

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:

ORBITON INVESTMENTS LIMITED (trading as ORBITON ESTATES),
CARTHAGO SA, APPLE LONDON LIMITED, CEDARSPAN LIMITED,
OLIVETREE PROPERTIES LIMITED, and QUEENSWAY ASSOCIATES 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

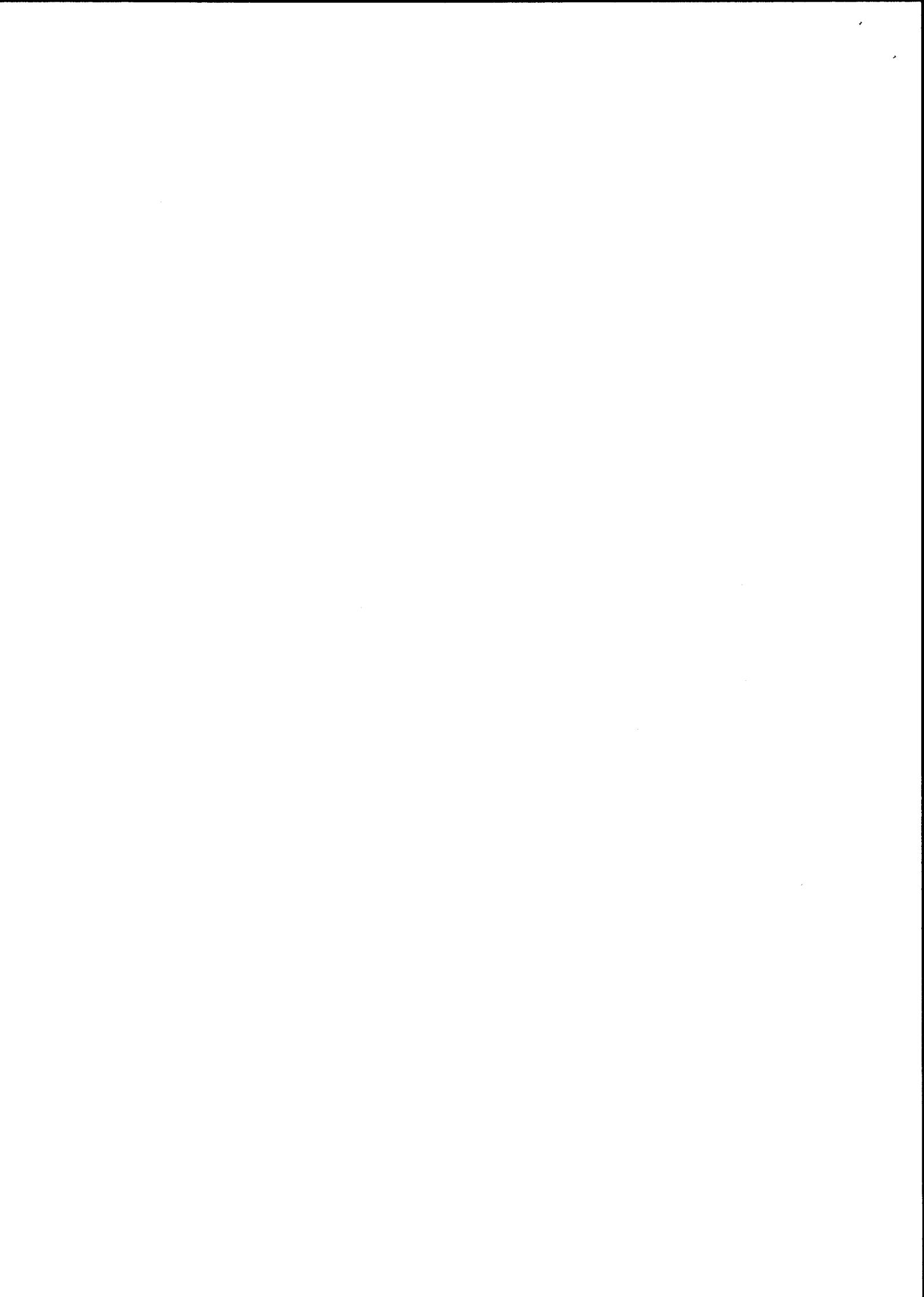


set out in Schedule 1. Provision is included to confer powers for various building and engineering operations, for compulsory acquisition and the temporary use of and entry upon land, for the grant of planning permission and other consents, for the disapplication or modification of heritage and other controls and to govern interference with trees and the regulation of noise.

