



Built Environment Committee

Corrected oral evidence: New towns: practical delivery

Tuesday 20 May 2025

10.55 am

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Members present: Lord Gascoigne (The Chair); Baroness Andrews; Lord Bailey of Paddington; Lord Faulkner of Worcester; Viscount Hanworth; Baroness Janke; Baroness Miller of Chilthorne Domer; Lord Porter of Spalding; Baroness Warwick of Undercliffe; Viscount Younger of Leckie.

Evidence Session No. 5

Heard in Public

Questions 60 - 66

Witnesses

I: Kathryn Jump, Partner, Shoosmiths; Dr Edward Shepherd, Senior Lecturer, Cardiff University; Miles Gibson, Independent Consultant.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Kathryn Jump, Dr Edward Shepherd and Miles Gibson.

Q60 **The Chair:** Good morning, everyone, and welcome to the fifth public meeting of the Built Environment Committee in the House of Lords. My name is Ben Gascoigne and I am the chair. This is part of our inquiry into new towns and extended developments. We are looking specifically at the legal and the economic factors related to how we get new towns off the ground. We have some fantastic witnesses before us today. I will ask you to introduce yourselves before we start.

Dr Edward Shepherd: I am a researcher and lecturer at Cardiff University in the School of Geography and Planning. I have a research interest in land markets, house building and land value capture and have a background in planning and development consultancy.

Kathryn Jump: Good morning. I am the joint head of the planning team at Shoosmiths Solicitors. I have been a planning solicitor for about 30 years and have experience of acting for public sector and private developers in bringing forward all different scales of residential and mixed-use development, garden villages and urban extensions.

Miles Gibson: Good morning, everyone. I am a former senior civil servant. I worked in the Treasury for five years, including as head of the property tax team there. I had five years at 10 Downing Street, two and half for Tony Blair, two and a half for David Cameron and Nick Clegg, as their policy adviser on housing and planning. I also had some time at what is now MHCLG, where I was responsible for planning policy and the design of the community infrastructure levy. In fact, my Minister was Baroness Andrews here in the Lords.

About 10 years ago, I was also prize director for the Wolfson Economics Prize, which, as you may know, is an essay-based prize worth £250,000. The topic that year was garden cities, and we had 280 entries. I think that those entries still are relevant to your deliberations today, so that may come up in the conversation.

The Chair: Thank you very much. Welcome, once again. We have a series of questions that we will go through. Please say if you feel you have nothing to add to what has already been said or if you would like to follow up—do not feel compelled to simply say, “I agree with everything that so and so has said”. Also, if I may say respectfully, this will be a very technical and legalistic discussion. For simple minds like my own, if we could please keep it as high level and easy to understand as possible, that would be greatly appreciated. First, we go to Baroness Warwick, who is on our screens, and Lord Porter.

Q61 **Baroness Warwick of Undercliffe:** Good morning, everybody, and good morning to our panel. It is very nice to meet you. This section of questioning relates to resources, to the funding. Previous generations of new towns, as you will be aware, had significant financial backing from

the Treasury to support delivery. It seems likely that financial support for this new towns programme will be announced in the upcoming spending review, but we do not know how much or how significant that is likely to be. My question is: can the new towns be delivered without levels of central government financial support similar to those available to the original new towns, the early new towns? Perhaps I could start with Dr Shepherd.

Dr Edward Shepherd: Thank you for the question. The early generations of new towns were funded via a combination of long-term loans from central government, but also a form of land value capture, which I am sure we will talk about in the later questions.

There is potential for the next generation of new towns to be funded via a combination of those two things, plus potentially raising finance from the capital markets, which is a model that is used more commonly in Europe. There are also potential sources of funding to do with business rates retention, transport services revenues and so on. These are all generating revenues that could form sources of income which could help repay bonds or other loans taken out from other sources such as central government. There is a range of different sources of funding that could help complement, rather than wholly rely on, the funding from HM Treasury.

There is an interesting bit of research by Tom Aubrey, published by the Bennett Institute for Public Policy at the University of Cambridge, that goes into this funding model and bond issuance in quite a lot of detail. That could be worth looking at further. The key thing to bear in mind is that the bonds would need to be based on there being a lending entity that is broad, strategic and has a variety of different sources of income, which could help to derisk the perception of risk, essentially, from the lenders.

