

IN PARLIAMENT  
HOUSE OF LORDS  
SESSION 2007-08

**Crossrail**

**PETITION**

against the Bill – on merits – Praying to be heard by Counsel, etc

TO THE RIGHT HONOURABLE THE LORDS SPIRITUAL AND TEMPORAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND IN PARLIAMENT ASSEMBLED.

THE HUMBLE PETITION of CITY AVIATION PROPERTIES LIMITED

SHEWETH as follows:

- 1 A Bill (hereinafter referred to as "the Bill") has been introduced and is now pending in your Right 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.
- 3
  - (a) Clause 1 authorises the construction and maintenance of the works for the delivery of the railway transport system, which is known as Crossrail Line 1. The works are listed in Schedule 1 and shown on the plans and sections deposited with the Bill.
  - (b) Clauses 2 and 3 authorise ancillary works and give effect to Schedules 2 and 3 respectively.
  - (c) Clause 5 and Schedule 5 enable the nominated undertaker for Crossrail to take temporary possession of land in connection with the Crossrail works.
  - (d) Clause 6 authorises the Secretary of State compulsorily to acquire so much of land within the limits shown on the plans and sections accompanying the Bill as may be required for the Crossrail works. Clause 6(3) and Parts 2 and 3 of Schedule 6 apply certain legislation

relating to compulsory purchase compensation, subject to modification. The power of compulsory acquisition is subject to a five year time limit, extendable by order of the Secretary of State.

- (e) Clause 7 provides, among other things, authority for the Secretary of State by further compulsory purchase order to acquire land outside the limits shown on the plans and sections or land within the limits but not subject to the powers under clause 6, if required in connection with the Crossrail works.
- (f) Clause 8 extinguishes private rights of way over land within the limits of deviation and within the limits of land acquired and held in connection with the authorised works.
- (g) Clause 10 provides for the grant of deemed planning permission for development authorised by the Bill and Clause 10(6) in particular applies Schedule 7 which sets out certain controls in favour of local planning authorities over detailed aspects of the Crossrail works.
- (h) Clause 11 provides that deemed planning permission for the scheduled works will be subject to a 10 year time limit, extendable by order of the Secretary of State.
- (i) Clause 20 modifies Sections 60 and 61 of the Control of Pollution Act 1974 so that appeals relating to control of noise from construction sites are dealt with by the Secretary of State or through arbitration as opposed to the Magistrate's Court.
- (j) Clause 21 prohibits an order being made by the Court in the event that any proceedings are brought by a person aggrieved by a statutory nuisance, in circumstances where (a) the nuisance complained of is noise emitted from premises or noise emitted by vehicles machinery or equipment in a street and (b) these arise in consequence of the exercise of powers under the Bill in accordance with notices or consents issued under the Control of Pollution Act 1974.
- (k) Clauses 46 and 47 make provision for transfer schemes and nomination of undertakers respectively.
- (l) Clause 49 and Schedule 14 disapply and modify certain statutory controls.
- (m) Clause 54 applies Section 10(1) Compulsory Purchase Act 1965 (compensation for injurious affection) subject to the proviso that liability for compensation for land injuriously affected by the Crossrail works falls to the nominated undertaker, as opposed to the Secretary of State.
- (n) Clause 59 gives effect to Schedule 17, which provides special protection for statutory undertakers and other bodies affected by the Crossrail works.
- (o) Clause 61 provides a power to modify deposited plans or the book of reference if they are inaccurate.

## **INTRODUCTORY**

- 4 Your Petitioner owns the freehold interest in London City Airport.