- 4 Clauses 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 Property

- 5 Your Petitioners are the freeholder, managing agents, and leaseholders of a property known as Sussex Court, located at 27 to 34 Spring Street, Paddington in the City of Westminster above the route of the proposed railway (“the Property”).
- 6 The Property comprises a block of residential flats above ground floor shops. The freeholders of the Property are your Petitioner Carthago SA, a company whose registered office is located at 3 Promenade de l’Europe, CH-1203 Geneve, Switzerland. The managing agents are your Petitioner Orbiton Investments Limited (trading as Orbiton Estates), whose registered office is 8 Wimpole Street, London W1M 7AB. The petitioning leaseholders are your Petitioner Apple London Limited, your Petitioner Cedarspan Limited, your Petitioner Olivetree Properties Limited and your Petitioner Queensway Associates Limited, all of which have their registered address at The Estate Office, Carrington House, 6 Hertford Street, London W1J 7RG.



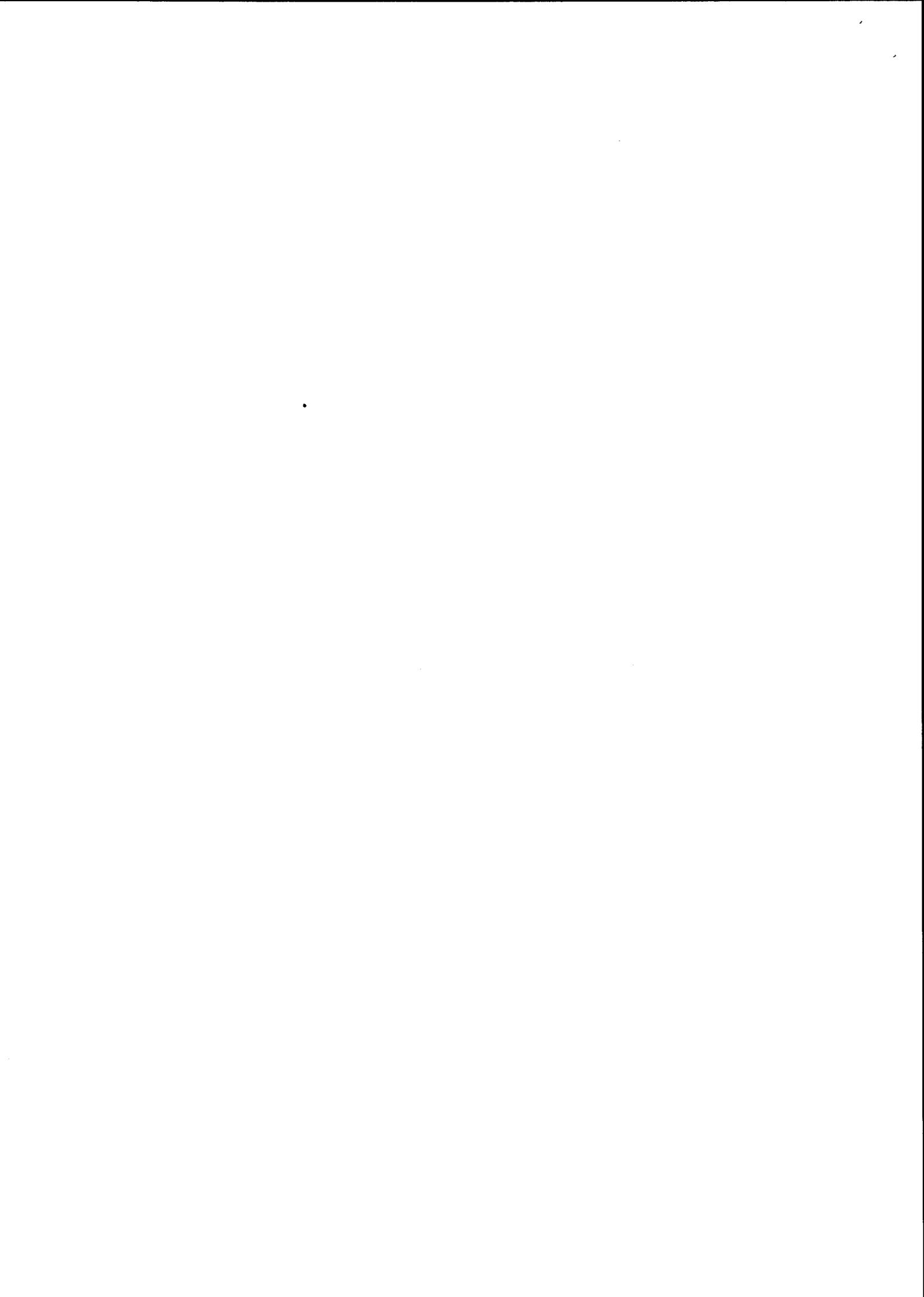
7 The leaseholders lease the following parts of the Property from your Petitioner Carthago SA:

