

# Engagement with homeowners and landowners

**Martin Wheeler**

Surveyor, EWR Land and Property Team

# Pre-Statutory Consultation

- Relevant homeowners, occupiers and landowners have been contacted individually and offered the opportunity to meet with members of our team to discuss how the project might affect them and to listen to their concerns.
- These comments are being fed back to the project team for consideration.
- Consulted on proposed Need to Sell Scheme.
- Ongoing engagement with landowners for survey access.



Listen to concerns



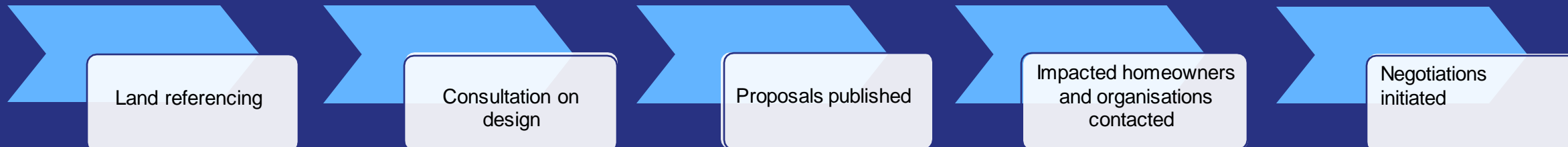
Communicated to relevant team



Engagement and feedback included within project development

# Statutory Consultation

- Undertake a land referencing exercise.
- Consult on the designs we plan to submit in the Development Consent Order (DCO), providing all stakeholders with the opportunity to comment.
- Publish proposals on how we will acquire the property / land rights required to deliver the project.
- Homeowners and landowners whose property / land is likely to be required for the project would be offered the opportunity to discuss the project and the proposals for property / land rights acquisitions.
- With the commencement of Statutory Consultation, we will initiate negotiations with the aim of reaching agreements with homeowners and landowners whose property / land will be required for the project.



# DCO submission and examination

Before the DCO application submission, we'll reconfirm records to ensure all homeowners and landowners whose land is likely to be required for the project are recorded accurately.

All those directly impacted will receive a statutory notice that the DCO application has been submitted.

They would be invited to submit Relevant Representations.

Prior to submission, we'll strive to reach voluntary agreements with landowners to acquire the necessary land / land rights.

During examination, we'll continue to engage with homeowners and landowners to reach agreements and aim to address concerns raised in any Relevant Representations.





# DCO decision

Ongoing engagement.

After the DCO is granted, we'll then determine the programme for when we need the land for the project. This will inform which land / land rights are required, and when.

In the event we are not able to acquire ownership of the land (shown on the DCO plans) which we require for the project by agreement with landowners, EWR Co would have the ability to exercise the powers conferred by the made DCO to acquire that land through a compulsory acquisition process

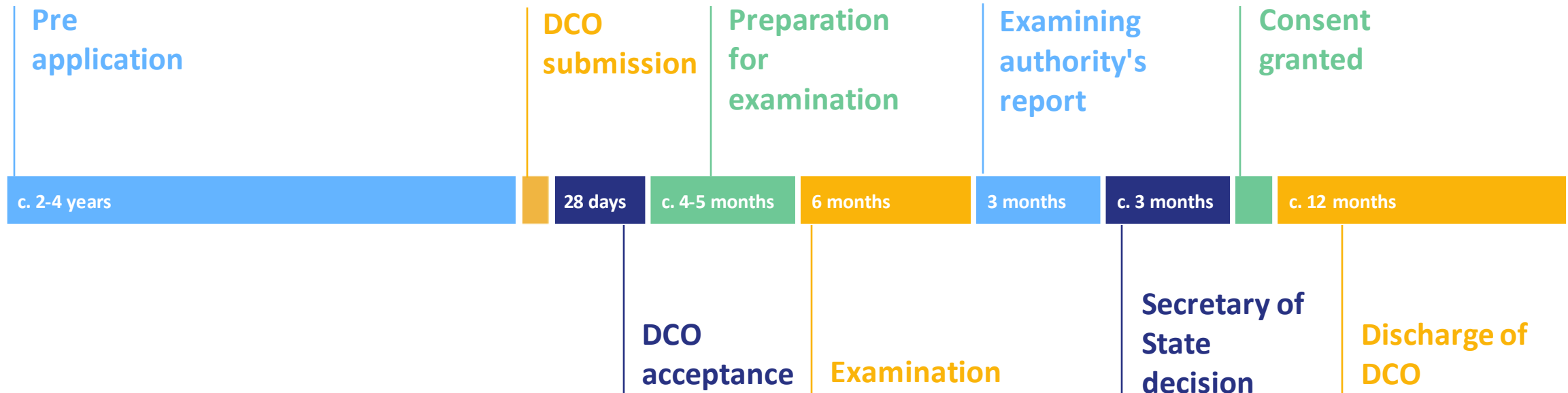
# Compulsory acquisition

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Surveyors, EWR Land and Property Team



