



## National Planning Framework 4 Early Engagement – Policies

### LAND ASSEMBLY AND COMPULSORY PURCHASE

Given the links between land assembly, infrastructure delivery and placemaking, this background note should be read alongside those on:

- [Infrastructure](#)
- [Placemaking](#)

#### Scottish Planning Policy (2014)

There are limited explicit references to land assembly or compulsory purchase in SPP, or to the role they can play in supporting national and local planning objectives. In the context of placemaking policy, paragraph 48 states:

- *“Development plans should be based on spatial strategies that are deliverable, taking into account the scale and type of development pressure and the need for growth and regeneration... and local authorities should make use of land assembly, including the use of compulsory purchase powers where appropriate”*

In addition, Annex A suggests that town centre strategies should *“identify actions, tools and delivery mechanisms to overcome these constraints, for example improved management, Town Teams, Business Improvement Districts or the use of compulsory purchase powers”*.

#### Circular 6/2011 (2011)

Circular 6/2011 sets out Scottish Government policy on using compulsory purchase powers, explains the procedures involved in doing so and clarifies how decisions on compulsory purchase orders (CPOs) are taken by Scottish Ministers.

The Circular recognises that exercising compulsory purchase powers requires clear and comprehensive justification because their use interferes with the private property rights of those affected. However, it highlights that if used properly, compulsory purchase can play a valuable role in delivering projects in the public interest:

- *“Compulsory purchase... can help local authorities and other public bodies to assemble the land they need where it is impossible or impractical to buy the land by agreement. Indeed, without compulsory purchase many projects in the public interest would not be possible”* (Paragraph 1).
- *“Ministers encourage authorities to use compulsory purchase positively and proactively, to promote sustainable economic growth, improve quality of life and bring real benefits to Scotland’s communities”* (paragraph 3).

On the specific use of compulsory purchase powers for planning purposes, it indicates the wide range of development projects that can be facilitated – both large and small:

- *“A planning authority has compulsory purchase powers that it may use to assemble land where this is necessary to carry out the proposals in its development plan or other strategic planning documents. It can use these powers to assemble land for regeneration and other schemes... It can also use them to provide infrastructure and/or assemble and prepare sites to make them available for the private sector to develop or to acquire an individual property that needs*

*redevelopment or improvement, such as a derelict or abandoned property or empty home” (paragraph 22).*

The need for separate policy frameworks for planning and compulsory purchase reflects the fact that they are distinct regimes, which serve specific purposes. Planning regulates the use of land, whereas compulsory purchase provides for the acquisition of rights in land. Furthermore, compulsory purchase powers can be used for a range of purposes, of which planning is only one.

But given the role that land assembly and compulsory purchase can play in supporting the delivery of planning outcomes, we are interested in hearing views on whether NPF4 could or should say more on this subject than its predecessors.

### What has changed since 2014?

- In 2016 the [Independent Planning Review Panel](#) recommended establishing mechanisms for planning authorities to assemble land and provide infrastructure upfront.
- Scottish Ministers have emphasised that compulsory purchase powers can be important in helping to deliver housing, development and regeneration that create high quality places where people want to live, work and invest.
- However, they have acknowledged that a lack of confidence, knowledge and recent experience of the process can act as a barrier to some authorities using their powers. See the Minister for Local Government and Housing’s [speech at the Compulsory Purchase Order National Assembly](#) in December 2017.
- Recognising this, Scottish Government published a [series of five guides in April 2018](#) containing best practice advice and procedural guidance for authorities with no or limited experience of using their compulsory purchase powers. These guides indicate that the Scottish Government vision for compulsory purchase is for:  
*" A clear, accessible, consistent, effective and efficient system of legislation and policy which allows for the compulsory acquisition and purchase of legal interests in land and property for the public benefit. The provisions relating to any compensation should be fair and transparent and allow for timeous settlement."*
- The Scottish Land Commission provided Scottish Ministers with [advice on options for land value uplift capture in May 2019](#), including recommendations for change over the short- and long-term. The advice made the case for the public sector to play a more proactive role in land assembly as part of public interest led approach to development. It also highlighted that planning policies can help to shape land values so that prices accurately reflect the cost of providing required infrastructure.
- The role of clear and up-to-date development plans in supporting effective land assembly chimes with the ‘infrastructure first’ approach to development planning. This has emerged as a key driver for reform and was one of the recommendations of the Infrastructure Commission for Scotland’s [Phase 1 Key Findings Report](#) in January 2020. The [Scottish Futures Trust](#) have also highlighted the potential benefits of integrating development and infrastructure planning more closely.

- There was considerable parliamentary interest in land value capture and compulsory purchase during the passage of [the Planning \(Scotland\) Act 2019](#).
- Scottish Government's [Guidance on Local Housing Strategies](#), published September 2019, notes that compulsory purchase powers can be an important tool to help bring forward housing through major land assembly, regeneration or bringing empty properties back into use. It states that local housing strategies should set out the circumstances in which local authorities will consider the use of CPOs as a proactive tool to support housing and regeneration.

**Proposed key objective of NPF4:** To promote a proactive, infrastructure first approach to land assembly, including the use of compulsory purchase powers where appropriate, and to underline that doing so can support the delivery of planning/placemaking objectives.

#### Issues to consider:

- Should NPF4 strengthen messages around land assembly to promote more proactive development delivery by planning authorities, including on brownfield land?
- Should NPF4 reiterate that land assembly (including compulsory purchase) can help to support and improve planning outcomes, and the operation of the Place Principle?
- Should NPF4 outline how the justification for, and effectiveness of, land assembly mechanisms can be enhanced by having clear and up-to-date planning policies?
- Would it be helpful to clarify the potential circumstances in which a proactive approach to land assembly might be appropriate?

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[scotplan@gov.scot](mailto:scotplan@gov.scot)