



CROSSRAIL INFORMATION PAPER

B5 – MAIN PROVISIONS OF THE PLANNING REGIME

This paper sets out the main provisions of the planning regime established for Crossrail.

It will be of particular relevance to those in the vicinity of the proposed Crossrail works.

This is not intended to replace or alter the text of the paper itself and it is important that you read the paper in order to have a full understanding of the subject. If you have any queries about this paper, please contact either your regular Petition Negotiator at CLRL or the Crossrail helpdesk, who will be able to direct your query to the relevant person at CLRL. The helpdesk can be reached at:

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1. Introduction

- 1.1 The Crossrail Bill (the Bill) when enacted will give the nominated undertaker appointed to construct Crossrail deemed planning permission for the authorized works, subject to the condition that they are carried out in accordance with the planning regime established through clause 10 and Schedule 7 to the Bill.
- 1.2 A Crossrail design has been drawn up to provide the level of detail necessary for the purposes of the Bill and the requirements of the Environmental Impact Assessment. The level of detailed design necessary to take Crossrail through the process of construction has yet to be carried out, and this will not be done until after the Bill has secured Royal Assent. Once the detailed design work necessary has been done, the nominated undertaker will need to apply for approval from local planning authorities along the route (London boroughs, district councils and county councils), to the plans, specifications and construction arrangements, in accordance with the provisions of Schedule 7. Broadly speaking, part 2 of Schedule 7 sets out the regulatory regime applicable in relation to the London boroughs and part 3 of Schedule 7 sets out a similar regime in relation to counties and districts outside Greater London.
- 1.3 The Bill gives each local authority a choice between having a wide or narrow range of controls over details. Local authorities opting for a wide range of controls will be required to sign the Planning Memorandum, which is currently in draft form and which sets out rules of conduct and administrative arrangements for them and the nominated undertaker. Such authorities are referred to in the Bill as qualifying authorities. Qualifying authorities will be specified by the Secretary of State in accordance with part 1 of Schedule 7. Those not choosing to sign (referred to in the Bill as non-qualifying authorities) will have the same controls as might be available to them for other railway schemes authorized by a local Act of Parliament. This paper sets out the main provisions of the planning regime established for Crossrail.

2. Context Report

- 2.1 Part 4 of Schedule 7 to the Bill requires the nominated undertaker to deposit with a relevant local authority a document setting out its proposed programme of requests for approval, and requires that the requests themselves be accompanied by a document which explains how the matters to which the request relates fit into the overall scheme of the works. It intended that these requirements will be met by the nominated undertaker producing a document which contains this information for each local planning authority, and these documents will be referred to as context reports.

3. Consultation

- 3.1 The nominated undertaker will be required under the Planning and Heritage Memorandum to engage in forward discussions with local authorities about

prospective requests for approval. This is in order to facilitate effective consultation and help ensure that requests for the approval of the plans and specifications and to ensure the construction arrangements are determined within the timetables referred to in Schedule 7.

4. Environmental Minimum Requirements (EMR)

4.1 The various documents which form the EMR and which have to be taken into account by the nominated undertaker and the local planning authorities when preparing and considering requests for approval are described in Information Paper D2, Control of Environmental Impacts (copies of the documents themselves can be found on the Crossrail Bill Supporting Documents website¹).

5. Approval of Detailed Design

5.1 Schedule 7 to the Bill defines the planning regime which will apply to local planning authorities. A local planning authority that becomes a qualifying authority under paragraph 1 of Schedule 7 will have control, subject to appeal, over specific aspects of the plans and specifications submitted to it by the nominated undertaker in accordance with the provisions of Schedule 7. Those provisions cover matters such as buildings and road vehicle parks, terracing, cuttings, embankments and other earthworks, fences, walls or other barriers, transformers, telecommunication masts, pedestrian access to the railway line, artificial lighting, waste and spoil disposal and borrow pits.

5.2 The planning authority can only refuse to approve (or impose conditions in respect of) the plans and specifications on the grounds specified in Schedule 7. There are, in broad terms, two main sets of grounds on which the work may be refused or conditioned by a qualifying authority:

- that the design or external appearance of the work ought to be modified to preserve the local environment, local amenity or designated sites of conservation or ecological value, or to prevent or reduce prejudicial effects on road safety or the free flow of traffic in the local area, and is reasonably capable of being so modified, or
- that the development ought to, and could reasonably, be carried out elsewhere within the relevant limits shown in the deposited plans that accompanied the Bill.

5.3 In determining whether or not to grant approval to a request or to impose conditions upon an approval, a local planning authority should consider, amongst other things, whether the proposals are consistent with the EMR, including the draft Environmental Memorandum, which sets out principles that the nominated undertaker should follow in developing the detailed design and that may be taken into account by planning authorities when considering requests for approvals of the plans and specifications.

