

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:

SALISBURY HOUSE OFFICES 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 property

6 Your Petitioner is Salisbury House Offices Limited, a property investment company that owns a 125 year long leasehold interest in Salisbury House, 28-31 Finsbury Circus from the Mayor and Commonalty and Citizens of the City of London, which commenced on 25 December 1985 and therefore has 105 years left to run.

7 Your Petitioner's property is a Grade II listed building fronting London Wall all of which falls within the City of London which was built around the beginning of

the 20th century and provides approximately 230,000 square feet of multi-let office accommodation and ten retail premises providing approximately 16,500 square feet fronting onto London Wall.

- 8 Your Petitioner and its rights, interests and property are injuriously affected by the Bill, to which your Petitioner objects for the reasons amongst others, here stated.

Your Petitioner's concerns

- 9 The Promoter seeks to compulsorily acquire the subsoil interest or new rights in the Petitioner's property, which is a Grade II listed building of special architectural or historic interest and your Petitioner fears that the proposed works would have a significant effect on the stability of your Petitioner's property.
- 10 The Bill provides for a number of works which are set out in Schedule 1 to the Bill, including the construction and operation of an underground railway beneath your Petitioner's property and the construction of new station entrances and ticket halls in relation to a new station at Liverpool Street, as well as the construction of other stations and the construction and operation of new station platforms extending between existing stations at Moorgate and Liverpool Street, the former being located adjacent to the site of the proposed new Liverpool Street station Western Ticket Hall (Work No.1/3B).
- 11 In addition, the Bill provides for the temporary diversion of the London Bridge Sewer approximately 12-25 metres south west of the junction of Moorgate with Finsbury Circus (Work Nos.1/23A and 1/23B) and a substantial number of related surface works and operations in this area, including the use of Finsbury Circus (including the bowling green and pavilion) as a works site and lorry holding area. These works are likely to generate significant impacts in terms of dust, noise and other nuisances in addition to significant movements of traffic and disruption to the local highway network. Furthermore, the announcement of the Bill and the prospect of significant disruption, damage and inconvenience that the works proposed in the vicinity of your Petitioner's property may cause has blighted this property and your Petitioner is being put to loss, trouble and expense as a result of this announcement which is compounded by the lack of certainty that the project

will be able to progress to implementation or that its implementation will not be further substantially delayed.

- 12 Your Petitioner is not opposed in principle to the intended new railway. However, it is concerned that the powers proposed in the Bill as affecting its property go beyond what is required. Further, no adequate provision has been made to secure that damage and disruption are kept to a minimum or to secure that in other respects its property interests are reasonably safeguarded, particularly in view of the depth of the building's foundations, its historic and architectural significance and generally its structural characteristics. Accordingly, it objects to the Bill for these reasons and having regard to the more detailed particulars referred to below.

Compulsory purchase and subsoil acquisition and related matters

- 13 Your Petitioner objects to the provisions of Clause 6 of the Bill, which it apprehends could adversely affect and interfere with some of your Petitioner's property. Under these provisions, and those in Clause 7, the Promoter would be able to acquire compulsorily so much of the subsoil and undersurface of your Petitioner's property or such new rights therein, under or over as they may require for the purposes of the construction and use of the proposed works. In respect of this property your Petitioner questions the need for such extensive powers, fearing that their exercise could lead (by tunnelling, other construction works and the running of trains) to damage to this property due to settlement or subsidence, and a serious detraction from your Petitioner's quiet enjoyment of it, with the result that significant loss and damage could be suffered by your Petitioner.
- 14 For the same reasons, your Petitioner also objects to the provisions of Clause 6 of the Bill, and those in Clause 7, insofar as the same would enable the Promoter to acquire rights in the subsoil and undersurface of your Petitioner's property.
- 15 The exercise by the Promoter of its powers for the compulsory acquisition of land or of interests in land could result in the development potential of your Petitioner's property being severely constrained, since the load-bearing capacity of the soil underneath it could be significantly reduced by the proposed works

with the result that the type and size of building which the ground would be able to support could be different to that which exists today. For these reasons too your Petitioner further objects to the provisions of the Bill as it might affect your Petitioner's property.

- 16 Your Petitioner is especially concerned that the proposed limits of lateral and vertical deviation in Clause 1 of the Bill would permit the route for Works Nos 1/3A and 1/3B, to be varied so as to bring the Works closer to (either vertically or horizontally) some of your Petitioner's property. The provisions of Clause 1 of the Bill could therefore well result, your Petitioner apprehends, in an inadequate vertical distance between the soffit of the tunnels forming part of Works Nos. 1/3A and 1/3B and the bottommost part of the basements of your Petitioner's property. The resulting noise, vibration and, possibly, damage would therefore cause your Petitioner great inconvenience and loss. Your Petitioner therefore submits that such deviation could and should be more closely restricted wherever possible.

