

## Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing

### Agenda for Compulsory Acquisition Hearing 1 (CAH 1): The Applicant's Strategic Case

Hearing	Date and Time	Location
<b>Compulsory Acquisition Hearing 1 on The Applicant's Strategic Case for Compulsory Acquisition &amp; Temporary Possession</b>	<b>Friday 15 September 2023 Hearing Starts at 10am</b>	Orsett Hall Hotel Prince Charles Ave, Orsett, Grays RM16 3HS
	Blended event: Venue Registration Process from 9:15am  Virtual Registration Process from 9:15am	

#### Agenda

1. Welcome, introductions, arrangements for the Hearing
2. Purpose of the Compulsory Acquisition Hearing
3. The Applicant's Case for the Compulsory Acquisition (CA) & Temporary Possession (TP) of Land and Rights

The ExA will ask questions of the Applicant relating to the following matters:

a)	<b>The relationship between the design approach, the extent of land sought and the applicant's initial CA &amp; TP request</b>
i	The extent of land sought to be subject to CA.
ii	Whether statutory tests for CA are met on all land: <ul style="list-style-type: none"> <li>• whether the purposes for which the compulsory acquisition (CA) powers are sought comply with s122(2);</li> <li>• whether the 'compelling case in the public interest' test under s122(3) is met on all land sought</li> </ul>
iii	Consideration of reasonable alternatives to CA.
iv	The extent of land sought to be subject to TP.
v	The justification for land sought to be subject to TP.
b)	<b>Requests by the Applicant for additional land and/or rights</b>
i	Additional land or rights sought under the change request notified as <a href="#">[AS-083]</a> and the application of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010
ii	Whether the statutory conditions and policy on additional land is met?

ii	Progress on project design – are there any likely additional land requests over and above that of which the ExA is already aware?
c)	<b>Land and rights no longer required</b>
	Land or rights originally sought but in respect of which change requests notified as [PD-023], [PD-024], [AS-082], [AS-083] and [AS-090] seek to exclude.
d)	<b>The purpose and adequacy of the funding statement (FS)</b>
f)	<b>Whether there is a compelling case in the public interest for the compulsory acquisition and temporary possession provisions overall?</b>

APs will be welcome to participate. Where APs consider relevant legal tests and or policies have not been met, they will be invited to address the ExA at the level of general principle and in whole-of-project/ summary terms. It should be remembered that individual site-specific objections will be fully heard at later hearings and do not need to be presented today.

The Applicant will be provided with a right of reply.

#### 4. Special Provisions, Land & Rights

The ExA will ask questions of the Applicant relating to the following matters:

a)	<b>Statutory Undertaker's land and rights</b>
i	The Applicant's current position in respect of PA2008 s127 and s138 including progress on negotiations and those remaining which have not been withdrawn?
ii	The condition of negotiations, and whether there are unresolved concerns relating to statutory undertaker's land, rights and apparatus.
b)	<b>The Crown</b>
i	The need for and progress towards consent under PA2008 s135
c)	<b>Commons, open spaces etc.</b>
i	The condition of negotiations, and whether there are unresolved concerns relating to PA2008 ss 131, 132 and / or 139?

APs will be welcome to participate, subject to the same ground rules as applied for Agenda item 3. If any individual AP has a detailed case to make in respect to special provisions, land and/ or rights, then they should do so at a subsequent CAH.

The Applicant will be provided with a right of reply.

#### 5. Human Rights and Equalities

The ExA will ask questions of the Applicant relating to the following matters:

a)	<b>The Human Rights Act (ECHR)</b>
b)	<b>The Public Sector Equality Duty (PSED)</b>
i	In respect of both the Human Rights Act and the PSED <ul style="list-style-type: none"> <li>• circumstances within which these might be engaged;</li> <li>• measures undertaken and/or in process to address possible engagement</li> </ul>

APs will be welcome to participate subject to the same ground rules as applied for Agenda items 3 and 4. If any individual AP has a detailed Human Rights or Equalities case to make, they should do so at a subsequent CAH.

