

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:

McDONALD’S RESTAURANTS LIMITED and McDONALD’S REAL ESTATE
LIMITED LIABILITY PARTNERSHIP

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 owned by their U.S. parent company, the McDonald's Corporation, which is a globally-recognised organisation operating as the world's major food service retailer. The business of your Petitioners is predominantly the operation of a chain of family restaurants. They also operate various related businesses including real estate development, retailing, marketing and franchising as a leader in convenience food sales and promotion. The business operated by your Petitioners' associated companies in Europe currently accounts for more than 35% of the total global turnover of the McDonald's organisation.

7 Your Petitioners are the leasehold owners and occupiers of property in the vicinity of the proposed railway, located at 2a – 12 Farringdon Road and 48 – 53 Cowcross Street (together known as 'Cardinal Tower'), on the corner of Farringdon Road and Cowcross Street. This building is shown numbered 19 in the London Borough of Islington on the plans deposited with the Bill. Fellow tenants

include the Criminal Injuries Compensation Appeals Panel, Oyez 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. Your Petitioners are also the owners of a freehold interest in respect of subsoil fronting 8-10 Oxford Street in the City of Westminster.

8 In addition, your Petitioners retain an interest in the following freehold or leasehold properties, which are located in various local areas along the route of the proposed railway which are not specified in the Bill or associated documentation as directly affected by the proposed scheme, but are likely to be exposed to ancillary impacts of the proposed scheme:

(a) 381 Oxford Street (West One Shopping Centre);

(b) 120, 185, 187, 291b Oxford Street;

(c) 2-3 Marble Arch;

(d) 108-110 Notting Hill Gate; and

(e) Uxbridge Road, Hanwell.

9 Your Petitioners support 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.

10 Your Petitioners are, however, most apprehensive of the provisions of the Bill as they may affect the properties of your Petitioners described above (hereinafter referred to as "your Petitioners' properties") and their related commercial interests. For this reason, and having regard to the more detailed particulars referred to below, your Petitioners object to the Bill and its provisions hereinbefore 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 reasons (amongst others) hereinafter appearing.

Cardinal Tower: Compulsory purchase and subsoil acquisition and related matters

- 11 The Bill provides for a number of works which are set out in Schedule 1 to the Bill, including the development of a two-way underground railway and includes (amongst others) a station at Farringdon (Work Nos. 1/3A and 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 in order to demolish the building for the purpose of building the Western Ticket Hall.
- 12 The current proposals contained in the Bill provide for:
- (a) The compulsory acquisition of the freehold of Cardinal Tower;
 - (b) The demolition of the existing property;
 - (c) The construction of part of the Crossrail tunnels beneath the land; and
 - (d) The construction of a new ticket hall at surface level with ventilation shafts and emergency intervention equipment.
- 13 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 both to be necessary for the purposes of the Bill and to be in the public interest. Your Petitioners do not consider that any proper reasoned justification has been given for the outright acquisition of the freehold and other interests including leasehold interests in Cardinal Tower and for its demolition. Your Petitioners believe that instead it may be possible for demolition of Cardinal Tower to be avoided altogether by a realignment of Work No. 1/3A and Work No. 1/3B (in so far as they relate 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, your Petitioners consider it might also be possible for only part of Cardinal Tower to be demolished without prejudice to the construction, implementation and use of the proposed works.

14 Accordingly your Petitioners humbly submit that the Promoters 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 demolish Cardinal Tower with the resulting loss of their property) 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.

15 In the event that it is proven to your Petitioners' satisfaction that the complete or partial demolition of Cardinal Tower 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, in seeking to acquire the freehold of 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 have returned to them the same interest as they had previously had in that part above the ground floor.

16 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 in respect of the adverse effects and interference with its property which it apprehends will occur.

Settlement

17 In the event that Cardinal Tower is not wholly demolished, your Petitioners would be concerned about settlement effects on Cardinal Tower. Your Petitioners fear that damage will be caused to the retained part of Cardinal Tower as a result of the proposed works. Your Petitioners would expect to be provided with a detailed scheme of works accompanied by appropriate plans, indicating how the works would be carried out to the remaining part of the property whilst protecting their

interests in their property. 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 an agreed threshold 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 it be given at least 28 days' notice of the intended passage of the station and tunnel boring machines beneath the property. Any necessary safeguarding or remedial measures would need to be agreed between your Petitioners and the nominated undertaker.

- 18 Tunnelling of the station platform tunnels 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. Should the proposed station at Farringdon be relocated but any part of the station was 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 and vibration

- 19 In the event that Cardinal Tower is not wholly demolished, your Petitioners would be concerned about the nuisance created by noise and vibration 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. 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.

- 20 Your Petitioners therefore submit that provision should be made that noise and vibration are minimised by reference to such 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.
- 21 The operation of the railway (including the use of ventilation shafts and other ancillary uses) will also 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 for the railway to ensure that these adverse effects are minimised.

