

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:

TILFEN LAND 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.
- 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 and their properties

- 6 Your Petitioners are a commercial property development and investment company, founded in 1999 and based in West Thamesmead, and wholly owned by two organisations working at the heart of one of the largest regeneration projects in Europe. Your Petitioners and their two charitable shareholders, Trust Thamesmead Limited and Gallions Housing Association, are responsible for building, developing and managing a key growth area in the Thames Gateway. Your Petitioners' main activities at present include significant residential and commercial property development in the strategically important area of Thamesmead, with plans to expand throughout the Thames Gateway and beyond. As part of their plans, your Petitioners now own around 160 acres of developable land in the Thamesmead and Woolwich area. The future development of this land will contribute significantly to the regeneration of the area.

- 7 More specifically, your Petitioners own the following parcels of land:
- (a) in the London Borough of Greenwich, private road and footways (Tom Cribb Road) (numbered 52 on the deposited plans);
 - (b) in the London Borough of Greenwich, the land on the corner of Nathan Way and Pettman Crescent and the land south of Nathan Way (numbered 89 and 95 on the deposited plans) (for the purposes of this Petition, the 'land at Pettman Crescent'); and
 - (c) in the London Borough of Greenwich, the private road (White Hart Avenue) above public roads (Purland Road and Nathan Way) and land, including the bridge above a public road and footpaths (Nathan Way) and sewer (Southern Outfall Sewer), and including the viaduct carrying White Hart Avenue above a public road (Purland Road).

8 Your Petitioners are supportive of the concept and desirability of an East-West rail link between Maidenhead and Shenfield, and of the improvement of the provision of public transport in London and the surrounding areas, and are therefore supportive of the Bill in principle. Furthermore, your Petitioners seek to work together with Crossrail, the Government and the local authorities (in particular the London Borough of Greenwich) to facilitate the provision of Crossrail.

9 Your Petitioners do not object to the principle of the proposed railway, but they are apprehensive of the provisions of the Bill as they may affect the properties of your Petitioners described above ('your Petitioners' land). For this reason, and having regard to the more detailed particulars referred to below, your Petitioners object to the Bill and its provisions 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 following reasons (amongst others).

Your Petitioners' concerns

10 Your Petitioners are concerned that the powers proposed in the Bill as affecting its properties are either unjustified or unclear. Your Petitioners are also concerned that no adequate provision has been made to compensate them according to the actual loss

they would suffer. Furthermore, 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 interests are reasonably safeguarded.

- 11 In the ordinary course, your Petitioners understand that a project of this sort would now be subject to much more detailed design work than it appears has been undertaken. Not only is such detail missing but your Petitioners understand that no or no sufficient budget is available for its progression at this stage. In consequence, the impacts upon your Petitioners' land interests are still ill-defined and your Petitioners are handicapped in their ability to engage with the Promoter in a positive fashion to safeguard their interests.

Land at Pettman Crescent: Background

- 12 Your Petitioners have significant proposals for the land at Pettman Crescent which is currently zoned for employment development as part of the West Thamesmead Business Park. This business park is of strategic importance and the ODPM are currently funding significant environmental improvements to it through its Sustainable Communities Plan. There are wider development plans, currently in embryonic stages in planning terms, comprising the land at Pettman Crescent and the land immediately to the west and north west of the land at Pettman Crescent (together the 'Strategic Gateway Development') to create a high quality, high density, comprehensive development scheme resulting in a mixed residential and retail development of over 700,000 square feet gross floor space. The land at Pettman Crescent, whilst currently in an employment scheme zone, is intended to provide a commercial space next to the main bulk of the development. The entire Strategic Gateway Development scheme is proposed to reflect the importance of the site, which is of highly strategic relevance to Plumstead, Woolwich and Thamesmead.

