

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:

TARMAC 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 21 to 44 of the Bill together with Schedule 10 make provision for the application with modifications and the disapplication in part of the existing railways regulatory regime which is contained in and in arrangements made under the Railways Act 1993 and associated legislation. In particular, they provide for the disapplication of licensing requirements, the imposition of special duties on the Office of Rail Regulation ("ORR"), the modification of railway access contract and franchising arrangements and the disapplication of railway closure requirements and of the need for consent from Transport for London in relation to impacts on key system assets. Provision is also included to enable agreements to be required as between the nominated undertaker and controllers of railway assets, to govern the basis for arbitration and to provide for the transfer of statutory powers in relation to railway assets.

5 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 their properties

6 Your Petitioners are Tarmac Limited a registered Private Limited Company (Company No. 00453791). The Company is the largest provider of aggregates and asphalt in the United Kingdom and a leading producer of ready mixed concrete and concrete products. Your Petitioners supplied more than 2 million tonnes of aggregates, either as unbound materials or in asphalt or concrete, for use in construction work in the greater London area in 2004 and expect that amount to grow in 2005. A substantial proportion of this tonnage is either brought into London or transported across London by rail. Your Petitioners' Registered

Office is at Millfields Road, Ettingshall, Wolverhampton, West Midlands, WV4 6JP.

- 7 Your Petitioners own or have an interest in the following properties which are subject to compulsory acquisition or use under the Bill:

LONDON BOROUGH OF HILLINGDON

Parcels: 251

Property: Hayes

Description: Railway siding, works and land

CITY OF WESTMINSTER

Parcels: 7, 25 and 27

Property: Paddington New Yard

Description: Concrete batching plant, conveyor belts, offices, depot, yard, tank, parking area and premises.

LONDON BOROUGH OF NEWHAM

Parcels: 316

Property: Bow Midland East Yard and Pudding Mill Lane

Description: Depot, concrete batching plant, offices, workshops, conveyor belts, compounds, land and premises.

- 8 Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioners object for the reasons amongst others, here stated.

Your Petitioners' concerns

- 9 Your Petitioners are not opposed in principle to the construction of the new railway transport system for which the Bill provides, but are greatly concerned as to the impact that the works and system will have on their business and property. The scheduled works will detrimentally interfere with and affect the property and apparatus of your Petitioners at three locations in particular (Hayes, Paddington and Bow) of which the properties mentioned in Clause 7 forms all or part.
- 10 The plants at these locations are important elements of a strategic network of sites located throughout London and the surrounding area. The network is specifically organised to serve areas of infrastructure and other development where your Petitioners' products are required, whilst at the same time mitigating the impacts of transporting raw material aggregates and finished products to and from the plants. Locations of the plants are selected wherever possible so that they can be served by rail thereby reducing the need for road based transport, particularly in urban areas.
- 11 As a result the network makes an important contribution to the supply of aggregates and aggregate products in a manner consistent with sustainable development policy. In this respect it is in accordance with national policy for aggregates supply, set out in Mineral Planning Policy guidance notes 1 and 6 (MPG1 and MPG 6) and the current draft Minerals Planning Policy statement 1 (MPS1). The network also contributes to achievement of the aims of your Petitioners' published Environmental Policy which states, inter alia, "Tarmac aims to achieve world-class performance in environmental practice and minimise the environmental impact of all its operations, preventing pollution and striving for continual improvement in its environmental performance whilst working towards more sustainable operating practices."

- 12 Your Petitioners are concerned that the effect of the Bill will be to shut down either permanently or for the long term two plants (at Hayes and Paddington New Yard) which are served by rail. This will result in the transfer onto road of very significant volumes of HGV traffic to meet the local demand. If aggregate rail traffic were displaced onto the roads, this would create severe environmental impacts, including those of emissions, noise, vibration and congestion effects. Furthermore the enforced closure of the site at Bow which is sourced predominantly by dredged aggregate material brought in from nearby Greenwich and which serves the current and burgeoning development in East London, would also be likely to result in substantially increased road based transport to meet demand. It would also impact upon an important part of your Petitioners' current and future business.
- 13 Your Petitioners respectfully suggest that such an effect would be contrary to the Government's policy generally on sustainability issues and would unfairly impact upon your Petitioners' interests.
- 14 Your Petitioners are also concerned that, in respect in particular of the sites at Hayes and Bow, the Promoter has failed to consult with them during preparations for the Bill's promotion and has taken insufficient steps to consider ways in which the impacts occasioned by the Bill's proposals upon your Petitioners' business may be mitigated. This concern applies both on a site specific basis and, more generally, in terms of the overall impact of the proposals on your Petitioners' network. They are also concerned at the failure to consult the industry generally upon the issue of the reduction of capacity for rail freight services and its displacement by planned Crossrail services.
- 15 Your Petitioners have responded on two occasions (17 May and 8 July 2005) to the invitations by the Government to comment upon the Environmental Statement and the Supplementary Environmental Statement relating to the Bill, raising various concerns, including those mentioned above. Your Petitioners are disappointed not to have received an acknowledgement nor response to the points they have raised nor to have been involved earlier in the process of assessment of environmental effects of the proposals contained in the Bill.

