

Equalities and CPO

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KEY PRINCIPLES



- Acquiring authorities must have regard to the Public Sector Equality Duty
- Consider equalities *before* making the CPO and *continuously thereafter*
- The PSED falls upon both the acquiring authority and the confirming authority

THE PUBLIC SECTOR EQUALITY DUTY



- Section 149 Equality Act 2010
- (1) *A public authority must, in the exercise of its functions, have due regard to the need to:*
- (a) *Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.*
 - (b) *Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.*
 - (c) *Foster good relations between persons who share a relevant protected characteristic and persons who do not share it*

WHAT DOES THE DUTY INVOLVE?



- Section 149(3):

Having due regard to the need to advance equality of opportunity...involves having due regard, in particular, to the need to:

- (a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.*
- (b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.*
- (c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.*

WHAT ARE PROTECTED CHARACTERISTICS?

- Section 149(7):
 - Age
 - Disability
 - Gender reassignment
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation

HAVING DUE REGARD



- The duty does not require a particular outcome
- Merely reciting a mantra will not show the duty has been discharged
- A properly informed, rational view must be taken on the extent of likely impact (even if there is no formal impact assessment)
- Where negative effects are identified, potential mitigation must be considered and reasonable adjustments made to the scheme
- Resource planning fulfilment of the duty

FULFILLING THE DUTY IN PRACTICE



- Identify affected communities and people likely to experience differential impacts and effects
- Early and effective community engagement
- Seek specialist advice
- Measures to be built into scheme design
- Special construction arrangements
- Community relations plan
- Appoint an equalities champion
- Special mitigation or compensation arrangements
- Giving affected persons a voice at the CPO inquiry

Equalities issues in CPO: Shepherd's Bush Market

- Mixed use redevelopment of ethnically diverse market
- Inspector recommended refusal having found that “guarantees and safeguards are not sufficiently robust to be assured that genuine opportunities exist for current traders or shopkeepers (or similarly diverse businesses) to continue trading in the market and Goldhawk Road”
- SofS confirmed the CPO, but his decision was quashed by the Court of Appeal for lack of clear reasons.

Equalities issues in CPO: Peckam Rye Station



- Demolition of shopping arcade to create civic square
- Displaced traders were mainly Afro Caribbean hair and beauty salons
- Council procured new 'Peckham Palms' development for the traders nearby
- Council guaranteed rents would be affordable to enable existing traders to relocate

Equalities issues in CPO: Peckam Rye Station



- Equalities Impact Assessments
 - 1 for the original scheme
 - 1 for the revised, smaller scheme
 - 1 considering the mitigation proposed
- EQIA is an *ongoing* exercise
- Inspector & SofS found that equalities issues had been addressed “in a thorough and fundamental way as part of the CPO and scheme design”

HS2 PHASE 1 BILL – ISLAND PROJECT



- Special school for children with autism
- Specialist adviser appointed
- Bespoke construction mitigation plan
- Early and continuing engagement
- CPO powers to acquire alternative site for school
- Site search funded by promoter
- Ministers actively involved
- Petition resolved without a hearing