

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:

CITY PAROCHIAL FOUNDATION TRUSTEE

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 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*

- 5 Your Petitioners are the City Parochial Foundation Trustee. Your Petitioners are a Registered Charity (number 1107172) and a Registered Company (number 5458789) whose registered office is situated at 6 Middle Street, London EC1A 7PH.
- 6 Your Petitioners hold the freehold of the property at 22 Soho Square, London W1D 4NS, in the City of Westminster and numbered 670 on the deposited plans, as trustee of the City Parochial Foundation (Registered Charity number 205629). Your Petitioners' property is an office building which was constructed in 1998 by City & General Estates Limited (the developer) under a "forward sale" development agreement with the City Parochial Foundation. It is presently let and licensed in part to the following tenants and licensees: Blue Star Capital plc, the temporary licensee of the basement; RDP Limited, the ground floor tenant, whose tenancy expires in February 2010 with a right to break in February 2008; Intandem Films Limited, the first floor tenant, whose tenancy expires in November 2009 with a right to break in November 2007; Venda Limited, the second, third and fourth floor tenant, whose tenancy expires in January 2008 with a right to break (on the third and fourth floors only) in January 2006; Ibis Capital

Limited, the fifth floor tenant, whose tenancy expires in October 2008 with a right to break in October 2005; Protx Limited the sixth floor tenant, whose tenancy expires in January 2006 with a right to break in January 2006 (notice exercising this break has already been given); and Rok Public Relations Limited, the seventh floor tenant, whose tenancy expires in April 2009 with a right to break in April 2007. These tenancies are for the most part on a relatively short term basis.

- 7 When the developer of your Petitioners' property applied for planning permission for the development of the property, Westminster City Council as local planning authority consulted with the Crossrail Team. At Crossrail's request Westminster City Council imposed a condition to the planning permission granted to the effect that construction work would not begin until detailed design and method statements for all the ground floor structures, foundations, basements and other structures (including piles) below ground level which accommodate (i) the proposed location of the Crossrail structures and tunnels, including ground movement arising from the construction thereof, and (ii) the effects of noise and vibration arising from the use of the running tunnels, had been submitted to an approved in writing by the local planning authority, and that all works which part of the design and method statement would be completed before any part of the building was occupied. Subsequently, details of foundation design were submitted to the Crossrail team who confirmed their satisfaction to Westminster City Council. Westminster City Council then approved the foundation design as a reserved matter.
- 8 Your Petitioners' property is subject to the compulsory acquisition of the subsoil beneath the building including beneath the adjoining public highway, Soho Square.
- 9 Your Petitioners' property 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 Generally*

- 10 The Bill provides for a number of works which are set out in Schedule 1 to the Bill, including the construction and operation of an underground railway beneath your Petitioners' property (Work Nos. 1/3A and 1/3B). In addition, the Bill provides for the redevelopment of Tottenham Court Road Underground station. A substantial number of related surface works and operations are also proposed in the surrounding areas.
- 11 Your Petitioners approve of the concept and desirability of an East-West rail link, and of the improvement of the provision of public transport in London and the surrounding areas. They are therefore supportive of the Bill in principle.
- 12 Your Petitioners do however have some substantial concerns respecting the provisions of the Bill as affecting their property and their interests in it. Your Petitioners are concerned that no adequate provision has been made to secure that damage and disruption are kept to a minimum or to secure that in other respects their property interests are reasonably safeguarded. Accordingly, they object to the Bill for these reasons and having regard to the more detailed particulars referred to below.

*Compulsory purchase and subsoil acquisition generally*

- 13 Your Petitioners object to the provisions of clauses 6 and 7 of the Bill in their application to your Petitioners' properties. Under these provisions, the Promoter would be able to acquire compulsorily so much of the subsoil and undersurface thereof or such new rights therein, under or over your Petitioners' property set out in paragraph 6 as they may require for the purposes of the construction and use of the proposed works. Your Petitioners appreciate the need for the Promoter to obtain appropriate subsoil interests for tunnelling purposes but are concerned that the application of the powers as proposed in relation to their property is excessive and that their application could lead to damage to this property and a serious detraction from your Petitioners', and their tenants', quiet enjoyment of it.

