



# 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

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## 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 submitted at Deadline **9 [Document Reference 4.2 (8)]**, 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 submitted at Deadline **9 [Document Reference 3.1 (11)] as amended by Schedule of Changes to the dDCO during Examination [Document Reference 9.47 (9)]**, 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: 5 [REP5-030]:

Deleted: 6 [REP6-010] as amended by Schedule of Changes to the dDCO during Examination [REP6-074]:

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

- a. **Land Plans submitted at Deadline 9 [Document Reference 2.2 (8)]**
- b. **Statement of Reasons submitted at Deadline 9 [Document Reference 4.1 (8)]** 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: <#>Land Plans submitted at Deadline 5 [REP5-004 to REP5-008]:

Deleted: <#>5 [REP5-028]

1.2.3 The Crown Land and Consent Schedule should be considered a live document which will be reviewed and 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>confirmation of consent <b>Pending</b>.</p> <p>The Applicant remains 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 (<b>DEFRA</b>).</p> <p>FE is <b>therefore fully</b> aware of the Project, its detailed requirements and its effect on <b>DEFRA</b>, (Crown) lands. A draft Statement of Common Ground (SoCG) <b>was</b>, submitted to the Examining Authority <b>at Deadline 4 [REP4-112]. A final version will be submitted at Deadline 9a</b>. Among other matters, this covers provisions for replacement open space land, temporary public access rights, utility diversions, ecological mitigation etc.</p> <p><b>FE has now confirmed that replacement open space provisions and exemptions from such are agreed and wording to that effect has been agreed and included in the SOCG.</b></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		

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Forestry England (FE) has now confirmed that replacement open space provisions and exemptions from such are agreed and wording to that effect has been agreed to be included in the SoCG.¶  
Formal  
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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 Environment Food and Rural Affairs Cont'd				<del>Formal confirmation of consent in the form of a s135 (PA 2008) letter is pending, with Forestry England (FE) solicitors but is expected by the close of examination, the latest correspondence on this was, sent by the Applicant on 05 December 2023 [REP4-112].</del>
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, 04-36, 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,	Yes	Confirmation of Consent Pending.  The Applicant is working towards a tri-partite agreement with land in respect of land owned by the Secretary of State for Transport and Occupied by HS1 Ltd. <del>A meeting with Principals and Legal representatives was held on 20 November</del>

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The Secretary of State for Transport  
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No.	Crown authority	Land requirement	Crown land plot(s)	s135(1)(b) and/or s135(2) consent required	Current position
			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, 04-275, 04-277, 06-03, 06-04, 06-06, 06-14, 06-15, 06-21, 06-28, 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, 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, 07-41, 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		<p><u>2023</u> to discuss the outstanding points on the legal <u>agreements</u>.</p> <p>The Applicant is also working towards an agreement with The Secretary of State for Transport for all other plots in which it holds an interest in land.</p> <p><u>The Applicant believes that there are no outstanding substantive issues however these agreements will not be concluded prior 20 December 2023 (end of examination). The applicant is confident that these will be agreed during the recommendation stage.</u></p>
		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, 04-276, 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		

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No.	Crown authority	Land requirement	Crown land plot(s)	s135(1)(b) and/or s135(2) consent required	Current position
4	The Crown Estate	Acquisition of land and rights	21-14, 21-15 and 21-16	Yes	The Crown Estate has confirmed that no vested interest is held in respect of plots 04-28 and 04-123, and has disclaimed the interests in respect of 38-25, 38-28, 40-01, 40-02, 41-22, 41-23, 41-30, 41-32 and 41-33. The Crown Estate has been notified in respect of plots 21-11, 21-14, 21-15, 21-16, 21-18 and 21-37.
		Temporary possession	21-11, 21-18 and 21-37		
5	The King's Most Excellent Majesty in Right of His Duchy of Lancaster	Acquisition of land and rights	23-94 and 23-97	Yes	The Duchy of Lancaster has been notified in respect of plots 23-94, 23-97 and 23-114.
		Temporary possession	23-114		

### 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 does not consider disclaimed bona vacantia interests 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.

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