

House of Lords Select Committee on the Crossrail Bill

Promoter's Response to the Select Committee's 1st Special Report of Session 2007-08

5 June 2008

Introduction

1. This document constitutes the response of the Promoter of the Crossrail Bill to the 1st Special Report of Session 2007-08 published on 27 May by the House of Lords Select Committee on the Crossrail Bill¹.
2. The Promoter welcomes the Committee's Special Report, and would like to thank the Committee for their careful and considered work in hearing both the petitioners and the Promoter, and for providing a comprehensive Special Report for the benefit of petitioners, the House, and other stakeholders and interested parties.
3. Since the first petitioning period in the House of Commons began in August 2005, the Promoter has engaged with nearly 500 petitioners on a multitude of issues. Most of these were resolved through a combination of information provision, consultation and negotiation, with only relatively few issues remaining outstanding for this Committee to hear. However, the Select Committee process in both Houses has been instrumental in facilitating those many hundreds of agreements, undertakings and assurances that the Promoter has made with or given to individuals, businesses, local authorities and other bodies – affording significant protection and comfort to those affected, or potentially affected, by the construction and operation of Crossrail.
4. The Promoter believes that the Bill, and indeed the Crossrail project, has been improved as a result of the Select Committee process, which will inform the final stages of the Bill's Parliamentary scrutiny.

Consultation

5. The Committee, as the House of Commons Select Committee on the Crossrail Bill did before it², makes a number of comments on the provision of information, consultation, and community engagement that look forward to the next phase of the project. The Promoter entirely accepts the importance of these, and believes that all parties – including the nominated undertaker³, its delivery partners, local

¹ All paragraph references are to 'Select Committee on the Crossrail Bill 1st Special Report 2007-08: HL Paper 112-I'

² 'First Special Report from the Select Committee on the Crossrail Bill: Session 2006-07: HC 235-I'

³ A body to be appointed under the Crossrail Act for the purpose of constructing and maintaining the Crossrail system; it is currently envisaged that Cross London Rail Links will act as the nominated undertaker, subject to exceptions to be agreed by the project sponsor board

authorities, and local communities – need to be willing and ready to make the effort collectively to make them work.

6. The Promoter believes that much of what the project has done to date in terms of provision of information, consultation, and community engagement has worked well and has helped to build the foundations for taking the project forward following Royal Assent to the Bill. Other arrangements have worked less well for a variety of reasons specific to each case. In these cases, the Promoter urges all parties going forward to bear in mind the Committee's comments, now that both Select Committees have completed their work and the Bill process is nearing its conclusion:

*"[The Committee] wish to stress that Petitioners' dialogues with the Promoter do not end with the publication of this Report. It will be important for both parties to continue to communicate with each other through construction and beyond to ensure that Crossrail is built with minimal disruption to those directly affected by its' construction."*⁴

7. The Promoter believes that efforts need to be redoubled to find practicable, collaborative means for the provision of information, consultation, and community engagement during the implementation of the project. The Promoter is committed to this, but it can only be achieved successfully by collective will and effort.
8. The nominated undertaker will take action to foster this, and to seek to promote the best possible relationship between the project, its delivery partners, local authorities, and local communities. The nominated undertaker will appoint a Community Relations Team to build a positive and professional relationship with local communities throughout the course of the project, and to liaise closely with all relevant individuals, groups, bodies and organisations.
9. Following Royal Assent, the Community Relations Team will undertake a route-wide information round to explain the Crossrail proposals as have been authorised; inform local communities of the ways in which information will be disseminated; and publicise contact details for the Community Relations Team for use in the run-up to, and during, the construction of the works.
10. The Community Relations Team will also work with the relevant local authorities to establish additional Community Liaison Panels for key parts of the route that do not already have them in place, which will enable the nominated undertaker to engage in the most appropriate manner with local communities on those issues that concern them.

Spitalfields Community Liaison Panel

11. The Committee makes reference to the Spitalfields Community Liaison Panel and the Schools Liaison Sub-Panel at paragraphs 55, 74 and 78.

⁴ Paragraph 252

12. The Promoter repeats its commitment to maintaining an ongoing relationship with the Community Liaison Panels in the Spitalfields area, the London Borough of Tower Hamlets, and other local stakeholders in the run-up to, and during, construction. As stated above, the Promoter recognises the importance of engaging with local communities on those issues that concern them, and will continue to make efforts to do so in the most appropriate manner.

Westbourne Park Villas Residents' Association

13. At paragraph 146, the Committee endorsed the Promoter's approach to joint working in order to deliver the works to the Westbourne Park footbridge. As stated above, throughout the Crossrail project, the Promoter recognises the importance of such joint working with delivery partners and engaging with local communities.
14. Therefore, following the hearing of the Westbourne Park Villas Residents' Association's petition, the Promoter has offered an assurance that will require the nominated undertaker to take a holistic approach and work with Network Rail to develop a programme of works for the Westbourne Park footbridge, and to bring forward the timing of such works as far as reasonably practicable to do so, in consultation with Westminster City Council.