This leads on to further questions, which we will come on to later, around what delivery structure will be required to enable that. I am sure we will come on to that in more detail later.

Kathryn Jump: My answer is yes. I do not think it requires those levels of funding. We will come on to how the developments themselves can generate sufficient funds. Where there are some viability gaps that cannot be filled in particular areas of the country, there will need to be some public funding. I see the role of central government as more of an enabler rather than the funder. All these big developments will require a lot of different bodies to participate together: developers, the local authorities, the statutory undertakers, Highways England, Natural England. I think the role of central government is to bang some heads together and make sure that we have coherent teams of people from all those agencies to oversee and expedite the delivery of these schemes. That does not of itself require lots of additional funding, but it requires a level of co-ordination and co-operation that is rarely seen.

I come from a law firm called Shoosmiths and we have been involved with the Radix Housing Commission, whose report we presented to Matthew Pennycook a couple of months ago. That was a nine-month project liaising with people from the public and private sector involved in housing delivery. We are just saying: blue-sky thinking, what do we do to get these big schemes quickly through the system? One of the recommendations of that report was the establishment of a government housing delivery unit that would, in effect, have an overarching driving-forward of some of the specific bigger strategic schemes. Again, that for me would be the better use of the might of government, as it was.

The other main recommendation of the Radix commission was garnering broader cross-party consensus so that we can have longer periods of stability over planning policy, legislation and statute. One of the main things that stymies bigger schemes is the uncertainty and the changing landscape. For me, it is not about money; it is about strategic oversight.

Baroness Warwick of Undercliffe: Kathryn, you said that you have been very much involved in the development particularly of urban expansions. Do you have any examples where you have been able to rely very largely on private investment for those developments?

Kathryn Jump: Yes. Shoosmiths were involved in the Welborne Garden Village scheme, which is currently being built, and that was led very much through the planning system by our developer client, Grainger. In that scheme, it has worked with its three local authorities because it is cross-boundary, but it has very much taken the lead in underwriting all the planning obligations and the key delivery of the planning benefits, drawing in some public sector money as needed.

There were proposals for CIL to fund a new junction on the nearby motorway, for example, but that is an example of where it has been a successful scheme. On my point about an overarching role and everybody pulling in the same direction, in that situation, although the motorway junction is on site now, there was a significant delay when it was going to be funded by CIL. For various reasons there were delays in that project and our client could not wait; they needed that junction to proceed with their development. They have ended up, in effect, front-funding the junction, which is for the benefit of their development but also of wider development projects, to make sure that they could meet their time requirements and get on site. There are some successful examples, but there is always room for improvement.

Baroness Warwick of Undercliffe: Do you and Grainger feel that this is a replicable model?

Kathryn Jump: The issue with that scheme for our clients is they have had to very heavily front-fund the development and push out when they get their returns far beyond the norm. The reflection on that site is that, right from the beginning, there should have been a clearer debate about how those risks are shared. It should not be all on the public sector or all on the private sector.

Baroness Warwick of Undercliffe: Thank you very much. Perhaps we may hear finally from Miles Gibson.

Miles Gibson: Good morning. There will be some support required from the Treasury, unquestionably. It is worth looking back at what was the support, and Dr Shepherd has already hinted at this. The support that was given to the first generation of new towns was a combination of lending and spending. The lending was loans to buy the land at existing use value rather than at market value. The hope value was taken out of the equation then. Those loans were repaid by the new towns from sales of land. My understanding is that they were all fully repaid by the 1990s.

The Treasury did all right by that aspect, but there was also some spending; that is to say a straight grant out of the public purse to pay for some of the things that those new towns contained, in particular affordable housing. It seems likely that some combination of lending and spending will be required again.

Dr Shepherd is quite right, though, that on the lending question, we are in a different of world financially now than we were in 1945 or 1948. It is capital investment so it makes sense to give a loan, to spread the cost over the generations that will benefit from the asset that is the new town, but it is financing, not funding. It is lending, not spending. It is cheaper for the Treasury to do because it scores on the public books as the cost of the interest associated with giving the loan. It is cheaper to do.

The Treasury has been innovating in the meantime and now gives guarantees on private sector loans rather than doing the lending itself, which turns out to be even cheaper because it scores as a contingent liability. The Help to Buy mortgage guarantees, perhaps the best example of that approach, do not really score on the Treasury's accounts at all.