Effect of the proposed works on development of Pettman Crescent

- 13 Your Petitioners object to the provisions of Clauses 6 and 7 of the Bill in their application to your Petitioners' land. Under these provisions, the Promoter would

have the power to acquire all of your Petitioners' land at Pettman Crescent compulsorily and permanently. Your Petitioners' have noted from the Environmental Statement that the proposals for the entire worksite at the Plumstead Portal are split into the main worksite to east of the land at Pettman Crescent (known in the supporting documents to the Bill as the 'Plumstead Worksite') and the land at Pettman Crescent (known in the supporting documents to the Bill as 'the Plumstead Worksite West'). The proposals for the entire worksite include the construction of some offices, a waste plant and a storage facility. Your Petitioners understand that the waste plant would be located on the Plumstead Worksite West, i.e. the land at Pettman Crescent, and that waste from the excavation of the tunnels would be brought back to the site, treated at a separation plant prior to transportation (this separation plant also to be located on the land at Pettman Crescent) and then transported from the site east to Rainham. If the Promoter's proposals at the site are implemented, it would mean that your Petitioners' interest in the site would be extinguished, which your Petitioners submit would have severe consequences on the development, not just at the land included in the Bill, but also in terms of the wider Strategic Gateway Development.

Alternative locations to Pettman Crescent

- 14 Your Petitioners are particularly concerned that there has been no adequate appraisal of alternative locations for the waste and separation treatment facility, and have themselves identified a far more suitable site immediately to the east of the main body of the proposed Plumstead worksite, i.e. to the east of White Hart Road, which currently comprises a community centre, a timber yard and an old train depot belonging to Greenwich Council which now lies vacant. Your Petitioners submit that these parcels of land be included in any list of additional parcels of land set out in the Promoter's application for additional provisions, particularly in the light of the potential for making use of the existing North Kent railway line. Such an extension of the worksite east of White Hart Road could facilitate the operational accessibility of, siding accommodation for, and the efficient loading of, longer freight trains than hitherto envisaged. This in turn would eliminate the need to use the private spine road

running through the White Hart Development Triangle (see later, in particular paragraphs 21 to 25 of this Petition).

The environmental state of the land at Pettman Crescent

- 15 In addition, the land at Pettman Crescent is currently in a very poor environmental state, which has a negative impact on the entire surrounding area. Through the Sustainable Communities Plan, the ODPM has earmarked the West Thamesmead Business Park (including this site) for significant grant funding specifically for essential environmental and security improvements. Your Petitioners believe that some of these improvement works, funded by the ODPM, would be wasted should the proposals contained in the Bill and supporting documents be implemented as they are currently set out in relation to this site.

Justification for duration of acquisition of the land at Petmann Crescent

- 16 In the event that it is not possible to reach agreement over one of the other potential sites for the waste facility, or indeed any other as yet unidentified site, and the land at Pettman Crescent is identified as the only possible site for such a facility, then you Petitioner submits that there is no justification for the permanent acquisition of the land, particularly when the Bill already provides for the temporary possession of certain lands at Schedule 5. Even temporary possession of the land would have a negative impact on the ability to proceed with the Strategic Gateway Development, but this would in any event be preferable to permanent acquisition of the land.
- 17 Your Petitioners further submit that in the event that agreement cannot be reached over one of the other potential sites for the waste facility, or any other site, and temporary possession of the land is taken by the Promoter or nominated undertaker, your Petitioners should only have to lease the land to the Promoter or nominated undertaker and provision should be made (further to the compensation provisions set out below) for compensation in the form of an agreed annual rental charge payable to your Petitioners.

18 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 the land at Pettman Crescent, and that the powers for the compulsory acquisition of land, the power to construct works and the exercise of ancillary powers within the limits of deviation should be restricted in relation to the land at Pettman Crescent to the extent (if any) to which they can be strictly justified. In particular, your Petitioners contend that any interest in their land acquired by the Promoter (in terms of the area over which it is to subsist, the legal form it is to take, its duration, and any express or implied constraints which may be imposed upon the remainder of your Petitioners' land) should be limited to that which is strictly necessary for the construction, safe operation and maintenance of the proposed works.