Dust

- 22 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.

Interference with services

- 23 In the event that Cardinal Tower is not wholly demolished, your Petitioners would wish to be satisfied that there will be no disruption to statutory services provided to Cardinal House 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 and to their property 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, that would result in greater inconvenience to your Petitioners.

Deterioration of condition

- 24 In the event that Cardinal Tower is not wholly demolished, your Petitioners would be concerned that the condition of their interest would deteriorate as a result of the 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

- 25 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 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

- 26 In the event that your Petitioners are able to remain in occupation of their property in Cardinal Tower 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).

Bearing in mind the nature of their business and the need to attract customers by means of an attractive background and atmosphere your Petitioners are concerned about the effect of these matters on their business having regard to the scale of disruption and disturbance envisaged your Petitioners therefore seek protection in relation thereto.

Interest in subsoil of road fronting 8-10 Oxford Street

- 27 The Bill provides for works which include a station near the intersection of Tottenham Court Road and Oxford Street near (Work Nos. 1/3A and 1/3B) (“the Oxford Street property”).
- 28 Your Petitioners are concerned and object to the compulsory acquisition of their subsoil interest in the public road and footway of Oxford Street. Your Petitioners apprehend that their subsoil interest will be taken in connection the construction of the Tottenham Court Road eastern ticket hall. This will involve major construction activity below ground level for a period in excess of 7 years. Your Petitioners request that the Promoter is put to proof on the need for the acquisition of this interest. Your Petitioners apprehend that it constitutes a threat to the potential development of their property since the load-bearing capacity of the soil underneath that land 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. It would also increase the likelihood of settlement to their property. Your Petitioners therefore seek appropriate protection.

29 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 to (either vertically or horizontally) the Oxford Street property. The resulting noise, vibration and, possibly, damage as a result of settlement, would therefore cause your Petitioners great inconvenience and loss. Your Petitioners therefore submit that such deviation should be more closely restricted wherever possible.

30 Accordingly, your Petitioners submit that the Promoter should be put to strict proof of the need for and desirability of the proposals in the Bill which affect the Oxford Street property. Furthermore, they should be put to proof as to whether the limits of deviation of Works Nos. 1/3A and 1/3B are justified. Your Petitioners submit that the limits are restricted so as to minimise or prevent interference with those properties. Furthermore your Petitioners contend that any subsoil interest in the Oxford Street property acquired by the Promoter (in terms of the area over which it is to subsist, the form in which it is to take at law and any express or implied constraints which may be imposed upon the remainder of your Petitioners' properties) should be strictly limited to that which is necessary for the construction, safe operation and maintenance of the proposed works.

31 Furthermore, your Petitioners humbly submit 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 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 its 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.

32 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.

General Concerns

33 Without prejudice to the concerns expressed above in relation to their properties at Cardinal Tower and 8 – 10 Oxford Street your Petitioners have the following concerns, in respect of your Petitioners' properties generally.

34 Noise and vibration arising from the construction and operation of the railway and its associated works and structures (such as ventilation shafts) 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.

- 35 Your Petitioners are concerned about dust and dirt produced during 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 to your Petitioners' properties. Your Petitioners 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 and painting of their affected properties and more frequent replacement of air conditioning filters.
- 36 The surface works, particularly the use of work sites and the removal of spoil, will further impact upon the quiet enjoyment of its properties. Major increases in lorry movements and construction traffic 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. This, your Petitioners submit, will restrict access to its buildings (including customers, staff and delivery and service contractors) and also cause significant negative visual impact.
- 37 Your Petitioners are concerned about the effect of these matters on their properties and having regard to the scale of disruption and disturbance envisaged your Petitioners therefore seek protection in relation thereto. In particular, your Petitioners would expect the Promoter to be bound to a code of construction practice, agreed with your Petitioners in advance of the commencement of works, to regulate these matters and to ameliorate any adverse effects caused by the works. Your Petitioners submit that the Promoter should consult with them about proposed working methods and in relation to all aspects of likely environmental impact to your Petitioners' properties and that the Promoter should be obliged to agree a scheme of work with your Petitioners for the benefit of the occupiers of your Petitioners' properties, such scheme of work to include, amongst other things, reference to noise, vibration, disruption and lorry movements.

- 38 Your Petitioners further respectfully 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 of business and general disturbance they might suffer as a result of the construction of the works or for the acquisition of their property resulting from the demolition or partial demolition of Cardinal Tower. Your Petitioners respectfully submit that the Bill should not be allowed to proceed unless adequate provision is included in it to compensate your Petitioners for such loss and for loss sustained as a result of general disturbance occasioned by the works and the operation of the railway.
- 39 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 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.
- 40 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.

Costs

- 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.

Conclusion

- 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.
- 43 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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