Housing Clearance Mechanisms in England and Wales*

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I. Introduction

The idea that poor quality housing could be so deleterious to the health of the occupants as to be unfit for human habitation has been enshrined in the housing legislation in England and Wales since the middle of the 19th century. The Artizans and Labourers Dwellings Act of 1868 introduced into statute the phrase "unfit for human habitation" to describe houses suffering from a range of defects considered to be injurious to health. Under the provisions of this Act of Parliament local authorities were able to serve repair notices and make demolition orders to deal with unfit dwellings. Advocates of public health and housing reform had long campaigned for local authorities to be empowered and motivated by law to take action to improve the living conditions of the general population. The Artizans and Labourers Dwellings Improvement Act of 1887 then put in place legislation to enable local authorities to deal with unfit housing on an area rather than on an individual property basis by means of clearance orders. Repair notices, demolition orders and clearance areas have survived numerous changes in housing policy and legislation to remain among the principal mechanisms for dealing with unfit housing. All three options for enforcing housing standards are currently

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contained in the Housing Act 1985. The Housing Act also contains a definition of fitness for human habitation.

This paper looks briefly at the meaning given to the phrase “unfit for human habitation”, describes the compulsory clearance process for unfit housing and considers the advantages and disadvantages of other compulsory purchase powers that are used to regenerate housing areas.

II. Unfit for Human Habitation

The Housing Act 1985 sets out what makes a house fit for human habitation, therefore by definition an unfit house is one that fails to meet this standard. A fit house is considered to one that is:

- structurally stable,
- free from serious disrepair, and
- free from dampness prejudicial to the health of the occupants (if any).

The house must also have:

- adequate provision for lighting, heating and ventilation;
- an adequate piped supply of wholesome water;
- satisfactory facilities in the dwelling-house for the preparation and cooking of food, including a sink with a satisfactory supply of hot and cold water;
- a suitably located water-closet for the exclusive use of the occupants (if any);
- a suitably located fixed bath or shower and wash-hand basin each of which is provided with a satisfactory supply of hot and cold water for the exclusive use of the occupants (if any), and
- an effective system for the draining of foul, waste and surface water.
A house that fails to meet one or more of these requirements and by reason of that failure is not reasonably suitable for occupation is considered to be “unfit for human habitation”. The additional provision that the house must not be reasonably suitable for occupation requires a judgement to be made on the impact of the defects discovered. For example it may be perfectly reasonable to occupy a house with a missing wash hand basin or a many-roomed house with a single unoccupied room affected by dampness, whereas a house without a kitchen would be regarded as unsuitable for occupation.

The Government is currently undertaking a review of the fitness standard. An alternative method of assessment based on the likelihood of an injury occurring and the likely severity of that injury has been piloted in a number of Local Housing Authorities (LHAs). This Housing Health and Safety Risk Assessment (HHSRA) is designed to provide a numerical value that measures the fitness of a house for human habitation. In theory this will help LHAs to target their limited resources at the houses or housing areas with the worse HHSRA scores, as the assessments will show not only how many houses are unfit, but also the relative severity of the defects.

In the opinion of some practitioners the proposed HHSRA methodology is unduly complicated with numerous opportunities for dispute on the scores assigned to individual defects, the health impact of the recorded defect and the vulnerability of the occupiers exposed to that defect. Also the technology developed to enable housing surveyors to calculate and record the numerous HHSRA scores is not easy to use and gets in the way of the interaction between housing surveyors and the residents of the properties they are inspecting. Taking the view that good health is a state of mental as well as physical well-being, the householder’s perception of what is wrong with their home and how it impacts on their life is relevant to any assessment of housing fitness. By necessity a house condition survey is an assessment of the defects visible at a single point in time and various intermittent defects or phenomena may not be apparent during the surveyor’s visit. Although the information provided by residents must be accepted with a degree of caution they are ideally placed to observe changes in settlement cracks, intermittent condensation and penetrating dampness, the impact of inadequate lighting, heating and ventilation and fluctuations in water supplies.
In comparison to the proposed HHSRA system the current fitness standard appears simplistic. The severity or extent of housing defects are observed, assessed and recorded differentiating only between defects that:

- pose an immediate risk to health and safety,
- are prejudicial to health,
- affect the comfort of residents, and
- defects that have no impact at all.

