Compulsory Purchase Process and Compensation Reforms

Title: WDC Response to - Compulsory Purchase Process and Compensation Reforms

Version 1

Date: 2 January 2025

Introduction

On 19 December, as part of a wider package of reforms to the planning system in England, the government proposed changes to the rules governing the Compulsory Purchase of Land in England.

The consultation can be read in full here - https://www.gov.uk/government/consultations/compulsory-purchase-process-and-compensation-reforms

The formal consultation runs from 19th December until 13 February 2025.

The proposals are split into two sections - Section 1 of the consultation sets out our proposed reforms to the LURA power allowing directions to be sought to remove hope value from the assessment of compensation. Section 2 outlines proposals to make technical changes to improve the general CPO process and the rules for the assessment of compensation.

The consultation has detailed questions, each allowing free text responses. The following sets out the Councils suggested response -

Section 1 – Hope Value Directions

Question 1: Do you agree that directions to remove compensation payable for prospective planning permissions ("hope value") should be allowed to be included in CPOs made on behalf of parish/town or community councils by local authorities under section 125 of the Local Government Act 1972 where the schemes underlying the orders are providing affordable or social housing?

Yes. Whilst we are not currently aware of any such proposals in our area, if such a scheme did come forward, we would be supportive of these rights applying to Parish/Town Councils. By their nature such schemes will likely have broad community support and be delivering public goods and so it is right that there is a route to set aside hope value.

Question 2: Do you agree that a decision on the confirmation of a CPO which includes a direction to remove value attributed to the prospects of planning permission (i.e. "hope value") from the assessment of compensation for land taken should be eligible, where the relevant criteria in guidance are met, to be undertaken by:

Inspectors where there are objections to the order; and

Acquiring authorities providing there are no objections to the order?

Yes. This change would simplify the process for all concerned and make the use of the power more attractive. Those against the use of the powers would still have the normal routes to challenge and so are not disadvantaged.

Question 3: Do you agree that the decision-making function of the confirming authority relating to the making of a direction for additional compensation under Schedule 2 of the Land Compensation Act 1961 should be eligible to be undertaken by an inspector?

Yes. This will help to speed up the process and not disadvantage any party.

Question 4: Do you agree that section 14A of the Land Compensation Act 1961 should be amended to make it clear that directions to remove hope value should apply to other heads of claim where open market value is a relevant factor in the assessment of compensation?

Yes, we consider that consistency is important in public administration.

Question 5: Another approach to removing hope value from the assessment of compensation could be to allow the Secretary of State in England or the Welsh Ministers in Wales to issue general directions for sites which meet certain defined criteria. We would welcome examples of brownfield sites suitable for housing in your areas (e.g. through an allocation) where a planning permission has not been sought along with the reasons why. In particular, examples of sites where either:

it is claimed the delivery of the scheme with minimum affordable housing provision and other obligations such as provision of public infrastructure is not viable; or

the costs associated with the value associated with the prospect of planning permission ("hope value") has made the scheme unviable.

We have very little available brownfield land in our district and so this is not applicable to us directly. However, we support the concept in principle to ensure that across the Country stalled brownfield sites are brought back into use.

Question 6: We would welcome views on why you think, in the circumstances of the example(s) given in question 5, the removal of the value associated with the prospect of planning permission ("hope value") where CPO powers are used could help deliver a housing scheme which meets the policy requirements of the local authority and how it would help address the problem outlined in the example.

N/A

Question 7: We would also welcome your views on whether, in the circumstances of the example(s) given in question 5, there would be any consequences of removing the value associated with the prospect of planning permission ("hope value") from the assessment of compensation as a result of the use of CPO powers and the delivery of land for housing development.

N/A

Question 8: We would welcome views on whether there are any other categories of sites, other than those listed in question 5, which would be suitable for the proposal. If so, please give reasons why you think the removal of the value associated with the prospect of planning permission ("hope value") where CPO powers are used in those circumstances could help deliver a housing scheme which meets the policy requirements of the local authority and how it would help address the problem outlined.