Various mechanisms can be used, some of which have not been used before in relation to the new towns. Does it all have to be the Treasury? It probably does not; it depends on the risk. If the risks of developing a new town are high, it probably is only the state that has the broad enough shoulders to bear those risks, but if the risks can be reduced then, yes, as Dr Shepherd says, the capital markets will come in and they will take some of that risk.

What kinds of risks are we talking about? It is the planning risk, obviously, the sales risk of the housing and the development that lands on the site, and the infrastructure risk. Infrastructure is not simply delivered by central government but by regulators working through utilities and so on, so there is some risk there. It seems to me that, overall, those risks are not likely to be reduced to such an extent that the Treasury can simply stand back and let the private sector do it.

Finally, any state involvement is likely to have a confidence effect much bigger than its nominal effect. There is a case for being involved even if you put only £1 in.

Baroness Warwick of Undercliffe: Thank you very much, indeed. I will hand over to Lord Porter.

Lord Porter of Spalding: Welcome, everyone. From some of our perspectives, without Treasury commitment to this project, this Big 10 scheme, whatever they end up with—I do not know why they would not use 100; if there are 100 expressions of interest, let us do 100. Let us crack on. Without the Government's commitment through the Treasury, I would have thought this stuff is dead in the water. There is no way the private sector is going come forward, even though the bond market is much more mature now than it was back in the day.

The cheapest way of borrowing is still going to be if the Government hold the bond rather than some new entity that is not yet in existence, because then the risk is massively derisked for the private sector. Two of you thought Treasury involvement was necessary upfront and one of you did not, which is interesting because I would have thought all three of you would have done, given the backgrounds of your experience. That is interesting in itself.

If the Government do not step up to the plate and commit that they are prepared to step in financially, is it fair for us to assume that the Government are not serious about the agenda? Some of us will take that line—not all of us, but some of us would do. With particular reference to the need for 40% affordable, is that really an area where the private sector is likely to step in at scale? I know there are people out there who play on bits of it but at that percentage scale, across 10 developments, would not Homes England be the best place to steal the money from, given that it is not brilliant at getting the money out the door anyway? This would help it achieve one its tasks, which is to get some money out of the way from the Treasury rather than give it back, which it has done previously. You pile in with whatever you think, or tell me I am wrong and just pull it back.

Dr Edward Shepherd: I was not sure quite who you had in mind about who did not think that Treasury funding would be involved, but I certainly think that it would be involved—just not wholly relied on as the only source of funding, just to be clear about that.

Another subsequent discussion that is raised, which is relevant to your question, is that in the background to all this there is an economic and political geography that will have an impact on nuancing all the generalising answers that we give. In some areas of the country, it may well be deliverable and viable with lots of private sector funding and a large proportion of affordable housing, because the values are there, it is perceived to be less risky and there is more confidence about the future revenues from land sales or whatever else. In other areas of the country, there may not be that market power to deliver with a corresponding perception of risk. Those sorts of areas may need more central government funding to help pump-prime and establish a principle and derisk.

It is all about risk, is it not, ultimately? It is about where the risk lies, how much risk there is, how it is apportioned and what the required return is for taking on that risk. As I see it, the role of the public sector, in this example, is to establish a principle and help to derisk, whether that is through clear plans, or through establishing sources of spending grant funding or financing, to create confidence that will attract other sources of funding and help deliver these projects. To your question, there needs to be a very strong commitment to do that and that needs to be signalled clearly to the markets for them to respond.

Miles Gibson: The short answer to the question is yes. I think it will be very difficult to proceed if the Treasury is not in this debate. The manner in which the Treasury and the Chancellor are in the debate is a matter for them, but to be totally absent will make things much more difficult. That is a slightly different question from whether the Government's aspirations for the quality of development are viable and deliverable and cost an appropriate amount of money. That will depend very much on the viability of individual sites.

I have some concerns that a blanket set of standards applied to all new towns may work in some parts of the country and not in others, because land values are not the same in the north as they are in the south, but again it depends who is paying. If land value capture is to be part of the answer, it can be part of the answer only where there is enough land value to capture. In those circumstances where there is not enough land value to capture, it follows that someone else will have to fill the gap and that is probably the Exchequer.