For example:

- dangerous wiring poses an immediate risk of electrocution,
- prolonged exposure to damp housing increases the risk of respiratory diseases,
- perished plasterwork makes a room uncomfortable to occupy, and
- hairline cracks in ceilings have no affect on normal everyday activities.

One advantage of the fitness standard is that it produces a statement on the condition of a house that can be written in plain English and is open to challenge by residents and their advocates who may have little or no technical knowledge of housing and health issues.

III. Housing Market Change

While the Government is considering moving away from the fitness standard, changes in the local housing markets in the older metropolitan areas and towns of the Midlands and North of England have made reasons other than unfitness the principle grounds for the compulsory clearance of housing areas. Individual houses, certain house types and even whole neighbourhoods are either being abandoned completely or moving from being occupied by
the property owner to being occupied by tenants. Owner-occupiers attempting to sell houses in declining neighbourhoods are faced with the options of accepting a relatively low price for their property and as a consequence, borrowing a greater sum to finance a move to a more comfortable home or renting the property out to provide an income to replace the capital sum that a sale would have produced. In extreme cases owners are unable to find a buyer or a tenant and the house is left empty, prone to vandalism and trespass and its market value declines further. In these circumstances landlords are able to acquire properties relatively cheaply to cater for a transient population of low-income households, students, refugees and asylum seekers.

At the lower end of the private rented housing market landlords are often unwilling or unable to manage their properties in a professional manner and their tenants may have little or no interest in the house or the neighbourhood. The houses fall into a state of disrepair and there is a frequent turn over of tenancies. Eventually the number of houses available to let in a neighbourhood exceeds the number of tenants looking for a home and the houses become unlettable and unsaleable and are left to fall into dereliction. As the spiral of decline in a neighbourhood progresses even Registered Social Landlords (RSLs), who generally manage their houses well, are unable to find tenants willing to occupy their houses.

This weakening of the local housing market has many underlying causes. For example:

- outward migration from city centres to the suburbs,
- migration of economically active households away from former centres of heavy industry,
- concerns about personal safety and security,
- monolithic provision of old, small, energy inefficient, poorly laid out and ill designed houses, and
- the desire to own and occupy a higher quality house in a cleaner and greener neighbourhood.

These failing neighbourhoods are clearly in need of radical housing market change and ur-
ban regeneration but while housing forms an important part of the overall approach to regeneration, the replacement and improvement of homes cannot by itself result in sustainable communities. However, unless the fundamental housing issues are tackled the success of any wider regeneration initiatives will be at risk. Therefore, in order to ensure the economic prosperity of the area a wide range of good quality housing that meets the needs of existing and potential residents must be provided. To make way for this new housing and to bring about the desired change in the housing market the existing unwanted and poor quality housing needs to be cleared; by compulsory purchase if necessary.

IV. Compulsory Clearance Powers

Currently four separate compulsory purchase powers can be employed to acquire houses for demolition:

- Compulsory clearance of unfit housing - Housing Act 1985, Part IX,
- Acquisition of land for housing purposes - Housing Act 1985, Part II,
- Housing renewal areas - Local Government and Housing Act 1989, Part VII, and
- Acquisition and appropriation of land for planning and public purposes - Town and Country Planning Act 1990, Part IX.

V. Neighbourhood Renewal Assessment

Before embarking on any private sector housing action Government guidance recommends that a neighbourhood renewal assessment (NRA) is carried out. Originally the NRA methodology was designed to deal with areas of unfit housing but it is adaptable for all housing
appraisals. An NRA consists of a series of logical steps which, when taken together, provide a thorough and systematic appraisal technique for considering alternative courses of action for an area or individual dwellings and is an aid to deciding the “most satisfactory course of action” for the LHA to take.

The NRA process can include consultation with a range of agencies and public utilities to ensure that any proposed housing action will not conflict with other local economic, environmental or social concerns or strategies. Typically an LHA would make enquiries concerning:

- housing need and the capacity to rehouse
- the vulnerability of people living in a neighbourhood
- air, noise and soil pollution and previous land use
- water supply and drainage capacity
- outstanding debts or charges
- planning guidelines
- transportation proposals

VI. Compulsory Clearance of Unfit Housing

The compulsory clearance of unfit housing is the most straightforward of the four compulsory purchase mechanisms available in England and Wales to bring about housing regeneration. The advantages are based on the fact that:

- unfitness is part fact / part opinion,
- renovation and clearance costs can be quantified,
- the end use of the cleared sites is not dictated by legislation,
- it is relatively easy to justify acquisition of a limited amount of additional land,
- the NRA process is weighted in favour of LHAs, and
• relocation grants can be offered to displaced householders.

