



Lower Thames Crossing

9.78 ExQ1.15.1.2 Crown Land and Consent – LTC

(Tracked changes version)

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

DATE: October 2023
DEADLINE: 5

Deleted: September

Deleted: 4

Planning Inspectorate Scheme Ref: TR010032
Examination Document Ref: TR010032/EXAM/9.78

VERSION: 2.0

Deleted: 1

Revision history

| <u>Version</u> | <u>Date</u> | <u>Submitted at</u> |
|----------------|--------------------------|---------------------|
| <u>1.0</u> | <u>19 September 2023</u> | <u>Deadline 4</u> |
| <u>2.0</u> | <u>3 October</u> | <u>Deadline 5</u> |

Deleted: THIS PAGE IS INTENTIONALLY LEFT BLANK.¶

Lower Thames Crossing

9.78 ExQ1.15.1.2 Crown Land and Consent – LTC (Tracked changes version)

List of contents

| | Page number |
|------------------------------------|-------------|
| 1 Introduction | 1 |
| 1.1 Purpose of this document | 1 |
| 1.2 Schedule notes | 1 |
| 1.3 Bona vacantia interests..... | 5 |

List of tables

| | Page number |
|--|-------------|
| Table 1.1 Table showing Crown Land and Consent Monitoring..... | 3 |

Deleted: Table 1.2 Bona vacantia interests 6

1 Introduction

1.1 Purpose of this document

1.1.1 This Schedule detailing Crown Land and Consent relates to the A122 Lower Thames Crossing (the Project) and has been submitted by National Highways (the Applicant) to the Planning Inspectorate acting on behalf of the Secretary of State for Transport. It relates to an application for a Development Consent Order (DCO) to permit and enable implementation of the Project made under section 37 of the Planning Act 2008 (as amended) (the 2008 Act).

1.1.2 This Crown Land and Consent Schedule has been produced in response to the Examining Authority's (ExA's) first written questions, in particular, The acquisition and temporary possession of land and rights (CA & TP): Due Diligence: ExQ(1) 15.1.2, which requested:

“to provide and at each successive deadline to maintain and submit a tabulated schedule separately identifying any Crown interests subject to PA2008 s135 (with reference to the latest available Books of Reference (BoRs) and the Land Plans), to identify whether consent is required with respect to s135(1)(b) and/or s135(2) and what progress has been made to obtain such consent(s).

The Schedule should be titled ExQ1.15.1.2: Crown Land and Consent: LTC. Written evidence of consent(s) obtained must be provided at the first available deadline and in any case by Deadline 8. If at any given deadline an empty schedule is provided, a revised schedule need not be provided at any subsequent deadline unless the Applicant becomes aware that the data and assumptions on which the empty table was provided have changed. However, where a revised schedule is not provided, a confirming note of ‘no changes’ should be submitted at the deadline”.

1.1.3 For ease, sections 135(1) and 135 (2) of the Planning Act 2008 read as follows:

135 Orders: Crown land

(1) An order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown land only if—

- (a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and
- (b) the appropriate Crown authority consents to the acquisition.

(2) An order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.

1.1.4 Accordingly, the Applicant has prepared this Schedule based upon the template provided by the ExA in Annex A of their first written questions.

1.2 Schedule notes

1.2.1 The Schedule aggregates data from multiple sources, namely:

- a. Relevant Representations Library: on 12 April 2023 the ExA published a definitive record of the valid Relevant Representations received between

9 January 2023 and 24 February 2023. The references attributed to each relevant representation within the Relevant Representations Library have been adopted in the Objections Schedule.

