

TRANSPORT FOR LONDON

BOARD

**SUBJECT: APPLICATION FOR A TRANSPORT AND WORKS ACT ORDER
TO FACILITATE CROSSRAIL WORKS**

DATE: 21 SEPTEMBER 2011

1 PURPOSE AND DECISION REQUIRED

- 1.1 This paper seeks the Board's approval for Crossrail Limited (CRL) to make an application for a Transport and Works Act Order (TWAO) authorising temporary use of land at Kensal Green as a work site to facilitate Crossrail works between Old Oak Common and Paddington and obtain the Mayor's written consent to make such an application.
- 1.2 The Finance and Policy Committee considered a paper on the proposed application for a TWAO at its meeting on 27 July 2011 and supported the recommendations.

2 BACKGROUND

- 2.1 The Old Oak Common depot (the OOC depot) lies on the north side of the Network Rail (NR) route from Paddington with connections to the tracks that will be used by Crossrail trains. The existing depot layout and railway approaches must be completely rebuilt to meet Crossrail requirements. The new depot will be procured as part of the contract for the supply and maintenance of the trains but the approaches are part of the operational railway and will be rebuilt by NR.
- 2.2 Detailed development of the programme for the construction of the necessary Crossrail train maintenance facility at OOC Depot and the rebuilding of the NR approaches to the depot has established that there is insufficient time available to implement them consecutively and they must be undertaken concurrently. This precludes NR establishing its work site within the OOC depot as was originally planned. Consequently, additional land outside the area of land subject to the Crossrail Act land acquisition powers will be required while the NR works are being undertaken (a period of approximately five years).

3 LOCATION OF WORK SITE

- 3.1 Establishing a NR working site on the southern side of the railway, such as at the former Eurostar depot at North Pole, is impractical because this would require plant, materials and personnel to cross the running lines from Paddington to reach the works themselves. This would force the frequent closure of Paddington Station and severely disrupt train services.
- 3.2 A number of plots on north side of the railway, shown as parcels 1, 2, 3, 4 and 5 on the plan at Appendix 1 (the Plan), have been considered. Parcel 4 on the Plan is owned by National Grid (NG) and is being used as a working site for the construction of new cable routes as part of NG's London Cable Replacement project. Parcel 5 has been identified as the location of a new NR bulk electricity supply point supplying all trains (including those serving Crossrail) in the Paddington/ Old Oak Common

area. The only area of substantially vacant land of suitable size with a frontage to the north side of the railway is the former Kensal Green gas works site owned by Ballymore Homes (Ballymore) (plots 1, 2 and 3 on the Plan). Use of this site will allow NR's Crossrail works to proceed with minimum disruption to train services.

- 3.3 Ballymore acquired the site for residential development, but safety requirements associated with the proximity of the gas holders located to the north of the site currently limit the development potential (NG is considering decommissioning these gas holders but says that no final decision will be made until at least 2017). No application for planning consent to implement Ballymore's current development proposals has yet been made.

4 CURRENT STATUS

- 4.1 Discussions have taken place with NG and NR to understand the total requirement of each undertaking at Kensal Green. This has confirmed NR's need for temporary occupation of the whole of parcels 1 and 2 on the Plan together with a proportion of parcel 3 that has yet to be finally decided.
- 4.2 TfL has approached Ballymore to ascertain whether it will agree to lease the required areas to CRL for a period of approximately five years from 1 October 2012. Initially, Ballymore refused on the basis that it intends to begin developing its site towards the end of 2012 by constructing a new retail store to replace the existing Sainsbury store at Ladbroke Grove. More recently, the company has expressed its willingness to enter into a lease and it is currently considering the terms it will be seeking in negotiations. CRL will continue to try to agree terms for the use of the land and avoid having to obtain, and exercise the powers in, a TWAO but needs to protect the project programme by seeking powers until any lease has been signed by both parties.
- 4.3 In addition to land acquisition powers, CRL will seek planning consent for the temporary works in the TWAO. If the TWAO application is withdrawn following an agreement with Ballymore, CRL will apply to the local planning authority (the Royal Borough of Kensington and Chelsea (RBKC)) for the necessary planning consent.
- 4.4 The Ballymore site is adjacent to (and could potentially form part of) the location of an additional Crossrail station proposed by RBKC. The feasibility and affordability of the proposed additional station continues to be kept under review by the Crossrail Sponsors. NR has confirmed that the temporary occupation of the Ballymore site would not impede or inhibit the construction of the proposed station in the future. NR has also indicated that its works could, if necessary, be undertaken in such a way as to accommodate future station works.

