

### Summary

The shortage of homes lies at the root of every problem Shelter sees through our services.

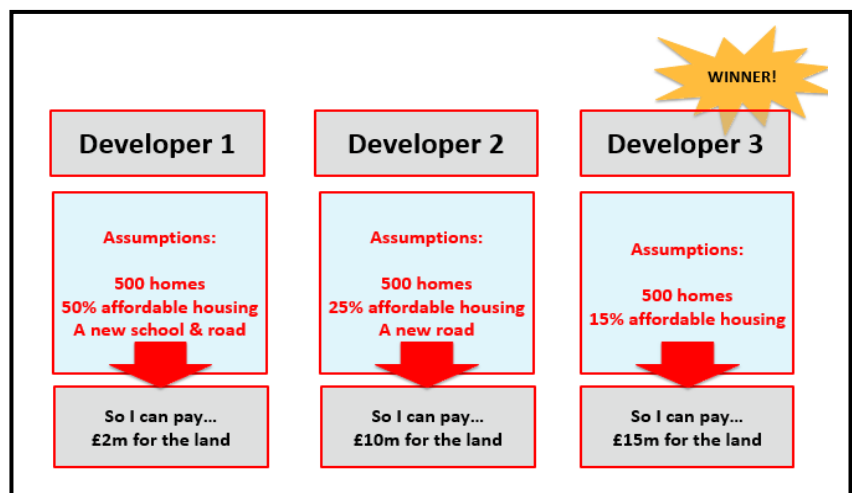
The high price of land, driven up by competing interests in a divisive planning system, is the root of the reason England doesn't build enough homes.

We therefore welcome measures in the Neighbourhood Planning Bill, which will strengthen Neighbourhood Plans and compulsory purchase powers; the Bill is a positive step towards a stronger, more pro-active planning system.

### Why aren't we building enough homes?

One of the main barriers to building the homes we need in England is the high price of development land. The limited number of appropriate sites in and around our main job markets means that developers must compete to buy or control those that are available.

Developers seek to outbid each other to buy land. To offer the landowner the most money, developers have to drive down all other costs. As a result, quality, community infrastructure and affordable housing tend to be squeezed out, as these are costs on the development which result in a lower land price.



To bring down the cost of land within development and use this to create better development we need some sensible reform. Compulsory purchase is vital to this, not because it should be frequently used, but because it creates the base price for land. Without the credible threat of compulsory purchase, landowners can always hold out for a higher price. By giving clarity on fair compensation to landowners (on the basis that was originally intended in law) this bill can reduce the traded value of development land. The key principle should be that landowners are compensated the value of their land in a "no scheme world" – in other words the fair, market value of their land with no consideration of the development that is prompting the CPO. Without this, all the uplift value created by a new development is capitalised into the price paid to the landowner, rather than improving the quality of the scheme.

**The proposals in this bill are a step towards making CPOs more effective. A properly functioning CPO system is an essential requirement for better development, and this Bill will help to provide this.**

## **Key proposals provided by this Bill**

This Bill has three main areas of focus: neighbourhood planning; pre-commencement planning conditions; and compulsory purchase powers. We are supportive of legislation throughout the Bill, including the strengthening of Neighbourhood Plans, but this briefing will specifically focus on those clauses surrounding compulsory purchase powers -. As an organisation we feel there are other bodies better able to comment on the first two areas of the Bill.

The proposals in this Bill centre on the ‘no scheme world’ rule that has long been the central principle to compulsory purchase. This Bill aims to limit the complex and contradictory applications of the principle in case law and clarify how far the “scheme” should extend regarding wider infrastructure developments, for example.

**Shelter supports the move to reform the compulsory purchase system as it is a vital way to give local authorities greater ability to influence developments and subsequently ensure they happen in line with local and neighbourhood plans.**

*Note: the clause numbers and text quoted here relates to the published version of the Bill dated 7 September 2016.*

### **Part 2, Chapter 2. Clauses 22 – 30.**

#### **Clause 22, section 3: 6A.**

As a central pillar for these policy changes, 5 key ‘rules’ of the no-scheme world have been codified.