- 5 London City Airport is an officially safeguarded civil aerodrome. Official safeguarding applies only to certain civil aerodromes, selected on the basis of their importance to the national air transport system and the need to ensure their continuing operation and development. The concept of safeguarding is based upon a series of surfaces or zones around the airport which are delineated on a safeguarding map and within which development proposals are considered likely to have an adverse impact on aircraft operations and public safety.
- 6 Accident data demonstrates that take-off and landing operations present most risk to public safety. As a consequence, there exists a system of Public Safety Zones which restricts the amount of development at each end of a runway in order to minimise the number of people present in the area at any one time. The Public Safety Zones at London City Airport are triangular-shaped. At the western end of the Airport (the Runway 10 approach) the Public Safety Zone begins with a width of 200 metres at the end of the runway and tapers to a point over a length of 1,820 metres. At the eastern end of the Airport (the Runway 28 approach) the Public Safety Zone has a width of 180 metres at the end of the runway and tapers to a point over a length of 1,750 metres.
- 7 An obvious risk to aircraft movements is the physical obstacle presented by a development due to the height of buildings and structures, including temporary craneage during construction. This may impede safe take-off and landing movements or movements associated with abortive aircraft landings. Some of the surfaces delineated under the official safeguarding system are therefore designed to ensure safe clearance between the height of buildings or structures and the paths of aircraft. Buildings and structures which penetrate those surfaces are discouraged.
- 8 The safety of aircraft operations is also influenced by other factors. Like other aerodromes London City Airport has a variety of navigational aids, radio aids and telecommunication systems relating to air traffic control and aircraft movements. A building or structure can act as a reflector or diffractor of the radio signals, on which this type of equipment depends or may simply interfere with them.
- 9 In poor visibility and at night, pilots also rely on the runway lighting at the Airport in order safely to navigate landings. In the context of any development proposal it is essential that the intensity and alignment of lighting does not distract pilots by causing glare in the direction of an approaching aircraft and does not confuse the approach or runway lighting pattern.
- 10 The safety of aircraft operations may also be affected by the attraction of developments to birds. Bird strikes are a major hazard to aircraft and it is vital that any development proposal in the vicinity of an airport includes measures to minimise the attraction to birds.
- 11 The official safeguarding system is set out in the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002 (included at Annex I of Circular 01/2003) ("the 2002 Direction"). The safeguarding consultee for London City Airport is the operator, London City Airport Limited. The 2002 Direction places the following restrictions on the determination of a planning application by a local planning authority:

- (a) before granting permission for any development that infringes the safeguarded surfaces, a local planning authority must consult the safeguarding consultee;
- (b) the local planning authority may not then grant planning permission for the development before the expiry of a period of 21 days beginning with the date advised in writing by the consultee as the date of receipt of the relevant information;
- (c) where a local planning authority proposes to grant permission for the development or to grant permission subject to conditions, in a manner that is contrary to the advice of the consultee, they must notify both the CAA and the consultee;
- (d) following this notice the local planning authority may not grant planning permission before the expiry of a period of 28 days from the date advised in writing by the consultee as the date of receipt of the relevant information. This provides the CAA and the consultee with an opportunity to ask the Secretary of State to call in the proposals for his own determination.

### **THE CROSSRAIL PROPOSALS**

12 Your Petitioner understands that surface and sub-surface interests in London City Airport are proposed for acquisition as part of the Crossrail works. These are identified as plots 158, 168, 170, 173, 177, 179, 180 and 181 and are associated with Work No. 1/5. Work No. 1/5 includes the alteration and refurbishment of the Connaught Tunnel (an existing rail tunnel) which passes beneath the western end of London City Airport. In detail Your Petitioner understands that this will involve:

- (a) site set up, including removal of track, ballast and drainage system;
- (b) civil works to increase tunnel profile including removal and replacement of arch struts and tunnel lining;
- (c) installation of concrete trackbeds and track drainage system;
- (d) structural refurbishment of retaining walls tunnels and ventilation shafts;
- (e) installation of track;
- (f) rail systems installation;
- (g) installation of overhead line equipment.

Your Petitioner understands that the duration of these works is approximately 4 years 2 months

13 At the western end of London City Airport there is a dedicated corporate aviation facility known as the Jet Centre. It provides a complete corporate aviation package and its facilities include VIP lounges, dedicated VIP stands, aircraft parking, immigration, customs and crew facilities.

