

Title: The Crossrail (Qualifying Authorities) Order 2008 PIR No: DfTPIR0094 Original IA/RPC No: Click here to enter text. Lead department or agency: DfT Other departments or agencies: Click here to enter text. Contact for enquiries: Rachel Bain	Post Implementation Review
	Date: 27/02/2024
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 01/07/2008
	Recommendation: Keep
	RPC Opinion: Choose an item.

1. What were the policy objectives of the measure?

The completion of Crossrail construction and the opening of the Elizabeth line is being evaluated in the following two ways:

- Infrastructure and Projects Authority (IPA) Stage Gate Reviews:
 - Gate 4 review focussing on readiness to commence passenger services from the central section onto Network Rail’s infrastructure from November 2022
 - Gate 5 review focussing on readiness to proceed to close out and transition to business as usual following the final delivery milestone in May 2023
- A post-opening study to evaluate the benefits delivered by the Elizabeth line to be undertaken in two stages:
 - Phase 1 – evaluation of the transport impacts (commissioned in 2022)
 - Phase 2 – evaluation of the wider economic impacts, including regeneration and property (expected to be commissioned in 2025)

This post implementation review is concerned solely with reviewing the Crossrail (Qualifying Authorities) Order 2008 (“the Order”). As stated below, the Order provides for the application of a planning regime within the Crossrail Act 2008 which enables a local authority nominated under the Order as a Qualifying Authority to treat planning applications for Crossrail from the nominated undertaker in a less complex and faster way. The opportunity to become a qualifying authority was open to all local authorities in whose area the Crossrail scheme ran.

In order to become a qualifying authority a local authority had to provide the Secretary of State with undertakings on how it would consider planning applications for Crossrail in its area. If a satisfactory undertaking was provided to the Secretary of State, the local authority would become a qualifying authority by virtue of it being listed in the Order. Not all local authorities in whose area Crossrail ran became Qualifying Authorities.

Whilst the planning regime for Qualifying Authorities is still active, given the need for further or residual planning applications, it would not be necessary to nominate further qualifying authorities as this was designed for the construction of Crossrail, rather than its maintenance. Therefore, the conclusion we have reached is that the Order is still required and accordingly it will be retained and not revoked. The decision to retain the Order was based on the views of the Department, as well as those provided in this review by Crossrail Ltd and the two Councils.

The Crossrail (Qualifying Authorities) Order 2008 (2008/2034) (“the Order”) was made under the power in paragraph 1 of Schedule 7 to the Crossrail Act 2008 (“the Act”). The main purpose of the Act was to secure the powers necessary to build Crossrail (known operationally as the Elizabeth line). Crossrail consists of new rail tunnels running west to east through central London, connecting directly with existing surface rail routes to Reading and Heathrow in the west and Shenfield and Abbey Wood in the east. This existing surface rail infrastructure is also subject to a number of improvement works being carried out by Network Rail, known as the “On-Network Works”. By connecting the main terminals of Paddington and Liverpool Street, Crossrail enables interconnecting mainline train services to cross the centre of London via a number of new and existing, but expanded and enhanced, stations.

The Act contains provisions for the nominated undertaker (see the Crossrail (Nomination Order 2008 (2008/2036)) to construct Crossrail and thereafter maintain the operational railway, to set out the limits within which those works can take place, to remove or realign streetworks and other utilities. Crossrail Ltd, a wholly owned subsidiary of Transport for London, was incorporated to be a single purpose delivery body and the Nominated Undertaker on Crossrail. London Underground Ltd is also a nominated undertaker, but only for the purposes of upgrade works to its existing Bond Street and Tottenham Court Road stations.

Section 10 of the Act deals with general planning provisions and provides that planning permission shall be deemed to have been granted for works authorised by the Act. It also brings into effect Schedule 7 which sets out the various planning conditions for both qualifying and non-qualifying authorities. Qualifying Authorities are those authorities which have given sufficient assurances to the Secretary of State on the planning process. Those assurances are given through the authorities having signed the Crossrail Planning & Heritage Memorandum (PHM). The purpose or aim of the PHM is set out in Paragraph 2.5 of that document:

“There will be a considerable number of these ‘Schedule 7’ applications. This memorandum seeks to ensure that the process of obtaining these consents does not unduly hinder the construction of Crossrail. It sets out the arrangements for the processing of the applications, setting out the responsibilities of the nominated undertaker and the qualifying authorities.”

