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e-mail response sent to: planconsultations-d@gov.wales

Dear Sir/Madam,

Response to: Compulsory purchase orders (CPOs): updated policy and guidance

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 25,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of planning, working for the long-term common good and well-being of current and future generations. The RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

The response has drawn on the expertise of the RTPI Cymru Policy and Research Forum, which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

We note the current Circular dates from 2004 and there have been major reforms in planning over the past three years, and a National Assembly Inquiry in 2018 on the Compulsory Purchase Order (CPO) process. The legislative and policy context has also changed considerably, including the Well-Being of Future Generations Act and the focus on placemaking in Planning Policy Wales (PPW) (10), so we welcome the consultation and its aims.

We recognise that proceeding with a CPO can help acquisition and this is clearly addressed in Part 1 of the draft Circular. The consultation also acknowledges that the lack of up-to-date guidance on compulsory purchase can be a barrier to the use of compulsory purchase powers. We therefore welcome the commitment to update the Circular as future reforms are made. Given the detailed nature of the guidance, it might also be worthwhile considering any feedback from the actual use of the guidance to help improve the clarity and the usefulness of it.

We support the link made between CPO and placemaking in the General Overview of the draft Circular. It is important to consider CPO as a tool within the context of placemaking and the contribution it can make.

Our response in relation to the consultation questions are set out below. Our comments focus on the issues relevant to planning.

Question 2: In Part 1 of the Circular we have included examples of best practice relating to the erection and maintenance of site notices. We would welcome your examples of other best practices in the compulsory purchase order making process.

The provisions relating to the erection and maintenance of site notices seem reasonable, however it is also important to consider appropriate coverage of site notices (considering the size of the CPO land) and the location(s) where they are displayed in terms of accessibility and visibility to the public.

Question 8: Do you agree with the proposal to revise paragraph 3.53 of Planning Policy Wales (Edition 10) set out in paragraph 25 of the 'Consultation Executive Summary' document?

We note the proposed change to paragraph 3.53 of PPW 10 and consider this to read as a less restrictive approach, moving from 'exceptional circumstances' to 'where necessary ... in the public interest etc.' While we are supportive of this change, we do question whether the new wording could be even more simplified and positive, given the aim of the consultation?

Question 9: Do you agree with the proposal that LPAs should adopt general policies detailing the criteria they will apply when considering whether or not to exercise their compulsory purchase powers?

The consultation does not give much detail on whether Local Planning Authorities (LPAs) should adopt general policies detailing the criteria they will apply when considering whether or not to exercise their compulsory purchase powers. It is not clear whether this is advocating policies in an LDP, supplementary planning guidance or elsewhere. Justification for the need for local policies is needed. Further consideration and discussion is required on the detail and possible impact of this proposal.

Question 10: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use the space below to raise them.

In comparing the 2004 Circular and the proposed new Circular, it is noticeable that there is very little difference between the two, insofar as the case for using CPO powers is concerned. The opening paragraphs of both Circulars are virtually identical and both recognise the importance of CPO powers and encourage those bodies possessing them to use them proactively. Both Circulars also refer, in a number of instances, to the need to show that there is a compelling case in the public interest for the use of CPO powers. It is confusing that a supposed change in policy does not appear to be reflected in any noticeable policy difference between the Circulars.

We also note a possible anomaly, considering the proposal to delete 'exceptional circumstances' from PPW, paragraph 3.53; the section on Listed Buildings in need of Repair (Part 1, section G (pg 102)) states "The Welsh Ministers will only use this power in exceptional circumstances" which again could cause confusion.

A clear statement in PPW and technical advice is required setting out where the use of CPO powers to secure land for housing development could be appropriate. Such clear policy is essential if the use of such powers will stand up to the challenges which could occur.

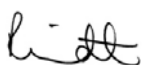
There should also be a clear explanation in technical guidance for how challenges to using such powers would be dealt with, including arrangements to calculate the cost of purchase, or costs from failed attempts to use such powers. Could they be linked to applications considered by the Planning Inspectorate or by a stand-alone process? Suitable arrangements for Wales could be developed alongside the establishment of the recently announced Wales Planning Inspectorate. Without clarity on the policy support and on the procedural arrangements, especially costs, local authorities could be very reluctant to use such CPO powers.

We assume that much of the detailed procedural advice contained in the 'The Compulsory Purchase Procedure Manual', is now proposed to be absorbed into the new Circular. If this is the case, we would support having all the information available in one place.

The consultation refers to compulsory acquisition powers with a focus on housing delivery, however it also explicitly refers to the 2018 consultation, 'Changes to the consenting of infrastructure: Towards establishing a bespoke infrastructure consenting process in Wales' (para 4), however, it does not mention whether or how the proposals set out in the 2018 consultation have been implemented since devolution of powers on 1 April 2019. Interim arrangements are currently in place to deal with the consenting of infrastructure devolved to the Welsh Ministers on 1 April 2019. The DNS regime does not include any compulsory powers for onshore generating stations. Although the 2018 consultation set out that it was Welsh Government's intention to make these available for grid operators installing overhead lines (see paragraph 2.22 of the 2018 consultation). It is not clear whether compulsory acquisition is available under the 'interim arrangements' or whether these will be replaced with the "bespoke consenting process" (i.e. the Welsh Infrastructure Consent process which is expected to include compulsory acquisition powers equivalent to those available for DCOs / NSIPs). If there are compulsory acquisition powers available to overhead lines and / or offshore generating stations, this draft Circular should refer to these. If not, Welsh Government should set a timeline for introducing compulsory acquisition powers in accordance with the intentions set out in the 2018 consultation. The different compulsory acquisition powers available to developers in Wales and other parts of the UK may have a detrimental impact on Welsh Government's ability to achieve its renewable energy targets and aspiration to be net zero by 2050.

If you require further assistance, please contact RTPi Cymru on 020 7929 8197 or e-mail Roisin Willmott at walespolicy@rtpi.org.uk

Yours sincerely,



Dr Roisin Willmott OBE FRTPi
Director