The Applicant will be provided with a right of reply.

**6. Next Steps**

**7. Closing**

## **Purpose of this CAH**

The purpose of this CAH is to inquire into the Applicant's strategic case for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights to support the development of the proposed Lower Thames Crossing.

## **Attendees**

The ExA would find it helpful if the following parties could attend this Hearing.

- The Applicant
- Affected Persons (APs) objecting to the granting of CA and or TP powers on a strategic basis; namely that the extent of land or rights sought does not meet relevant legal or policy requirements.

However, this does not indicate that other parties will not be able to contribute. All Affected Persons (APs) may make oral representations on the matters set out in the Agenda, subject to the ExA's ability to control the Hearing.

The Applicant is requested to have people with the following expertise available to assist the hearing:

- Land Agents;
- Chartered Surveyors; and/ or
- Legal advisors

who are responsible for the drafting of the CA & TP powers in the dDCO; for the selection of land and the assembly of portfolios of permanent and temporary land and rights necessary for the delivery of the proposed development; for the provision and maintenance of the CA & TP document set including the Land Plans, Book of Reference and Statement of Reasons and for the due diligence process over land and rights.

This list will also assist other parties who are able to draw on staff or advisors to support them.

The ExA has sought to provide sufficient detail to assist the parties to prepare for the Hearing. The details set out above are indicative and the ExA may find it necessary to include additional Agenda items or to amend the order in which the items are dealt with.

## **Joining the Hearing**

### *Registering as a speaker*

The speakers invited to this hearing are listed above. If your name is listed for a hearing, please register at **9-15am**. This enables arrangements to be explained and hearings to make a prompt start.

You can register in person at the venue. If you are attending virtually though, you will receive joining and registration instructions in a separate email, shortly in advance of the event. This email will also explain what to do if you have difficulties getting connected.

### *Observing the hearing*

Hearings are held in public. If you are not speaking, public seating at the venue will be open from **9-15am**. If you are observing on-line, please go to the [project landing page](#) on the National Infrastructure Planning website where you will find:

- on the day - a link to a livestream to watch the hearing in real time; and
- after the event has closed - a link to the recordings of the hearing

All Interested Parties (IPs) are welcome to submit observations in writing by the deadline following the hearing.

## **Participation**

Compulsory acquisition hearings are a place for those whose land and/ or rights are affected by the Proposed Development to be heard. Such persons are known as Affected Persons (APs) and are listed in the Book of Reference, although the hearing can hear from those who appear to have land or rights that are affected but are (for some reason) not or not yet listed in the Book of Reference, and/or have been granted Interested Party status under section 102A of the Planning Act 2008.

The Examining Authority (ExA) has carefully considered all representations made by Affected Persons and has decided to hold Compulsory Acquisition Hearings for two separate purposes.

- This is the first CAH to be held in this Examination (CAH1). It is being held because the ExA wishes to question the Applicant about its strategic case for CA and TP. It is not the place for individual objections about effects on land or rights to be heard.
- Subsequent CAHs commencing with CAH2 will provide places to which APs wishing to object on an individual basis to a CA or TP request affecting their interests in land will be invited.

## **Requests to be Heard**

Individual Affected Persons may request to be heard at these first, strategic, hearings (CAH1), but only on the basis that they are concerned that the Applicant has not complied or will not comply with the relevant legal tests, policy and guidance in respect of its strategic case for CA and/or TP. Those wishing to be heard at CAH1 will have requested to be heard by Deadline 1/ Procedural Deadline D (18 July 2023).

There will be a second (CAH2) and (if required) subsequent Compulsory Acquisition Hearings (CAH3 and above). These hearings will be held to allow individual objections by Affected Persons relating to individual parcels of land and/or rights to be heard. They may be held as blended events in a venue near to the application site and online, or virtually (online only). The ExA will ensure that there is enough time set aside at these hearings for all Affected Persons who notify us that they wish to speak about their objection to be heard.

