

RAYNSFORD REVIEW CALL FOR EVIDENCE - THEME 5: Planning and taxation

A response by the Campaign to Protect Rural England to the Raynsford Review of Planning Call for Evidence.

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How effective are the current mechanisms to capture land value increases that result from the grant of planning permission? Are such benefits being distributed fairly in the public interest? Could a national development charge based on 'betterment' values ever work?

It could be argued that current land value mechanisms - Section 106 of the Town and Country Planning Act 1990 (S106) and the Community Infrastructure Levy (CIL) - short-change communities. Many commentators deem them ripe for reform. S106 and CIL capture land value at the point of sale, rather than the point of development, with much of the increase in land value gained following consent of planning permission remaining with the landowner (there are further concerns regarding S106 and CIL, based on lacking transparency and the ease with which developers ratchet down the contributions initially committed to). The Land Compensation Act 1961 is the key piece of legislation that governs landowner rights in relation to development.

Calculations undertaken by The Centre for Progressive Capitalism show that in 2014/2015 CIL and S106 captured £2.8 billion of land value increase, yet a further £9.3 billion of land value uplift was pocketed by landowners.¹ A number of organisations have put forward alternative approaches to land value capture that seek to gain a more equal distribution of capital, such as Shelter² and Transport for London³. These merit serious consideration.

¹ Centre for Progressive Capitalism. (2017) Estimating land value capture for England - updated analysis. Available at: <http://progressive-capitalism.net/2017/03/estimating-land-value-capture-england-updated-analysis/>

² Shelter. (2017) Financing the infrastructure and new homes of the future: the case for enabling acquiring authorities to purchase land for strategic investment under a special CPO compensation code. Available at: http://england.shelter.org.uk/_data/assets/pdf_file/0003/1377714/2017_05_16_Shelter_Memo_-_Financing_the_infrastructure_and_new_homes_of_the_future.pdf

³ TfL. (2017) Land value capture. Available at: http://england.shelter.org.uk/_data/assets/pdf_file/0003/1377714/2017_05_16_Shelter_Memo_-_Financing_the_infrastructure_and_new_homes_of_the_future.pdf

Previous attempts to introduce a form of development charge in the 1960s and 1970s, such as the 1967 Betterment Levy and the 1976 Betterment Land Tax, were largely unsuccessful. There remain real challenges concerning how any national development charge would be implemented. It is arguable that a national development charge or other land value capture mechanisms could not be rolled-out nationally and approaches would need to vary on a regional basis. Land values vary considerably across the country and often, where the need for investment is most needed there will be lacking market forces able to deliver this, such as some of the ex-industrial towns in the North. There is an argument that combined authorities and or local authorities have a strong role to play though whether HM Treasury would be willing to cede powers and receipt of monies to combined authorities and/or local authorities is questionable.

Development corporations - established by local authorities - have been put forward as a vehicle that can play a significant role in recouping the incremental land value rises that follow granting of consent for residential planning permission, and they provide a practicable approach with regard to implementation.

What are the wider issues and challenges relating to the land market (including the role of intermediaries and widespread use of optioning agreements)?

The ills of the speculative development system and its impact on land usage have been treated in detail by other organisations, notably Shelter⁴. With the state having retreated from its previous role as a major deliverer of housing, the speculative model is unlikely to address the affordable housing crisis, and likely to result in the housing market remaining volatile.

From CPRE's more focused perspective of optimal land usage, the predilection of the volume house builders to sit on un-implemented planning permissions and land bank is of great concern. There are near to half a million planning permissions that remain unimplemented. While these permissions remain un-built, yet more land is put forward for development. CPRE housing foresight paper - Getting Houses Built⁵ - argued for 'use it or lose it' powers to be provided to local authorities, to empower them to force developers to build out permissions that have already been granted. The Government's Housing White Paper, *Fixing our broken housing market*, published earlier this year, consulted on how local authority powers could be sharpened to speed up the delivery of housing including on the timescales for developers to implement permissions for housing.

Intermediaries, while symptomatic of the speculative housebuilding system, rather than causative, are undermining the 'plan-led system' and the principles of localism that the NPPF sought to provide. By systematically targeting local authorities who do

⁴ Shelter. (2017) New Civic Housebuilding - Policy Briefing. Available at: https://england.shelter.org.uk/_data/assets/pdf_file/0005/1348223/2017_03_02_New_Civic_Housebuilding_Policy_Report.pdf

⁵ CPRE. (2015) Getting Houses Built. Available at: <http://www.cpre.org.uk/media-centre/latest-news-releases/item/3977-enhancing-local-authority-powers-can-rebalance-housebuilding-sector-say-countryside-campaigners>

not have a sufficient supply of housing land, they are able to override local planning and concern, to provide sites for housing that are typically greenfield sites.

Greater transparency in the land market, including for option agreements, would be welcome. It remains to be seen whether the Government will follow through on the commitment it included in the Housing White Paper launched earlier this year, to improve the land registry in terms of openness and usability.

Have recent reforms to compulsory purchase compensation resulted in a system which is fair to both landowners and taxpayers?

While some of the recent reforms to the compulsory purchase order (CPO) power are a welcome step, such as those contained in the Neighbourhood Planning Act 2017, how effective they will be in practice is uncertain, especially with local authorities having little experience of using CPO powers, as well as being resource poor while being highly risk-averse.

Interestingly, the Mayor of London's recent Housing Strategy⁶, published for consultation, sets out a clear ambition to utilise CPO effectively and strategically. The document suggests that the GLA and TfL will work together to issue a single CPO in pursuance of joint projects and make use of new powers granted under the aforementioned Neighbourhood and Planning Act 2017.

Yet recent reforms have only gone so far. As mentioned above, more instrumental reforms including to the Land Compensation Act 1961 would be required to make CPO a genuinely effective tool. The Shelter proposals⁷ are based on proposed amendments to the NPPF and specific sections of the Land Compensation Act 1961 to include a special CPO compensation code to provide a more equitable distribution of land value uplift following the granting of consent for planning permission.

There is the potential for new land value capture mechanisms to better promote brownfield development and CPRE believe this aim should be pursued within further policy development, including further reform of CPO. The Conservative 2017 manifesto pledge on the delivery of social housing, when announced, promised enhanced CPO powers 'to allow councils to buy brownfield land and pocket sites more cheaply...'.⁸ Remediation costs associated with brownfield development can deter developers from taking them on, a barrier that land value capture mechanisms, potentially including further enhanced CPO powers, could help overcome. Hamburg provides just one example in which an industrial city with large amounts of brownfield land was able to utilise land value capture for substantial investment in infrastructure investment and regeneration.

⁶ Mayor of London. (2017) London Housing Strategy - Draft for Public Consultation. Available at: https://www.london.gov.uk/sites/default/files/2017_london_draft_housing_strategy.pdf

⁷ Shelter. (2017) Financing the infrastructure and new homes of the future: the case for enabling acquiring authorities to purchase land for strategic investment under a special CPO compensation code. Available at: http://england.shelter.org.uk/_data/assets/pdf_file/0003/1377714/2017_05_16_Shelter_Memo_-_Financing_the_infrastructure_and_new_homes_of_the_future.pdf

⁸ Birch, J. (2017) The Conservative manifesto plan for council housing. Available at: <https://julesbirch.com/2017/05/14/the-conservative-manifesto-plan/>

