

COMPULSORY PURCHASE: CONSULTATION ON DRAFT GUIDANCE & REGULATIONS ARISING FROM PART 8 OF THE PLANNING & COMPULSORY PURCHASE ACT 2004

Report By: Forward Planning Manager

Wards Affected

Countywide

Purpose

1. To inform the Committee of a consultation from the Office of the Deputy Prime Minister (ODPM) regarding amendments to compulsory purchase arrangements.

Financial Implications

2. None

Introduction

3. The Planning & Compulsory Purchase Act received Royal Assent on 13th May 2004, and includes changes to the powers available to local authorities to compulsorily purchase land. The new powers are intended as a tool for local authorities and other public bodies to assemble land in order to deliver social and economic change and are predominantly concerned with difficult to develop land in urban areas. Policy objectives include effective and efficient urban regeneration, revitalisation of communities and the promotion of business.
4. The ODPM has now issued consultation documentation as follows:
 - a draft compulsory purchase Circular to replace ODPM Circular 02/2003 "Compulsory Purchase Orders", reflecting the proposed changes to legislation set out in Part 8 of the Act and including a Memorandum explaining them;
 - draft regulations prescribing forms for use in the preparation of compulsory purchase orders and related notices, to replace those in the Compulsory Purchase of Land Regulations 1994 (SI 1994/2145);
 - draft regulations under the power in the Act to prescribe a written representations procedure for considering objections where remaining objectors agree to its use, an alternative to holding a public local inquiry;

Further information on the subject of this report is available from Dr D Nicholson on (01432) 261952

- draft initial Regulatory Impact Assessment for each set of draft regulations.
5. This report summarises the new powers becoming available. Government guidance on compulsory purchase is strongly procedural in focus and the drafts now available continue to follow this approach. The main area of interest is the guidance set out in the draft Circular as to how the new powers should be used.
6. **The Draft Circular**
The draft Circular will constitute the Government's guidance for non-ministerial acquiring authorities on how to prepare and submit compulsory purchase orders for confirmation under the revised system. The main changes it represents to ODPM Circular 02/2003 are:
- a revised Appendix A on the planning compulsory purchase powers at section 226 of the Town and Country Planning Act 1990;
 - a new appendix referring to Urban Development Corporation orders;
- and
- the inclusion of the Memorandum explaining the Part 8 changes.

Much of the guidance given in the Circular, which runs to 110 pages, is detailed and is carried over from the current Circular. However, the new material in Appendix A is worthy of comment.

7. **The New Powers**
The new powers are intended to be a positive tool to help authorities assemble land where this is necessary to implement the proposals in their community strategies and Local Development Documents. The powers are expressed in wide terms and can be used to assemble land for regeneration schemes where the range of activities proposed is wide and no other single power would be appropriate.
8. *Comment: The emphasis on the range of purposes for which the new powers under the Planning Acts may be used is very much to be welcomed, as is the role identified for the Community Strategy (Herefordshire Plan). In Herefordshire, the emphasis given to the Herefordshire Plan in drawing up the Unitary Development Plan (which will form a Local Development Document under the new system) should ensure that proposals to compulsorily purchase land under the new powers have a sound footing with the links between the documents being clearly identified.*
9. **Section 226(1)(a)**
The power in this section enables compulsory acquisition to facilitate the carrying out of development, redevelopment or improvement on, or in relation to, the land being acquired. Note that this form of words allows land to be acquired for a scheme which does not necessarily have to be taking place on the subject land – so long as its acquisition can be shown to be essential to the successful implementation of the scheme.

10. The power can only be used where the scheme will contribute to the promotion or improvement of the economic, social or environmental well-being of the area of the local authority. Again, the draft Circular emphasises the point that the benefit to be derived from any compulsory purchase is to be understood in terms of the whole (or any part) of the authority's area, not simply in terms of the area being acquired.
11. *Comment: Here the Government is seeking to relax the traditionally cautious approach of local authorities in using compulsory purchase powers. The draft Circular works with the new statutory requirements placed on local planning authorities in terms of achieving sustainable development and planning spatially. Spatial planning is about integrating policies and actions for the development and use of land (the usual focus of planning) with other policies and programmes which influence the nature of places and how they function. Spatial planning will embrace such aspects as promoting regeneration initiatives and improving the local environment, aspects which cannot always be furthered by the grant or refusal of planning permission. A more proactive approach including assembling sites may be needed, and again the encouragement which the draft Circular gives to such actions is very much to be welcomed.*
12. The draft Circular emphasises rightly the need for proposals to be set within a clear planning framework which is founded on sound evidence and has been subject to proper consultation with those whose properties are affected. Documents such as the Unitary Development Plan provide the appropriate vehicle for such consultations. Emerging Local Development Documents and non-statutory proposals such as master plans will be taken into account. It is also acknowledged that where the proposed acquisition is part of a long-term strategy, it may not always be possible to demonstrate the end-use of every piece of land included in a particular CPO.
13. *Comment: Here the draft Circular is seeking to ensure that Orders are properly based in the planning framework whilst acknowledging that the planning system is in a state of transition and that this should not hold up proposals designed to tackle low housing demand or to accommodate further growth in an area. Again, the emphasis is on encouraging the use of compulsory purchase powers to achieve social and economic change.*
14. **Section 226(1)(b)**
This power allows acquisition in other instances, where required in the interests of the proper planning of the area. The power is broad and is intended to be used to acquire land not required for development, improvement or re-development (here, section 226(1)(a) would be the appropriate power).

Conclusions

15. The new powers and the very clear message being given in the draft Circular that they are to be used to achieve sustainable development delivered through spatial planning are welcomed. For Herefordshire, the links already in place between the Herefordshire Plan and the UDP will help ensure a sound foundation for any compulsory purchase being contemplated to achieve Plan objectives, such as those at Edgar Street. The examples cited in the draft

Circular do tend to major on the issue of low housing demand and housing renewal, and it may be that in the final version a wider spread of examples might be used including for instance market town regeneration. However, overall the draft Circular succeeds in making the links between compulsory purchase as a planning tool and the wider planning reform agenda.

RECOMMENDATIONS

THAT the Cabinet Member (Environment) be recommended that the comments set out above form the basis of a response to the Office of the Deputy Prime Minister.