Kathryn Jump: I agree with that. It is a question of scale. Obviously, the very large, 10,000-unit schemes will need public intervention just because of the level of risk, but there will be other schemes of around 2,000 to 5,000 units where maybe in a strong, viable area there is much less significant need for intervention. I completely agree that it is not one-size-fits-all for what each site can generate due to the viability, so we need to set some overarching expectations but there needs to be flex. With 40% in some areas, particularly if it is a site with contamination issues, for example, it is likely not to be achievable and that should be the reason it fails.

The Chair: Before we move on, Baroness Andrews has a quick follow-up.

Baroness Andrews: Good morning. It is very good to see you. You have begun to unpack the notion of risk, and the distinction between financing and funding that you made, Miles, is really important. One of the risks you identify is the planning risk. I remember the agonies of introducing CIL in 2008—Miles, I do not know where you were—and the complexities of CIL and Section 106. On this mix of raising resource, your example of the junction explains exactly why, once timelines get out of control, you can lose control of the whole project quite easily. Do you think there is any way, through the planning Bill perhaps, in which we could simplify to optimise more resource coming from CIL or do something about Section 106? I know this balance of viability is compounded by a number of

factors—different ends of stages of the process. Do you think there is anything more we can get out CIL?

Kathryn Jump: My view is that we should not overly change the basis of what we currently understand of CIL and how Section 106 agreements work. Section 106 agreements are a tried and tested approach to collect all the planning gain needed and address any mitigation that is needed. You can control how you articulate the timeframes and what alternative ways something could be delivered. I agree with the emphasis on drafting better 106s to foresee some of these issues, but it is not about the content of the 106 agreement; it is how all the different agencies, once the planning permission is in place, work together to make sure that those obligations are satisfied. It is not all just on the developer or the local authority; it is a collective responsibility, and it is making sure that it is a priority for all the parties involved—Highways England, Natural England. One of the main sources for why things do not happen well is trying to persuade everybody to care about what you care about at that particular moment.

I am based in Manchester, so we have some community infrastructure levy adopted in the north but not at all as much as in the south. In my view, it has limited value. On a big garden village site, I could see the benefit of a specific CIL tax or a specific piece of infrastructure, like a new access road—highways is usually the main thing. That would be a way for the council to take control over collecting and spending the money. That does not need any change to the current system.

The Chair: I will bring in Lord Faulkner and Baroness Miller, because it reads through into their area of questioning.

Q62 **Lord Faulkner of Worcester:** I am going to talk to you about land value capture, which we have referred to already. This is a general question. Has the bus left with land value capture not on it over the last two or three decades? Have there been huge numbers of missed opportunities? Edward, I will ask you because you were unwise enough to say that this is your specialist subject.

Dr Edward Shepherd: The thing that came to mind when you asked whether we had missed the bus is the thought that the most effective way to do land value capture is to acquire the land very early before development is being talked about and before the market starts to respond by having an increased land value through market exchange. In that respect, the answer to your question is yes. Obviously, with that there comes a general acceptance of the principle that it is right, and it is part of the role of the state, to acquire land to hold it and, therefore, to extract value uplift through its later development. That is surely the principle that needs to underpin the delivery of the next generation of new towns.

This connects to a later question. It is very difficult to talk about land value capture in general without also invoking the spectre of CPO net of hope value. That is the mechanism that, in my view, has to underpin the

delivery of new towns because of the limitations that we have talked about with existing land value capture mechanisms. We can say that if you have a more certain land value capture requirement, the sticky expectations of landowners will adjust and land values will come down. We have seen some evidence of this with London and the mayoral fast track route and so on, there being greater certainty through that fast-track route, but that will not work in a lot of places where new towns are planned.

There needs to be a firm expectation that is really priced into the market, and the way to do that is to basically signal to the market that the hope value provisions will be used. It will surely take a legal challenge to test the will of the acquiring authority to see what the real answer is, but I think that has to happen and there has to be a precedent set for it then to have the disciplining effect on the land market that it is intended to have.

I do not think the intention is for there to be lots of compulsory purchase orders acquiring all the land. I think the intention is, as with many CPOs, that it sits there in the background behind negotiations to arrive at, not EUV, but a fair value. It has been talked about as being a fair value and for the people who support this policy, a fair value does not necessarily mean existing use value, but it certainly does not mean full development value. It is somewhere in between and perhaps at the lower end of that scale.