14 Runway approach lights are also located at the western end of the Airport and are included in the description of land to be acquired for the proposed works.

15 In the vicinity of London City Airport the Crossrail proposals also include the refurbishment of the Connaught Tunnel portals off Connaught Road and Victoria Dock Road, as well as a new Royal Docks station at Custom House, located on the north side of Victoria Dock, adjacent to the ExCel

Exhibition Centre. Three principal works sites are proposed near to the Airport: to the north, at Custom House; adjacent to Connaught Bridge at the western end of the Airport; and to the south, adjacent to Connaught Road at Silvertown.

- 16 Your Petitioner and its rights, interests and property are injuriously affected by the Bill. Your Petitioner does not object to the principle of the proposed railway transport system. However, Your Petitioner is greatly concerned by the provisions of the Bill as they may affect its property. For this reason and having regard to the more detailed particulars referred to below, Your Petitioner objects to the Bill.

#### **SAFETY AND SECURITY OF AIRPORT OPERATIONS**

- 17 Your Petitioner is greatly concerned that powers are being sought to acquire land which includes runway approach lighting. Any impact on the location, operation and visibility of such lighting risks compromising the continued safe operation of London City Airport and may prevent or interrupt aircraft movements. Your Petitioner questions whether it has been demonstrated that the acquisition of interests in the runway approach lighting is necessary and seeks provision within the Bill to prevent interference with the lighting. Further or alternatively, Your Petitioner seeks provision within the Bill and further or alternatively binding assurances from the Promoter that nothing will be done to disturb, remove, compromise or obstruct runway approach lighting or, failing this, that adequate arrangements are put into place to ensure that at all times adequate runway approach lighting is maintained and is fully operational at all times.
- 18 Your Petitioner is also extremely anxious about the extent of construction activity in close proximity to the live operation of aircraft. It is vital to keep runways, taxiways and aprons clear of foreign objects and debris which could cause damage to aircraft engines or impair the operation of aircraft systems. Debris on the movement area of an aerodrome is always a potential hazard to aircraft safety. In addition, unscheduled replacement of parts or components damaged by debris will result in economic penalties for an aircraft operator and may ultimately give rise to claims against the airport operator. The construction activity associated with the Crossrail works in the vicinity of the Airport and, in particular, in and around the area of Connaught Bridge is likely to cause dirt, dust and other debris which will be hazardous to aircraft operations. Your Petitioner seeks specific measures to address the risks associated with foreign objects and debris and further seeks binding assurances from the Promoter in this regard.
- 19 The worksite proposed as part of the Crossrail proposals at the Connaught Bridge falls within the Public Safety Zone at the western end of the Airport. This is contrary to the objective of the Public Safety Zone which is to minimise the number of people working or congregating within the Zone. Aircraft operations at London City Airport cannot be modified to accommodate the extent of activity in this area. Should such activity be deemed to be unsafe by the Civil Aviation Authority, restrictions may be imposed on the aerodrome licence, which would severely curtail or prevent commercial operations. Your Petitioner questions the necessity for incorporating a worksite in this location and questions whether the Promoter has adequately explored alternative sites. To the extent that the activity within the Public Safety Zone is shown to be necessary, Your Petitioner seeks provision

within the Bill and further or alternatively binding assurances from the Promoter to the effect that current and future operations at London City Airport will not be compromised by the level or nature of activity or any derogations or permits sought in relation to work in the Public Safety Zone.