14 Your Petitioners are especially concerned that the proposed limits of lateral and vertical deviation in clause 1 of the Bill would permit the route for Works Nos 1/3A and 1/3B to be varied so as to bring the works closer to (either vertically or horizontally) your Petitioners' property. The provisions of clause 1 of the Bill could therefore well result, your Petitioners believe, in an inadequate vertical distance between the soffit of the tunnels forming part of Works Nos. 1/3A and 1/3B and the bottommost part of the basement of your Petitioners' property. The resulting noise, vibration and, possibly, damage could therefore cause your Petitioners great inconvenience and loss. Your Petitioners therefore submit that such deviation could and should be more closely restricted wherever possible. Your Petitioners are also concerned that no provision has been made to take into account the fact that all predictions of settlement effects on the building would require revision as a result of vertical or lateral deviation from the assumed position and therefore submit that such provision should be made.

15 Accordingly your Petitioners submit that the Promoter should demonstrate and be put to strict proof of the need for and desirability of the proposals in the Bill, as affecting your Petitioners' property and that the limits of deviation of Works Nos. 1/3A and 1/3B, the resulting powers for the compulsory acquisition of land or of interests in land, the power to construct works and the exercise of works and ancillary powers within the limits of deviation should be restricted in relation to your Petitioners' property to the extent (if any) to which they can be strictly justified and so as to minimise or prevent interference with the property. In particular, your Petitioners contend that any interest in its property acquired by the Promoter (in terms of the area over which it is to subsist and the form in which it is to take at law) should be strictly limited only to that which is absolutely necessary for the construction, safe operation and maintenance of the proposed works.

*Noise and vibration during construction and from the running of the trains*

16 The noise and vibration arising from the construction of the railway and its associated works and structures (such as ventilation shafts) is a matter of

significant concern to your Petitioners. The operation of the railway (including the use of ventilation shafts and other ancillary uses) must also be expected to give rise to air and ground borne noise and vibration in respect of which the Promoter is subject to no limitations in the Bill or the Environmental Statement. Your Petitioners note in particular that there are proposals to construct cross tunnels directly below its property which have been designated for the housing of plant and machinery, which presumably will have associated noise and vibration implications.

- 17 Part of the arrangement between Crossrail and the developer described at paragraph 7 above included the removal of acoustic cradles in the foundations of the building. It is understood that this arrangement was made on the understanding that Crossrail would be designed and constructed so as minimise noise and vibration from the construction and operation of the railway in order to render these acoustic cradles unnecessary. Your Petitioners are deeply concerned therefore to ensure that the railway should be constructed and should operate to the standards considered at that time with regard to the mitigation of noise and vibration.
- 18 Your Petitioners submit that the Promoter should be compelled to use best available techniques in the construction of the railway and its associated works and structures, and in the operation of the railway, to ensure that the adverse effects are minimised. Your Petitioners submit that strict standards should be set beyond those currently envisaged by the Promoter and to which the Promoter must be made liable to comply.
- 19 Your Petitioners therefore submit that provision should be made that noise and vibration are minimised by reference to such prescribed thresholds. If those thresholds are exceeded, the nominated undertaker should be obliged to cease construction and operation of the trains until such time as remedial measures are in place which will reduce noise and vibration levels below the agreed threshold.

*Disruption and disturbance to 20 Soho Square during the construction period*

- 20 According to the supplementary documents to the Bill, the site at "Goslett Yard", as referred to in the Crossrail Environmental Statement, is proposed to be permanently acquired for the purpose of a work site for the construction of the proposed Tottenham Court Road Crossrail Station. The Environmental Statement, at paragraph 8.7.17, indicates that a ventilation and emergency intervention shaft is currently proposed to be built upon part of the Goslett Yard site, although it is understood that the design and hence the precise position of this and other elements of the proposed new station has yet to be settled. It is intended to demolish the buildings that currently stand upon the site. The site backs onto your Petitioners' property.
- 21 The surface works, particularly the use of working sites and the removal of spoil, will therefore particularly impact upon your Petitioners' properties. Major increases in lorry movements during the construction period are to be expected, the disruptive effect of which will be compounded by the permanent and temporary stopping up of nearby roads, including major arteries such as Charing Cross Road.
- 22 Yours Petitioners are also concerned to ensure that disruption to access to the property, both vehicular and pedestrian, caused by the construction of Crossrail is kept to an absolute minimum during the construction period. 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 has been temporarily stopped up. Your Petitioners request that 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.
- 23 Your Petitioners note in particular that it is proposed that there will be compensation grouting sites in all four corners of Soho Square. The result of this will be that access will be severely restricted in Soho Square and that parking will

be suspended in Soho Square for a number of years. While your Petitioners accept that these compensation grouting sites are essential, they request that when such sites are no longer needed, they be restored to good order promptly.