- (a) Your Petitioner Apple London Limited owns the leasehold of the ground floor shops at 27-29, 31, 32 and 33 Spring Street and the flats 4, 10, 12, 24, 25, 30, 36, 43, 46 and 49 Sussex Court.
- (b) Your Petitioner Cedarspan Limited owns the leasehold of the flats at 5 and 47 Sussex Court;
- (c) Your Petitioner Olivetree Properties Limited owns the leasehold of the flat at 44 Sussex Court
- (d) Your Petitioner Queensway Associates Limited owns the leasehold of the flat at 18 Sussex Court;

Your Petitioners' concerns

8 Your Petitioners are concerned about the impact of the proposed works on the Property. In particular they are concerned about the compulsory purchase of subsoil beneath the Property and the resulting risk of damage to the property (which is listed) caused by settlement. They are also concerned about the general impact of the works on the Property which is situated in an area liable to serious noise, dust, construction traffic impacts and other nuisance for a protracted period during the construction of the works.

9 Your Petitioners do not object to the principle of the proposed railway, but they are concerned the provisions of the Bill may affect your Petitioners' properties. For this reason, and having regard to the more detailed particulars referred to below, your Petitioners object to the Bill and its provisions referred to above 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.



Compulsory purchase and subsoil acquisition

- 10 Your Petitioners object to the provisions of Clause 6 of the Bill, which they apprehend could adversely affect and interfere with the Property which is subject to powers of compulsory purchase. The Property is located immediately above the centre line of Work No. 1/3A, being the northern bore of the twin-bore tunnels running between Paddington station and Bow Street station. Under the provisions of Clause 6 and Clause 7 of the Bill, the Promoter will be able to acquire rights in the sub-soil and under surface of the Property which falls within the limits of deviation on the deposited plans and sections. Your Petitioners are concerned that the exercise of these powers could lead to damage to the Property and a serious detraction from quiet enjoyment of it by your Petitioners and the occupiers of the Property.
- 11 The exercise by the Promoter of its powers for the compulsory acquisition of land or of interests in land could also result in the development potential of the 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.
- 12 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 No. 1/3A to be varied so as to bring the Works closer (either vertically or horizontally) to the Property. The provisions of Clause 1 of the Bill could therefore result, your Petitioners apprehend, in an inadequate vertical and horizontal distance between the soffit of the tunnels forming part of Work No. 1/3A and the bottommost part of the basement of the Property. The resulting noise, vibration and, possibly, damage would therefore cause your Petitioners great inconvenience and loss. Your Petitioners therefore submit that such deviation could and should be more closely restricted wherever possible.
- 13 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 the Property. Furthermore, they should be put to proof as to whether the limits of deviation of Works No. 1/3A, the resulting powers for the compulsory acquisition of land or of interests in land, the power to construct works and the exercise of works and ancillary powers within the limits of deviation should be restricted to the extent (if any) to which the Promoter is justified so as to minimise or prevent interference with the Property. In particular, your Petitioners contend that any interest in the Property (including interests in the sub-soil) 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 covenants which may be imposed upon the remainder of your Petitioners' Property) should be strictly limited only to that which is absolutely necessary for the construction, safe operation and maintenance of the proposed works.

Impact on Spring Street and the surrounding area

- 14 Your Petitioners apprehend that the area around Spring Street in the vicinity of the Property will be subject to considerable disruption over an extended period. At the west end of Spring Street at the intersection with Praed Street will be located a major worksite (the Circle Line Link Worksite) which will have a major impact on the surrounding area and a very significant impact on the Property due to its proximity. Immediately to the west another major work site (Eastbourne Terrace Worksite) will be the source of further major disruption. The Environmental Statement anticipates that these works will take approximately 5 years to complete.
- 15 Your Petitioners apprehend that there will be major disruption during this period to access along Spring Street caused by the construction works themselves and by the impact of construction traffic. It is estimated that over 100 lorries per day will access the Paddington station worksite over this period.
- 16 Your Petitioners apprehend that pedestrian and vehicular access along Departures Road and Eastbourne Terrace will be substantially interfered with



and disrupted during this period. This will extend to Praed Street and Spring Street where temporary footways would be provided. It is also apprehended that pedestrian movements between Paddington station and Departures Road will be directed away from Spring Street.