Settlement and associated damage to properties during and after construction

- 17 Your Petitioner is concerned about settlement effects on its property, particularly with regard to the Grade II listed status and special character of this building, as its foundations may be affected by the proposed construction and operation of the tunnels that pass directly beneath it. In addition, your Petitioner is particularly concerned about the impact on the stability of the building arising from vibration both during construction and on completion of the proposed works, which might cause, contribute to or facilitate the prospect of ground settlement in relation to your Petitioner's property. Further, the Promoter has not provided satisfactory details indicating the uppermost point of the proposed works.
- 18 Your Petitioner submits that the Promoter should be constrained to construct the works proposed beyond, or, so far as practicable, away from the subsoil and undersurface of your Petitioner's property in such a way as to avoid or, if necessary, minimise any diminution in the load-bearing qualities of that undersurface and subsoil. Your Petitioner further asks, insofar as the subsoil and undersurface beneath its property may be affected, that it may nevertheless

continue to have the facility to construct such foundations as may be necessary to support development on the site and that the compulsory purchase powers which are proposed be limited accordingly. Furthermore, your Petitioner will argue that they should be properly compensated by the Promoter for any loss of development value of its property and that it should be fully indemnified in respect of any additional design or construction costs incurred by your Petitioner in carrying out such development.

- 19 Your Petitioner humbly submits that the Promoter should be required, inter alia:-
- (a) to take all practical measures to prevent damage and injurious effects, including constructing the proposed works at the greatest practical depth;
 - (b) to conduct at the Promoter's own expense a full survey of the condition of your Petitioner's property both before and after the construction and commencement of operation of the works, with details of all such surveys being provided to your Petitioner;
 - (c) to submit plans and detailed proposals (including confirmation of anticipated ground and building movements, as well as notification of proposed construction methods) for the works under or affecting your Petitioner's property to your Petitioner for its reasonable approval and to give your Petitioner proper notice of the commencement of and full consultation upon all works affecting your Petitioner;
 - (d) to agree a threshold with your Petitioner for ground and building movement within the vicinity of your Petitioner's property, to the effect that if that threshold is exceeded the Promoter should be obliged to cease construction until such time as remedial measures are in place which will minimise settlement affecting your Petitioner's property;
 - (e) to agree necessary safeguarding or remedial measures with your Petitioner, to be carried out at the expense of the Promoter;

- (f) to carry out prior subsoil investigation and survey;
- (g) to use all available grouting, de-watering, freezing and pressure-working methods; and
- (h) to carry out agreed underpinning and strengthening works.

20 In addition, your Petitioner requires continuous monitoring of its property to be undertaken during construction of the works and for arrangements to be made for the carrying out of remedial works at the Promoter's expense. All of these matters should be agreed with your Petitioner before your Petitioner's property is allowed to be interfered with.

21 Your Petitioner submits 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 those works, separately from any claim for compensation in respect of the acquisition of any land (or interests therein) from your Petitioner under the powers of acquisition in the Bill and that any such deferred claim should be permitted to be made at any time before the expiry of 5 years following the opening of the relevant part of the proposed railway to public traffic.

Noise, vibration, disruption and disturbance

22 Noise and vibration arising from the construction and operation of the railway and its associated works and structures also concerns your Petitioner. Your Petitioner submits that the Promoter should be compelled to use best available techniques in the construction and operation of the railway and its associated works and structures to ensure that these adverse effects are minimised. Furthermore, your Petitioner wishes to see strict standards set to which the Promoter must be made liable to comply. There must, in your Petitioner's submission be a threshold agreed between your Petitioner and the Promoter of the Bill. 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.

23 As referred to elsewhere in this petition, your Petitioner is concerned about vibration with regard to the prospect of ground settlement caused by the proposed works. In particular, your Petitioner fears that damage will result both generally and from vibration if piles in the vicinity are driven rather than bored or hand-dug or as a result of the vibrations caused by tunnelling as the tunnel head passes beneath its property, which would either cause disturbance or present a danger to the health and safety of occupiers and visitors to its property. Your Petitioner requests that provision is made to ensure the absence of impact-induced vibration by the use of absorptive track beds or other means, and also to mitigate against damage to any part of your Petitioner's property and avoid any disturbance or damage to the health and safety of occupiers and visitors to your Petitioner's property that may occur as a result of the proposed works.

24 Your Petitioner is concerned about dust and dirt produced during construction of the proposed works. Your Petitioner 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 Petitioner's properties. Your Petitioner requests that provision be made to ensure that the Promoter takes responsibility for the reimbursement of your Petitioner for additional expense caused by dust and dirt such as more frequent cleaning of its property, and more frequent replacement of air conditioning filters.

25 The surface works, particularly the use of working sites and the removal of spoil, will further impact upon the quiet enjoyment of properties in the vicinity. Major increases in lorry movements during the construction period are to be expected, the disruptive effect of which will be compounded by the permanent and temporary stopping up of nearby roads.