We consider that government could explore the possibility of using this power on all stalled developments. Our Council has granted planning permission for approaching 9000 dwellings, yet only a relatively small proportion of these will get delivered in good time. We have developers holding land with planning consent, in sustainable locations, waiting for land and property prices to rise in order to protect profits, rather then with the central aim of delivering housing numbers – demonstrating that the idea that more planning permissions will result in lower prices is demonstrably false. A good example of this is a strategic site at Ridgewood in Uckfield. A development of 1000 homes was granted by our Council in April 2016, nearly 9 years later only 250 homes have been built. Allowing developers to choose when to bring sites to the market simply does not get the number of new homes, let alone affordable homes built.

Section 2 – Technical Changes

Question 9: Do you agree that notices and documents required to be served under the Land Compensation Act 1961, Compulsory Purchase Act 1965, Land Compensation Act 1973 and the Acquisition of Land Act 1981 should be capable of being served electronically if parties agree in writing to receive service in that manner or where the recipient is a public authority?

Yes. This will help streamline the process and is consistent with modern ways of working.

Question 10: Do you agree that the information relating to the description of land published in newspaper notices of the making and confirmation of CPOs should be simplified?

Yes. The use of online publishing has removed the need for significant print publication.

Question 11: Do you agree that where a CPO requires modification to rectify an error such as a drafting mistake or to remove a plot of land from the schedule and/or map, the acquiring authority should be able to confirm the CPO itself by making the required modification(s) providing: (a) all other conditions under section 14A of the Acquisition of Land Act 1981 have been met, and (b) the proposed modifications are non-controversial in the manner set out in the consultation?

Yes. This will help streamline the process and reduce the risks around minor errors for those who choose to use the powers.

Question 12: Are there any modifications which you think should or should not be capable of being made by the acquiring authority (in addition to the inclusion of additional land in a CPO without the consent of the owner) when confirming its own CPO?

Yes, we would support all the items listed in Paragraph 43 of the consultation.

Question 13: Do you agree that the Secretary of State should be able to appoint an inspector to undertake a decision on whether to confirm or refuse a CPO made under the New Towns Act 1981?

Yes, this will provide consistency and streamline the process.

Question 14: Do you agree the temporary possession powers available under the Neighbourhood Planning Act 2017 do not need to apply to the taking of temporary possession of land under the Transport and Works Act 1992 and Planning Act 2008 as there are sufficient provisions under those consenting regimes which provide for the temporary possession of land?

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Question 15: Do you agree there should be an expedited notice process for the vesting of interests in land and properties under the general vesting declaration procedure in the circumstances outlined in the consultation?

Yes, this will help to streamline the process.

Question 16: If you answered positively to question 15, we would welcome views on whether there are any other circumstances where the expedited notice process for the vesting of interests in land in an acquiring authority should apply?

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Question 17: If you answered positively to question 15, do you agree those with an interest in land included a CPO should be able to enter into an agreement with the acquiring authority for their interest to vest in the authority earlier than the existing minimum 3-months' notice period?

Yes, if all parties are in agreement, there seems no reason to delay matters.

Question 18: Do you agree that the current loss payments should be adjusted as set out in the consultation?

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Question 19: Do you agree that the method of calculating the "buildings amount" under sections 33B(10) – 33C(11) of the Land Compensation Act 1973 should be changed to "gross internal floor area"?

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Question 20: Do you agree that exclusions to home loss payments should apply where one of the statutory enforcement notices or orders listed under section 33D(4) and (5) of the Land Compensation Act 1973 has been served on a person and they have failed to take the required action on the day the relevant CPO which their property is subject to is confirmed?

Yes. We consider it imperative that such properties are bought back into use as soon as practical and the removal of these payments will help provide the necessary impetus to ensure that this happens in more cases.

Question 21: Do you have any comments on the likely impact of the proposals outlined in this consultation on business interests both for the acquiring authority and claimants?

We consider that the changes are likely to increase the use of CPO powers, helping to deliver public goods.

Question 22: Do you consider there are potential equalities impacts arising from any of the proposals in this consultation? Please provide details including your views on how any impacts might be addressed.

No.