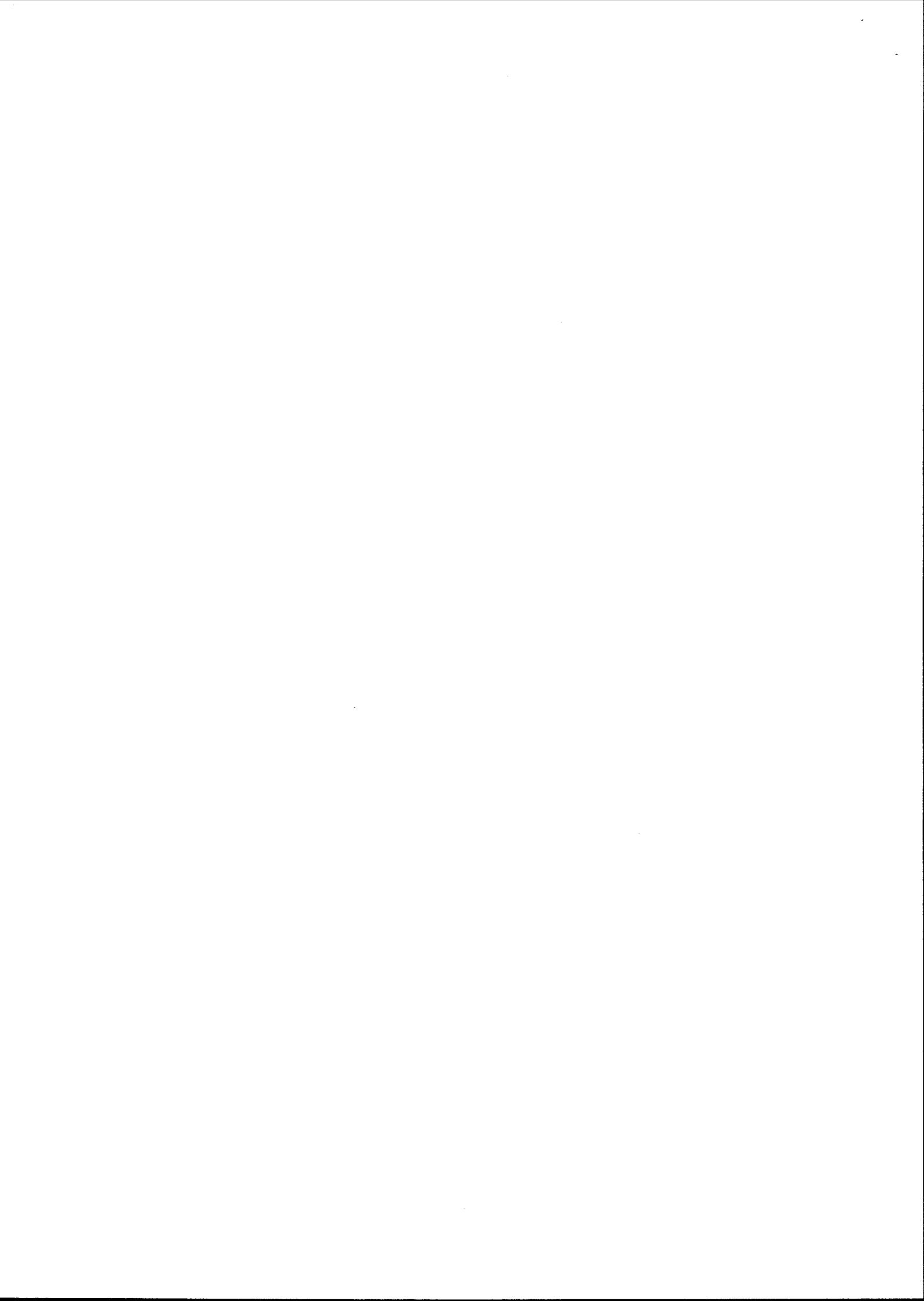
- 17 Your Petitioners are concerned that due to very substantial impacts on their Property as a result of the works, in particular as a result of the demolition of adjacent property and the proximity of two major worksites there will be a significant detraction from the attractiveness and desirability to rent the flats and shops which the Property contains. This will have a severe impact upon their businesses, which are reliant upon the rental income and service charges derived from occupation of the Property.

