

# Preparing the Scheme

## The Acquiring Authority Perspective

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# Project Identification

- What is it you want to deliver?
- Powers - Housing, Highways, Planning, Education, Improving the condition or appearance of land (derelict land), Libraries & Museums, Listed Buildings.
- Local Authority Scheme/Private Sector Project/Joint Venture

# Local Authority Scheme

- Specific Project, e.g. Highway Improvement, School.
- Housing – sites for housing developments, empty properties, empty sites initiative.
- Land Assembly to create a site to bring forward for regeneration.

# Private Sector Scheme

- Regeneration based, e.g. mixed-use schemes, e.g. Bull Ring, Cube.
- Indemnity for costs required from Developer
- Joint Venture
  - Local Authority & Private Developer Vehicle, e.g. municipal estate renewal (Shard End Estate, Kings Norton 3 Estates, Ladywood).
  - Mixed-use regeneration projects, e.g. New Street Station/Grand Central project, Paradise Circus, Smithfield.

# Selecting the Land

- Land
  - What is required to deliver the project considering design, planning considerations, highway changes.
  - Working space/Accommodation Works
  - Half width of highway around external road boundaries.
- New Rights
  - e.g. crane over sailing, ground anchors, structures/retaining walls/bridges (right to construct and maintain).
- Valuation

# Land Referencing

- Section 5 (1) Compulsory Purchase Act 1965 – diligent enquiries.
- See also MHCLG CPO Guidance para 219
  - “requires some degree of diligence but does not involve a very great inquiry” – R v Sec of State for Transport ex p Blackett.
- Requisition form seeking information – e.g. Section 16 Local Government (Miscellaneous Provisions) Act 1976.
- Consider procuring a panel of land referencing firms.
- Duty of care to AA and private developer if relevant.

# Justifying the Project

- MHCLG Guidance on compulsory purchase process and the Crichel Down Rules.
- Tier 1 – all CPOs
- Tier 2 – advice on specific power of acquisition
- “Acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, ***a compulsory purchase order should only be made where there is a compelling case in the public interest.***”

# Justifying the Project (cont.)

- Need to demonstrate ***reasonable steps taken to acquire the land and rights by agreement.***
- ***Last resort*** to secure the assembly of land, but recognises compulsory purchase preparation can proceed in parallel.
- ***Human Rights*** – Minister takes a balanced view between the intentions of the authority, the concerns of property owners and the wider public interest.
- ***PSED*** – persons with a protected characteristic, e.g. people from ethnic minorities, the elderly, or those with disabilities, may be overrepresented in areas where compulsory acquisition is proposed.



# Justifying the Project (cont.)

- Clear idea of **how the land is to be used**.
- Information about **resource implications** and authority must provide sources of funding (to cover CPO Process, acquiring the land and implementing the scheme)
- Timing of funding – generally available now or early in the process.
- **Impediments to implementation** – physical/legal need for planning permission or other consents or licences.
  - “If planning permission has yet to be granted the authority should demonstrate that there are no obvious reasons why it might be withheld”

# Justifying the Project (cont.)

- Tier 2 Section 1: Planning Act 1990 CPOs – On confirmation Minister will consider:
  - Whether the acquisition ***purpose fits with the planning framework for the area*** and the NPPF.
  - Extent to which the proposed purpose will contribute to the achievement of the ***promotion or improvement of the economic, social, or environmental well-being of the area.***
  - ***Can the purpose be achieved by any other means?*** – consider alternative proposals, suitability of alternative locations.
  - the ***financial viability*** of the scheme – a general indication of funding intentions and commitments from 3<sup>rd</sup> parties is usually sufficient to reassure the Secretary of state there is a ***reasonable prospect that the scheme will proceed***

# Justifying the Project (cont.)

- Tier 2 Section 6 Housing Act 1985 CPOs:
  - Acquisition must achieve a ***quantitative and a qualitative housing gain***.
  - List of information to be provided in statement of reasons, e.g. total number of dwellings in the district, total number of substandard dwellings, total number of households, and the number for which provision needs to be made +
  - Empty Property CPO – justifiable last resort where there is no other prospect of a suitable property being brought back into residential use.
    - How long property has been vacant
    - Steps taken to encourage owner to bring into acceptable use
    - Works carried out by the owner towards its reuse for housing purposes.

# Authorisation Audit Trail

- Once upon a time..... Policy/Plan making, include statement re use of CPO as a hook for future use of CPO to deliver the proposals.
- Identify correct decision maker – review constitution
- CPO resolution: In principle v full CPO authority?

# Authorisation Audit Trail (cont.)

- Contents of Report:
  - Quote correct power
  - Ancillary Orders, e.g. Section 247 Town & Country Planning Act 1990
  - Justification for use of CPO powers
  - Cover human rights/PSED matters
  - Plan (OS base) defining the land to be acquired – use the furthest extent of the development scheme not just the interests in third-party ownership (including highway moiety.)

# Private Treaty Negotiations

- Draconian power
- Must be in accordance with the guidance and not be the last resort.
- Early engagement - before order made.
- As move through process - scope claim/compensation and identify sufficient time to relocate.
  - LA Assist in identifying relocation site for businesses displaced.
- 2010 LTGDC Bromley by Bow Regeneration CPO not confirmed.

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