- 20 Your Petitioner is greatly concerned that the extent of construction activity in and around the western end of London City Airport may cause infringements of the safeguard surfaces which are designed to ensure safe clearance between operating aircraft and physical obstacles. For example, piling rigs or craneage may penetrate such surfaces and potentially cause hazards to aircraft or require modifications to flight procedures. Since the activity is proposed directly under the approach and departure routes for aircraft and close to the end of the runway, this is a highly sensitive location and, therefore, Your Petitioner considers it likely that any infringement of the surfaces will not be acceptable in terms of aircraft safety. Your Petitioner therefore seeks provision to ensure that the safeguarded surfaces around London City Airport are not infringed and further or alternatively seeks binding assurances from the Promoter to ensure that all activity is checked and analysed for impact on safeguarding. Your Petitioner would have expected the Promoter to consult with the safeguarding consultee at London City Airport fully in order to determine the likely impact on safeguarding and the acceptability of the Crossrail proposals in this location. As far as Your Petitioner is aware, no such consultation was undertaken and Your Petitioner is greatly apprehensive that the impact on aircraft operations has not been taken into account.
- 21 Your Petitioner is extremely concerned by the potential impact on navigational aid equipment at London City Airport of large, even temporary, structures above ground and the overhead line equipment and other construction materials in the refurbished Connaught Tunnel. These aspects of the proposed works have the potential to interfere with electromagnetic waves associated with the equipment. Your Petitioner therefore seeks provision within the Bill to ensure that there are no effects on navigational aid equipment at the Airport and further or alternatively seeks binding assurances from the Promoter to ensure that any such interference is avoided.
- 22 Your Petitioner is also concerned that the potential electromagnetic interference from overhead line equipment and other construction materials in the refurbished Connaught Tunnel could interfere with other Airport systems or individual aircraft systems, particularly given the proximity of the tunnel to the surface ground level. Again, Your Petitioner seeks provision within the Bill to ensure that such effects do not occur and further or alternatively seeks binding assurances from the Promoter to that effect.
- 23 Your Petitioner is apprehensive of the extent of proposed works and operations within and around the Airport boundary and the risks that this presents for security and safety. Activities or personnel associated with the Crossrail works which breach the Airport boundary must be strictly and comprehensively controlled. In addition, activities which could increase the risk of a security breach at the Airport must be prevented.
- 24 Similarly, Your Petitioner is concerned about the security implications of a new and high profile rail link operating beneath the Airport and fears an increased risk of terrorist attack. Your Petitioner considers that security at the tunnel portals should be maintained at the highest level.

- 25 For all these reasons, Your Petitioner seeks provision within the Bill to ensure that the security of London City Airport is not compromised at any time during the construction or operation of Crossrail and further or alternatively seeks binding assurances from the Promoter to that effect.
- 26 Your Petitioner requires that the Promoter fully and properly explores the effects of the construction and operation of the proposed works on Airport operations and takes all necessary mitigation measures specific to London City Airport. Your Petitioner also requires the Promoter to be bound personally by a specific code of practice for the works in the vicinity of the Airport in order to mitigate and regulate all construction and operational impacts of Crossrail.
- 27 Your Petitioner notes that clause 59 and Schedule 17 of the Bill gives effect to measures designed to protect the interests of certain statutory bodies and undertakers. Your Petitioner is concerned that such measures do not extend to or include the licensed aerodrome operator for London City Airport, which has a comparable status and function. Your Petitioner submits that specific measures should be included in the Bill to protect the aerodrome operator.
- 28 Your Petitioner seeks a full and sufficient indemnity in respect of all and any losses, claims, costs and damages arising in consequence of the proposed works and their effects on airport operations.

