

IN PARLIAMENT

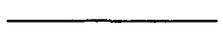
HOUSE OF COMMONS

SESSION 2005-06

CROSSRAIL BILL

PETITION

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 UNION BANK OF SWITZERLAND AG

SHEWETH as follows –

- 1 A Bill (hereinafter referred to as “the Bill”) has been introduced into 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 promoted by the Secretary of State for Transport (“the Secretary of State”). In the Explanatory Notes to the Bill prepared by the Department for Transport it is stated at paragraph 3 that “the main purpose of this Bill is to secure the powers necessary to build Crossrail. Crossrail will consist of new rail tunnels running west-east through central

London connecting directly with existing surface rail routes to Maidenhead and Heathrow in the west and Shenfield and Abbey Wood in the east. By connecting the main London rail terminals of Paddington and Liverpool Street, Crossrail will enable interconnecting mainline services to cross the centre of London via a number of new purpose-built stations.”

- 3 The Bill applies certain provisions from legislation relating to compulsory purchase. It also applies other railway legislation.

#### **Relevant Clauses of the Bill**

- 4 By clause 1 the Bill proposes to authorise the “nominated undertaker” to construct and maintain the works specified in Schedule 1 to the Bill (“the scheduled works”). Included in the scheduled works are:

Work 1/3A – (in the City of Westminster, London Boroughs of Camden, Islington and Tower Hamlets and City of London) a railway (10,809 metres in length, in tunnel) commencing by a junction with Work 1/2 at its termination, passing eastwards and terminating beneath a point 140 metres west of the junction of Stepney Green with White Horse Lane;

Work 1/24 (in the City of London) a diversion of the sewer in Liverpool Street commencing by a junction with that sewer beneath a point 10 metres south-east of the junction of Liverpool Street with Blomfield Street and terminating beneath a point 40 metres west of the junction of Liverpool Street with Old Broad Street. Work 1/24 includes shafts for construction and maintenance.

By clause 1(3) the Bill proposes lateral deviation and vertical deviation.

- 5 By clause 13 of the Bill, the nominated undertaker will be either a person or persons specified as such by the Secretary of State by order or, in the absence of such a specified person, the Secretary of State.
- 6 By clause 2 of the Bill it is proposed to authorise the nominated undertaker to carry out the additional works specified in Schedule 2 to the Bill including, amongst others, the underpinning of buildings and the carrying out of preparatory works including the making of trial holes, on giving not less than seven days’ notice in writing.

- 7** By clause 3 the Bill proposes to authorise the nominated undertaker to, amongst other things, stop up temporarily or to divert the highways named in the table in paragraph 5 of Schedule 3 to the Bill or part thereof; for any reasonable time to divert traffic from, and prevent persons passing along, the named highways or part thereof; and to break up or interfere with the named highway or part thereof. It is proposed by paragraph 5(2) that when exercising the above powers the nominated undertaker shall provide reasonable access for pedestrians going to or from premises abutting on a highway affected by the exercise of these powers. Liverpool Street in the area of the City of London is one of the highways named in the table in paragraph 5 of Schedule 3 to the Bill.
- 8** By clause 6 the Bill proposes to authorise the Secretary of State to acquire compulsorily certain lands shown on the deposited plans within the limits of deviation for the scheduled works as may be required for or in connection with the works proposed to be authorised by the Bill or otherwise for or in connection with Crossrail or within the limits of land to be acquired or used. The purposes for which land may be acquired if the proposed Act is passed are specified in Schedule 5 to the Bill. By Clause 6(5) the powers of compulsory purchase under the Bill would expire five years after the date of the passing of the proposed Act.
- 9** By clause 7 the Bill proposes that the Secretary of State should be empowered to acquire compulsorily land outside the limits of deviation for the schedule of works and the limits of land to be acquired or used which land is required for or in connection with the works authorised by the proposed Act or otherwise for or in connection with Crossrail.
- 10** By clause 8 the Bill proposes the extinguishment of private rights of way over land within the limits of deviation for the scheduled works or within the limits of land to be acquired or used which is held by the Secretary of State. It is proposed that land adjoining premises occupied by your Petitioners (number 116 on the deposited plans) is to be acquired for the provision of a working site and the diversion of public utilities' apparatus.

