**Compulsory Purchase National Assembly – 12th December 2018**

**Key Learning Points from Workshops**

**Pre-CPO**

Ask the legal team to act as a ‘critical friend’ to the ‘client’ team in the authority – test the case for the CPO (in particular whether the purpose of the scheme delivers on a statutory function or fits well with the enabling CPO power).

Clarify for all involved what a CPO entails and what will be expected of/required from them during the process – the SG flow chart is useful for this – no surprises!

Consider all potential costs associated with the CPO (including fees, injurious affection, disturbance etc as well as purchase price) as early as possible in the process.

Clarify where funding for the purchase and compensation, and the resulting project, will (or is likely to) come from and get written confirmation of this where possible to support your case.

Clear proposals and policies in Development Plans and other relevant strategies (e.g. SHIP, Core Path Plan, Local Transport Strategy) will help justify the use of CPO when necessary. Flagging potential need for land assembly for a project in a plan (e.g. in the action programme) can help justify the decision to use CPO and ensure decision makers are supportive.

At a smaller scale, identifying key sites/buildings and projects in relevant masterplans or development briefs for an area can help support the case for CPO if this becomes necessary.

Securing planning and other consents for the underlying project makes the CPO process easier but is not always necessary – so long as it is clear that there are no obvious planning or other consenting difficulties.

It is worth taking time and/or employing external experts to undertake land referencing where ownership is likely to be complex as this ensures that as many interests as possible are identified and can be engaged with.

Consider whether there are any utilities/infrastructure likely to be affected by delivery of a project so that you can engage early with relevant agencies/companies to try to pre-empt objections.

**Preparing CPO documentation**

Prepare a detailed project plan, showing as exactly as possible how the final project will be delivered. Include details of where utilities connections are expected to be and consider (e.g. with the contractor if known) any land that will be required during construction. This will help to accurately identify all the land that will be required as part of the CPO and to explain to affected parties why it is needed.

If in doubt it may be better to draw the CPO boundary wider as land cannot be added to a CPO once it is made and failure to accurately identify all the land needed may make the CPO invalid.

Get input from teams with relevant expertise across the Council (e.g. education experts for the educational case for a new school) to the drafting of the Statement of Reasons.

Look at examples of how others who have done similar CPOs have prepared documentation to get ideas for how to set things out (e.g. from the new SG CPO register and the DPEA website).

Consider whether there is value in applying for a Certificate of Appropriate Alternative Development (CAAD) to help ascertain the market value of the site and so more accurately estimate compensation due.

Take advantage of the free technical check of draft CPOs offered by the Scottish Government. This can help identify any errors or omissions and prevent problems later on.

Keep a chronological record of all contact with affected landowners and others. This will be useful if the case proceeds to PLI.

**Project management**

Form a project team with representation from all relevant areas – e.g. legal, policy, land & estates, communications, area teams. Be clear about roles and responsibilities within the team and have a lead ‘champion’ for the project.

Prepare a spreadsheet of estimated costs associated with the CPO, detailing estimated compensation and potential claims for each acquisition/interest and each potential type of claim for each. Maintain this as a living document - reviewing and updating regularly as new information is received.

Engage Legal Counsel early if an inquiry is likely to be needed. This can increase costs but has been found to be worth it if they are involved early and can help you prepare your case as well as possible.

Keep a record of all objections received and review it regularly to identify key issues and consider if/how you may be able to address them to ensure they are removed.

Contact the DPEA early on if you think an Inquiry is likely to be needed. This can help save time by ensuring a PLI is scheduled as quickly as possible.

Be realistic about timescales involved and the level of input likely to be required from officers at different stages. Be clear on dates when key decisions need to be made or actions taken (e.g. when to try to resolve objections by) and work back from there in the project plan.

Take difficult decisions as quickly as possible in the circumstances – the decision doesn’t get any easier with time!

**Communication**

Internal

Ensure regular communication between the full project team so everyone knows the latest position and can represent that accurately to people.

Brief key ‘opinion formers’ within your own organisation (e.g. area councillors) who can influence the discussion about a particular project, garner support and/or keep you informed of likely issues or objections.

External

Early engagement is key. Try to keep communication as simple, open and ‘human’ as possible. Put yourself in the shoes of the person receiving the communication and treat people like you would want your Grandmother to be treated!

Continue to communicate regularly throughout the process. CPO will likely be stressful for affected landowners – keep them updated on progress when required – even if there is nothing to report a brief update stating that this is the case may help maintain relationships.

Continue dialogue/negotiation even after the CPO has been made – most people will prefer to settle by agreement and the formal promotion of the order may help bring certainty to proceedings. The CPO can easily be withdrawn if agreement with everyone is reached.

Don’t forget small landowners – engage with all equally as a tiny piece of land can slow things down as much as a large piece.

Where possible prepare FAQs about the project and provide a dedicated phone line or point of contact (rather than routing people through general enquiries).

**Public Local Inquiry Stage**

Contact DPEA early to flag up when a PLI is likely to be required so this can be scheduled into reporters’ forward workplans.

DPEA will welcome assistance in identifying and booking local facilities where the PLI can take place – helping to ensure it takes place as early as possible.

Identify the best people to act as expert witnesses to present the relevant aspect of the case for the project at the PLI – this may not necessarily be the most senior person, or someone familiar with CPO, but will be the person who can best articulate the positive case for your project (e.g. a headteacher may be best placed to present the educational arguments for a new school).

Take time to prepare your arguments/justification for the project at the PLI and brief your witnesses on likely objections and lines of questioning. Preparation is key!

**Post-CPO Confirmation**

Have your adverts and other documentation ready to go for when you receive confirmation of the Order. Assume you are going to win and be ready to proceed with next steps as soon as possible to save time.

Ensure your ‘back-to-back’ agreement is in place where a partner (e.g. RSL) will take ownership and take forward delivery of the project after confirmation.

Where possible share the register or commitments with potential delivery contractors so that they are clear about what will be expected of them if/when the project goes ahead. Be clear in the contract about respective responsibilities and what the consequences are of not meeting them (e.g. financial penalties).

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