Request for an undertaking regarding offer back of land at Pettman Crescent

19 Although the acquisition of the land at Pettman Crescent is strongly resisted by your Petitioners, if it were to happen, your Petitioners submit that they should be offered the land back in the first instance. Your Petitioners are concerned that the Promoter will suggest that the site will have changed materially, and that therefore by the application of paragraph 11 of the Crossrail Land Disposal Policy, the land would not be offered back to your Petitioners. Your Petitioners therefore seek an undertaking that they would be offered their land back in the first instance if it were to be compulsorily acquired.

20 Should the Promoter acquire the land at Pettman Crescent, and should the proposed Strategic Gateway Development proceed without that land, your Petitioners submit that the value of the land taken would significantly increase by virtue of your Petitioners' planning and development of their nearby site. If the Promoter then offers back to your Petitioners the land taken (as he should be obliged to do), any such increase in its value attributable to the planning and development by your Petitioners of their nearby land should be disregarded in determining the consideration for the land being offered back. In particular, the consideration should be based on the current permitted use of the land, not on any change in the permitted use, or on any expectation of a change in the permitted use.

White Hart Avenue: Background

- 21 Your Petitioners are also currently involved in the development of another major strategic commercial scheme (the 'White Hart Triangle Development') in the Thamesmead area, a strategic employment site, in a joint venture with the London Borough of Greenwich ('LBG') and the London Development Agency ('LDA'). Spanning 52 acres, the White Hart Triangle Development is one of the largest proposed Distribution and Business Parks in the South East and significant investment has already been made. Planning permission for approximately 1 million square feet of Warehouse, Production and Office accommodation has been granted. The total project value when complete will be in excess of £80 million. Phase one of the development is complete, consisting of 10,000 square metres of commercial development at a cost of over £7.5 million. Your Petitioners, LBG and the LDA have plans to develop the remainder of the site over approximately the next 10 years. The LDA invested £17 million in 2002/2003 in grant funding which was used to construct a new spine road (White Hart Avenue), bridge and viaduct running through the site, and providing a transport corridor for the White Hart Triangle development. This private spine road leads from the North, through the site and into White Hart Road to the immediate East of the proposed Plumstead Worksite.

Effect of the proposed works on development of the White Hart Triangle

- 22 The Bill includes the power to acquire rights to use the private spine road running through the White Hart Triangle Development for a significant number of construction vehicles for the purpose of obtaining access to the proposed Plumstead Worksite. As set out above, this avenue runs directly through the White Hart Triangle Development. The Environmental Statement sets out at paragraph 11.9.20 that "the worksites [namely the Plumstead Worksite and Plumstead Worksite West] will be served by up to 260 lorries per day during the 60-week peak construction period, and an average of 55 lorries accessing the worksites per day during other days". The effect on the White Hart Triangle Development would be twofold: first, that your Petitioners, their joint venture partners and various contractors involved in the development would have reduced ability to use the road themselves during this very

crucial stage of construction; and second, that the development would become substantially less marketable to potential lessees of the new commercial space by your Petitioners. This second effect could have wider reaching impacts than just potential loss of rental and sale value, as the £17 million funding described above could be wasted as the expected regeneration and job potential from the scheme may not materialise.

Alternative options to the use of White Hart Avenue

23 Your Petitioners are particularly concerned that there has been no adequate appraisal of alternative solutions to the Promoter's requirement to service the proposed Plumstead Worksite. More specifically, your Petitioners submit that an alternative in the form of making use of the existing North Kent line should be considered, taking account of the fact that extension of the worksite east of White Hart Road could facilitate the operational accessibility of, siding accommodation for, and efficient loading, of longer freight trains than hitherto envisaged.

