

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2005-06

CROSSRAIL BILL

Against the Bill – On Merits –
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
THE REVEREND CHRISTOPHER MARK BURKE
THE RECTOR OF THE PARISH OF ST DUNSTAN AND ALL SAINTS,
STEPNEY

SHEWETH as follows:

1. A Bill (hereinafter referred to as “the Bill”) has been introduced and is now pending in your Honourable House entitled “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, Mr Secretary Hain, Secretary Alan Johnson, Secretary Tessa Jowell, and Derek Twigg.
3. Your Petitioner, the Rector of the Church of St Dunstan’s and All Saints, Stepney (hereinafter referred to as “St Dunstan’s”), is the present incumbent of the parish, collated by the Bishop of London on 21st March 2002. As such, he has legal responsibility under Canon Law for

safeguarding the rights and interests of the parish of St Dunstan's and All Saints, Stepney, and, by virtue of his collation, has the freehold of the building of St Dunstan's Church and the surrounding churchyard.

4. He was, moreover, the addressee of the Notice to Owners, Lessees and Occupiers (Notice No. 7302) dated 6th April 2005 sent by Winckworth Sherwood (Parliamentary Agents) on behalf of the promoters of the Bill. That Notice recognises your Petitioner's interest, as the incumbent of St Dunstan's, as the owner / occupier of the property therein referred to. Schedule A to that Notice specifies four numbered plots on the plan (441, 997, 994 and 412) as set out in the Book of Reference for the Bill. Those numbered plots are referred to in Schedule B to the Notice as being plots in respect of which the Bill would authorise the compulsory acquisition of the subsoil and undersurface of the property at a depth of more than 9 metres, and of any easements or rights in that subsoil or undersurface.
5. Your Petitioner and his rights, interests and property are injuriously affected by the Bill, to which your Petitioner objects for reasons, amongst others, hereinafter appearing.
6. Your Petitioner does not object to the principle of the Bill, but does object to the proposed routing of three out of four tunnels beneath the curtilage of St Dunstan's, and thus to the proposed compulsory acquisition of the subsoil and undersurface of plots 441, 997, 994 and 412 as set out in the Book of Reference for the Bill, to which clause 6 of the Bill (acquisition of land within limits shown on deposited plans) and Schedule 6 to the Bill relate. Para 11(1) of Schedule 6 (Part 3 – Supplementary Provisions) contains express reference (under "London Borough of Tower Hamlets") to plots 441, 997, 994 and 412.
7. The origins of St Dunstan's go back to Saxon times. It is thought that the first (wooden) church was built sometime between St Augustine's conversion of the English in the 6th century and 952, when a second church

was erected on the site by St Dunstan. The second church may well have been built of stone, with, perhaps, part of it old Roman rubble.

8. The first mention in documents of a church in Stepney dates from 1154. This church (the present church) may plausibly be linked to the earlier foundations. First, St Dunstan as Bishop of London held Stepney manor. Secondly, although no part of the present structure is Saxon, a 10th century stone relief panel of the Crucifixion has survived and is located under the east window.
9. Although much restored over the centuries, St Dunstan's is essentially a medieval Gothic church, with a 13th century chancel and a 15th century nave, aisles and tower. Its foundations are medieval, dug by hand, and are estimated to be unlikely to exceed some 6-8 feet in depth. The tower, added to the medieval church some two centuries later, is massive. The church's inspecting architect (Julian Harrap Architects) considers that the tower is over-heavy for the medieval foundations. St Dunstan's is, therefore, particularly susceptible to any subsidence.
10. St Dunstan's is known as the "mother church of the East End" being the first Parish Church in East London (some 53 parishes came out of that one parish). It is closely associated with the history of the City of London and the East End - for example, John Colet (1467-1519), later Dean of St Paul's, was Vicar of Stepney between c.1500 and 1504. During the Great Plague (1665-1666) it buried some 6,500 victims from the insanitary and overcrowded riverside hamlets within its curtilage. St Dunstan's is linked to three City guilds local to Stepney: the Mercers, the Vintners and the Coopers. It was the parish church of the British seagoing empire and still retains its links with the Merchant Navy.
11. St Dunstan's is a Grade I listed building. The listing covers the church itself, the churchyard, the old mortuary and the surrounding railings, which together comprise the church curtilage. St Dunstan's thus bears some comparison, in historical and/or architectural terms, with other Grade I

listed buildings such as the Tower of London and King's College Chapel, Cambridge. Parts of St Dunstan's predate the White Tower at the Tower of London.