- b. Written Representations: on 24 July 2023 the ExA updated the Examination Library with Written Representations. The references attributed to each written representation within the Examination Library have been adopted in the Objections Schedule.
- c. [Book of Reference being submitted at Deadline 5 \[Document Reference \[4.2\]\]](#); the land interest name, nature of interest and plot numbers contained within the Objections Schedule derive from the Book of Reference.
- d. Draft Development Consent Order [being submitted at Deadline 5 \[Document Reference \[3.1\]\] as amended by Schedule of Changes to the dDCO during Examination \[Document Reference \[9.47\]\]](#); articles 25, 28 and 35 refer to the powers of compulsory acquisition the Applicant seeks. These powers and rights are categorised into the following abbreviations within the Objections Schedule: CA - Compulsory Acquisition, CAR - Compulsory Acquisition of Rights, CAS - Compulsory Acquisition of Subsoil, CASTPS - Compulsory Acquisition of Subsoil and Temporary Possession at Surface, TP - Temporary Possession
- e. Article 43 of the draft Development Consent Order confirms that nothing in the draft order can affect Crown land without the consent of the Crown.

Deleted: [REP3-085]:

Deleted: [REP3-077] as amended by [REP3-137]:

1.2.2 This Schedule should be read in conjunction with the following documents:

- a. Land Plans [being submitted at Deadline 5 \[Document Reference \[2.1\]\]](#)
- b. Statement of Reasons [being submitted at Deadline 5 \[Document Reference \[4.1\]\] including:](#)
 - i. Section 7.1 relating to Crown Land
 - ii. Annex A explaining the purpose for which plots are required,
 - iii. Annex B summarising engagement and negotiations,
- c. Applicant's comments on WRs Appendix F – Landowners [REP2-051]
- d. Other DCO documents which are specifically referenced in the Status of Objection column.

Deleted: [REP3-011] and [REP3-013]

Deleted: [REP3-081]

Deleted: [AS-138] as amended by [REP3-081]

Deleted: [REP3-084]

1.2.3 The Crown Land and Consent Schedule should be considered a live document which will be reviewed and updated from. It will be updated during the examination period when the Applicant becomes aware that data and assumptions on which the previous deadline schedule submission was made have changed.

Table 1.1 Table showing Crown Land and Consent Monitoring

| No. | Crown authority | Land requirement | Crown land plot(s) | s135(1)(b) and/or s135(2) consent required | Current position |
|-----|---|--------------------------------|--|--|--|
| 1 | The Secretary of State for Environment Food and Rural Affairs | Acquisition of land and rights | 03-147, 06-53, 06-56, 43-07, 43-08, 43-09, 43-18, 43-19, 43-22, 43-23, 43-24, 43-25, 43-26, 43-29, 43-31, 43-32, 43-33, 43-34, 43-35, 43-39, 43-104, 43-105, 43-106, 43-107, 43-108, 43-109, 43-110, 43-111, 44-01, 44-05, 44-08, 44-12, 44-25, 44-27, 44-39, 44-48, 44-51, 44-59, 46-04, 46-06, 46-08, 46-09, 46-11, 46-12, 46-18, 46-21, 46-25, 46-26, 46-55, 47-01, 47-10, 47-26, 48-03, 48-04, 48-05 and 48-06 | Yes | <p>Discussions on-going.</p> <p>Confirmation of consent pending</p> <p>The Applicant is in regular contact with representatives of Forestry England (FE) as managing agents for the Forestry Commission which is itself a government agency under the Department of Environment, Food and Rural Affairs).</p> <p>FE is aware of the Project, its detailed requirements and its effect on Department of Environment, Food and Rural Affairs (Crown) lands. A draft Statement of Common Ground (SoCG) has been negotiated and submitted to the Examining Authority [Document Reference 5.4.5.2 (2)] [APP-133]. Among other matters, this covers provisions for replacement open space land, temporary public access rights, utility diversions, ecological mitigation etc.</p> <p>The Applicant has a regular and constructive dialogue with FE and is confident that the SoCG will be completed in the near future and that a s135 (Planning Act 2008) letter confirming Crown consent for compulsory purchase of its land will follow shortly thereafter and be submitted for Examination.</p> |
| | | Temporary possession | 05-01, 05-02, 05-03, 05-05, 05-06, 06-75, 06-116, 06-153, 43-10, 43-27, 43-28, 44-64 and 44-73 | | |

