

TRANSPORT AND WORKS ACT 1992

LONDON UNDERGROUND (VICTORIA STATION UPGRADE) ORDER

Department of Transport ref: TWA/07/APP/02/OBJ/45

**STATEMENT OF CASE ON BEHALF OF
SELECT SERVICE PARTNER LIMITED**

Pursuant to Rule 7 of the Transport and Works (Inquiries Procedure) Rules 2004

March 2008

I. INTRODUCTION

- 1.1 This is the statement of case of Select Service Partner Limited (the "Objector") in respect of the London Underground (Victoria Station Upgrade) Order (the "Order").
- 1.2 The Order is promoted by London Underground Limited (the "LUL").
- 1.3 This statement of case is prepared on behalf of the Objector by DLA Piper UK LLP, as an agent on behalf of Select Service Partner Limited.
- 1.4 This is a statement under rule 7 of the Transport and Works (Inquiries Procedure) Rules 2004.
- 1.5 The Objector objected to the Order on 6 February 2008 by its letter of that date (the "Objection").
- 1.6 The Secretary of State has given notice requiring the Objector to submit a statement of case following its decision to hold an inquiry into the Order within 6 weeks from 14 February 2008.
- 1.7 Select Service Partner Limited reserves the right to expand to add to its grounds of objection as set out in this statement of case and the Objection.

2. BACKGROUND

2.1 The Objector is a leading, dedicated operator of food and beverage brands in travel and leisure locations. The Objector operates restaurants, bars, cafes, food courts and convenience stores in airports, railway stations, motorway service stations, retail parks, conference centres and other leisure locations.

2.2 The Objector has interests in the following plots shown on the map referred to in the Order:

2.2.1 Leasehold interest in the public house, the Iron Duke, the Burger King Restaurant, the premises known as the Jungle Rooms, the area known as the 'back up accommodation', and the café trading as Café Ritazza, together with back of house accommodation on plot 1;

2.2.2 Leasehold interest in the shop trading as Threshers on plot 3;

The above interests are referred to in this statement of case as "the Property".

2.3 The Property is listed in the Schedule referred to in the Order as plot 1, and described as:

560 square meters or thereabouts of railway station, entrance, public house (the Iron Duke), café, shops, information centre, offices, advertising hoardings and premises (Victoria Station), steps and underground station (Victoria Station) and tunnel carrying railway and works (Victoria Line)

and as plot 3, described as:

59 square meters or thereabouts of railway station, shop, offices and premises (Victoria Station) and underground station (Victoria Station).

2.4 The Objector is the tenant under a lease dated 28 November 2003 and made between Network Rail Infrastructure Limited and Select Service Partner Limited in relation to plot 3.

2.5 The Objector is the tenant of plot 1 under:

2.5.1 a lease dated 27 November 2002 and made between Railtrack Plc and Select Service Partner Limited for the Iron Duke public house;

- 2.5.2 a lease dated 28 November 2003 and made between Network Rail Infrastructure Limited and Select Service Partner Limited for the Burger King Restaurant;
 - 2.5.3 a lease dated 28 November 2003 and made between Network Rail Infrastructure Limited and Select Service Partner Limited for Caffè Ritazza;
 - 2.5.4 a lease dated 22 March 2000 and made between Railtrack Plc and Select Service Partner Limited for the Jungle Rooms; and
 - 2.5.5 a lease dated 8 March 1995 and made between Railtrack Plc and Travellers Fare Limited for the 'back up accommodation'.
- 2.6 The Order describes work No.1 and work No.2 which according to the plans and sections attached to the Order will affect plots 1 and 3, as follows:
- 2.6.1 Work No.1 is described as:
 - 2.6.1.1 An extension of the existing sub-surface ticket hall (the extension comprising an area of 1,154 square meters) between a point within the National Rail Victoria station commencing from a point 7 metres south of the building line of its northern façade and 33 metres west of the corner of that façade on Wilton Road and a point 30 metres south of the junction of Terminus Place with Wilton Road
 - 2.6.2 Work No.2 is described as:
 - 2.6.2.1 A passenger lift from the existing sub-surface ticket hall connecting with the National Rail Victoria station concourse commencing from a point 47 metres west of the corner of the National Rail station northern façade at Wilton Road and terminating at a point 11 metres south therefrom.

