

M5 Junction 10 Improvements Scheme

Crown Land letter

TR010063 - APP 9.50

Rule 8 (1) (b)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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July 2024

**Infrastructure Planning
Planning Act 2008**

**The Infrastructure Planning
(Examination Procedure)
Rules 2010**

**M5 Junction 10 Improvement Scheme
Development Consent Order 202[x]**

Crown Land Letter

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Author:	M5 Junction 10 Improvements Scheme Project Team

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Chris Beattie,
Highways and Infrastructure
Gloucestershire County Council
Highways Commissioning Block 5,
6th Floor East Shire Hall
Gloucester
GL1 2TH

One Glass Wharf
Bristol BS2 0ZX
Tel: +44 (0)117 939 2000
Fax: +44 (0)117 902 4400
email@burgess-salmon.com
www.burgess-salmon.com
DX 7829 Bristol

Direct Line: +44 [REDACTED]

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When telephoning please ask for: Tristan Williams

Dear Sirs

**M5 Junction Improvements Scheme (the “Scheme”)
Land subject to escheat**

We write further to recent correspondence passing between us in relation to the Scheme.

BACKGROUND

You act for Gloucestershire County Council and have applied for a Development Consent Order (a “**DCO**”) in relation to the Scheme pursuant to the Planning Act 2008 (the “**2008 Act**”). We act for the Crown Estate Commissioners.

This response is based on your query relating to whether the Scheme involves compulsory acquisition of interests in “Crown land” as defined by the 2008 Act.

As will be apparent from this letter, the land in the Scheme (outlined below) does not form part of The Crown Estate, but may instead be subject to escheat. On this basis it is not Crown land under the 2008 Act.

This letter will first explain our client’s approach to land subject to escheat, and then we will comment on the application of the 2008 Act to such land.

LAND SUBJECT TO ESCHEAT

Where property is subject to escheat to the Crown at common law, it falls by longstanding convention to be dealt with by The Crown Estate.

In those circumstances, and in accordance with legal advice given on previous occasions, The Crown Estate would not propose to take any action which might be construed as an act of management, possession or ownership in relation to such property, since to do so might incur upon it liabilities with which the property is, or may become, encumbered. Please note that neither this letter, nor any other dealings between us, should be construed as such an act.

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Also at: 6 New Street Square, London, EC4A 3BF
Tel: +44 (0)20 7685 1200 Fax: +44(0)20 7980 4966

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The reasoning behind this approach is that The Crown Estate does not accept that it should be, in effect, a guarantor of last resort for companies and individuals who have failed financially, leaving onerous property in their wake. To do so would not be an appropriate application of The Crown Estate's revenues, nor is it a function envisaged for The Crown Estate by Parliament. Properties that may be subject to escheat are not infrequently onerous in nature, and many have little or no monetary value. The total cost of all potential past, present and future liabilities connected to such properties, of which there are many, would be enormous. As The Crown Estate accounts to the Treasury for its operating surplus, such a cost would end up as a burden on the public purse.

APPLICATION OF THE 2008 ACT TO LAND SUBJECT TO ESCHEAT

You have written to us in relation to a property known as the land on the north side of Hayden Road, Cheltenham (which was formerly registered under title number GR155449 (the "**Property**") that is proposed to be covered by the DCO. The Property may now be subject to escheat, by virtue of having formerly been owned by Pointview Limited.

We can confirm that no act of management has been undertaken by The Crown Estate in relation to the Property. Accordingly, the Property does not form part of The Crown Estate.

It follows that the Property cannot be Crown land (as part of The Crown Estate) for the purposes of the 2008 Act, nor do the Crown Estate Commissioners have remit under the 2008 Act to consent to the acquisition of any interest in such land within the DCO. The reason for this is because a consent may be construed as an act of management, possession or ownership in relation to the Property.

However, although this is a matter for the Examining Authority, we are not aware of any reason why the DCO cannot be granted over land that is subject to escheat.

CONCLUSION

We trust you will appreciate that the events which have led to the current situation are not of The Crown Estate's making. The law relating to escheat is archaic and complex, and imposes constraints on The Crown Estate's freedom of action.

Against that background though, we hope that this letter has been helpful to explain The Crown Estate's position in relation to the Scheme and the DCO.

Yours faithfully



BURGES SALMON LLP

AtkinsRéalis

5th Floor, Block 5
Shire Hall
Bearland
Gloucester
GL1 2TH

Tel: +44 (0) 8000 514 514