

Tritax Symmetry (Hinckley) Limited

**HINCKLEY NATIONAL  
RAIL FREIGHT INTERCHANGE**

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**The Hinckley National Rail Freight Interchange  
Development Consent Order**

Project reference TR050007

**Post hearing submission ISH1 and CAH1  
[Appendix H Applicant's Update on Crown Land]**

Document reference: 18.1.8

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**10 October 2023**

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# Hinckley National Rail Freight Interchange

## Post Hearing Submissions: Appendix H

### Applicant's Update on Crown Land

#### 1. Introduction

- 1.1 At Compulsory Acquisition Hearing 1 the Applicant undertook to continue to engage with the relevant Crown bodies in relation to the Crown interests identified in the Application. Since the hearing, the Applicant has been able to obtain all updates and responses it was awaiting, the result of which is that the Applicant now considers that there is no Crown Land within the development. This note explains and reflects that position.

#### 2. Background

- 2.1 Section 135(1) of the Planning Act 2008 ("the Act") states that a development consent order cannot authorise the compulsory acquisition of an interest in Crown land unless:
- (a) the interest is being held for the time being otherwise than by or on behalf of the Crown; and
  - (b) the appropriate Crown authority consents to the acquisition.
- 2.2 Section 135(2) provides that a development consent order may include any other provision applying in relation to Crown land, or rights benefiting the Crown, if the appropriate Crown authority consents to the inclusion of the provision in the Order.
- 2.3 For the purposes of the Act, "Land" includes any interest in or right over land (section 159) and "Crown land" includes an interest belonging to a government department (section 227).
- 2.4 The application for the Development Consent Order currently includes a number of plots of land which had been identified as potentially comprising Crown land, and in respect of which further investigations have been undertaken to establish whether consent is required to include the land in the Order land for the draft DCO and, if so, whether that consent is forthcoming.

#### 3. Relevant Plots

##### Plots 36 and 53

- 3.1 The draft Development Consent Order includes powers of compulsory acquisition in respect of land within the limits of the proposed Order. This includes plot 36, and the Order also includes plot 53 over which no rights of compulsory acquisition were sought.

- 3.2 These plots comprise land registered at the Land Registry under:
- 3.2.1 in respect of plot 36, part of title LT287801 which land is shown numbered 36 on Sheets 1 and 2 of the Crown Land Plans (Documents 2.26A and 2.26B, APP-076 and APP-077); and
  - 3.2.2 in respect of plot 53, title LT153444 shown numbered 53 on Sheet 2 of the Crown Land Plans ((see Inset 1) Document 2.26B, APP-077).
- 3.3 In respect of both plots 36 and 53, the conveyance of the land was noted as subject to the reservation of various rights for the benefit of the Vendors adjoining or neighbouring land. The precise land benefitting from the reserved rights is unknown despite extensive investigation, but it was understood that in both instances the rights may lie with the Department for Environment, Food and Rural Affairs (“DEFRA”). This is because those rights were expressed to be reserved in favour of the Ministry of Agriculture, Fisheries and Food (“MAFF”) at the time of their reservation (the predecessor to the Government Department now known as DEFRA), to benefit the land that MAFF then still owned. The plots were therefore identified as Crown land in accordance with sections 159 and 227 of the Act.
- 3.4 Consent was sought from DEFRA to the inclusion of both of the identified plots in the Order, notwithstanding that highway works only were proposed in relation to plot 53 with no compulsory acquisition required and that the DEFRA interest on plot 36 was specifically excluded from compulsory acquisition.
- 3.5 The Applicant has been able to discuss the matter in more detail with DEFRA, and both DEFRA and the Applicant have carried out further enquiries, and it is not possible to ascertain from the historic mapping and the manner in which the land was sold off, which land is now said to benefit from the interest. Attached at **Annex 1** is correspondence from DEFRA which confirms that to the department’s knowledge no part of the Order land comprises land in respect of which that department has an interest. These plots are therefore no longer considered to comprise Crown land, and no consent is required from a Crown authority for their inclusion in the Order.
- 3.6 The Applicant therefore proposes to amend the Book of Reference to refer to the interests as benefiting an “unknown owner”. The Applicant considers that the extensive consultation undertaken as part of the pre-application requirements, including various site notices as explained in the Consultation Report (Document 5.1, APP-092 – APP-107), would have notified any such beneficiary of the interests, although the Applicant acknowledges there was no specific site notice dealing with these particular interests as “unknown interests”.