5 TRANSPORT AND WORKS ACT ORDER

- 5.1 It is proposed that an application be made for a TWAO to authorise the temporary use of the Ballymore site in order to facilitate the Crossrail works between Old Oak Common and Paddington. The TWAO would include provisions dealing with the following matters.

Temporary Possession of Land

- 5.2 This would allow CRL to acquire interests in Ballymore site for temporary purposes. A standard compulsory purchase order does not allow for the acquisition of temporary rights of this kind.

Deemed Planning Consent

- 5.3 The Secretary of State for Transport will be asked to make a direction granting deemed planning permission for any works authorised by the TWAO.

Statutory Authority

- 5.4 This would provide a statutory defence to nuisance proceedings on the grounds that interference with any public/private rights caused by the use of the Ballymore site as a work site is justified by the wider public benefit which the Crossrail Project delivers.

6 KEY IMPACTS

Environmental Considerations

- 6.1 The Ballymore site will be the subject of an Environmental Assessment prior to the promotion of the TWAO and CRL environmental management arrangements will apply. Preliminary work on the scope of the Environmental Statement is under way.
- 6.2 The Ballymore site was formerly a gas works and there is a possibility that the land is contaminated as a consequence of its former use. The Crossrail requirement is for temporary occupation in connection with construction activity elsewhere and any risk arising from pre-existing contamination would be addressed by minimising the ground disturbance.

Temporary Use of Land

- 6.3 The proposal to make use of the Ballymore site as a NR work site will involve temporary interference with third party rights over the land. Ballymore will be deprived of its property if CRL's application for TWAO powers is successful but only on a temporary basis.
- 6.4 Any party with a legal interest in the Ballymore site will be entitled to compensation in accordance with the Compulsory Purchase Code that is proportionate to any losses that it may occur as a result of the use of the land.

7 TWAO PROCESS AND TIMING

- 7.1 Before an application for a TWAO is made, a consultation process is undertaken with statutory consultees (such as RBKC) and affected landowners to explain the purpose of the TWAO. The initial contacts with the directly affected land owners have been made and a meeting is arranged with the local authority. Other consultation will take place as relevant information becomes available from the environmental assessment. Prior notice of the application will be published in a local newspaper.
- 7.2 All interested parties will be given the opportunity to make representations to CRL and the Secretary of State for Transport. Depending on the extent and nature of any objections, a public inquiry may be required.
- 7.3 To have the best chance of securing the powers and statutory protections detailed above in time for the NR works to start in autumn 2012, the TWAO application will need to be submitted before the end of November 2011.

8 COST, PROCUREMENT AND FUNDING

- 8.1 Approval has already been given to the implementation of the works that require the occupation of the Ballymore site and the procurement is being undertaken in accordance with the Crossrail programme.
- 8.2 The costs of obtaining a TWAO, including arranging any public inquiry the Secretary of State may require, will be funded from Crossrail's budget.

8.3 If the TWAO application is successful, possession of the land will be taken as it is required for project implementation and compensation will be paid from Crossrail funds in accordance with the Compensation Code.

