

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 Bank of America, National Association

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 presented by Mr Secretary Darling, supported by The Prime Minister, Mr Chancellor of the Exchequer, Secretary Margaret Beckett, Secretary Peter Hain, Secretary Alan Johnson, Secretary Tessa Jowell, and Derek Twigg.
- 3 Clause 1 authorises the construction and maintenance of the works for the delivery of a railway transport system, which is known as Crossrail Line 1. The works are listed in Schedule 1 and shown on the plans and sections deposited with the Bill. Clauses 1 to 20 (together with Schedules 1 to 9, 13 and 14) set out the mechanisms for authorising and constructing the railway transport system, including: authorising ancillary works; taking temporary possession and compulsory acquisition of land (and interests in land) in connection with the works; compulsory acquisition of land outside the limits shown on the plans and sections or land within the limits but not subject to other powers; the extinguishment of private rights of way over land within the limits of deviation, and within the limits of land acquired and held in connection with the authorised works; the grant of deemed planning permission for development authorised by the Bill; the disapplication of controls relating to historic buildings; the modification of Sections 60 and 61 of the Control of Pollution Act 1974; the prohibition of orders being made in proceedings brought by a person aggrieved by a statutory nuisance, in specified circumstances.
- 4 Clauses 21 to 44 of the Bill establish a regulatory regime for the proposed railway transport system. Clauses 45 and 46 make provision for transfer schemes and nomination of undertakers respectively. Of the miscellaneous provisions in clauses 45 to 59, Clause 47 and Schedule 12 disapply and modify certain statutory controls and Clause 50 applies Section 10(1) Compulsory Purchase Act 1965 (compensation for injurious affection, so that liability for compensation for land injuriously affected by the Crossrail works falls to the nominated undertaker, rather than to the Secretary of State).
- 5 Your Petitioner objects to the following Clauses of the Bill:

- (i) Clause 1 and Schedules 1 and 2

- (ii) Clause 10 and Schedule 7 – Planning
- (iii) Clause 20 – Statutory Nuisance
- (iv) Clauses 6, 7 and 50 and Schedule 6 - Compensation

6 Your Petitioner is the lessee and occupier of property on the ground to seventh floors of 5 Canada Square, Canary Wharf, London E24 ("the property") and carries on business there as an international financial institution.

7 Your Petitioner and its rights, interests and property are injuriously affected by the Bill, to which your Petitioner objects for reasons, amongst others, hereinafter appearing.

8 Your Petitioner objects to the Bill on the grounds that it authorises the scheduled works without making provision for the protection of the rights, interests and property of your Petitioner, either absolutely or compared to others who might be affected.

9 Your Petitioner will be affected by the scheduled works in a number of ways which, without provision being made to protect them, will seriously affect their occupation and enjoyment of the property, and its ability to carry on business from it. The potential prejudice arises in the following ways:

**Clause 1, Schedule 1, Schedule of Works and Schedule 2, Works: further and supplementary provisions**

10 The Petitioner's interests are affected by Works 1/4A-B and fall under a range of categories of impact both during and after construction. Your Petitioner's property is directly affected by the construction of a new station within the current dock area immediately to the property's northern facade. Therefore, for the complete period of the construction of the station the property will be detrimentally affected by the works in terms of noise, vibration and visual amenity. In addition, your Petitioner is concerned regarding the protection of utilities and safety and security.

11 **Construction impacts**

(a) Visual amenity

Your Petitioner is concerned that the proposed construction activities will give rise to significant impacts on the visual amenity of the occupants of the property. The Environmental Statement indicates that site hoarding is proposed to be erected around the worksite, close to the north façade of your Petitioner's property. The hoarding will adversely affect the aspect and light of the lower floors and areas where canteen and gymnasium facilities, general office space and trading floors are located. The hoarding will screen only the lower floors of your Petitioner's property from the construction works. The upper floors of your Petitioner's property will have a direct line of sight into the works, rendering the screens ineffective. The hoardings will also be intrusive to your Petitioner's employees using the leisure facilities and trading floors of the building because of their serious effect on the amount of daylight and sunlight to those floors.

Your Petitioner intends to produce evidence on the effect of the works in terms of visual amenity and seek amendment to the Bill Schedules 1 and 2 to provide for mitigation of these adverse effects in an appropriate manner.

