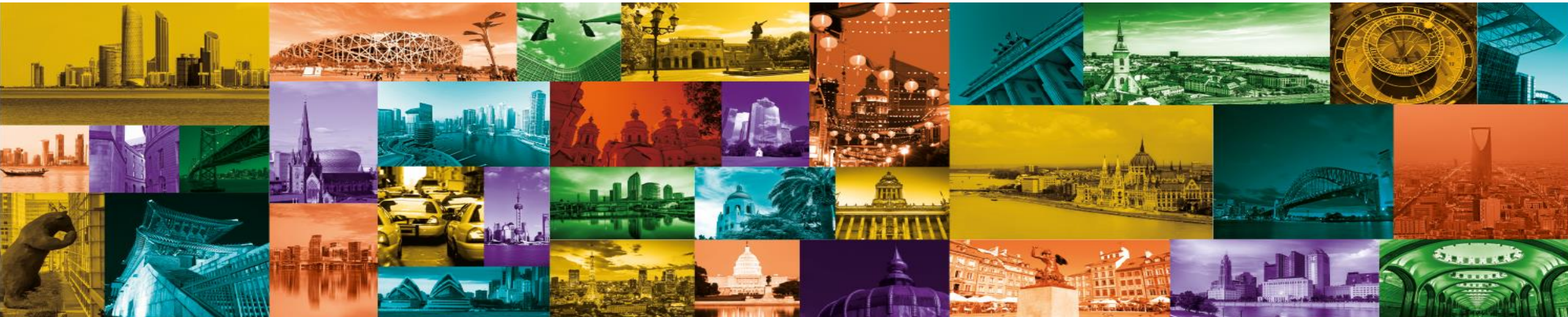


Making an Effective Order that's robust against Challenge

Alexander Weatherall
Squire Patton Boggs (UK) LLP



- Acquisition of Land Act 1981 (as amended by Planning and Compulsory Purchase Act 2004)

- Statutory purposes
 - Define statutory basis for CPO
 - Guidance paragraph 44 – Secretary of State cannot add to, or substitute the statutory purpose for which it was made

- “Relevant Claim”
 - Looking identify all relevant interests in land which is to be the subject of the CPO

- Reasonable or Diligent Enquiry
- “After making reasonably inquiry” requires some degree of diligence but does not involve a very great inquiry [R v Secretary of State for Transport ex parte Blackett [1922]].
- How to obtain information as to ownership and/or interests in land?
 - Site Surveys
 - Land Registry Searches
 - Statutory Requisitions
 - specific powers e.g. section 297 Highways Act 1980, s.330 Town and Country Planning Act
 - general power in section 5A Acquisition of Land Act 1981
 - Land Referencers

- 3 Parts
 - Form of Order
 - Schedule of Interests
 - Order Map

- Which Form?
 - Generally Form 1 of the Compulsory Purchase of Land (Prescribed Forms) - Regulations 2004

- Incorporation of the Mining Code?

- Submission for Technical Pre-Approval?

[THE () COMPULSORY PURCHASE ORDER]

The [] Act
and the Acquisition of Land Act 1981

[The [] Act(s)]

The [] (in this order called “the acquiring authority”) makes the following order-

1. Subject to the provisions of this order, the acquiring authority is under [section of][and][paragraph of Schedule to][the Act] hereby authorised to purchase land described in paragraph 2 for the purpose of [].
2. [(1) the land authorised to be purchased compulsorily under this order is the land described in the Schedule and delineated and shown [] on a map prepared in duplicate, sealed with the common seal of the acquiring authority and marked “Map referred to in []”.]

[(2) The new rights to be purchased compulsorily over land under this order are described in the Schedule and the land is shown [] on the said map.]
3. [Part[s] 2 [and 3] of Schedule 2 to the Acquisition of Land Act 1981 [is][are] hereby incorporated with this order subject to the modifications that...

- Extent of land – clear language, boundaries and area
- Exceptions for land already acquired
- Names and addresses of every Qualifying Person:
 - every owner, leaseholder, occupier and tenant (excluding tenants of less than one month) of the land comprised in the CPO;
 - every person to whom the acquiring authority would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat; and
 - every person the acquiring authority thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 if the order is confirmed and compulsory purchase takes place, so far as such a person is known to the acquiring authority after making diligent inquiry
- Unknown owners
- Beneficiaries of Existing Rights
- Exchange Land

Table 1

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(1)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers

Table 2

Number on map (4)	Other qualifying persons under 12(2A)(a) of the Acquisition of Land Act 1981 (5)		Other qualifying persons under section 12(2A)(b) of the Acquisition of Land Act 1981 – not otherwise shown in Tables 1 & 2 (6)	
	Name and address	Description of interest to be acquired	Name and address	Description of the land for which the person in adjoining columns is likely to make a claim