#### Plots 127, 131, 132, 133 and 135

- 3.7 There are several other parcels of land currently identified as “Crown Land” in the DCO Application. These are plots 127, 131, 132, 133 and 135 which comprises land registered at the Land Registry under:

- 3.7.1 in respect of plots 127 and 131, title numbers LT21034 and LT214053, which are within the areas shown shaded grey and orange and numbered 127 and 131 on Sheet 7 of the Crown Land Plans (Document 2.26G, APP-082); and
- 3.7.2 title number LT294262, which is within the area shown shaded grey and orange and numbered 132, 133 and 135 on Sheet 7 of the Crown Land Plans (Document 2.26G, APP-082).
- 3.8 These plots of land are all within existing adopted highway over which no rights of compulsory acquisition are proposed, but in respect of which highway works are to be carried out.
- 3.9 The registered owner of the freehold interests specified above, comprising subsoil underneath adopted highway identified as plots 127 and 131, and of plots 132, 133 and 135 have each gone into liquidation and are no longer corporate entities. The land interests registered to these companies was therefore considered “bona vacantia” and to vest in the Crown. As mentioned at CAH1, the Applicant has therefore been liaising with the Treasury Solicitor and the Crown Estate to discuss the inclusion of the land within the Order limits, notwithstanding the absence of any compulsory acquisition powers.
- 3.10 The Applicant has been provided with:
- a copy of a Notice of Disclaimer dated 28 April 2023 in respect of the whole of the property comprising title LT294262;
  - a copy of a Notice of Disclaimer dated 28 April 2023 in respect of the whole of the property comprising title LT210324; and
  - a copy of a Notice of Disclaimer dated 28 April 2023 in respect of the whole of the property comprising title LT214053.
- 3.11 In each case the notice confirms that the Treasury Solicitor has disclaimed the Crown's title (if any) in the relevant property. As such the freehold interest in each plot has been extinguished and the land became subject to escheat to the Crown Estate. Copies of the notices are attached at **Annex 2**.
- 3.12 Also attached at **Annex 3** is confirmation from solicitors to the Crown Estate that no act of management has been undertaken by the Crown Estate in respect of the land disclaimed and therefore it does not form Crown land. Consequently, there is no requirement for consent to be provided by the Crown authority for the inclusion of the relevant plots in the draft DCO.
- 3.13 The Applicant therefore proposes to amend the Book of Reference to refer to these subsoil interests as belonging to an “unknown owner”. Since the Crown Estate has confirmed it is not land owned by the Crown, it is the Applicant’s understanding that the land is not owned by any party and therefore all diligent enquiry has been exhausted.

#### **4. Conclusion**

- 4.1 In the circumstances, the Applicant considers that there is nothing to prevent the inclusion of plots 36, 53, 127, 131, 132, 133 and 135 in the Hinckley National Rail Freight Interchange Development Consent Order when made, and no consent is required from any Crown authority in this regard.
- 4.2 The Applicant therefore proposes to:
  - 4.2.1 Remove all Crown Land from the Application – this will mean the Crown Land Plans (Document series 2.26, APP-075 - APP-083) should be considered as no longer forming part of the Application given that there will no longer be such a requirement for them pursuant to Regulation 5(2)(n) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;
  - 4.2.2 Update the relevant parcels in the Book of Reference;
  - 4.2.3 Remove the Crown Land article from the dDCO;
  - 4.2.4 Update the Explanatory Memorandum; and
  - 4.2.5 Update the Statement of Reasons; and
- 4.3 The Applicant proposes to make these changes at Deadline 2.