#### **LONDON CITY AIRPORT JET CENTRE**

- 29 Your Petitioner is extremely concerned that the power of acquisition sought in the Bill extends to the surface interests of the Airport and, in particular, the London City Airport Jet Centre. Quite apart from the safety and security implications that such acquisition would have for the operation of the Airport, such power risks major disruption. Your Petitioner understands that such power is required in connection with the works to the Connaught Tunnel. Your Petitioner further understands that such works could require the breaking open of the Airport surface. As a result, Jet Centre operations would be curtailed significantly and may have to be suspended. Furthermore, if such power was exercised during operations at the Jet Centre, aircraft and other facilities at the Jet Centre may be severed from the remainder of the Airport and unable to function. Your Petitioner seeks removal of the power to acquire interests in the surface of the Airport. Further or alternatively, Your Petitioner seeks provision in the Bill restraining the Promoter from the exercise of such powers, permitting their exercise only in prescribed circumstances and with the benefit of comprehensive protection for operations at the Jet Centre. In the alternative, Your Petitioner seeks binding assurances from the Promoter to this effect. Your Petitioner is also greatly concerned that the exercise of the power to acquire subsurface interests in the Airport does not compromise the stability and structural integrity of the Airport surface. In the circumstances, Your Petitioner requires a full and sufficient indemnity in respect of all and any losses, claims, costs and damages arising in consequence of the exercise of the power of acquisition in relation to the surface and sub-surface interests at the Airport and its effect on the Jet Centre.
- 30 Your Petitioner is also apprehensive about the noise, vibration, dust and other environmental effects of the construction works in the vicinity of the Jet Centre which may result in a decline in the usage of the Jet Centre. Your Petitioner requires the Promoter to be bound personally by a specific code of

practice to minimise or mitigate such effects and a full and sufficient indemnity in respect of any financial loss that it may suffer.

31 Your Petitioner submits that there is insufficient provision for mitigating the risk of or actual damage to Jet Centre. Your Petitioner asks that the Promoter be required:

- (a) to take all reasonably practicable measures to prevent damage to the Jet Centre;
- (b) to conduct a full survey of the condition of the Jet Centre before and after construction of the works and to undertake comprehensive monitoring of the structures during the works;
- (c) to carry out a full condition survey of the Connaught Tunnel before commencement of the works including an assessment of its loadbearing capability;
- (d) to give advance notice of each phase of the works and undertake advanced consultation in relation to their construction; and
- (e) to use all available working methods to minimise the risk of ground-borne vibration, noise, settlement, structural collapse and subsidence including undertaking agreed underpinning and strengthening works to Your Petitioner's property.

32 Your Petitioner seeks provision within the Bill and further or alternatively binding assurances from the Promoter to ensure that Your Petitioner is fully and sufficiently indemnified against any loss damage costs and claims associated with the impact of the proposed works on the structure of its property.

33 Your Petitioner is also concerned by the impacts on the Jet Centre from the operational railway. In particular, Your Petitioner is apprehensive about the potential noise and vibration effects of running trains in the tunnel that passes underneath the Airport and the implications for the sensitive environment of the passenger facilities at the Jet Centre. Insufficient data is included in the Environmental Statement accompanying the Bill to enable a proper assessment of the likely impacts of these operational effects. Your Petitioner considers that there is inadequate information regarding the assumptions used in the assessment for train speed, track fixing and track foundations. Your Petitioner submits that the Promoter should be required to incorporate all reasonably available mitigation measures including track-laying and foundation techniques in order to ensure the vibration and noise effects of operating trains are minimised.

#### **ACCESS, UTILITY SUPPLIES AND COMMUNITY IMPACT**

34 Your Petitioner is extremely anxious about the wider impacts of the works in the vicinity of the Airport and in particular:

- (a) services diversions and potential interruption of supply;
- (b) closure or partial closure or diversion of highways;
- (c) general disruption to traffic circulation from as early as the site preparation works and services diversions; and



(d) potential disruption or closure of Docklands Light Railway services to and from the Airport.

