

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:

SPRINGDENE 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



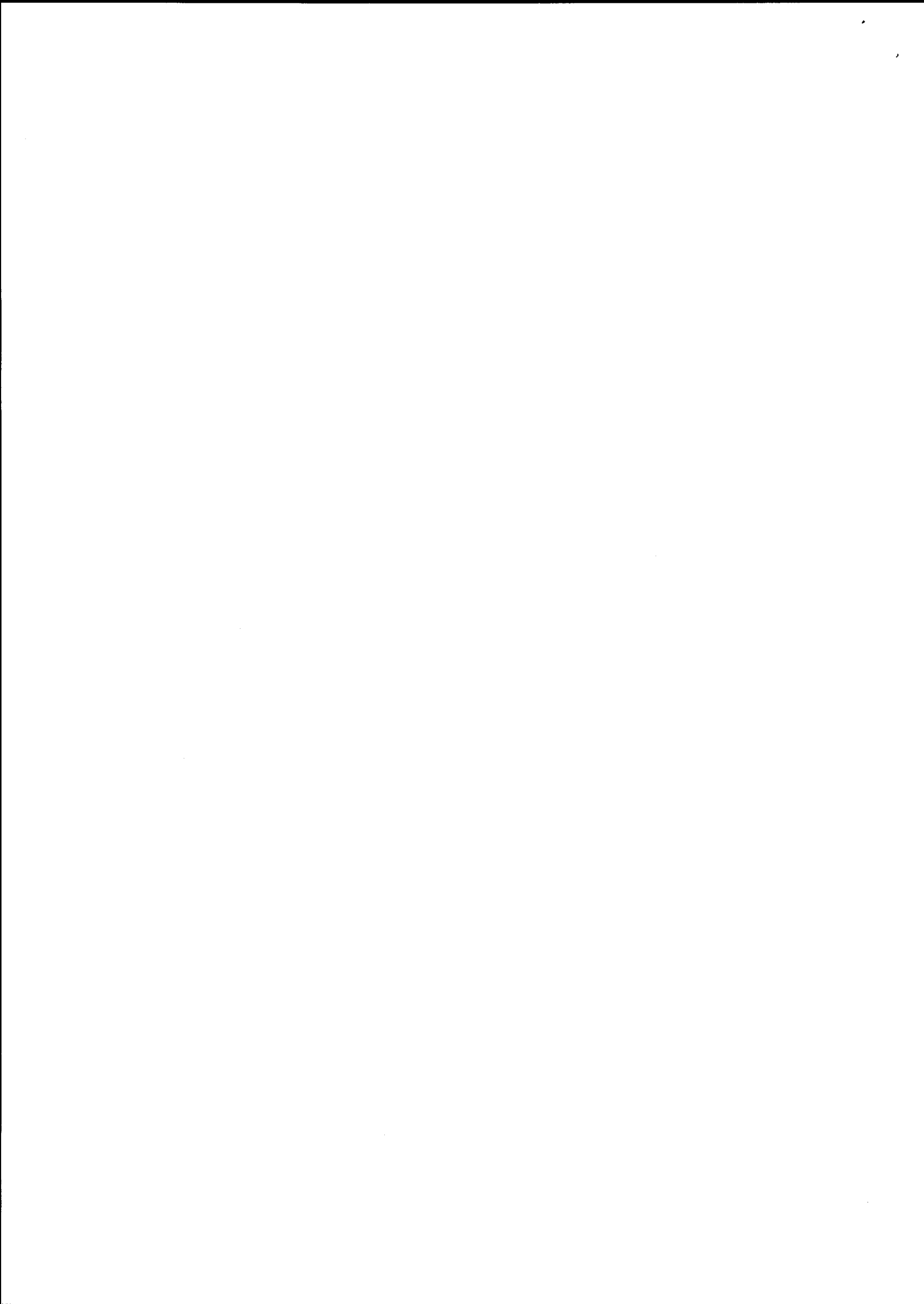
engineering operations, for compulsory acquisition and the temporary use of and entry upon land, for the grant of planning permission and other consents, for the disapplication or modification of heritage and other controls and to govern interference with trees and the regulation of noise.