| No. | Crown authority | Land requirement | Crown land plot(s) | s135(1)(b) and/or s135(2) consent required | Current position |
|-----|---|--------------------------------|---|--|---|
| 2 | The Secretary of State for Health and Social Care | Acquisition of land and rights | 44-30, 44-33, 45-76, 45-81, 45-86, 45-90, 45-95, 45-96, 45-99, 45-100, 45-101, 45-103, 45-104, 45-113, 45-119, 45-127, 46-35, 46-38, 46-49, 46-51, 46-53, 47-01, 48-03, 48-04, 48-05 and 48-06 | Yes | Crown consent obtained. The Applicant has liaised closely with 'Government Legal Department' and has recently received a letter from it confirming consent under Section 135 Planning Act 2008. This letter was submitted to the Examining Authority at Deadline 2 (3 August 2023) under Letter of Confirmation – SoS Health and Social Care (Crown Land) [REP2-075]. |
| | | Temporary possession | 45-105 and 46-52 | | |
| 3 | The Secretary of State for Transport | Acquisition of land and rights | 03-07, 03-11, 03-15, 03-22, 03-26, 03-27, 03-30, 03-31, 03-32, 03-33, 03-34, 03-35, 03-37, 03-47, 03-51, 03-55, 03-58, 03-60, 03-64, 03-69, 03-70, 03-73, 03-75, 03-78, 03-82, 03-83, 03-87, 03-90, 03-99, 03-100, 03-104, 03-111, 03-121, 03-152, 04-05, 04-07, 04-08, 04-09, 04-12, 04-16, 04-17, 04-26, 04-30, 04-32, 04-35, 04-36, 04-42, 04-43, 04-45, 04-53, 04-61, 04-64, 04-72, 04-81, 04-83, 04-89, 04-91, 04-99, 04-101, 04-105, 04-109, 04-111, 04-112, 04-117, 04-120, 04-122, 04-124, 04-126, 04-127, 04-128, 04-130, 04-132, 04-138, 04-139, 04-140, 04-154, 04-158, 04-160, 04-169, 04-175, 04-178, 04-179, 04-191, 04-196, 04-198, 04-199, 04-201, 04-202, 04-203, 04-205, 04-206, 04-207, 04-208, 04-210, 04-213, 04-215, 04-229, 04-230, 04-239, 04-243, 04-259, 04-260, 04-272, 04-273, 06-04, 06-06, 06-48, 06-53, 06-54, 06-55, 06-56, 06-57, 06-62, 06-64, 06-65, 06-67, 06-68, 06-74, 06-76, 06-79, 06-81, 06-82, 06-117, 06-121, 06-141, 06-155, 06-156, 06-165, 06-166, 06-169, 06-171, 06-173, 06-176, 06-178, 06-181, 06-182, 06-184, 06-187, 06-188, 06-193, 06-198, 06-199, 06-204, 06-205, 06-206, 07-01, 07-02, 07-03, | Yes | Confirmation of Consent Pending. The Secretary of State for Transport is the Freehold Owner of land leased to HS1. Objections have been received in principle from both Parties to this land acquisition. The Applicant has been working towards a tri-partite legal agreement with all parties in respect of the land included within the Project in this regard. A number of meetings to discuss the agreement have been held and the Applicant is confident a voluntary agreement will be concluded before the end of Examination and that a letter under Section 135 (Planning Act 2008) will be submitted. The Secretary of State for Transport also holds interest in land across the wider Project (excluding HS1). Similarly, the Applicant has been in discussions with regard to these interests and the parties are working towards a voluntary legal agreement to secure these plots. The Applicant is confident a voluntary agreement will be concluded before the end of Examination and that a letter under Section 135 (Planning Act 2008) will be submitted. |

| No. | Crown authority | Land requirement | Crown land plot(s) | s135(1)(b) and/or s135(2) consent required | Current position |
|-----|---|----------------------|---|--|------------------|
| | The Secretary of State for Transport cont'd | | 07-04, 07-05, 07-09, 07-11, 07-12, 07-15, 07-16, 07-18, 07-21, 07-25, 07-27, 07-29, 07-31, 08-06, 08-07, 08-12, 08-13, 08-14, 08-15, 40-05, 40-09, 40-10, 40-13, 40-19, 42-20, 42-35, 42-37, 42-39, 42-51, 42-90, 43-11, 43-12, 43-42 and 43-44 | | |
| | | Temporary possession | 03-04, 03-08, 03-36, 03-80, 04-25, 04-28, 04-37, 04-46, 04-108, 04-123, 04-137, 04-141, 04-200, 04-233, 04-257, 04-258, 05-01, 05-02, 05-03, 05-04, 05-06, 06-08, 06-09, 06-11, 06-75, 06-116, 06-135, 06-153 and 17-02 | | |