Rule 1: it is to be assumed that the scheme was cancelled on the relevant valuation date.

Rule 2: it is to be assumed that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority wholly or mainly for the purposes of the scheme.

Rule 3: it is to be assumed that there is no prospect

#### **No-Scheme Rule (Pointe Gourde)**

When value is to be assessed for compulsory purchase compensation it should be done within a ‘no scheme world’. That is, the adverse effect on the value of blight in the run-up to implementation of a scheme, and any enhancement in value resulting from completion of the scheme, are both to be ignored in setting the value of the land that will be paid to the owner.

[http://www.isurv.com/site/scripts/documents\\_info.aspx?documentID=459&pageNumber=5](http://www.isurv.com/site/scripts/documents_info.aspx?documentID=459&pageNumber=5)

of the same scheme, or any other project to meet the same or substantially the same need, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers.

These three rules are not a major departure from how the system is currently working in practice – essentially they bring case law onto the statute book, and so provide more clarity on how compulsory purchase should work.

Rule 4: there is to be no consideration of whether other projects would have been carried out if the scheme had not been commenced or if the scheme had been cancelled on the relevant valuation date.

Rule 4 is particularly well received by Shelter as it appears to override section 17 of the 1961 Act permitting landowners to apply for a 'certificate of alternative appropriate development'. This change would allow a local authority to CPO land at its true current market value. Any uplift in land values after the building or infrastructure scheme is complete could then be captured by the Authority. Capturing this uplift could support infrastructure, allowing it to be self-financing, and/or enable a larger amount of affordable homes to be provided without further subsidy.

Rule 4 is welcomed for supporting the Bill's ambitions of bringing the reality of CPO more in line with the legal principle of a "no scheme world".

This section of the Bill should be protected throughout its path through Parliament, and we suggest the only suitable amendments or additions would be further clarification about how it will interplay with the 1961 Act, and preferably a codified confirmation that it will supersede the previous law.

Rule 5: if there was a reduction in the value of land as a result of -  
(a) the prospect of the scheme (including before the scheme of the compulsory acquisition in question was authorised), or  
(b) the fact that the land was blighted land as a result of the scheme, that reduction be disregarded

This rule is, again, clearly in line with the "no scheme" principle of CPO and is a sensible addition.

### **Clause 23**

This clause moves to repeal part 4 of the Land Compensation Act 1961 that allowed claimants to claim additional compensation where a planning decision was granted on the area within 10 years of the original decision being made. The claimant would have been entitled to claim the additional amount they would have received with the consent.

This is a sensible step, although part 4 is rarely used in practice as most CPOs have been undertaken at the full possible compensation value initially, given the probability of losing in court at a later date.

### **Clauses 26 and 27**

These relate to the joint acquisition of land for GLA and TfL. Such that, one of the two bodies can seek compulsory purchase powers for all the land required to build a combined transport and housing scheme on behalf of each other.

We believe these clauses are a logical progression and successfully overcome the current artificial division of projects within London that adds complexity and potential delay to the process.

### **Conclusion**

We support the Neighbourhood Planning Bill and welcome this step towards a reformed and more effective compulsory purchase system.

We need a much more positive approach to planning which can help local people genuinely shape the development of their area. Too often landowners and big developers make large profits while the needs of local people are ignored. The Neighbourhood Planning Bill is one promising step forward to remedying this problem.

Strengthening the Neighbourhood Planning system will help to give more confidence to local people that the plans they create will be delivered. And reforming the compulsory purchase system is also a vital way of giving local authorities greater ability to influence developments, and ensure they happen in line with local plans.

For more information contact Shelter.

Kate Wallis, Public Affairs Assistant  
Kate\_Wallis@shelter.org.uk