

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:

CARDINAL 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.

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 Cardinal Group Limited. Their subsidiary Cardinal House Limited are the freehold owners of the Cardinal Tower and Cardinal House block at 2a – 12 Farringdon Road and 48 – 52 Cowcross Street (together known as ‘Cardinal Tower’), on the corner of Farringdon Road and Cowcross Street, and which is the building shown numbered 19 in the London Borough of Islington on the plans deposited with the Bill. Cardinal Tower is a major employment provider in the Farringdon area, supporting over 1,000 jobs in the refurbished office and retail complex, which contains in excess of 110,000 sq ft. plus major parking facility. Tenants include the Criminal Injuries Compensation Appeals Panel, Legal Technologies Limited and Ovum Limited. Retail tenants include SME (Hammersmith) Limited (trading as Kentucky Fried Chicken), Benjys Group Limited, Whitecross Dental Care Limited, and National Car Parks Limited.

Future plans for this complex include the provision of a further 30,000 sq ft. of offices and the redevelopment of the entire site.

Your Petitioners' subsidiary Wendlecourt Limited is the freehold owner of 64/65 Cowcross Street and which is the building number 36 in the London Borough of Islington on the plans deposited with the Bill.

- 7 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 Islington) to facilitate the provision of Crossrail.
- 8 However, your Petitioners and their property are injuriously affected by some aspects of the Bill to which your Petitioners object for the reasons amongst others here stated.

*Your Petitioners' concerns*

- 9 Your Petitioners are concerned that the powers proposed in the Bill as affecting their property go beyond what is required. 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 property interests are reasonably safeguarded.

*Cardinal Tower: Compulsory purchase and subsoil acquisition and related matters*

- 10 The Bill provides for a number of works which are set out in Schedule 1 to the Bill, including the development of an underground railway, northern tube, including (amongst others) a station at Farringdon (Work No 1/3A) and for the development of an underground railway, southern tube, including (amongst others) a station at Farringdon (Work No 1/3B). The Bill provides for the

development of a Western Ticket Hall to Farringdon Station to be located on the site of Cardinal Tower. The Promoter seeks to compulsorily acquire the entirety of Cardinal Tower site in order to demolish the building for the purpose of building the Western Ticket Hall.

- 11 The current proposals therefore contained in the Bill and associated documentation provide for:
- (a) The compulsory acquisition of the freehold of all of the Cardinal Tower site;
  - (b) The demolition of the existing property;
  - (c) The construction of part of the Crossrail tunnels beneath the land;
  - (d) The construction of a new ticket hall at surface level with ventilation shafts and emergency intervention equipment;
  - (e) The possible obtaining by Crossrail in due course of consent for an "over-site development" (OSD) on the site of Cardinal Tower;
  - (f) The possible leaseback to your Petitioners of a 125-year lease of the OSD.
- 12 Your Petitioners humbly 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 to be necessary for the purposes of the Bill, no other suitable alternatives exist, to be in the public interest and proportionate taking into account the interference with your Petitioners' human rights in respect of their properties.
- 13 It is far from clear to your Petitioners how the Promoter has come to the decision to seek compulsory acquisition of the whole of Cardinal Tower. The proposals for the location of the Western Ticket Hall and the extent of the site acquisition have changed radically over the period of the project.
- 14 When Crossrail was first brought to Parliament in 1991 London Underground and British Rail, the Promoters of that Private Bill, sought compulsory acquisition powers over your Petitioners' site for the purposes of a vent shaft. There was

certainly at that stage no question of the demolition of Cardinal Tower. Prior to the Bill being rejected by the Select Committee which was considering it your Petitioners were in the process of negotiating an agreement with the Promoters with a view to satisfying their concerns and those of their tenants.

15 Since then Railtrack, now Network Rail, have sought compulsory acquisition powers over part of your Petitioners' property for the purpose of building an expanded ticket hall and improved station facilities at Farringdon Station. This proposal is part of the Thameslink 2000 scheme promoted by way of a Transport and Works Act Order in 1997. Your Petitioners successfully resisted some of the powers sought by Railtrack at Inquiry arguing that compulsory acquisition of the airspace above the station was not needed by Railtrack. The Inspector at that Inquiry accepted that the airspace was not needed by Railtrack but was reasonably required by your Petitioners for redevelopment purposes.

