

THE ROADS (SCOTLAND) ACT 1984
ACQUISITION OF LAND (AUTHORISATION PROCEDURE) (SCOTLAND) 1947
THE ELGIN WESTERN LINK ROAD COMPULSORY PURCHASE ORDER (No. 1)
2013

LAND IN THE COUNTY OF MORAY FOR
THE ELGIN WESTERN DISTRIBUTOR ROAD

2013

HEAD OF LEGAL AND DEMOCRATIC SERVICES,
THE MORAY COUNCIL,
COUNCIL OFFICE,
HIGH STREET, ELGIN,
IV30 1BX

**THE ELGIN WESTERN LINK ROAD
COMPULSORY PURCHASE ORDER (NO. 1) 2013**

MADE: 25 NOVEMBER 2013

The Roads (Scotland) Act 1984 and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

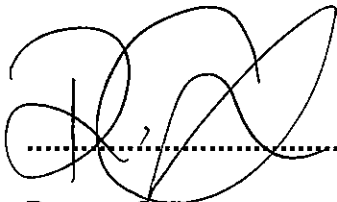
The Moray Council incorporated under the Local Government etc. (Scotland) Act 1994, having its principal office at Council Office, High Street, Elgin, IV30 1BX (hereinafter referred to as "the acquiring authority") in exercise of the powers conferred by Sections 103, 104, 105 and 106 as read within Section 110(2) of the Roads (Scotland) Act 1984, hereby make the following Compulsory Purchase Order:-

1. This Order may be cited as "The Elgin Western Link Road Compulsory Purchase Order (No. 1) 2013".
2. Subject to the provisions of this Order, the acquiring authority are hereby authorised to purchase compulsorily for the purpose of constructing a new road and bridge over the railway line between Edgar Road and Wittet Drive, road improvements to Wittet Drive, a new section of road and junction linking Wittet Drive to the A96 Trunk Road and all related apparatus, infrastructure and service diversion:
 - (a) as authorised by Section 104(1) (a) of the said Act the land described in the Schedule Part 1 hereto and shown coloured pink on the maps referred to below;
 - (b) as authorised by Section 110(2) of the said Act the servitude rights described in the Schedule Part 1 hereto and shown coloured blue on the said maps referred to below; and
 - (c) as authorised by Section 110(2) of the said Act a right in or over land (by way of the creation of a new right) namely the right to enter upon and take temporary possession of land as the said right is more particularly described in the Schedule Part 2 hereto and as the land over which right is created is shown coloured green on the said maps referred to below;All of which land and interests land are shown coloured pink, blue and green respectively on the 19 separate maps signed and attached with reference to this Order, each marked "Plan for plot(s) number [] referred to in the Elgin Western Link Road Compulsory Purchase Order (No. 1) 2013"; and all of which land and interests in land are also shown coloured pink, blue and green and separately numbered on the location plan attached with reference to this Order and marked "Location Plan referred to in the Elgin Western Link Road Compulsory Purchase Order (No. 1) 2013".
3. In relation to the foregoing purchase, section 70 of the Railways Clauses Consolidation (Scotland) Act 1845 and sections 71 to 78 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923 are hereby incorporated with the enactment under which the said purchase is authorised, subject to the modifications that reference in the said sections to the company shall be construed as references to the acquiring authority and references to the railway or works shall be construed as references to the land authorised to be

purchased and any buildings or works constructed or to be constructed thereon.

4. For the purpose of the said section 71 of the Railways Clauses Consolidation (Scotland) Act 1845, as incorporated in this Order, the prescribed distance in relation to any seam of minerals lying under land adjoining the works to be constructed upon the land described in the Schedule hereto shall be such a lateral distance from the said works on every side thereon as is equal at every point along the said works to one half of the depth of the seam below the natural surface of the ground at that point or 37 metres (40 yards), whichever is the greater.
5. The registration of a conveyance, as defined in section 106(5) of the Title Conditions (Scotland) Act 2003, in implement of this Order, shall extinguish all rights to enforce real burdens or servitudes.

Sealed with the common seal of The Moray Council and subscribed for them and on their behalf by Rhona Gunn, Head of Legal and Democratic Services at Elgin on 25 November 2013.



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Proper Officer

THIS IS THE SCHEDULE REFERRED TO IN THE ELGIN WESTERN LINK ROAD COMPULSORY PURCHASE ORDER (NO. 1) 2013

In this schedule:-

1. All the land described is situated in the registration County of Moray.
2. Where all or part of a plot forms part of a title or titles registered in the Land Register of Scotland, the Land Register of Scotland title number is given at the end of the description.

