



CROSSRAIL INFORMATION PAPER

D19 – HIGHWAYS AND TRAFFIC DURING CONSTRUCTION – LEGISLATIVE PROVISIONS

This paper outlines the clauses in the Bill which prescribe how works on highways, which may affect users (including motorised traffic, pedestrians, cyclists, equestrians) and access to property, must be undertaken.

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:

Crossrail
FREEPOST
NAT6945
London
SW1H 0BR

Email: helpdesk@crossrail.co.uk
Telephone: 0845 602 3813

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1. Introduction

- 1.1 This Information Paper outlines the clauses in the Crossrail Bill (the Bill) which prescribe how works on highways, which may affect users (including motorised traffic, pedestrians, cyclists, equestrians) and access to property, must be undertaken.
- 1.2 The Bill modifies or disapplies certain provisions of other Acts (e.g. New Roads and Street Works Act 1991 (the 1991 Act)) so a number of protective provisions have been incorporated in the Bill to enable local highway authorities to approve or give consent to works affecting highways and traffic.
- 1.3 This Information Paper explains which parts of the 1991 Act are disapplied, and sets out how the provisions of the Traffic Management Act 2004 will apply to Crossrail works.

2. Provisions Regarding Highways and Traffic

- 2.1 Accesses to highways (paragraph 2 of Schedule 2 to the Bill) — this provision allows the nominated undertaker to form and lay out new means of access, and to improve existing means of access.
- 2.2 Where the use of this power would result in the opening of an access onto, or the alteration of a highway used by vehicular traffic at a location shown on the deposited plans, prior notice must be given to the highway authority, in response to which it can on certain grounds require the access to be moved elsewhere within the Bill limits where that is reasonably capable of being done. In addition, the works must be carried out in accordance with plans and specifications approved by the relevant highway authority.
- 2.3 If the location is other than that shown on the deposited plans, the consent of the highway authority is required in order for the access works to be carried out. In addition, the works must be carried out in accordance with plans and specifications approved by the relevant highway authority.
- 2.4 Stopping up, diversion and interference with a highway (paragraph 5 of Schedule 3 to the Bill) — this provision allows the nominated undertaker temporarily to stop up, alter or divert any highway (or part of a highway), and for a reasonable period of time prevent any traffic, including pedestrians, from passing along a highway. It also allows the nominated undertaker to interfere with any highway, including any sewer, drain or tunnel in it. Where a highway is specified within the Bill, the nominated undertaker must consult the relevant highway authority prior to exercising the powers. Where the powers are to be exercised in relation to a highway not specified within the Bill, the nominated undertaker must obtain the consent of the highway authority before exercising the powers.
- 2.5 Completion of highway works (paragraph 9 of Schedule 3 to the Bill) — where the nominated undertaker constructs a new highway, or alters an existing one, (other than by carrying out street works within the meaning of Part 3 of the New Roads

and Street Works Act 1991), the construction or alteration must be completed to the reasonable satisfaction of the relevant highway authority, which is required to certify that it is so satisfied in writing to the nominated undertaker.

- 2.6 Construction and realignment of carriageways (paragraph 10 of Schedule 3 to the Bill) — where the nominated undertaker constructs or realigns the carriageway of a highway, it must be carried out in accordance with plans, sections and specification approved by the highway authority.
- 2.7 Where consents or approvals are required as mentioned above or in section 3 below, these are generally not to be unreasonably withheld and the Bill provides dispute mechanisms for cases where disagreements arise.