## **Annex 1**

### **Correspondence from DEFRA**

## Ward, Sharon

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**From:** Richards, John [REDACTED]s@defra.gov.uk>  
**Sent:** 03 October 2023 17:16  
**To:** Hutton, Laura-Beth  
**Cc:** Robert Wardell; Mutton, Karen  
**Subject:** Hinkley National Rail Freight Development Consent Order - Elmesthorpe Hinkley Leicestershire

Hi Laura-Beth

I write to confirm that to the best of my knowledge and belief in my capacity as Head of Corporate Property at the Department of Environment, Food & Rural Affairs that the Department acting via the Secretary of State has no known legal interest in any land identified as the Elmesthorpe Estate near Hinkley, Leicestershire forming part of the Hinkley National Rail Freight Development Consent Order. There are no records available to me that indicates a Crown interest in any of the land identified in the Development Consent Order.

The Department for Environment Food & Rural Affairs was established in 2001 and assumed responsibility of the functions of the Ministry for Agriculture, Fisheries & Food (now abolished) from that date.

There is some evidence to indicate that part of the land subject to the draft Consent Order may have formed part of the Land Settlement Association holdings administered by the Ministry of Agriculture, Fisheries and Food. This function ceased to operate in Leicestershire in the late 1960's and as far as any remaining records show all the land was sold in or around 1970-73. The bulk of the disposal would appear to form the title of Water Meadows Farm, Elmesthorpe. Leicestershire. The conveyance attached to your initial letter confirms that individual dwellings and plot may also have been sold at a similar time.

It was common practice for small holdings to be created from larger land holdings as part of the Land Settlement Association programme. As the Settlement programme was wound up, small holdings were sold off to smallholders, but once all the individual purchasers were completed the residue was often sold in larger or single lots. I cannot categorically say this was the case at Elmesthorpe, but does appear to fit the pattern of disposal at other similar sites sold at later dates. I have no first hand experience, but I have had reason to examine transactions on other similar sites for Defra over the last 17 years.

I hope this provides sufficient information for you to complete the Development Consent Order.

Regards

John

John Richards BSc MRICS | Head of Corporate Property | Corporate Property | Defra Group Property |  
**Department for Environment, Food and Rural Affairs** [REDACTED] | Email:  
[REDACTED]@defra.gov.uk | Address: Mallard House, Kings Pool, 1-2 Peasholme Green, York. YO1 7PX

I work part-time and my normal office hours are 07.30 – 16.30 Monday to Wednesday and 08:15 – 16:00 on Thursday.



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## **Annex 2**

### **Disclaimer Letters**

T S Ref: BV22218038/1/KJ

Notice of Disclaimer under s.1013 of the Companies Act 2006

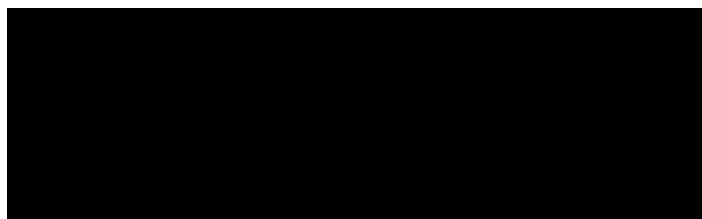
**DISCLAIMER OF WHOLE OF THE PROPERTY**

1. In this Notice the following shall apply:

Company Name:	James Construction (Leicester) Limited
Company Number:	03200117
Interest:	Freehold
Title Number:	LT294262
Property:	The Property situated at Park House Farm, Stanton Road, Sapcote. being the land comprised in the above mentioned title
Treasury Solicitor:	The Solicitor for the Affairs of His Majesty's Treasury of PO Box 2119, Croydon (DX 325801 Croydon 51).

2. In pursuance of the powers granted by s.1013 of the Companies Act 2006 the Treasury Solicitor as nominee for the Crown (in whom the property and rights of the company vested when the Company was dissolved) hereby disclaims the Crown's title (if any) in the Property the vesting of the Property having come to her notice on 6 December 2022.

