NetworkRail

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Shared Value Guidance
Example Illustrative Case

A developer has an option over 200 acres of farmland owned by a farmer landowner, as a result of an indication from the Local Authority that the land has potential for allocation as a future housing site. The land is however separated from the adjacent urban area by an operational railway line. To access the site, a new road over the railway is required, and the acquisition of rights to bridge over the railway.

In this situation, the land is currently worth agricultural value, and with the allocation the value would uplift to residential site values. If the rights were acquired by Compulsory Purchase the test would be whether a reasonable developer would be likely to buy the rights for the road in the absence of compulsory purchase powers. The compensation to the railway would then be assessed as what that same developer would be prepared to pay for those rights. Essentially the evaluation test is; what is the open market value of the rights in question in the absence of compulsory powers?

The above is simplified to illustrate the basic principles. It would usually be true that the developer would need to incur significant expenditure to get a planning allocation and planning consent and then to build the infrastructure needed to deliver the residential land values. It is fair that these costs be deducted before any assessment of the uplift in value is fixed. The developer, of course, is only likely to proceed if it can make a sensible return on investment in line with market expectations, and that should also be factored in. Costs, such as consultants' reports, design, engineering, valuation, legal etc. also need to be factored in, along with interest on necessary funding needed. Planning consent will usually require S106 obligations and community infrastructure levy (CIL) requirements; these costs also need to be considered. The costs of the bridge over the railway and any Network Rail (NR) engineers' costs in approving and supervising it should also be included.

It is likely that a reasonable land owner will only release its land for development if it receives a sensible uplift on its current land value, and this value should also be factored in. Once all of the costs and the base existing use value (with a sensible release premium) are known, this can be compared to the likely end values of the development proposed, in this case, housing. The excess, should there be any, of values over costs represents a profit over and above the base returns that all parties need to justify proceeding with the project. It is this element of additional value that NR would look to share in. NR does accept that where genuine railway improvements are offered (such as a station enhancement) that it would agree that this is a contribution towards the payment NR should receive.

Once the quantum of land value uplift has been established it is then necessary to determine what shares the parties should receive. In this example, NR is the only other party from which rights are required, and NR would request 50 % of this super-profit. The other 50 % remains with the land owner and developer in whatever way they agree.

If, in this example, there had been a further land owner over whose land the same rights were needed to connect the existing highway, then it would be reasonable for the 50 % figure to be shared between the two key holding land owners in a proportion to be agreed. In this scenario, the remaining 50 % still sits with the landowner/developer side allocated between them, as they agree, and hence the existence of multiple key-holders should not impact negatively on the land owner or developer.

In this example, an early approach to NR is helpful to all parties. It gives the developer certainty that the access can be delivered, which reduces scheme and planning risk. The early agreement of a payment sum or payment calculation mechanism gives financial certainty to both the developer and the landowner. It also gives certainty to the local authority that the scheme is viable and can deliver the required benefits package.

Enquiries

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