16 Although these proposals for further works have not yet been formally approved by the Secretary of State there are no outstanding objections to this part of the scheme contained in the Transport and Works Act Order. It is therefore surprising to your Petitioners that the present proposals for compulsory acquisition of the Cardinal Tower site do not appear to take the Thameslink scheme into account. Proper integration of transport schemes is in accord with Government policy and is recommended by the National Audit Office and the House of Commons Transport Committee.

17 The Promoter has produced an Environmental Statement for the Bill which should deal with alternatives in order to justify its proposals and in the interests of sustainability and in particular alternative station options. Your Petitioners believe that it fails to do so adequately. Consideration of an integrated station to serve both Crossrail and Thameslink 2000 is not included in the Environmental Statement.

Reference in the Environmental Statement is made to two other options to provide a Western Ticket Hall over Farringdon Station north of Cowcross Street, and a Ticket Hall to the South of Cowcross Street which includes the demolition of

some listed buildings. Both of these options were rejected on the grounds that the listed buildings were to be altered or demolished. Notwithstanding that, these very same listed buildings in Cowcross Street will be demolished under the Thameslink scheme.

18 Two other options were considered early in 2004. The Promoter considered some compulsory acquisition of your Petitioners' property namely the basement car park, other parts of the basement and the low rise building adjacent to Cardinal Tower. The tower building itself was to be retained, albeit with some modifications at ground floor level. The Promoter also considered the implementation of a "Deferred Station" option on the Cowcross Street site in 2004 whereby the tunnels, platforms and other supporting infrastructure would be built but the station ticket hall would not be completed until the Thameslink works linked into the site. An integrated ticket hall would then be built. These options also merit further consideration. None has been provided in the Environmental Statement. Your Petitioners have been unable to identify any assessment of why these options have been rejected.

19 Finally the present scheme was proposed namely the acquisition of Cardinal Tower site and its demolition. Your Petitioners have requested the Promoter on numerous occasions over a long period of time to produce written justification for the proposals and a detailed assessment of the various options outlined herein. This remains outstanding. As a result of this and the lack of information in the Environmental Statement your Petitioners consider that there has not been compliance with Council Directive 85/337/EC as amended. Therefore any planning decision based on such defective Environmental Statement would not be in compliance with the Environmental Directive and hence is liable to subsequent legal challenge. Furthermore the Government's objectives in relation to sustainable development would not have been achieved.

20 Accordingly your Petitioners do not consider that any proper reasoned justification has been given for the outright acquisition and subsequent total demolition of Cardinal Tower and consequently your Petitioners' human rights have been breached. Your Petitioners believe that instead it may be possible for

the need to demolish Cardinal Tower to be avoided altogether by a slight realignment of Work No. 1/3A and Work No. 1/3B (in so far as they apply to the provision of the Farringdon Road (Western) Ticket Hall) and by modifications to the design of the proposed Farringdon Road (Western) Ticket Hall. Alternatively, it might also be possible for only part of Cardinal Tower site to be demolished without prejudice to the implementation and use of the proposed works. In this regard it is noteworthy and regrettable that the Environmental Statement accompanying the Bill does not make an adequate attempt to justify the dismissal of the alternatives considered and reported at earlier stages to those contained in the Bill and to which your Petitioners object.

21 Accordingly your Petitioners humbly 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 (in particular, the need to totally demolish all buildings on the Cardinal Tower site) and that the limits of deviation of Work No 1/3A and Work No 1/3B (in so far as they apply to the provision of Farringdon Road (Western) Ticket Hall), the resulting powers for the compulsory acquisition of the land, the power to construct works and the exercise of works and ancillary powers 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 that property.

