



Department for Levelling Up,  
Housing & Communities

**Lucy Hargreaves**  
*Deputy Director, Development  
Management*

**Department for Levelling Up, Housing  
and Communities**  
3rd Floor, Fry Building  
2 Marsham Street  
London SW1P 4DF

31 January 2024

Dear Sir/Madam,

## **COMPULSORY PURCHASE: IMPORTANT INFORMATION FOR PROPERTY INVESTORS**

I am writing to advise you that section 189 of the Levelling-Up and Regeneration Act 2023 ('LURA') which introduces changes to the compulsory purchase compensation regime, specifically how the prospects of planning permission for appropriate alternative development are to be assessed, was commenced on 31 January 2024.

Section 189 of the LURA makes several amendments to the Land Compensation Act 1961 ('the 1961 Act'), in particular sections 14 and 17 which deal with:

- the assessment of value to be ascribed for compensation purposes to the planning potential of land which is to be compulsorily acquired, or that is required to be purchased by an authority, and
- the process for assessing that planning potential.

Section 14 of the 1961 Act sets out how the planning prospects of an interest in land should be assessed by a valuer in accordance with rule 2 of section 5 of the 1961 Act. It contains statutory assumptions which a valuer must make to discount the effects of the compulsory purchase scheme including an assumption that the scheme was cancelled on its launch date and that no other statutory or compulsory-purchase scheme to meet the same need is in prospect.

Section 189 of the LURA makes changes to section 14 of the 1961 Act so that the ways in which the prospect of planning permission being granted after the valuation date can be valued are clearer:

- a) New section 14(2A) of the 1961 Act provides that if a description of development is certified under section 17 of the 1961 Act as appropriate alternative development then it is to be taken as certain for valuation purposes that planning permission would be (or would have been) granted on the relevant valuation date for development of that description.

- b) Otherwise, new section 14(2B) of the 1961 Act sets out that the prospects of planning permission are to be assessed for valuation purposes based on the statutory assumptions and the circumstances known to the market at the time.

Amended section 17(1) of the 1961 Act enables either party directly concerned with a compulsory purchase to apply to the local planning authority for a certificate of appropriate alternative development (CAAD) that would state that there is development which in its opinion would constitute appropriate alternative development. The application for a CAAD must contain a description of the development that is claimed to be appropriate alternative development (amended section 17(3) of the 1961 Act). The local planning authority is required to consider whether it would have been more likely than not to grant an application for planning permission for development of that description if the statutory assumptions applied and otherwise in the circumstances known to the market at the time (new section 17(1B) of the 1961 Act).

The changes made to sections 14 and 17 of the 1961 Act by section 189 of the LURA are summarised as follows:

- What constitutes appropriate alternative development and when the prospect of planning permission is to be assumed to be certain. These mean a CAAD must always be obtained to establish appropriate alternative development and only where one is obtained will it be taken as certain for valuation purposes that planning permission would have been granted on the relevant valuation date.
- Appropriate alternative development can no longer be established on a date after the relevant valuation date.
- The process for obtaining a CAAD under section 17 of the 1961 Act has been simplified. I.e. it is no longer incumbent on the local planning authority to identify all other appropriate alternative development outside of what was described in the CAAD application (apart from development that is within the same description but less extensive than that identified in the application).
- The requirement for acquiring authorities to pay landowners' CAAD costs has been removed.
- The date of determination of a CAAD where the relevant valuation date has not yet occurred has been clarified, following the case of *Lockwood and others v Highways England Company Ltd [2019] UKUT 104 (LC)*. So, for example, in the circumstances where a notice to treat is deemed to be served following acceptance of a blight notice. In these cases, the date of determination is to be taken as the date the CAAD application is determined.
- It has been clarified that CAADs may still be applied for even where an acquiring authority has acquired the land in question via a general vesting declaration but before compensation has been agreed or awarded.

For the changes outlined above (and for further consequential changes made to sections 18, 19, 20 and 22 of the 1961 Act by section 189) we have implemented a safeguard meaning they will not apply to any acquisition where the first relevant notification date occurs before section 189 of the LURA comes into force on 31 January 2025. In those circumstances, the versions of sections 14 and 17 of the 1961 which existed before they were amended by section 189 of the LURA will apply. The “relevant notification date” means the date on which:

- a) in the case of an acquisition authorised by a compulsory purchase order:
  - (i) notice of the making of the order, or
  - (ii) where the order was made by a Minister, notice of the preparation in draft of the order,has been published or served;
- b) in the case of an acquisition authorised by a special enactment, the special enactment was introduced to Parliament;
- c) an offer in writing has been made by or on behalf of a relevant authority to negotiate for the purchase of an interest;
- d) in the case of a notice served under any enactment requiring the purchase of an interest (other than as set out in (e)-(g) below), the relevant authority is to be deemed to have served a notice to treat in respect of that interest;
- e) in the case of an acquisition authorised by an order made under the Transport and Works Act 1992, notice of the application for such order was published under article 14 (publicity for application) of The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;
- f) in the case of an acquisition authorised by an order made under the Planning Act 2008, the applicant first gave notice of its application under section 56 (notifying persons of accepted application) of that Act; or
- g) in the case of an acquisition authorised by an order made under the Harbours Act 1964, notice of the application for such order was served under paragraph 11 of Schedule 3 (procedure for making harbour revision and empowerment orders) of that Act.

**The purpose of this letter is to provide a year’s notice from the date of commencement of section 189 of the LURA to enable landowners currently in a position to apply for a CAAD, blight notice or other situation enabling use of the current provisions (or who will be in that position by the time section 189 comes into force on 31 January 2025) to do so under the existing legislation.**

**Please ensure your clients and members are made aware of the contents of this letter.**

This letter has been sent to the organisations listed in Annex A.

**Yours sincerely,**

**Lucy Hargreaves**

**Deputy Director, Development Management**

Annex A

Compulsory Purchase Association

Royal Institution of Chartered Surveyors

Law Society

Planning and Environmental Bar Association

British Property Federation

Country Land and Business Association

Local Government Association