



Application for Development Consent

Application Reference Number: WWO10001

Examining Authority's Second Written Round of Questions and Requests for Information Response from Thames Water

Exceptional Hardship Procedure

Doc Ref: **APP69**



Exceptional hardship policy and procedure

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This document is issued in draft on 13 January 2014 to allow feedback from the Examining Authority and Interested Parties/Affected Persons. A final draft will be issued on 12 February 2014.

Highlighted text shows the amendments to the original procedure (*Exceptional hardship procedure*)

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Thames Tideway Tunnel

Exceptional hardship policy and procedure

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List of abbreviations

AQL	acceptable quality level
CSO	combined sewer overflow
mm	millimetre
EHP	Exceptional hardship procedure
RICS	Royal Institute of Chartered Surveyors
TTT	Thames Tideway Tunnel
ICP	Independent Compensation Panel
IAS	Independent Advisory Service
LLAU	limits of land to be acquired or used

1 Introduction

- 1.1.1 This guidance and application form provides information on the establishment of an exceptional hardship procedure (EHP) for property owners whose property may be affected by the Thames Tideway Tunnel project proposals, and who have an urgent need to sell and are able to evidentially demonstrate this requirement.
- 1.1.2 This procedure was introduced as an interim scheme in August 2011 and has subsequently been amended to provide the same support for property owners throughout the lifetime of the project.

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2 Purpose of document

- 2.1.1 This document is designed to outline the EHP. It explains:
- a. how the EHP will be managed
 - b. how applications can be made
 - c. the criteria on which they will be assessed
 - d. the procedure for completing purchases.
- 2.1.2 This document and the associated application form and guidance will be subject to review and amendment, through continual improvement, as required.
- 2.1.3 Reviews will be conducted on an annual basis irrespective of any continual improvements to ensure accuracy.

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3 Thames Tideway Tunnel planning and construction timeline

- | | |
|-------------------|-------------------------------|
| a. September 2010 | Phase one public consultation |
| b. November 2011 | Phase two public consultation |
| c. July 2012 | Section 48 Publicity |
| d. Spring 2013 | Application submission |
| e. 2015-16 | Commencement of construction |
| f. 2023 | Project due for completion |

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4 Exceptional hardship procedure

4.1 Introduction

- 4.1.1 Thames Water recognises that from the announcement of the project until it is completed there will be uncertainty as to which properties may be substantially and adversely affected by construction or operation of the Thames Tideway Tunnel.
- 4.1.2 This means that, in some cases, there may be a significant effect on properties in the immediate vicinity of the Thames Tideway Tunnel construction sites in the period until the project has been completed.
- 4.1.3 Given this, Thames Water has decided to introduce the EHP.
- 4.1.4 For the purposes of this document the Undertaker means Thames Water Utilities Ltd and any successors and statutory assignees.
- 4.1.5 The EHP is available to eligible property owners who can demonstrate that they have an urgent need to sell but have been unable to do so other than at a substantially reduced price as a direct result of the Thames Tideway Tunnel project.
- 4.1.6 Those property owners who apply to the EHP and meet the eligibility criteria can then have their property purchased by Thames Water at its unaffected fair market value (that is, what the value of the property would have been without any adverse effect arising from the Thames Tideway Tunnel proposals).
- 4.1.7 The EHP is a discretionary policy and procedure, and supplements the statutory rights of owners.
- 4.1.8 It recognises the importance of providing assistance for those property owners who are most severely affected by the Thames Tideway Tunnel.
- 4.1.9 Every application under the provisions of this policy will be subject to assessment by the Independent Compensation Panel (ICP). Further advice and clarification on this procedure can be obtained by contacting the Independent Advisory Service (IAS). These two services are discussed in more detail in Section 5.
- 4.1.10 The workflow/steps to be undertaken by this procedure are provided in Appendix A.
- 4.1.11 The ID numbers next to the steps in the tables in Section 6 cross refer to the procedural steps and paragraphs which follow it.