24 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 White Hart Avenue and that the powers for the acquisition of rights over the private road for the purpose of obtaining access should be restricted in relation to White Hart Avenue to the extent (if any) to which they can be strictly justified and so as to minimise or prevent interference with the land. In particular, your Petitioners contend that any interest in White Hart Avenue acquired by the Promoter should be limited to that which is strictly necessary for the construction, safe operation and maintenance of the proposed works.

Traffic management along White Hart Avenue

25 In the event that it is not possible to reach agreement over the alternative solution set out above, or indeed any other as yet unidentified solution, your Petitioners submit that a traffic management system be discussed and agreed with them that addresses the management of, and appropriate times for the use of, the private spine road. Your

Petitioners are particularly concerned about security, safety and the damage that could be done to the road. Your Petitioners submit that the traffic management system should therefore also incorporate measures to mitigate these concerns. Your Petitioners submit that the Promoter, or nominated undertaker, should only be permitted to use the spine road at night time, or outside the working hours of the construction and marketing of the White Hart Triangle Development in order to minimise any potential loss suffered by your Petitioners. The spine road is a private road and your Petitioners submit that value should be paid by the Promoters, or nominated undertake, for the use of the road.

Thomas Cribb Road: background

- 26 Your Petitioners are also the owners of a short stretch of road as set out in paragraph 7 (a) above. The Bill includes the power to acquire rights to use this stretch of Thomas Cribb Road for the purpose of obtaining access, although it is entirely unclear from the Bill and supporting documents which had found such access would be required, and what the nature of the required uses would be.
- 27 Accordingly your Petitioners request that the Promoter clarifies this requirement, and 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 Thomas Cribb Road, and that the powers for the acquisition of rights over the private road for the purpose of obtaining access should be restricted in relation to Thomas Cribb Road to the extent (if any) to which they can be strictly justified and so as to minimise or prevent interference with the land. In particular, your Petitioners contend that any interest in Thomas Cribb Road acquired by the Promoter should be strictly limited only to that which is absolutely necessary for the construction, safe operation and maintenance of the proposed works.
- 28 Your Petitioners therefore 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 full justification for the proposals in the Bill affecting their properties and they are not satisfied that it is necessary or appropriate for the site at Pettman Crescent to be compulsorily acquired, or that it is necessary or appropriate for White Hart Avenue to form the main access road to the proposed Plumstead Worksite, or that it is necessary or appropriate for the Promoter to acquire the right to use the Thomas Cribb Road at all, 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.

Compensation

- 29 The provisions contained within the Bill for compensation for the compulsory purchase of land or other rights over land 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.
- 30 Your Petitioners further submit that such provisions with regard to compensation in respect of compulsory acquisition and other matters as are proposed in the Bill are inadequate to compensate your Petitioners for the loss, damage and inconvenience which they might suffer as a result of the construction and subsequent use of the proposed 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 (so attributable) which your Petitioners might suffer in the event of them not being able to let their properties on the White Hart Triangle Development (in whole or in part) to new tenants or in the event of them only being able to do so at a reduced premium or rent.
- 31 Your Petitioners also object to the compensation provisions of the Bill in that those provisions are inadequate to compensate your Petitioners in circumstances where no land (or interests in land) of theirs is acquired by the Promoter under the Bill, but where the value of such land and the properties erected thereon is reduced, or where such land and the properties erected thereon 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 adequate compensation in this regard.

- 32 Your Petitioners submit that it should also be entitled to make its claim for compensation in respect of damage arising to its 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.

General matters

- 33 Your Petitioners respectfully submit that the proposals contained in the Bill are causing a blight on your Petitioners' land. It is already blighted by the proposals contained in the Bill. Moreover, the Bill does not contain adequate provisions for compensating such blight and your Petitioners suggest that it do so. Your Petitioners are particularly concerned that there is uncertainty regarding the funding of Crossrail which has had an impact on your Petitioners' ability to suggest timescales and to plan for development.
- 34 Your Petitioner submits 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.
- 35 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.
- 36 There are other clauses and provisions in the Bill which, if passed into law as they now stand, may prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners.

Conclusion

37 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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