Those permitted to speak at CAH2 or any later CAH and who wish to be heard will also have requested to be heard by Deadline 1/ Procedural Deadline D (18 July 2023).

If you are not presently listed in the Book of Reference and/ or have not been granted Interested Party status under section 102A of the Planning Act 2008 but think that your land or rights may be directly affected, you may apply to speak at a Compulsory Acquisition Hearing: please contact the Case Team. The ExA will consider your request and, if it is granted, will invite you to speak. If the ExA has questions that it wishes to put to the Applicant about the extent of land or rights subject to compulsory acquisition or temporary possession that might affect you and your land or rights, the ExA will also invite you to speak.

If you are not an Affected Person but want to object to the Application more broadly (including by raising concerns about the effects of compulsory acquisition or temporary possession on others or on the local economy), then you do not have a right to speak at a Compulsory Acquisition Hearing. Time in these hearings is reserved for those whose land or rights are affected. You should raise your concerns at an Open Floor Hearing, under an appropriate agenda item at an Issue Specific Hearing or put them to the ExA in writing.

### **Procedure at CAHs**

There are two types of CAH:

- Strategic hearings, where the Applicant's case for CA & TP is tested in the round; and
- Individual hearings, where site-specific objections arising from Affected Persons are heard.

This hearing is a Strategic hearing and whilst its Agenda is limited to matters relevant to CA & TP, its structure and style will be like that of an Issue Specific Hearing (ISH). The ExA will ask questions about the matters identified in the Agenda and the participants will respond on those matters.

When individual CAHs are held in due course, their structure and style will be closer to that of an Open Floor Hearing (OFH), where individual speaking appointments will be provided for individual Affected Persons to raise site-specific issues.

Participation is subject to the ExA's power to control the hearing. Hearings will be run to ensure that all submissions from those participating are fully heard within the allotted time.

Participants may be legally represented if they wish, but the hearing will be managed to ensure that legal representation is not required. The Applicant and others permitted to speak may attend with relevant expert advisers, but others permitted to speak may participate on an equal basis without expert advice.

Cross-questioning is regulated by the ExA and is not permitted unless the ExA decides that it is necessary to ensure that representations are adequately tested or to ensure that all persons have had a fair chance to put their case.

This agenda may be amended by the ExA at the start of the hearings. The ExA may wish to raise supplementary matters arising from oral submissions and written representations and to pursue lines of inquiry in the course of the discussions which are related to but not listed on the agenda.

Evidence presented orally at these hearings should be included in post-hearing submissions including written submissions of oral case and submitted at the next relevant deadline, in order to ensure that it has been recorded accurately.

### **Guidance & Advice**

The Secretary of State has provided [Guidance related to procedures for the compulsory acquisition of land under the Planning Act 2008](#) and [Guidance on Awards of costs](#), where Part D is also relevant to APs. Please review this guidance before the start of the hearing.

[Examination Guidance](#) from the Secretary of State and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that the ExA will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearings will be led by the ExA.

To help you participate effectively, the Planning Inspectorate has published advice and the ExA has published frequently asked questions (FAQs).

- Advice Note 8.5 – [Participating in an Examination](#)
- Advice Note 8.6 – [Virtual Events](#)
- Lower Thames Crossing Examination [FAQ v2](#) [PD-014]

This material includes advice on how to use Teams (our virtual event system) and on protecting your privacy during virtual events. The advice relating to virtual events is also relevant to blended events where parties can attend virtually.

Please read this advice before you join your hearing, as it will help you to prepare and get the best out of your participation.

### **Contingencies**

If this hearing is unable to proceed or continue, then the ExA will adjourn incomplete business to hearing times in October or November 2023 that have been reserved in the Examination Timetable. Notice of any adjournments will be provided in the banner on the National Infrastructure Planning Website.