3. GROUNDS OF OBJECTION

- 3.1 Circular 06/04 provides that acquiring authorities should seek to acquire land by negotiation wherever practicable, but that formal compulsory purchase procedures can be initiated in parallel with such negotiations. So far as the compulsory purchase of plot 3 is concerned, there has been no effort by LUL to negotiate the purchase of it by agreement. Accordingly, it is considered that the making of the Order would be premature.
- 3.2 Paragraph 24 of Circular 06/04 states that before embarking upon compulsory purchase and throughout the preparation and procedural stages, acquiring authorities should seek to acquire land by negotiation and that compulsory purchase is intended as a last resort in the event that attempts to acquire by agreement fail. The Objector is prepared to enter into negotiations for the grant of the necessary rights by agreement. Accordingly, compulsory acquisition of the Objector's property is unnecessary.
- 3.3 Contrary to the advice in Circular 06/04, LUL has made no effort to engage with the Objector to provide appropriate accommodation by way of alternative premises within the vicinity. Moreover if alternative premises were available in the vicinity it is likely that the rent, rates and service charge overheads would be higher than the present costs adversely affecting the viability of the Objector's business.
- 3.4 The information contained in the Order and associated documents is insufficient. There is no clarity about the proposals and their effect on the Property.
- 3.5 Very limited details have been provided as to the proposed funding of the development. No evidence has been provided to show that the scheme is viable or deliverable. In particular, while according to the Funding Statement, funding is allocated up to 31 March 2010, there is no funding for the period after that date. As the works will commence in 2009 and the estimated completion date is 2015, there is no confirmed funding for 5 years out of the 6 year programme for the works. Accordingly, there is no funding for the scheme and it is not deliverable. Further, there is no funding currently available for protective works. It is considered that the making of the Order would be premature without such funding being in place.

- 3.6 The confirmation of the Order and the carrying out of the works for the redevelopment of the Victoria Station will involve severe disruption to the Objector's current operations, particularly in terms of customer and servicing issues, without any indication of how, or indeed if, those operations could be accommodated during the construction of the scheme.
- 3.7 There are no adequate protective provisions in the Order. LUL itself predicts significant adverse effects on the Victoria Station building but the carrying out of protective works is at the absolute discretion of the LUL. This is unacceptable as it clearly leaves the Objector unprotected.
- 3.8 The Objector is concerned that the proposed works will affect the Objector's interest to such an extent that protective works will not provide adequate solution. Parts of the Objector's premises which will be affected by the proposed works are outside the limits of the proposed works. The area of protective works should be extended in the Order.
- 3.9 Further, the protective provisions are insufficient as not only the notice provisions are unreasonably short but also the five year period is inadequate as the defects likely to manifest themselves outside the five year period.
- 3.10 Any protective works to plot 1 will adversely affect part of the Objector's back of house accommodation facilities that serve not only the retail units included in the Order but also other units of the Objector in the Victoria Station building.

4. CONCLUSIONS

- 4.1 No effort has been made by LUL to negotiate the purchase the Objector's interest in the Property and so the Objector considers that the making of the Order is premature. The Order is unnecessary as the Objector is willing to enter into negotiations.
- 4.2 The protective work provisions provide very limited protection and clearly inadequate in the Order.
- 4.3 It has not been satisfactorily demonstrated that there is funding available for the scheme. Accordingly, the Order is premature and should not be confirmed as the scheme is not deliverable.

4.4 The Objector will contend that in all circumstances of this case, the proposed Order should not be made so far as it affects the Objector's interests or operations or at all.

5. LIST OF DOCUMENTS

5.1 The Objector intends to rely on:

5.1.1 The documents listed in LUL's List of Application Documents;

5.1.2 plans and drawings of the Property.

5.2 The Objector reserves the right to amend or add to this list as necessary as its evidence for the public inquiry is prepared.