When an LHA is satisfied that "residential buildings" are:

• unfit for human habitation, or
• dangerous or injurious to health of inhabitants of the area due to bad arrangement, or
• dangerous or injurious to health of inhabitants of the area due to narrowness or bad arrangement of the streets, and that
• the most satisfactory course of action is the demolition of all buildings in the area

the LHA shall declare the area to be a clearance area. Before declaring the clearance area the LHA must be satisfied that:

• notices of intent have been served on all persons with an owner's interest in the buildings,
• representations have been invited and considered
• suitable alternative accommodation can be provided or secured for all displaced households, and
• the LHA has the resources to carry the clearance through

The legislation also requires that tenants are advised of the LHA's intentions. In practice a notice is served on the tenants that is very similar to that served on the owners. The majority of the owners and residents in receipt of these notices of intent will have been consulted as part of the NRA information gathering process and will already be aware that the LHA is considering taking a compulsory clearance action. The notices of intent invite owners to make their opinion of the proposed clearance known to the LHA in writing. In parallel with these notices a public notice is published in local newspapers providing an opportunity for unidentified owners and residents of the wider neighbourhood to make representations. Any written representations are presented to the decision-making body for consideration be-
fore a recommendation to declare a clearance area is considered.

A statement confirming that the four preconditions (notices, representations, rehousing and resources) have been fulfilled must be included in the LHA’s clearance area declaration. The area of unfit, dangerous or injurious buildings must also be identified on a map and a copy of the map, the declaration and a statement of the number of persons living in the area must be sent to the Government Office for the Region.

The LHA can allow the owners of houses in a declared clearance area to arrange the demolition of the unfit houses and the redevelopment of the cleared site themselves, but as this is a complicated technical and legal process it rarely happens. In practice LHAs initially seek to acquire possession of the unfit houses by negotiation. If this is unlikely to succeed, the negotiations become unduly protracted or the owner of a house cannot be traced LHAs can make a compulsory purchase order (CPO). Assuming the compulsory purchase process, which is described below, is completed satisfactorily and the LHA gains vacant possession of all the buildings in the clearance area the authority can undertake the demolition itself or sell the land on to a developer to demolish and redevelop.

Until the mid-1980’s land cleared of unfit housing was often redeveloped for new housing by the LHAs themselves to add the new homes to their own stock of social housing for rent. Since then Government policy has sought to diminish the role of LHAs as housing providers. Financial resources that previously went into the development of new local authority housing is now channeled through the Housing Corporation to housing associations which are pseudo-public sector social housing providers whose developments are financed by a mix of public and private funds.

In addition to purchasing the land in the clearance area, LHAs may also purchase land:

- surrounding the clearance area that is reasonably necessary to create a site of convenient size and shape for redevelopment, and
- adjoining land which is reasonably necessary for the satisfactory development or use of the cleared area.
The owners and tenants of this added land must also be notified of LHA’s intention and invited to make representations. The added land must be identified on the clearance map and referred to in the clearance declaration.

VII. Managing the Clearance Process

The NRA and clearance declaration process is relatively straightforward and can be planned and programmed to be completed in a fixed period of time. Once the declaration has been made and the numerous interested parties notified the real work of delivering the cleared site begins. The three principal activities must be pursued simultaneously to ensure that the site is cleared and redeveloped efficiently:

- voluntary acquisitions
- rehousing
- planning permission and redevelopment proposals

As LHAs are seeking to make voluntary acquisitions with the threat of a housing compulsory purchase order (HCPO) hanging over the negotiations it is normal practice for the compensation paid to the householders being displaced by clearance to be on the same terms as if the HCPO was in place. There are five main categories of compensation that can be claimed:

- the market value of the land, including buildings, being acquired by the LHA,
- a home-loss payment, an additional sum to reflect and recognize the distress and discomfort of being compelled to move out of your home.\(^1\)

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\(^1\) Home-loss payments are a fixed sum for tenants and a percentage of the market value for owners.
• any depreciation in the value of land or buildings retained by the householders when
the LHA takes part of a land holding,
• the losses that result from being obliged to move to alternative premises,
• professional fees to cover the cost of employing a surveyor to negotiate a compensa-
tion settlement and a lawyer to handle the legal transfer of the property title.

