



BPF RESPONSE TO MHCLG'S CONSULTATION ON REFORMING THE COMPULSORY PURCHASE PROCESS AND COMPENSATION RULES

CONSULTATION RESPONSE

PREPARED AND SUBMITTED BY

Sam Bensted
Assistant Director (Planning and
Development)
E: sbensted@bpf.org.uk

British Property Federation

1. The British Property Federation (BPF) represents the real estate sector – an industry which contributed more than £116bn to the economy in 2020 and supported more than 2.4 million jobs. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers, and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work, and relax.
2. We welcome the opportunity to respond to MHCLG's consultation on reforming the Compulsory Purchase Process and Compensation Rules. Our response primarily addresses the most significant proposal in the consultation: expanding the circumstances under which a landowner may be deprived of hope value through a Compulsory Purchase Order (CPO). Specifically, the proposed power for the Secretary of State or Welsh Ministers to issue a general direction removing hope value where it is deemed justified in the public interest, including for:
 - Brownfield land in built-up areas suitable for housing but lacking extant residential planning permission.
 - Land allocated for residential development in local plans that remains undeveloped.
3. Our members have concerns about the unintended consequences of this proposal. In particular, it risks discouraging landowners from bringing sites forward for housing delivery, which could significantly undermine the government's broader objectives of increasing housing supply and driving economic growth. We elaborate on these concerns in our general comments below and have also responded to several technical questions in the consultation, where members have provided feedback.
4. As part of our member engagement, we hosted a joint stakeholder roundtable with the Compulsory Purchase Association (CPA) to gather industry input. On many of the technical aspects, we align with the CPA's position and have indicated this in our responses where applicable.

General comments

Impact on Land Promotion and Housing Supply

5. These reforms will create significant uncertainty in the land promotion market, ultimately leading to fewer sites coming forward for housing development. Expanding the circumstances in which hope value can be removed will discourage land promoters from investing in site promotion. Contrary to any assumption that hope value arises simply because a landowner or promoter requests a site allocation and a local plan inspector agrees, the reality is far more complex.
6. Land promoters invest substantial capital—particularly in cases involving complex master planning—and spend many years conducting the necessary work to secure a site's allocation in a local plan.

Expanding the ability to acquire such sites through CPO without hope value would fundamentally undermine the property market's functioning.

7. Like any sector, property development relies on investor confidence. Investors allocate capital with the expectation of returns—if a site can simply be acquired via CPO at a later stage without hope value, there is little incentive to invest in promoting it in the first place. This proposal, therefore, poses a serious risk to the land promotion sector, which, in turn, will reduce land supply for housing and hinder the delivery of much-needed homes.

Hope Value Is Not the Primary Barrier to Brownfield Development

8. The key challenges preventing brownfield sites from being developed are far more significant than hope value. BPF members have highlighted that focusing on hope value as a primary reason why brownfield land in built-up areas remains undeveloped overlooks more pressing obstacles. In reality, major barriers include the need for new enabling infrastructure, site remediation, and competing local plan policies—all of which make it difficult to bring these sites forward for housing.
9. As noted, members have emphasized that expectations of hope value rank low among the challenges of unlocking complex brownfield sites for development. It is unclear whether the proposed reforms would achieve their intended objective of accelerating brownfield development. This is further evidenced by the large volume of publicly owned land in London that remains undeveloped—not due to ownership constraints, but because of site remediation requirements and infrastructure constraints.

Risk of a Two-Tiered System and Undermining the Plan-Led Approach

10. Members have raised concerns that these reforms could create a two-tiered system, undermining the integrity of the plan-led approach. Under this proposal, certain housing sites acquired through CPO would be subject to compensation based only on existing use value, while others delivered through the plan-led system would benefit from full market value. This disparity risks distorting the land market and creating uncertainty about which sites may be subject to a CPO and which will proceed through the normal plan-led processes.
11. Additionally, such a system could lead to an inequitable divide between landowners—creating “haves” and “have-nots”—which may, in turn, increase the likelihood of legal challenges. The resulting uncertainty and potential for litigation could further slow down much-needed housing delivery rather than accelerating it.

