

January 2007

CROSSRAIL BILL

**HOUSE OF COMMONS
SELECT COMMITTEE**

**Petition AP3 No. 36:
Westminster City Council**

Promoter's Response Document

INTRODUCTION

This Promoter's Response Document (PRD) forms the Promoter's response to AP3 Petition 36, from Westminster City Council.

The purpose of the PRD is to advise you and the Select Committee of the Promoter's position in relation to the petitioning points raised. It is intended that the PRD will alleviate many of the concerns raised in the petition.

The Table of Contents overleaf lists the page number, petitioning points in the order they appear in the petition, and a summary statement of the issue(s) contained in the petition for quick reference. Other supporting material (e.g. Information Papers) are referred to in the response points where necessary and contained in the Appendices.

Department for Transport
Cross London Rail Links Limited

PETITION AP3 NO. 36

WESTMINSTER CITY COUNCIL

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PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 4

ISSUE RAISED: Batching plant conditioning

PETITION PARAGRAPH: At Paddington New Yard it is proposed to relocate the existing concrete batching plant to the west of its current site during the construction of Crossrail. At the completion of the project it is proposed to return it close to its original site, with modifications. Your petitioners are concerned about the adverse impact the temporary batching plant would have on residents as it will be physically closer to them. Given that, your petitioners request that the nominated undertaker should be required to use the best available plant and machinery so that noise, dust and general disturbance are mitigated to the absolute minimum. This requirement should also apply to the permanent batching plant after completion of the project. Your petitioners would wish to be able to impose and enforce appropriate conditions on the operation of the batching plants, under the Bill and as necessary through the normal planning process. Your petitioner's preference remains that approval for the new permanent plant should be controlled entirely through the existing statutory planning process and therefore object to the proposed new clause headed "Reinstatement of discontinued facilities".

PROMOTER'S RESPONSE:

1. Both the temporary and permanent batching plants at Paddington New Yard will be conditioned under the proposed new Schedule "Reinstatement of Discontinued Facilities" which was included in the third batch of Additional Provisions.
2. The conditions imposed will be appropriate to the development of concrete batching plants at that location and can be expected to be largely similar to the draft conditions that have been the subject of discussions between the Promoter and Westminster City Council and which were discussed at Select Committee on 21 June 2006. There is currently a high degree of agreement on the draft conditions (see paragraph 11612 of the Select Committee transcript).
3. The petitioner's concerns in regarding type of machinery, noise, dust and general disturbance will be addressed through the discharge of the planning conditions. Westminster City Council will, as local planning authority, be responsible for implementing the conditions through the normal processes set out in the General Development Procedure Order. The draft conditions address the issues raised by the petitioner and therefore ensure that the possible effects of the batching plants will be controlled.

4. The rationale for the batching plant being reinstated using Bill powers was set out in Select Committee on 21 July 2006 and remains unaltered. There is a clear policy imperative for the retention of a batching plant in Paddington New Yard and the proposed new Schedule included in AP3 will ensure it is suitably controlled through planning conditions.

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PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 5

ISSUE RAISED: Westbourne Park passage footbridge

PETITION PARAGRAPH: In their interim decisions given in July 2006, the Select Committee of your Honourable House recommended that a ramp be constructed at the southern end of the Westbourne Park passage footbridge in order to facilitate the construction of the required extended sidings at Westbourne Park. This is welcomed by your petitioners. However the impact of the construction of the ramp, during a period of some 4 months, gives rise to concern. Specifically, the closure of the bridge for 6 weeks and the use of the nearby local residents' car park for site servicing are the main impacts. Your petitioners would wish to secure that the period during which the bridge and car park are closed should be shortened further. Assurances are sought that the construction methodology and programme of works are refined to meet your petitioners' concerns and that the bridge works will include satisfactory lighting and CCTV provision in the final design and construction specification.

PROMOTER'S RESPONSE:

1. The works to the bridge will be fairly extensive at the both the south and north end requiring closure of the bridge on safety grounds. The period of closure will be minimised as far as reasonably practicable.
2. As stated in paragraph 2.7.18 of the AP3 ES, the detailed design of the ramp will be developed in consultation with crime prevention officers, with the introduction of measures such as the use of mirrors and appropriate lighting to improve sightlines and increase opportunities for surveillance.
3. The detailed design of the remodelled facility will be focused on accessibility and safety and will be subject to the planning regime established in Schedule 7 of the Bill. This is explained further in Information Paper B5, Main Provisions of the Planning Regime.

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PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 6a

ISSUE RAISED: 14-18 Bishops Bridge Road

PETITION PARAGRAPH: Your petitioners are very concerned over the impact of construction and operational activities on the residents of Brewers Court. Given the proposals to demolish 4-18 Bishop's Bridge Road and use the site to service Paddington Station in addition to the Crossrail worksite at platform 1A, there will be considerable disturbance to the occupants of some 50 flats. The Amendment Provisions and supporting documents fail to address the scale of potential adverse impacts to ensure that there will be adequate mitigation of the impact during construction, as well as the traffic impact of the proposed alternative servicing facility. Your petitioners seek further information on traffic and other impacts on the residents of Brewers Court and respectfully request that the promoters should be required to bring forward provisions to ensure that the residents will not be injuriously affected. Your petitioners request that the Promoter should be required to provide a full and supportive mitigation strategy for your petitioners' review and approval. The future of any building over the proposed 'raft' for Crossrail or Network Rail purposes on the site of 4 - 18 Bishop's Bridge Road needs to be clarified if it is to be pursued under over site development or normal statutory planning procedures.