Securing suitable alternative housing for the displaced households is often the most diffi-
cult aspect of clearance. If a displaced household is offered the opportunity to move to a
comfortable home, in a desirable neighbourhood and with their tenure preferences met there
is little opposition to clearance. Unfortunately there is often a gap between the affordability
of the neighbourhood being cleared and of the neighbourhoods to which the LHA wants peo-
ple to move. Also thriving neighbourhoods rarely have sufficient empty homes to accom-
modate the numbers being displaced by clearance. Householders being displaced by clearance
area declarations can apply to the LHA for relocation grants that help reduce the afford-
ability gap.

Resistance to clearance can also be reduced if the communities affected by clearance pro-
posals can see a seamless transition from the declaration of a clearance area to the re-
development of the cleared site. Securing commitments from private sector developers to re-
develop clearance areas early in the process is often difficult as it is rarely possible to set a
date when the site will be handed over. Marketing the site may therefore have to wait until
the last property is demolished although some steps can be taken to reduce the time a site is
left empty: indicative layouts can be commissioned from architects, ground condition and en-
vironmental impact surveys can be carried out and a planning brief prepared.

Also at this stage it may be necessary to respond to requisitions for information from the
Government Office. These requisitions generally concern the clarification of property design
and layout issues that are not immediately obvious from the map submitted with the clear-
ance declaration. The Government Office rarely identifies an issue that would bring the
grounds for declaring a clearance area into question.

Delivering a cleared site can be a lengthy and expensive process. Depending on the size
of the clearance area and the rehousing opportunities available it may take several years to complete. LHAs rarely have sufficient financial resources to fund a large clearance area in a single financial year and it is most unlikely that all compensation claims will be made in a single year. In practice LHAs have a number of active clearance areas drawing funds as and when required from a single budget head. With careful financial monitoring, it is possible for LHAs to balance the rate of expenditure with the funds available.

The effective management of a clearance programme requires the co-ordination of a range of activities and conflicting priorities. LHAs are encouraged to establish regular meetings to monitor the progress and management of clearance areas from declaration to redevelopment. Such working groups would typically include the LHA officials responsible for clearance and rehousing, legal advisors, architects and planners, valuers and negotiators and residents representatives.

VIII. The Compulsory Purchase Order Process

Compulsory purchase orders (CPOs) are made by local authorities and utility companies and confirmed by the national government offices in the name of the Secretary of State. As with much of the legislation in England and Wales the CPO legislation has developed over many years and is contained in various statutory instruments. The principal statutes concerning CPO procedures are the:

- Acquisition of Land Act 1981
- Compulsory Purchase Act 1965
- Land Compensation Act 1961
- Department of Environment Circular 14/94

A major review of this area of law has been underway since 1998. This promises to ra-
tionalize the legislation and codify the various procedures and practices that have developed, however, the fundamental process is unlikely to change. The housing compulsory purchase order (HCPO) procedure discussed below is similar to most CPO procedures.

The process begins with an information gathering exercise which, in the case of compulsory clearance of unfit houses, is part of the NRA process described above. Having identified the land required for clearance the LHA agrees a resolution to use HCPO powers. For unfit housing the authority to use these powers is linked to the declaration of clearance areas. The LHA then collects and records information on land ownership and occupation, again this would form part of an NRA. If residents are unwilling to provide information on a voluntary basis a formal "requisition for information" with a penalty for failure to comply can be served.

The HCPO is then made with a title identifying the general area in which the land is situated for example:

- The Birmingham (Wattville Road, Handsworth) Housing Compulsory Purchase Order 2000.

