

Getting the CPO Confirmed

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Inquiry

- 'Relevant objection' lodged by a person served with a notice of making of the CPO – can insist on appearing at public inquiry.
- Compulsory Purchase (Inquiries Procedure) Rules 2007.
- Rules of natural justice
 - Fairness, in particular each side must have a fair opportunity to be heard, to hear and to question the case against them.

Inquiry (Cont.)

- PLI Costs – AA meet costs of PLI and Inspectors' expenses.
- Objectors' costs only usually awarded to successful objectors, where CPO not confirmed, or their land wholly or partly excluded.
- Rare but an AA may seek costs for unreasonable behaviour by an objector.

Written Representations

- Guidance – procedure to be offered except where it is clear that the scale or complexity of the order makes it unlikely that the procedure would be acceptable or appropriate.
- Cannot be used where Special Parliamentary Procedure is required, e.g. common land.
- Compulsory Purchase of Land (Written Representation Procedure) (Ministers) Regulations 2004.
- Where there are no objections at all or no relevant objections, the Minister may proceed to make a decision.

Decision

- CPO confirmed by Minister or Inspector
 - i) as submitted, or
 - ii) with modifications

- CPO confirmed in stages S13C Acquisition of Land Act 1981 to allow part of a scheme to proceed earlier than might otherwise be the case, though its practical application is limited.

- CPO confirmed by AA – S14A of the Acquisition of Land Act 1981 – discretionary power for Minister to give the AA responsibility for deciding if an order should be confirmed.
 - Only if no outstanding objections and no modifications required.

CPO Not Confirmed

Reasons

- Technical flaw – purposes.
- Conflict with ministerial statement.
- Failure to assess alternative schemes.
- Owners recent improvements
- lack of detail in council case.
- PSEQ/HR factors.
- Not last resort.
- Withdrawn – all land acquired.

High Court Challenge

- Section 23 Acquisition of Land Act 1981 – ground of challenge:
 - The decision is not within the powers of the 1981 Act or the other specific power under which this CPO is made.
 - A ‘relevant requirement has not been complied with’ (procedural problem, procedure rules or natural justice not followed).
 - Challenge to be made within 6 weeks of the date of service of notice of confirmation.

High Court Challenge (cont.)

- The Court may use its discretionary power to:
 - Grant interim relief suspending the operation of the CPO pending final determination.
 - Where a challenge is successful, quash the decision to confirm.
 - Quash the whole or part of a CPO.

- If no challenge under S23 (or a challenge is dismissed) the CPO is immune from legal challenge.

- Beware of a later JR challenge to making of a GVD.

Challenge to decision not to confirm a CPO

- Application for judicial review under Part 54 Civil Procedure Rules 1998.
- Normal period is ‘promptly and in any event not later than three months after the grounds upon which the Claim is based first arose’

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