9 ALTERNATIVES

- 9.1 In the absence of a TWAO, the Crossrail Project would have to agree terms for the temporary use of the land with Ballymore and secure the necessary planning consent through an application to RBKC.
- 9.2 Failure to secure availability of the land by the required entry date (currently October/November 2012) would result in the direct costs associated with the NR works increasing very significantly. The cost of track possessions would be the key component in these increased costs. This reflects the high number of trains running through the area and the fact that services such as the Heathrow Express experience peak demand at times such as weekends when possessions are normally arranged. The knock-on delay costs for a delay to the start of testing and trial running prior to the introduction of Crossrail services between Paddington High Level and Heathrow (currently planned for May 2018) have not been estimated.
- 9.3 Occupying the Ballymore site is essential to allow the Crossrail works in the Old Oak Common area to be undertaken within the required timeframe and within budgeted track possessions. The purpose of applying for a TWAO is to acquire the necessary rights to use land temporarily and obtain deemed planning consent for its use as a work site. This will mitigate the risk that land that is essential for the delivery of the Crossrail Project is not available because the land owner is unable or unwilling to reach agreement and/or the requisite planning consent cannot be secured.

10 OVERALL PROGRAMME

10.1 The current key milestones for the Kensal Green NR works are:

Commence consultation with all relevant parties	August – September 2011
Obtain TfL Board approval for CRL to make TWAO application and obtain the Mayor’s written consent to make the application	21 September 2011
Obtain the Mayor’s written consent to make the TWAO application	September - October 2011
Complete Environmental Assessment	November 2011
Submit TWAO application	December 2011
Issue Notice of Intention to hold a Public Inquiry (if required)	January 2012
Public Inquiry commences (if required)	May 2012
Notice that TWAO has been made	October 2012
TWAO comes into force	October 2012
NR enter land to start Old Oak Common works	November 2012

11 RECOMMENDATIONS

11.1 The Board is asked to:

- (a) APPROVE the submission of an application for an Order under the Transport and Works Act 1992 (TWAO) that provides all the necessary land rights and planning permissions required to implement works by Network Rail for Crossrail at Kensal Green; and

- (b) DELEGATE authority to the Chief Executive of CRL (or in his absence, General Counsel) to:
- (i) agree the final terms of the application (including the land and interests to be subject to the order) for the TWAO;
 - (ii) obtain the Mayor's written consent to apply for the TWAO (as required by the Greater London Authority Act 1999); and
 - (iii) do everything else necessary, including signing and/or sealing any documents, agreements or notices required in connection with the submission of the application and promotion of the TWAO including responding to any objections and dealing with any public inquiry that may be held in relation to the proposals.

12 CONTACTS

- 12.1 TfL Contact: Steve Allen, Managing Director, Finance
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- 12.2 CRL Contact: Ian Lindsay, Land & Property Director
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Email: IanLindsay@crossrail.co.uk