Greater Risk of Unintended Consequences in Challenging Land Markets

12. The unintended consequences of these proposals will be most severe in areas with weaker property markets, particularly across the North and the Midlands. Many of the most challenging

brownfield sites to develop are located in these regions, where viability issues are most acute. By increasing uncertainty and disincentivizing investment, these reforms risk further undermining housing delivery in areas that already struggle to attract development.

13. This directly contradicts the government's devolution agenda, which aims to support housing growth across all parts of the country, especially in regions where new homes are most needed. Rather than facilitating development, these proposals could have the opposite effect, exacerbating existing challenges in these key areas.

The Diversity of Land Ownership and Wider Economic Impact

14. There is a misconception in some policymaking circles that landowners are solely profit-driven entities, extracting excessive value from the development process. In reality, land ownership across the country is highly diverse, encompassing financial institutions, pension funds, educational institutions, and other stakeholders. The value of land directly impacts the financial health of these institutions, influencing everything from investment returns to pension fund stability—affecting society as a whole, not just a small segment of landowners.
15. As such, the impact of these reforms would not be limited to a narrow group but would instead be felt broadly, potentially undermining the financial foundations of institutions that millions of people rely on. A well-functioning land market is essential for economic stability, and policies that disrupt it could have far-reaching consequences beyond the development sector.

Lack of Clarity and Increased Uncertainty in the Land Market

16. Members have expressed concerns that the consultation lacks clear criteria for determining when a site could be subject to a CPO under these proposals. Key questions remain unanswered, such as how long a site must remain undeveloped before intervention and what mechanisms would be available for landowners to challenge such decisions?
17. As noted, expanding the circumstances in which hope value can be removed ultimately introduces greater uncertainty into the land market. This contrasts with the CPO provisions introduced through the Levelling Up and Regeneration Act, which expanded CPO powers but set a fairly high threshold—requiring that acquisitions facilitate affordable or social housing, healthcare, or educational uses if hope value was to be disapplied.

Practical Challenges for Local Authorities in using expanded CPO Powers

18. Members have also questioned whether local authorities have the financial resources, expertise, and capacity to take a more active role in acquiring land through CPOs and delivering housing

schemes themselves. Historically, before the Land Compensation Act 1961, local authorities and public bodies played a more direct role in acquiring land at existing use value and building out development themselves. However, the financial landscape has changed significantly, and local authorities today face severe resource constraints.

19. It is therefore a valid concern whether local authorities have the appetite, skills, and financial capacity to navigate the complex legal process of CPOs—especially if the scope of CPO powers is expanded. Given the likelihood of legal challenges, particularly if a two-tiered system of “haves” and “have-nots” emerges, this approach could divert already limited resources away from local authorities.
20. Rather than focusing on expanding CPO powers, policymakers should instead address the broader barriers to brownfield development—such as site viability, infrastructure investment, and updating local plans. A more targeted approach to these challenges would likely be more effective in supporting the government’s wider objectives of increasing housing supply and driving economic growth.

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?

21. Members questioned whether there would ever be a scenario where Parish Councils would realistically use these powers in practice.

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?

22. We endorse the position of the Compulsory Purchase Association.

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?

23. Yes we agree.

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?

24. We endorse the position of the Compulsory Purchase Association.

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.

25. See our general comments section.

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.

26. See our general comments section.

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.

27. See our general comments section.

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.

28. See our general comments section.

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?

29. Yes.

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?

30. Yes.

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?

31. Yes.

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?

32. We endorse the position of the Compulsory Purchase Association.

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?

33. Yes, albeit members did suggest that confirming or refusing a CPO made under the New Towns Act 1981 might be a decision the relevant Secretary of State would want to make in practice.

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?

34. Yes

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?

35. We endorse the position of the Compulsory Purchase Association

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?

36. We endorse the position of the Compulsory Purchase Association.

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?

37. We endorse the position of the Compulsory Purchase Association.

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

38. We endorse the position of the Compulsory Purchase Association.

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"?

39. We endorse the position of the Compulsory Purchase Association.

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?

40. We endorse the position of the Compulsory Purchase Association

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?

41. We generally endorse the position of the Compulsory Purchase Association.

42. Paragraph 94 of the consultation paper (just before Question 21) acknowledges that the proposed changes are likely to affect only a very small number of claimants, as the number of directions issued each year is low. This further supports the argument against introducing these proposals, as they risk undermining investment and confidence in the land promotion market for the sake of an insignificant number of cases.