

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2005–06

CROSSRAIL

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:

FERROTEC (UK) 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 property

6 Your Petitioner is Ferrotec (UK) Limited (“Ferrotec”), a subsidiary of Ferrotec (USA) Corporation (“the parent company”). Ferrotec is a limited company and the owner of the leasehold premises which it occupies for the purposes of its business.

- 7 Your Petitioner administers the European office of a major and world-recognised organisation which operates (amongst other things) as a leading producer of critical components and ferrofluids (or magnetic liquids) for products required (inter alia) for the medical, military, commercial and automotive industries.
- 8 These products are technically highly sophisticated, and are designed and engineered for specialist industries dealing in the development of nuclear, x-ray, fibre optics and chemical materials and technology. In recent years, following successful mergers with certain overseas companies, your Petitioner has diversified into non-ferrofluid based products such as thermoelectric modules (which are a form of semi-conductor) used in a wide range of cooling and heating applications in essential biomedical instruments and in industrial and electrical equipment.
- 9 A major activity of your Petitioner includes the sales, promotion and advising on the purchase and development of high technology products manufactured by the parent company and licensees. Your Petitioner also fulfils an important role in the completion of research, engineering and development of high-tech custom and specialty products to vital industries on a contract basis. Your Petitioner administers this business from headquarters in Woolwich, London, which also incorporates distribution facilities.
- 10 Your Petitioner owns a leasehold interest in property located close to the proposed railway, at Royal Arsenal Estate, near corner of Skeffington Street and Cornwallis Road, Woolwich. The property lies within the London Borough of Greenwich and is numbered 38 and 45 on the deposited plans (hereinafter referred to as "your Petitioner's property").
- 11 Your Petitioner's property is located on the east side of Cornwallis Road. It comprises the main research, sales and administrative facilities for the business. This includes a lorry dock facility for product distribution. Access to the site is obtained solely from Cornwallis Road. Transport traffic (including

pedestrian and vehicular activity) by employees and contractors to the premises is considerable.

Your Petitioner's concerns

- 12 Your Petitioner supports the concept and desirability of an East-West rail link between Maidenhead and Shenfield, and the improvement of public transport provision in London and the surrounding areas, and is therefore supportive of the Bill in principle.

- 13 Your Petitioner is, however, most apprehensive of the provisions of the Bill as they may affect your Petitioner's property. For this reason, and having regard to the more detailed particulars referred to below, your Petitioner objects to the Bill and its provisions hereinbefore referred to and it alleges and is prepared to prove that its property, rights and interests are injuriously and prejudicially affected by the Bill for the reasons (amongst others) hereinafter appearing.

Compulsory purchase and related matters

- 14 The Bill provides for a number of works which are set out in Schedule 1 to the Bill, including the development of an underground railway (Work Nos. 1/6A and 1/6B). This includes the construction of a ventilation and emergency access shaft near Arsenal Way (known generally and hereinafter referred to as "the Arsenal Way Shaft"). Your Petitioner is concerned that the Promoter seeks to acquire compulsorily part or all of the car park facility (parcel numbers 38 and 45 on the deposited plans) and the associated lorry dock premises for the provision (inter alia) of a worksite, access, replacement car parking and diversion of public utilities apparatus (for duration of three and a half years) and, thereafter, for the permanent erection of the Arsenal Way Shaft.

- 15 The proposals contained in the Bill and associated documentation provides for:
 - (a) The compulsory acquisition of the car park site;
 - (b) The establishment of a worksite on the car park site;

- (c) The use of the Plot for access, replacement car parking and diversion of utilities' apparatus;
- (d) The construction of the Arsenal Way Shaft and two ancillary buildings with an above ground height of 8 metres each.

16 Your Petitioner objects to the provisions of Clause 6 of the Bill, which it apprehends will adversely affect and interfere with its property. Under these provisions, and those in Clause 7, the Promoter would be able to acquire compulsorily your Petitioner's property falling within the limits of deviation, or at least so much of the subsoil and undersurface thereof or such new rights therein, under or over as they may require for the purposes of the construction and use of the proposed works.