## **Your Petitioners and their Premises**

- 11** Your Petitioners are the Union Bank of Switzerland AG trading in this country under the name of UBS Investment Bank. Your Petitioners occupy the premises known as 100 Liverpool Street (hereinafter called "the Premises") under the terms of an underlease (hereinafter referred to as "the Underlease") from Broadgate (Phase 3) Public Limited Company to SBCI Investment Banking Limited, a wholly owned subsidiary of your Petitioners for a term of twenty four years from 30 December 1998. Notice of intention to introduce the Bill and to compulsorily acquire has been served on your Petitioners subsidiary company.
- 12** Your Petitioners occupy 32,550m<sup>2</sup> at the Premises which is the operational headquarters of your Petitioners in the United Kingdom. The principal activity carried on by your Petitioners from the Premises is the provision of financial services in all its forms on a 24 hour, 365 day a year basis. The activities of your Petitioners carried on from the Premises make a significant contribution to the invisible earnings of the United Kingdom economy. In carrying out their activities your Petitioners must provide a quiet work environment for their employees and they rely upon having continued and uninterrupted international telephonic and computer communication with others and upon sensitive and delicate computer and other electronic equipment. Your Petitioners are concerned about the effect of the works on the Premises. Of particular concern are the noise and vibration effects of the construction of Crossrail and the possible effect of the works upon the services to the Premises and upon the equipment plant and machinery located within the Premises.

## **The Liverpool Street Work Site**

- 13** The Environmental Statement prepared for the Department of Transport on the Crossrail project (the "ES") describes in chapter 8 the permanent and temporary works to be carried out along the central route section of Crossrail by reference to 15 component "route windows". Route Window C7 covers the section between Moorgate and Commercial Street and includes your Petitioners' Premises. The ES indicates that 4 work sites will be used during the construction of that part of Crossrail within Route Window C7 including one at Liverpool Street. This work site will, according to the ES, "occupy the width of Liverpool

Street between Old Broad Street and Blomfield Street including footways, although pedestrian access to properties on the south side of Liverpool Street will be maintained". The authors of the ES envisage that "the loss of footways will be mitigated by the temporary use of an adjoining private forecourt as a diversion route for pedestrians" (ES, Chapter 8 paragraph 8.9.86). The Liverpool Street work site will adjoin your Petitioner's Premises and it appears that the "private forecourt" referred to by the authors of the ES is the one attached to the Premises.

### **Your Petitioner's Concerns**

- 14** Your Petitioners allege and are prepared to prove that they, their lands and interests will be injuriously affected by the provisions of the Bill and object to the Bill for the following reasons, amongst others.

### **Limits of Deviation**

- 15** Your Petitioners notice that the limits of deviation on the deposited plans follow on the southern elevation of the Premises the (first floor) profile of the above ground development. However at below ground level the structure of the Premises extends into the limits of deviation shown on the deposited plans and your Petitioners occupy basement and lower ground floors. Housed in these floors is some of the critical infrastructure required by your Petitioners to undertake their business at the Premises. At ground floor level the Premises occupied by your Petitioners includes a portico and at first floor level to roof level (inclusive) the southern elevation of the Premises extends into the limits of deviation shown on the deposited plans. All of these parts of the Premises are liable to compulsory acquisition by the Secretary of State.
- 16** Your Petitioners require the northerly limit of the deviation adjacent to the Premises to be moved away from the Premises and to the south so that the Premises occupied by your Petitioners including the basement premises within their demise is taken out of the limit of land liable to be compulsorily acquired. The row of bollards which run in front of the Premises occupied by your Petitioners would be the appropriate line, in your Petitioners' view to which the northerly limit of deviation should be moved and your Petitioners see no

engineering or other reason why the limit of deviation cannot be so moved thus avoiding the Premises occupied by your Petitioners.

### **Construction Code**

- 17** Your Petitioners are aware that a Crossrail Construction Code ("the Code") is being prepared by Cross London Rail Links Limited ("CLRL") on behalf of the Secretary of State. According to CLRL the intention is that the Code once adopted "will set out the key principles for constructing the new railway". A draft of the Code has recently been published on the CLRL website. Your Petitioners are considering the contents of the draft Code to satisfy themselves that it adequately protects their interests.

### **Programme for the Works**

- 18** The Environmental Statement for the Crossrail Project indicates that the fit-out and commissioning of the new Liverpool Street Station will be undertaken "over approximately a four year and eight month period". Your Petitioners wish to establish that the Programme for the works at Liverpool Street is kept as short as possible in order to minimise the disruption caused to your Petitioner's operations during the use of the Liverpool Street work site. Your Petitioners acknowledge, however, that any reduction in the time allocated for the carrying out of the Liverpool Street works should not be achieved at the cost of causing unacceptable harm to the amenities of the occupiers of residential premises. Your Petitioners wish to be consulted on the phasing and timing of the Works, the location of hoardings, restrictions on access and other effects.