PROMOTER'S RESPONSE:

1. The proposed service deck at 4-18 Bishops Bridge Road will accommodate vehicles temporarily displaced from Departures Road during construction of the Crossrail station at Paddington.
2. The Promoter has undertaken a survey of delivery activities to Paddington Station. The traffic survey showed there were 62 delivery vehicles using Departures Road and 72 using Arrivals Road in the period 06.00 to 16.00 (Monday 12 December 2005). Of these 4 were heavy goods vehicles and the remainder were medium goods or vans. The Promoter is not proposing to undertake works which would affect deliveries from Arrivals Road. The transfer of vehicles from Departures Road to the proposed service deck would not result in any significant traffic delay or queues on Bishops Bridge Road. Some deliveries to Rail Gourmet, and early morning newspaper deliveries to the station, occur prior to 06.00am from Departures Road.

3. A noise and vibration assessment was carried out as part of the SES2 environmental statement for the demolition of 4-18 Bishops Bridge Road and it concluded that there would be no significant noise impact from these works. A further noise and vibration assessment was carried out for the construction of the service deck for the AP3 environmental statement and it concluded that there would no significant noise impact for the nearest sensitive noise receptor. The operational noise assessment assumed the most likely traffic movements when the temporary service deck was in operation, with no enclosure provided on the deck. The assessment predicted that there would be no significant operational noise or vibration impact from the service deck for the residential properties at Brewers Court. The Promoter is aware that the petitioner has very recently engaged specialist consultants to review the impacts associated with the demolition of 4-18 Bishops Road and its use as a service deck, and the Promoter will co-operate with the petitioner and their consultants in that work.
4. The Bill seeks powers for construction of the operational railway. It does not seek powers for the construction of replacement buildings not forming part of the Crossrail infrastructure. At 4-18 Bishops Bridge Road, the Bill seeks consent only for the provision of a temporary service deck structure. On completion of the main works at Paddington the service deck will be removed and it will be possible to construct non-operational structures on the site. Any planning permission for these would be sought through the normal processes, which would allow the petitioner, as the local planning authority, to determine the application.

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PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 6b

ISSUE RAISED: Permanent relocation of taxis

PETITION PARAGRAPH: The proposals to permanently relocate taxis from the Departures Road to the new Red Star deck link to Bishop's Bridge are welcome. Your petitioners seek further details regarding the design and operation of the taxi facilities and the junction of the Red Star Deck with Bishop's Bridge Road. In particular the design should have regard to the Heathrow Express Railway Select Committee undertaking mentioned in your petitioners' original petition against the Bill and to the Heathrow Terminal 5 planning permission. At the very least, your petitioners seek assurances that the junction will be completed prior to any construction activities commencing. It may also be necessary to provide the junction prior to the diversion of utilities apparatus, should the current operation of the Departures Road and local movement of traffic be adversely affected.

PROMOTER'S RESPONSE:

1. The Promoter intends to follow the objectives of the Heathrow Express Railway Act 1991. Further development will take place during the detailed design phase and as discussions continue with the relevant stakeholders. The taxi access layout (including connections to the station concourse) and the design of the canopy will be subject to approval under the planning regime established in the Bill. It is the intention that the taxi arrangement will be made operational prior to the commencement of significant construction work in Departures Road and Eastbourne Terrace.

HOUSE OF COMMONS SELECT COMMITTEE**CROSSRAIL BILL****PROMOTER'S RESPONSE TO PETITION OF:** Westminster City Council**PETITION NUMBER:** AP3 36**PARAGRAPH NUMBER:** 6c**ISSUE RAISED:** Eastbourne Terrace

PETITION PARAGRAPH: The new proposal to lower the level of Eastbourne Terrace by some 3 metres in the permanent scheme raises concerns both during construction and for the continuing operation of the existing highway and station. Your petitioners also have concerns about the visual impact on the general townscape and the setting of the Grade 1 listed station building and on the impact of the buildings on the west side of Eastbourne Terrace. Other ancillary impacts are addressed below in terms of the operation of the station. The lowering of Eastbourne Terrace will have significant impacts on the fabric of Chilworth Street and Cleveland Terrace. Additionally, properties in Eastbourne Terrace, namely Numbers 10, 20, 30 and 40 will be adversely affected. Detailed proposals, their methodology and programming remain outstanding for these works. Your petitioners are unable to comment in full without further supportive documentation from the promoter, beyond that submitted so far. To this end your petitioners position remains reserved. The Amendment Provisions and the Supplementary Environmental Statement (3) fail adequately to address actual, real and temporal impacts during construction in any comprehensive detail.

PROMOTER'S RESPONSE:

1. The proposal to permanently lower the level of Eastbourne Terrace was developed in response to concerns raised previously over pedestrian circulation, particularly at the central "Clock Arch" entrance to the mainline station.
2. The entrances to commercial properties in Eastbourne Terrace will need to be altered in order to facilitate access, and a solution in the form of a podium structure is presented and assessed in the AP3 ES. However, the detailed design of the permanent works will be subject to the planning regime in Schedule 7 of the Bill. This is explained further in Information Paper B5, Main Provisions of the Planning Regime. As such, a qualifying authority would be able to refuse to approve a request for the approval of plans or specifications for the above ground aspects of works, or condition them, on the grounds that the design or external appearance of the works ought to be modified to preserve the local environment or local amenity or a site of archaeological or historic interest, and is reasonably capable of being so modified, or that the development ought to, and could reasonably, be carried out elsewhere within the limits of land on which the works of which it forms part may be carried out under the Bill.