Complaints

15. At paragraph 255, the Committee said:

"We expect the helpline service to be an effective means for individuals with complaints and concerns to channel their views. In particular we expect the nominated undertaker to ensure that the staff employed on the helpline are sufficient in number and expertise and are able to deal tactfully and helpfully with callers. Above all, we expect that there will be no resort to a system of disembodied voices and call queuing."

16. It is impossible to build a project of this size and national importance in a restricted urban environment without some impact on members of the public. For those who are unhappy with any aspect of the construction of Crossrail, the first step would be to raise the issue with the relevant contractor and, subsequently, the nominated undertaker.
17. The contractor's Community Relations Representative will work directly with the public as the first point of contact for each Crossrail worksite, and will endeavour to deal with any immediate enquiries, problems or incidents swiftly. Working closely with the Community Relations Representatives, the nominated undertaker's Community Relations Team will also provide a knowledgeable and professional point of contact for those affected, or potentially affected, by the construction of the project. The Community Relations Team will include the Crossrail Helpdesk, which will provide a 24-hour service to handle external

enquiries. The Promoter is committed to ensuring that all enquiries are handled satisfactorily.

18. At paragraph 256, the Committee continued:

"A Complaints Commissioner will be appointed to act as a form of Ombudsman and investigate any cases forwarded to him/her. The Commissioner will be a person of suitable stature and relevant qualifications and will be independent. Local Authorities will also be active in taking measures to protect their residents and will ensure that the Construction practices, which have been agreed by all local authorities along the route, are observed."

19. The Promoter has committed to the appointment of an independent Crossrail Complaints Commissioner for the construction phase of the Crossrail project (see Information Paper F5, 'Complaints Commissioner'⁵). The Complaints Commissioner will be appointed and held accountable by the Crossrail High Level Forum⁶, which will agree terms of reference for the role.
20. The Promoter expects that the Complaints Commissioner's role will be to impartially and fairly investigate any case where it is alleged that the nominated undertaker has not satisfactorily addressed a matter raised by a complainant. The Complaints Commissioner should therefore serve a useful role as a mediator, and will help bring to conclusion construction-related complaints or disputes from members of the public that the project cannot resolve by itself.
21. The Complaints Commissioner should be able to make recommendations to the nominated undertaker where action might be taken to satisfactorily address complaints, resolve disputes, or mitigate against the future occurrence of complaints or disputes. The Complaints Commissioner should also be able make financial recommendations if the complainant has suffered a loss or damages of up to £5,000.
22. The Complaints Commissioner should ensure the existence and function of their office is well publicised, and the nominated undertaker will also be expected to publicise the Complaints Commissioner. The Complaints Commissioner should liaise regularly with the nominated undertaker's Community Relations Team and the contractors' Community Relations Representatives, and with relevant local authority officials.
23. The Promoter intends that a Complaints Commissioner will be in post by early 2009, and in any event no less than six months in advance of the start of the main construction phase of the project.

⁵ All Crossrail Information Papers are available at <http://billdocuments.crossrail.co.uk>

⁶ The Crossrail High Level Forum is chaired by the Department for Transport Minister with responsibility for Crossrail; it is currently attended by representatives of Cross London Rail Links, chairs of the sub-forums (the Planning Forum and the Statutory Agencies Forum), local authorities, the business community, environmental and railway industry bodies, and the Crossrail Referee

Ground settlement

24. At paragraph 65, the Committee said:

"It is our view that the Petitioners are therefore adequately protected under existing policies (set out in Crossrail Information Paper D12 which includes the draft text of the Settlement Deed). It may be that there has been some confusion over the content of these policies and the nature of the settlement assessment process and we hope that Petitioners' appearances in Committee on this matter have helped to clarify the situation. We would encourage all affected and entitled Petitioners to take out a Settlement Deed, as the Promoters have already encouraged them to do (para 3433), for their own protection."

25. The Promoter will continue to make information on the arrangements for assessing, monitoring and mitigating the effects of ground settlement arising from Crossrail construction readily available to those affected by the works.

26. The Promoter has already undertaken to publish a guide on ground settlement for members of the public, which will set out the protections afforded by the project's generic ground settlement policy (as described in Information Paper D12, 'Ground Settlement') and by the Settlement Deeds. The Promoter hopes that this "layperson's" guide, which will be published shortly, will provide further clarity for those concerned along the Crossrail route.

Souzel Properties Ltd

27. As requested by the Committee at paragraph 99, the Promoter can now confirm that an undertaking has been offered to Souzel Properties Ltd, of the form that the Promoter explained before the Committee.

The House of St Barnabas-in-Soho

28. Following their appearance before the Committee, the Promoter is negotiating an agreement with The House of St Barnabas-in-Soho. Regarding the Committee's comments at paragraph 117, the Promoter can confirm that the agreement and associated Settlement Deed will provide for continued liaison with the petitioner and, in particular, for a mechanism to engage the petitioners in the process of determining the specific measures that will be undertaken to protect their property from damage caused by ground settlement.