### **Noise and Vibration**

- 19** Your Petitioners are concerned about the effects of noise and vibration prior to commencement of and during construction and on completion of the works on the working conditions of your Petitioner's employees at the Premises. If noise and vibration emissions from the Crossrail works are not controlled this could adversely affect your Petitioners ability to carry on their business at the Premises. Your Petitioner would expect the nominated undertaker to employ every practical means to avoid such affects including meeting your Petitioners costs in providing additional noise insulation at the Premises and

that the means to be used should be agreed with your Petitioners. If piles are driven within the vicinity of the Premises, your Petitioners fear that damage to the Premises or plant, machinery or equipment of your Petitioners will result from the associated vibration. For this reason your Petitioners must insist that the ground be bored or hand dug where piles would otherwise have been driven. Other measures should be agreed to ensure the absence of impact induced vibration during any such periods and your Petitioners would wish to see an effective monitoring system in place before commencement of and during construction of the works to give effect to such measures.

- 20** Your Petitioners would wish to see effective noise and vibration monitoring systems in place before commencement, during and after construction of the works. There must in your Petitioners' submission be thresholds in respect of these emissions agreed between your Petitioners and the nominated undertaker. If that threshold is exceeded the nominated undertaker should be obliged to cease construction until such time as remedial measures are in place which will reduce noise levels below the agreed threshold. The impact on the acoustic environment, both during construction and after completion of the works, of the proposed new ventilation shaft to be sited in the vicinity of the Premises must also be considered. Such operating noise levels should be within agreed limits.

### **Services to the Premises**

- 21** It is essential that there will be no disruption to public or other services provided to the Premises especially the telephone and data communications links, which are absolutely vital to your Petitioners' business. Any disruption in the services to the Premises could be very costly for your Petitioners and such an interruption is unacceptable to your Petitioners. In your Petitioners' submission a co-ordinated programme of works to any such services leading into the Premises needs to be established by the nominated undertaker and agreed with your Petitioners so as to ensure that the carrying out of the works to such services do not cause disruption to your Petitioners' business. Your Petitioners consider it to be important to avoid a succession of statutory undertakers opening the surface of Liverpool Street and failing properly to reinstate that street because other undertakers will be carrying out further works at a later date. Your Petitioners would wish to receive

advance notice of the dates when existing conducting media are programmed to be taken out of use and new media are to be substituted in their place to enable your Petitioners to avoid scheduling activities at the Premises that would be disrupted in the event that services to the Premises are accidentally interrupted.

### **Fire Safety**

**22** Your Petitioners are responsible pursuant to the terms of the Underlease for ensuring compliance with the requirements of the fire authority in respect of the Premises. In particular, it is required of your Petitioners that adequate fire and emergency access to the Premises is maintained. Fire tenders must have access to within 18 metres of the dry risers serving the Premises (of which there are a number) to enable a hose from the appliance to be connected to an inlet. Any hoarding, barrier or fence between the appliance and a dry riser inlet must be provided with a path for the hose to pass through or be immediately removable to allow the hose to pass. In addition, the proposed hoarding to be erected in connection with the use of the Liverpool Street work site must not prevent the means of escape from the Premises afforded by the fire stairs located at the Liverpool Street frontage of the Premises from being used nor should it cause the escape route from these fire stairs to be narrower than the width necessary for the number of persons likely to be using it. These requirements, and the need for speedy and convenient emergency egress from the Premises, would not be possible if the Secretary of State acquired the land to the northerly limits of deviation as presently shown. Your Petitioners are concerned that a reduction in the number of fire exits available at the Premises during the carrying out of the works could lead to restrictions on the numbers of people who can occupy parts of the Premises at any one time. Your Petitioners are also concerned that the works will result in the loss of their agreed fire assembly point at Finsbury Circus.

### **Deliveries of Oil**

**23** There would also be difficulties, which the nominated undertaker would have to resolve, in the delivery of oil for the Premises to the oil fill points serving the Premises located at the south east side of the main entrance on Liverpool Street.

## **Air Quality**

- 24** Your Petitioners are concerned to secure the preservation of clean air to the air intakes for air conditioning and cooling purposes. Your Petitioners would expect the nominated undertaker to employ every practicable means to prevent the generation of dirt and dust and would wish to see an effective monitoring system in place before commencement and during construction of the works to ensure that the air taken into the Premises is maintained at a quality no worse than at present available.