3. In designing and constructing Crossrail, any nominated undertaker will be contractually bound to comply with the controls set out in the Environmental Minimum Requirements (EMRs) (as may be developed during the passage of the Bill) and to take such opportunities, as may be reasonably practicable, to reduce significant adverse impacts. Accordingly, further work will be undertaken as part of the detailed design process, in consultation with affected property owners, in order to reach an effective and cost efficient solution in relation to the permanent above-ground aspects of the scheme.
4. The Promoter considers that the level of design detail developed to date is sufficient for deposit of a Hybrid Bill. The detailed design stage of the project will be ongoing during 2007 and will enable more detailed information to be shared with the petitioner in due course. The Promoter will develop the detailed design in consultation with the affected stakeholders.

HOUSE OF COMMONS SELECT COMMITTEE**CROSSRAIL BILL****PROMOTER'S RESPONSE TO PETITION OF:** Westminster City Council**PETITION NUMBER:** AP3 36**PARAGRAPH NUMBER:** 6d, 6e, 6f**ISSUE RAISED:** Paddington Station

PETITION PARAGRAPH: (6d) In terms of the operation of the Station during the construction phase, your petitioners retain grave concerns that the Amendment Provisions and supportive documentation still fail to address your petitioners' concerns as set out in their original petition against the Bill. These concerns are particularly acute, given the considerable number of daily users of Paddington Station, including mainline train, underground, bus and taxi usage, together with traffic and pedestrians utilising the local highways network. It remains unclear how all these services and users will interface and operate. Pedestrian and traffic modelling remains incomplete. Your petitioners' position remains that insufficient detail has been provided to inform them and thereby enable them to assess the impacts.

(6e) Despite long standing previous, and continuing, requests for a full design with associated evaluation and impact studies fully set out to the satisfaction of the your petitioners and English Heritage, the promoter has yet to provide sufficient information in support of their request for bill powers over the Grade 1 listed station building.

(6f) Your petitioners respectfully request that the promoter should be required to submit all the information requested in your petitioners' draft planning brief for Paddington Station in order to satisfactorily address these issues and provide an appropriate response to the matters raised by your petitioners in relation to architectural and historic interest, transportation and traffic issues and the connections between the station and adjacent sites.

PROMOTER'S RESPONSE:

1. The Crossrail Bill will (when enacted) grant 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. This requires plans and specifications and construction arrangements be approved by the local planning authority (the petitioner). The heritage agreement, currently in draft form, will put in place a process for approving works to listed buildings in the City of Westminster, including Paddington Station. When making requests for approval under Schedule 7 or the heritage agreement the nominated undertaker will provide sufficient information to enable Westminster City Council to determine such

requests. Prior to such requests for approval the Promoter will continue to work with and share information with the petitioner, although it may not be practicable or of benefit to provide all the information requested in the draft planning brief.

2. Pedestrian and traffic modelling is ongoing as part of the design process being undertaken by the Promoter. The Promoter considers that the level of design detail developed to date is sufficient for deposit of a Hybrid Bill. The detailed design stage of the project will be ongoing during 2007 and will enable more detailed information to be shared with the petitioner in due course.
3. The extent to which City of Westminster's requirements for traffic and transport considerations, as set out in its draft brief, are consistent with the provisions of the Bill will need to be resolved with the petitioner.

HOUSE OF COMMONS SELECT COMMITTEE**CROSSRAIL BILL****PROMOTER'S RESPONSE TO PETITION OF:** Westminster City Council**PETITION NUMBER:** AP3 36**PARAGRAPH NUMBER:** 7a**ISSUE RAISED:** Bond Street LUL ticket hall

PETITION PARAGRAPH: During construction of the new ticket hall the indicative site layout and servicing arrangements give rise to concern. The information provided in the Amendment Provisions is inadequate in so far as assumptions are made without supportive documentation and detailed discussions having taken place with your petitioner. Proposals to place hoardings and other temporary structures on the highway, together with possible footway closures have not been thought out or adequately demonstrated. It is proposed initially to take up 1 metre of the footway on the Oxford Street elevation for a site hoarding. This will extend to 4 metres at stages during construction and will at a further stage involve a total closure of the footway for unknown periods. The full width of the footway at this location is approximately 8 metres. This is unacceptable given the importance of Oxford Street for retail businesses. Volumes of pedestrians at most times, but particularly during seasonal periods, are extremely high. Diverting pedestrians across a main thoroughfare during any closure periods is not acceptable. Notwithstanding traffic orders that can be put in place, experience shows that many people will simply take the shortest route to avoid any obstructions. In this case it will be the heavily trafficked road. The Promoter must produce a detailed construction methodology for approval by your petitioners in order to address the above concerns.

