



**RTPI**

Royal Town Planning Institute

# RTPI response to the Compulsory Purchase Process and Compensation Reforms Consultation by MHCLG

February 2025

## About the RTPI

The Royal Town Planning Institute (RTPI) champions the power of planning in creating sustainable, prosperous places and vibrant communities. We have over 27,000 members in the private, public, academic and voluntary sectors. Using our expertise and research we bring evidence and thought leadership to shape planning policies and thinking, putting the profession at the heart of society's big debates. We set the standards of planning education and professional behaviour that give our members, wherever they work in the world, a unique ability to meet complex economic, social environmental and cultural challenges.

### **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?**

As previously asserted in our response to LURA<sup>1</sup>, the RTPI is broadly supportive of the use of directions to remove hope value in specific situations. These situations should be clearly identified matters which through regulation are continually kept under review. This ‘live tool’ type method would provide a means of ensuring that the approach is fit for purpose and keeps under review that it is delivering on the intended outcomes.

As set out in the consultation, compulsory purchase powers are an important land assemblage tool when needed to help deliver social, environmental and economic change in the public interest. The RTPI is supportive of Directions being sought for CPOs on schemes providing public benefits, however the Institute believes that relevant safeguards are needed to ensure that the public good is upheld in the long-term. Transparent process and effective monitoring will be key in achieving this.

The RTPI is concerned that proposals to include measures available to town/parish/community councils might have complex implications for local authority funding and resourcing, as s.125 enables a local authority to recover its costs from the

<sup>1</sup> [cpo-consultation-rtpi-july-2022.pdf](#)



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town/parish/community council, which that latter party might not be in a position to accommodate. Equally, it might not be adequately placed to address a situation, some years subsequently, in which additional payments of compensation fall due pursuant to Schedule 2A (to LCA1961), i.e. in the event that the public benefit that was proposed to be delivered (and which justified the removal of hope value) falls short.

- 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:**

**(a) Inspectors where there are objections to the order; and**

The RTPI does not support the proposed delegation as set out in Q2(a) & (b). The removal of hope value, and the basis on which it is proposed to be justified (i.e. public benefits) blurs the lines between ‘the compelling case in the public interest’ required to support any CPO and matters of compensation. These are normally kept separate for good reason and such proposals would bring a level of risk and potentially open the doors to legal challenges and widening arguments about compensation in the consideration of the compelling case in the public interest for the CPO.

**(b) Acquiring authorities providing there are no objections to the order?**

See answer to Q2(a).

- 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 2A of the Land Compensation Act 1961 should be eligible to be undertaken by an inspector?**

Yes, however this is only on the basis that an Inspector’s decision making in this context would presumably be qualitative (i.e. based on the extent to which the public benefits had/had not been delivered) rather than quantitative (e.g. going to the quantum of the compensation paid).

- 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.

- 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:**



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- (a) 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**

In widening the scope of directions removing hope value, care needs to be taken not to disincentivise landowners, developers and promoters from putting forward land for development in the Local Plan preparation process. Clarity of how proposals would interface with emerging Brownfield Passports or new policy provisions within the NPPF around Previously Developed Land in England would be welcomed.

- (b) the costs associated with the value associated with the prospect of planning permission (“hope value”) has made the scheme unviable.**

No comment.

- 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.**

No comment.

- 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.**

No comment.

- 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.**

No comment.

- 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?**



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Yes. The RTPI welcomes the series of proposals set out in this consultation aimed at modernisation of the compulsory acquisition process. However, we strongly encourage Government to take a broad and ambitious view on modernising the CPO process and believe there to be further opportunities needing exploration. This could include simplifying practices relating to DCOs such as the Book of Reference. Whilst modernising the CPO could bring particular benefit in terms of reducing the administrative costs of undertaking the CPO process and potentially expedite the process, a more comprehensive appraisal of barriers to their use in the public sector would be welcomed.

**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. Refer to answer to Q9.

**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. Refer to answer to Q9.

**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. Refer to answer to Q9.

**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?**

Whilst the RTPI accepts that it may be possible for such delegation, it should be at the discretion of the SoS, with confirmation on large complex CPOs bringing forward substantial new town proposals being retained by the SoS. In contrast, smaller, less controversial CPOs might be more appropriately confirmed under powers delegated to an Inspector, but this will need more careful consideration on the detail. Clarity on how proposals would apply to Wales would be welcomed.

**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?**

Yes, we agree that 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 the Planning Act 2008,



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as there are existing provisions under those consenting regimes which already provide for the temporary possession of land.

We would welcome the wider introduction of temporary possession powers in other consenting regimes which rely on compulsory purchase powers for land assemblage, given the way in which temporary possession powers can be of real practical assistance in project delivery. However, we have some concerns about the temporary possession provisions which are included in the Neighbourhood Planning Act 2017 but which have not yet been brought into force, as their granularity and procedural complexity is less likely to facilitate the acceleration of project delivery than it is to create delay and uncertainty for developers and acquiring authorities. The temporary possession provisions used in the TWAO and DCO regimes present a better model for wider application to other regimes.

**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.

**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?**

No comment.

**17. If you answered positively to question 15, do you agree those with an interest in land included in 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?**

No comment.

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

No comment.

**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”?**

No comment.

**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?**

No comment.



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**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 understand that proposals set out in the consultation are intended to enable more strategic use of compulsory acquisition powers in order to facilitate major development and redevelopment, in line with the Government's growth agenda. However, the RTPI is acutely aware that the proposals set out in this consultation are mostly relevant to specific situations and will not in themselves address wider issues relating to sites not coming forward for development, stalling or delivering at rates slower than anticipated. The obstacles to delivery are often multifaceted and interconnected and can manifest before and after planning consent has been granted. This can, for example, be related to land assemblage, off site highway works, remediation, decision-making timescales, funding issues, construction costs and viability and infrastructure delivery. Therefore, it is important for the Government to contextualise proposals in the round alongside a package of other measures to improve conditions for timely delivery of sites to occur.

**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 further comment.