The order specifies the Act of Parliament authorising the making of the HCPO, the purpose for which the order is being made and the LHA making the order. Attached to the order is:

- a schedule of land within the HCPO with each plot of land in the schedule given a reference number setting out:
  - the extent of the land and individual plots
  - a description of each plot
  - an address or situation
  - names and addresses of reputed owners, leaseholders and occupiers.
- a map which is cross-referenced to the schedule of plots, and
- a "Statement of Reasons" for making the order.
Each person known to have an interest in the scheduled land receives a copy of a notice concerning the making of the HCPO and a copy of the LHA’s Statement of Reasons. The service of these notices is an absolute requirement and LHAs must be able to prove that all reasonable steps have been taken to bring the making of the HCPO to the attention of persons with an interest in the land. The HCPO is also advertised in local newspapers circulating in the affected neighbourhood stating where a copy of the order and plan has been placed on deposit for members of the public to inspect. Both interested parties and the general public have 21 days after the last notice is served or published to object to the making of the HCPO. Objections are addressed to the Government Office.

LHAs must also deliver to the Government Office a copy of the compulsory purchase order, the schedule and cross-referenced map and the statement of reasons. The Government Office requires a certificate stating whether the HCPO is in a conservation area or if there are any listed buildings in the area. Planning legislation in England and Wales contains a presumption that listed buildings and properties in conservation areas should not be demolished. With specific consent from the Government Office it is possible to demolish parts of conservation areas but listed buildings can only be cleared in the most exceptional circumstances.

LHAs must also certify that they have complied with all procedures and formalities and that they have the authority to make the HCPO.

In the absence of any objections, and provided the procedural requirements have been complied with, the Government Office will confirm the HCPO. The LHA notifies the owners of land within the HCPO that the order has been confirmed and makes a “General Vesting Declaration”. A general vesting declaration serves notice on the landowners that the LHA intends to complete the HCPO action by vesting the land in its ownership.

IX. Public Local Inquiries

When an objection is received from anyone with an owner’s interest in land affected by
an HCPO the Government Office, in the name of the Secretary of State, appoints an Inspector to hold a public local inquiry (PLI). Objections can concern virtually any aspect of the HCPO process right back to a difference of opinion as to whether the houses in the underlying clearance area declaration were in fact fit or unfit. Objections that are solely concerned with the level of compensation offered do not result in a public local inquiry, these issues are dealt with by the Lands Tribunal a body specifically constituted to resolve property valuation disputes. The owners of land within the HCPO who object are referred to as “statutory objectors”, objectors who do not own land in the HCPO, including tenants, are referred to as “non-statutory objectors”.

Having decided that an inquiry should be held the Government Office issues “a relevant date”. This is a procedural notice served on the LHA requiring them to produce a “Statement of Case” and all documents that will be relied on at the PLI and to deliver copies to the Government Office and all objectors within six weeks of the relevant date. To LHAs this is one of the most frustrating aspects of the HCPO process. Under the current procedures there is no requirement for the Government Office to deal with the HCPO within a fixed time period. The LHA may have made the HCPO many months before, and after a considerable period of inactivity the Government Office requires a considerable amount of work to be completed in a relatively short period of time.

Since the original clearance declaration the condition of the houses in the HCPO may have changed radically and it may be necessary to re-survey the entire area before a statement on the housing conditions can be made. Also in the more complex cases the LHA may be relying on technical evidence from witnesses from a number of different professional backgrounds. Summaries of this evidence must be written into the statement of case and the completed statement agreed by all those who will be expected to give evidence at the inquiry. Coordinating all of these activities in a six-week period without prior notice strains the resources available to LHAs. On occasions relevant dates have been issued immediately before the Christmas and New Year public holidays severely reducing the number of working days available to prepare the statement of case and the number of staff available to do the work.
The Government Office may have notified the LHA of the date of the PLI on the relevant date or may have waited until after the statement of case is served. At this stage the LHA’s witnesses will be preparing the written evidence to be presented at the PLI. It is essential that these statements are made available to all of the LHA’s advocates and witnesses in advance of the PLI to ensure that no contradictory evidence is presented.

A formal Notice of Inquiry is posted in and around the HCPO site fourteen days prior to the inquiry.

In complex cases the Inspector may hold a pre-inquiry meeting to deal with the identification of the witnesses to be heard, the length of time each will require to give evidence, the exchange of proofs of evidence and other practical arrangements that will assist the smooth running of the PLI.