SCHEDULE PART 1: LAND AND SERVITUDE RIGHTS

<u>Number on map</u>	<u>Description of the Land or Servitude Right</u>	<u>Owners</u>	<u>Lessee & Occupiers</u>	<u>Third part rights and details of benefitted property</u>
Plot 1	28.2 Square metres or thereby of garden ground within the rear garden of 9 Wittet Drive, Elgin, IV30 1SE	Alan Tullo 8 Merrington Avenue Acklam, Middlesbrough TS5 8RM <u>and</u> Mrs Jan Mathers 6 Commercial Lane Inverurie AB51 4AT	Annette M Tullo (life tenant)	
Plot 2	794.7 Square metres or thereby being the house and garden at 11 Wittet Drive, Elgin, IV30 1SE	Ian Simpson and Mrs Ella Buchanan Simpson 11 Wittet Drive Elgin IV30 1SE	Owner	
Plot 3	814.4 Square metres or thereby being the house and garden at 13 Wittet Drive,	Mark Williamson 13 Wittet Drive	Owner	

<u>Number on map</u>	<u>Description of the Land or Servitude Right</u>	<u>Owners</u>	<u>Lessee & Occupiers</u>	<u>Third part rights and details of benefitted property</u>
	Elgin, IV30 1SE	Elgin IV30 1SE		
Plot 4	954.2 Square metres or thereby being the house and garden at 15 Wittet Drive, Elgin, IV30 1SE	Mrs Deborah McWhirter The Grange Seafield Crescent Elgin IV30 1RE	Charles Legge and Jennifer Legge.	
Plot 5A	15.27 Square metres or thereby of driveway within the garden of 17 Wittet Drive, Elgin, IV30 1SE	James Robertson and Linda Robertson 17 Wittet Drive Elgin IV30 1SE	Owner	
Plot 6A	14.18 Square metres or thereby of garden ground within 19 Wittet Drive, Elgin, IV30 1SE	Iain Alexander McFarquhar and Margaret Olive McFarquhar 19 Wittet Drive Elgin IV30 1SE	Owner	
Plot 8	Not Taken Up			
Plot 10	147.73 Square metres or thereby of garden ground within Connet Hill, 1 Sheriffmill Road, Elgin, IV30 1SB	Douglas Williamson Connet Hill 1 Sheriffmill Road	Owner	

<u>Number on map</u>	<u>Description of the Land or Servitude Right</u>	<u>Owners</u>	<u>Lessee & Occupiers</u>	<u>Third part rights and details of benefitted property</u>
		Elgin IV30 1SB		
Plot 11	The servitude right over 46 Square metres or thereby of garden ground within 62 Mayne Road Elgin IV30 1PD (the burdened property) to access the adjoining Plot 24, immediately to the East, part of Wittet Drive and described below (the benefitted property), to construct, maintain and renew if necessary a retaining wall on the said Plot 24 and for all ancillary works, apparatus and services/utilities diversion required, subject to making good any damage caused in exercising the servitude.	Stafford James Turnidge 62 Mayne Road Elgin IV30 1PD	Owner	
Plot 12	45.5 Square metres or thereby of garden ground and driveway within 105 Wards Road, Elgin, IV30 1TE	Archibald Whitehead and Morag Maule Whitehead 105 Wards Road Elgin IV30 1TE	Owner	
Plot 13A	6.3 Square metres or thereby of garden ground within 76 Wittet Drive, Elgin, IV30 1SE	Stanley Victor Gordon and Margaret Gordon 76 Wittet Drive Elgin IV30 1SE	Owner	

<u>Number on map</u>	<u>Description of the Land or Servitude Right</u>	<u>Owners</u>	<u>Lessee & Occupiers</u>	<u>Third part rights and details of benefitted property</u>
Plot 13B	The servitude right over 26.75 square metres or thereby of garden ground within 76 Wittet Drive Elgin IV30 1SE (the burdened property) to access the adjoining Plot 13A described above (the benefitted property) to construct, maintain and renew if necessary a boundary wall on Plot 13A, and for all ancillary works, apparatus and services/utilities diversion required subject to making good any damage caused in exercising the servitude.	Stanley Victor Gordon and Margaret Gordon 76 Wittet Drive Elgin IV30 1SE	Owner	
Plot 14	8,687.0 Square metres or thereby of agricultural land lying to the south of the A96 and to the west of Wittet Drive, Elgin	The Old Mills Farm Partnership, Per Iain Leighton, Graham and Sibbald, 4 Ardross Street Inverness IV3 5NN	Vacant	
Plot 15A	78.47 Square metres or thereby of railway cutting being part of the Aberdeen-Inverness main line south of the junction of Wittet Drive and Wards Road, Elgin.	Network Rail Desk F1-121, Square 1 1 st Floor 4 Travis Street Manchester M1 2NY	Owner	
Plot 15B	In the servitude right described below the following definitions shall apply:	Network Rail Desk F1-121, Square 1 1 st Floor	Owner	

Number
on map

Description of the Land or Servitude
Right

Owners

Lessee & Occupiers

Third part rights and
details of benefited
property

"burdened property" means 217.39 square metres or thereby of the Aberdeen to Inverness railway line and embankments thereof lying to the West of Elgin station and South of the junction of Wittet Drive and Wards Road Elgin.

4 Travis Street
Manchester
M1 2NY

"benefited property" means the subjects located on either side of and adjoining the burdened property being the subjects acquired or to be acquired by the acquiring authority for purposes connected with constructing lengths of new road all as the said subjects comprise the numbered Plots 15A (above) and 15C (below) more particularly described in this Schedule.