PROMOTER'S RESPONSE:

1. The amount of footway occupied will be minimised as far as is reasonably practicable and in line with demolition or refurbishment works at other locations in Oxford Street. The underground passage works will require further partial closures of the footways but the size and duration of this phased work will be discussed with the petitioner when further design work has been carried out. It is unlikely that full closure of the pavement will be needed except in special circumstances which would be planned in consultation with the petitioner.

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PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 7b, 7c

ISSUE RAISED: Marylebone Lane - vehicular and pedestrian management

PETITION PARAGRAPH: (7b) The use of the western arm of Marylebone Lane during construction again raises serious concerns. As accepted in SES (3) it is heavily trafficked by pedestrians. There appears to be no substantiation in any documents provided as to pedestrian counts on Marylebone Lane and the effect a reduced highway width will have. The comment made that pedestrians will choose to divert to the eastern arm of the Lane is not substantiated. The Promoter's proposals for the management of the highway in Marylebone Lane are not accepted. More detailed appraisals and further documentation are required by your petitioners before any agreement in principle can be forthcoming.

(7c) Your petitioners note the comment made in the Amendment Provisions that it may be possible to close permanently the western arm of Marylebone Lane to vehicular traffic at the end of the construction phase. Although this suggestion is not part of the Promoter's requisite, your petitioners point out that they are the highway authority and with the current joint proposals for Oxford Street, between the City Council, TfL and NVEC (New West End Company), this suggestion requires further detailed assessment before any decision is taken. The promoter should co-operate with the other parties to assess the impacts and desirability of this approach.

PROMOTER'S RESPONSE:

1. As stated in the Environmental Statement a route will be maintained for pedestrians in the western arm of Marylebone Lane during construction. The details of the route will be developed as part of the construction planning and the petitioner will be consulted on these proposals.
2. It is understood that the proposal to permanently close and pedestrianise the western arm of Marylebone Lane has been considered in the joint studies for Oxford Street the petitioner mentions. The ES merely states that there is potential for such a scheme and makes clear that it does not form part of the proposals in the Crossrail Bill.

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PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 7d, 8

ISSUE RAISED: Loss of on-street parking

PETITION PARAGRAPH: (7d) Your petitioners have already raised at Select Committee the issue of the loss of on-street parking provision, specifically in Hanover Square. The Amendment Provisions for a new ticket hall at Bond Street indicate the further loss of parking places at Stratford Place, Marylebone Lane and Welbeck Street during construction. The incremental effect this (and at other locations within your petitioners domain) is having on the overall provision of parking places will be serious in so far as the amenity of residents and visitors are concerned. A subsidiary issue is the loss of income to your petitioners. Such income may only be used to administer and enforce the on-street parking regime. Any surpluses in the account are solely used for highway improvements. Your petitioners vehemently oppose any further loss of parking provision. It is extremely difficult to find alternative locations for parking places as the road network is virtually full.

(8) The Amendment of Provisions proposes an extension of the Newman Street worksite into the carriageway of Newman Street. Your petitioners are concerned about the impact of this extension and the resultant loss of on-street parking spaces, in addition to the concerns already raised in the original petition.

PROMOTER'S RESPONSE:

1. Some loss of parking is unavoidable if the works for the new ticket hall are to be undertaken safely. It was concluded in the Environmental Statement that the loss would cause a significant impact. As the construction planning is developed the Promoter will seek to minimise this loss and to seek replacement provision for priority users in consultation with the Petitioner. The Petitioner has previously made the case to the Select Committee for compensation for loss of parking income.
2. The national compensation code deals with compensation issues, and will apply to Crossrail as it does to any other public works project. This is explained further in Information Paper C2, Operation of the National Compensation Code. It does not, however, provide for compensation to be payable for lost on-street parking.

HOUSE OF COMMONS SELECT COMMITTEE**CROSSRAIL BILL**

PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 7e, 7g

ISSUE RAISED: Design of LUL ticket hall entrance and over site development

PETITION PARAGRAPH: (7e) 354 - 358 Oxford Street flanks the entrance to Stratford Place, which terminates at Stratford House, a Grade I listed town mansion built between 1771 - 73 by Richard Edwin. There are Grade II listed townhouses at 2 -10, 12, 13, 16 and 17-20 Stratford Place, a Grade II listed building at 360 - 366 Oxford Street and a Grade II listed Porters Lodge on the corner of Oxford Street and Stratford Place. Stratford Place is of significant value both in terms of individual buildings and as a townscape composition. 354 - 358 Oxford Street is located within the Stratford Place Conservation Area. Your petitioners welcome the proposal to demolish 354 - 358 Oxford Street as the design of the existing building does not relate well to the townscape qualities of both Stratford Place and Oxford Street. The City Council will expect the design of the LUL entrance and any over site development at this site to be of high architectural and townscape quality. It should also respond appropriately to the composition of Stratford Place and 360 – 366 Oxford Street when viewed from Davies Street and South Molton Street in relation to proportions, materials and solid to void ratios.

(7g) Owing to the sensitivity of the site and the existence of other initiatives of your petitioners and Transport for London in this area, your petitioners will expect to be consulted at an early stage in the preparation of any development proposals and be asked to provide input into the design of the ground entrance and ticket hall and the over site development. Your petitioners are preparing amendments to the Bond Street Station (Western Ticket Hall) draft planning brief concerning this 'new' site which will contain the relevant and other policies applicable to the over site development and list the associated townscape works (paving etc.) will would be required to accommodate the public realm around the site. The promoter should be required to adopt the City Council's planning brief for the over site development, following consultation and revision.