3. Protective Provisions for Highways and Traffic (Part 1 of Schedule 17 to the Bill)

- 3.1 The protective provisions apply to all the highway authorities for highways in which the powers of the Bill can be exercised (i.e. the local highway authorities and, in respect of trunk roads, the Secretary of State). These protective provisions are in addition to the protection given to such authorities in Schedules 2 and 3 to the Bill (for example, the right to approve temporary closures, the creation of new accesses, and the construction of new or altered streets referred to above).
- 3.2 *Paragraph 3* of Schedule 17 imposes a general obligation to minimise disruption to traffic. This will apply to the nominated undertaker in relation to powers to stop up streets and to construct works.
- 3.3 *Paragraphs 4, 5 and 7* of Schedule 17 address works constructed under highways. Approval of plans by the highway authorities is required for works under and within eight metres of the surface of a highway comprising a carriageway, and their consent is required for works which interfere with drainage or are within two metres of the surface.
- 3.4 *Paragraph 6* of Schedule 17 applies to works involving bridges. Approval of plans is required if there is any interference with a highway and controls are imposed over the way that the works are constructed.
- 3.5 *Paragraph 8* of Schedule 17 gives the highway authorities a right of access to inspect the construction of works to the highway and paragraphs 9 to 16 of the Schedule contain miscellaneous provisions governing the way that works are constructed in highways, together with provision for reinstating streets after completion of the work, making good damage caused to highways and street furniture, and providing for reimbursement of costs incurred by highways authorities in connection with road diversions required for the works.
- 3.6 *Paragraph 14* of Schedule 17 provides that where reasonably required by the highway authority the nominated undertaker is to provide and maintain temporary bridges and temporary ramps for vehicular or pedestrian traffic over any part of the works or in such other position as may be necessary to prevent undue interference with the flow of traffic in the highway.

4. Other Provisions in the Bill (ie Lorry Controls)

4.1 Under the planning regime proposed in the Bill (Schedule 7 to the Bill) the nominated undertaker will have to obtain the approval of a qualifying local planning authority (see Information Paper B5, Main Provisions of the Planning Regime) to certain construction arrangements. For example, qualifying local planning authorities will have approval over the routeing of road transport (ie, routes used by large goods vehicles), the handling of reuseable spoil and top soil, the location and use of storage sites, the location and use of construction camps, the provision of screening, the provision and use of artificial lighting, the techniques used for the suppression of dust and the prevention of mud on the highway. There is provision for an appeal process in the event of disagreement between the qualifying local planning authority and the nominated undertaker.

4.2 With respect to lorry routeing, under Schedule 7 to the Bill, the nominated undertaker has to submit for approval by a qualifying local planning authority, details relating to the routes by which anything is to be transported on a highway by a large goods vehicle (i.e. a vehicle which has a permissible maximum weight in excess of 7.5 tonnes) to a work or storage site, a site where the vehicle's load will be reused, or a waste disposal site. No approvals are required in relation to transportation on motorways or trunk roads, 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.

4.3 The grounds on which the proposed lorry routeing may be refused by a qualifying authority include 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 that the arrangements are reasonably capable of being so modified.

4.4 Under the provisions of the Crossrail Construction Code, the nominated undertaker will have to prepare traffic management and lorry management plans which will outline the traffic control measures and routes on public highways that will be used during construction. The plans will take account of the requirements and advice of the relevant highway authority and other authorities, and will provide a framework for the preparation of submissions under Schedule 7 to the Bill. It also requires the nominated undertaker to hold discussions with local authorities in advance of submissions for approval, and to provide appropriate community liaison.

5. Crossrail Bill — Modification and Disapplication of Provisions of the New Roads and Street Works Act 1991

5.1 The Crossrail Bill will modify the application of the 1991 Act to the Crossrail works. In part this is because the special regime for Crossrail established by the Bill already makes provision for the approval of the highway authority where appropriate to works affecting highways and the reinstatement of highways (in

particular under paragraphs 9 and 10 of Schedule 2 and Part 1 of Schedule 17 to the Bill). The controls in the 1991 Act with respect to the timing of street works are also inappropriate to Crossrail. Crossrail is a large linear project crossing many different traffic authority boundaries and it is necessary that the Crossrail works be carried out as a single co-ordinated exercise.

5.2 The modifications proposed in the Bill therefore need to be seen in the context of the controls that are imposed by the Bill itself (see sections 2 and 3 above) and in the context that if the Bill is passed, the works it authorises will have been specifically approved by Parliament.