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 properties*

6 Your Petitioners are Springdene Limited, a private limited company whose registered office is at Bart House, 8 Vicars Close, Biddenham, Bedford MK40 4BG. Your Petitioners’ have traded since mid-1998 as a licensed sushi bar

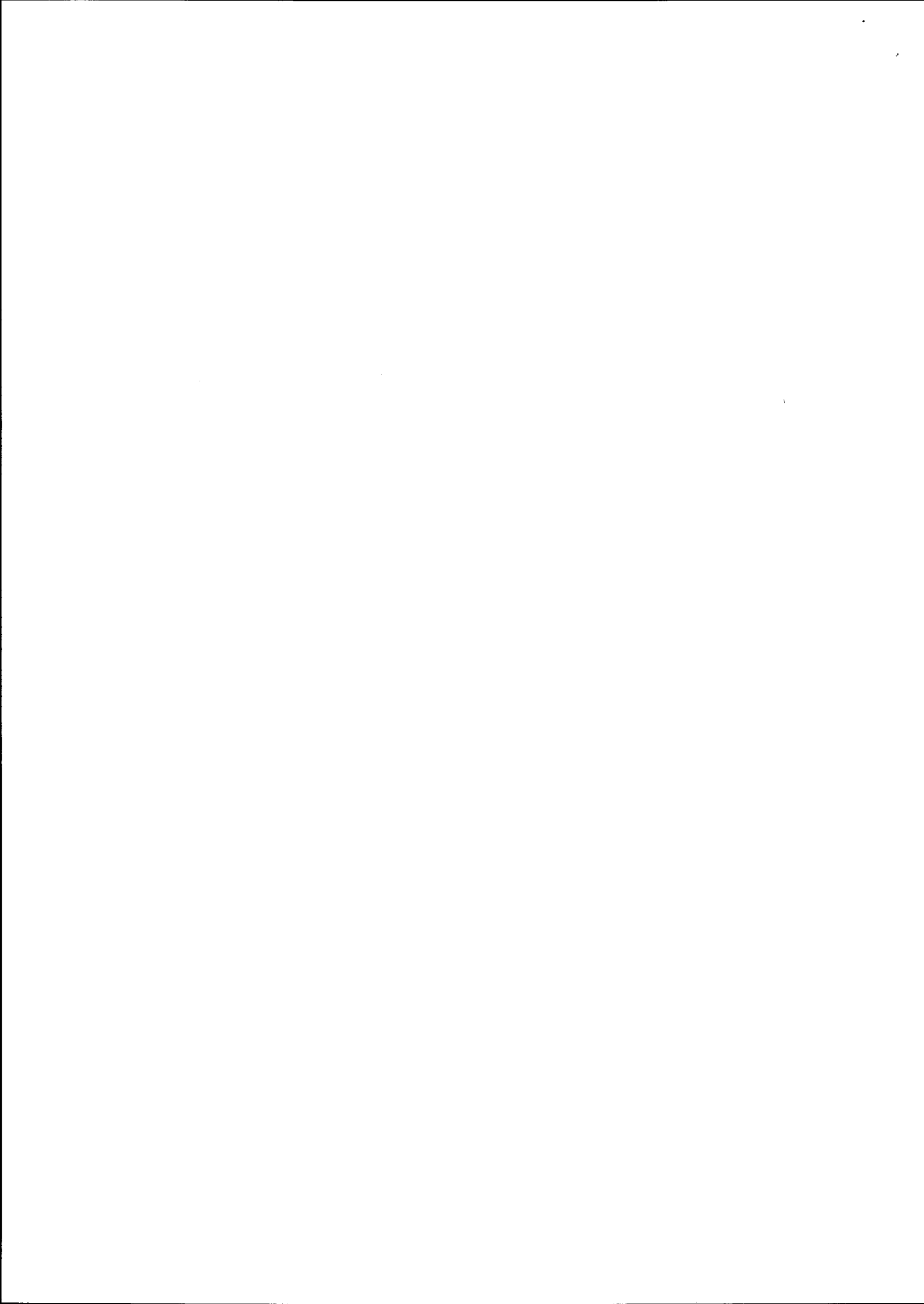


“Fluid” in premises located in the London Borough of Islington. These premises will be directly affected by the implementation of the Crossrail Bill.