PROMOTER'S RESPONSE:

1. The Bill seeks powers for construction of the operational railway. It does not seek powers for the construction of replacement buildings not forming part of the Crossrail infrastructure (known as over-site development (OSD)).

2. At 354-358 Oxford Street, the Bill seeks consent only for the provision of an additional station entrance and ticket hall. On completion of the works to construct the railway infrastructure, it will be possible to construct non-operational structures on the remainder of the site (OSD). Planning permission for OSD will be sought through the normal processes, which will allow the petitioner, as a nearby landowner, the opportunity to make representations.
3. Public access areas of stations are subject to the approval of design and external appearance by a qualifying local planning authority under Schedule 7 to the Bill. The application for planning permission for the OSD will be made to Westminster City Council, as local planning authority under the normal planning process and the proposed undertaking on OSD will apply to this site. The undertaking includes requirements for consultation and OSD in or adjacent to conservation areas to be designed in accordance with relevant national, regional, spatial and local planning policies.
4. In addition, recognising the impacts resulting from demolitions, the Secretary of State has proposed an undertaking to Parliament relating to OSD in the following terms:

“The Secretary of State will take steps to ensure that:

(1) There is consultation with Local Planning Authorities prior to submission of a planning application for OSD on -

a. the proposed use, quantum, layout, scale, access, appearance and response to context of the proposed OSD (including where appropriate co-operation in the preparation of a Planning Brief and/or SPD); and

b. the means by which the fundamental design elements of the new development will be integrated with the Crossrail Works (including loadings, support and access).

(2) OSDs in or adjacent to Conservation Areas will be designed in accordance with relevant national, regional, spatial and local planning policies, and in consultation with English Heritage.

(3) In assessing the contribution that OSDs will make to the character or enhancement of conservation areas the quality of buildings that existed prior to demolition will be a material consideration.

(4) A planning application and accompanying environmental statement for the proposed OSD is submitted as soon as reasonably practicable and in any event no later than 2 years after the commencement of construction of the Crossrail Works on the site unless the Local Planning Authority agree to a deferral or agree that an application is not required.

(5) Reasonable endeavours will be used to obtain planning consent by the date the works for the new stations or railway on the sites are completed.

(6) Reasonable endeavours will be used to ensure that development is commenced in accordance with the planning consents granted once the works for the new stations or railway on the sites are completed.”

HOUSE OF COMMONS SELECT COMMITTEE**CROSSRAIL BILL**

PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 7f

ISSUE RAISED: Stratford Place grout shaft

PETITION PARAGRAPH: Your petitioners note the proposal to construct a grout shaft in the northern end of Stratford Place and are concerned about the visual impact on the setting of the surrounding listed buildings and the proposed removal of an existing willow tree necessitated by the construction of the grout shaft. Other locations for this grout shaft should be considered in consultation with the City Council. Should the grout shaft be eventually constructed in this location then every effort should be made to retain the willow tree, if this is not possible the City Council will expect that a mature replacement tree is planted at the conclusion of the works to the satisfaction of your petitioners.

PROMOTER'S RESPONSE:

1. Compensation grouting is a settlement mitigation technique that is applied to areas where significant settlement is expected and is generally limited to proposed station or shaft locations. Until the settlement assessment work has been completed (which will be during the detailed design phase) the precise requirements for protective works, including compensation grouting, cannot be confirmed. The Promoter has therefore identified probable grouting shaft locations (from where the compensation grouting will be applied) which provide sufficient coverage for the whole station area. The locations have been selected to facilitate this coverage, but with due consideration of all environmental factors and the potential impact on utilities. In the case of the Stratford Place shaft, no alternative location has been identified without jeopardising the extent to which compensation grouting can be used or increasing the overall number of shafts required.
2. The Promoter will require the nominated undertaker to review whether the willow tree can be retained, taking into account the likely health of the tree during construction works. When the worksite is no longer needed for construction, the nominated undertaker is required by the planning regime in the Bill to restore the site in accordance with a scheme agreed with the local planning authority. This is explained further in Information Paper D5, Site Reinstatement. That scheme could, if the local authority require it, include provision for the replacement of any trees removed during construction.

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PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 7h

ISSUE RAISED: Noise impact on Davies Street and Gilbert Street

PETITION PARAGRAPH: In the absence of further details in the additional amendments and supporting documentations, your petitioners reiterate the concerns raised in the original petition particularly as regards the cumulative effect of the revised works and the Davies Street works on the residents of the social housing blocks in and around Gilbert Street.