Lord Faulkner of Worcester: Would you favour land value capture income, money raised from land value capture, to be spent only on specific aspects of infrastructure, or should it be available for the new towns more widely?

Dr Edward Shepherd: If we are talking about the hope value rules, the kinds of uses that need to be in the order for it to have effect are limited—affordable housing, healthcare, education. As a general principle, the land value capture provisions that exist via CPO or CIL or Section 106 need to be hypothecated to a particular thing on site—in the case of Section 106 or CIL, strategic infrastructure. There needs to be a connection between the land value capture provision and the thing it will then be used to pay for, but in the case of new towns this could be something identified in the master plan for the new town that is being developed by the development corporation. That again comes to the question about what the right delivery vehicle is. My view is that it needs to be something like a development corporation, which has the strategic powers all in one place, that is delivering the plan and the project in one entity.

Miles Gibson: It is certainly some time since any Government had a comprehensive strategy on land value capture—you have to go back to 1979 as the last moment when there was such a strategy. I am not saying that such a strategy was successful in the Labour Government of 1974 to 1979, but there was one. There is not one now.

On new towns, Dr Shepherd is absolutely right that there is a risk that the moment is passing when effective land value capture can be achieved. I have some concerns that to come out and say, "We will announce locations in a year" and say nothing more is very dangerous. It would have been better to say, "We will come out with our land value capture model in a year, and we will come out with our delivery structures in a year and then we will choose the locations". If the locations are identified first and the value capture strategy is identified second, the value will be captured by the landowner, which is the target of the government action in the first place.

The two have to happen together and we have to hope that at the spending review, or at the moment when the task force publishes its recommendations or when those locations are identified, the Government are crystal clear in deeply legal terms about precisely how they propose to go about the capture of land value, whether that be by using existing instruments like Section 106 and the community infrastructure levy or something new.

If I may go back to Baroness Andrews's question about whether there is anything in the planning Bill that needs to be changed, my strong suggestion is that if the Government are in a hurry they should leave the Bill well alone in this respect. I remind the committee that the community infrastructure levy is by regulation—it can be changed without recourse to primary legislation—and so is the infrastructure levy in the Levelling-up and Regeneration Act 2023, which the Government have said they do not want to do, but the powers are already there. I think we are swimming in powers. The question is what the correct one to use is in the circumstances.

Baroness Miller of Chilthorne Domer: I am mulling over the issue between what Miles has just said about leaving the planning Bill well alone and the fact that Dr Shepherd mentioned that the precedent is likely to be set by a court case. If a precedent has to be set in that way, will it not very much slow down the whole delivery?

Dr Edward Shepherd: Yes, there will be delays in comparison to if there was not a legal case, but the point I am making is that there are a lot of sceptical voices around hope value and delay is one of the sceptical points made. The point I wanted to get across is that until such time as these powers have been tested and been proven to be used by the acquiring authorities, it is unlikely to have the disciplining effects on the land market that is being hoped for, but that is not to say that it should not be attempted. These new towns will take a very long time—there is no doubt about that—so there could be time within the normal timescales of plan making and delivery for there to be a CPO inquiry and for the principle to be established and to have a knock-on effect on other new towns.

We are not talking about new towns starting to be delivered within this parliamentary period. I am very sceptical about that. We are talking about a long-term gain, 50 or 60 years across multiple Parliaments. While

there are valid concerns about delays and there are likely to be challenges from landowners who want to get more for their land, as I said, the point I want to make is that those fights need to be fought for there to be a real change. The things that we have been trying for the last 40-plus years have not worked. The reason why we are in this situation is because people have been too timid about trying out comprehensive land value capture mechanisms. I think we are at the point now where there is cross-party consensus that there is a crisis that needs to be addressed.

Baroness Miller of Chilthorne Domer: Thank you. Your point leads very neatly on to my next follow-up question. What contemporary examples can any of you think of that have been successful? It was helpful, for example, to mention the motorway junction because it makes it real, otherwise we are drowning in hypothetical issues. If you can think of any real examples, that would be incredibly helpful for us.