5 Independent advice and support

- 5.1.1 The Undertaker recognises that in order to give confidence that and process is impartial and transparent in all matters regarding compensation that potential claimants will require independent advice and independent decision making regarding claims or potential claims.
- 5.1.2 In order to assist individuals, and bring independent review to mitigation and compensation policies and processes, we have introduced the following bodies:
- a. Independent Advisory Service (IAS)
 - b. Independent Compensation Panel (ICP)

5.2 The Independent Advisory Service (IAS)

- 5.2.1 The IAS will provide advice in respect of the Non Statutory Off-site Mitigation and Compensation Policy, Settlement Information paper and Exceptional Hardship Procedure.
- 5.2.2 The IAS will advise individuals and other affected parties how they may take advantage of these policies including the role of the ICP. The IAS will be familiar with the Book of Reference and the application documents including subsequent submissions. Advice will be available to individuals and other affected parties such as schools and communities generally who either are entitled or believe they may be entitled to mitigation or compensation under any of the relevant policies.
- 5.2.3 The IAS will be independent from the Undertaker.
- 5.2.4 The Undertaker will not be responsible for any advice given by IAS.
- 5.2.5 The IAS will be effective from February 2014 and run throughout the duration of the construction project.
- 5.2.6 The Undertaker will publish details of the IAS and periodically advise local residents and small business owners about its availability through use of a newsletter.
- 5.2.7 The IAS will be operated through a freephone helpline and email service.
- 5.2.8 The full cost of setting up and operating the IAS will be met by the Undertaker.

5.3 The Independent Compensation Panel (ICP)

- 5.3.1 The ICP will be established by the Undertaker and will consist of an independent Chairperson plus two additional members chosen from the expert advisory panel detailed below. The Chairperson will have experience in the field of compensation and valuation. The other two members will be chosen dependent upon their specialisms.
- 5.3.2 The ICP will have advice available to it from the expert advisory panel covering the following areas or professions:

- a. noise and vibration
- b. transport
- c. building surveying
- d. quantity surveying
- e. chartered engineering with experience of tunnelling projects in highly developed and complex urban environments
- f. chartered surveying
- g. medical advice from an appropriate qualified medical professional on the potential effects of exposure to noise and vibration on the health of individuals or groups of individuals
- h. legal advice

5.3.3 In addition the ICP can call upon such other specialists as the Chairperson may from time to time deem as necessary for the performance of the role and functions of the ICP.

5.3.4 The role and functions of the ICP are:

- a. to supervise the implementation of the relevant compensation policies including the Exceptional Hardship Procedure
- b. to ensure all policies are effective and accessible and recommend changes that may be necessary to improve the efficiency and effectiveness of the processes and procedures contained therein
- c. determine any claims or disputes arising out of all policies. The decision of the ICP will be final and binding
- d. decisions to be taken with reference to the relevant policy, the relevant guidance contained within codes of practice, British Standard BS 5228 and precedent from other equivalent projects

5.3.5 The ICP will be independent from the Undertaker and will run throughout the duration of the construction project.

5.3.6 The Undertaker will not be responsible for any advice given or decisions made by the ICP.

5.3.7 The Undertaker will publish details of the ICP and periodically advise local residents and small business owners about its availability probably through use of a newsletter.

5.3.8 In the case of any dispute or request for decision this will need to be made in writing by either the undertaker or the affected party giving full details

5.3.9 The panel will consider this application within [TBC] days and write to both parties setting out the timetable for resolution. They may also request a site visit or that further information to be provided.

5.3.10 The full cost of setting up and operating the ICP will be met by the Undertaker.

6 EHP criteria

6.1 Introduction

6.1.1 To qualify to have your property purchased under the EHP you should be able to answer yes to all of the following five questions.

6.2 Property interest

Q. 1) Do you have a qualifying interest in the property which you wish Thames Water to buy?

6.2.1 The definition of a qualifying interest covers:

- a. owner-occupiers (to include freeholders and long leaseholders) of private residential properties
- b. owner-occupiers of business premises with an annual rateable value not exceeding £34,800
- c. mortgagees (ie banks and building societies) with a right to sell a property and who can give immediate vacant possession
- d. personal representatives of a deceased person who had a qualifying interest at the time of death.

Residential owner-occupiers

6.2.2 You must either be living in the property at the date on which the application is received and must have owned it and lived in it as your main residence for at least six months before that date, or

6.2.3 If the property is empty you must have lived there for at least six months prior to it being empty, so long as it has not been empty for more than 12 months.

