

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:

IMPERIAL CHEMICAL INDUSTRIES PLC (TRADING AS ICI PAINTS)

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 Rail Regulation ("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' business and properties

6 Your Petitioners are a major and world-recognised organisation operating (amongst other things) a leading international paint, adhesives and consumer goods manufacturing business in over 30 countries. Your Petitioners administer this business from global headquarters in Slough, Berkshire, where they also have

major manufacturing facilities. The paints business operated by your Petitioners currently accounts for almost 40% of the total global turnover of the ICI group of companies, and this year will generate turnover of £450 million in the U.K. and Ireland and nearly £2.5 billion worldwide.

7 For these purposes your Petitioners own freehold property in the vicinity of the proposed railway, off Wexham Road, Slough, Berkshire (hereinafter referred to as “your Petitioners’ property”).

8 Broadly, your Petitioners’ property comprises two sites situated on the western and eastern sides of Wexham Road, north of the Great Western railway corridor. The two sites are physically and functionally separated although there is infrastructure linking the two underneath Wexham Road. The property on the eastern side (“the eastern site”) is approximately 7.25 hectares and comprises extensive paint manufacturing facilities. The property on the western side (“the western site”) is approximately 3.65 hectares and comprises the main administrative facilities: part of your Petitioners’ property on this side is numbered 145 and 150 on the deposited plans in the borough of Slough and will be particularly affected by the proposals set out in the Bill. Access to both sites is obtained solely from Wexham Road, and movement between the two sites is constant and intensive. Wexham Road provides access for approximately 270 chemical and delivery lorries and other heavy goods vehicles on a weekly basis.

9 Your Petitioners also contend that they retain an interest in part of the land shown numbered 159 on the deposited plans in the borough of Slough, which is within the eastern site.

Your Petitioners’ concerns

10 Your Petitioners do not object to the concept and desirability of an east-west rail link between Maidenhead and Shenfield, and the improvement of public transport provision in London and the surrounding areas, and are therefore supportive of the Bill in principle.

- 11 Your Petitioners are, however, most apprehensive of the provisions of the Bill as they may affect your Petitioners' property and their related commercial interests. For this reason, and having regard to the more detailed particulars referred to below, your Petitioners object to the Bill and its provisions hereinbefore referred to and they allege and are prepared to prove that they and their property, rights and interests are injuriously and prejudicially affected by the Bill for the reasons (amongst others) hereinafter appearing.
- 12 Your Petitioners submit that the Promoter should not be permitted by means of the Bill to interfere with private property rights and interests unless, and except to the extent (if any) that this can be demonstrated both to be necessary for the purposes of the Bill and to be in the public interest. Your Petitioners have not been provided with any justification for the proposals in the Bill affecting their property or that it is necessary or expedient for the other powers of the Bill to apply at all or in the manner or to the extent proposed.
- 13 The Bill provides for a number of works which are set out in Schedule 1 to the Bill, including the development of an overground railway (Work No. 3/9), development and extension of Slough Railway Station, the construction of a new footbridge at the western end of the station, the introduction of overhead line equipment and extensive modification to three road bridges in the immediate area (in particular, Work Nos. 3/5A and 3/5B).
- 14 The Bill and associated documentation provide for:
- 14.1.1 the compulsory acquisition of part of the western site and the eastern site: the land shown numbered 145, 150 and 159 on the deposited plans is proposed to be taken permanently albeit that your Petitioners understand that it is only required for the provision of a temporary worksite for approximately one year, according to the Environmental Statement deposited with the Bill;
 - 14.1.2 the establishment of a temporary worksite on the shown numbered 145, 150 and 159 on the deposited plans, referred to as the Wexham Road bridge worksite (north);

- 14.1.3 the modification of Wexham Road Bridge, during which time a single lane working temporary bridge will be installed across the existing railway; and
- 14.1.4 related highways powers under Clause 3 of, and Schedule 3 to the Bill, which will enable the temporary stopping up of Wexham Road in particular.
- 15 Your Petitioners object to the proposed compulsory purchase or use of part of the western site and the eastern site and they question the need for such powers, fearing that their exercise could lead to significant loss and damage being suffered by your Petitioners.
- 16 The compulsory acquisition or use of part of the western site and the eastern site would have a severe and detrimental effect on your Petitioners. That part of the western site that could be purchased compulsorily under the Bill comprises part of your Petitioners' car park, used by employees working on the western site or the eastern site, or on both sites. That car park provides about 600 spaces, of which about 300 would be lost when allowing for consequential changes and adjustments, including to circulation arrangements. Thus, approximately 50% of the car park would be removed, and yet consistently the car park as a whole is utilised to about 95% of its capacity. The proportion of your Petitioners' car park that could be taken under the Bill has been underestimated by the Promoter by about one half.
- 17 The car park concerned is so important to the continuation of your Petitioners' business that they will argue that the Promoter should demonstrate why these powers are necessary in the public interest and what alternatives have been considered but ruled out. If no alternatives have been considered, your Petitioners will seek to oblige the Promoter to consider alternatives and to demonstrate why compulsory purchase of part of your Petitioners' property is the only or most appropriate option and why temporary powers over the site would be insufficient. Your Petitioners consider that a suitable alternative may well be the land numbered 143 and 146 on the deposited plans in the borough of Slough, which could at least reduce (in terms of extent, purpose or duration) any requirement to

affect your Petitioners' property, even if it may not avoid any such requirement altogether.