Paragraph 1 of Schedule 7 provides a power for the Secretary of State by order to prescribe Qualifying Authorities. Both Qualifying and non-Qualifying Authorities have different conditions imposed on them under Schedule 7. This determines the extent of liaison with Crossrail Ltd over the development of Crossrail in their area and the degree to which they can influence the Crossrail scheme.

From a Qualifying Authority’s perspective, Westminster and City of London Council confirmed that, having been designated as qualifying authorities by virtue of the Order, they have used the Schedule 7 planning regime as it applies to them as qualifying authorities and that this regime will be required in the future.

In conclusion, the policy objectives of The Crossrail (Qualifying Authorities) Order 2008, are to encourage the local authorities to sign the PHM and thereby agree to expeditious handling of Schedule 7 requests for approval, thus avoiding undue delay and cost to the delivery of a predominantly publicly funded high value infrastructure project, by providing the incentive, concomitant with being a Qualifying Authority, that they will have the maximum scope for approval and grounds for determination as are permitted under Schedule 7. Now that the railway is fully operational, there may be a need for the Nominated Undertaker to seek planning permission under Schedule 7 from a Qualifying Authority. The fact that the regime is to continue means that where such permission is needed, it will be handled efficiently and expeditiously reducing the risk of delays to the operation of the railway.

2. What evidence has informed the PIR?

In preparation for drafting this PIR, we liaised with the nominated undertaker, Crossrail Ltd, which is the body charged with constructing the Crossrail scheme. We obtained relevant information from them on how the Schedule 7 regime has operated. In addition, we contacted and obtained information from two of the more active Qualifying Authorities, namely Westminster and the City of London. They were able to provide an insight into how the Schedule 7 regime has worked for them. As the above parties provided a relevant and proportionate amount of detail on which to inform this PIR, we did not consider it necessary to canvass the views of the remaining Qualifying Authorities.

We worked collaboratively with two Qualifying Authorities (Westminster and City of London) on this PIR. Both councils named in this order as a qualifying authority were invited to inform us of their experiences of being a qualifying authority, and whether it was of benefit in dealing with Crossrail planning applications. They were asked what disadvantages or problems occurred and whether this regime was still needed. The Crossrail Sponsorship team are unaware of any negative feedback having been received in the years since the Order came into force, nor evidence of unintended consequences being identified, we have therefore considered the absence of any of the above when drafting this PIR. The feedback from Crossrail Ltd and the Councils was in email format and will be stored for future consideration.

3. To what extent have the policy objectives been achieved?

The fact that Crossrail has now transitioned legally from a construction project to a railway, is evidence of the effectiveness of the Order. That the objectives of the Order have been met is evidenced by the significant construction progress that was made throughout the project and the fact that the railway is now fully open. Also, each year, the chair of the Crossrail Planning Forum reported to the High-Level Forum and provided in his statement an assessment of the effectiveness of the planning regime. In each year's statement the chair concluded that the regime was proving to be effective. Given the stage reached by the project that forum has now closed.

Section 11 of the Crossrail Act 2008 contains the power for the Secretary of State to 'switch off' Schedule 7, especially if a body with its own permitted development rights, such as Network Rail, became Nominated Undertaker. If it transpires in the future that a body maintaining the railway no longer needs Schedule 7 it could then be switched off, at which point there would no longer be a need for the Crossrail (Qualifying Authorities) Order 2008. However, unless or until such time as Schedule 7 is switched off, further maintenance works to the Elizabeth line will arise in the future for which Schedule 7 approval will be required and therefore the Crossrail (Qualifying Authorities) Order 2008 will continue to be needed.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***Jenna O'Byrne***

Date: 05/04/2024

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions?

No impact assessment was prepared for this legislation and the costs to business were nil. Therefore, no analytical assumptions were utilised in the development of this legislation and accordingly we cannot provide a relevant response to this question.

5. Were there any unintended consequences?

We are not aware of any unintended consequences of the Order.

6. Has the evidence identified any opportunities for reducing the burden on business?

The Crossrail (Qualifying Authorities) Order 2008 results in no burden on businesses therefore there is nothing in the evidence for this review that represents an opportunity for reducing any burden on businesses.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

The Crossrail (Qualifying Authorities) Order 2008 does not transpose European Law and derives from domestic planning law. Accordingly, it is not possible nor relevant to ascertain how member states implement similar measures