6.2.4 If you are a long leaseholder the tenancy must be granted for a certain term of years, not less than three years of which remain unexpired on the date of an application under the EHP.

Owner-occupiers of business premises

6.2.5 You must hold a freehold or long leasehold interest in the premises at the date on which the application is received and must have owned it for at least six months before that date and have operated a business of which you are the sole proprietor or principal shareholder from there throughout this time, or

6.2.6 If the property is empty you must have operated a business, of which you are the sole proprietor or principal shareholder, from there for at least six months prior to it being empty, so long as it has not been empty for more than 12 months.

6.3 Location of property

**Q. 2) Is your property
Directly affected by the project proposals, or
In such close proximity to the project proposals that it
would be likely to be substantially adversely affected by
the construction or operation of the new infrastructure?**

6.3.1 Any property must be situated within 100 metres of the limits of land to be acquired or used (LLAU) in order to satisfy this criterion within the scope of this document.

6.3.2 However, in considering (ii) above the particular characteristics of the property, including its position and its surroundings (for example whether there is other built development between the property and the Thames Tideway Tunnel infrastructure) will be considered when forming a view as to the degree to which it would be affected by the Thames Tideway Tunnel.

6.3.3 An overview and detailed maps of the Thames Tideway Tunnel, with which you can gauge the proximity of your property to the project, can be found at the following web address:

<http://www.thamestunnelconsultation.co.uk>

6.4 Effort to sell

Q. 3) Have you made all reasonable efforts to sell your property and still not received an offer within 15% of its unaffected open market property value (that is the price it would most likely have achieved other than for the project proposals assuming a normal or unpressured sale period)?

6.4.1 The purpose of this criterion is to identify whether or not, and if so the extent to which, the reason a property has not sold is because of the effect of the proposed Thames Tideway Tunnel on its sale prospects rather than any other factor.

6.4.2 The requirement that all reasonable efforts should have been made to sell a property and that, despite those efforts, no offers have been received within 15% of its unaffected open market value helps to demonstrate any such effect.

6.4.3 This is because, if a property is appropriately priced and marketed, it should ordinarily – ie, without the effect of a proposed Thames Tideway Tunnel – receive an offer and that offer should be within 15% of its open market value. Coupled with this, there is an expectation that applicants should accept an offer within 15% of their property's unaffected open market value because it is not uncommon for there to be a difference between the open market value of a property and prices offered for it, and because the applicant has an urgent need to sell.

- 6.4.4 In considering this criterion in relation to applications under the EHP, the panel will take into account the performance of the current housing market and the efforts that sellers would ordinarily have to make in such circumstances, particularly if they needed to sell their property urgently.
- 6.4.5 With this context in mind, 'all reasonable efforts to sell' is defined as including:
- a. Having made reasonable attempts to obtain the current unaffected open market value for the property (that is the price it would most likely have achieved other than for publication of the project proposals) and ensuring the asking price reflects professional advice as to that value and is competitive for the market it is in.
 - b. The property having been actively marketed, preferably with at least one RICS qualified estate agent, for a minimum of three months.
 - c. Being able to demonstrate through positive actions a willingness to review and where appropriate revise the asking price and marketing strategy for the property, particularly in the light of advice from the estate agent and/or feedback from potential buyers.

6.5 No prior knowledge

Q. 4) Did you buy your property before you could be reasonably expected to have been aware of the Thames Tideway Tunnel project proposals?

- 6.5.1 Provided the property was acquired prior to 13 Sept 2010 (the start date of phase one consultation), you will meet this criterion.
- 6.5.2 Because during the project development phase proposals have changed you may also qualify if you can demonstrate that you purchased your property before it could have been reasonably possible for you to have known about the project proposals which would have the effect on your ability to sell the property.

6.6 Exceptional hardship

Q. 5) Do you have a pressing need to sell your property and would you suffer exceptional hardship if you had to wait until the project has been completed (expected to be in 2023)?