- 24 Your Petitioners are also concerned about dust and dirt produced during construction. Your Petitioners wish to see the nominated undertaker undertake to adhere to strict measures to reduce dust and to carry out additional mitigation measures if dust continues to be a nuisance to your Petitioners' property.

*Subsidence, settlement and associated damage to properties during and after construction*

- 25 Your Petitioners are very concerned about settlement effects on its property. In order to reduce settlement damage to a minimum, your Petitioners contend that the running tunnels should be constructed at the greatest practical depth and that the freedom under the Bill to deviate upwards should be strictly limited.

- 26 Your Petitioners would wish to see an effective and agreed monitoring system in place before commencement and during construction of the works, to determine reliably the effect of any settlement on all properties subject to significant settlement. There must in your Petitioners' submission be a set of criteria agreed between your Petitioners and the Promoter for ground movement within the vicinity of the properties. If that such criteria are 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 building. Your Petitioners request that they be given 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.

- 27 With regard to the development of your Petitioners' property in 1998, your Petitioners are particularly concerned that their property was designed to take into account the then predictions of settlement due to the passenger tunnels. Your Petitioners note that the various tunnels to be built to service the new station are

now not in the same position as previously expected, and seek assurance that there will be no additional adverse affect resulting from this discrepancy.

- 28 Your Petitioners would wish to see an effective and agreed monitoring system in place for the duration of the use of the proposed compensation grouting sites in all four corners of Soho Square.

*Deterioration of condition*

- 29 Your Petitioners are concerned that the condition of their property will deteriorate as a result of the works. Your Petitioners submit that provision should be made to their reasonable satisfaction for a condition survey of their property shortly before the commencement of the works and shortly after their completion. The costs of rectifying any deterioration in the condition of the property found to be due to the works should also be reimbursed by the Promoter.

*Loss and Compensation*

- 30 The provisions contained within the Bill for compensation for the compulsory purchase of subsoil or new other rights will not enable your Petitioners or other landowners to recover the full loss and expenses which they will incur in consequence of the exercise of such powers. Your Petitioners therefore submit that the Bill should be amended to rectify this.

- 31 Your Petitioners further submit that the compensation provisions proposed in the Bill are inadequate to compensate your Petitioners for the loss, damage and inconvenience, attributable to blight to their properties, which they have already suffered or may now suffer as a result of the prospective construction and subsequent use of the proposed works.

- 32 Your Petitioners further submit that the Promoter should be required to indemnify them from all claims and demands which may be made in consequence of the construction, use or maintenance of the works under the Bill, or their failure or

want of repair, or in consequence of any act or omission of the Promoter, his contractors or agents in carrying out the works under the Bill. The re-letting of your Petitioners' property could be severely prejudiced by the Crossrail proposals, particularly in the light of the short term nature of your Petitioners' usual tenancies. Your Petitioners fear, for example, that prospective tenants of the property will feel that the proposals may so blight the property as to render it incapable of occupation for business purposes, leading to part or all of the building being non-income producing for several years, or at best, rental levels being substantially reduced due to the prospect of the works. Further provisions should, they submit, be included in the Bill including provisions respecting the making and assessment of claims for compensation, and indemnifying your Petitioners for any loss they might suffer as the result of unfavourable rent reviews respecting the leases currently affecting some of their properties insofar as the reduced rent payable (as it may differ from open market rent) is attributable to the proposed works and their effect on your Petitioners' property. Furthermore, compensation should be available for any loss (so attributable) which your Petitioners might suffer in the event of them not being able to re-let their property (in whole or in part) to existing or new tenants or in the event of them only being able to do so at a reduced premium or rent.

- 33 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.
- 34 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*

- 35 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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