



CPO Example	Compulsory Purchase Case Study
Project Name	Compulsory Purchase of Listed Building using direction for minimum compensation, detached house at Roseangle
Acquiring Authority	Dundee City Council
CPO Type	Planning

OVERVIEW

Dundee City Council used their compulsory purchase powers under the Planning (Listed Buildings & Conservation Areas) (Scotland) Act 1997 to take ownership of a Category C-listed, private residential property to prevent further deterioration and to enable it to be restored and brought back into use. The Council also successfully applied for a Direction for Minimum Compensation to accompany the CPO to enable it to recover the expenses they had incurred in securing the structure and taking title.

BACKGROUND

The property in question is a detached sandstone villa dating from c.1830 in the West End Lanes Conservation Area of the city. After being damaged by fire the property had lain boarded up, vacant and uninhabitable since 1998. It has been on the Buildings at Risk Register since 2005, with its condition recorded as very poor and the category of risk as “high”.

The building is surrounded by residential properties and, due to its condition, was a significant eyesore in an otherwise attractive area. Its derelict condition was of considerable concern and the owner had undertaken no significant repair work after the fire. The Council served a Listed Building Repairs Notice on the owner in 2014 and they made no objection to this but neither did they undertake any repairs.

“there was no reasonable prospect of the existing owner taking action to secure the proper preservation of the building”

A planning application for change of use to a hotel and an application for listed building consent for refurbishment and extension of the villa were both submitted in 2014. The applications were refused by the Council because the development failed to preserve or enhance the listed building or its setting and would have resulted in a significant impact on the character of the conservation area. These decisions were then upheld by Scottish Ministers on appeal due to the proposed large extension significantly detracting from the setting of the listed building and not preserving or enhancing the character of the wider conservation area.

Having determined that there was no reasonable prospect of the existing owner taking action to secure the proper preservation of the building, the Council decided to utilise its CPO powers under section 42 of the Listed Buildings Act to enable its preservation and restoration.



The contrasting condition of the property at the time of listing in June 1989 (left) and at the time the Listed Building Repairs Notice was served in September 2014 (right)

THE PROCESS

Because the Council elected to use its powers under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 they were required to undertake a number of additional procedural steps before a Compulsory Purchase Order could be submitted. These included:

- correctly serving a Listed Building Repairs Notice (as had been done in autumn 2014, and to which the owner made no comment);
- demonstrating that no reasonable steps were being taken by the owner for the proper preservation of the building (as had been done in the Council's record of engagement with the owner of the property); and
- demonstrating that it was expedient to take steps now to preserve the building (as had been done through the Council's assessment of the property on the Buildings at Risk Register).

The Council, having satisfied itself that all necessary procedural steps had been taken and that the preservation of the listed building in the public interest supported intervention, resolved to undertake compulsory purchase and began preparing the Order and accompanying documentation, including the Statement of Reasons.

At this time the Council also decided to apply for a Direction for Minimum Compensation. Under section 45 of the 1997 Act an Acquiring Authority may apply for such a direction if they are satisfied that the listed building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or an adjoining site. The effect of such a Direction is to exclude any potential development value from compensation calculations.

The Council submitted the draft Order to the Scottish Government in November 2015. No objections to the Order (nor to the Direction for Minimum Compensation) were received from the owner or any other interested party and, hence, a Public Local Inquiry was not required. The Order, including the Direction for Minimum Compensation, was confirmed by Ministers in August 2016.

The Council took title to the property on 15 December 2016 and, having completing some preliminary works, is about to market the property for sale. A number of enquiries about the property have been received and the Council expects to complete a sale shortly and for the building to be renovated and brought back into use as a private residence. Having had the Direction for Minimum Compensation approved the Council intends to offer compensation to the owner that reflects the sale price minus the costs that it has incurred in securing the property and undertaking the CPO.

CONCLUSION & LEARNING POINTS

This case illustrates how compulsory purchase powers can be used effectively to obtain title to listed buildings where the owner is failing to maintain the building to its detriment. In addition, the successful application for a Direction for Minimum Compensation demonstrates how the Council can recoup the costs that it incurred in securing the building and obtaining title to the property by enabling them to withhold these from any compensation paid.

By taking ownership of the property the Council will be able to bring it to the market for restoration and reuse as a private residence. The Council's intervention has also enabled the character and appearance of the wider conservation area to be maintained.

This was the first time that the Council had applied for a Direction for Minimum Compensation but it was confident that the history of the property and its documented engagement with the owner supported the Direction.

By systematically checking that it had fulfilled all the procedural requirements for a listed building CPO, the Council made a powerful case for intervention and ensured that the confirmation process was straightforward.

The use of compulsory purchase powers in this case has demonstrated to the officers involved that this is a practicable and powerful tool that can be used to prevent other listed buildings from deteriorating, and thereby impacting on the attractiveness of neighbourhoods to existing and potential future residents.

Dundee City Council

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