# Outline of the DCO process



# What is the process for acquiring land by compulsory acquisition?

- Identify landowners, other occupiers and those with rights in land, and record in a Book of Reference (BoR).
- After the DCO comes into force there will be a period (usually 5 years) in which the powers of compulsory acquisition can be exercised.
- Acquiring land or rights in land is achieved by the use of a General Vesting Declaration (GVD) or Notice to Treat/Notice of Entry (NTT/NOE). The land ownership is checked and formal notices are served on all affected parties that the land is required and when entry onto it will be taken.
- GVD would give EWR the ownership of the land immediately when the notice takes effect.
- NTT/NOE are two separate notices, the first advises the owner that EWR wishes to acquire the land and the latter informs the date that entry will be taken. EWR will own the land when the compensation for the land has been agreed but will be able to take possession before that.



# What is temporarily acquiring land and what is the process?

- Some land may also be required temporarily by the project, eg for site compounds and for utility diversions.
- After the DCO comes into force then temporary possession notices can be served for the required land (as identified in the DCO application).
- The usual position is that, upon completion of the work, the land will be returned to its original condition to the reasonable satisfaction of the landowner.

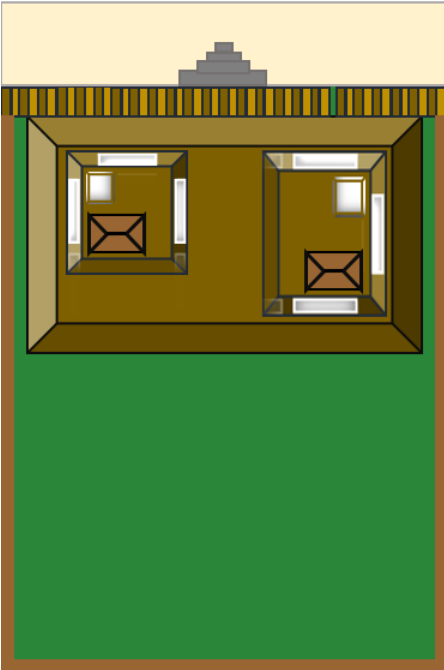
# How will people know if they are entitled to make a claim for compensation arising from compulsory acquisition of their land?

- After the DCO is granted, EWR Co will make a decision about when the land in the DCO is needed and, where we've not been able to acquire by agreement, this will need to be acquired by compulsory acquisition and formal notices will be served on the owners and relevant occupiers of that land.
- Anyone receiving a formal notice advising them of the land/rights to be acquired will be entitled to make a claim if they meet the criteria. This will also include a claim form to complete.
- We'd recommend that parties instruct a suitably qualified and experienced surveyor to act for them and they will guide the claimant through the claim process and submit the claim on their behalf.

# What is compulsory purchase compensation?

- The right to compensation for those who have had their land acquired compulsorily by EWR Co is governed by something called the 'Compensation Code' - a collection of statutes and case law related to the assessment of compensation for compulsory acquisition.
- A general principle that underlies the compensation code is that of equivalence, so that a claimant should not be in a worse, or better, position financially as a result of their land being acquired compulsorily.

# Compensation for the acquisition of a dwelling



- The market value of the property in the 'no-scheme' world.
- Home loss payment of 10% of value.
- Cost of moving (known as disturbance) including legal fees.
- Reimbursement of surveyor's fees for the preparation and agreement of the compensation claim.
- Statutory interest.
- An advance payment of compensation (90%) can be requested.

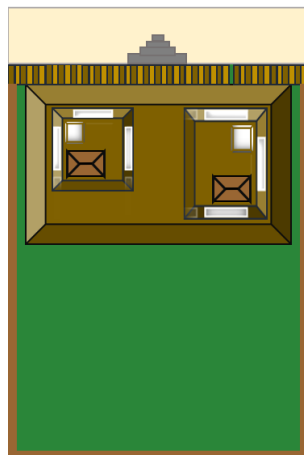
# Compensation for acquisition where only part of a residential property is acquired (e.g. part of a garden)

