

HOUSE OF COMMONS  
SESSION 2005-06

CROSSRAIL

PETITION

Against the Bill – Praying to be heard by counsel, &c.

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

THE HUMBLE PETITION OF BALLYMORE  
PROPERTIES LIMITED

SHEWETH as follows :-

1. A Bill (hereinafter called "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. Clauses 1 to 20 set out the Bill's objectives in relation to the construction and operation of the railway transport system mentioned in paragraph 1 above. They include provision for compulsory acquisition, planning permission, heritage issues, trees and noise. Clauses 21 to 44 of the Bill establish a regulatory regime for the railway transport system and clauses 45 to 59 of the Bill deal with miscellaneous and general provisions.
3. The works proposed to be authorised by the Bill are specified in Schedule 1 to the Bill and the scheduled works are defined in the Bill as the works specified in Schedule 1 to the Bill which are works authorised to be constructed by the nominated undertaker (defined in the Bill and hereinafter referred to as "the nominated undertaker").
4. Your Petitioners are Ballymore Properties Limited, a company formed under the Companies Act 1985. They are the leasehold owners of certain land which lies within the limits of deviation and of land which may be acquired under the Bill, and of land that lies close to the land which lies within the limits of deviation and which may be adversely affected by the terms of the Bill. Your Petitioners' lands lie in the London Borough of Tower Hamlets.
5. The Bill would authorise the compulsory acquisition of your Petitioners' land, to which they object. Furthermore, your Petitioners interests will be injuriously affected by the proposals in the Bill and they object to the Bill insofar as it affects your Petitioners' interests, for the reasons, amongst others, hereinafter appearing.
6. The Bill would empower the Secretary of State to acquire the subsoil of a number of plots which are in the leasehold ownership of your Petitioners and which form part of their property, the Old Spitalfields Market ("the Market"). The Market is a grade II listed building of some significance and is constructed of an enclosed central market area, surrounded by individual properties, comprising shops, flats, restaurants, offices and buildings in other uses. All of the buildings have basements and cellars. The Market buildings are occupied by a number of different tenants on leases of varying lengths. The subsoil of the Market is required for the construction of the Crossrail running tunnels.

7. Your Petitioners are particularly concerned about the risk of damage to the Market which will arise as a result of the construction of the works under the Bill. Your Petitioners would wish the promoter to agree that in respect of the whole of the Market, a schedule of condition should be prepared, in accordance with a specification to be agreed with your Petitioners, at the expense of the nominated undertaker, before the works commence. The effect of the works on the premises should be regularly monitored at the expense of the nominated undertaker, in accordance with arrangements to be agreed with your Petitioners so as to minimise interference with business at your Petitioners' premises and at the conclusion of the works a further schedule of condition should be prepared at the nominated undertaker's expense, to ascertain what matters require to be remedied.
8. Your Petitioners submit that the nominated undertaker should be obliged to carry out suitable protective and preventative measures in relation to your Petitioners' premises, and the services thereto, to your Petitioners' satisfaction, to minimise settlement effects.
9. If, during the course of the construction of the works, your Petitioners notice damage occurring to their property which requires attention, the nominated undertaker should be obliged, on request, to carry out the works of repair and suitable protective works, to your Petitioners' satisfaction, without waiting until the conclusion of the construction of the works.
10. Your Petitioners are concerned about impact of the proposed works on the foundations of your Petitioners' premises and about prejudice to future development of the premises. The nominated undertaker should be required to construct the underground works at such depth or in such a way that the foundations of and subsoil under your Petitioners' premises are unaffected and so that the load bearing capacity of the foundations and subsoil stratum underneath is not reduced.
11. Your Petitioners have seen the promoter's draft "Settlement Deed" which your Petitioners understand is intended to be offered to property owners along the line. Your Petitioners understand that the promoter intends to give an undertaking to the select committee which considers the Bill in

your Honourable House, to the effect that all persons who meet certain criteria will be offered the opportunity of signing the Settlement Deed, once the nominated undertaker has been appointed. Your Petitioners have two major concerns about this approach. First, the draft of the Deed which has been seen by your Petitioners is deficient in many respects and your Petitioners believe that in matter of such importance, they should not be constrained from negotiating the terms of the Deed on an individual basis, particularly given the sensitive nature of the Market. Secondly, it is unthinkable that the Market could fall outside the criteria mentioned above, so your Petitioners can see no reason why the Promoter should not, once the terms of the deed are agreed, enter into an agreement, enforceable as a matter of contract, to the effect that once the nominated undertaker is appointed, he shall be required to enter into a deed on the agreed terms.

12. Your Petitioners respectfully submit that the nominated undertaker should be required to ensure that groundborne noise and vibration during the construction period is kept to an absolute minimum by the use of the most advanced tunnelling technology and machinery, and that operational noise from the trains is minimised with the use of the best technology available. Your Petitioners are concerned that noise and vibration may be radiated into the Market to an unacceptable extent. In your Petitioners' submission the nominated undertaker should be subjected to stringent design standards and if necessary, the nominated undertaker should be required to install additional appropriate procedures and design methods to inhibit the transmission of noise and vibration into the Market.
13. The construction of the works and exercise of other powers under the Bill could interfere with or cause disruption to services to and from your Petitioners' premises including power, drainage and telecommunications services. The nominated undertaker should be required to ensure that these services will be suitably protected and secured, that supplies and services will not be interrupted and that the capacity of supplies and services will not be impaired by reason of the works.

14. Your Petitioners are concerned about the exercise by the nominated undertaker, in relation to your Petitioners' premises, of the powers contained in paragraphs 4, 5 and 6 of Schedule 2 to the Bill relating to mitigating and safeguarding works to buildings including the associated powers of entry. Your Petitioners would wish to have control over such works, have the works overseen by independent engineers, be satisfied as to the quality of such works and be assured of proper and adequate access to your Petitioners' premises being maintained at all times. Your Petitioners seek assurances accordingly.
15. As regards the nominated undertaker's powers of entry under the Bill, your Petitioners submit that these should be restricted such that they cannot be exercised during normal working hours at your Petitioners' premises. Furthermore, the time of day when major structural works may be carried out should be restricted to outside normal working hours.
16. Your Petitioners are concerned about adverse effects of the nominated undertaker's proposed powers on occupiers of your Petitioners' premises and their businesses and on the impact on your Petitioners' interests in relation to rental levels on rent reviews and rental income generally.
17. Your Petitioners are concerned about the possible duration and programming of the proposed works. Your Petitioners require assurance that the nominated undertaker will notify them of the construction programme and timetable so far as practicable and that the nominated undertaker will arrange the construction programme and timetable so as to minimise disruption and disturbance to your Petitioners' premises.
18. For compensation purposes, your Petitioners submit that the nominated undertaker should be obliged to treat separately a claim for injurious affection from any claim which may be made in respect of land taken compulsorily under the Bill. The nominated undertaker should be obliged to indemnify your Petitioners fully against costs or loss to your Petitioners by reason of material damage to your Petitioners' premises or otherwise occasioned as a result of the Bill and its proposals.
19. There are other clauses and provisions in the Bill which, if passed into law as they now stand, will prejudicially affect the rights and interest 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 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 and proper for their protection and benefit.

AND YOUR PETITIONERS will ever pray,  
&c.

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PETITION

of

BALLYMORE PROPERTIES LIMITED

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AGAINST,

BY COUNSEL, &c.