29. The Committee also said, at paragraph 119:

"We do however emphasise here the necessity for the Secretary of State to ensure that there is a continuing responsibility for the construction, maintenance and operation of Crossrail – this will be a matter of concern for everyone whose property would otherwise be

affected by the failure of a nominated undertaker, and for the public at large."

30. Crossrail is a public project, backed by the Secretary of State and Transport for London. The Heads of Terms between the Secretary of State for Transport and Transport for London⁷ allocate the responsibilities for the construction, maintenance and operation of Crossrail. This includes the Department for Transport having the power to intervene and take over Cross London Rail Links if the delivery of the project were in jeopardy.

Safeguarding

31. At paragraphs 176-179, the Committee made reference to the London Borough of Bexley's appearance regarding the extension of Crossrail to Ebbsfleet, and mentioned the consultation on the safeguarding of the route. The following provides an update on that consultation process.
32. On 24 February 2005 the Secretary of State for Transport issued a Safeguarding Direction for the route of a possible extension of Crossrail from Abbey Wood to Hoo Junction. The Parliamentary Under-Secretary of State for Transport, Tom Harris MP, confirmed on 6 February 2008 that the Secretary of State intended to revise this direction following further consultation with stakeholders.
33. Cross London Rail Links and the Department for Transport met with the relevant local authorities on 23 January 2008 for preliminary discussions of the draft safeguarding plans, with a view to formally consulting with a wider audience for a 12 week period commencing around July 2008. This would enable a revised Safeguarding Direction to be issued in December 2008.

Groundborne noise

34. As the Committee reported at paragraphs 180-182, the Promoter continues to consider that a design noise criterion of 40dB_{L_{Amax,S}} affords an appropriate level of protection to the amenity within residential properties from noise from underground railways.
35. Information Paper D10, 'Groundborne Noise and Vibration' explains the measures that will be put in place to control the effects of groundborne noise and vibration that might otherwise arise from the construction and operation of the railway in the Crossrail tunnels. The content of Information Paper D10 has been agreed with the London Borough of Camden – the lead local authority on the generic issue of groundborne noise and vibration – and a revised version was published on 3 April 2008.

⁷ <http://www.dft.gov.uk/pgr/rail/pi/crossrail/crossrailheadsoterm>s

Jean Lambert MEP and others; and BAA Ltd

36. The Promoter agrees with the Committee that the Crossrail project should not be required to provide a west-facing rail link from Heathrow Airport to the Great Western Main Line⁸.
37. The most appropriate means for considering such a link is the Route Utilisation Strategy (RUS) for the Great Western Main Line that Network Rail is currently developing. This will involve consultation with a wide range of stakeholders and will enable all of the relevant issues for the route to be considered. Should the RUS demonstrate that a west-facing rail link is value for money, affordable and deliverable, it could then be considered for funding by the Department for Transport under the 'Towards a Sustainable Transport System' planning process post-2014.
38. The Promoter will seek to draw Network Rail's attention to the Committee's comments in the context of developing the RUS.

Network Rail Infrastructure Ltd

39. At paragraphs 222-3, the Committee said:

"We recognise that the three delivery partners (the Secretary of State, TfL and Network Rail) need to reach agreement on the identity of the infrastructure manager(s) within the framework of the legal and related safety requirements to ensure that the Crossrail service can operate seamlessly over three networks (the Great Western Main Line, the Great Eastern Main Line and the central tunnel section). There is a proper negotiating process to be concluded and it would be improper for this Committee to require the Promoters to give the Petitioner the undertaking they seek and so tie the Secretary of State's hands in this matter. We hope that negotiations will be brought to a satisfactory end before long.

However, we take this opportunity to state that we would be concerned if more than one body was to be given infrastructure management responsibilities. We would be further concerned if Network Rail were required to be infrastructure manager for the purposes of the ROGs in the central tunnel section without also being given responsibility for the operation and maintenance of the railway in this section."

40. The Promoter entirely accepts that the matter of the Infrastructure Manager needs to be resolved, and is pleased to report that, in consultation with the parties, progress continues to be made on the issue.

⁸ Paragraph 222

41. This matter is necessarily being progressed in the context of the wider agreements between the project sponsors and the delivery partners. The Secretary of State expects to conclude negotiations on these agreements over the summer.

Clauses 40 and 41

42. The Promoter is considering an amendment to make the intention explicit that clause 40 of the Bill – and, consequently, clause 41 – should not be invoked by either party where the matter may be dealt with by the Office of Rail Regulation in accordance with its statutory duties or functions, as recommended by the Committee at paragraph 244.
43. The Committee's support for this approach to these clauses will assist the House in its consideration of the amendment when it is brought forward at the next Bill stage.