

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:

SPITALFIELDS DEVELOPMENTS LIMITED and HAMMERSON PROPERTY
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 Spitalfields Developments Limited and Hammerson Property Limited, companies carrying on business in the ownership and development of property, and they hold important interests in properties situated in the London Borough of Tower Hamlets.

- 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:

LONDON BOROUGH OF TOWER HAMLETS

Parcel Numbers 44, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65

Property 1 & 10 Bishop's Square, Brushfield Street, 49-73 Brushfield Street and 103-107 Commercial Street

Interest Lessee and occupier

Effect Acquisition of subsoil

LONDON BOROUGH OF TOWER HAMLETS

Parcel Numbers 45 and 47

Property Fruit and Wool Exchange, Brushfield Street

Interest Development manager and prospective owner

Effect Acquisition of subsoil

- 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, Spitalfields Developments Limited and Hammerson Property Limited, whose registered offices are both situated at 100 Park Lane, London W1K 7AR, are companies limited by shares incorporated in England. Your Petitioners' principal business is that of a property company.

1 & 10 Bishop's Square, Spitalfields

- 9 Your Petitioners have a leasehold interest in 1 & 10 Bishop's Square, Spitalfields and neighbouring properties on Brushfield Street, which are leased from the Corporation of London. Although it is proposed that Crossrail only passes these properties below ground, your Petitioners are concerned that the powers within the Bill to take land (albeit restricted to lower than 9 metres below ground) could interfere with or involve the acquisition of part of the foundations of the properties concerned, at least one of which has two basement levels. Planning permission was granted by the London Borough of Tower Hamlets for the now completed development of Bishop's Square with the consent of those then involved with the Crossrail project. Your Petitioners seek further information as to what is proposed at this location and would strongly resist the acquisition of any land that included part of, or threatened the structural integrity of, the buildings at this location.

Fruit and Wool Exchange, Brushfield Street

- 10 A directly affected site in respect of which your Petitioners are seeking to acquire a leasehold interest, and where they are currently development managers, is the Fruit and Wool Exchange on Brushfield Street, for which the freehold is held by

the Corporation of London. Although it is proposed that Crossrail only passes this property below ground, your Petitioners are concerned that the powers within the Bill to take land (albeit restricted to lower than 9 metres below ground) could interfere with the foundations of the properties concerned, and would, if fully exercised, severely restrict the potential for redeveloping the site at some time in the future as, for example, piled foundations could not be used. The plans show that the crown of the tunnel would be some 37 metres below ground at this point and so an acquisition of 28 metres above the tunnel would appear to be unnecessary. Your Petitioners seek to lower the vertical limit of land acquisition so as not to interfere with the buildings in existence and any that may replace them in the future.

Noise

- 11 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

- 12 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

- 13 Your Petitioners are concerned about vibration during construction 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.
- 14 Your Petitioners are concerned about vibration during the operation of the works. Your Petitioners fear that once the works are operational, vibration from trains will cause disturbance. Your Petitioners request that agreement be reached with the Promoter to ensure the absence of impact-induced vibration.

Access

- 15 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.
- 16 Your Petitioners are also concerned that their properties in the vicinity of Bishopsgate might be inadequately served by the eastern entrance to the proposed Liverpool Street Crossrail Station. No new ticket hall is planned at the eastern end of the station and reliance is placed instead upon the existing London Underground facilities. Your Petitioners are advised that this would be inadequate to serve the number of passengers forecast to be entering and leaving the station once the works were completed, which would have a consequential effect of discouraging developments in the east of the City of London. Your Petitioners

would therefore support an increase in the capacity of the eastern end of the proposed station.

Settlement

- 17 Your Petitioners are concerned about settlement effects on their properties. Your Petitioners have engaged expert advisers, who envisage damage to 1 & 10 Bishop's Square, Spitalfields and the Fruit and Wool Exchange could be caused as a result of the works. 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

- 18 Your Petitioners are concerned that the condition of their properties will deteriorate as a result of the works. 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

- 19 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.
- 20 Your Petitioners also object that the compensation provisions of the Bill are inadequate to compensate your Petitioners or others in circumstances where no land (or interests in land) is acquired by the Promoter under the Bill, but where the value of such land and the properties erected on it is reduced or where such land and the properties erected on it is otherwise adversely or injuriously affected by the construction or use of the proposed works. Your Petitioners therefore submit that the Bill should be amended to provide for claims for adequate compensation in respect of damage arising to their property by the execution of the works, or for injurious affection thereof by the execution or working of these works, separately from any claim for compensation in the respect of acquisition of any land (or interest therein) from your Petitioners under the powers of acquisition.

Blight

- 21 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

- 22 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

- 23 As a general matter, your Petitioners submit that provision should be made for the Company 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 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.
- 25 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

- 26 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 Petitioner in the premises as your Honourable House shall deem meet.

AND YOUR PETITIONERS WILL EVER PRAY, &c.

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