

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:

DAY GROUP 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 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 Petitioner and its business

6 Your Petitioner is the Day Group Limited, a company (registered number 432417) that has traded in aggregates in the south east of England for nearly fifty years and which has imported aggregate by rail to its depots for over thirty years.

- 7 Your Petitioner's head offices are located at its depot in Brentford in the London Borough of Hounslow and that depot, together with your Petitioner's depots at Battersea, Crawley, Purley and Woking all rely upon materials being delivered regularly and consistently by rail.
- 8 Your Petitioner's properties are not subject to compulsory acquisition or use under the Bill. However, their business operations are highly dependent upon the rail network to transport materials from their source to the south east of England where the company's depots are located and where demand for aggregates is highest. Your Petitioner sells in the region of three million tonnes of aggregates per year, approximately half of which is transported by rail from destinations in Leicestershire, Glamorgan, Essex, Kent and Somerset. Of these destinations Somerset is particularly significant as your Petitioner acts as Foster Yeoman Limited's agent in the south east of England and imports in the region of one million tonnes per year of limestone from the Mendip hills via Foster Yeoman Limited, who are based in Somerset, the stone being transported by railway services operated by Mendip Rail Limited.
- 9 Your Petitioner also utilises rail services operated by English Welsh and Scottish Railway Limited and Aggregate Industries Limited to import aggregates from sites in Kent and Leicestershire.
- 10 The material sold by the company that is not transported to its depots by rail is mainly locally sourced materials including recycled aggregates made from demolition rubble and glass collected from bottle banks. Your Petitioner is amongst the market leaders in the recycled aggregates sector and approximately one third of its sales is of recycled aggregate. In addition your Petitioner imports some primary aggregate by sea via its depot at Greenwich.
- 11 Your Petitioner's depots that are connected to the rail network rely, upon average, upon at least one freight train servicing the depot each working day in order to meet customer demand.

- 12 Further, most of your Petitioner's depots are subject to planning and other restrictions that regulate the times and days when they may operate and the majority of rail freight services to those depots have to be timed to avoid the busier periods upon the rail network, so as not to affect passenger rail services. Often, it is within these off-peak times that maintenance work to the rail network is carried out which further disrupts freight services.
- 13 Accordingly, your Petitioner is concerned that the provisions in the Bill will seriously affect rail freight services to the company's rail served depots on account of the works to be carried out to the railway network and also because throughout the construction phase and once Crossrail is operational, freight services will have to compete for space with passenger services, including Crossrail services, upon an already congested rail network and that the level and reliability of freight services will diminish as a result.

Railway issues

- 14 A substantial proportion of the aggregates sold by your Petitioner is won from quarries in the south west of England and transported to your Petitioner's depots by rail by Mendip Rail Limited. These rail freight services supply your Petitioner's depots at Battersea, Brentford, Crawley, Purley and Woking via the Great Western Main Line. Your Petitioners are concerned that the powers proposed to be conferred by the Bill should not interrupt or interfere with the efficient operation of these rail freight services upon which your Petitioner and in turn its customers depend. If, however, a degree of interruption or interference is inevitable then your Petitioner considers that any such interruption or interference should be kept to an absolute minimum and that your Petitioner should be fully compensated for all losses, costs and expenses incurred as a result. Indeed your Petitioner is concerned that those rail freight services upon which your Petitioner relies and which do not use either the Great Western or the Great Eastern Main Lines may nonetheless be affected by the proposals in the Bill on account of any displacement of services from those main lines onto other lines used to service your Petitioner's depots.

- 15 Your Petitioner is particularly concerned that the acquisition or use of certain sites by the Promoter will have serious consequences for its business.
- 16 Your Petitioner is concerned that rail freight services that currently rely upon the facilities provided at the Acton depot in the London Borough of Ealing (shown on sheets 126 and 127 of the plans that accompany the Bill) must continue to be able to do so. The Acton depot is a very important component of the rail freight network as it has the capacity to accommodate very large freight trains which can be split into smaller trains at the depot to continue their journey to various destinations. Your Petitioner's depots at Battersea, Brentford, Crawley, Purley and Woking are all served by freight services that are split at the Acton depot and depend upon that supply.
- 17 Your Petitioner is also most concerned about rail access to its Brentford depot to which is delivered over 300,000 tonnes of aggregate each year from quarries in Somerset, Leicestershire and Essex. The Brentford branch line is a freight only line accessed from a junction on the Great Western Main Line at Southall. It is imperative to your Petitioner's business operations that access for freight trains to the Brentford branch line is not disrupted as your Petitioner relies upon a consistent and regular delivery of materials by rail to its Brentford depot.
- 18 Your Petitioner is interested in establishing a rail served depot in Plumstead in the London Borough of Greenwich. The site in question appears on Sheet 33 of the plans deposited with the Bill as including plots 97 and 98. To that end your Petitioner has initiated the relevant formalities that exist for acquiring an interest in a rail site of this kind by making a formal offer via an appropriate Freight Train Operating Company. At present the Plumstead depot is not used for aggregates distribution nor do those currently occupying the site use the rail connection to the depot. Your Petitioner is concerned however that the use and acquisition of this depot for the purposes of a work site for Crossrail will preclude it being put to use as an aggregates depot and that in view of the scarcity of rail served depots in south east London and the benefits they bring in keeping freight traffic on the

railways and off the roads the Promoter should be put to strict proof to show that the use of the site as a Crossrail work site is fully justified in these circumstances and that no more satisfactory alternative arrangement could be found.

- 19 Your Petitioner also owns a depot which is connected to the rail network in Tolworth in the Royal Borough of Kingston upon Thames. Whilst the depot is not operational at present, your Petitioner has obtained planning permission to develop a concrete batching plant on the site and is currently making due preparations to implement that permission such that the site will be operational again within the next two years. The operation of this depot would be affected by the provisions in the Bill in that it would rely upon the rail freight network and would need to be serviced in part by trains split at the Acton depot.

- 20 Further, your Petitioner owns a depot which is connected to the rail network at Salfords in the Royal Borough of Kingston upon Thames. At present the depot is used on an occasional basis only but your Petitioner anticipates that within the next few years it will return to full operation. This depot would also be affected by the provisions in the Bill in that its operation would rely upon the rail freight network and would need to be serviced in part by trains split at the Acton depot.

- 21 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.

- 22 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

23 Your Petitioners submit that the Bill fails adequately to safeguard and protect the interests of your Petitioners 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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