- 7 Your Petitioners own the leasehold interest in the ground and basement floors of Lyndsey House, 40-42 Charterhouse Street, London EC1 (“the Properties”). There are 17 years left to run on the lease prior to its expiry on 18 January 2023. Your Petitioners’ landlords are Urban Edge Group Ltd and the freeholder is the Corporation of London. Your Petitioners have an interest in the Properties which are subject to compulsory acquisition or use under the Bill.
- 8 Your Petitioners and their rights, interests and property are directly and injuriously affected by the Bill, to which your Petitioners object for the reasons amongst others, here stated.

*Your Petitioners’ concerns*

- 9 Your Petitioners have many substantial concerns respecting the provisions of the Bill as affecting the Properties and their interest in them. In particular that the powers proposed in the Bill as affecting the Properties are either unjustified and/or unclear. Your Petitioners are also concerned that no adequate provision has been made to compensate them according to the actual loss they would suffer. 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 interests are reasonably safeguarded.
- 10 Your Petitioners also have a fundamental concern that, despite its adoption as a Government led project, Crossrail lacks appropriate levels of funding, both for necessary further design work and for its construction, and that this under-resourcing prejudices your Petitioners’ and other property owners’ interests. Furthermore, your Petitioners submit that provision must be made for a cap on the amount of private funding that can be provided.



- 11 In the ordinary course, your Petitioners understand that a project of this sort would now be subject to much more detailed design work than it appears has been undertaken. Not only is such detail missing but your Petitioners understand that no or no sufficient budget is available for its progression at this stage. In consequence, the impacts upon your Petitioners' property interests are still ill-defined and your Petitioners are handicapped in their ability to engage with the Promoter in a positive fashion to safeguard their interests.
- 12 Your Petitioners are also very conscious that there is a great deal of uncertainty surrounding Crossrail since its previous submission to Parliament. In addition, this uncertainty is now further compounded by the absence of any in principle or other approval to funding, the consequence of which is that your Petitioners are being put to further loss, trouble and expense without any certainty that the project will be able to progress to implementation or that its implementation will not be further substantially delayed. Your Petitioners believe that there is no parallel for this in relation to other major projects and that it is generally unjustifiable as well as being contrary to a number of important elements of public policy.
- 13 Furthermore, your Petitioners recognise that there is a potential conflict between the programme management of the Crossrail project and the programme management for the Olympics. The geographic and temporal proximity of the two large projects raises a number of issues, none more so than the fact that resources will be significantly exhausted thereby precluding the progression of other major projects across the country.
- 14 Your Petitioners were 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. For these reasons, and having regard to the more detailed particulars referred to later in this petition, your Petitioners object to the Bill and its provisions here referred to and allege and are prepared to prove that they and their land, rights and interests are injuriously and prejudicially affected by the Bill for the reasons (amongst others) here appearing.





*Charterhouse Street Emergency Intervention Shaft*

- 15 The Bill would authorise the construction of an emergency intervention shaft in Charterhouse Street by Fox and Knot Street. A worksite is newly required here that will necessitate the demolition of 38-42 Charterhouse Street and the temporary use of this site. The new shaft is to be located directly on the site currently occupied by your Petitioners who believe that the ventilation shaft could be located elsewhere. Under the Bill proposals, the Promoter has the power to compulsorily acquire the Properties on a permanent basis to accommodate this ventilation shaft and for working area purposes, which again might be moved elsewhere.
- 16 Your Petitioners therefore object to the proposed compulsory purchase of the Properties and question the need for such powers, fearing that their exercise could lead to significant loss and damage being suffered by your Petitioners.
- 17 Your Petitioners would wish to record their disappointment at the failure of the Promoter to consult and provide your Petitioners with information pertaining to their Properties and that the Promoter has failed to take any steps to mitigate the effect of taking your Petitioners' interest in the Properties.
- 18 For example, it was not until a local alteration to the Crossrail design, that it was considered necessary to demolish the Properties. Your Petitioners would submit that upon purchasing the Properties in 1998 they conducted various searches, which indicated that there were no problems associated with the Properties other than powers conferred on the local authority, permitting excavation beneath the building, as and when necessary. Your Petitioners were of the view that such tunnelling effects might be bearable, provided full compensation were paid, including claims for business disturbance, if any. Your Petitioners also noted at the time that a Crossrail Station was due for construction directly opposite the Properties which in your Petitioners' view might have enhanced the location, on completion of the scheme. Previously, your Petitioners invested heavily in the



Properties in order to establish a profitable business in what is a unique London location as it stands now.

