

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2005–06

CROSSRAIL BILL

P E T I T I O N

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:

COAL PENSION PROPERTIES LIMITED

SHEWETH as follows:—

- 1 A Bill (hereinafter referred to as “the Bill”) has been introduced into 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 the Secretary of State for Transport (hereinafter called “the Promoter”).

Relevant clauses of 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 provision for the application with modifications and the disapplication in part of the existing railways regulatory regime which is contained in and in arrangements made under the Railways Act 1993 and associated legislation. In particular, they provide for the disapplication of licensing requirements, the imposition of special duties on the Office of the Rail Regulator ("ORR"), the modification of railway access contract and franchising arrangements and the disapplication of railway closure requirements and of the need for consent from Transport for London in relation to impacts on key system assets. Provision is also included to enable agreements to be required as between the nominated undertaker and controllers of railway assets, to govern the basis for 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 as respects other actions to be taken by the Secretary of State. Provision is also made in particular for the disapplication or modification of various additional miscellaneous controls, for the treatment of burial grounds, for the application of provisions of the Bill to future extensions of Crossrail, for the particular protection of certain specified interests and as respects arbitration.

Your Petitioners and their properties

6 Your Petitioners are Coal Pension Properties Limited, a nominee company acting on behalf of The British Coal Staff Superannuation Scheme.

7 Your Petitioners own property at 16–19 Soho Square (Plots 653 and 655 in the City of Westminster) which is in the immediate vicinity of the proposed works and liable to be injuriously affected by them.

8 Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioners object for the reasons amongst others, here stated.

Your Petitioners' concerns

9 Your Petitioners object to the Bill because it proposes the acquisition of sub-soil below 16-19 Soho Square ("the Property"), and because the carrying out of the proposed works will cause considerable disruption and disturbance to the occupiers of your Petitioners' property.

10 The Bill makes provision for the construction of a redeveloped Tottenham Court Road Station and twin-bore tunnels almost directly beneath your Petitioners' property at 16-19 Soho Square. In order to do so, the Bill authorises the acquisition of sub-soil more than 9 metres beneath surface level. The Environmental Statement indicates that the depths of the tunnels and station will be between 21 and 24 metres in the vicinity of the Property.

11 Tunnelling of the station platform tunnels is proposed to be carried out using the Sprayed Concrete Lining (SCL) method, which has been attributed to a number of tunnel collapses in the past. Your Petitioners seek assurance that this technique is to be carried out correctly, and seek to ensure that appropriate independent review of the methodology is carried out prior to the caverns being constructed and that sufficient independent controls are in place during construction.

12 Your Petitioners are concerned about settlement effects on the Property. In particular, your Petitioners have car parking beneath the Property which is most likely to suffer adverse impacts. Your Petitioners would wish to see an effective and agreed monitoring system in place before commencement and during construction of the works, to measure the exact effect of any settlement on the Property. There must in your Petitioners' submission be a threshold agreed between your Petitioners and the

Promoter for ground movement within the vicinity of the Property and distortions of its structure. If that threshold is exceeded then it is imperative that the undertaker nominated to carry out the works is obliged to cease construction until such time as remedial measures are in place which will minimise settlement and consequently avoid distress to the buildings. Your Petitioners request that they be given at least 21 days' notice of the intended passage of the tunnel boring machines beneath the property. Any necessary safeguarding or remedial measures are to be agreed between your Petitioners and the nominated undertaker.

