

Date: 17 October 2012

Item 8: **Crossrail: Paddington Transport and Works Act Order**

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**This paper will be considered in public**

## **1 Summary**

- 1.1 This paper seeks the recommendation of the Committee that the Board approves Crossrail Limited (CRL) making an application for a Transport and Works Act Order (TWAO) authorising the construction of a passenger subway between the new Crossrail Paddington station and the London Underground (LU) Bakerloo line (the Bakerloo Line Link).
- 1.2 The TWAO would also seek to authorise the permanent acquisition of the subsoil required underneath Paddington station and London Street for the passenger subway, temporary possession of part of the basement to 31 London Street for a construction shaft and the temporary use of land for construction purposes at London Street and Winsland Mews.

## **2 Recommendations**

### **2.1 The Committee is asked to:**

- (a) note the paper;**
- (b) recommend that the Board approves the submission of an application for an Order under the Transport and Works Act 1992 that provides all the necessary land rights and planning permissions required to implement works in connection with the Bakerloo Line Link.**
- (c) recommend that the Board delegates authority to the Chief Executive of CRL (or in his absence, TfL General Counsel) to:**
  - (i) agree the final terms of the application (including land interests, environmental scoping and deemed planning permission to be subject to the order) for the TWAO required in relation to the works;**
  - (ii) continue to consult with London Underground to ensure the TWAO in no way hinders London Underground's proposals for future works at Paddington station;**
  - (iii) obtain the Mayor's written consent to apply for the TWAO (as required by the Greater London Authority Act 1999); and**
  - (iv) do everything else necessary or desirable to facilitate the making of the TWAO, including**

- (a) signing and/ or sealing any documents, agreements or notices required in connection with the submission of the application; and
- (b) promoting the TWAO including responding to any objections and dealing with any public inquiry that may be held in relation to the proposals.

### **3 Background**

- 3.1 The Crossrail Act (the Act) provides for the construction of a pedestrian subway linking the Crossrail (Paddington) station with the LU Bakerloo line platforms (Work No. 1/11A). The link will provide a direct route for passengers interchanging between the two stations and help to relieve congestion on the Paddington station concourse. As a result of further design development, it has been determined that it is not possible to construct this link within the relevant Limits of Deviation (LoD) as defined on the plans that accompanied the Act.
- 3.2 Construction of Work No.1/11 at the relatively shallow level originally envisaged at the time of the Crossrail Bill would introduce a significant construction risk and risk of damage to the Grade 1 listed station building above. The measures required at concourse level to mitigate this risk would be highly intrusive and result in unacceptable disruption to the operation of the station.
- 3.3 A number of alternative options to provide the Bakerloo Line Link have been considered. This has resulted in a design for a deeper level tunnel with a different alignment to be constructed from a temporary shaft and adit located at the junction of London Street and Winsland Mews.
- 3.4 On 31 May 2012, the Committee noted the commencement of pre-application consultation for submission of a TWAO to construct these works. This was further noted by the Board on 27 June 2012.

### **4 Revised Design**

- 4.1 A revised design is proposed, which would have the following benefits:
  - (a) minimises risk of damage to the Grade 1 listed station;
  - (b) minimises mitigation works necessary;
  - (c) improves pedestrian flows at both ends of the link;
  - (d) reduces programme risk; and
  - (e) is compatible with potential LU plans for expansion of Bakerloo Line Ticket Hall.
- 4.2 At its southern end, the deeper tunnel alignment requires a connection below platform level out of the Crossrail station box. At the Bakerloo line end, the deeper tunnel passes beneath the LU northbound running tunnel and connects to the LU platforms above by means of escalators and passageways (See attached overall scheme plan of the new alignment at Appendix 1).

## **5 Construction Shaft**

- 5.1 An eight metre diameter temporary circular shaft is required to be located at the junction of London Street and Winsland Mews, allowing all materials, equipment and personnel to access and egress the works for the construction of the tunnel. Once the main tunnelling works are complete the shaft will be used to fit-out the tunnel and new escalators. On completion the shaft will be in-filled such that no permanent works will remain at road level. The construction and fit-out of the tunnel from London Street means that the worksite will be required for up to three years nine months.
- 5.2 The location of the temporary shaft is significantly constrained by the alignment of the Bakerloo line itself, Post Office tunnels and a Thames Water sewer in London Street. Advance works will be required to divert some utility services prior to start of construction.
- 5.3 The diameter of the temporary shaft has been minimised as far as possible to reduce permanent and temporary land-take and to allow for two-way traffic on London Street, once the segmental construction of the shaft is complete. However, because of the above locational constraints, the shaft will require partial demolition and removal of the eastern extremity of the basement to 31 London Street, owned by the Royal Mail Group (RMG). Discussions are being held with RMG to minimise the impact of the worksite on any future plans they have for development.