Dated 28<sup>th</sup> April 2023



Assistant Treasury Solicitor  
(Section 3 Treasury Solicitor Act 1876)

T S Ref: BV22218039/1/KJ

Notice of Disclaimer under s.1013 of the Companies Act 2006

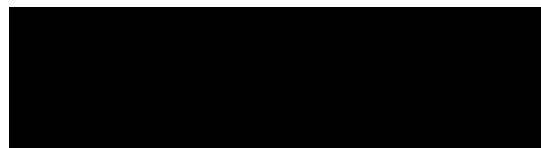
**DISCLAIMER OF WHOLE OF THE PROPERTY**

1. In this Notice the following shall apply:

Company Name:	Keith Towbridge Limited
Former Name:	John Brandon Homes Limited
Company Number:	01666049
Interest:	Freehold
Title Number:	LT210324
Property:	The Property situated at Land and buildings on the South side of Hinckley Road, Sapcote. being the land comprised in the above mentioned title
Treasury Solicitor:	The Solicitor for the Affairs of His Majesty's Treasury of PO Box 2119, Croydon (DX 325801 Croydon 51).

2. In pursuance of the powers granted by s.1013 of the Companies Act 2006 the Treasury Solicitor as nominee for the Crown (in whom the property and rights of the company vested when the Company was dissolved) hereby disclaims the Crown's title (if any) in the Property the vesting of the Property having come to her notice on 6 December 2022.

Dated 28<sup>th</sup> April 2023



Assistant Treasury Solicitor  
(Section 3 Treasury Solicitor Act 1876)

T S Ref: BV22218039/2/KJ

Notice of Disclaimer under s.1013 of the Companies Act 2006

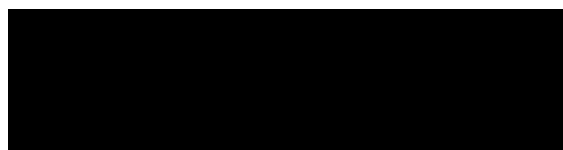
**DISCLAIMER OF WHOLE OF THE PROPERTY**

1. In this Notice the following shall apply:

Company Name:	Keith Towbridge Limited
Former Name:	John Brandon Homes Limited
Company Number:	01666049
Interest:	Freehold
Title Number:	LT214053
Property:	The Property situated at Land on the South side of Hinckley Road, Sapcote. being the land comprised in the above mentioned title
Treasury Solicitor:	The Solicitor for the Affairs of His Majesty's Treasury of PO Box 2119, Croydon (DX 325801 Croydon 51).

2. In pursuance of the powers granted by s.1013 of the Companies Act 2006 the Treasury Solicitor as nominee for the Crown (in whom the property and rights of the company vested when the Company was dissolved) hereby disclaims the Crown's title (if any) in the Property the vesting of the Property having come to her notice on 6 December 2022.

Dated 28<sup>th</sup> April 2023



Assistant Treasury Solicitor  
(Section 3 Treasury Solicitor Act 1876)

## **Annex 3**

### **Confirmation from Solicitors to the Crown Estate**

## Ward, Sharon

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**From:** Holly Charania [REDACTED]@burges-salmon.com>  
**Sent:** 10 October 2023 10:48  
**To:** Mutton, Karen  
**Subject:** 31932.10371 Hinckley - Crown Land [Burgess-WORK.FID10951806]

Dear Karen,

Thank you for your enquiry in respect of the land which comprised titles LT210324, LT214053 and LT294262 and which has been disclaimed by the Treasury Solicitor. We can confirm that, in respect of the land which comprised each of these titles, the property is subject to escheat. No act of management has been undertaken by The Crown Estate in relation to any part of these properties and accordingly, they do not form part of The Crown Estate.

It follows that no part of the properties can be deemed to 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 land within the proposed DCO.

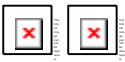
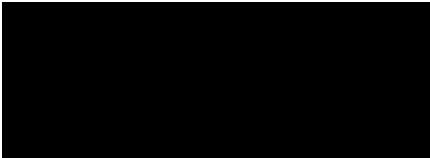
However, although this is a matter for the Examining Authority, we are not aware of any reason why the DCO cannot be granted over land that is subject to escheat.

Kind regards

Holly

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**Holly Charania**  
Chartered Legal Executive  
Burgess Salmon LLP



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