A heritable and irredeemable servitude over the burdened property to connect the benefited property and to provide pedestrian and vehicular access to, from and between the benefited property and that by means of a bridge carrying a special road and associated equipment, apparatus, services and utilities through the airspace above the burdened property with power to the acquiring authority and their successors as

<u>Number on map</u>	<u>Description of the Land or Servitude Right</u>	<u>Owners</u>	<u>Lessee & Occupiers</u>	<u>Third part rights and details of benefitted property</u>
	<p>proprietors of the benefitted property and those authorised by them to enter on the burdened property for the purpose of constructing said bridge, road and others and thereafter inspecting, maintaining, improving, repairing and renewing the same.</p>			
Plot 15C	44.11 Square metres or thereby of railway cutting being part of the Aberdeen-Inverness main line south of the junction of Wittet Drive and Wards Road, Elgin.	Network Rail Desk F1-121, Square 1 1 st Floor 4 Travis Street Manchester M1 2NY	Owner	
Plot 16	3,955.5 Square metres or thereby of scrub land lying to the north of Bilbohall Hostel, Bilbohall Road and Sunnyside Road, Elgin	Elgin Guildry Trust Per Grigor & Young 1 North Street Elgin IV30 1UA	Vacant	
Plot 17	13,983.4 Square metres or thereby of scrub and grass land lying to the east of Fairfield Way and Sunnyside Road, Elgin. Title Number MOR5187	Robertson Homes Ltd 10 Perimeter Road Elgin IV30 6AE	Owner	Scottish Ministers per Moyra McCamont, NHS Central Legal Office, Anderson House Breadalbane Street Edinburgh EH6 5JR Unspecified servitude right of access contained in Title

<u>Number on map</u>	<u>Description of the Land or Servitude Right</u>	<u>Owners</u>	<u>Lessee & Occupiers</u>	<u>Third part rights and details of benefited property</u>
Plot 18	Not taken up			Number MOR2919
Plot 19	Not taken up			
Plot 20	Not taken up			
Plot 21	Not taken up			
Plot 22	117.2 Square metres or thereby of garden ground within 56 Mayne Road, Elgin, IV30 1PD	Mrs Pamela Gillan 56 Mayne Road Elgin IV30 1PD	Owner	
Plot 23	176.23 Square metres or thereby of former roadway now scrub land south of the Aberdeen to Inverness railway line and north east of Sunnyside Road.	Unknown	Elgin Guildry Trust Per Grigor & Young 1 North Street Elgin IV30 1UA	
Plot 24	34.61 Square metres or thereby of public road part of Wittet Drive, Elgin, IV30 1PD	Elgin Guildry Trust Per Grigor & Young 1 North Street Elgin IV30 1UA	Moray Council PO Box 6760 Elgin IV30 9BX	

SCHEDULE PART 2: LAND SUBJECT TO TEMPORARY RIGHTS

<u>Number on map</u>	<u>Description of the Land and nature of temporary rights</u>	<u>Owners</u>	<u>Lessee & Occupiers</u>
Plot 5B	The temporary right, during the construction period for the Wittet Drive road works required by the Scheme, to enter onto 72.1 Square metres or thereby of driveway within the gardens of 17 Wittet Drive, Elgin, IV30 1SE to carry out ground and driveway re-levelling works and boundary wall /fence reinstatement works as required to ensure the continued access to the carriageway.	James Robertson and Linda Robertson, 17 Wittet Drive Elgin IV30 1SE	Owner
Plot 6B	The temporary right, during the construction period for the Wittet Drive road works required by the Scheme, to enter onto 48.78 Square metres or thereby of driveway within the gardens of 19 Wittet Drive, Elgin, IV30 1SE to carry out ground and driveway re-levelling works and boundary wall /fence reinstatement works as required to ensure the continued access to the carriageway.	Iain Alexander McFarquhar and Margaret Olive McFarquhar, 19 Wittet Drive Elgin IV30 1SE	Owner

<u>Number on map</u>	<u>Description of the Land and nature of temporary rights</u>	<u>Owners</u>	<u>Lessee & Occupiers</u>
Plot 7	The temporary right, during the construction period for the Wittet Drive road works required by the Scheme, to enter onto 9.8 Square metres or thereby of driveway within the gardens of 21 Wittet Drive, Elgin, IV30 1SE to carry out ground and driveway re-levelling and reinstatement works and boundary wall /fence reinstatement works as required to ensure the continued access to the carriageway.	George Bryson Simpson and Marilyn Sheila Simpson, 21 Wittet Drive Elgin IV30 1SE	Owner
Plot 9	The temporary right, during the construction period for the Wittet Drive road works required by the Scheme, to enter onto 28.6 Square metres or thereby of driveway within the gardens of 18Wittet Drive, Elgin, IV30 1SE to carry out ground and driveway re-levelling works and boundary wall /fence reinstatement works as required to ensure the continued access to the carriageway.	Michael Loosley and Naomi Angela Loosley, 18 Wittet Drive Elgin IV30 1SE	Owner

