

## **COMPULSORY PURCHASE ASSOCIATION**

### **Report of the Chairman for the year 2008-2009**

When I was elected 12 months ago, I had high hopes that the Association's reform initiatives could be advanced further. At that stage there had been judicial criticism of both the complexity of, and the anomalies in, the statutory code for the determination of the planning status in the Greenweb and Spirerose cases. Although the National Committee of the Association had received a number of proposals for early reform, such as to section 52 of the Land Compensation Act 1973, to provide a more effective remedy where requests for advanced payments are not timeously met, and to section 10 of the Compulsory Purchase Act 1965, the National Committee, on my urging, adopted a policy of initially pursuing reform of just the planning status rules to begin with. That was because there was no general agreement as to reform proposals in other areas of the compulsory purchase and compensation codes, and it was felt that the judicial criticism of the planning status rules would provide the grounds to persuade Ministers to assign the necessary departmental and Parliamentary time to make reforms.

Accordingly, last February, some members of the Committee met Richard Benyon MP for Newbury, who took an immediate interest in the problem and immediately put down a Parliamentary question to the Minister. The Secretary of State for Communities and Local Government provided a slightly hopeful answer in that she was prepared to meet us and discuss the matter. Again, some members of your Committee met first, the Parliamentary Under Secretary of State, Ian Wright MP, and later the Shadow Minister, Justine Greening MP. Parallel with these meetings, the

use of legislative reform orders was discussed with the Department as a possible procedure to achieve reforms without the necessity of primary legislation. It was clear that the Department was cautious about their use. Unfortunately the decision of the House of Lords in Transport for London v Spirerose [2009] UKHL 44, to the effect that there were no anomalies in the statutory code for planning assumptions, especially the provisions for a relevant date in relation to certificates of appropriate alternative development, which could be many years earlier than the valuation date, put a spoke in the wheel of law reform. A letter in July from Ian Austin MP, the Parliamentary Under Secretary at the Department, made clear that the Government still takes the view that the Law Commission's proposed reforms in relation to compulsory purchase would require substantial further work and that in the context of many other priorities for both resources and Parliamentary time, the implementation was not seen as a practicable proposition in the foreseeable future. As regards cases like Spirerose, he said that given the Government's present priorities "we shall have to rely on the developing body of case law to deal with disputes about the 'no scheme world'".

I do not think that our reform objectives should be abandoned; it is important to keep the Department fully informed at all times of all anomalies and difficulties that arise under the legislation. In that regard we are very much dependent upon practitioner members providing us with concrete examples of problems.

We were consulted by the Department of Environment, Food and Rural Affairs about commons legislation and compulsory purchase, by the Lands Tribunal about draft new rules, and by the department of communities and

local government about a range of issues including the implementation of the Planning Act 2008.

Turning to the calendar of events of the Association during the last 12 months, we had a very successful dinner in February; our guest speaker Lord Neuberger of Abbotsbury gave us some words of wisdom. I am sure the Association would wish to wish him well in his new post as the Master of the Rolls, in effect the head of the civil judicial system. The drinks reception in April at the Oriental Club was also a great success, with useful networking, and a helpful introduction to a number of important people in our business, including the Chairman of the Infrastructure Planning Commission, Sir Michael Pitt. We had both good speakers and a good attendance at the National Conference in June, and I want to thank all involved in making that a success.

The International Rights of Way Association, the body equivalent to ours in the United States, but having an international aspect to its objections, made contact with us with a view to sharing experiences. Doug Hummel from that association attended our conference, and presented the rather nice chairman's gavel, and Colin Smith, past chairman attended their conference in July. I hope ideas and exchanges will continue to be exchanged.

The regions have been active, and I was able to speak at regional meetings in London, Birmingham, South Wales and Liverpool, where the respective regional convenors had each put on interesting programmes.

The Association's website has been substantially revamped to everyone's advantage, and I want to thank Paul Astbury and Vanessa Lambert, and

others behind the scenes, for their considerable help in this regard. Stephen Bowman has been our Honorary Treasurer for some time, and retires this year. Under his careful stewardship the financial health of the Association remains good and events and other initiatives have been funded.

I want to thank all members of the National Committee for all the work which they have done this year, and the support they have given me, including the Vice-Chairman, Paul Astbury, who has had to stand in for me on occasions. The Association, at both national and regional level, is entirely dependent upon members providing their own time and services. Finally, I wish to thank our secretariat, principally Mark Barlow and Kate Beresford-Evans for their efficiency and assistance throughout the year. I wish my successor well in his year of office.

BARRY DENYER-GREEN

Chairman Compulsory Purchase Association