- 6.6.1 There is no definitive list of circumstances which might potentially give rise to such a need, but examples include:
- a. Domestic – there is an urgent need to move to a larger or different house due to changed family circumstances
 - b. Employment – a need to relocate to take up a new or different job, outside reasonable commuting distance

- c. Financial – there is a significant external financial pressure that necessitates a sale, for example the need to realise assets in conjunction with a divorce, dissolution of a civil partnership or other individual personal circumstances, to release capital in connection with a business, or to avoid threatened repossession

Medical condition – where the applicant, or a dependent living in the affected property, has developed a medical condition which necessitates selling. Examples would include a severe disability causing inability to negotiate stairs, loss of mobility, or a requirement to go into sheltered accommodation, to co-locate with family members, or to move to a long-term nursing home due to infirmity or ill health.

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7 Procedure

Table 7.1 Overall procedure

ID	Activity	Responsible person	AQL	Methods of review	Reviewing person
6	Exceptional hardship property purchase procedure	Property Manager	100% of the time	Annual inspection	Operations Manager

Table 7.2 Procedural steps

ID	Activity	Responsible person	AQL	Methods of review	Reviewing person
6.2.1	Submit application	Applicant	100% for each application	Ongoing	Compensation Co-ordinator
6.2.2	Application form and evidence	Applicant	100% for each application	Ongoing	Compensation Co-ordinator
6.3	Review application	Compensation Co-ordinator	100% of the time, within 3 days of receipt of application	Ongoing	ICP
6.4.1	Consider application	ICP	100% of the time, within 5 days of the receipt of a checked application	Ongoing	Property Manager
6.4.3	Notification to TTT project	ICP	100% of the time, within 5 days of a recommendation from the ICP	Ongoing	Property Manager
6.5.1	Notify applicant	Compensation Co-ordinator	100% of the time, within 3 days of the TTT project review notification	Ongoing	Property Manager

ID	Activity	Responsible person	AQL	Methods of review	Reviewing person
6.5.3	Obtain valuations	Independent valuers	100% of the time, providing values within 10 days of tasking from Compensation Co-ordinator	Ongoing	Property Manager
6.5.4	Make and agree offer	EHP Applicant	90% of the time, reaching legal instructions within 21 days of valuations being offered	Ongoing	Property Manager
6.6	Take ownership and manage site	Facilities Manager	95% of time, taking ownership within 8 weeks from legal instructions being reached	Ongoing	Property Manager

1 day = 1 working day

7.1 Stage one

- 7.1.1 Complete the application form and submit it together with supporting evidence, using the Exceptional Hardship form.
- 7.1.2 Applicants are asked please to submit as much evidence as they can to support the application (eg, copies of correspondence with estate agents, employers or medical staff) as this will enable your application to be processed more quickly.

7.2 Stage two

- 7.2.1 The Thames Tideway Tunnel appointed Compensation Co-ordinator will acknowledge your application and review it to ensure that it is complete and contains the required information.
- 7.2.2 If information or evidence is missing you will be contacted and asked to provide it.
- 7.2.3 In addition, it is very likely that your estate agents will be contacted whilst other information regarding your application may be independently verified.

7.3 Stage three

- 7.3.1 Completed applications will be submitted to the ICP for their consideration.
- 7.3.2 The majority of members of each panel will be independent of Thames Water.
- 7.3.3 A recommendation to either accept or refuse the application will be made by the panel. The decision of the ICP is final.

7.4 Stage four

- 7.4.1 If the ICP recommend that Thames Water should offer to buy your property, you will be notified.
- 7.4.2 You will be notified if you are successful or unsuccessful, by the Compensation Co-ordinator detailing the reasons why (in the case of an unsuccessful application).
- 7.4.3 If you are successful independent valuations of your property will be arranged to establish an offer.
- 7.4.4 The EHP Administrator will then write to you with a formal offer to buy your property.

7.5 Stage five

- 7.5.1 On the completion of the purchase Thames Water will take ownership and management of the property.

8 Timeframes

8.1.1 Timeframes provided in this document are targets.

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9 Qualifications

- 9.1.1 Thames Water reserves the right to modify or terminate this procedure at its discretion.

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Appendix A – Exceptional hardship application process

Figure A.1 – Exceptional hardship application process

[To be updated in line with the new procedure]

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