## **6 Acquisition of Subsoil Rights**

- 6.1 The temporary shaft and construction adit requires the acquisition of sub-surface rights beneath London Street.
- 6.2 The connection to the existing Bakerloo line station and the permanent alignment of the subway beneath Paddington station will require the acquisition of sub-soil approximately 15 metres below surface level from Network Rail (NR). Such an acquisition will be made in accordance with the principles of the protective provisions agreement between NR and the Secretary of State for Transport regarding the Crossrail Project.

## **7 Alternatives**

- 7.1 A number of alternative options have been examined that would potentially remove or reduce the permanent and temporary works impact in London Street. These options have been evaluated and the results are contained in a Construction Shaft Options Report produced by CRL's consultants.
- 7.2 This report concludes that the access shaft should be located at the junction of London Street and Winsland Mews as this location provides significant advantages in terms of programme and cost, allows a safe method of excavation and limits disruption in terms of diversion of utilities whilst maintaining two lane access on London Street for the majority of the works period.

## **8 Transport and Works Act Order**

- 8.1 It is proposed that an application be made for a TWAO to authorise the construction of the revised design for the Bakerloo Line Link.
- 8.2 The TWAO would include the following provisions:
- (a) deemed planning permission for the works;
  - (b) protection against claims for nuisance for the permanent works;
  - (c) powers to permanently acquire subsoil;
  - (d) powers to make temporary use of land for construction purposes;
  - (e) powers to carry out protective works to buildings; and
  - (f) powers to temporarily stop up parts of London Street and Winsland Mews
- 8.3 The TWAO will provide for the transfer of any rights or interests in land that are required for the long-term operation of Crossrail from CRL to TfL.

## **9 Current Status**

- 9.1 CRL is consulting RMG regarding the use of the basement vault under London Street and the effect of the works on their proposed development.
- 9.2 CRL is consulting NR regarding the proposed construction of the subway and the works that are likely to be required to protect elements of the listed Brunel train shed and adjacent NR property.
- 9.3 A meeting was held with Westminster City Council, on 30 March 2012, to brief officers on the proposed design. Officers were generally supportive of the principles and there were no significant objections to the traffic management proposals.
- 9.4 A study is underway to evaluate the possible effects of construction on adjoining buildings and structures. This report will determine the extent of potential protective works that will be carried out to mitigate the effects of construction. All interests in the buildings that may be affected will be included in the consultation exercise.

## **10 Key Impacts**

### **Environmental Considerations**

- 10.1 An Environmental Impact Assessment (EIA) screening and scoping report is currently being prepared and a Scoping Opinion will be sought from the Department for Transport, in line with the TWA procedures. An EIA will be prepared accordingly.

## **RMG development**

- 10.2 RMG has lodged a planning application with City of Westminster for an eight-storey, 120,000 sq ft office development with ground floor retail and restaurants. It is also proposing to build two residential blocks comprising 141 apartments in total. The site houses a Victorian sorting office that has been vacant since February 2010. Royal Mail plans to retain the 1907 façade fronting on to London Street, while demolishing the building to the rear. A resolution to grant planning consent is expected shortly subject to resolving a section 106 agreement relating to construction of a 'box' for an enlarged Bakerloo line ticket hall.
- 10.3 Construction of the 8m circular shaft on London Street will require partial demolition and removal of the basement. RMG's initial reaction to Crossrail's proposal was that it would be unreasonable to commence their development with a major worksite on its door step. RMG has asked whether TfL would be prepared to purchase the site and these discussions are on-going.

## **Future LU Works**

- 10.4 CRL is engaging with LU, which has plans for further capacity enhancement works at Paddington. The RMG planning application includes passive provision for a ticket hall in the basement level of the building with access via escalator and stairs down to the Bakerloo line. These proposals are currently unbudgeted but are being considered for inclusion in the 2013/14 Business Plan.