GREATER LONDON

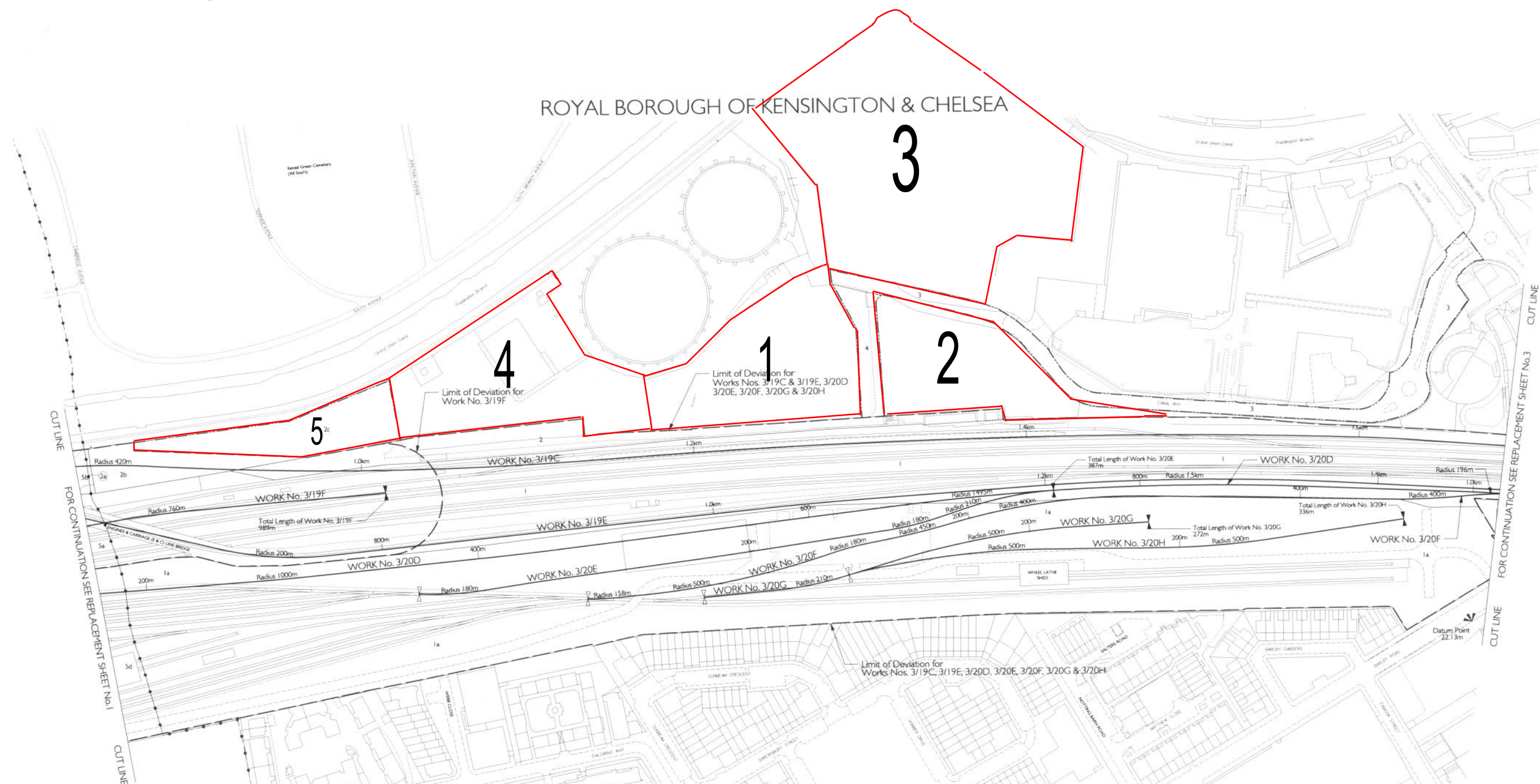
IN PARLIAMENT - SESSION 2005-06

CROSSRAIL
(AMENDMENT OF PROVISIONS - NOVEMBER 2006)

PLAN

Works Nos. 3/19C, 3/19E & 3/19F (Railways)
Works Nos. 3/20D, 3/20E, 3/20F, 3/20G & 3/20H (Railways)
For Sections of Works Nos. 3/19C, 3/19E & 3/19F see Sheet Nos. 260, 261 & 263
For Sections of Works Nos. 3/20D, 3/20E, 3/20F, 3/20G & 3/20H see Sheet Nos. 265, 266 & 267

ROYAL BOROUGH OF KENSINGTON & CHELSEA

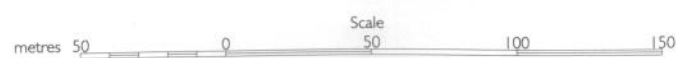


LONDON BOROUGH OF HAMMERSMITH & FULHAM

Adjustments to this Sheet are as follows:

- Works Nos. 1/1A, 1/1B & 1/2 removed.
- Plot No. 5 removed.
- Works Nos. 3/19C, 3/19E, 3/19F, 3/20D, 3/20E, 3/20F, 3/20G & 3/20H added.
- Plots 1a, 2a, 2c, 2b, 5a, 5b, 5d added.
- LLAU added to the north of Work No 3/19c (Plot 2c)
- LoD extended, for Works Nos. 3/20D, 3/20E, 3/20F, 3/20G & 3/20H (Plots 1a and 5d).

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The area enclosed by any limit of deviation or by any limit of land to be acquired or used is the area extending to the outer edge of the line marking those limits.
For key to symbols and line styles see Index Sheet
Scale is 1:1,250 at A1 size

Drawing No. 110408-W1D00-F00-F-50002 Rev D