

GUIDANCE NOTES

Compensation when no land taken

Compensation is payable when there is a reduction in value caused by:

- The construction of the public works
- The subsequent use of the public works

Use of the Works (Part 1 Claim)

This right to compensation is set out in Part 1 of the Land Compensation Act 1973. This is commonly referred to as a "Part 1 Claim". It applies to certain works such as a highway.

In order to be able to submit a claim you must own a qualifying interest in the land, before the relevant date.

Relevant Date

If the public works in question is a highway, the relevant date is the date on which it was first open to public traffic.

Qualifying Interest

A qualifying interest is a freehold or a tenancy in a dwelling house or flat with at least three years unexpired term at the date of the notice of claim.

Valuation Date

Compensation is based upon prices current on the first claim day, which is 12 months after use of the highway first commenced. Interest is payable from the date the claim is submitted until payment.

Basis of Compensation

Compensation is based upon the depreciation in the value of land due to the "physical factors" caused by the use of the public works.

Physical Factors

The seven specified physical factors include:

- Noise
- Vibration
- Smell
- Fumes
- Smoke
- Artificial light
- Discharge onto the land of any solid or liquid substance

Any depreciation in value which is attributable to reasons other than these seven specific factors is not compensable. For example loss of a view is not compensable.

The important distinction between this and a claim for the execution of works is that it is the use of the works which must cause the depreciation. For example, if a roadway is constructed in close proximity to a house, any claim under Part 1 must relate to the depreciation in value caused by the noise and other physical factors associated with the traffic using the road and not to the physical existence of the highway.

If you sell your property before the first claim date i.e. the valuation date you must make a claim between exchanging contracts and completion or you will lose your right to compensation.

For further information, please contact Davis Meade Property Consultants on 01691 659658 (Oswestry Office) or 01492 510360 (Colwyn Bay Office).

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