17 The proposed compulsory acquisition of your Petitioner's property will have a severe and detrimental effect on the business of your Petitioner which your Petitioner apprehends is liable to be unable to continue as a result of the proposals. Your Petitioner objects to the location of the proposed Arsenal Way Shaft and related worksite and apprehends that this site and the works proposed to be carried out within it will bring about major disturbance to its business and loss of amenity to the areas involved, arising especially from:

- (a) the permanent and temporary acquisition of land;
- (b) the partial temporary road closures proposed;
- (c) construction traffic;
- (d) the use of the land for replacement car parking;
- (e) the use of the land for the diversion of utilities' apparatus;
- (f) temporary and permanently restricted access to buildings located on your Petitioner's property;
- (g) construction noise and vibration; and
- (h) visual impact.

18 The existing traffic and highway arrangements of Cornwallis Road is that of a two-way, single lane road. As the only means of access to the road network is

used regularly by employee commuter traffic as well as transport lorries in the movement of goods by your Petitioner. The disruption likely to be caused by the proposed works and by construction traffic will drastically reduce access to, and compromise the effective use of your Petitioner's Property. The surface works, particularly the use of working sites and the removal of spoil, will further impact upon the quiet enjoyment of properties in the vicinity. Major increases in lorry movements during the construction period are to be expected, the disruptive effect of which is liable to be compounded by the temporary stopping up of nearby roads.

- 19 Your Petitioner is concerned that the Environmental Statement that accompanies the Bill fails to consider any alternative locations for the Arsenal Way Shaft.
- 20 Your Petitioner is concerned that it has not been invited to attend or take part in any appropriate stakeholder consultation with the Promoter, for its business operations to be assessed and raise relevant concerns on the proposed location of the Arsenal Way Shaft and adjacent worksite and the implications of the construction methodology proposed.
- 21 In addition, your Petitioner submits that the Environmental Statement does not identify, nor provide for appropriate construction mitigation measures against the detrimental impact of the Arsenal Way Shaft and adjacent worksite. The proposed traffic diversion will not address the severely reduced access to Skeffington Street and Cornwallis Road and will not adequately address the likely delays and reduced access and turning circle for vehicles operated by your Petitioner, or for private users.
- 22 Your Petitioner submits that the Promoter should not be permitted by means of the Bill to interfere with private property rights and interests unless, and except to the extent (if any) that, this can be demonstrated both to be necessary for the purposes of the Bill and to be in the public interest. Your Petitioner has not been provided with any justification for the proposals in the Bill affecting its

property or that it is necessary or expedient for the other powers of the Bill to apply at all or in the manner or to the extent proposed.

23 Your Petitioner requests that the Promoter be put to proof on the strict necessity for currently proposed location of the Arsenal Way Shaft. Your Petitioner requests that the Promoter be put to strict proof on the necessity for acquiring the land in plot 45 permanently for what is evidently a temporary use having regard to the purpose for which it is expressed to be acquired in Schedule 6, Part 1 to the Bill. Your Petitioner objects to the permanent acquisition of its property and respectfully requests that the plot is transferred to Schedule 5 of the Bill reflecting the fact that the land in question is only required temporarily.

24 Your Petitioner submits that the Promoter should demonstrate and be put to strict proof of the need for and desirability of the proposals in the Bill, which affects your Petitioner's property and that the powers for the compulsory acquisition of land or of interests in land, the power to construct works and the exercise of works and ancillary powers within the limits of deviation should be restricted in relation to your Petitioner's property to the extent (if any) to which they can be strictly justified and so as to minimise or prevent interference with such property.

25 In particular, your Petitioner contends that any interest in its property acquired by the Promoter (in terms of the area over which it is to subsist, the form in which it is to take at law and any express or implied constraints which may be imposed upon the remainder of your Petitioner's property) should be strictly limited only to that which is absolutely necessary for the construction, safe operation and maintenance of the proposed works.

Relocation

26 Your Petitioner respectfully requests that, should the impacts upon their business be such as to require them to close their operations at Skeffington Street, the Promoter should be required to provide them with alternative premises with no less degree of amenity and in a nearby location affording

similar transport access, as that currently enjoyed. The Promoter should be required to provide all assistance in identifying, fitting out and arranging for the transfer of the business to the new site and should compensate your Petitioners for any costs incurred and any loss of business flowing from this need to relocate.

27 Further, and in the alternative, if it is shown to the satisfaction of your Honourable House that the use of part of your Petitioner's property is the only viable option to facilitate construction of the relevant works your Petitioners will argue that it should be provided with temporary alternative car parking elsewhere nearby to its premises, at the Promoter's expense, and which the Promoter demonstrates would cause no disruption or inconvenience to car parking by your Petitioner's employees, contractors or visitors.

