



**Report to the Planning & Urban Form
Strategic Policy Committee November 2021.
No. 5 on the Agenda**

Compulsory Purchase Order (CPO) Process:

The power to acquire land compulsorily has a clear basis in law. There is a constitutional right to own and enjoy property and the forced sale of property must therefore be strictly justified. A Local Authority must provide a clear purpose for the CPO and be prepared to advance the realisation of same within a reasonable timeframe. The Council's preference is always to acquire by agreement where at all possible.

There are strict statutory procedures governing the exercise of compulsory purchase powers. The acquisition of private land raises many sensitive issues and requires careful consideration and justification. The compulsory purchase order (CPO) process may involve an oral hearing convened by An Bord Pleanála if there are objections to the CPO or may lead to a legal challenge through the Judicial Review process in the courts.

The Council makes a CPO in exercise of the powers conferred upon it by section 76 of the Housing Act, 1966 and the Third Schedule, as extended by section 10 of the Local Government (No 2) Act, 1960, as substituted by section 86 of the Housing Act, 1966 as amended by section 6 (extinguishment of rights of way) of and the Second Schedule to the Roads Act 1993 and Roads (amendment) Act 1998, as amended by the Planning and Development Act, 2000 – 2021.

The CPO process takes approximately 18 months. Factors affecting the time frame:

- Objections
- An oral hearing
- A judicial review
- Size of the CPO

Overview of CPO process

- Establish the purpose for which the land is to be acquired ie Housing/Roads/ Mixed Use Development etc. or to perfect title already acquired.
- Identify the area to be compulsorily acquired on a map prepared by the Mapping and Survey Section.
- Instruct the Law Department to prepare a Book of Reference & Rental ie ownership details.
- Certificates are obtained from the Dublin City Planning Officer, City Architect, Assistant Chief Executive & City Engineer and the Principal Environmental Health Officer certifying the suitability of the area of the land for the purpose for which it is to be acquired. A Managers Order, referred to as the Determination Order, authorises the making of the CPO. The Certificates, Book of Reference & Rental and map which is termed ("X) map accompany the Determination Order.
- Law Agent instructed to make CPO.
- Publish a Notice of the Making of the CPO in the National Press.
- The Notice is served on all owners, lessees and occupiers.
- The CPO. is submitted to An Bord Pleanála for confirmation.
- Objections can be made to An Bord Pleanála by affected parties within a specified period (not less than 21 days from the date of service of the notice of the making of the CPO on the owners).
- An Oral Hearing may be held at the discretion of An Bord Pleanála, at which affected parties can formally put their views forward.
- Following the hearing An Bord Pleanála may confirm with or without modifications or annul the CPO. It is an objective of An Bord Pleanála to ensure the matter is determined within 18 weeks from the last day for making objections. Notification issues from An Bord Pleanála that the Confirmation Order has been made.
- In cases where there are no objections or all the objections are withdrawn the Council may, on receipt of such notification from An Bord Pleanála, confirm the CPO with or without modifications or refuse to confirm the CPO.
- Publish Notice stating that CPO has been confirmed (within 12 weeks from date of confirmation).
- The CPO becomes operative three weeks from the date of publication.
- Judicial Review period (8 weeks from date of publication). The Judicial Review period allows objectors to challenge the CPO on a point of law.
- Notice to Treat is served on affected parties within 18 months from the date the CPO becomes operative requesting the submission of their detailed claims for compensation. On reaching agreement, compensation is paid, otherwise the matter may be referred by either party to the Property Arbitrator to assess compensation. The Arbitrator's decision is final. Claims for compensation are normally based on Market value of land and buildings. Diminution in value of retained lands, if any. Costs resulting from acquisition.

Disturbance.

Loss of profits or goodwill.

Professional fees necessary for acquisition.

- A Notice for Possession may be served at any time after serving of a Notice to Treat. This gives the City Council the right to enter and take possession of the land on the expiration of 14 days from the date of service of a Notice for Possession. This may occur before compensation is agreed and before the compensation money has been paid. However the Council is liable to pay interest on the agreed compensation from the date of entry in cases where a notice of entry has been issued.
- Vesting Order may be made after 6 months in possession. A Vesting Order vests the freehold title to the property in the Council.
- A Notice of the making of a Vesting Order must be published within 7 days of the making of the Vesting Order.

Recent CPOs

Abbey Street Lower - Marlborough Street - Eden Quay - Old Abbey Street Area
Compulsory Purchase (Abbey Theatre Redevelopment / Cultural / Amenity) Order, 2021

Emmet Road, Saint Vincent Street West Area Compulsory (Renewal & Rejuvenation)
Order, 2019.

Ryder's Row / Parnell Street / Capel Street Area Compulsory Purchase (Residential /
Commercial Development) Order 2019

Main Street Chapelizod Area Compulsory Purchase (Residential / Commercial
Development) Order 2018.

Compulsory Acquisition of Derelict Sites

Section 14 of the Derelict Sites Act, 1990 contains the power to acquire a derelict site by agreement or compulsorily. The Council will only acquire compulsorily as a last resort in circumstances where all efforts to secure the carrying out of improvement works by property owners have been exhausted. Twenty five derelict sites have been acquired compulsorily since 1/03/2017, twenty one of which have been retained by the Council under the control of the Housing & Community Services for social Housing purposes.

Overview of the Compulsory Acquisition Process

- Law Department provide updated ownership details.
- Survey & Mapping Section prepare acquisition map.
- Notice of Intention to acquire compulsorily served on every owner, lessee and occupier (except a tenant who has been in situ for one month or less).

- Affected parties have four weeks to make objections.
- If an objection is submitted a local authority is not entitled to proceed to compulsorily acquire a derelict site unless it secures the consent of An Bord Pleanála who may grant or refuse consent to the compulsory acquisition of all, or part of, the derelict site in question.
- An Oral Hearing may be held at the discretion of An Bord Pleanála, at which affected parties can formally put their views forward.
- If no objections are received or where An Bord Pleanála have given their consent to the acquisition then a Vesting Order is made which vests title to the site in the City Council.
- A Notice of the making of a Vesting Order must be published within 14 days of the making of the Vesting Order.
- Any person who immediately before the making of the Vesting Order, had any estate or interest in or right in respect of the land acquired may apply not later than twelve months after the making of the said Order for compensation in respect of the estate, interest or right. The matter may be referred by either party to a Property Arbitrator to assess compensation in the event that agreement cannot be reached. The Arbitrator's decision is final.
- A Local Authority can use any derelict site acquired by them for any purpose connected with their functions. A Local Authority can also dispose of the derelict site if it is not required. Twenty one of the derelict sites acquired compulsorily which have been retained by the Council under the control of the Housing & Community Services for social Housing purposes. They have been completely refurbished and occupied or are in the process of refurbishment.

Paul Clegg
Executive Manager