

IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2005-06

CROSSRAIL BILL

Against – 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 the Smithfield Market Tenants' Association,
London

SHEWETH as follows:-

1. A Bill (hereinafter referred to as "the Bill") has been introduced 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 Mr Secretary Darling. The main purpose of the Bill is to secure the powers necessary to build Crossrail. Crossrail as proposed will consist of new rail tunnels running west-east through central London connecting directly with existing surface rail routes to Maidenhead and Heathrow in the west and Shenfield and Abbey Wood in the east. By connecting the major London rail terminals of Paddington and Liverpool Street, it is envisaged that Crossrail will enable interconnecting mainline train services to cross the centre of London via a number of new purpose-built stations.

3. The main clauses or parts thereof to which objection are taken by this petition are those dealing with the construction and maintenance of Crossrail under and in the vicinity of the Smithfield Meat Market and the surrounding streets and underground car park. In particular this petition objects to and seeks amendment of the following:
4. Clause 1, Construction and maintenance of the works specified in Schedule 1 thereunder in so far as they relate to the areas referred to above.
5. Clause 2, Further and supplementary provisions, enabling the nominated undertaker, for the purposes of or in connection with the scheduled works or otherwise for the purposes of or in connection with Crossrail, to carry out all manner of works, in so far as such powers may be exercised in the areas referred to above.
6. Clause 3, Highways, and in particular the provisions for temporary interference under Schedule 3, paragraph 5, providing for the temporary stopping up, alteration or diversion of West Smithfield, Long Lane, Charterhouse Street and the entire length of Lindsey Street.
7. Clause 5, Temporary possession and use of land for the provision of working sites in the areas referred to above.
8. Clause 6, Acquisition of land within limits shown on deposited plans, including (under Schedule 6, Part 1) the power compulsorily to acquire and use the underground car park at Smithfield and the subsoil beneath and other areas beneath Smithfield (being land shown on deposited plans in the City of London, numbered 11, 12, 13 and 14) for the provision of working sites or operational purposes and the power (under Schedule 6, Part 3) to create and acquire easements or other rights for the purpose of or in connection with the construction or maintenance of the authorised works in respect of the accessway and entrance to the said underground car park (being land shown as aforesaid and numbered 15 and 16).

9. Clause 10, Planning: general, the deemed grant of planning permission for the scheduled work and for other work which is not of a kind in relation to which it is necessary to take environmental information into account before granting planning permission or in relation to which the statement deposited with the Bill constituted an environmental statement within the meaning of the EIA regulations, in so far as that deemed planning permission permits any development in the areas referred to above.

10. Clause 50, Compensation for injurious affection, which states only that s.10(1) of the Compulsory Purchase Act 1965 shall have effect in relation to land injuriously affected by the execution of the scheduled and connected works.

11. Your Petitioner is the Smithfield Market Tenants' Association, London, the objects of which include the protection of the commercial interests of the members of the association, and to support or oppose legislative and other measures affecting their trade. A copy of the Articles of Association will be made available. The members of the association are the tenants and traders in the London Central Markets in the City of London, more commonly known as the Smithfield meat market. The tenants hold business leases of their respective shops and offices from the City of London for terms, typically, of 10 years ending December 2009 but renewable under Part 2 of the Landlord and Tenant Act 1954. The membership currently numbers 35 and comprises all the active market traders bar one. The association is funded by the annual subscriptions of the membership. In the premises Your Petitioner is directly and specially affected by the Bill.

12. A meat and poultry market has been held on the site of Smithfield meat market since Medieval times. In 1638 the Crown and the City of London compromised a dispute over the ownership of the land at Smithfield by the grant of a royal charter which regranted the whole of Smithfield to the City. Following a further dispute over ownership between the Crown and City in the years 1855 to 1860, a further compromise was reached, authorised by The Metropolitan Meat and Poultry Market Act 1860, requiring the land at

Smithfield to be used as a market and public open space. There followed the London Central Market Act 1875 and the London Central Markets Act 1886, each giving further statutory force to the maintenance of a market at Smithfield. A full history both modern and ancient of Smithfield meat market is to be found in the judgment and appendix thereto of Mr Justice Hoffmann in Crown Estates Commissioner v. City of London (1987) C. No.8282.

13. The Victorian built market buildings were fully refurbished in the mid-1990's, to comply with the latest U.K. and E.U. meat and hygiene requirements. The estimated turnover of the market is £1 billion per annum. In excess of 120,000 tonnes of meat passes through the market annually. The market provides direct employment for some 600 people.
14. Your Petitioner and the rights, interests and property of its members are injuriously affected by the Bill, to which your Petitioner objects for the reasons set out below.
15. Your Petitioner objects to the Bill and the proposals and powers therein to stop up, alter or divert the entire length or any part of Lindsey Street, because the operation of Smithfield meat market is reliant upon the one way circulation of traffic using Lindsey Street, and the facility for 38 & 44 Tonne articulated, refrigerated meat transport lorries to reverse onto and dock at sealed loading and unloading bays, and exit forwards into the circulating traffic flow. The market would be unable to operate without such transport lorries. Your Petitioner intends to rely in this regard upon expert evidence from Buro Happold their appointed transport consultants, structural engineers, environmental consultants and mechanical & electrical engineers. .
16. Your Petitioner further objects to the temporary and partial stopping up, alteration or diversion of the entire length or any part of Lindsey Street, because of the loss of 10 number 90 degree loading bays, along Lindsey Street, which this will involve (see the EIA, Chapter 7 Route Window C6 paras. 7.47 to 7.48) and the detriment to market trade that will result. Your Petitioner intends in this regard also to rely upon expert evidence from their

transport consultants at Buro Happold, as well as the witness evidence of tenants and traders in the market.