1.3 Bona vacantia interests

- 1.3.1 When a person dies intestate (without a will) and without known kin (entitled blood relatives) or when a company is dissolved any assets that party holds are classed as *Bona Vacantia*, which means 'vacant goods' and is the name given to ownerless property, which by law passes to the Crown.
- 1.3.2 Following continued engagement with representatives of the Crown Estate and the Duchy of Lancaster the Applicant no longer considers the [bona vacantia assets they hold within the Order limits](#), to be 'Crown [interests](#)', and therefore is not seeking consent under s135(1)(b) and/or s135(2) [in relation to these interests](#). Solicitors for the Crown Estate have previously confirmed that interests which are 'escheat' should not be considered Crown land.

Deleted: <#>A cautionary approach has been taken and these bona vacantia interests are currently recorded in the Book of Reference [REP3-085](#), Part 4: 'Crown Land interests'; the table below list all such Crown Land interest.

Deleted: <#>plots listed in

Deleted: <#>table below

Deleted: <#>Land

Deleted: <#>).

Deleted: <#> This position will therefore be reflected in future updates to the Book of Reference and of this Crown Land and Consent Schedule.

Table 1.2 Bona vacantia interests

| No. | Crown authority | Land requirement | Land plot(s) in which bona vacantia interest(s) are held | s135(1)(b) and/or s135(2) consent required | Current position |
|-----|--|--------------------------------|---|--|--|
| 4 | The Crown Estate | Acquisition of land and rights | 21-14, 21-15, 21-16, 38-25, 40-01, 40-02, 41-22, 41-23, 41-32 and 41-33 | No | All of the interests held by The Crown Estate are 'bona vacantia' (interests arising from dissolved companies). Approaches have been made to the Crown Estate (via their solicitors) with regard to these interests which cover the 17 plots listed here. These are split over three companies. Of the 17 plots, confirmation has been received that the interests of two companies in six plots have been disclaimed and that the Crown has no vested interest in the other nine Plots. |
| | | Temporary possession | 04-28, 04-123, 21-10, 21-11, 21-18, 38-28 and 41-30 | | |
| 2 | The King's Most Excellent Majesty in Right of His Duchy of Lancaster | Acquisition of land and rights | 23-94 and 23-97 | No | No specific objection raised. Pending formal confirmation. All of the interests held by the Duchy of Lancaster are 'bona vacantia' (interests arising from dissolved companies). The Duchy of Lancaster has been approached with regard to one bona vacantia interest in relation to the dissolved company Mayer Parry (Leoman) Ltd. The Applicant is in correspondence with the Duchy's solicitors, Farrer & Co. with regard to these interests and hopes to obtain disclaimers for these interests before the end of Examination. |
| | | Temporary possession | 23-114 | | |

If you need help accessing this or any other National Highways information, please call **0300 123 5000** and we will help you.

© Crown copyright 2023.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the **Information Policy Team, The National Archives, Kew, London TW9 4DU**, or email psi@nationalarchives.gsi.gov.uk.

Mapping (where present): © Crown copyright and database rights 2023 OS 100030649. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

If you have any enquiries about this publication email info@nationalhighways.co.uk or call **0300 123 5000***.

*Calls to 03 numbers cost no more than a national rate call to an 01 or 02 number and must count towards any inclusive minutes in the same way as 01 and 02 calls.

These rules apply to calls from any type of line including mobile, BT, other fixed line or payphone. Calls may be recorded or monitored.

Printed on paper from well-managed forests and other controlled sources when issued directly by National Highways.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

National Highways Limited registered in England and Wales number 09346363