19 Your Petitioners are concerned that should the proposals under the Bill be exercised, this permanent loss of highly desirable business space will have a severe and detrimental impact on your Petitioners. In particular, your Petitioners will be forced to close down with an unwanted and otherwise unwarranted total business extinguishment claim in all probability.

20 Furthermore, since the premises were opened in June 1998, your Petitioners have built up a popular and highly profitable business and acquired substantial goodwill which they have sought to protect by registering the Trade Mark 'FLUID' under Classes 41 and 42 at the Patent Office as of 29 March 1999. Therefore, to attempt to relocate to new premises, if available, would cause them enormous difficulties in re-establishing part of that goodwill and thus generating anywhere near the same level of profitability. Thus even if some relocation were possible there would be still be a substantial loss in all probability or so your Petitioners are advised. In either case, your Petitioners consider this to be avoidable because they do not accept that the compulsory acquisition of the entire property is essential for the scheme.

21 Your Petitioners would also submit that the Charterhouse Street shaft is within the Charterhouse Conservation Area and accordingly given the general character and appearance of the area, demolition should only be carried out where absolutely necessary. Your Petitioners firmly contend that such actions are not necessary in the circumstances and that in particular: -

- (a) Lyndsey House which is part of a small triangular block, only part of which block appears is due to be demolished under the Bill;
- (b) The western point of this small triangle is a Victorian Building which is not scheduled for demolition;



- (c) The limited inclusions for demolition would allow closing of Fox and Knot Street for a wider redevelopment with property to the east within the same freehold;
- (d) The late changes in surface layout and design may be engendered by a late realisation that more compensation claims will accrue than are budgeted and that from the Promoter's viewpoint only there might be similar or less expenditure by taking in more properties;
- (e) During the second reading debate it was acknowledged that the Crossrail scheme would conflict with the 2012 London Olympic Games developments and several MPs were in favour of deferring Crossrail until after 2012 accordingly. There is also a question of availability of funding and resources, already taken up by other major projects now in hand, such as Heathrow Terminal five and various other rail schemes.

22 Your Petitioners submit that the scheme promoted in the Bill was not subject to full consideration of any alternative sites for the Charterhouse Street Emergency Intervention shaft location and alignment of the route near to the Properties. Your Petitioners therefore wish to reserve their position on this issue until further investigative work has been carried out.

23 In addition, your Petitioners submit that the Environmental Statement that accompanies the Bill does not identify, nor provide for appropriate construction mitigation measures against the detrimental impact of the current route alignment near the Properties. Your Petitioners believe that the promotion of the Bill is premature as alternative engineering has not been examined in detail and as a result the best proposal has not been selected taking all criteria into account, and so without this analysis the Environmental Statement appears to be in breach of the European Community Directive on 'The assessment of effects of certain public and private projects on the environment'.



24 Accordingly, your Petitioners request that the Promoter be put to strict proof on the positioning of the current parts of the scheme in proximity to the Properties and states that there are clear and discernable alternative prospects in this area. For example, your Petitioners would submit that a ventilation shaft and a temporary working area might be better placed at Charterhouse Square, subject to the best environmental treatment in the circumstances.

