

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:

CONSOLIDATED DEVELOPMENTS 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 Clause 50 deals with compensation for injurious affection.

Your Petitioners and their properties

- 5 Your Petitioners are Consolidated Developments Limited, a company carrying on business in the ownership and development of property and they hold important and extensive interests in properties situated in the City of Westminster, the London Borough of Camden and elsewhere. Your Petitioners operate also as a holding company and have several wholly-owned subsidiaries carrying on the same business.

- 6 Your Petitioners or their wholly-owned subsidiaries own or have an interest in the following properties that are subject to compulsory acquisition or use under the Bill:

In the City of Westminster

- (a) 26 Soho Square (parcel 668) as owner and occupier, being properties shown as subject to subsoil acquisition;
- (b) 16 and 17 Manette Street (parcels 680 and 681) as owner (the owner being your Petitioners' subsidiary Consolidated Property Corporation Limited), both being properties shown as subject to subsoil acquisition.

In the Borough of Camden

- (a) A block of properties comprising 126-148 Charing Cross Road, 1-6, 15-17 and 21-23 Denmark Place, 9-10, 17-21, 25 and 27-28 Denmark Street, and 57-59 St Giles High Street (parcels 14-28, 40 and 41) as owner, parcels 14 and 15 being shown as subject to full acquisition and the remainder being shown as subject to subsoil acquisition;
- (b) 6 and 4 Denmark Street, which are owned by your Petitioners and a director of your Petitioners respectively.

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

Your Petitioners' concerns

- 8 Your Petitioners, Consolidated Developments Ltd, whose registered office is situated at 124-130 Seymour Place, London W1H 1BG, are a company limited by shares incorporated in England in 1994. Your Petitioners' principal business is that of a property company, investing in and developing retail property and offices.
- 9 Properties belonging to your Petitioners in three groups are listed in the Book of Reference for the Crossrail Bill as being subject to partial or total compulsory acquisition. The effect on each property and your Petitioners concerns are set out in turn.

Charing Cross Road, Denmark Place, Denmark Street and St Giles High Street

- 10 The first and most severely affected site is the block bounded by Charing Cross Road, Denmark Street, Andrew Borde Street and St Giles High Street. This is presently a combination of shops and offices, and includes sensitive uses such as recording studios and restaurants. The proposed redevelopment of this block will be prevented by Crossrail as it is currently proposed, with a consequent substantial loss in market value of the site. However, your Petitioners have engaged Buro Happold and Foster and Partners to design a development that is compatible with Crossrail.
- 11 The area has had a unique and historic relationship to the music industry for many years, and for this reason Denmark Street is known as the British 'Tin Pan Alley'. Your Petitioners are proposing to build a centre of British music at the site, including a music museum, as part of comprehensive redevelopment proposals that will recognise this association and safeguard it for the future. It is expected to be of great public interest and benefit to the area.

- 12 The proposed works will affect the two most significant frontages of the site, along Charing Cross Road and Andrew Borde Street. In relation to the Charing Cross Road frontage, your Petitioners are disappointed that after detailed negotiations concerning a comprehensive solution for the area with Transport for London (co-owner of the Promoter's agent Cross London Rail Links Ltd) over the previous five years, which appeared to be nearing agreement, the promoted scheme is different from that discussed, and conflicts with their redevelopment proposals for the site. This has involved a great commitment of expense and time on the part of your Petitioners and has caused delay to the station design. The design for the station and plaza is still not fixed and your Petitioners fear that further changes are likely, leading to more delay and uncertainty over the site.
- 13 The proposed new escalators from the front of Centre Point to the existing Northern Line platforms pass below the Charing Cross Road frontage, commencing close to ground level, currently rendering the frontage unable to be built upon, with the result that the redevelopment scheme would no longer be viable. However, Buro Happold and Foster and Partners believe that either a minor change to the design or position of the escalators will continue to allow the works to be constructed, while permitting a rational redevelopment of the site. The minor change to the design that is envisaged would mean that your Petitioners would contribute to the cost of constructing the escalator box as it would form part of the foundation of their development, which would also minimise delay to the redevelopment. Furthermore, if the escalator box was constructed as part of the redevelopment of the site, there would be no rental loss that would need to be compensated.
- 14 In relation to the Andrew Borde Street frontage, your Petitioners are willing to ensure that their proposed redevelopment is in sympathy with the proposed Charing Cross Plaza, of which this frontage will form the southern boundary. However, the frontage building is to be demolished to be used first for the temporary diversion of Charing Cross Road, subsequently for the deposit and storage of materials, and finally the frontage is to be landscaped. While your Petitioners understand the need for the diversion, they resist the use of the land for the deposit and storage of material, which is a wholly inappropriate use for such a

major site and will further inhibit its redevelopment. They also resist the use of the land as landscaping, as there is no justification for this. Your Petitioners' proposed development will incorporate an open but covered space at that frontage. Proposals for the plaza formed a key element of the previous arrangements with Transport for London referred to in paragraph 12 above, including a substantial financial contribution from your Petitioners towards its provision.