**X – Original property value**

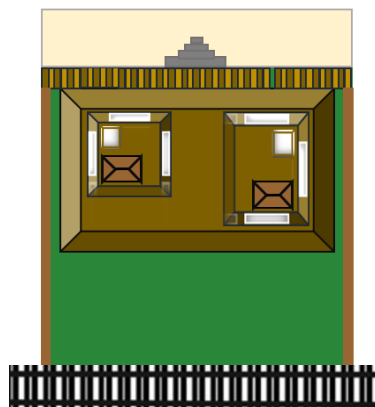
**Z = Value of the retained property**

**Y = Value of garden taken**

BEFORE

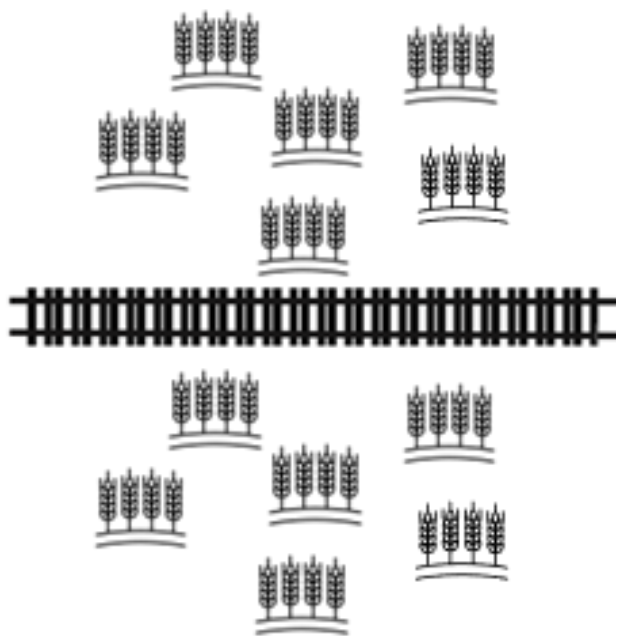


AFTER



- Market value for the land (garden) acquired = Y.
- Basic and occupiers' loss of 10% of the value of the land acquired.
- Compensation for any reduction in value of the remaining land (known as 'injurious affection' and 'severance'). This is calculated as the difference between original value of the property that will be retained (Z) compared to its value taking into account the acquisition of (Y) and the presence of the new railway.
- Disturbance.
- Reimbursement of surveyor's fees for the preparation and agreement of the compensation claim.
- Statutory interest.
- An advance payment of compensation can be requested.

# Compensation for acquisition where part only of a farm is acquired



- Market value for the land acquired.
- Basic and occupiers' loss of 10% of the value of the land acquired.
- Injurious affection and severance. This is calculated in the same way as the previous example being the difference between original value of the retained farmland compared its value after the acquisition – also taking into account the presence of the new railway).
- Disturbance.
- Reimbursement of Surveyor's fees for the preparation and agreement of the compensation claim.
- Statutory interest.
- An advance payment of compensation can be requested.



# For permanent rights in the land (e.g. for diverted utility services)

- Will normally reflect any reduction in the value of the landowners' property interest resulting from the acquisition and use of the rights, as well as any disturbance compensation that might be applicable.
- Reasonably incurred fees will also be reimbursed, as with permanent acquisition.





# For temporary possession (e.g. construction compounds, construction access routes)

- This will depend on the specific provisions of the DCO, but it is usual for a claimant to receive their reasonably incurred costs and losses relating the temporary loss of their use of the land.



# Where no land is acquired

- Compensation might potentially be claimed under Part 1 (of the Land Compensation Act 1973) or Section 10 (of the Compulsory Purchase Act 1965).
- Part 1 claims are for any reduction in value of a landowners' property due to physical factors of the use of the railway (noise, vibration, smell, fumes, smoke, artificial lighting and the discharge onto the property of any solid or liquid substance)
- Section 10 claims are for any reduction in value of the property where a right in land is affected and, but for the fact that the acquisition is compulsory, would otherwise be actionable in law. For example, a property has a right of access across a neighbouring property and the access over the neighbouring property is blocked.

# Permanent acquisition heads of claim continued: Fees

- This is primarily the reimbursement of reasonable surveyor's and/or solicitors fees for the preparation and agreement of a compensation claim.
- The RICS has produced a mandatory guide which must be followed by surveyors acting for both acquiring authorities and claimants.



# What happens if compensation cannot be agreed?

- The claim is submitted by a claimant and will be assessed by EWR Co. However, in the event that compensation cannot be agreed, any party can refer the matter to the Upper Tribunal (Lands Chamber). Other forms of alternative dispute resolution (ADR) may also be considered.
- A payment of advance compensation (90%) can be requested by a claimant after EWR Co has taken possession of their land, so would only leave disputed amounts to be paid once the tribunal has ruled on the total amount to be paid.



# Summary and key points to note

- We'll be engaging and consulting with landowners through the various stages of the process as our proposals are published.
- We'll be seeking compulsory acquisition powers for use where we are not able to reach an agreement with the landowner to purchase the land.