PLIs are formal hearings and adversarial in nature but are conducted in a more relaxed manner than a judicial hearing. The Inspectors have some flexibility in how the inquiry is conducted but the following features are common to all PLIs. The Inspector sits at a table at the head of the room with a separate table to one side for witnesses to sit at when giving evidence. The advocates for the LHA and the objectors have tables at opposite sides of the room. Before April 2002 the advocates were required to stand while addressing the Inspector or examining a witness but this has now been relaxed. The advocates may be qualified lawyers, members of other professions or lay advocates. Legal assistants and their principal witnesses may accompany the advocates; alternatively the witnesses may sit away from the advocates in a seating area also occupied by observers.

The PLI is opened by the Inspector introducing him/herself to the assembly and setting out the ground rules for how the PLI will be run. The LHA’s advocate then reads the formal Notice of Inquiry and then summarises the LHA’s case. The LHA’s witnesses then present their evidence. If proofs of evidence have been exchanged in advance these may be taken as read, although the Inspector may ask for specific parts to be read aloud. After presenting their evidence the witnesses are examined by the LHA’s advocate, cross-examined by the objectors’ advocate and then re-examined by the LHA’s advocate. Once the LHA’s witnesses have completed their evidence the statutory objectors have their opportunity to be heard, ex-
examined, cross-examined and re-examined. The Inspector may also allow non-statutory objects to be heard. When all of the evidence has been heard the advocates make their closing statements summarizing the evidence.

The Inspector reports his/her findings to the Secretary of State with a recommendation that:

- the HCPO is confirmed unaltered, or
- the HCPO is confirmed with alterations, or
- the HCPO is rejected.

Recommended alterations may involve the redesignation of unfit houses as fit but still included in the HCPO as added land, alternatively individual properties or parts of properties may be excluded from the HCPO. In due course the LHA and the objectors receive the Secretary of State’s decision but again there is no fixed time scale for a decision to be made. When dealing with CPO issues the Secretary of State is in a quasi-judicial position but remains a politician subject to the pressures that constituents can apply. However, in most cases the Secretary of States’ decision follows the recommendation of the Inspector, only in the most politically sensitive cases do Secretaries of State consider it necessary to overrule an Inspector. As with most administrative procedures in England and Wales the Secretary of State’s decision is subject to an appeal by way of judicial review and it may be some time before the LHA is able to proceed to vesting.

X. Alternative Compulsory Purchase Powers

The advantages to LHAs of using the compulsory clearance of unfit housing as a housing regeneration mechanism has already been considered. This mechanism has its own specific disadvantages in addition to the various bureaucratic obstacles that are common to all CPO
processes, irrespective of the legal mechanism being used. The disadvantages of using the clearance of unfit housing as a regeneration tool are that it:

- relies on a significant percentage of the houses in an area being unfit, and
- the level of additional land that can be added is limited.

The alternative compulsory purchase mechanisms that can be used for housing regeneration also have advantages and disadvantages.

XI. Acquisition of Land for Housing Purposes

Part II of the Housing Act 1985 allows LHAs to acquire by agreement or by compulsory purchase:

- land to build new houses,
- houses or suitable buildings with the land they occupy,
- land for board, laundry, shop and recreation facilities, and
- land for works to alter, enlarge, repair or improve an adjoining house.

In theory the LHAs can either build, or have built by others, houses to let or for sale on land acquired using these powers. Alternatively the land can be used to provide facilities in support of a housing development such as access roads and playgrounds. A quantitative or qualitative housing gain must be achieved and the new houses provided must meet a housing need.

Where this power is used to acquire unwanted housing for demolition and redevelopment a qualitative gain is easily achieved using covenants and planning restrictions to specify the tenure, affordability and design of the new houses. A quantitative gain, however, may be un-
welcome in a neighbourhood with a large number of empty homes.

The Government has imposed conditions limiting the apparent flexibility of Part II HCPOs. The use of these powers is described as being acceptable to enable private or housing association developments.

By inference this prevents the LHA building new social housing to rehouse its own tenants and in some neighbourhoods the history of uncontrolled housing association investment has contributed to the decline in local housing markets. The Government’s guidance also states that a CPO cannot be justified unless the development will be completed within 3 years although the primary legislation states that the redevelopment must be completed within 10 years. The acquisition and rehousing process that needs to be completed before redevelopment can take place may easily take more than 3 years especially if a PLI or judicial review is invoked.