(b) Noise

Your Petitioner's property is directly affected by the construction of a new station within the current dock area to the north of their property. Throughout the whole of the construction period your Petitioner's occupation and enjoyment of the property will be detrimentally affected by noise associated with the works. Your Petitioner operates a trading environment which relies on the ability of its employees to conduct transactions by telephone, often internationally, without interruption or disturbance.

The Environmental Statement (Volume 6a, Appendix B1, Paragraph 3.1.11) acknowledges that noise levels at some properties are expected to exceed recommended levels. Your

Petitioner is concerned at the prospect of high levels of noise emanating from the worksite adjacent to its property. Works will include piling and diaphragm walling rigs, cranes and excavators (Environmental Statement, Volume 2, Paragraph 8.14.20) and as a consequence, will have a substantial impact on Your Petitioner's occupation of the property, creating disruption and nuisance for all and an unfriendly working environment. Construction traffic up to 28 lorries per day (Environmental Statement, Volume 2, Paragraph 18.14.25) will also contribute to the increased noise associated with the works.

(c) Vibration

Although your Petitioner accepts that vibration levels will vary at different times during the course of construction it is essential for your Petitioner's operational requirements that there is continuity of service to their operations. Vibration, even of an intermittent nature, will have a critical effect on your Petitioner's business operations for which the Bill makes no provision as to mitigation. In particular, vibration may cause the protective switchgear to trip unexpectedly causing failure of generators etc. with profound consequences for computer equipment and the sensitive trading floors, where disruption and even short-term disconnections will cause significant economic effects to your Petitioner's business within a very short timeframe.

The proposed driving sheet piles for the temporary cofferdam will cause an unacceptable level of vibration and your Petitioner is concerned that the measures to be employed in this area of hard strata likely to be encountered in the Lambeth clay beds will not be capable of protecting its property and the equipment housed in it to an acceptable degree.

Your Petitioner intends to produce evidence on the effect of the works in terms of vibration and noise and seek amendment to the Bill Schedules 1 and 2 to provide for mitigation of these adverse effects in an appropriate manner, including the creation of a process for monitoring noise disturbance and ensuring that the noisiest activities take place at appropriate hours. In addition, your Petitioner seeks undertakings that strategies for removing and/or reducing the impact of vibration and noise will be agreed with it prior to the relevant construction works taking place, guarantees that such undertakings will be complied with and also requires indemnities in respect of any losses, damages, claims and expenses caused or suffered as a result by vibration and noise.

(d) Radio frequency interference

Your Petitioner is concerned that the danger of inducing radio frequency interference by rotary or percussion piling has been overlooked and will not be addressed. Radio frequency interference is known to cause disruption to electrical circuits and equipment and in extreme cases can lead to loss of load. Such a result could have extreme adverse consequences for your Petitioner if it were to disrupt or prevent trading from their premises.

(e) Disruption to supplies/ utilities

The North Colonnade and Upper Bank Street, which are both close to and used for access to your Petitioner's premises, will be used as utility corridors for the station and possibly for the construction works. The Environmental Statement, Volume 6, Appendix B1 Paragraph 3.1.6 states that where reasonably practicable, fixed items of construction plant should be electrically powered in preference to diesel or petrol driven. The Environmental Statement (at Volume 2, Paragraph 8.14.20) also confirms that activities requiring electricity supplies and equipment, such as using generators and compressors, will take place.

It is of particular concern to your Petitioner that the unregulated use of such electrically powered equipment during the course of construction works may result in a depletion of electricity supply to the property or intermittent surges of electrical activity. Both of these instances would have a detrimental effect on your Petitioner's operations which are of a highly sensitive nature.

A constant and consistent electricity supply is of paramount importance to your Petitioner's operations which are largely computer-based. Any disconnection of the electricity supply or sudden surges, be they intentional or accidental (for example, as a result of accidentally

severed electrical cables), will seriously adversely impact on the trading floors (currently Floors 1 and 2) of the property. Any surge/curtailment of power or temporary disruption to utilities could result in substantial adverse economic effects to your Petitioner. In addition, disruption to or interference with telephone and data lines (whether deliberately or accidentally caused) will cause severe economic loss to your Petitioner by preventing trading.

