of Plot 811 for the provision of a working site and diversion of public utilities apparatus together with the impacts of the limits of deviation.
- (c) The unnecessary permanent acquisition of Plot 811 for use as a works compound.
- (d) The need for amendment to compensation provisions within the Bill,

The Petitioners have set out below their detailed objections to the Bill and suggested amendments.

Clause 1 Schedule 1, Schedule of Works and Schedule 2, Works: further and supplementary provisions

- 7 The Petitioners interests are affected by the Works 1/4A-B and fall under a range of categories of impact both during and after construction. For the complete period of construction within this area, the property will be detrimentally affected by the Works in terms of visual amenity and noise.

(i) Visual Amenity

Construction activities will give rise to significant impacts on the amenity of the future occupants of the development proposed by the Petitioners for which planning permission has been granted on Plots 806, 809 and 811; particularly if the development commences and is completed whilst the Undertaker is still carrying out works.

The Petitioners require that amendment be made to Schedules 1 and 2 of the Bill to provide for mitigation of these adverse effects in an appropriate manner and in consultation with the Petitioners for the adequate screening of the relevant section of works. The Petitioners further require that the Bill provide the Petitioners with the ability to enforce for the provision of adequate mitigation where the undertaker is not properly complying with such requirements.

(ii) Noise

The development for which the Petitioners has planning permission is located within close proximity to the work station proposed at Plot 811 and, future occupants of the Petitioners' development proposals will, as a result, be directly affected by noise associated with the works compound and works generally being undertaken. The Environmental Statement recognises that noise levels at some properties are expected to exceed recommended levels both through methodology adopted during the construction of the works and the passage of construction vehicles.

The Petitioners require that amendment be made to Schedules 1 and 2 of the Bill to provide for mitigation of these adverse effects in an appropriate manner and in consultation with the Petitioners for adequate noise protection measures to be adhered to during the construction of the relevant section of works. The Petitioners further requires that the Bill provide the Petitioners with the ability to enforce for the provision of adequate mitigation where the undertaker is not properly complying with such requirements.

Schedule 6 Part 1 and Schedule 5

- 8 Plot 811 is included within Part 1 of Schedule 6 on the basis that it is required for a working site and to divert public utilities. The Petitioners view is that this land is wrongly included within this section and instead should be included within the table contained within Schedule 5

titled, "Temporary Possession and Use of Land". If the land is required only for a works site then the Petitioners should not permanently be deprived of this land. Accordingly the Petitioners request that Plot 811 therefore be removed from Schedule 6 Part 1 and be amended as suggested.

The Petitioners further request that upon the necessary amendment being made that Schedule 5 be amended to include the following provisions:

- (a) Paragraph 2(1) of Schedule 5 be amended to require that such scheme shall also include a timetable for such time that the undertaker be permitted to remain and use plot 811 together with details of such public utility diversions which are to take place.
- (b) Paragraph 3(1) of Schedule 5 be amended to require that the undertaker shall ensure that the use of such roads by construction traffic shall not affect nor obstruct the use of the roads by the Petitioners and its staff and that a mechanism for complaint shall be put in place to ensure that these provisions are adhered to.
- (c) Paragraph 4(1)(a)(i) of Schedule 5 – the Petitioners considers that the ability to take possession of land up to 20 metres from the works is excessive and should be reduced substantially. This could severely prejudice the development of the land adjoining plot 811.

Deviation from Lines

- 9 Clause 1(3) enables the undertaker to deviate from the level shown for work on the deposited sections and to deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation.

The Petitioners have successfully obtained planning permission for a site adjacent/affected by plots 806, 809 and 811. The limits of deviation and, indeed the proposed route for the undertaker, has the potential to affect the detailed layout and construction of this scheme. Deviation from levels would also affect the methodology adopted during the construction of the Petitioners scheme thus substantially prejudicing it from progressing.

The Petitioners requests that amendment should be made to the Bill to ensure that such deviation is not undertaken without the full consultation of those affected and that this be reflected within Clause 1 both for deviations laterally and below ground.

**Increased costs of consented development on Plots 806, 809 and 811 and
Compensation Provisions for Injurious Affection and additional costs incurred**

10 The presence of the proposed route of the Works has required the redesign and deepening of the foundations for the proposed development at Blackwall Yard (Plots 806, 809 and 811) which has now been granted planning permission. The Bill should therefore be amended as follows:

- (a) Schedule 6 Part 2 – this identifies the application of legislation relating to compulsory purchase. The Petitioners request that specific provision is made within this part which confirms that the Land Compensation Act 1973 shall apply in assessing rights to compensation arising from the carrying out of the Works as permitted by the Bill.
- (b) An additional provision should be included within Schedule 6 Part 3 under "Supplementary Provisions" which provides for the payment of compensation where proposed developments have had to be modified to accommodate the route of the Works and which has given rise to additional expense for Petitioners. The additional costs and expense to which Petitioners have been put to should be recoverable from the Undertaker. In the event that compensation cannot be agreed between the Petitioners and undertaker then the Bill should make provision for this to be referred to the Lands Tribunal for compensation under the usual procedures.

Planning

11 Clause 10 confirms that on passing of the Bill the scheme receives deemed planning permission. Schedule 7 sets out the planning conditions and under paragraph 6(4) it sets out the details under which a local planning authority may refuse to approve plan and specifications of any operation or work mentioned in Column (1) of the following table. These terms are unnecessarily restrictive.

The Bill does not allow for any meaningful consideration of the details submitted nor allow for any consultation with affected parties as to the impact the details will have on their concerns. In this instance the Petitioners concern is to ensure that the development for which it has planning permission can be properly implemented and will not be prejudiced by the undertakers proposals.

The Petitioners must therefore have the opportunity to be consulted upon the details of the scheme and have the comfort that, upon making representations to the local planning authority the authority has sufficient powers to impose such planning conditions or require such amendments to the scheme as may be necessary.

The Petitioners therefore request that Clause 10 should be amended to include provision for local planning authorities to carry out consultation with those directly affected by specific submissions to enable full consideration to be given to the imposition of appropriate conditions to mitigate any adverse effects.

Statutory Nuisance

- 12 Clause 20 disapplies and provides a defence against proceedings brought by persons aggrieved against statutory nuisance caused as a result of the Works.

This would seriously prejudice the Petitioners rights to statutory protection afforded by the Environmental Protection Act 1990 and the Bill makes no appropriate provisions for persons aggrieved to seek redress against such nuisances.

The Petitioners seek an amendment to Clause 20 to provide for a procedure to redress these adverse effects in an appropriate manner.

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

YOUR PETITIONERS therefore humbly pray your Honourable house that the Bill may not be allowed to pass into law as it now stands and 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 met.

AND your Petitioners will ever pray, &c.

Signed

Being a solicitor of the Supreme Court of England and Wales and a partner of Denton Wilde Sapte

On behalf of Blaxmill Limited

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BLAXMILL LIMITED

AGAINST, By Counsel, &c.

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