PROMOTER'S RESPONSE:

1. The noise and vibration assessment as part of the Crossrail Environmental Statement (ES) predicted that 31 dwellings are likely to qualify for temporary rehousing in this location, for a duration of 11 months as a result of construction noise from surface construction of the new Bond Street Station. This is set out in table 8.13 of volume 2 of the ES and in section C4 of volume 4 of 8 of the Crossrail Assessment of Noise & Vibration Impacts Technical Report. The Environmental Assessment completed for the additional provision indicates that no new residential properties on the south side of Oxford Street will be affected by noise impacts from the construction of the new ticket hall.
2. The assessment reported in the ES was based on assumptions about the methods of construction, type of plant and the duration of noisy activities appropriate to the current level of design. During detailed design the Promoter will aim to reduce noise impacts from those reported in the ES where this is practicable. This can be achieved by adopting methods of construction, plant and equipment at the detailed design stage that reduce the level of noise generated or by measures to mitigate noise impacts. In addition any nominated undertaker will be contractually bound to take such opportunities as may be reasonable to reduce significant adverse impacts. These measures are expected to reduce the duration of the impact of noise and the number of properties affected by it. Similar measures were successfully adopted on the Channel Tunnel Rail Link and Jubilee Line Extension.
3. Further details will only be available once the detailed design has been completed and a contractor appointed with a detailed construction method and programme identified; only then will the actual properties that qualify for noise insulation and/or temporary rehousing be known.

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PROMOTER'S RESPONSE TO PETITION OF: Westminster City Council

PETITION NUMBER: AP3 36

PARAGRAPH NUMBER: 9

ISSUE RAISED: Tottenham Court Road construction impact

PETITION PARAGRAPH: Your petitioners welcome the early demolition 138 to 148 Charing Cross Road as this will enable a clear site for storage and servicing arrangements at the Tottenham Court Road Station worksite, thus alleviating pressures on the highway. Your petitioners remain concerned about the construction methodology at Tottenham Court Road Station in so far as its impact on highway users can be assessed. Concerns raised some 18 months to 2 years ago remain valid with regard to proposals to close Charing Cross Road for up to 3 years. The safety of the public is at the forefront in these concerns and the Promoter still has to demonstrate how the public will be protected given the various stages of construction phasing. Particularly this relates to site hoardings and how pedestrians will be routed to the immediate environs around the site. Your petitioners require detailed traffic and pedestrian safety audits to be undertaken for our review and comment.

PROMOTER'S RESPONSE:

1. Since the publication of the main Environmental Statement, construction planning for the Tottenham Court Road East ticket hall has continued. Revisions to this planning have required changes to be made to the associated traffic management. These proposals were reported in SES3. The Promoter shares the petitioners concerns about the safety of the public and this will be a prime consideration as the detailed staging of the works are developed.
2. These proposals, including routes for pedestrians, will not be finalised until nearer the start of construction. They will be discussed with representatives of the highway authorities involved including Westminster City Council and the Metropolitan Police through the proposed Traffic Liaison Group. At that time road safety audits of the staged construction will be undertaken in liaison with the highway authorities.

Appendix A



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 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*.

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.

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 be required to seek 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 which will outline the traffic control measures and routes on public highways that will be used during construction. This plan 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 First Secretary of State (the Office of the Deputy Prime Minister) 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 53 of the Bill.

9. Compliance & 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.

C2 – OPERATION OF THE NATIONAL COMPENSATION CODE

1. Nature and Purposes of the National Compensation Code

- 1.1 The national compensation code is not a single document, but comprises a collection of various enactments, now consisting primarily of the Land Compensation Act 1961, the Compulsory Purchase Act 1965 and the Land Compensation Act 1973 (as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004), and supplemented by a number of decided cases on the effect of these provisions and their predecessors¹.
- 1.2 Aspects of the law of compulsory purchase have recently been reviewed by the Government, and in consequence of that review, the changes to the compensation code and compulsory purchase procedures set out in part 8 of the Planning and Compulsory Purchase Act 2004 have been enacted². The Law Commission also reported on compulsory purchase compensation in December 2003 (Law Comm. 286) (Cm. 6071) as part of its comprehensive proposals for a code of compulsory purchase compensation and procedure, and the Government will respond to that report in due course.
- 1.3 The code applies to compulsory acquisition of land by compulsory purchase order made or confirmed by Ministers under the Acquisition of Land Act 1981. Such orders may be made for such projects as road schemes, housing schemes, development and regeneration schemes, the provision of utility plant and services, the provision of hospitals and the provision of schools. The code is also applied to compulsory purchases for proposals authorized by local or hybrid Act (the most recent hybrid Act being the Channel Tunnel Rail Link Act 1996) and also, by virtue of the Transport and Works (Model Clauses for Railways and Tramways) Order 1992, to compulsory purchase under orders made under sections 1 and 3 of the Transport and Works Act 1992.
- 1.4 Paragraph 2 of part 2 of Schedule 6 and paragraph 3 of Schedule 10 to the Crossrail Bill (the Bill) adopt this approach, by respectively applying Part I of the Compulsory Purchase Act 1965 as if the Bill were a compulsory purchase order under the Acquisition of Land Act 1981 and applying the provisions relating to injurious affection in section 6 of the Railways Clauses Consolidation Act 1845. Relevant provisions of the Land Compensation Acts 1961 and 1973 automatically apply to the assessment of compensation without any necessity for their explicit application by the Bill³. The Bill does not seek to alter the principal ingredients of the compensation code in applying the code to Crossrail. The Government is satisfied that in general the compensation code is appropriate for application to the Crossrail project.

¹ See the account in Appendix C to the Law Commission Report "Towards a Compulsory Purchase Code – (1) Compensation: Final Report" (Law Comm 286) (December 2003) available on www.lawcom.gov.uk/lc_reports.htm.

² Part 8 of the Planning and Compulsory Purchase Act was brought into force on 31 October 2004.

³ Section 1 of the Land Compensation Act 1961 and section 6 of the Compulsory Purchase Act 1965.