26 Your Petitioner has most severe reservations about the proposed work site at Finsbury Circus, as well as the proposed worksite at Moorgate and the proposed works to the London Bridge Sewer which lies in close proximity to your

Petitioner's property. Your Petitioner apprehends that these sites and the works proposed to be carried out within it will bring about a general disturbance and loss of amenity to the areas involved, arising especially from -

- (a) the temporary road closures proposed;
- (b) construction traffic;
- (c) restricted access to buildings (including your Petitioner's property);
- (d) construction noise and vibration; and
- (e) visual impact.

Your Petitioner is concerned about the effect of these matters on its property and having regard to the scale of disruption and disturbance envisaged your Petitioner therefore seeks protection in relation thereto. In particular, your Petitioner 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 Petitioner submits that the Promoter should consult with it about proposed working methods and in relation to all aspects of likely environmental impact to your Petitioner's property and that the Promoter should be obliged to agree a scheme of work with your Petitioner for the benefit of the occupiers of your Petitioner's property, such scheme of work to include, amongst other things, reference to noise, vibration, disruption and lorry movements.

Access

- 27 Your Petitioner notes 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 is proposed to be temporarily stopped up. Your Petitioner requests 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. Your Petitioner further requests that vehicular access to your Petitioner's property is maintained where practicable and that compensation be awarded for any costs incurred through inability to service or park at the property due to the works.

Interference with services

- 28 Your Petitioner wishes to be satisfied that there will be no disruption to statutory services provided to Salisbury House as a result of the construction of the proposed works. In your Petitioner's submission, a co-ordinated programme of works to services leading into the property needs to be established by the Promoter and the details provided to your Petitioner, to prevent a succession of statutory undertakers' works to and reinstatement of the area around and including Finsbury Circus. In particular, your Petitioner is concerned that the proposed works to the London Bridge Sewer will not disrupt services provided to your Petitioner's property.

Compensation

- 29 Your Petitioner respectfully submits that the proposals contained in the Bill are causing a blight on your Petitioner's property. It is already blighted by the proposals contained in the Bill. Existing lessees have claimed that the proposals in the Bill so blight the property that they are demanding a considerably reduced rent. In addition, your Petitioner fears that prospective lessees will state that the proposals would so blight the property that they would not be interested in acquiring any part of the property, or that they will demand a considerably reduced rent, due to the prospect of the works. Moreover, the Bill does not contain adequate provisions for compensating such blight and your Petitioner respectfully suggests that it do so.
- 30 Your Petitioner further humbly submits 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 Petitioner for the loss, damage and inconvenience which it might suffer as a result of the construction and subsequent use of the proposed works. Further provisions should, it submits,

be included in the Bill including provisions respecting the making and assessment of claims for compensation, and indemnifying your Petitioner for any loss it might suffer as the result of unfavourable rent reviews respecting the leases currently affecting its property 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 Petitioner's property or for any loss (so attributable) which your Petitioner might suffer in the event of it not being able to re-let its property (in whole or in part) to existing or new tenants or in the event of it only being able to do so at a reduced premium or rent.

- 31 Your Petitioner is also very conscious that they and their property interests have been blighted for a very considerable time. No provision appears to be proposed to give any recognition to this detriment. In addition, the blight and uncertainty that has been suffered is now further compounded by the absence of any in principle or other approval to funding, the consequence of which is that your Petitioner is being put to further loss, trouble and expense without any certainty that the project will be able to progress to implementation or that its implementation will not be further substantially delayed. Your Petitioner believes that there is no parallel for this in relation to other major projects and that it is generally unjustifiable as well as being contrary to a number of important elements of public policy.

General Concerns

- 32 Your Petitioner submits that the Promoter should be required to indemnify it 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.

Costs

- 33 As a general matter, your Petitioner submits that provision should be made for the Promoter to repay to your Petitioner all proper costs, charges and expenses (including the proper fees of such professional advisers as it may instruct)

reasonably incurred in consequence of the Bill or of any provision made as a result of this Petition.

- 34 There are other clauses and provisions in the Bill which, if passed into law as they now stand, will prejudicially affect your Petitioner and its rights, interests and property and for which no adequate provision is made to protect your Petitioner.

Conclusion

- 35 Your Petitioner submits that the Bill fails adequately to safeguard and protect the interests of your Petitioner and those of its tenants or other occupants to either of its properties and should not be allowed to pass into law without these issues being addressed.

YOUR PETITIONER THEREFORE HUMBL Y PRAYS your Honourable House that the Bill may not be allowed to pass into law as it now stands and that it may be heard by itself, 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 Petitioner and in support of other such clauses and provisions as may be necessary or expedient for its protection or that such other relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

AND YOUR PETITIONER WILL EVER PRAY, &c.

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