- 35 Your Petitioner's concerns in relation to traffic are exacerbated by the apparent absence of any proper and comprehensive traffic impact study or consultation by the Promoter. The proposed works will have a significant adverse effect on access to London City Airport and traffic conditions and access enjoyed by the local community.
- 36 Your Petitioner is also very concerned by the potential for disruption or closure of Docklands Light Railway services to and from the Airport, which now provide the main public transport link to the Airport and are heavily utilised.
- 37 Your Petitioner's concerns in relation to services arise from the potential interruption to supplies while works are undertaken and the effects on capacity and quality of services during the works and subsequently during the operation of the proposed railway.
- 38 Your Petitioner therefore seeks protection from and a full and sufficient indemnity in relation to all consequences of construction activities in and around the Airport including interruption or difficulty of access and service supplies. Your Petitioner seeks provision in the Bill and, further or alternatively, binding assurances from the Promoter to ensure that the Airport and the wider community may function as normally as possible during the works and subsequently.
- 39 Your Petitioner is also greatly concerned by the wider noise, dust, vibration and disturbance effects of the construction works in the community and the resulting environment that the works will create. Your Petitioner requires the Promoter to be bound to a specific code of construction practice, which is fully consulted upon with the local community in order to ensure the minimum impact on surrounding residents and businesses.
- 40 Your Petitioner is also greatly concerned that the proposed station for the Royal Docks is located on the north side of Victoria Dock. It seems to Your Petitioner that this station has been designed inappropriately to serve principally the ExCel Exhibition Centre or the northwest "quarter" of the Docks. Your Petitioner submits that the station should be better located to serve all existing and future residents and businesses in the area and to contribute to the revitalisation and regeneration of the Royal Docks as a whole. Your Petitioner considers that the supporting material to the Bill fails properly to describe alternative station locations/configurations and the reasons for the selected option.
- 41 Your Petitioner submits that a better location for the Royal Docks station would be underneath Connaught Bridge. This would have the potential to serve all four quarters of the Royal Docks and provide better social connectivity between the north and south communities. Your Petitioner seeks amendment to the Bill to remove authority for the works comprised in the current proposed station and to include provision for a replacement station at Connaught Bridge.
- 42 Your Petitioner is additionally concerned that, even in the context of the current proposed station in the Royal Docks at Custom House, there is little evidence to suggest that consideration has been given to integration with the majority of businesses and residents in the Royal Docks. Your

Petitioner seeks provision within the Bill and, further or alternatively, binding assurances from the Promoter which ensure integration of surface access with surrounding businesses and residents including London City Airport.

#### **ADEQUACY OF INFORMATION**

- 43 It is a matter of great concern to Your Petitioner that the plans upon which the Environmental Statement accompanying the Bill and the Book of Reference were originally based were out of date and did not reflect current conditions on the ground. No account was taken of the extent of highway that has been stopped up at the western end of the Airport and the construction of the London City Airport Jet Centre in 2001//2002. The original plans deposited with the Bill showed access for construction traffic to the Connaught Bridge worksite via the length of extinguished highway, which now forms part of the secure air side of London City Airport. The Promoter has published a list of errata to the Environmental Statement which includes reference to this but as far as Your Petitioner is aware such plans have not been reissued and Your Petitioner considers that any passage of the Bill based on such plans is unsafe and misleading notwithstanding any corrective wording in supplemental material. Your Petitioner seeks formal amendment to the plans to reflect the current position.
- 44 Your Petitioner is concerned that the safeguarding consultee for London City Airport does not appear to have been consulted in advance of the Bill being first presented on the potential effects of the proposed works on the Airport. Your Petitioner's concern is heightened by the significant adverse effects that the works would, in their present form, have on the safety and security of Airport operations. In the absence of such consultation, Your Petitioner is not confident that there is available all relevant information concerning the potential impacts on London City Airport and its service partners. In those circumstances, Your Petitioner may need to raise further and other concerns regarding the Airport.
- 45 Your Petitioner further submits that the Environmental Statement accompanying the Bill is deficient in several respects and therefore fails to satisfy the requirements of Council Directive 85/337/EC, as amended by Council Directive 97/11/EC. In particular:
- (a) there is inadequate description of the likely significant effects of the project, particularly the specific effects in the vicinity of London City Airport and no consideration given to direct and indirect effects - for example, the effect on passenger throughput at the Airport and the local economy;
  - (b) insufficient data has been provided in order to identify and assess the main effects of the works, particularly in the vicinity of the Airport where tunnelling and major works are proposed;
  - (c) there is insufficient detail of proposed mitigation measures, no assessment of their effectiveness in avoiding reducing or remedying significant environmental effects and no provision within the Bill compelling the Promoter to undertake identified mitigation measures; and

- (d) there is insufficient analysis of alternatives in the context of each work section and no analysis of alternative methods of construction, alternative configurations and alternative locations for the proposed new stations and the tunnels.