Miles Gibson: Perhaps I could offer two or three. The Elizabeth line in London is a very interesting example of land value capture because it does not just capture development value, as we call it, or planning gain might be the layman's terms. The Elizabeth line was funded, at least partly, by some Section 106 agreements with specific developers, by a very broadbrush community infrastructure levy applied across the whole of London at a very thin level, but also by a business rates supplement. That, of course, is land value capture in the sense that it is capturing the value of the stock and not of the flow of development—the stock of buildings, the existing built environment.

Land capture value to me is not simply about planning gain and it is not simply about the windfall gain that arises to a landowner when they are granted planning permission for development; it is also about the land value increases that arise out of general inflation, house price inflation. The business rates supplement there creamed off a certain amount of land value increases in the value of commercial property and applied that to the Elizabeth line. That is one example.

The Olympics is another example, but in that case the instrument was council tax, and the mayor imposed additional council tax on the whole of London to pay for the Olympics. That is also land value capture. Again, it is not about development; it is about using the stock as a mechanism. There may come a point in a new town where it is possible for the stock of buildings in that town to start paying for the maintenance as opposed to the windfall gain arising from the planning permission being the thing that funds some of the upfront infrastructure. Getting the balance right between how much the developers should pay and how much the incumbents and the non-developers should pay will change over time.

Kathryn Jump: I have been involved in Handforth Garden Village; that is Cheshire East, so it is a northern example. They do not have a CIL, or they did not have it at the point when we started the Section 106 agreement. There, it is broadly going to work as a roof tax. You conflate all the different funding things that the development is asked to pay for

and you come to almost a price per plot, and that is how you calculate overall how much the development has to fund. Then there will be some forward funding from the council and other public sources, but that will be repaid, in effect, over time through the development as it is generated. That has planning permission and it is just starting its early delivery phases, but it has not required a complex separate land value capture scheme over the Section 106 agreement and conditions.

Baroness Andrews: It is such an interesting point. Edward, you started off by saying everyone is worrying about land value capture and how we do it. Miles has just described how if we break it down into its component parts we have very practical, realistic examples of how we can capture land value. Do you think we should stop talking about land value capture and start talking about "Let's find different ways of realistically raising money from different forms of planning gain and planning values", which makes it easier to make better, more realistic, more accessible policy? Do you think that is the way forward, or is there a gap in the middle of all this which we still have not closed?

Dr Edward Shepherd: I think the fastest answer to that question is that we are not short of ideas, and we are not short of instruments that we can use. It is to do with the tension between the need for certainty and flexibility that sits at the heart of this question because of the different market areas in which land value capture that is imposed, let us say, nationally and delivered locally has to perform. That is one really complicated area. The other really complicated area is what happens through time with the values.

All these elements come together and make it a complex policy area, which can lead to perhaps the perception that people are constantly talking about land value capture and not doing it, but practitioners are doing it every day. It is being done every day and quite successfully. Billions of pounds of land value capture have been agreed every year through CIL and the value of the affordable housing secured. It is a successful policy area by those metrics. I think what we are talking about here is: is there potential for it to do more, to do a better job in comprehensive schemes such as the ones we are talking about, of 10,000-plus units?

It comes back to my answer earlier: yes, we can have clearer and more certain policy around what is required for Section 106; we can continue to use CIL—that can create more certainty that will be priced into land deals—but we can also use this power to acquire land potentially net of hope value or use the threat of doing so to discipline the land market into agreeing fairer prices so that more development value can flow towards the provision of public infrastructure.

I slightly push back against the accusation that there is too much talk and not enough action, because the talk needs to happen for us to clarify the issues that the practitioners are actioning on every day.

Lord Porter of Spalding: Crudely, with 1,000 acres and 10,000 units in

a field nowhere near anybody else, quite logically you could say, "Right, anything inside that red line the state is going to buy off you for twice what its agricultural value is or we'll compulsorily purchase it and give you only agricultural value", so you can beat somebody with a stick. But that 1,000 acres is surrounded by 100,000 acres of potential hope value, because any place you stick a new town at some point will expand out. Should we try to encourage the Government to look way beyond the immediate for trying to capture the value and say that there should be a cordon built around any new town that says, "We also will capture the value of anything for the next 50 years that extends outside of this plot" other than just capital gains tax?

Miles Gibson: That is what Ebenezer Howard originally proposed. As you may have heard from witnesses in the past, the idea was that you would build a town and it would be surrounded by its own green belt as soon as it was built, partly to protect the quality of the environment but also to protect the financial values of that development.

