

IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2005–06

CROSSRAIL BILL

PETITION

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:

ASTICUS (SOHO NOMINEE 1) LIMITED and
ASTICUS (SOHO NOMINEE 2) LIMITED

SHEWETH as follows:—

The Bill

- 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”).

- 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 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

- 6 Your Petitioners between them own the following property in the vicinity of the proposed railway:-

In the City of Westminster, 20 Soho Square (numbered 656 on the deposited plans).

Your Petitioners' concerns

- 7 Your Petitioners are not opposed in principle to the Crossrail scheme. However, they are concerned that the powers proposed in the Bill as affecting their 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 their property interests are reasonably safeguarded. Accordingly, your Petitioners object to the Bill for these reasons and having regard to the more detailed particulars referred to below.

Subsoil acquisition and related matters

- 8 Your Petitioners object to the provisions of Clause 6 of the Bill, which they apprehend could adversely affect and interfere with your Petitioners' 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 Petitioners' property, or such new rights therein, as they may require for the purposes of the construction and use of the proposed works. Your Petitioners question 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 their property due to settlement or subsidence, and to a serious detraction from your Petitioners' and their tenants' quiet enjoyment of it, with the result that significant loss and damage could be suffered by your Petitioners.
- 9 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 Petitioners' 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 Petitioners object to the provisions of the Bill.
- 10 Your Petitioners are 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 (either vertically or horizontally) to your Petitioners' property. The provisions of clause 1 of the Bill could therefore well result, your Petitioners apprehend, in an inadequate vertical distance between the soffit of the tunnels forming part of Works Nos. 1/3A and 1/3B and the lowest part of the basements of your Petitioners' property. The resulting

noise, vibration and, possibly, damage would therefore cause your Petitioners great inconvenience and loss.

Settlement and associated damage

- 11 Your Petitioners are concerned about settlement effects on their property, particularly as technical reports accompanying the Environmental Statement acknowledge that the stability of your Petitioners' buildings may be significantly affected by the proposed construction and operation of the tunnels that pass directly beneath them. Your Petitioners have engaged expert advisers, who also envisage that significant damage could be caused to your Petitioners' property as a result of the works.
- 12 Your Petitioners submit that the Promoter should be required to construct the works in such a way as to avoid or, if necessary, minimise any diminution in the load-bearing qualities of that undersurface and subsoil. Your Petitioners further ask, insofar as the subsoil and undersurface beneath their 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 Petitioners will argue that they should be properly compensated by the Promoter for any loss of development value of their property and that they should be fully indemnified in respect of any additional design or construction costs incurred by your Petitioners in carrying out such development.
- 13 Tunnelling of the underground station boxes and related facilities is proposed to be carried out using the Sprayed Concrete Lining (SCL) method, which has been attributed to a number of tunnel collapses in the past. 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.
- 14 The surface works, particularly the use of worksites and the removal of spoil, will further impact upon the quiet enjoyment of property 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.

15 Your Petitioners have most severe reservations about the proposed worksite at Falconberg Mews. Your Petitioners apprehend that this site and the works proposed to be carried out within it will bring about a significant 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;
- (d) construction noise and vibration; and
- (e) visual impact.

16 Your Petitioners submit that the Promoter should be required, inter alia:-

- (a) to take all practical measures to prevent damage and injurious effects;
- (b) to conduct at the Promoter's own expense a full survey of the condition of your Petitioners' property both before and after the construction and commencement of operation of the works, with details of all such surveys being provided to your Petitioners;
- (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 Petitioners' property to your Petitioners for their reasonable approval and to give your Petitioners proper notice of the commencement of and full consultation upon all works affecting your Petitioners;
- (d) to agree a threshold with your Petitioners for ground and building movement within the vicinity of your Petitioners' 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 Petitioners' property;
- (e) to agree necessary safeguarding or remedial measures with your Petitioners, 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.

17 In addition, your Petitioners require continuous monitoring of their 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 Petitioners before your Petitioners' property is allowed to be interfered with.

18 Your Petitioners submit that they should also be entitled to make claims 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 those works, separately from any claim for compensation in respect of the acquisition of any land (or interests therein) from your Petitioners 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.

Vibration

19 Noise and vibration arising from the construction and operation of the railway and its associated works and structures also concern 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. Furthermore, your Petitioners wish to see strict standards set to which the Promoter must be made liable to comply. There must, in your Petitioners' submission, be a threshold agreed between your Petitioners 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.

20 Your Petitioners are concerned about vibration both during construction and on completion of the proposed works, particularly with regard to the concerns noted

above relating to the prospect of ground settlement caused by the proposed works. Your Petitioners fear that damage will result from vibration caused by tunnelling as the tunnel head passes beneath your Petitioners' property. Your Petitioners request that provision be made to mitigate against damage to any part of your Petitioners' property.

Interference with services

- 21 Your Petitioners wish to be satisfied that there will be no disruption to statutory services provided to their property as a result of the construction of the proposed works. In your Petitioners' submission, a co-ordinated programme of works to services leading into their property needs 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 the surrounding area.

Compensation

- 22 Your Petitioners respectfully submit that the proposals contained in the Bill are causing a blight on your Petitioners' property. Such property is already blighted by the proposals contained in the Bill. Your Petitioners fear that existing and 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, in the case of existing lessees, 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.
- 23 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 it might suffer as a result of the construction and subsequent use of the proposed works. Your Petitioners are particularly concerned about any loss they might suffer as the result of unfavourable rent reviews insofar as any reduction in rent payable is attributable to the proposed works and any loss which your Petitioners might suffer in the event of them not being able to re-let their property (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.

General Concerns

- 24 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.

Costs

- 25 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, may 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 their interests and those of their lessees and tenants, and so 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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P E T I T I O N

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LIMITED AND

ASTICUS (SOHO NOMINEE 2)
LIMITED

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