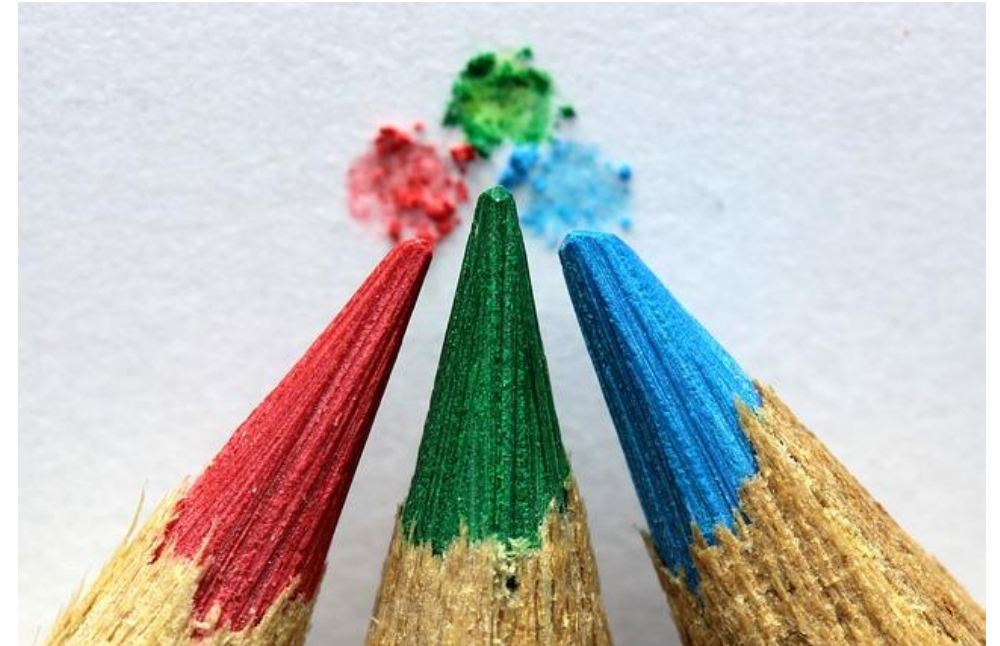
Order Map

ed to In The London Borough of Croydon (Whitgift Centre and surrounding land bounded by and including parts of Poplar Walk, Wellesley Road, George Street and North End) Compulsory Purchase Order 2014



Map Requirements

- No discrepancy between Order Schedule and map
- Land may be identified by colouring or other methods
 - Pink – land to be acquired
 - Blue – new rights
 - Green – Exchange land
- O.S. based map
- Insert location plans
- Scale – not less than 1/1250 or 1/2500 in rural areas - 1/500 densely populated urban areas



- Comprehensive overview of Acquiring Authority's case

- Needs to include some key items:
 - description of land included in the CPO and its location, topographical features and present use
 - explanation of the use of the particular enabling power
 - outline of the authority's purpose in seeking to acquire the land
 - a statement of the authority's justification for the CPO, showing regard to human rights considerations
 - description of the proposals for the use or development of the land
 - a statement about the planning position of the land included in the CPO
 - any special considerations affecting the order site, eg ancient monument, listed building, conservation area, special category land
 - details of how the acquiring authority seeks to overcome any obstacle or prior consent needed before the order scheme can be implemented, eg need for site licences
 - evidence of steps taken to negotiate for acquisition of land by agreement

- External lawyers to draft?
- Balance of public and private rights
- Plain English
- Pre-empt objections
- Reduce Acquiring Authority's workload for Inquiry and Statement of Case



- Orders should be made under seal, authenticated and dated at the end, after the Schedule.
- Notices – newspaper (Section 11 Acquisition of Land Act 1981)
 - must be published in two successive weeks
 - must be in the prescribed form
- Notices – Qualifying Persons (as set out in Tables 1 and 2) – Section 12 Acquisition of Land Act 1981
 - served on each qualifying person
 - site notices
- Section 6(4) Acquisition of Land Act 1981
 - unknown owners
 - deliver to a person on the land or leaving a copy of it on or near the land

Checklist of Documents to be Submitted to the Confirming Authority

- Sealed order x 1
- Sealed map x 2
- Unsealed order x 2
- Unsealed map x 2
- General certificate in support of order submission including (where appropriate) confirmation that the proper notices have been correctly served.
- Protected assets certificate giving a nil return or a positive statement for each category of assets protection referred to in paragraph 3 of Appendix S (except for orders under section 47 of the Listed Buildings Act)
- Statement of Reasons sent by Acquiring Authority x 2