

## Executing the land acquisition strategy: powers of entry & acquiring the land



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## Acts and SIs

- Land Compensation Act 1961 – “LCA”
- Compulsory Purchase Act 1965 – “CPA”
- Land Compensation Act 1973 – “LCA ‘73”
- Compulsory Purchase (Vesting Declarations) Act 1981 – “GVDA”
- Acquisition of Land Act 1981 – “ALA”
- Town and Country Planning Act 1990 – “TCPA”
- Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004/2595 – “2004 Regs”
- Planning Act 2008 – “PA 2008”
- Housing and Planning Act 2016 – “HPA”
- Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017/3 – “2017 Regs”

## Authorities

- ***Holloway v Dover Corpn*** [1960] 1 WLR 604
- ***Parker (Trustees of the Ware Park Estate) v Herford BC*** (1967) 18 P&CR 315
- ***Ravenseft Properties Ltd v Hillingdon LBC*** (1969) 20 P&CR 483
- ***English, Welsh & Scottish Railways v SST*** [2002] EWHC 2641 (Admin)
- ***R (Argos Ltd) v Birmingham CC*** [2011] EWHC 2639 (Admin)
- ***Sawkill v Highways England Co Ltd*** [2020] EWHC 801 (Admin)
- ***Anixter v SST*** [2020] EWCA Civ 43

## Outline

- Powers of entry
- Acquiring the land
  - Procedure under the Compulsory Purchase Act 1965
  - General Vesting Declarations

## S. 172 HPA

- S. 172:
  - (1) A person authorised in writing by an acquiring authority may enter and survey or value land in connection with a proposal to acquire an interest in or a right over land ....*
  
- Key points:
  - “in connection with” is broad
  - Generally available to all Acquiring Authorities (“AA”) (s. 172(6))
  - Sits alongside and overlaps with s. 53 PA 2008: **Sawkill**, [42]-[45]
  - What is authorised can be extensive: **Sawkill**, [50]-[51]

## S. 172 HPA

- S. 173: JP can authorise use of force provided
  - Force limited to reasonably necessary
  - Warrant specifies no. of occasions
  - Evidence given on oath
- S. 174: notice requirements
  - Every owner occupier given min. 14 days notice
  - Includes
    - statement of rights to compensation
    - copy of warrant of force
    - details of certain activities if intended (e.g. excavation)

## S. 172 HPA

- S. 175: enhanced procedures for statutory undertakers (as defined in s. 16-17 ALA, or Part 11 TCPA) who object
- S. 176: right to compensation for damage suffered as a result. Disputes referred to UT
- S. 177: offences
  - Obstructing another “without reasonable excuse”
  - Disclosing confidential information

## Land Acquisition

- The story so far...
- AA to serve Confirmation Notice – s. 15 ALA
  - Service
  - Publicity
  - Timing
  - Form – see reg. 3 2004 Regs
  - Contents
- Thereafter? CPA or GVD



## CPA 1965

- Step 1: AA serve Notice to Treat (“NTT”)
  - Does not have to acquire all land or interests in CPO (*Holloway*)
  - AA does not need to know land will be acquired (*EW&S Railways*)
- Step 2: Owner may
  - Claim compensation
  - Submit counternotice
- Step 3: Compensation – agreed or referred to UT
- Step 4: Owner conveys property to AA

## CPA 1965: NTT

- S. 4 & 5 CPA
  - Service on “all persons interested in, or having power to sell and convey or release, the land, so far as known [...] after making diligent inquiry”
    - Untraced owners? S. 30 CPA, s. 6(4) ALA, sched. 2 CPA
  - Form & Contents (s. 5(2))
  - Timing
    - After a CPO made (***Trustees of the Ware Park Estate***)
    - Before entry onto land
    - <3 years from date CPO operative (s. 4) unless challenge (s. 4A)
  - Time limited (3 years save in certain circs) (s. 5(2A)(2B))

## CPA 1965: NTT

- Effect?
  - Obligation to acquire and sell once compensation ascertained
  - Compensation can be referred to UT (s. 6 CPA)
  - AA can serve notice of entry and enter land (ss. 11, 11A, 11B CPA)
  - “Fixes” interest in respect of which compensation payable
  - Owner then has opportunity to
    - Make claim for compensation
    - Seek submit counternotice

## CPA 1965: Owner's actions

- Submit a claim for compensation
  - Time limit
  - Prescribed form
  
- Submit counternotice under s. 8/sched. 2A CPA
  - Applies where AA proposes to acquire “part of” house, building, or factory
  - Counternotice cancels s. 11 notice of entry
  - LA must withdraw NTT, accept CN, or refer CN to UT
  - “material detriment” test - see s. 58 LCA ‘73 and ***Ravenseft***
  - Small parcels - see s. 8(2)-(3) CPA
  - Time limit - ***Anixter v SST***

## GVDs: General

- Simplifies the process – execution of a GVD (s. 7-9 GVDA):
  - Vests land in AA as if deed poll executed under CPA form “vesting date”
  - Entitles AA to enter land and take possession (save for minor tenancies)
  - Converts titles of owners into right to compensation
  - Owners deemed to have acknowledged obligation to provide copy of title documents to AA
  - Entitles landowner to serve counternotice under sched. A1 GVDA
- Why use it?
  - Quicker, simpler
  - Avoids “unknown owner” issues

## GVDs: Execution

- S. 4(1) GVDA –

*4(1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves from the end of such period as may be specified in the declaration (not being less than 3 months from the date on which the service of notices required by section 6 below is completed).*

- Prescribed Form – Form 1 2017 Regs
- Cannot execute RE any land over which there is an active NTT

## GVDs: Execution

- Time limits
  - Not before CPO has come into operation (s. 5 GVDA)
  - Not after three years from the date on which CPO has come into operation (s. 5A GVDA)
  - Extended in the case of challenge under s. 23 ALA (s. 5B GVDA)
  
- Vesting date
  - For land specified in GVD
    - First day after end of period specified in declaration
    - If counternotice served, day determined as vesting date (s. 4(3) GVDA)
  - For land deemed specified (sched. A1) day determined (s. 4(4) GVDA)

## GVDs: Execution

- Service of notices
  - Must serve a notice in “prescribed form” (Form 2, 2017 Regs)
  - Time: “as soon as may be”
  - On:
    - Every occupier of any land specified in declaration
    - Every other person who has given information to AA with following an s. 15 ALA notice
  - Contents
    - Specifying the land
    - Stating effect of GVD
  - S. 329 TCPA applies (how to serve, etc.)



## GVDs: Challenges

- Challenges?
  - Not complied with procedure
  - Power to make GVD may only be exercised for purpose for which CPO authorised ***R (Argos Ltd)***
  - Change of scheme? ***R (Argos Ltd)***

# Thank you for listening

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