22 In the event that it is proven to your Petitioners' satisfaction that the complete or partial demolition of buildings on the Cardinal Tower site is necessary and expedient, then your Petitioners do not accept that there is any operational or other justification for the Promoters, who need only the ground floor and everything below the surface for the provision of the station entrance, ticket hall and the station itself, seeking to acquire the airspace above the proposed station, together with its development potential. In the event that the whole interest is acquired, then your Petitioners submit that they should be entitled to have returned to them the same interest as they had previously had in that part above the ground floor. Your Petitioners object to the powers contained in the Bill for this purpose.

- 23 In the alternative event that Cardinal Tower can be saved from demolition, then your Petitioners also object to the Bill in the manner hereinafter appearing because of the adverse effects and interference with their property which they apprehend nonetheless

*Settlement*

- 24 Your Petitioners would wish to see an effective and agreed monitoring system in place before commencement and during construction of the works to measure the exact effect of any settlement on Cardinal Tower. In your Petitioners' submission, there would need to be a threshold agreed between your Petitioners and the Promoter for ground movement within the vicinity of Cardinal Tower and distortions of its structure. If that threshold is exceeded then it would be imperative that the undertaker nominated to carry out the works would be obliged to cease construction until such time as remedial measures are in place which will minimise settlement and consequently avoid distress to the building. Your Petitioners request that they would be given at least 28 days' notice of the intended passage of the tunnel boring machines beneath the property. Any necessary safeguarding or remedial measures would need to be agreed between your Petitioners and the nominated undertaker.
- 25 Tunnelling of the station platform tunnels is proposed to be carried out using the Sprayed Concrete Lining (SCL) method, to which have been attributed a number of tunnel collapses in the past. Should the proposed station at Farringdon be relocated and any part of the station were still to fall below Cardinal Tower, your Petitioners seek assurance that this technique is to be carried out correctly, and seek to ensure that appropriate independent review of the methodology is carried out prior to the caverns being constructed, and that sufficient independent controls are in place during construction.

### *Noise*

- 26 In the event that Cardinal Tower is not wholly demolished, your Petitioners would be concerned about noise during the construction of the proposed works. The noise and vibration arising from the construction of the railway and its associated works and structures (such as ventilation shafts) is a matter of significant concern to your Petitioners. Your Petitioners submit 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. Your Petitioners submit that strict standards should be set beyond those currently envisaged by the Promoter and to which the Promoter must be made liable to comply.
- 27 Your Petitioners therefore submit that provision should be made that noise and vibration are minimised by reference to prescribed thresholds. If those thresholds are exceeded, the nominated undertaker should be obliged to cease construction until such time as remedial measures are in place which will reduce noise and vibration levels below the agreed threshold.

### *Dust*

- 28 In the event that Cardinal Tower is not wholly demolished, your Petitioners would be concerned about dust and dirt produced during the construction of the proposed works. Your Petitioners 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 at Cardinal Tower. Your Petitioners would request that provision be made to ensure that the Promoter takes responsibility for the reimbursement of your Petitioners for additional expense caused by dust and dirt such as more frequent cleaning of the property and more frequent replacement of air conditioning filters.

### *Vibration*

- 29 In the event that Cardinal Tower is not wholly demolished, your Petitioners would be concerned about vibration both during construction and on completion of the proposed works. Your Petitioners would fear that damage will result from vibration if piles in the vicinity are driven rather than bored or hand-dug. Your Petitioners would also fear that vibrations caused by tunnelling, if the tunnel heading passes beneath their properties for each of the two tunnel drives would cause disturbance to the occupiers of their properties.
- 30 The operation of the railway (including the use of ventilation shafts and other ancillary uses) must also be expected to give rise to air and ground borne noise and vibration in respect of which the Promoter is subject to no limitations in the Bill or the Environmental Statement. Your Petitioners submit that the Promoter should be compelled to use best available techniques in the construction and operation of the railway to ensure that these adverse effects are minimised. Furthermore, your Petitioners submit that the nominated undertaker should also be required to consult with your Petitioners with regard to noise and vibration monitoring. Finally, they submit that strict standards for specific building types and uses should be set with which the Promoter must be made liable to comply.