12. The planned route for the Crossrail tunnels is such that St Dunstan's is within the predicted influence zone of two pairs of running tunnels, because the junction point for the Pudding Mill Lane tunnels and the Abbey Wood tunnels is located immediately to the west of St Dunstan's. The Pudding Mill Lane tunnels pass either side of the church building at distances of between 7.5 metres and 44.8 metres. The Abbey Wood tunnels pass to the south of the church building at distances of between 14.1 metres and 99.1 metres. In consequence, three out of the four tunnels will pass beneath the curtilage of the church (diagram annexed). The tunnels are planned to be at depths between 24.8 metres below ground level and 36.4 metres below ground level. However, clause 1(3)(b)(i) of the Bill permits the nominated undertaker to deviate vertically from the level shown for that work on the deposited sections "to any extent not exceeding three metres upwards".
13. The promoters of the Bill therefore propose the compulsory acquisition of the subsoil and undersurface of plots 441, 997, 994 and 412 as set out in the Book of Reference for the Bill, by virtue of the inclusion of reference to those plots in para. 11(1) of Part 3 (Supplementary Provisions) of Schedule 6 to the Bill.
14. Your Petitioner objects to the proposed routing because of the risk of irreparable damage to St Dunstan's should the tunnelling or subsequent vibrations cause subsidence, and because of the wider environmental and health risk that may arise from the potential disturbance of the plague pits known to be located within the curtilage of the church.
15. Your Petitioner attended a meeting with Andrew Fletcher of Crossrail and Professor Anthony Mair of Cambridge University on 20th October 2004 at which Crossrail sought to convince him, and members of the Parish

Council, that the risk of damage to the church from the proposed tunnelling was so slight that it could safely be disregarded. It was suggested that, should subsidence occur and provided that subsidence was uniform, little or no damage to the church was likely to result. Crossrail has offered to indemnify your Petitioner for any damage that he can prove has been caused by tunnelling operations.

16. Your Petitioner remains gravely concerned. The models used to generate the predictions on which Crossrail's assurances are based are models intended to generate predictions for the effects of tunnelling on modern buildings, with modern foundations. St Dunstan's has medieval foundations that are known to be barely adequate to support the later addition to the building, in the 15th century, of a massive tower. (The Listed Building Assessment prepared by Mott MacDonald for Crossrail London Rail Links Ltd itself recognises that, although the predicted damage is classified as "very slight" – "category 1", "the presence of the tower makes this structure particularly sensitive to differential movements".) Were damage to be caused, it might well, in the true sense, be irreparable. If a medieval Gothic church collapses or becomes so structurally unsafe that it has to be demolished, it cannot be replaced. Furthermore, the terms in which the indemnity is presently offered would require the parish to incur substantial costs, which it cannot afford, in proving the required causative link between tunnelling and structural damage.
17. Your Petitioner also objects to the proposed routing of the tunnels under the curtilage of St Dunstan's on wider grounds. The parish records show that, during the period the Great Plague (1665-1666), some 6,500 plague victims were buried in plague pits within the curtilage of the church. There are at least two such plague pits, and there may be more. No precise records were kept as to their exact location (possibly because of the suddenness, scale and intensity of the disaster). It is known that it is possible for the vectors that carry epidemic diseases such as bubonic

plague to survive in potentially active form for considerable periods of time. Archaeological practice guidance therefore requires the use of protective clothing and equipment when investigating or excavating sites where there is a known or potential risk of continuing contamination.

18. Your Petitioner is therefore concerned, both as to the wider environmental and health risks that would arise for those involved in the tunnelling and the local community, and as to his potential legal liability as the incumbent of the parish from whose land such contamination would, albeit against his will, be released.
19. Your Petitioner therefore requests that Schedule 6 to the Bill be amended so as to route the proposed tunnels other than beneath the curtilage of the Parish Church of St Dunstan and All Saints, Stepney and its Churchyard, and that, accordingly, the references to plots 441, 997, 994 and 412 within para. 11(1) of Schedule 6 to the Bill, that presently permit the compulsory acquisition of the subsoil and undersurface of those plots, as identified therein and set out in the Book of Reference for the Bill, be deleted from the Bill.
20. In consequence of his objection to the proposed routing of the tunnels, your Petitioner also objects to clause 15 of, and Schedule 8 to, the Bill (which disapply or modify, in relation to authorised works, the statutory controls relating to listed buildings), and clause 48 of, and Schedule 13 to, the Bill (which permit the removal of human remains and monuments from burial grounds) inasmuch and insofar as those provisions include reference to St Dunstan's or may be deemed to apply to St Dunstan's.
21. Your Petitioner fears that the protection which St Dunstan's enjoys as a Grade 1 listed building will literally be undermined by disapplying the statutory controls and protection deriving from that listing.

22. Your Petitioner therefore requests that the reference to St Dunstan's in para. 2(2) of Schedule 8 (Heritage: disapplication and modification of controls) be deleted from the Bill.

23. Your Petitioner similarly fears that tunnelling below the curtilage of St Dunstan's may result in the inadvertent disturbance of human remains within the graveyard and / or in the plague pits known to be located within the curtilage of St Dunstan's and described above. By its very nature, such disturbance would be likely to occur without there being any, or any adequate, compliance with the detailed safeguards contained in Schedule 13 to the Bill. Under the Bill as presently drafted, therefore, it appears that such disturbance would be unlawful; but it is unclear what (if any) redress would be available, and / or whether such redress would, in all the circumstances, be appropriate.

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 he may be heard by himself Counsel or Agent against the clauses and provisions of the Bill and so much of the Bill as affects the rights and interests of your Petitioner and in support of other clauses and other provisions for his protection and that such other relief may be given to your Petitioner as to your Honourable House may seem meet.