- 13 In addition, your Petitioners are concerned about vibration both during construction and on completion of the proposed works. Your Petitioners fear that vibration caused by tunnelling as the tunnel heading passes beneath their properties for each of the two tunnel drives will cause disturbance to the occupiers of their properties. Your Petitioners request that provision is made to ensure the absence of impact-induced vibration by the use of absorptive track beds or other means.
- 14 Generally, your Petitioners are concerned that the condition of the Property will deteriorate as a result of the proposed works. Should the works be authorised, your Petitioners intend to commission a condition survey of the property shortly before the commencement of the works and shortly after their completion. Your Petitioners request that the costs of carrying out such survey, and of rectifying any deterioration in the condition of the property found to be due to the works, be reimbursed by the Promoter.
- 15 Your Petitioners wish to be satisfied that there will be no disruption to statutory services provided to the Property as a result of the construction of the proposed works. In your Petitioners' submission a co-ordinated programme of works to services leading into the property needs to be established by the Promoter and the details provided to your Petitioners to prevent a succession of statutory undertakers' works to and reinstatement of Soho Square.
- 16 The Bill makes provision for the demolition of buildings and redevelopment of land surrounding the Property. The Environmental Statement identifies that there will be impacts on the setting of Soho Square, cumulative impacts on the community and

direct impacts on community resources during the construction period. Impact on the amenity of the area will further occur with construction of proposed shafts within the road at each corner of Soho Square for the purposes of compensation grouting. This will have significant adverse impacts on the setting of Soho Square, including temporary significant visual impacts for occupants of most of the premises on Soho Square.

- 17 Your Petitioners note that there will be a loss of parking on Soho Square caused by grout shaft worksites. In addition, the construction works will have significant impacts on traffic, with road closures making local access and circulation difficult. This may cause problems for businesses occupying the Property, specifically retail occupiers who require regular deliveries. In addition, retail occupiers are reliant on a regular and substantial footfall past their businesses in order for their location to be financially viable. Your Petitioners are concerned that the disruption from construction identified will have an adverse impact on footfall.
- 18 Your Petitioners note the obligation under paragraph 5(2) of Schedule 3 to the Bill to provide reasonable access for pedestrians going to or from premises abutting a highway that is proposed to be temporarily stopped up. Your Petitioners request that good and open access be maintained in all other cases as well, such as in the event of the erection of hoardings and scaffolding, use of the footway next to the property, the placing of equipment and apparatus there, and the parking, loading and unloading of vehicles.
- 19 The Bill authorises the temporary stopping up of Falconberg Mews by which occupiers of the Property currently access the car parking available beneath the Property. The right to utilise such parking is in many cases a term of the tenancy agreement between your Petitioners and their tenants. Your Petitioners request that vehicular access to the property be maintained where practicable, that compensation be awarded for any costs incurred through inability to service or park at the Property due to the works and that your Petitioners be indemnified for any claim arising from their tenants in the event that access cannot be gained to the parking facility.

- 20 Your Petitioners are the landlords of the Property, which forms part of an investment portfolio for pension funds. The properties are let on a commercial basis to a number of tenants, generally for periods of more than 7 years. Your Petitioners have considerable concerns that due to the provisions of the Bill tenancies due to expire 2007 will not be renewed and that your Petitioners will have difficulties securing tenants for these units.
- 21 In the event that tenants are secured, your Petitioners anticipate that rental values will be significantly lower than those currently achieved. In addition, these adverse impacts will have a negative effect on rent reviews in respect of existing tenancies, your Petitioners anticipate that rents will remain static, resulting in effect in a decrease in value over time, leading up to and during the construction period.
- 22 Your Petitioners respectfully submit that the proposals contained in the Bill are causing blight on the Property. Your Petitioners fear that prospective lessees will state that the proposals would so blight the Property that they would not be interested in acquiring any part of the Property, or that prospective or existing lessees will demand a considerably reduced rent, due to the prospect of the works. Moreover, the Bill does not contain adequate provisions for compensating such blight, and your Petitioners respectfully suggest that it do so.
- 23 As a general matter, your Petitioners submit that provision should be made for the Promoter 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.
- 24 There are 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.

Conclusion

- 25 Your Petitioners submit that the Bill fails adequately to safeguard and protect the interests of your Petitioners and those of their tenants and should not be allowed to pass into law without these issues being addressed.

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 themselves, Counsel or Agents and with 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 other such 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.

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