Subsidence, settlement and associated damage to properties during and after construction

- 18 Your Petitioners are particularly concerned about settlement effects on the Property, and envisage that significant damage could be caused to such properties as a result of the works. Further, your Petitioners submit that the Promoter should be constrained to construct the works proposed beyond, or, so far as practicable, away from the subsoil and undersurface of Property 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 request, insofar as the subsoil and undersurface beneath their properties may be affected, that they 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 Promoters for any loss of development value of any 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.



- 19 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 carry out prior subsoil investigation and survey;
 - (c) to conduct at their own expense a full survey of the condition of the Property both before and after the construction and before and after the commencement of operation of the works, with details of all such surveys being provided to your Petitioners;
 - (d) 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 the 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;
 - (e) to agree a threshold with your Petitioners for ground and building movement within the vicinity of the Property, to the effect that if that threshold is exceeded the Promoters should be obliged to cease construction until such time as remedial measures are in place which will minimise settlement affecting such properties;
 - (f) to agree necessary safeguarding or remedial measures with your Petitioners, to be carried out at the expense of the Promoter;
 - (g) to use all available grouting, de-watering, freezing and pressure-working methods; and
 - (h) to carry out agreed underpinning and strengthening works.
- 20 In addition, your Petitioners require continuous monitoring of the 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 the Property is allowed to be interfered with.

Noise, vibration, disruption and disturbance during the construction period.

- 21 Noise and vibration arising from the construction and operation of the railway and its associated works and structures (such as ventilation shafts) also concerns 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 construction standards set to which the Promoter must be made liable to comply.
- 22 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 of the Property, and more frequent replacement of air conditioning filters.
- 23 Your Petitioners also respectfully request that the Promoters be required to provide adequate sound proofing measures, including double glazing in order to reduce the impacts of noise and dust on the Property.
- 24 The surface works, particularly the use of working sites and the removal of spoil, will further impact upon the quiet enjoyment of the Property. 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.



25 Your Petitioners have most severe reservations about the proposed work sites at the Praed Street/Spring Street junction (the Circle Line Link Works) and at Eastbourne Terrace. Your Petitioners apprehend that these sites and the works proposed to be carried out within them will bring about a 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 (including the Property);
- (d) construction noise and vibration; and
- (e) visual impact.

26 Your Petitioners expect and request the Promoter to be bound to a code of construction practice 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 the Property and that the Promoter should be obliged to agree a scheme of work with your Petitioners for the benefit of the occupiers of the Property, such scheme of work to include, amongst other things, reference to noise, vibration, disruption and lorry movements.

Vehicular and Pedestrian Access

27 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. 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 request that vehicular and pedestrian access to the Property be maintained where practicable



and that compensation be awarded for any costs incurred through the inability to service or park at the Property due to the works.

Compensation

28 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 for the loss, damage and inconvenience which they might suffer as a result of the construction and subsequent use of the proposed works. This includes compensation for reduced occupancy and reduction of income due to the reduction in the rentability of the Property as a result of the Works.

29 Your Petitioners also object to the compensation provisions of the Bill in that those provisions are totally inadequate to compensate your Petitioners in circumstances where no land (or interests in land) over the properties is acquired by the Promoter under the Bill (should that be the case), but where the value of such land and the Property erected thereon is reduced or where such land and the Property 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 adequate compensation in this regard.

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

31 Furthermore, your Petitioners believe that due to the very substantial impacts on their Property including: the increased noise, vibration and dust from the proximity of the Circle Line Link Worksite, demolition of the adjacent property



and the tunnelling works; noise from increased construction traffic; and disturbance due to reduced footways and redirected traffic along Spring Street, that the Property will become less desirable to live in during the period of the works. Your Petitioners fear that 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 prospective or existing lessees 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. Your Petitioners submit that they should be entitled to make their claim for compensation in respect of any loss of rental income or service charges due to a reduction in the rentability of the Property during the works.

- 32 Your Petitioners are concerned that due to the very substantial impacts on their Property as a result of the works, insurance premiums may increase or be subject to particular conditions/excesses or your Petitioners may not be able to obtain insurance in relation to the property. Your Petitioners submit that provision should be made to indemnify them if this is the case.

General concerns

- 33 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.
- 34 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.
- 35 There are other clauses and provisions in the Bill which, if passed into law as they now stand, would prejudicially affect your Petitioners and their rights,



interests and property and for which no adequate provision is made to protect your Petitioners.

Conclusion

36 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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