

Annex B – Legal Implications

1. Part XVII of the Housing Act 1985 applies to the compulsory purchase. This in turn applies, with modifications, the Acquisition of Land Act 1981 (compulsory purchase procedure), the Compulsory Purchase Act 1965 (post confirmation procedure) and the Land Compensation Act 1961 (amount and assessment of compensation).
2. Compulsory Purchase Orders must be advertised locally and copies served on all owners, lessees or reputed lessees, tenants or reputed tenants (other than lessees), and occupiers (except tenants for a month or less). If any statutory objector (a statutory objector can be an owner, lessee or occupier, not a licensee or tenant for one month or less of land within the Order) has objected within the stipulated period and not withdrawn the objection, the Secretary of State can:
 - (i) cause a public inquiry to be held
 - (ii) afford the objector an opportunity of appearing and being heard by a person appointed by the Secretary of State, or
 - (iii) with the consent of the objector, follow a written representations procedure, and then consider his finding before determining whether or not to confirm, quash or modify the order
3. In the event that there is no objection, the Secretary of State may, in certain circumstances, permit the Council to confirm the Order.
4. The confirmation of the Order may be challenged on a point of law within 6 weeks of the publication of such confirmation. Any dispute as to the amount of compensation to be paid is referred for determination by the Upper Tribunal (Lands Chamber).
5. The Council is obliged to act in a way which is compatible with the European Convention on Human Rights. The Convention Rights relevant to Compulsory Purchase are as follows:-
 - a) Article 1 (of the First Protocol) - This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.

b) Article 6 - This provides that in determining civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

c) Article 8 (of the Convention) - This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well being of the country.

d) Article 14 (of the Convention) - This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or a social origin.

6. These rights are qualified rights and may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. In this case, Compulsory Purchase of land is permitted under the terms of the Housing Act 1985 and is subject to a statutory procedure (giving rights to consultation and to be heard at a Public Inquiry) which is being followed. In addition, compensation is payable making the action fair and proportionate. Furthermore, in relation to Article 14, everyone is treated equally in the context of the policy covering the relevant issues and is subject to the same process/procedure.
7. It is considered that there is a 'compelling case in the public interest' for the purchase of the property, considering the benefits it will bring to the City which would not be achieved by agreement and far outweigh the loss that will be suffered by the current owner. The proposed Compulsory Purchase Order is therefore considered to be compatible with the Convention.