#### **AMBIT OF POWERS**

- 46 Powers sought to be conferred on the Promoter by the Bill are extremely wide and Your Petitioner submits that such powers ought to be more constrained in the interests of Your Petitioner and other landowners.
- 47 In particular, clause 7 authorises the Promoter to acquire compulsorily land outside the limits of deviation for the scheduled works and outside the limits of land to be acquired or used, where it is required for or in connection with the works authorised by the Bill or otherwise for or in connection with the proposed railway system.
- 48 Your Petitioner respectfully submits that such powers, particularly in the context of Central London and further in the context of a large commercial airport, are unacceptably wide and threaten to blight property, including Your Petitioner's interests, in the immediate vicinity of the limits of deviation. Further express authority for the acquisition of land outside the limits should be necessary, and considered only in specific instances on its merits and given only if acquisition is proven at the relevant time to be necessary for the construction of the railway system.
- 49 Your Petitioner is also concerned that the provisions in the Bill for renewal of compulsory purchase powers and planning permission (clauses 6(7) and 11(2) respectively) are too widely drawn and prolong the period of blight suffered by Your Petitioner's property and others. Whilst the renewal of compulsory acquisition powers is subject to special Parliamentary procedure, Your Petitioner submits that greater protection should be given to owners and occupiers of land affected by the proposed works through regulation of the circumstances in which such renewal may be ordered. In the event that the validity of the powers or the planning permission is extended, Your Petitioner seeks provision for affected landowners and occupiers to be consulted and to be given the opportunity to make representations. Your Petitioner submits that as it currently stands the Bill fails to provide for such matters. This is a significant omission. During the time limit for compulsory acquisition powers (5 years) and for implementation of planning permission (10 years) circumstances can change significantly and so too the impact of the exercise of such powers or the implementation of such permission. It is essential that impacts should be comprehensively reassessed. Your Petitioner submits that the same considerations should apply to the power to correct deposited plans (Clause 61).
- 50 Your Petitioner is also concerned by the absence of any specific provision to compel the Promoter to implement mitigation measures identified in the Environmental Statement accompanying the Bill. Failure to include such provision will, Your Petitioner submits, be contrary to the purposes of Council Directive 85/337/EC, as amended by Council Directive 97/11/EC. Your Petitioner considers that such a provision should be introduced to Schedule 7.

51 Your Petitioner also submits that the Bill should include an express obligation on the Promoter to undertake specific measures to limit structural and other damage to properties along the route of the works including Your Petitioner's property. Such measures should include establishing a schedule of condition prior to commencement of the works, the incorporation of specific measures agreed with owners of the affected properties in order to strengthen and protect individual buildings and structures, continuous monitoring of properties during the course of the works, a revised schedule of condition following completion of the works and regular monitoring of properties in the first few years of railway operation. Without such provision, there is inadequate protection for landowners and occupiers against the potential effects of the works.

#### **COMPENSATION PROVISION**

52 Your Petitioner further submits that provisions within the Bill regarding compensation in respect of compulsory acquisition and other matters are not sufficient to compensate Your Petitioner adequately for the loss, damage and inconvenience which it may suffer as a result of the construction and subsequent use of the proposed railway system. Your Petitioner seeks further provision within the Bill for indemnifying Your Petitioner against losses, claims and damage caused by the adverse effects of the proposed works, particularly during the construction period.