18 If, however, it is shown to the satisfaction of your Honourable House that the use of part of your Petitioners' property is the only viable option to facilitate construction of the relevant works, your Petitioners will argue that it should only be permitted by way of a temporary right acquired and if your Petitioners are provided with temporary alternative car parking elsewhere on the western or eastern sites (which is compatible with your Petitioners' overall plans for the sites), at the Promoter's expense, and which the Promoter demonstrates would cause no disruption or inconvenience to car parking by your Petitioners' employees, contractors or visitors. If that is not possible, your Petitioners will argue that the Promoter should purchase from your Petitioners the entirety of the western site.

19 More generally your Petitioners have most severe reservations about the location of the proposed Wexham Road Bridge worksite (north) and apprehend that this site and the works proposed to be carried out to the bridge will bring about major disturbance to your Petitioners' commercial and industrial operations and loss of amenity to the areas involved, arising especially from:

- (a) the temporary road closures and alternatives proposed;
- (b) construction traffic on Wexham Road;
- (c) restricted access to buildings located on your Petitioners' property;
- (d) construction noise and vibration; and
- (e) negative visual and amenity impact to the headquarters of a major U.K. and international industrial company, often visited by customers and prospective customers.

20 Wexham Road is currently a two-way, single carriageway, which is used extensively by your Petitioners' employees and other (i.e. regular visitors, couriers, contractors, post and waste) traffic as well as by your Petitioners' heavy goods vehicles. The disruption likely to be caused by the proposed works and

construction traffic will compromise the effective use of both the western site and the eastern site, particularly through major increases in lorry movements during the construction period, the temporary stopping up of nearby roads and the proposed single lane working of the intended temporary replacement bridge. In addition, Wexham Road provides access to a local primary school and Wexham Park Hospital, nearby and to the north of your Petitioners' property.

- 21 Your Petitioners submit that the environmental statement that accompanies the Bill does not consider, nor appropriately justify, any alternative construction solutions in relation to the location of the Wexham Road Bridge worksite (north).
- 22 In addition, your Petitioners submit that the environmental statement does not identify, nor provide for appropriate mitigation measures for the detrimental impact of the Wexham Bridge Road (north) worksite. In consideration of the existing extensive traffic usage of Wexham Road, the proposed construction of a temporary single-lane working bridge will insufficiently mitigate against the closure of Wexham Road Bridge and will not adequately address the likely delays to use of the bridge that will be suffered by your Petitioners and their employees.
- 23 Your Petitioners therefore 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 powers for the compulsory acquisition of land or of interests in land, the power to use land temporarily, the power to construct works, the exercise of works and ancillary powers, and the power to deviate in constructing those works 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 your Petitioners' property. In particular, your Petitioners contend that any interest in their property acquired by the Promoter (in terms of the area over which it is to subsist, the form in which it is to take at law and any express or implied constraints which may be imposed upon the remainder of your Petitioners' property) should be a temporary right only and be strictly limited in terms of extent, purpose and duration to that which is absolutely necessary for the construction, safe operation and maintenance of the proposed works.

reimbursement of your Petitioners for additional expense caused by dust and dirt, such as more frequent cleaning of their affected premises and properties, and more frequent replacement of air conditioning filters.

- 27 In particular, your Petitioners would expect the Promoter to be bound to a code of construction practice to regulate these matters and to ameliorate any adverse effects caused by the works. Your Petitioners submit that the Promoter should consult with them about proposed working methods and in relation to all aspects of likely environmental impact to your Petitioners' property and that the Promoter should be obliged to agree a scheme of work with your Petitioners for the benefit of your Petitioners' property, such scheme of work to include, amongst other things, reference to noise, vibration, disruption and lorry movements.
- 28 Your Petitioners submit that the Promoter should be required to indemnify them from all claims and demands which may be made in consequence of the construction of the works under the Bill, or in consequence of any act or omission of the Promoter, his contractors or agents in carrying out the works under the Bill.
- 29 Your Petitioners have not been consulted about the proposals in the Bill that affect your Petitioners and nor has the Promoter taken any steps to mitigate the effect of taking or using your Petitioners' property, for example by providing alternative car parking for that lost. Yet the Promoter has acknowledged, in the environmental statement accompanying the Bill, that the impact of this proposed compulsory purchase is a "significant impact". Your Petitioners submit that, particularly for this reason, 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 There are other clauses and provisions in the Bill which, if passed into law as they now stand, would prejudicially affect your Petitioners and their rights, interests and property, and for which no adequate provision is made to protect your Petitioners.

31 Your Petitioners submit that the Bill fails adequately to safeguard and protect their interests and so it should not be allowed to pass into law without the issues mentioned above 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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