28 Your Petitioner further humbly submits that such provisions with regard to compensation in respect of compulsory acquisition and other matters as are proposed in the Bill are inadequate to compensate your Petitioner for the loss, damage and inconvenience which it might suffer as a result of the compulsory acquisition of its property, the construction and subsequent use of the proposed works and that no sum of money which it could expect to recover for such disturbance and loss would adequately recompense them.

Vehicular and Pedestrian Access

29 Your Petitioner notes the obligation under paragraph 5(2) of Schedule 3 to the Bill to provide reasonable access for pedestrians going to or from premises abutting a highway that is proposed to be temporarily stopped up. Your Petitioner requests that good and open access be maintained in all other cases as well, such as in the event of the erection of hoardings and scaffolding, use of the footway next to the property, the placing of equipment and apparatus there, and the parking, loading and unloading of vehicles. Your Petitioner particularly requests that vehicular access to its property be maintained where practicable and that compensation be awarded for any costs incurred through the inability to service or park at the property due to the works.

Noise, vibration, disruption and disturbance during the construction period

- 30 Noise and vibration arising from the operation of the railway and its associated works and structures (such as ventilation shafts) also concerns your Petitioner. Your Petitioner submits that the Promoter should be compelled to use best available techniques in the construction and operation of the railway and its associated works and structures to ensure that these adverse effects are minimised. Furthermore, your Petitioner wishes to see strict standards set to which the Promoter must be made liable to comply.
- 31 Your Petitioner is concerned about dust and dirt produced during construction of the proposed works. The business conducted by your Petitioner requires the maintaining of a particularly clean environment in order to carry out extremely precise and complex industrial engineering using materials which are sensitive to outside contaminants.
- 32 Therefore, your Petitioner would wish to see binding commitments imposed on the Promoter to require adherence to agreed measures to reduce dust, and to carry out additional mitigation if dust continues to be a nuisance to your Petitioner's property. Your Petitioner requests that provision be made to ensure that the Promoter takes responsibility for the reimbursement of your Petitioner for additional expense caused by dust and dirt such as more frequent cleaning of their affected property, and more frequent replacement of air conditioning filters.
- 33 Your Petitioner is concerned about the effect of these matters on its property and having regard to the scale of disruption and disturbance envisaged your Petitioner therefore seek protection in relation thereto. In particular, your Petitioner would expect the Promoter to be bound to a code of construction practice to regulate these matters and to ameliorate any adverse effects caused by the works. Your Petitioner submits that the Promoter should consult with it about proposed working methods and in relation to all aspects of likely environmental impact to your Petitioner's property and that the Promoter should be obliged to agree a scheme of work with your Petitioner, to include,

amongst other things, reference to noise, vibration, disruption and lorry movements.

General concerns

- 34 Your Petitioner respectfully submits that the proposals contained in the Bill are causing a blight on your Petitioner's property. Such property is already blighted by the proposals contained in the Bill. Your Petitioner fears that prospective purchasers and lessees will state that the proposals would so blight the property that they would not be interested in acquiring any part of it. Moreover, the Bill does not contain adequate provisions for compensating such blight and your Petitioner respectfully suggests that it should do so.
- 35 Your Petitioner submits that the Promoter should be required to indemnify them from all claims and demands which may be made in consequence of the construction, use or maintenance of the works under the Bill, or their failure or want of repair, or in consequence of any act or omission of the Promoter, his contractors or agents in carrying out the works under the Bill.
- 36 Your Petitioner submits that provision should be made for the Promoter to repay all your Petitioner's proper costs, charges and expenses (including the proper fees of such professional advisers as it may instruct) reasonably incurred in consequence of the Bill or of any provision made as a result of this Petition.
- 37 There are other clauses and provisions in the Bill which, if passed into law as they now stand, would prejudicially affect your Petitioner and any such related rights, interests and property, for which no adequate provision is made to protect your Petitioner.

Conclusion

38 Your Petitioner submits that the Bill fails adequately to safeguard and protect its interests and so should not be allowed to pass into law without these issues being addressed.

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 itself, 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 Petitioner and in support of other such clauses and provisions as may be necessary or expedient for its 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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