¹ <http://billdocuments.crossrail.co.uk/>

6. Construction controls

- 6.1 The nominated undertaker will be bound, through the EMR, to adopt and implement the Crossrail Construction Code (the Code). Several drafts of the Code have been circulated to the relevant local authorities and statutory bodies and have been the subject of extensive consultation. Other commitments in the EMR will govern construction, including a commitment that the nominated undertaker will obtain consents under section 61 of the Control of Pollution Act 1974 in relation to noise generating activities and hours of working.
- 6.2 Under Schedule 7 to the Bill, the nominated undertaker will have to obtain the approval of a qualifying authority to specific construction arrangements. Qualifying authorities will have control, subject to appeal, over road transport, handling of re-useable excavated material and top soil, storage sites, construction camps, screening, artificial lighting, suppression of dust and mud on a highway.
- 6.3 In broad terms there is one main set of grounds on which the proposed construction arrangement may be refused by a qualifying authority, namely that the arrangements ought to be modified to preserve the local environment or local amenity or to prevent or reduce the prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified. Unlike operations and works, a qualifying authority can only impose conditions on construction arrangements with the agreement of the nominated undertaker.
- 6.4 So, for example, as far as lorry routes are concerned, under Schedule 7 the nominated undertaker has to submit, for approval by the qualifying local planning authority, details relating to the routes by which anything is to be transported on a highway by a large goods vehicle to a working or storage site, a site where it will be reused, or a material disposal site. No approvals are required under Schedule 7 in relation to transportation on a motorway or trunk road, or in relation to a site where the number of large goods vehicle movements, whether to or from, does not exceed 24 on any day.
- 6.5 Other parts of the Bill also offer control over related construction arrangements. Paragraph 2 of Schedule 2 to the Bill allows the nominated undertaker to form and lay out means of access, and improve existing means of access. However, where this would require the opening of an access onto, or the alteration of, a highway used by vehicular traffic they must be carried out in accordance with plans and specifications approved by the highway authority, and if at a location other than that shown on the deposited plans, with the consent of the highway authority (such consent and approval not to be unreasonably withheld).
- 6.6 Finally, under the provisions of the Code, the nominated undertaker will have to prepare a Traffic Management Plan and a Lorry Management Plan which will outline the traffic control measures and routes on public highways that will be used during construction. These plans will take account of the requirements and advice of the highway authority and other authorities, and will provide a framework for the preparation of submissions under Schedule 7.

7. Approval of Other Matters

- 7.1 Schedule 7 to the Bill also gives qualifying local planning authorities regulatory control over a number of other matters. These include a requirement that where development involves the disposal of waste or excavated material, or the excavation of bulk materials from borrow pits, the work shall not be begun unless a scheme for restoration of the land on which the development is to be undertaken has been approved.
- 7.2 They also include a requirement that where development involves operations ancillary to the construction of any scheduled works, these operations shall be discontinued as soon as reasonably practicable after completion of the relevant scheduled works and the sites shall be restored in accordance with a scheme to be agreed with the local authority.
- 7.3 The bringing into use of any scheduled work or depot, except for stations and any work constructed in a tunnel that is at least nine metres below the surface, is subject to prior approval by the local planning authority. The local planning authority must grant prior approval if it considers that there are no reasonably practicable measures which need to be taken for the purposes of mitigating the impacts of the work or its operation or if it has approved a mitigation scheme for that purpose submitted by the nominated undertaker. The local authority cannot refuse or impose conditions upon such a scheme unless it is satisfied that it is expedient to do so on the grounds that the scheme ought to be modified, and is reasonably capable of being so modified, in order to preserve the local environment, local amenity, a site of archaeological or historic interest or in the interests of nature conservation.

8. Appeals

- 8.1 Under part 4 of Schedule 7, the nominated undertaker has the right of appeal to the appropriate Ministers against any local planning authority decision to refuse a request for relevant approval or against the conditions which an authority has imposed in granting approval. For this purpose, references to the appropriate Ministers are to the Secretary of State for Communities and Local Government and the Secretary of State for Transport, acting jointly. The nominated undertaker can also appeal if no decision has been made within eight weeks of the receipt of the request by the authority or such extended period as may be agreed between the parties. Under the Bill non-determination is treated as refusal. Notice of the appeal must be given within 42 days of the decision or of the last day of the appropriate period. Part 4 of Schedule 7 provides for the handling and determination of such an appeal. The appropriate Ministers may allow or dismiss the appeal or vary the decision of the local planning authority, but may only make a determination involving the refusal of or imposition of conditions on an approval on grounds which were open to the authority itself under Schedule 7.
- 8.2 The Mayor of London's role in the control of development of potential strategic importance for Greater London is limited to determining whether a planning application for such development should be refused by the local planning authority,

on the grounds that it prejudices the spatial development strategy (the London Plan) or good strategic planning in Greater London. He does not determine planning appeals. Accordingly the appropriate Minister's appeal function under Schedule 7 is not one which may be devolved to the Greater London Authority under clause 60 of the Bill.

9. Compliance and Enforcement

9.1 Overseeing compliance with approvals and planning conditions falls to the local planning authority as an integral part of its planning responsibilities. Approvals given by the local planning authorities under the planning regime in the Bill will be enforceable under the Town and Country Planning Act 1990. It will be for the local planning authorities to decide whether and to what extent it is expedient to take action to enforce planning control in relation to a breach of condition or approval which they consider has taken place within their area.

9.2 Compliance with the planning regime will be achieved through supervision by the nominated undertaker, monitoring by the local planning authority and observation by the public.