17. In order to meet the problems identified at paragraphs 15 and 16 above your Petitioner will seek in particular amendment of columns (2) & (3) of the table at paragraph 5 of schedule 3 under clause 3, to exclude the stopping up, alteration or diversion of West Smithfield, Long Lane and Lindsey Street or alternatively to allow the same only between the working hours of 10.00am to 10.00pm (which are the hours between which the market is not effectively trading) so as at all material times the route through these streets for articulated lorries is retained.
18. Your Petitioner further objects to the temporary stopping up, alteration or diversion of the entire length or any part of Charterhouse Square including the proposal to close that part between Lindsey Street and Hayne Street for a 13 month period during construction and to the stopping up, alteration or diversion of Snow Hill to enable this to be used as a lorry holding area, where these streets are main routes for vehicles leaving the market and the present proposals will significantly delay and disrupt market traffic. Your Petitioner intends in this regard also to rely upon expert evidence from their transport consultants at Buro Happold, as well as the witness evidence of tenants and traders in the market.
19. In order to meet the problems identified at paragraph 18 above your Petitioner will seek in particular amendment of columns (2) & (3) of the table at paragraph 5 of schedule 3 under clause 3, to exclude the stopping up, alteration or diversion of Charterhouse Square and Snow Hill or alternatively to allow the same only between the working hours of 10.00am to 10.00pm (which are the hours between which the market is not effectively trading).
20. Your Petitioner also objects to the Bill and the proposals and powers therein to demolish part of the mezzanine floor in the East Market basement and form an escalator shaft (the Smithfield Market Basement Worksite) in the underground car park at Smithfield (beneath the London Central Markets

building) with the loss of at least half its capacity (in excess of 280 spaces), and to reduce parking space on the ramp down to the car park and in Lindsey Street and other streets around the market without alternative parking provision being required under the Bill or other steps required or restrictions imposed to avoid or limit interference with meat market operations. Your Petitioner intends in this regard to rely upon expert evidence from their transport consultants at Buro Happold as well as the witness evidence of tenants and traders in the market, to detail the reduction in basement car parking (estimated by Buro Happold to be nearer 75% on the basis the upper level and eastern half of the lower level become unavailable) and on-street loading and parking as a result of the works as well as the adverse effects on market operations.

21. In order to meet the problems identified at paragraph 20 above your Petitioner seeks in particular for the purposes of the powers under clauses 6(1) and 6(2) amendment of the provisions of columns (2) and (3) of Part 1 of schedule 6 and paragraphs 8 and 10 (and the tables thereunder) of part 3 of schedule 6 to exclude the acquisition or use of the underground car park and ramp for the Worksite, and/or the introduction of a clause requiring and empowering the provision of suitable alternative parking including the re-allocation of kerbside spaces to market tenants and traders, and/or the limitation of construction working hours.

22. Your Petitioner objects to the Bill and the proposals and powers therein for the execution of the scheduled and connected works and in particular works to demolish Lindsey House, the demolition of part of the mezzanine floor in the East Market basement and the excavation extending beneath Lindsey Street for an escalator shaft, without any or any specific mitigation measures being required to avoid or ameliorate so far as possible their environmental effects. The unique and historic meat market that is Smithfield and its trade is peculiarly sensitive and vulnerable to the effects of construction activities, the air borne pollution, fumes, dust and dirt that will be generated and which if unchecked will result in the closure of the market. Your Petitioner intends to present evidence, to include expert evidence as to the impact of the works on

the feasibility of continuing to trade having regard to the Meat Hygiene Regulations and other public health considerations, and the preventative steps that would be required. Your Petitioner's environmental consultants at Buro Happold will state that Smithfield Market should be considered a sensitive receptor for the purposes of air quality assessment within the meaning of the Crossrail Environmental Statement.

23. Your Petitioner also objects to the Bill and the proposals and powers therein to establish lorry routes through the East Poultry Avenue of the London Central Markets and the lorry routes on the streets neighbouring the market (see the supporting documents to the Bill, Chapter 7 Route Window C6 Table 7.4) because of the air borne pollution, fumes, dust and dirt that will be generated without any mitigation measures as referred to below being required under the Bill.