5.3 Paragraph 14 of Schedule 14 to the Bill modifies or disapplies the following sections of and schedules to the 1991 Act:

- section 56(1) and (1A) (powers to give directions as to the timing of proposed and subsisting street works) in respect of Crossrail works;
- section 56A (power to give directions as to placing of apparatus) in respect of the placing of apparatus required for the Crossrail works;
- section 58(1) (power to impose restriction on execution of street works in the 12 months following completion of substantial road works) so that no such restriction shall have effect in respect of Crossrail works;
- section 61(1) (under which the consent of the street authority is required for the placing of apparatus in a protected street) in respect of the placing of apparatus required for the Crossrail works;
- section 62(2) (power following designation of protected street to require removal or repositioning of apparatus already placed in street) in respect of the placing of apparatus required for the Crossrail works;
- section 62(4) (power when designation as protected street commences or ceases to give directions with respect to works in progress) in respect of Crossrail works;
- section 63(1) (under which Schedule 4 has effect for requiring the settlement of a plan and section of street works to be executed in a street designated by the street authority as having special engineering difficulties) in respect of Crossrail works;
- section 73A(1) (power to require undertaker to resurface a street) in respect of any undertaker carrying out Crossrail works;
- section 78A(1)(b) (contributions by other undertakers to costs incurred in executing works specified in a resurfacing notice) in respect of any contribution that would be payable because of the Crossrail works;
- Schedule 3A (restriction on works following substantial street works) so that it is not to apply where Crossrail works have been notified under section 54 (advance notice of certain works) or section 55 (notice of starting date of works) ;

- paragraph 2(1)(d) of Schedule 3A (power by notice to require notification of works which an undertaker proposes to carry out in a part of a highway to which a proposed restriction applies) so that no notice shall have effect to require the notification of Crossrail works;
- paragraph 3 of Schedule 3A (directions as to the date on which undertakers may begin to execute proposed works) so that no directions may be issued to the nominated undertaker;
- paragraph 3(4) of Schedule 3A (under which it is an offence for an undertaker to execute street works before the completion of certain other street works) in respect of Crossrail works; and
- paragraph 5(1) of Schedule 3A (effect of direction under paragraph 4 restricting further works) in respect of Crossrail works.

5.4 It has already been recognised that these detailed controls are not appropriate to the construction of a major transport schemes; for example the Merseytram (Liverpool City Centre to Kirkby) Order 2005, which was made by the Secretary of State in 21 January 2005 under the Transport & Works Act 1992, contains similar modifications and disapplications to those included in the Bill.

6. Traffic Management Act 2004 — Network Management Duty

6.1 Part 2 of the Traffic Management Act 2004 (the 2004 Act) places a network management duty on local traffic authorities. Section 16 (1) states:

“It is the duty of a local traffic authority to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives-

- (a) securing the expeditious movement of traffic on the authority’s road network; and,
- (b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.”

6.2 Section 31 of the 2004 Act specifically states that the term traffic includes pedestrians. So the duty requires the local traffic authority to consider the movement of all road users: pedestrians and cyclists, as well as motorized vehicles — whether engaged in the transport of people or goods.

6.3 The duty applies to all metropolitan and shire district, unitary and county authorities. In London, the 32 London boroughs, the Corporation of London and Transport for London (TfL) are all local traffic authorities.

7. Network Management Duty in the Context of Crossrail

7.1 Construction traffic and highway works resulting from the construction of Crossrail (be it on lorry routes approved by the local planning authority or highway works done in accordance with plans approved by the local highway authority under the provisions of the Crossrail Bill) will be one of the factors, amongst many, that the local traffic authority will need to consider in fulfilling its duty however the duty is

not absolute; it is qualified in terms of practicability and in terms of the other responsibilities of the authority (including, in the case of Crossrail, the responsibility intended to be placed on the authority to approve various construction arrangements) and inevitably choices will have to be made and priorities set. To paraphrase, the authority needs to be able to show that it has considered – i.e. that it has procedures in place to allow it to take into account - the needs of all road users, taken action to minimise, prevent or deal with problems to the extent that that is practicable, and considered the implications of its decisions for both their network and that of others.

8. Highways and Traffic Sub-Group

8.1 The Highways and Traffic Sub-Group of the Crossrail Planning Forum (see Information Paper F4, High Level Forum) provides a forum to discuss issues arising from the legislative provisions and how these are to be implemented. It provides an opportunity to consider how highway authorities can implement their network management duty in relation to Crossrail works, the coordination of works, and the development of procedures for approval of, and consent to, Crossrail works.