

# Making best use of compulsory purchase powers

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## Introduction

- CPO powers available to local authorities are many and varied
- The exercise of these various powers largely follows the same statutory framework and Circular 06/2004
- CPO powers can form important backdrop to the exercise of a range of local authority functions
- Full range of powers not always appreciated and local authorities often (rightly) hesitant about their use

# Local authority CPO powers: overview



- Planning powers: s 226 Town and Country Planning Act 1990
- Housing related powers
- Provision of public facilities/amenities, including schools (often in conjunction with s 121 Local Government Act 1972)
- Improvement of appearance of area
- Acquisition of rights

## Planning powers

- Section 226(1)
    - “the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land”
  - OR
  - “required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated”
- Section 226(1A): must think likely to improve economic, social or environmental well-being of area

## Planning powers (2)

- Detailed guidance in Appendix A CPO Circular
- Note in particular the “paragraph 16 requirements”
- Development plan is crucial
- No limitation on form of development which may be facilitated

# Using CPOs to deliver housing



- Long established range of powers, seldom used for new private housing-only schemes
- Section 17 Housing Act 1985: general power to acquire land/houses/buildings for housing, whether or not local authority will provide it
- Note also s 290 HA 1985 (clearance areas) and s 93 Local Government and Housing Act 1989 (renewal areas)

# National Planning Policy Framework



“51. Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers.”

# Housing delivery



- Possible backdrop for negotiations with developers on stalled schemes
- May be used to acquire other buildings to meet housing needs (e.g. offices)
- Private sector funding likely to be forthcoming for new housing in many parts of the country



## Provision of public facilities

- General power of acquisition in s 121 Local Government Act 1972
- Supplements other powers to acquire land by agreement
- Potential uses includes cemeteries, public conveniences, recreational facilities, refuse sites and land drainage
- May be used in conjunction with other powers, or in connection with development being promoted by others

## Provision of education facilities

- CPO included in detailed legislative schemes relating to school land
- School Standards and Framework Act 1998
- See Appendix H of CPO Circular

## Appearance of area

- Miscellaneous provisions relating to parks, recreation grounds, etc. captured by s 121 LGA 1972
- Note also s 89(5) National Parks and Access to the Countryside Act 1949, allowing land to be acquired for planting of trees
- Also covers acquisition of “derelict, neglected or unsightly” land, or land likely to become derelict

# Acquisition of rights



- Section 13 Local Government (Miscellaneous Provisions) Act 1976
- See Appendix M to CPO Circular

## Community requests

- Appendix KA to the CPO Circular
- No new powers but refers to requests from the community to “acquire community assets that are in danger of being lost to the detriment of that community”
- Note link to provision for listing of assets of community value in the Localism Act 2011
- Query whether listing alone equates to a “compelling case” for acquisition: probably not

## Key considerations

- Meeting the relevant statutory test
- CPO as last resort
- Compelling case in the public interest/human rights
- Ensuring CPO will deliver (viability)
- Resource implications (funding/indemnities)
- Procedural requirements: Acquisition of Land Act 1981

# Funding CPOs



- Private funding needs to be secured through an indemnity
- Query how far the indemnity needs to go in any particular case
- Terms of indemnity may be critical to delivery issues

## CPO powers belonging to others

- Section 47 Planning (Listed Buildings and Conservation Areas) Act 1990 – acquisition of listed buildings in need of repair
- DCOs - Planning Act 2008
- Transport schemes