

Compulsory Purchase – compensation reforms



In our third article on compulsory purchase we look at how The Levelling Up and Regeneration Bill proposed changes to the compensation provisions associated with compulsory purchase. The proposals have caused concern to landowners.

The current position

There are currently four principal elements of compensation for compulsorily acquired land:

- The open market value of the interest in land to be acquired.
- “Disturbance” payments for losses such as removal costs, professional fees and stamp duty
- Payments for the distress and inconvenience of landowners being forced to sell and/or relocate at a time which is not of their choosing.

The changes proposed by the government focus on the first principle which is the open market value of the interest in land to be acquired.

Under the Land Compensation Act 1961 (Act), the compensation payable for land that is compulsorily purchased reflects the market value of the land, part of which relates to potential planning permission. This is known as the “hope value”.

Proposed changes

The Government wants to ensure that the costs being paid for prospective planning permission do not result in



more than a fair value being paid. They propose to amend the Act so that the assessment of value attributable to the likelihood of alternative development is more akin to normal market conditions in order to rebalance the position on costs and compensation between landowner and acquiring authority.

A further measure has been proposed which would allow public sector acquiring authorities to request a direction from the Secretary of State that payments in respect of hope value may be capped at existing use value or an amount above existing use value for specific schemes where it can be shown that the public interest is justified

The Government hopes that the measures will increase the viability of housing, regeneration and infrastructure schemes for acquiring authorities and incentivise them to bring more schemes forward.

The removal of hope value will only be permissible where there is a compelling case in the public interest. Acquiring authorities will be required to take proportionality assessments to show that a fair balance has been struck between the rights of the individuals and the public interest.

Developers have expressed concern that the proposed changes have not been fully thought out . It remains to be seen how fairly the rights of landowners and acquiring authorities will be balanced following the implementation of these proposals and whether they will lead to an increased number of legal challenges from landowners.

How we can help

If you need any advice our expert [property disputes team](#) are here to help.

Read the first article in this series on [compulsory purchase powers](#) and the second article on [blight notices](#).



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