24. Your Petitioner will, to meet the injurious effects of the matters referred to at paragraphs 22 and 23 above, seek in particular the amendment of the scope of the scheduled and connected works under clauses 1 and 2 of the Bill and schedules 1 and 2 thereto to exclude the works complained about or alternatively to allow them subject to the introduction of a specific clause or schedule providing and paying for mitigation measures as indicated, including adaptation of the market buildings hermetically to seal the same, physical and mechanical dust barriers and prevention, and the limitation of working hours. Your Petitioner intends to rely upon the expert environmental evidence of Buro Happold in this regard to the effect that to ensure the market can continue to trade mitigation measures must include (i) robust procedures to contain dust including dust control measures, regular monitoring, processes for altering work practices should measures fail, all to be approved by Your Petitioner and the Association of Meat Inspectors, (ii) some form of enclosing outer structure around the basement car park work during construction (iii) all Tier 1, 2 and 3 measures identified in the Crossrail Environmental Statement.

25. Your Petitioner also objects to the Bill and the powers therein and any proposal (which it is believed by your Petitioner is currently being promoted

against its interests by the City of London Corporation) for the siting and establishment of a concrete batching plant in the said underground car park, again because of the adverse environmental effects of such a proposal, primarily with regard to pollution, but also in terms of further restrictions on parking, the displacement of part of the existing condenser water system and the associated risks to the meat market and its operations.

26. Your Petitioner objects to the Bill and the proposals and powers therein to demolish part of the mezzanine floor in the East Market and construct an escalator shaft (within a secant piled box) extending beneath Lindsey Street for the proposed Farringdon Station (as indicated on drawing no.1DO200-C1S10-A00-P-1102) because of the risk of physical damage to the market buildings, the effect on market operations of temporary works, airborne pollution, noise and vibration. Your Petitioner intends to rely in this regard upon the expert evidence of their structural engineers at Buro Happold, to show that the current construction proposals pose an unacceptable risk of settlement and structural damage to market buildings, are likely to lead to the closure of Lindsey Street, and closure of a significant portion of the market due to health and safety concerns about temporary works and the effects of dust, noise and vibration.

27 Your Petitioner further objects to the Bill and the proposals and powers therein to demolish part of the mezzanine floor in the East Market and construct an escalator shaft for the proposed Farringdon Station (as referred to above) and any displacement of the existing condenser water system because of the risk of the temporary loss of services such as cold water and heating and of interruption in the condenser water system which is critical to refrigeration plant in the market. Your Petitioner intends to rely in this regard upon the expert evidence of their mechanical and electrical engineers at Buro Happold, detailing the services, risks and effects on market operations.

28. Your Petitioner will, to meet the injurious effects of the matters referred to at paragraphs 26 and 27 above, seek in particular the amendment of the scope of the scheduled and connected works under clauses 1 and 2 of the Bill and

schedules 1 and 2 thereto to exclude the works complained about or alternatively to allow them subject to the introduction of a specific clause or schedule requiring adequate method statements for the carrying out of these works and providing and paying for specific mitigation measures including duplicate plant, all to be agreed with Your Petitioner and their appointed consultants.

- 29 Your Petitioner also objects to the Bill and the compensation provisions available under the existing law which fail to make any or any adequate provision for compensating the tenants and traders of the Smithfield meat market for the actual injury to or any diminution in their businesses suffered directly or indirectly as a result of the construction of the scheduled and connected works. Section 10 of the 1965 Act effectively limits compensation to damage done to the land so as to exclude loss of profit. Further, there is no provision for compensation for loss caused by noise, dust or vibration during execution of the works. Such loss also falls outside the provisions of the Land Compensation Act 1973.
30. Your Petitioner will therefore submit that a specific, simplified mechanism for the assessment by the Lands Tribunal of the actual loss and damage including diminution in business/loss of profit suffered by the tenants and traders of Smithfield meat market as a result of the execution and completion of the Crossrail works and for the payment of compensation therefor ought properly to be included in the Bill by amendment of clause 50 or otherwise. In the absence of adequate compensation provisions it will be submitted that the Bill if enacted in its present form would be in breach of Your Petitioner's rights protected under the Human Rights Act 1998.
31. Further, your Petitioner will refer to and rely upon Chapter 7 of the supporting documents to the Bill, and in particular paragraphs 7.32 and 7.44 to 7.56 and tables 7.1 and 7.4 thereof, which make it plain that there will be a significant impact on your Petitioner and its members and the need for mitigation provisions (such as those admitted to be required at Table 7.4 CT4a) which are not currently part of the Bill. It is respectfully submitted

that these are matters that ought properly to be addressed within the terms of the Bill itself.

32. For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended to meet the concerns identified above, the clauses referred to under paragraph 3 to 10 herein, so far as affecting your Petitioner ought not to be allowed to pass into law.
33. There are other clauses and provisions in the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and the rights, interests and property of its members and for which no adequate provision is made to protect your Petitioner.

YOUR PETITIONER therefore humbly prays your Honourable House that the Bill may not be allowed to pass into law as it stands and that they may be heard by their Counsel, Agents and witnesses in support of the allegations of this Petition against so much of the Bill as affects the property, rights and interests of your Petitioner and its members and in support of such other clauses and provisions as may be necessary or expedient for their protection, or that such relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioner will ever pray, &c.

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PETITION OF THE SMITHFIELD MARKET TENANTS'
ASSOCIATION, LONDON

AGAINST, By Counsel, &c.