16 In particular therefore your Petitioners object to the Bill on the grounds that it does not afford sufficient safeguards against:-

- (a) interference with the continued and continuous operation of plants, access roads and rail sidings used in the daily operation of their business at Hayes and Paddington by reason of the works to be carried out at these locations;
- (b) interference with the delivery of aggregates by rail to the sites at Hayes and Paddington, and other sites of your Petitioners in greater London that rely upon the delivery of aggregates by rail, as a result of the impact of the Bill upon the capacity of the rail network to carry freight during both the construction and operation of Crossrail; and
- (c) interference with the continued and continuous operation of the plant and access roads used in the daily operation of the site at Bow

as a result of which your Petitioners will suffer loss of business, continued blight on business development and greatly increased financial and environmental costs in the receipt and delivery of aggregates and aggregate products. Moreover, the delivery of aggregate and aggregate products into greater London will, as a result of the proposals in the Bill, be undertaken in a less environmentally sustainable manner than at present.

17 Your Petitioners consider it imperative that the powers proposed to be conferred by the Bill should only be exercised so that there is no interruption or interference to the operation of its business as it is currently structured. If, however, interruption or interference is inevitable then your Petitioners respectfully request that any such interruption or interference should be kept to an absolute minimum and that;

- (a) your Petitioners should be fully compensated for all losses, costs and expenses incurred and suffered as a result; and
- (b) given the scarcity of suitable alternative sites (in particular those with rail links) the Promoter should be required to find and provide suitable

alternative sites with similar capacity and locations to enable your Petitioners' strategic network to be maintained.

- 18 Your Petitioners wish to be satisfied that there will be no disruption to statutory services provided to Hayes, Paddington New Yard or Bow Midland East Yard as a result of the construction of the proposed works. In your Petitioners' submission a co-ordinated programme of works to services leading into Hayes, Paddington New Yard or Bow Midland East Yard needs to be established by the Promoter and the details provided to your Petitioners, to prevent a succession of statutory undertakers' works to and reinstatement of Hayes, Paddington New Yard or Bow Midland East Yard.

Site Specific Concerns

Hayes

- 19 The Hayes site, located directly adjacent to the Great Western Main Line, houses two major asphalt plants and associated works. The site also operates as a depot for the supply of unbound aggregates and for the recycling of used road surfacing materials and construction and demolition waste. Your Petitioners sold more than 525,000 tonnes of aggregate and asphalt from the site in 2004 and based on the annual growth in sales over the past five years, expect sales to exceed 600,000 tonnes in 2005. The site is currently supplying a number of major projects in and around London, including the widening of the M25 and Heathrow Terminal 5 Spur Road. Supplies will be made from Hayes to the widening of the M1, commencing in 2006. The site is also strategically placed for the supply of raw materials to the further widening of the M25, work that is due to start in 2008 with an expected duration of 6 years. The future strategic importance of the Hayes site for supplies to similar major infrastructure projects is very significant.
- 20 In addition, Hayes supplies materials for road works throughout the London Boroughs, as well as to general construction customers. The site can accept deliveries of aggregates, operate its production processes and despatch finished products on a 24 hours a day, 7 day a week basis. This operational flexibility is essential to service major construction contracts such as those described above and for supplies to road works in the London Boroughs.

21 Your Petitioners are very concerned that the compulsory acquisition of the siding which provides rail access to the Hayes site, thus removing all rail access to the site, will render the site incapable of continuing to receive and supply aggregates and aggregate products at anything approaching current levels in a sustainable manner. The site does not have sufficient space or unloading capacity to accommodate the 20,000 extra lorry deliveries that would need to serve the site if it were not possible to receive deliveries via rail. Nor has the Promoter given consideration to the environmental effects of the 40,000 additional heavy goods vehicle movements that such deliveries would necessitate each year. The proposals in the Bill will therefore have the effect of seriously damaging the viability of the site and force onto the road network a very significant volume of heavy goods vehicle traffic which should be kept on the rail network.

22 If agreements to maintain full rail access to the Hayes site (in terms of both site infrastructure and rail network capacity to continue aggregate deliveries) cannot be reached with the Promoter your Petitioners apprehend that the plant would have to close.

23 Your Petitioners submit that in view of the importance of Hayes to the effective supply of aggregates and aggregate products to London and surrounds, the Bill should be amended to :-

- (a) leave the rail sidings and off-loading equipment intact and to ensure that there is adequate rail network capacity to provide train paths to serve them, so that present plant capacity is maintained;
- (b) ensure that if new facilities at Hayes are required to achieve this objective, they should be constructed by the Promoter at his expense, be fully commissioned and available for use and assigned to your Petitioners before the existing facilities are removed; and
- (c) provide for the Promoter to pay compensation for any business disturbance and interruption caused whilst the works are carried out.

