

PR SRL CPO Report – Appendix F – Legal Implications

- 1.1.1.** Under s226(1)(a) of the Town and Country Planning Act 1990 (as amended) (the Act) a local authority has a general power to compulsorily acquire any land in its area to facilitate the carrying out of development, redevelopment or improvement in relation to the land.
- 1.1.2.** In order to exercise the s226 powers, the local authority must demonstrate that the proposed development/improvement is likely to contribute towards the promotion or improvement of the economic, social or environmental wellbeing of their area. Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means.
- 1.1.3.** Section 226(3) of the Act confirms the Council's CPO powers extend to adjoining land which is required for the purpose of executing works for facilitating the development or use of the primary land. The making of a CPO should be a last resort and should be preceded by meaningful attempts to buy the land by agreement, save for lands where land ownership is unknown or in question.
 - 1.1.3.1.** *"The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement."*
 - 1.1.3.2.** *"When making and confirming an order, acquiring authorities and authorising authorities should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected and this is addressed below in the Human Rights Section of the report."*
- 1.1.4.** The making of a CPO is an executive function by virtue of section 9D of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Pursuant to section 9E (2) of the Local Government Act 2000, the Cabinet may arrange for the discharge of an executive function by an officer of the authority
- 1.1.5.** The Acquisition of Land Act 1981 (the 1981 Act) governs the procedures which apply to acquisition. The Compulsory Purchase Act 1965 governs post-confirmation procedures, and the Land Compensation Act 1961 governs the amount and assessment of compensation.
- 1.1.6.** A CPO is required to be made in a prescribed form and must describe by reference to a map the land to which it applies. If the Council makes a CPO, it must submit the CPO to the Secretary of State for confirmation. Prior to this submission, the Council must publish notice of the making of the CPO specifying that the CPO has been made, describing the land and the purpose for which it is required, naming a place where the CPO and Map may be inspected and specifying a time which (and the manner in which) objections may be made.

- 1.1.7. The Council must also serve a notice in prescribed form on affected owners, lessees, tenants or occupiers (if any exist) of the land and on persons with an interest in the land allowing them the opportunity to object.
- 1.1.8. Any person whose land, interest in land or rights will be affected by the CPO will be entitled to make representations to the Secretary of State if the CPO is submitted for confirmation and may also be entitled to payment of statutory compensation if applicable.
- 1.1.9. The procedure for confirmation of the CPO is specified in the 1981 Act and may require the conduct of a public inquiry if there are objections. If the CPO is confirmed the Council can then take steps to acquire land, either by serving a notice to treat and notice of entry in accordance with the 1981 Act, or by serving a general vesting declaration under the Compulsory Purchase (Vesting Declarations) Act 1965

PRSRL CPO Report – Human Rights Implications.

- a. The Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the ECHR. Articles 6 and 8 and Article 1 of the First Protocol are potentially relevant to the compulsory purchase of land and the making of a Side Roads Order:
- b. Article 1 provides for the right to the peaceful enjoyment of possessions (including property) and shall not be deprived of possessions except in the public interest and subject to the conditions provided for by law.
- c. Article 6 provides that everyone is entitled to a fair and public hearing in the determination of his civil rights and obligations. The statutory procedures applicable to compulsory purchase, which include the right to object and provide for Judicial Review, are sufficient to satisfy the requirements of this Article.
- d. Article 8 provides that everyone has the right to respect for his private and family life and that there shall be no interference by a public authority with the exercise of this right except in accordance with the law, where there is a legitimate aim and where it is fair and proportionate in the public interest
- e. If the CPO is confirmed, and if any person can show that they hold an interest in any of the Order Land, that person will be entitled to compensation which will be assessed in accordance with the relevant statutory provisions sometimes referred to for short as the Compulsory Purchase Compensation Code.
- f. The statutory procedures applicable to compulsory purchase, which include the right to object and provide for Judicial Review, are sufficient to satisfy the right to a fair and public hearing.

- g. The reference to “the public Interest” means that, in deciding whether to make and confirm a compulsory purchase order, a fair balance must be struck between the public benefit sought and the interference with the rights in question.
- h. For the reasons set out in this report the Council considers that there is a compelling case in the public interest and the planning permission is programmed to be determined before any Inquiry would be scheduled for the SRO and the CPO.