- 15 Your Petitioners believe that agreement can be reached with the Promoter that will allow the proper planned comprehensive development of this historic and unique site to be realised, while allowing Crossrail to be built to specification, and saving considerable costs for the Promoter. Accordingly, your Petitioners maintain that the acquisition of parcels 14 and 15 in the London Borough of Camden, which comprise 148 and 142-146 Charing Cross Road respectively, is unnecessary and resist the acquisition of any of their land other than the proposed escalator shaft itself.

4 and 6 Denmark Street, Manette Street and Soho Square

- 16 Your Petitioners' properties at 16-17 Manette Street and 26 Soho Square are subject to subsoil acquisition, and will be subject to several environmental factors during the construction of the works. They are grade II and grade II* listed respectively. Your Petitioners remain to be convinced that the mitigation in place will be sufficient to protect these properties. Your Petitioners request that the measures proposed below apply in relation to them.

- 17 Your Petitioners' properties at 4 and 6 Denmark Street are not subject to compulsory acquisition, but are very close to the works and your Petitioners are also concerned that the mitigation that is proposed will be insufficient to protect them.

Concerns relating to all properties

- 18 The following concerns relate to all of your Petitioners' properties.

Noise

- 19 Your Petitioners are concerned about noise during construction and on completion of the works. Your Petitioners wish to see an effective noise mitigation and monitoring system in place before commencement and during construction of the works. There must in your Petitioners' submission be a threshold agreed between your Petitioners and the Promoter. If that threshold is exceeded, the nominated undertaker should be obliged to cease construction until such time as remedial measures are in place which will reduce noise levels below the agreed threshold.

Dust

- 20 Your Petitioners are concerned about dust and dirt produced during construction. Your Petitioners would wish to see binding commitments imposed on the Promoter to require adherence to agreed measures to reduce dust, and to carry out additional mitigation if dust continues to be a nuisance to your Petitioners' properties. Your Petitioners request that provision be made to ensure that the Promoter takes responsibility for the reimbursement of your Petitioners for additional expense caused by dust and dirt such as more frequent cleaning of the property and more frequent replacement of air conditioning filters.

Vibration

- 21 Your Petitioners are concerned about vibration both during construction and on completion of the works. Your Petitioners fear that damage will result from vibration if piles in the vicinity are driven rather than bored or hand-dug. Your Petitioners fear that vibrations 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, and that once the works are operational, vibration from trains will also cause disturbance. Your Petitioners request that agreement be reached with the Promoter to ensure the absence of impact-induced vibration by the use of absorptive track beds or other means.

Access

- 22 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 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, either by means of amendment of the Bill or agreement with your Petitioners. Your Petitioners further request that vehicular access to their properties be maintained where practicable and that your Petitioners are reimbursed for any losses incurred through inability to service or park at their properties due to the works.
- 23 Where your Petitioners' tenants operate retail businesses from your Petitioners' properties, your Petitioners would wish to see protection from loss of trade and for extinguishment of the business due to disruption to access included in the Bill for such tenants.

Settlement

- 24 Your Petitioners are concerned about settlement effects on their properties. They are particularly concerned in relation to the use of the Sprayed Concrete Lining method of tunnelling below 26 Soho Square. 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 these properties. There must in your Petitioners' submission be a threshold agreed between your Petitioners and the Promoter for ground movement within the vicinity of the properties, or distortions of the structure of the properties. 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 14 days' notice of the intended passage of the tunnel boring machines beneath the property. Any necessary safeguarding or remedial measures must be agreed

between your Petitioners and the Promoter. Your Petitioners would wish to see the scope of paragraph 5 of Schedule 2 to the Bill to be extended to include all potential remedial measures that could be used, such as compensation grouting.

Deterioration of condition

- 25 Your Petitioners are concerned that the condition of their properties will deteriorate as a result of the works, and are particularly concerned about 26 Soho Square, which has recently been refurbished to a high specification. 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 surveys, and of rectifying any deterioration in the condition of the property found to be due to the works, be reimbursed by the Promoter.

Compensation

- 26 The provisions contained within the Bill for compensation for the compulsory purchase of property or 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.

Blight

- 27 Your Petitioners 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. The redevelopment, sale or re-letting of a number of your Petitioners' properties has already been severely prejudiced by the Crossrail proposals. The incidence of blight will also continue. Your Petitioners fear, for example, that prospective lessees of properties will feel that that the proposals may so blight some properties 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. 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' properties or for any loss (so attributable) which your Petitioners might suffer in the event of them not being able to re-let their properties (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.

Indemnity

- 28 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.

General matters

- 29 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.
- 30 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, the Bill should not be allowed to pass into law.
- 31 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

- 32 Your Petitioners submit that, in the respects mentioned and in other respects, the Bill fails adequately to safeguard and protect the interests of your Petitioners and of their subsidiaries.

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, 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 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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