



## **Compulsory Purchase Process and Compensation Reforms**

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The City of London Law Society (“CLLS”) welcomes the opportunity to comment on the consultation on Compulsory Purchase Process and Compensation Reforms.

The CLLS represents approximately 21,000 City lawyers through its individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients, from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 22 specialist committees, one of which is the Planning and Environmental Law Committee. This Committee comprises leading solicitors specialising in planning and environmental law in a number of law firms based in the City of London, which act for UK and international businesses, financial institutions, and also work with the City of London Corporation.

If there are any questions for the CLLS in relation to this response, please contact Kevin Hart of the City of London Law Society at 4 College Hill, London, EC4R 2RB: e-mail address [kevin.hart@cls.org](mailto:kevin.hart@cls.org); and telephone number 020 7329 2173.

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**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?**

Whilst there may be circumstances in which the use of such directions by such councils could be appropriate and in the public interest, in general, directions to remove hope value should be used sparingly (compulsory acquisition itself being a power of last resort in accordance with Government guidance) and the use of such powers and their implications should be monitored carefully.

**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?**

Agreed.

**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?**

Agreed.

**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?**

Agreed.

**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.**

**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.**

**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.**

**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 have concerns about the use of general directions in this context. Whether or not hope value can be appropriately removed should be carefully considered on a case by case basis, taking account of the public benefits and the impact on private interests as apply in each case. It is difficult to set criteria which can be universally applied.

By way of example, viability is often an impediment to the development of brownfield sites. This can occur for a myriad of reasons – including high existing use value and / or high decontamination or construction costs arising from specialist build requirements.

Also, the infrastructure burden imposed through CIL and policy requirements can itself render a site unviable. At the time of setting CIL rates and assessing the impact of policy (for example when potential site allocations are examined), full details of site-specific infrastructure requirements and other development costs may not be available. Public infrastructure requirements (whether by way of works or financial contributions) are often only identified during determination of an application as authorities and consultees focus on the scheme.

As such, the identification of suitable development sites where permission has not been sought and where the issue can be resolved through the removal of hope value is not necessarily straightforward.

The obtaining of planning permission is a crucial step on the path to new development and often requires considerable investment – at risk. Those currently prepared to take that risk could well be deterred by the prospects of incurring costs which are not recoverable due to the threat of compulsory acquisition without compensation for hope value.

In summary, we consider that the use of directions removing hope value should be assessed on a case by case basis and not subject to general directions. Guidance should also be given as to the appropriateness of the use of the power where steps have been taken to bring forward sites for development, in order to avoid unintended consequences.

**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?**

Agreed.

**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?**

Agreed

**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?**

Agreed, however the ability for the acquiring authority to make required modifications should be appropriately constrained.

**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?**

**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?**

Agreed.

**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?**

Agreed.

**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?**

Agreed.

**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?**

**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?**

Agreed.

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

**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”?**

**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?**

**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?**

**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.**

If you have any queries, please do not hesitate to contact us.

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