Your Petitioner intends to produce evidence on the effect of the works in terms of disruption and effects on utilities and seek amendment to the Bill Schedules 1 and 2, to provide for mitigation of these adverse effects in an appropriate manner. Further, your Petitioner seeks undertakings that strategies for avoiding (or, as a far less preferable alternative, reducing) radio frequency interference and disruption to utility services will be agreed with it prior to the relevant construction works taking place and thereafter adhered to. In addition, your Petitioner requires indemnities in respect of any losses, damages, claims and expenses caused by or suffered as a result of such interference and disruption.

(f) Safety and security

Your Petitioner understands that the Docklands area was heavily bombed during World War II and there is still a residual risk of unexploded bombs being present in the area of the proposed works. This is particularly significant in the dock, where tracking of ordinance was not possible from surface craters. The construction works for the new station will involve considerable disturbance to the area in question with the consequent danger of unearthing or disturbing such unexploded devices.

Your Petitioner is concerned that, without proper investigations and safeguards, the works could endanger its employees and property. Even a false alarm could have the effect of disrupting and preventing trading, with serious adverse economic effects to your Petitioner's business.

The Bill makes no provision for adequate measures in terms of pre-excavation site investigation and safety measures to be employed in working in such sensitive areas. The Petitioner seeks amendment to the Bill Schedules 1 and 2 to provide for mitigation of these adverse effects in an appropriate manner and to secure compensation if works do cause disruption to your Petitioner's business.

(g) Privacy

Your Petitioner provides a calm, safe and pleasant working environment for all of its employees. As well as ensuring that the trading floors are as conducive as possible to the type of work carried on there, your Petitioner provides for all of its employees facilities to improve their working day, including a canteen and gymnasium. During the construction of the station and surrounding works, parts of your Petitioner's property are particularly vulnerable to overlooking from the development works. The lower floors of the north façade in particular will be affected. It is these areas which house the catering and gymnasium facilities and which will be overlooked by the construction works. This will infringe the privacy of your Petitioner's employees using the leisure facilities to the detriment of their working environment and well being.

Your Petitioner intends to produce evidence on the effect of the works in terms of privacy issues and seek amendment to the Bill Schedules 1 and 2 to provide for mitigation of these adverse effects in an appropriate manner and seeks an undertaking that a strategy for avoiding the impact of the works on the privacy of its employees will be agreed with them prior to the relevant construction works taking place and thereafter adhered to.

(h) Intrusion of dust etc.

As will be appreciated from the above, your Petitioner relies on sophisticated equipment both to carry out its business and to operate their building. The contamination of trading equipment, such a computer and data systems, will have obvious effects. However, your Petitioner's business will be adversely affected unless measures are imposed on construction

activities which prevent and minimise the escape of dust into systems such as smoke detectors, thereby causing unnecessary alarms and evacuations.

Your Petitioner seeks undertakings that strategies for avoiding (or, as a far less preferable alternative, reducing) the impact of dust and other emissions will be agreed with it prior to the relevant construction works taking place and thereafter adhered to. In addition, your Petitioner requires indemnities in respect of any losses, damages, claims and expenses caused by or suffered as a result of dust and emissions arising from the works.

### **Long-term impacts**

#### **(a) Noise & Vibration**

Your Petitioner accepts that the noise and vibration from the running tunnels and station are expected to be negligible. Nevertheless they seek to include in the Bill provisions to mitigate any adverse long term effects which arise as a result of the eventual operation of the facility.

Your Petitioner seeks amendment to the Bill Schedules 1 and 2 to provide for mitigation of these potential adverse effects in an appropriate manner.

#### **(b) Visual amenity**

The construction of the station is a major intrusion into the surrounding area and, will encroach significantly on the dock area to the north of the property close to your Petitioner's property. A footpath runs along the northern façade of the property which as well as access is used as an amenity area. The proximity and mass of the station building will have a serious deleterious effect on the use of this area which will in effect become a canyon between the station and the property, affecting the natural light available to the area and creating an overbearing and enclosed space which will lose all of its amenity value for the occupants of the property.

The photomontage in the Environmental Statement (Volume 2, page 335) depicts the station with a flat copper roof. Your Petitioner is concerned that a flat roof of this size will result in a significant light reflection on to the north façade of its property and will have an adverse impact in terms of visual amenity and glare on the trading floors and floors above. Furthermore, over a prolonged period of time the copper will discolour affecting the visual amenity even further.

Your Petitioner intends to produce evidence on the effect of the works in terms of visual amenity and seek amendment to the Bill Schedules 1 and 2 to provide for mitigation of these adverse effects in an appropriate manner.

