

**HOUSE OF COMMONS  
SESSION 2005-06**

**CROSSRAIL BILL  
PETITION**

**Against the Bill - Praying to be heard by Counsel, etc.**

**TO THE HONOURABLE THE COMMONS OF THE UNITED KINGDOM OF  
GREAT BRITAIN AND NORTHERN IRELAND IN PARLIAMENT ASSEMBLED.**

**THE HUMBLE PETITION of BRB (RESIDUARY) LTD**

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. By Clause 46 of the Bill it is proposed that the Secretary of State ("the Promoter") may by Order (inter alia) provide that a person specified in the Order shall be the Nominated Undertaker ("the Nominated Undertaker") for such purposes of such provisions of the Bill as may be so specified and by Clause 1 of the Bill it is proposed that the Nominated Undertaker should be authorised to construct and maintain the works specified in Schedule 1 of the Bill ("the Works") and that Schedule 2 which contains further and supplementary provisions about works should have effect.
3. By Clause 5 of the Bill it is proposed that Schedule 5 to the Bill which contains provisions about temporary possession and use of land for the purposes of the Bill

should have effect. By Clause 6 of the Bill it is proposed that the Secretary of State should be empowered to acquire compulsorily land within the limits of deviation required for the Works within a period of five years from the date on which the Bill is passed (subject to further extension) and by Clause 7 of the Bill to acquire land outside those limits for the purposes more particularly specified therein.

4. The Bill applies certain provisions of the Compulsory Purchase Act 1965. It also incorporates certain provisions modifying that Act and the provisions of various statutory measures relating to the compulsory acquisition of land and the basis of compensation therefor.
5. Your Petitioners are a company registered in England under Company Registration No 4146505 the whole of the issued share capital of which is vested in the Secretary of State for Transport. Following the Transport Act 2000 part of the undertaking of the former British Railways Board was vested in your Petitioners, together with a number of assets, liabilities and historical obligations. That part of the undertaking vested in your Petitioners included some 3,650 structures including bridges, viaducts, culverts, retaining walls and tunnels in respect of which your Petitioners have a statutory responsibility to maintain in a safe condition. In addition (amongst other assets) there were vested in your Petitioners substantial numbers of parcels of freehold land and buildings both let and vacant, including former railway yards and sidings, station buildings, plots of amenity land, many of which were considered to have redevelopment potential and included within which are a number of sites in operational use.
6. Your Petitioner's functions as a company relating to these properties are to:-
  - 6.1 Handle the sale of freehold properties, including clawback arrangements and to manage them in the meantime on normal commercial estate management terms.
  - 6.2 Handle the sale of leasehold interests.
  - 6.3 Manage and maintain the property records and to deal with enquiries relating

to properties owned and sold by your Petitioners.

6.4 Carry out specific projects and repairs.

7. Your Petitioners further act in accordance with Directions and Guidance from the Secretary of State as to the manner in which they should exercise and undertake their functions and in particular your Petitioners are charged with responsibility to take decisions to dispose of their land in the context of their strategies, to avoid taking a short-term view in assessing whether there is a realistic prospect of rail or other transport use in the foreseeable future and to make decisions as to the disposal of land or interests in land only after the potential of sites has been evaluated in a rigorous way taking into account their views of any property advisory group that may be constituted in this respect.
8. Your Petitioners apprehend that the Promoter has identified 42 sites vested in your Petitioners in which your Petitioners are interested as owners or occupiers or the holders of rights and which are liable to be affected by the provisions of the Bill and which may be liable to acquisition for the purposes of the Works.
9. Following the Railways Act 1993 and the Rail Transfer Scheme made by the British Railways Board under the terms of Section 85 of that Act the British Railways Board entered into detailed agreements ("the Demarcation Agreements") with Railtrack Plc in relation to each and every site remaining vested in the Board the purpose of which was to identify or define the property rights and liabilities to be transferred to Railtrack Plc or to be retained by the British Railways Board in connection with such sites. Accordingly the Demarcation Agreements deal with rights of way, service media easements, easements for repair and maintenance, diversion of easements, operation of utilities, rights of entry and mines and minerals beneath the land and all such rights, obligations and duties were underpinned by legal covenants made between the parties to such agreements. Following the Transport Act 2000 as aforesaid the elements of the undertaking of the British Railways Board assets, liabilities and historical obligations, including those comprised in the Demarcation Agreements were accordingly vested in your Petitioners at that time.

10. Your Petitioners apprehend that the effect of the provisions of Clauses 1 and 46 of the Bill if enacted would be that the construction and maintenance of the Works on or in land acquired for that purpose would be undertaken by the Nominated Undertaker. The power by which the Secretary of State may by order appoint the Nominated Undertaker will only arise in the event that the Bill is passed into law and receives the Royal Assent. Your Petitioners are therefore not in a position to negotiate with or ensure that the Nominated Undertaker has fully accepted your Petitioner's obligations under the terms of the Demarcation Agreements in relation to any land or interests taken. Whilst your Petitioners therefore support the Bill and its objectives they submit that Parliament should in considering and approving the Bill so amend it as to provide that the Nominated Undertaker should in relation to any land or interests in land acquired from your Petitioners under the powers proposed to be authorised by the Bill be obliged to accept responsibility for, undertake and indemnify your Petitioners in respect of any liabilities or obligations contained in the Demarcation Agreements relating thereto.

11. In addition to their concern as to their liabilities and obligations under the Demarcation Agreements your Petitioners apprehend that in relation to certain of their properties where it is proposed that only part of the relevant properties or rights benefiting the properties are liable to be acquired their retained land will be in consequence adversely affected. Your Petitioners are concerned that in those circumstances there appear to be no obligations proposed to be imposed upon the Nominated Undertaker in the Bill to ensure that it takes all necessary steps to carry out appropriate works or operations so that both during and following completion of the Works your Petitioners said retained land enjoys the benefits of the same rights, easements, quality of access and amenity as the same does now and in particular (inter alia):-

11.1 In relation to your Petitioner's property at Porchester Road, Paddington, London your Petitioners would submit that the Nominated Undertaker should be obliged to maintain the vehicular accessway serving their said property at all times both during and after the construction of the Works

11.2 In relation to your Petitioner's property at Iver in Buckinghamshire the

Nominated Undertaker should be obliged to ensure that both during and after construction of the Works satisfactory alternative vehicular access is provided to your Petitioner's retained land, such access being to the same standard in every respect as that currently enjoyed

12. There are divers other clauses and provisions in the Bill prejudicially affecting the rights and interests of your Petitioners and other clauses and provisions necessary for their protection and benefit are omitted therefrom.
13. The Preamble of the Bill so far as it relates to the matters aforesaid is untrue and incapable of proof.

YOUR PETITIONERS THEREFORE HUMBLY PRAY your Honourable House that the Bill may not pass into law as it now stands and that they may be heard by themselves, their Counsel or Agents against the Preamble of the Bill and if the Preamble should pass against the clauses thereof and in support of such other clauses and amendments as may be necessary or proper for their protection and benefit.

AND YOUR PETITIONERS will ever pray, &c.

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**AGAINST,  
BY COUNSEL, &C.**