The conditions that most seriously restrict the use of Part II HCPOs for regenerating a declining neighbourhood are that:

- the land can only be used for housing purposes when the greater need may be new employment or education opportunities,
- the new houses must meet a specific housing need whereas the aim in declining neighbourhoods is to create housing demand,
- unlike CPOs to deal with unfit housing, Part II CPOs do not entitle displaced households to relocation grants.

XII. Housing Renewal Areas

Part VII of the Local Government and Housing Act 1989 allows LHAs to declare a housing renewal area. Having declared a renewal area the local housing authority may provide housing accommodation by acquiring by agreement or compulsory purchase:
any land on which there are premises consisting of or including housing accommodation,
or which forms part of the curtilage of any such premises.

The land acquired in renewal areas must be used for improvement or repair of premises and the proper and effective use of housing accommodation for the well being of the persons residing in the area. On the basis that unwanted housing is not being effectively used and dereliction is detrimental to the well being of a neighbourhood this power can be used to acquire houses for demolition and redevelopment. The LHA must demonstrate that the CPO is necessary to secure the objectives of the renewal area, which are based upon economic, social, environmental and housing needs.

The LHAs’ objectives when dealing with declining neighbourhoods is to make them self-sustaining in economic, social, environmental and housing terms and therefore grounds exist to declare renewal areas in all failing neighbourhoods. The Government has recently reduced the preconditions for declaring Renewal Areas making them more attractive as regeneration tool. Another advantage of making CPOs in a Renewal Area is that the order would not be dependant upon the majority of the houses being unfit.

The first disadvantage of HCPOs in renewal areas is that the land must be used for housing purposes, which may conflict with the greater needs of the neighbourhood. Secondly the power to make these CPOs only relates to existing housing land making them inappropriate for derelict commercial or industrial sites. The third and greatest disadvantage to an LHA with limited resources is the need to declare a Renewal Area; this is a very bureaucratic and protracted process.

XIII. Acquisition for Planning and Public Purposes

Part IX of the Town and Country Planning Act 1990 gives local authorities the power to
acquire compulsorily any land in their area that is:

- suitable for and required in order to secure the carrying out of development, redevelopment or improvement, or
- required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated, or
- adjoining land required for the purposes of executing works to facilitate development, or
- land to exchange for common or open spaces and fuel or field garden allotments

This CPO power is expressed in wide terms but is not to be used in place of a more specific acquisition and / or enabling power. So if land for a housing development is being assembled the Secretary of State will have regard to the policies set out in the housing legislation, therefore planning compulsory purchase orders have the same advantages and disadvantages as the Part II HCPOs.

XIV. Compulsory Purchase and Compensation Review

The wide ranging consultation exercise undertaken by the Government in its review of the CPO process has brought into the open the many concerns of local authorities, landowners and the various professional groups involved in land and property issues. Some of the conflicting interests are irreconcilable but on one subject most parties were agreed. The law relating to compulsory purchase in England and Wales is too complicated and has become fragmented into numerous pieces of legislation and guidance notes. The Government has promised to rationalise the legislation and codify the various best practices that have developed.

The review has also revealed that many LHAs are reluctant to invoke CPO powers either through a lack of resources or because the expertise needed to make and enforce a CPO has been lost during a generation when housing refurbishment rather than clearance was in
fashion. To help fill this skill gap the Government has published a CPO manual setting out the wide range of powers currently available to local authorities. However, the change that would most assist LHAs struggling with failing neighbourhoods is the introduction of a general housing or neighbourhood regeneration CPO power.

The need to bring about a radical change in local housing markets rather than simply remove unfit or unwanted housing justifies such a power being created. LHAs need to be able to use a CPO irrespective of the current and proposed land use and to be able to offer realistic compensation packages to displaced owners and occupiers if sustainable neighbourhoods are to be created in some of the towns and metropolitan areas in England and Wales.

References

1. The Land Compensation Act 1961
2. The Compulsory Purchase Act 1965
3. The Acquisition of Land Act 1981
4. The Housing Act 1985
5. The Local Government and Housing Act 1989
7. Department of the Environment Circular 5/93—Compulsory Purchase
8. Orders Made Under Housing Powers