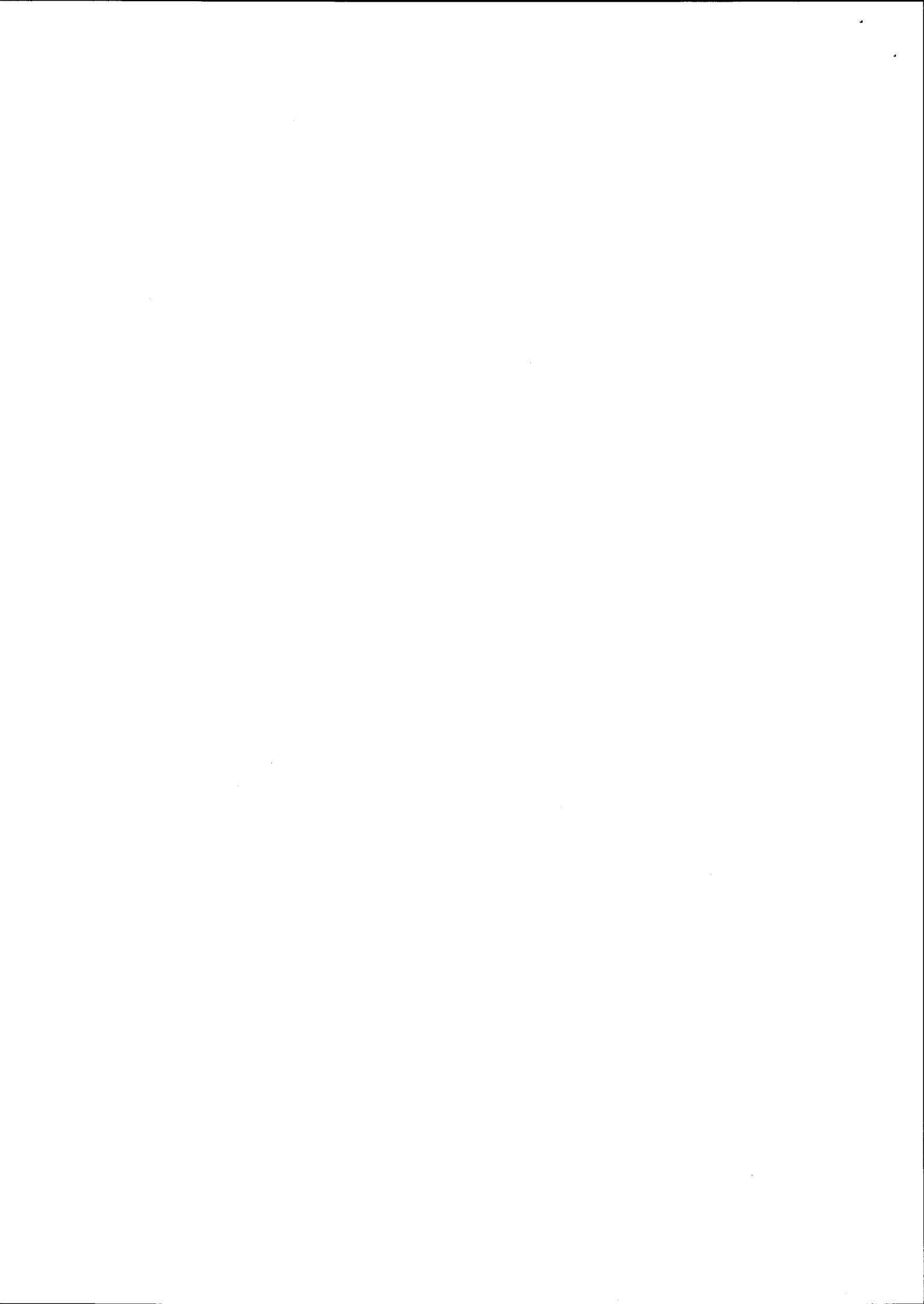
25 If, however it is shown to the satisfaction of your Honourable House that the compulsory purchase of your Petitioners' property is the only viable option, your Petitioners will argue that the Promoter should be required to fund, find and locate alternative appropriate premises in the same area, in consultation with your Petitioners. In particular, your Petitioners are advised that the Bill proposes to adopt as a general act the Lands (Clauses Consolidation) Act 1845, which, they are advised, is outmoded and unsuitable one hundred and sixty years later, having regard to curtailment of compensation which appears to be in breach of Human Rights.

#### *Loss and Compensation*

26 The provisions contained within the Bill for compensation for the compulsory purchase of property or of subsoil or other new rights will not enable your Petitioners or other landowners to recover the full loss and expense 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.

27 Your Petitioners further 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.





28 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*

29 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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