## **Settlement**

- 25** Your Petitioners are responsible under the Underlease for the maintenance of the structure of the Premises and they are concerned about the settlement effects on the Premises. The risk to the Premises of settlement is particularly significant because they are founded on a differential foundation: the west end of the Premises are founded on deep foundations (i.e. piles) while at the east end the Premises have shallow foundations (i.e. footings). This unconventional foundation design was required to avoid existing underground structures at the east end of the Premises. Your Petitioners have engaged expert advisers who envisage the potential for damage to the Premises as a result of the works. Your Petitioners would wish to see an effective agreed monitoring system in place before commencement and during construction of the works and for an agreed period after completion at the nominated undertaker's expense to measure the exact effect of any settlement on the Premises. There must, in your Petitioners' submission, be a threshold agreed between your Petitioners and the nominated undertaker for ground movement within the vicinity of the Premises. The threshold should be based, in part, on the outcome of a Stage 2, and if necessary a Stage 3, building damage assessment to be undertaken by the nominated undertaker, the results of which assessment should be shared with your Petitioners. If that threshold is exceeded it is imperative that the nominated undertaker is obliged to cease construction until such time as remedial measures are in place which will minimise settlement and consequently avoid damage to the Premises. Further, your Petitioners require notification of and full and timely access for themselves and their

consultants to all engineering information and data relating to the effect of the works on the Premises including that obtained from the monitoring system referred to above.

- 26** Your Petitioners note that the intended use of the Sprayed Concrete Lining method to construct the Crossrail Tunnels. The successful use of this methodology will, your Petitioners are advised, depend upon the proper design and supervision of the works in which it is to be used. Your Petitioners seek assurances that the works in which the Sprayed Concrete Lining methodology will be adopted are properly designed and that the nominated undertaker will provide an appropriate level of supervision to ensure that the tunnelling works are completed without risk of a tunnel collapse which may adversely affect your Petitioners.

#### **Entrance canopy**

- 27** Your Petitioners are concerned that in addition damage may occur to the canopy over the principal entrance to the Premises when the nominated undertaker carries out the proposed alterations to the existing walls of the electrical substation which lies below canopy. Your Petitioners must be assured that the canopy will be protected and if necessary propped during the course of the works.

#### **Pedestrian Access**

- 28** The positioning of work site hoardings is of major concern if, contrary to your Petitioners' submissions, the works are carried out to the full extent of the proposed limits of deviation. Your Petitioners anticipate that the hoardings will extend to the building line of the Premises in which case the main access to the Premises will either be blocked or severely curtailed. Your Petitioners note the obligation of the nominated undertaker under paragraph 5(2) of Schedule 3 to the Bill to provide "reasonable" access for pedestrians going to and from premises abutting onto a highway such as Liverpool Street which is stopped up temporarily to facilitate the carrying out of the scheduled works and the comment in the ES about maintaining pedestrian access referred to in paragraph 13 above but submit that this is not in this instance sufficient. Pedestrian access to and along the front of the Premises must be maintained at all times and your Petitioners submit that if the northerly limit of deviation is moved to the bollard line at the front of the Premises as has been mentioned

earlier in this Petition this problem will be avoided in any event. If your Honourable House does not see fit to move the northerly limit of deviation as requested by your Petitioners then your Petitioners submit that the nominated undertaker should be required to maintain full access to the Premises at all times, including adequate and sufficient access to the exterior of the Premises for the purpose of carrying out any repairs thereto and for cleaning the façade and the windows in such façade. In any event your Petitioners need to be satisfied as to the quality of the hoardings and site gates, the system for maintaining those hoardings and gates in a good condition throughout the course of the works and the provision of appropriate temporary signage for the Premises.

- 29** Your Petitioners are concerned about the suggestion that pedestrians will be encouraged to use the forecourt of the Premises as a diversion route. Liverpool Street is used by large numbers of pedestrians going to and from the Liverpool Street national and underground rail stations. Your Petitioners require assurances from the Secretary of State that the area available for pedestrian use between the Premises and the work site hoardings will be sufficient to accommodate the anticipated pedestrian flows. Your Petitioners are concerned that congestion outside the Premises could hinder or prevent the access or egress of your Petitioner's employees and visitors. Your Petitioners are also concerned that congestion on the pedestrian route could create a security risk in that if more pedestrians pass along the area immediately in front of the frontage of the Premises it will be difficult to keep these pedestrians under surveillance.