1.5 The purpose of the compensation code is to provide a uniform code for the payment of fair compensation for land to a landowner whose land is compulsorily purchased for public works. The compensation payable is determined by reference to the open market value of the land acquired, supplemented where appropriate by (a) payments in respect of disturbance, (b) compensation for loss of value of land retained by the dispossessed landowner due to it being severed or otherwise harmfully affected as a result of the compulsory purchase and (c) certain additional top-up payments claimable by a person who owns or occupies land subject to compulsory purchase irrespective of any particular loss; together with compensation in certain cases for interference with other legal and related rights. The code also gives landowners whose land is not acquired but is nevertheless devalued by the construction or operation of public works the right to claim land compensation. This is set out in more detail below.

2. Cases Where Land is Acquired From the Claimant

2.1 Where land is taken from a claimant, the claimant is entitled to payment based upon the open market value of the land taken from him, that value being determined as at the relevant valuation date⁴. Open market value is assessed subject to a number of valuation assumptions, the principal of which are (a) that the land is for sale in what is known as ‘the no-scheme world’, that is to say, ignoring the fact that the land may be used or is required for the particular purposes of the scheme to which the compulsory purchase relates; and (b) ignoring the fact that the purchase is compulsory and instead assuming a willing seller and a willing purchaser⁵.

2.2 In valuing the land certain assumptions are also made about the likelihood of alternative uses being permitted and carried out on the land (in other words, the development potential of the land is taken into account)⁶. In exceptional cases, where there is no general market for the use of the land in question, compensation can be assessed by reference to the cost of equivalent reinstatement on another site⁷.

2.3 The valuation date is the date on which the compensation is agreed or determined by the Lands Tribunal, or if earlier, the date on which possession is taken by the acquiring authority⁸. If the acquiring authority takes possession in advance of completion of the purchase, it is obliged to pay interest at a statutorily prescribed rate to the seller on the assessed or agreed purchase price from the date of entry. In addition, if possession is taken before completion, the claimant

⁴ Sections 5 (Rule 2) & 5A of the Land Compensation Act 1961.

⁵ Sections 5 to 9 of the Land Compensation Act 1961, and see also *Pointe Gourde Quarrying and Transport Co v The Sub-Intendant of Crown Lands* [1947] AC 565 and *Waters v Welsh Development Agency* [2004] 1 WLR 1304.

⁶ Sections 14-16 of the Land Compensation Act 1961.

⁷ Section 5 (Rule 5) of the Land Compensation Act 1961.

⁸ Section 5A of the Land Compensation Act 1961 (inserted by section 103 of the Planning and Compulsory Purchase Act 2004).

is entitled to ask for an advanced payment of 90 per cent of the acquiring authority's estimate of compensation due⁹.

- 2.4 Where a landowner is in occupation and therefore physically dispossessed by the acquiring authority, the landowner is also entitled to a payment in respect of disturbance¹⁰. Such payments will cover, for example, the reasonable cost of finding alternative premises and of removal, including relevant professional fees, and losses arising from damage to goodwill. To qualify, the losses must result from and be a reasonably foreseeable consequence of the dispossession¹¹.
- 2.5 Where part only of a person's land is acquired (that is, the owner retains part of the land) the owner may be entitled to a payment¹² in respect of injurious affection (for example, if the presence of, or the activities carried out in respect of, the scheme for which the purchase is made devalues the land the person retains¹³); and for severance, if the value of the land taken and the land retained is less when assessed separately than the value of the whole as a single unit (for example, because the taking of part renders the remainder less developable).
- 2.6 The rules for compensation mentioned above are based on the principle of equivalence or fair compensation; that is, a person from whom land has been compulsory purchased is put so far as practicable in the same position in money terms after purchase that the person would be in if there were no project calling for compulsory purchase. They therefore represent losses suffered¹⁴.
- 2.7 However in addition the compensation code makes provision for certain additional payments in recognition of the inconvenience to a person of being subject to compulsory purchase, which do not require any particular loss to be demonstrated in order to be claimed. If a dwelling is acquired, the occupier may be entitled to a home loss payment¹⁵, being 10 per cent of the value of the interest acquired subject to a maximum and minimum. In other cases, a "basic loss payment" may be payable¹⁶, representing 7.5 per cent of the value of the interest subject to a maximum, and if the claimant is in occupation, the claimant may be entitled to an additional occupier's loss payment¹⁷ of 2.5 per cent of the value of the interest (subject to adjustment depending on the value of the land and buildings on it).

3. Cases Where No Land is Acquired From the Claimant

- 3.1 Where no land is acquired from a claimant, compensation is payable in a case where the execution or presence (rather than operation) of the public works

⁹ Section 52 of the Land Compensation Act 1973.

¹⁰ Section 5 (Rule 6) of the Land Compensation Act 1961.

¹¹ See *Director of Buildings and Lands v Shun Fung Ironworks Ltd* [1995] 2 AC 111.

¹² Section 7 of the Compulsory Purchase Act 1965.

¹³ See in particular section 44 of the Land Compensation Act 1973.

¹⁴ See *Director of Buildings and Land v Shun Fung Ironworks Ltd* [1995] 2 AC 111 at 125 and *Waters v Welsh Development Agency* [2004] 1 WLR 1304 at 1306, para.1.