### **13 Clause 1(3)- Deviation from Lines**

Clause 1(3)(b)(1) and (ii) authorise the undertaker to deviate from the level shown for work on the deposited sections to any extent not exceeding 3 metres upwards and to any extent downwards. In connection with the effect of the new station and works to the dock, any such deviation either laterally or vertically would have an increased detrimental effect on the property. Such deviation should therefore not be undertaken without full consultation of those who, like your Petitioner, will be affected and the Bill should be amended to contain a procedure to this effect in Clause 1.

Your Petitioner seeks amendment to Clause 1 of the Bill to provide for an effective consultation period where such deviations are proposed and amendments to Schedules 1 and 2 to provide for mitigation of these adverse effects in an appropriate manner.

### **14 Clause 10 - Planning**

Under this Clause on passing of the Bill the scheme receives deemed planning permission. Schedule 7 sets out the Planning Conditions and Paragraph 6(4) details the terms under which a local planning authority may refuse to approve plans and specifications of any operation or work mentioned in Column (1) of the following table. These terms are

unnecessarily restrictive and fails to offer sufficient protection of your Petitioner's rights, interests and property.

Such a procedure does not permit of any meaningful consideration of the details submitted by the local planning authority or allow for consultation with affected parties, such as your Petitioner, as to the impact of the details on their concerns.

The Petitioner submit that Clause 10 should be amended to include a provision for local planning authorities to carry out consultation with those directly affected by specific submissions to enable full consideration to be given to the imposition of appropriate conditions to mitigate any adverse effects.

**15 Clause 20 - Statutory Nuisance**

This Clause disapplies and provides a defence against proceedings brought by persons aggrieved against statutory nuisance caused as a result of the works.

This would seriously prejudice your Petitioner's rights to the statutory protection afforded by the Environmental Protection Act 1990 and the Bill makes no appropriate provision for persons aggrieved to seek redress against such nuisances.

Your Petitioner seeks an amendment to Clause 20 to provide for a procedure to redress these adverse effects in an appropriate manner.

**16 Clauses 6, 7 and 50 and Schedule 6, Parts 2 and 3 – Compensation**

Your Petitioner is concerned at the scope of provisions within the Bill regarding compensation in respect of compulsory acquisition and other matters. Your Petitioner submits that these provisions are inadequate to compensate it for the loss, damage and inconvenience which it may suffer as a result of the construction and subsequent use of the proposed railway system. Your Petitioner seeks further provision within the Bill for indemnifying your Petitioner against any loss caused by the adverse effects of the proposed works, particularly during the construction period.

Your Petitioner is particularly concerned at the lack of provisions in the Bill position in relation to compensation where no interest is acquired in your Petitioner's premises. Although the building and your Petitioner's occupation and enjoyment of it may be adversely and injuriously affected by the proposed works and the operation of the railway system, the compensation provisions within the Bill will be inadequate and do not address the potential damage, cost and loss which might be suffered by Your Petitioner (see further below).

Your Petitioner humbly submits that provision should properly be made in the Bill to enable your Petitioner to recover its reasonable expenditure including the full costs of making good any damage to its equipment and premises, the full cost of any works undertaken by your Petitioner in mitigation of the proposed works and your Petitioner's costs in co-operating with the promoter during the project, including the costs incurred by your Petitioner in engaging consultants and other third parties to act on its behalf. Your Petitioner further humbly submits that the Bill should be amended to include general and specific provisions to compel the promoter to indemnify owners and occupiers of affected properties from claims and demands made in consequence of the construction, use or maintenance of the works or any act or omission of the promoter and the nominated undertaker (including their contractors and agents).

**17 Proportionality**

Your Petitioner's interests are not the subject of compulsory purchase under the Bill. Nevertheless, their interests are considerably affected by its provisions. It is the Petitioner's view that people and organisations such as themselves who are affected by the works should be treated under the principles of proportionately in terms of the treatment afforded to the owners of interests in land.

Your Petitioner seek amendment to the Bill to provide for the provisions of the Bill and the implementation of the works to be governed by such principles of proportionality.

- 18 For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended as proposed above, so far affecting your Petitioner, should not be allowed to pass into law.
- 19 There are other clauses and provisions of the Bill, which, if passed into law as they now stand will prejudicially affect your Petitioner and its rights, interests and property 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 now stands and that it 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 in support of such other clauses and provisions as may be necessary or expedient for their protection, or that such other 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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