### **Electromagnetic Interference**

- 30** A further inconvenience which may occur, on which your Petitioners will need further information to assess the exact effects, is that of electromagnetic interference with computer and other equipment installed by your Petitioners in the Premises including the basements of the Premises. Electromagnetic interference may cause severe disruption and in some circumstances complete shutdown of delicate computer equipment. The nominated undertaker should be required to inform your Petitioners of the anticipated extent of the field of interference from any new high voltage cables and equipment and if necessary satisfy your Petitioners that appropriate protective measures will be taken.

## **Spoil**

- 31** The tunnelling work near your Petitioners' premises will involve the removal of large quantities of spoil, not only from the digging of the running tunnels but also from the construction of a new Crossrail station at Liverpool Street. Your Petitioners submit that the nominated undertaker should be obliged to make satisfactory arrangements for the removal of spoil in such a manner as will cause least disruption to your Petitioners.

## **Cleaning of the Premises**

- 32** Your Petitioners are concerned that the dirt and dust arising from the execution of the works will mean more frequent cleaning of the exterior of the Premises and more frequent replacement of air conditioning and air filters than is presently required. Your Petitioners anticipate that they will need to wash down all the exteriors of the Premises both during the carrying out of Works at Liverpool Street Station and again when these Works have been completed. Your Petitioners submit that the nominated undertaker should be required to compensate your Petitioners for costs incurred in connection with any additional cleaning and the provision of any additional air conditioning filters or air filters required as a result of the execution of the works.

## **Remedial Measures and Monitoring**

- 33** Having regard to the unconventional design of the Premises and the special nature of the business carried on by them, your Petitioners submit that any necessary safeguarding or remedial measures (including any necessary underpinning or strengthening works) and any systems to monitor the effect of the works upon the Premises must be agreed between your Petitioners and the nominated undertaker in advance of such measures or systems being adopted. Further your Petitioners require notification of and full access for themselves and their consultants to all engineering information and data relating to the effect of the works on the Premises including that obtained from the monitoring systems referred to above.
- 34** Your Petitioners submit that, when remedial measures become necessary as the works proceed, they should be entitled to require the nominated undertaker to carry out those

measures immediately, rather than delaying such measures until the conclusion of the works.

### **Other Matters**

- 35** Where steps are taken, as required by the provisions of the Bill as your Petitioners submit it should be amended, the Bill should provide for the nominated undertaker to reimburse the cost and expenses incurred by your Petitioners incidental to the taking of any such steps.
- 36** Your Petitioners note that paragraph 9 of Schedule 2 to the Bill contains no requirement as to reasonableness and no power to the owner or occupier to dispute the necessity for the making of trial holes under paragraph 9. Your Petitioners submit that paragraph 9 should be amended so to provide.
- 37** Your Petitioners will incur expenses in relation to monitoring any effects of the construction of the works on the Premises and of taking appropriate steps to ensure that their interests are adequately protected and they submit that the costs incurred by their so doing should be reimbursed by the nominated undertaker. Your Petitioners also submit that the nominated undertaker should meet any costs incurred by your Petitioners in providing additional security measures at the Premises in response to the use of the forecourt by the public.
- 38** Give the very large costs that your Petitioners would incur if their ability to undertake their business at the Premises is constrained by the carrying out of the Crossrail works, your Petitioners consider it would be reasonable to expect that your Petitioners' interest should be noted on any insurance policy effected by the nominated undertaker in respect of these works.
- 39** Your Petitioners accept that inconvenience will result from works of the nature proposed by this Bill. Your Petitioners feel that the particular inconvenience they will suffer should be mentioned in this Petition so that the nominated undertaker is aware of their special requirements.

## **Conclusions**

- 40** Your Petitioners want to make it clear that they favour increased public transport facilities for London and support in principle the Crossrail proposals. However, your Petitioners wish to ensure that their interests are protected and they very much hope that it will prove practicable to achieve an amicable settlement of the points of concern to them. To this end your Petitioners have met with officers of CLRL to explain their concerns about the impact of Crossrail on your Petitioner's interests.
- 41** In the absence of such a settlement, your Petitioners respectfully submit that the Bill fails adequately to safeguard and protect your Petitioner's interests and that it should not be passed into law unless it is amended so as to safeguard and protect these interests.
- 42** There are 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.

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, 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 Petitioners and in support of such other clauses and amendments 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 appropriate.

AND your Petitioners will every pray, &c.

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AGAINST, By Counsel, &c