

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:

GMV THREE LIMITED AND GMV TEN 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 Petitioners and their property*

6 Your Petitioners are property investment companies. GMV Three Limited have contracted unconditionally to purchase the property listed in paragraph 7. It is proposed that GMV Ten Limited will acquire an interest in that property.

7 Your Petitioners own or have an interest in the following property which is subject to some degree of compulsory acquisition or use under the Bill and is in

the immediate vicinity of various of the proposed works and liable to be injuriously affected by them:

Hertsmere House, Marsh Wall, West India Dock, London, E14 4A.

- 8 Hertsmere House is currently occupied as offices, a banking hall and car parking. The property also has the benefit of a planning permission dated 2 March 2005 granted by the London Borough of Tower Hamlets under reference PA703100475 for the demolition of Hertsmere House and the erection of a 63 storey tower for office, hotel and serviced apartments, retail and leisure uses, with basement car parking and servicing (hereinafter "the planning permission").
- 9 Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioners object for the reasons amongst others, here stated.

*Your Petitioners' concerns*

- 10 Your Petitioners are concerned that the construction of the scheduled works on or near to the Hertsmere House site will cause grave loss and damage arising from the adverse effects of noise, dust, fumes, vibration and traffic congestion.
- 11 Your Petitioners allege that the provisions of the Bill fail adequately, properly or fairly to protect the interests of the Petitioners and the occupiers of Hertsmere House or during the lengthy construction period. Your Petitioners further allege that these failures would lead to disproportionate consequences to your Petitioners and arise from inadequacies in the Environmental Statement supporting the Bill. In particular the Environmental Statement deals with construction impacts in varying degrees of detail in respect of the site, but generally does not identify any mitigation but deals with this by the promise of a general Code of Construction Practice. Such an approach is not considered by your Petitioners to be appropriate in the circumstances.

- 12 Your Petitioners further allege that the Environmental Statement fails to assess properly and in accordance with the Environmental Impact Assessment Directive 85/337/EEC and the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 (S.I No. 293) the cumulative environmental effects and disruption that would arise during the construction period.
- 13 Your Petitioners submit that the Promoter should be required to undertake an Environmental Impact Assessment that fully and fairly assesses the cumulative impact on Hertsmere House during the construction period in accordance with the relevant European Directive and Regulations referred to above (at paragraph 12 of this Petition). Your Petitioners submit that the Bill should be amended to require the nominated undertaker to agree with your Petitioners the terms of a code of construction practice relative to the Hertsmere House site to prevent or ameliorate any such adverse effects and to monitor the actions of all the relevant contractors (including any subcontractors) so far as they may affect the Hertsmere House site while constructing the scheduled works and to pay compensation to your Petitioners for any loss or damage arising from any such adverse effects or from damage caused by trespass committed by the employees of any relevant contractor or subcontractor while constructing the scheduled works.
- 14 The tunnels would pass directly under Hertsmere House. The precise implications of this for the existing structure would depend in part upon the depth at which the tunnel is constructed. At the depth originally proposed the tunnels would impact directly on the existing piles.
- 15 Your Petitioners understand that the Promoter now intends to construct the tunnels some 7m deeper than originally proposed. Although on that basis the existing piling to Hertsmere would no longer obstruct the tunnel your Petitioners submit that at this greater depth of construction of the tunnel the risk of settlement remains and Hertsmere House could be affected. Your petitioners are concerned that the implications of this amended depth of construction have not been assessed and your Petitioners could suffer grave loss and damage.

- 16 Further your Petitioners are concerned with regard to the severe implications of the works authorised by the Bill for any redevelopment of Hertsmere House in accordance with the planning permission or otherwise.
- 17 Your Petitioners understand that the Promoters anticipate that tunnelling underneath Hertsmere House would commence in January 2009. This would be preceded, your Petitioners understand, by preparatory works over an eighteen month period and commencing in about July 2007. It is further understood by your Petitioners that once tunnelling has commenced under or near to Hertsmere House there will be a period of ground settlement before any other subsurface works relating to the implementation of the planning permission would be able to take place.
- 18 Your Petitioner's vendors, Farnham Properties Limited and Garden Properties Limited, prepared a programme of works including demolition of Hertsmere House, extraction of existing piles, construction of new foundations and construction of a raft as a building platform which it is anticipated would take up to eighteen months to complete. Further, such works cannot reasonably commence until the market conditions are suitable, vacant possession of Hertsmere House has been achieved and the necessary funding has been secured. Consequently there is very little opportunity for your Petitioners to carry out and complete these works prior to July 2007.
- 19 The Promoter has stated that Crossrail would not consider any proposal whereby works to carry out the development permitted by the planning permission could be carried out at the same time as the works on the tunnel under Hertsmere House (hereinafter referred to as "parallel working").
- 20 The cost of the subsurface works in preparation for the redevelopment of Hertsmere House would be increased significantly by the construction of the tunnel under Hertsmere House.

- 21 Consequently your Petitioners would be at a very serious disadvantage with regard to the development of Hertsmere House and could suffer grave loss and damage.
- 22 Your Petitioners submit that the Promoter be required to justify its refusal to allow parallel working or alternatively suggest some other reasonable approach which avoids the potential grave loss and damage that your Petitioners could suffer.
- 23 It is not clear to your Petitioners whether the compulsory acquisition of Hertsmere House, other than the subsoil, is still proposed given the proposed increase in depth of construction of the tunnel referred to in paragraph 15 of this petition. If that be the case, whilst your Petitioners would not deny that it may be desirable in the public interest that the scheduled works should be constructed and maintained, they strongly object to the compulsory acquisition of any of the land owned or occupied by them at Hertsmere House as such acquisition is not necessary and the Bill would not in the circumstances provide adequate or fair compensation to the Petitioners.
- 24 In so far as any compulsory acquisition or use of Hertsmere House is permitted or other interference with the quiet enjoyment of the property is permitted under the Bill, your Petitioners submit that they should be fully compensated for all loss, expenses and consequential loss which they may suffer and that the Bill should be amended to provide for that.
- 25 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.
- 26 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*

27 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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