53 Of particular concern to Your Petitioner are any indirect effects of the works on passengers or airlines using the Airport and the potential loss in value of Your Petitioner's interest.

54 Your Petitioner humbly submits that the Bill should be amended in this respect to ensure that Your Petitioner is entitled to all and any actual losses to Your Petitioner. Your Petitioner seeks provision to enable such claim to be made separately from any claim for compensation in respect of the acquisition of land or interests from Your Petitioner under the powers of compulsory acquisition in the Bill. Furthermore, Your Petitioner submits that any such claim should be permitted at any time before the expiry of 5 years following the opening of the proposed railway system for use by members of the public.

55 Of particular concern to your Petitioner is any instance where, notwithstanding the powers provided for in the Bill it is ultimately considered unnecessary to acquire compulsorily any part of its property and yet such property is nonetheless adversely and injuriously affected by the construction of the proposed works and the operation of the railway system. In those circumstances the compensation provisions within the Bill are inadequate.

56 Your Petitioner submits that the Bill should be amended in this respect to ensure that Your Petitioner is entitled to claim compensation in such circumstances for structural damage to property by the execution of the works, for interference with rights and for injurious affection caused by the execution of works and the subsequent operation of the railway system. Your Petitioner seeks provision to enable such claim to be made separately from any claim for compensation in respect of the acquisition of land or interests from your Petitioner under the powers of compulsory acquisition in the Bill. Furthermore, your Petitioner submits that any such claim should be permitted at any time before the expiry of 5 years following the opening of the proposed railway system for use by members of the public.

57 Further, to the extent that the powers under the Bill are not exercised following its enactment, Your Petitioner's property may suffer blight and Your Petitioner submits that there is no or alternatively that there is inadequate provision within the Bill for compensating Your Petitioner in this regard.

58 Your Petitioner submits that provision should also be made within the Bill to enable Your Petitioner to recover its own reasonable expenditure including the full costs of making good any damage to the structure of Your Petitioner's property caused by the proposed works, the full cost of any works or measures undertaken in mitigation of the proposed works and Your Petitioner's costs in co-operating with the Promoter and in participating in the Parliamentary process. Your Petitioner also seeks inclusion of provisions within the Bill to compel the Promoter to indemnify owners and occupiers of interests in affected properties from losses claims and demands suffered in consequence of the construction, use or maintenance of the works or any act or omission of the Promoter and the nominated undertaker including their contractors and agents.

### **HUMAN RIGHTS**

59 Your Petitioner submits that in its current form and without further amendment or provision as sought by Your Petitioner, the Bill is incompatible with the right of Your Petitioner peacefully to enjoy its property and to carry on trade or business. The Bill would unfairly interfere with such right contrary to Article 1 of Protocol 1 to the European Convention on Human Rights and fails to provide Your Petitioner with sufficient right of participation in future determinations of Your Petitioner's rights (for example in relation to the extension of the time limit for planning permission) contrary to Article 6 of the Convention. In particular, in Your Petitioner's submission, the wide and extendable powers available to the Promoter and the inadequate provision for compensation in the particular circumstances with which Your Petitioner may be presented renders the Bill incompatible with the Convention.

### **CONCLUSION**

60 For the foregoing and connected reasons Your Petitioner respectfully submits that, unless the Bill is amended as proposed above, the Bill should not be allowed to pass into law.

61 There are other clauses and provisions of the Bill, which, if passed into law as they now stand will prejudicially affect Your Petitioner and its rights, interests and property and for which no adequate provision is made to protect Your Petitioner.

YOUR PETITIONER therefore humbly prays to Your Honourable House that the Bill may not pass into law as it now stands and that it may be heard by itself, its Counsel or Agents against all clauses and provisions in the Bill which relate to or affect its property, rights and interests and in support of other clauses and provisions for the protection and benefit of Your Petitioner and its property, rights and interests and that it may have such other relief as Your Honourable House may deem meet.

AND YOUR PETITIONER will ever pray, etc

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