Your Petitioners respectfully submit that in the event that full rail access to the Hayes site cannot be maintained, so that at least the current capacity for rail borne

deliveries of aggregate to Hayes cannot be continued (either because there is no room for alternative equipment and/or there will be inadequate train paths available), the Promoter should find and provide your Petitioners with an alternative rail linked site of equivalent utility (in terms of capacity and hours of operation) and so located that it can serve the market presently served by Hayes. Your Petitioners respectfully request that the Promoter should pay the full cost of relocation, including compensation for any consequential business disturbance and interruption.

Paddington New Yard

24 Your Petitioners currently have aggregates delivered to Paddington by rail direct to the concrete batching plant for mixing and for onward delivery by road to construction sites. The Paddington site is significant for the supply of concrete to central London construction projects, being the closest plant to the West End. Not only is it therefore of considerable business importance to your Petitioners, but it is strategically significant in the supply of construction materials for London's development. Your Petitioners submit that in view of the importance of Paddington to the supply of concrete to development projects in central London, the Bill should be amended to :-

- (a) leave the concrete plant and related rail sidings and off-loading equipment intact and to ensure that there is adequate rail network capacity to provide train paths to serve them, so that present plant capacity is maintained;
- (b) ensure that if new facilities at Paddington are required to achieve this objective, they should be constructed by the Promoter at his expense, be fully commissioned and available for use and assigned to your Petitioners before the existing facilities are removed; and
- (c) provide for the Promoter to pay compensation for any business disruption caused whilst works are carried out.

25 Your Petitioners submit that in the event that the Paddington site cannot be maintained with full rail access that provision should be made for the Promoter to

find and provide your Petitioners with an alternative rail linked site of equivalent utility (in terms of capacity and hours of operation) and so located that it can serve the market presently served by Paddington and should pay the full cost of relocation, including compensation for any consequential business disturbance or interruption.

- 26 Whilst your Petitioners believe that the Promoter intends to make the Paddington site available at the end of the construction of the works authorised by the Bill and return it to them, your Petitioners apprehend that constraints imposed by the works will restrict the size of site available, potentially affecting the viability of operations and providing restricted access by rail due to foreshortened sidings. Your Petitioners respectfully request that the Promoter should be required to reinstate a viable site equal to its previous capacity and that they should be compensated for any restriction in capacity which flows directly as a result of the works.

Bow Midland East Yard and Pudding Mill Lane

- 27 The Promoter proposes to use the Bow Midland site for stockpiling of the tunnel support structures and related materials and for the removal of material excavated from the Pudding Mill Lane tunnel portal and work site. Your Petitioners currently produce ready mixed concrete using approximately 170,000 tonnes of aggregates per year at the site which represents a substantial and an increasing volume of business. It is anticipated that this will increase significantly particularly as a result of the developments at Stratford City and Stratford International station and the successful bid of the 2012 Olympic Games. The proposed works will result in the temporary long term loss of this site. The proposed works will also result in permanent loss of the access afforded by Pudding Mill Lane. Accordingly adjusted site access arrangements will need to be provided if the site is to remain operational following completion of the works. In view of the importance of the Bow site for supplies of concrete to development projects in east London and its importance in your Petitioners strategic network it is submitted that the Bill be amended to require the Promoter find an alternative site for depositing spoil and stockpiling the tunnel support structures and related materials.

- 28 In the event that no such alternative site can be found your Petitioners submit that the Promoter should find & provide them with an alternative site of equivalent utility (in terms of capacity and hours of operation) and so located that it can serve the market presently served by Bow and should pay the full cost of relocation, including compensation for any consequential business disturbance or interruption.
- 29 Your Petitioners respectfully point out that the land at Bow Midland East Yard is proposed to be used for a temporary worksite. It will be required for the construction of the works and not permanently. Your Petitioners maintain that permanent compulsory acquisition of the land is therefore not justified, and that parcel 316 should be moved from schedule 6 to the Bill (acquisition of land shown within limits on deposited plans), to schedule 5 to the Bill (temporary possession and use of land).

Capacity

- 30 Your Petitioners are concerned that the Promoter's proposed Crossrail services will displace existing rail freight services in favour of Crossrail services and prevent future rail freight service growth through lack of network capacity which will negatively impact on the current and future rail served and rail dependent business of your Petitioners. There is also concern that it will create congestion on the rail network further exacerbating existing congestion. Your Petitioners respectfully submit that the Bill should not be allowed to pass into law without making provision for additional network capacity for the proposed Crossrail services or appropriate compensation to those impacted by the loss of network capacity.

Generally

- 31 As a general matter, 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.

32 There are other clauses and provisions in the Bill which, if passed into law as they now stand, will prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners.

Conclusion

33 Your Petitioners submit that the Bill fails adequately to safeguard and protect the interests of your Petitioners and of their related companies and 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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