¹⁵ Sections 29 to 33 of the Land Compensation Act 1973.

¹⁶ Section 33A of the Land Compensation Act 1973.

¹⁷ Sections 33B and 33C of the Land Compensation Act 1973.

interferes with the landowner's enjoyment of or diminishes the value of his land, either permanently or temporarily, in a manner for which he could sue the promoters, had they not the immunity conferred by their statutory authority to carry out the public works¹⁸. For example, the performance of the public works may interfere with and obstruct the claimant's access to his land over a private right of way, such interference or obstruction giving rise to an action for nuisance in the absence of the promoters' statutory powers to carry out the public works. Compensation is assessed by reference to any loss of value of the claimant's interest in land caused by the interference with his private right.

3.2 In addition, compensation can be payable if land is devalued by virtue of noise, vibration and certain other physical factors arising from the operation of the works for which the compulsory purchase was authorised. However, claims for such compensation can only be made following the expiration of twelve months from the opening of the works¹⁹.

3.3 No compensation is payable to those in respect of whom no land is taken for loss of profits as such²⁰. For example, a petrol station owner or other local businesses in a town are not entitled to compensation for loss of business if the Highways Agency were to construct a bypass around the town.

4. Compensation Where Land Taken Temporarily

4.1 Schedule 5 to the Bill confers powers to occupy certain land temporarily. Where land is occupied temporarily under these powers, the Bill provides for compensation to be paid to any owner or occupier for the loss arising.

5. Advance Blight Purchases

5.1 In relation to the land within the Bill limits, which has been safeguarded for planning purposes, residential owner-occupiers and certain businesses can require a purchase of their interest in advance of the Bill being enacted²¹.

5.2 The Crossrail project also has a discretionary purchase scheme in cases of hardship where the interest concerned is not covered by the statutory blight purchase scheme (for further information see Information Paper C8 *Purchase of Property in Cases of Hardship*).

6. Disputes

6.1 In the event of a dispute as to entitlement to compensation, or as to its amount, the dispute is determined by the Lands Tribunal²². Claims for compensation are

¹⁸ Section 10 of the Compulsory Purchase Act 1965, as explained in *Metropolitan Board of Works v McCarthy* (1874) LR 7 HL 243 and *Wildtree Hotels Ltd v Harrow London Borough Council* [2001] 2 AC 1.

¹⁹ Part 1 of the Land Compensation Act 1973. See also the Information Paper "Policy on Advance Claims Under Part I of the Land Compensation Act 1973" [or whatever its title now is].

²⁰ Loss of profits may feature indirectly in the calculation of compensation, where the loss of profits causes a loss in the value of the land on which the business is conducted and results from an interference with some legal or similar right: see *Argyle Motors (Birkenhead) Ltd v Birkenhead Corporation* [1974] 1 All ER 201.

²¹ Chapter 2 of Part 6 of the Town and Country Planning Act 1990, and paragraph 6 of Schedule 13 to that Act.

subject to a time bar and application to the Tribunal must be made within a six-year limitation period beginning on the date when the right to compensation arises²³.

7. Indemnity

7.1 Petitioners against hybrid Bills sometimes suggest that the Secretary of State be required to give an indemnity in respect of the carrying out of the Bill works. Such an indemnity would be inappropriate, and in any case gives no greater comfort than properly formulated compensation arrangements.

7.2 It will be possible to make claims for damages in respect of any negligent exercise of the statutory powers sought in the Bill. Compensation in respect of non-negligent construction of the works is provided for in the national compensation code. The national compensation code does not include an indemnity and to do so would put those affected by the works for Crossrail in a better position than others similarly affected by other public works such as the construction of new roads.

²² See www.landtribunal.gov.uk.

²³ *Hillingdon LBC v. ARC Ltd.* [1999] Ch. 139.



1. Introduction

1.1 The Crossrail Bill (the Bill) includes powers for the Secretary of State to compulsorily acquire land shown on the deposited plans for the purposes of the scheduled works and other works described in the Bill. Some of the land authorized for acquisition is required for worksites, and is not required permanently for Crossrail infrastructure. (Information Paper D13 *Restitution of Open Space* is also available.)

2. Site Restoration

2.1 The Bill authorizes the temporary possession of land (under Schedule 5) and the acquisition of land through compulsory purchase (under Schedule 6) within limits shown on the deposited plans. Sites required in connection with the construction of the works and for uses ancillary to the scheduled works, such as for worksites, will be acquired under these Schedules respectively.

2.2 Paragraph 2 of Schedule 5 to the Bill requires that before giving up land which has been the subject of temporary possession under paragraph 1 of the Schedule, the nominated undertaker will restore the site in accordance with a scheme agreed with the owners of the land and the relevant planning authority. A scheme under Paragraph 2 of Schedule 5 must be agreed within six months of the completion of the relevant work(s) and if this does not occur the scheme will be determined by the appropriate Ministers.

2.3 In the case of other land acquired or used for activities which are ancillary to the construction of any scheduled works, the Bill requires that these operations shall cease as soon as reasonably practicable after the completion of the relevant scheduled work. The nominated undertaker will be required to restore the land in accordance with a scheme agreed with the relevant planning authority (Paragraphs 11 and 19 of Schedule 7 as appropriate), to be agreed within six months of the completion of the relevant work(s), and if not to be determined by the appropriate Ministers.