### *Interference with services*

- 31 Your Petitioners would wish to be satisfied that there will be no disruption to statutory services provided to Cardinal Tower as a result of the construction of the proposed works. In your Petitioners' submission a co-ordinated programme of works to services leading into Cardinal Tower would need to be established by the Promoter and the details provided to your Petitioners, to prevent a succession of statutory undertakers' works to and reinstatement of Farringdon Road and Cowcross Street.

*Deterioration of condition*

- 32 Your Petitioners would be concerned that the condition of Cardinal Tower would deteriorate as a result of any works in the vicinity. Should there be works in the vicinity, and should these works be authorised, your Petitioners would intend to commission a condition survey of the property shortly before the commencement of the works and shortly after their completion. Your Petitioners would request that the costs of carrying out such surveys, and of rectifying any deterioration in the condition of the property found to be due to the works, be reimbursed by the Promoter.

*Access*

- 33 Your Petitioners note 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. In the event that Cardinal Tower is not wholly demolished, your Petitioners would request 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 Petitioners further request that vehicular access to Cardinal Tower be maintained where practicable and that compensation be awarded for any costs incurred through inability to service or park at Cardinal Tower due to the works.

*Disturbance to business*

- 34 On the basis that the occupiers of Cardinal Tower remain in occupation during construction of the proposed works, then your Petitioners have severe reservations about the effect upon their businesses of the construction works and the general disturbance and loss of amenity to the area. In particular, your Petitioners are concerned with the following matters:

- (a) the possibility of there being a work site in close proximity to Cardinal Tower;
- (b) the proposed temporary closures of Cowcross Street and Farringdon Road; and
- (c) the generation of unacceptable levels of construction traffic and of construction noise, vibration and dust (described in more detail above).

Your Petitioners are concerned about the effect of these matters on the occupiers of Cardinal Tower and their businesses and having regard to the scale of disruption and disturbance envisaged your Petitioners therefore seek protection in relation thereto.

35 Your Petitioners further humbly 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 or their tenants for the loss of business and general disturbance they might suffer as a result of the construction of the works. Your Petitioners therefore urge that the Bill should not be allowed to proceed unless adequate provision is included in it to compensate your Petitioners for such loss and general disturbance.

36 Your Petitioners are concerned that their property at 64/65 Cowcross Street will be adversely affected by the Bill in much the same manner as the Cardinal Tower site if that property is not demolished. The property will be surrounded by building works for many years with the ensuing environmental problems thereby caused. Your Petitioners will be seeking similar protective measures for this property as for Cardinal Tower.

*General concerns*

37 Your Petitioners submit that they should also be entitled to make a claim for compensation in respect of damage arising to their 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.

38 Your Petitioners further submit that the compensation provisions proposed in the Bill are inadequate to compensate your Petitioners for the loss, damage and inconvenience, attributable to blight to their property, which they have already suffered or may now suffer as a result of the prospective construction and subsequent use of the proposed works. The redevelopment, sale or re-letting of a number of your Petitioners' properties has already been severely prejudiced by the Crossrail proposals. The incidence of blight will also continue. Your Petitioners fear, for example, that prospective lessees of properties will feel that that the proposals may so blight some properties that they would not be interested in acquiring any part of the property, or that prospective or existing lessees will demand a considerably reduced rent, due to the prospect of the 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 they might suffer as the result of unfavourable rent reviews respecting the leases currently affecting some of their properties 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 Petitioners' properties or for any loss (so attributable) which your Petitioners might suffer in the event of them not being able to re-let their properties (in whole or in part) to existing or new tenants or in the event of them only being able to do so at a reduced premium or rent.

39 Your Petitioners are further concerned that in the event that the Bill is enacted but the scheme does not proceed they will not be entitled to any compensation whatsoever in respect of the blighting effect on their properties which will inevitably be caused by the enacting of the Bill. This serious shortcoming in the compensation provisions has recently been acknowledged by the Law Commission. Your Petitioners therefore request that appropriate compensation provisions are included in the Bill to ensure that this shortcoming is properly addressed and that your Petitioners are properly compensated.

- 40 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, 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.
- 41 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.
- 42 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*

- 43 Your Petitioners submit that the Bill fails adequately to safeguard and protect the interests of your Petitioners and those of their tenants 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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