## **Compulsory Acquisition of Land**

- 10.5 Government guidance on seeking powers to compulsorily acquire land states that such powers should only be exercised when there is a compelling case in the public interest. It also makes it clear that an acquiring authority should be sure that the purposes for which the powers of compulsory purchase are required justify interfering with the rights of those with an interest in the land affected.
- 10.6 RMG and NR will be deprived of property if CRL's application for TWAO powers is successful. Any party with a legal interest in the land will be entitled to compensation proportionate to any losses that it may incur as a result of the use of the land in accordance with the Compulsory Purchase Code (the Code).
- 10.7 The TWAO application process involves consultation with a number of parties, including affected landowners and Westminster City Council. All interested parties will be given the opportunity to make representations to CRL and the Secretary of State for Transport. They will also have the right to be heard at any public inquiry into the making of the TWAO that the Secretary of State may decide to convene.
- 10.8 In the absence of agreement being reached with RMG or NR, the objective of securing use of the land for the completion of Crossrail works cannot be achieved except through a TWAO. CRL does not consider that the proposed TWAO will have an excessive or disproportionate effect on the interests of the individuals concerned.

## **11 Cost, Procurement and Funding**

- 11.1 The provision of the Bakerloo Line Link was included in the Act and the revised alignment/construction method is being formally approved within the CRL Change Control process.
- 11.2 The costs of developing the preferred design and funding the TWAO process, including the provision of an EIA and external legal costs, are being met from the existing Crossrail budget.
- 11.3 If any land or rights are acquired compulsorily, compensation will be paid in accordance with the Compensation Code.
- 11.4 The estimate for the acquisition of the necessary part of the basement fronting 31 London Street from RMG is nominal in terms of land value. However, it will be able to claim for the reduction in value of its property caused by an uncertain delay to its development plus any other reasonable losses not related to the value of land attributable to the acquisition. CRL and TfL are exploring options with RMG that may mitigate any impediment to its development proposals.
- 11.5 TfL's land advisors have estimated the current site value and compensation that would be payable using a number of valuation approaches. These estimates are subject to commercial confidentiality and the compensation to be paid would be subject to negotiation with RMG.
- 11.6 Cost of other subsurface rights, for example from NR, are considered to be minimal.

## **12 Risks**

- 12.1 The purpose of promoting a TWAO is to acquire the necessary rights to use land and to mitigate the risk that the land is not available because the land owner is unable or unwilling to reach agreement by private treaty.
- 12.2 As noted above, the compensation payable for the exercise of TWAO compulsory purchase powers would be assessed in accordance with the Code. If CRL and any party with a legal interest in the land cannot reach agreement regarding the compensation payable either party can refer the matter to the Upper Tribunal – Lands Chamber (formerly known as the Lands Tribunal) for resolution.
- 12.3 Should the RMG site become available for purchase, there would be some benefits to Crossrail in using it for construction of the shaft. These include reduced service diversions and traffic diversions on London Street and the opportunity to complete fit-out of the tunnel from a construction shaft within the RMG building. In addition, ownership of the site would have significant benefits for the potential future LU works at Paddington station. However, RMG would need to agree to a negotiated acquisition, and TfL would need to consider whether use of the building as a construction site would blight a disposal for redevelopment in the future.

## **13 Overall Programme**

- 13.1 The forecast key milestones for the TWAO and Construction programme are:

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| Obtain Finance and Policy Committee recommendation in support of submission to Board | 17 October 2012  |
| Obtain Board approval CRL to make TWAO application                                   | 17 November 2012 |
| Obtain Mayors approval to submit TWAO application                                    | By December 2012 |
| Submit TWAO application  | 8 January 2013   |
| Issue Notice of Intention to hold a Public Inquiry (if required)                     | 26 March 2013    |
| Public Inquiry commences (if required)   | 17 July 2013     |
| TWAO comes into force  | 3 December 2013  |
| Commence works   | 1 April 2014     |
| Complete works   | 1 April 2018     |

**List of appendices:**

Appendix 1: Overall scheme plan of the new alignment

**List of Background Papers:**

Construction Shaft Options Report (Document Number: C130-SWN-C-RGN-B071-50003).

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