

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:

G M S ESTATES 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 Clause 50 deals with compensation for injurious affection.

Your Petitioners and their properties

- 5 Your Petitioners are G M S Estates Limited, a company carrying on business in the ownership and development of property and they hold important and extensive interests in properties situated in the City of Westminster, the London Borough of Islington, the City of London and elsewhere. Your Petitioners have several wholly-owned subsidiaries carrying on the same business.

- 6 Your Petitioners own or have an interest in the following properties which are subject to compulsory acquisition or use under the Bill:

In the City of Westminster

- (a) 100 Dean Street (parcel 576) as freehold owner, being a property shown as subject to full acquisition;
- (b) 10 Soho Square (parcel 610) as freehold owner, being a property shown as subject to subsoil acquisition;

In the London Borough of Islington

- (c) 4 and 5 Cowcross Street (parcels 60 and 61) as freehold owner, being properties shown as subject to subsoil acquisition;
- (d) 3-5 St John Street (parcel 67) as freehold owner, being a property shown as subject to subsoil acquisition;

In the City of London

- (e) 38-39 and 40 Charterhouse Square (parcels 39 and 40), as freehold owner, being properties shown as subject to subsoil acquisition;
- (f) CAP House, 9-12 Long Lane (parcel 45), as freehold owner, being a property shown as subject to subsoil acquisition; and
- (g) 172-4 Bishopsgate and 1a New Street (parcels 178 and 179), as freehold owner, being properties shown as subject to subsoil acquisition.

7 In addition, your Petitioners own or have an interest in 5-7 Craven Road in the City of Westminster, 13-21 Stukeley Street in the London Borough of Camden, and 10-11 New Street in the City of London, which, whilst not subject to the compulsory purchase proposals of the Bill, are in the immediate vicinity of the proposed works and liable to be injuriously affected by them.

8 Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioners object for the reasons amongst others, hereinafter appearing.

Your Petitioners' concerns

9 One of your Petitioners' properties, 100 Dean Street, is proposed to be acquired and demolished for the western ticket hall for the proposed Tottenham Court Road Crossrail Station. Of the remainder, nine are proposed to have subsoil acquired for the running tunnels, and three would be in close proximity to the works. Your Petitioners are not satisfied that the mitigation proposed in the Environmental Statement that accompanied the Bill will be adequate to protect their interests, and request additional mitigation as set out below. This will also apply to 100 Dean Street until the Promoter obtains possession of it.

100 Dean Street

- 10 While your Petitioners accept the principle of building the station there, they do not accept that the Promoter, who needs only the ground floor and below, is justified in seeking to acquire the freehold above the proposed station. Your Petitioners would wish to retain the freehold of the land above the station, as there is no justification for acquiring land and airspace that will not be used for the works. Your Petitioners will comply with any reasonable loading or access requirements in designing any new development above the station.

Environmental concerns

Noise

- 11 Your Petitioners are concerned about noise during construction and on completion of the works. Your Petitioners wish to see an effective noise mitigation and monitoring system in place before commencement and during construction of the works. There must, in your Petitioners' submission, be a threshold agreed between your Petitioners and the Promoter. 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.

Dust

- 12 Your Petitioners are concerned about dust and dirt produced during construction. 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 of the property and more frequent replacement of air conditioning filters.

Vibration

- 13 Your Petitioners are concerned about vibration during construction of the works. Your Petitioners fear that damage will result from vibration if piles in the vicinity are driven rather than bored or hand-dug. Your Petitioners fear that vibrations caused by tunnelling as the tunnel heading passes beneath their properties for each of the two tunnel drives will cause disturbance to the occupiers of their properties.
- 14 Your Petitioners are concerned about vibration during the operation of the works. Your Petitioners fear that once the works are operational, vibration from trains will cause disturbance. Your Petitioners request that agreement be reached with the Promoter to ensure the absence of impact-induced vibration.

Access

- 15 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 has been temporarily stopped up. 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, either by means of amendment of the Bill or agreement with your Petitioners. Your Petitioners further request that vehicular access to their properties be maintained where practicable and that your Petitioners are reimbursed for any losses incurred through inability to service or park at their properties due to the works, together with losses due to a reduction in trading at their properties attributable to the works.

Settlement

- 16 Your Petitioners are concerned about settlement effects on their properties. 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 these properties. There must, in your Petitioners'

submission, be a threshold agreed between your Petitioners and the Promoter for ground movement within the vicinity of the properties, or distortions of the structure of the properties. If that threshold is exceeded then it is imperative that the undertaker nominated to carry out the works is obliged to cease construction until such time as remedial measures are in place which will minimise settlement and consequently avoid distress to the buildings. Your Petitioners request that they be given at least 14 days' notice of the intended passage of the tunnel boring machines beneath the property. Any necessary safeguarding or remedial measures must be agreed between your Petitioners and the Promoter. Your Petitioners would wish to see the scope of paragraph 5 of Schedule 2 to the Bill extended to include all potential remedial measures that could be used, such as compensation grouting.

Deterioration of condition

- 17 Your Petitioners are concerned that the condition of their properties will deteriorate as a result of the works. Your Petitioners intend to commission a condition survey of the property shortly before the commencement of the works and shortly after their completion. Your Petitioners 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.

Compensation

- 18 The provisions contained within the Bill for compensation for the compulsory purchase of property or of subsoil or new rights will not enable your Petitioners or other landowners to recover the full loss and expenses which they will incur in consequence of the exercise of such powers. Your Petitioners therefore submit that the Bill should be amended to rectify this.
- 19 Your Petitioners also object that the compensation provisions of the Bill are inadequate to compensate your Petitioners or others in circumstances where no land (or interest in land) is acquired by the Promoter under the Bill, but where the value of such land and the properties erected on it is reduced or where such land

and the properties erected on it is otherwise adversely or injuriously affected by the construction or use of the proposed works. Your Petitioners therefore submit that the Bill should be amended to provide for claims for adequate 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.

Blight

- 20 Your Petitioners 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 properties, 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 the proposals 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.

Indemnity

- 21 Your Petitioners further 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.

General matters

- 22 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.
- 23 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

- 24 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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