I think the broader question that perhaps the committee is struggling with is: if we have this range of instruments, are there any more that are missing? The answer is that there are some missing, but they have not worked very well in the past. The national development tax option is still on the table, so one could do that, but how long do you have to legislate? It is probably not long enough to make that a realistic prospect. It seems to me that the new towns will probably be built, at least initially, with the existing systems we have, so you have to choose between those systems.

It comes down to how deep your pockets are and how long you can wait to recover the upfront costs of building a new town. Can you match the timing of the taxation or the capture with the spending? That is what development value capture does. If you are after the planning gain, you know there is a development that needs the infrastructure at that time, so you should really capture the value at that time to spend on the infrastructure. Thinking about how tolerant you are of the timing being off, the infrastructure coming later can throw up different mechanisms for securing the value capture, because you can get it out of the stock as the stock arises later.

What are your politics as to who you think should be paying? Should the developer be paying? If the developer is paying, how do you retain the incentive for them to develop in the first place? On the other hand, do you think incumbents should pay, as was the case with the Olympics—it was not the developers that paid for the Olympics; the whole of London paid for the Olympics? Politics and what you think is fair and just comes into the question.

The final question, as I said, is: do you have time to legislate? I am not sure that in this case the Government have time to legislate. Therefore, we are stuck with a combination of Section 106, CIL, taxes on the stock—business rates, stamp duty, council tax—and just buying the land. If you

buy the land, you have control over both the development value and increases in the value of the existing stock.

The Chair: That leads very neatly on to the next area, which is with Viscount Hanworth and Viscount Younger, on hope value.

- Q63 **Viscount Hanworth:** My designated question will sound naive in consequence of what has already transpired, but I will ask it anyway. Should land for new and expanded towns be acquired on a valuation that excludes any uplift in prices consequent upon the prospect of its development? Beyond that, I think we need to discuss more about the mechanisms for capturing land value. To what extent are increases in the value of land captured by capital gains taxes and to what extent could those taxes be redeployed for the purposes of development? This is all very complicated, and I think we have to be quite discursive about revealing all the aspects. Maybe Edward Shepherd can start with and then down the line.

Dr Edward Shepherd: Your question is helpful in the sense that it reminds us that, with land value capture, although the conversation so far, and the way in which it is talked about in the contemporary context, thinks of it as being event-based mechanisms that are embedded within the planning and development management system, it is also the case, as Miles alluded to a moment ago, that you can think of land value capture more broadly, in terms of periodic property taxation or capital gains tax or inheritance tax on land assets. There are all sorts of ways in which the Government, the state, can tax and collect value from land when it is transacted or through periodic tax.

The benefit of thinking about it as an event-based mechanism that is levied by the development corporation, if that is the mechanism involved, is that it is very much kept within the context of the project. If you are thinking about raising money through the capital markets through bond issue as one of a mix of different funding sources, the people who purchase the bonds would need to understand precisely where the future income was coming from.

If it is thought about in terms of, "Okay, there'll be some taxation revenues and some revenue coming from capital gains tax that goes via the Treasury", that will undermine a key source of potential funding, which is the land. If you take land revenue out of that funding model within the development corporation and the delivery vehicle, you are undermining a major source of potential revenue for that vehicle. That is a key reason to think about it as event-based or land assembly powers exercised by that vehicle rather than general taxation that goes to the Treasury.

Viscount Hanworth: It strikes me that the mechanisms for capturing land value are disjointed and possibly inequitable. Kathryn Jump, is that a fair aspersion or is the system more consistent and coherent than I perceive?

Kathryn Jump: No, that would not be my experience. My main concern with changing what we have now is that it will just delay everything. We need to be very clear on what we have, which is a very established system of Section 106 agreements capturing the financial gain to be had from developments. We have CIL, which is the other established mechanism. Let us stick with those. If we want to control how land is used and what revenue is generated, we have not really talked about local plans and planning policy. That is a very coherent tool for how we impose requirements on the land, which will limit value for the landowner and for the developer. That is where we need to focus. The planning system will do everything you need it to do without massively changing it over the reforms that are already in train. That would also answer your question about how you deal with the doughnut. That could all be dealt with by planning policies that would control what development could come forward and what financial obligations would be placed on that additional land.

Viscount Hanworth: Miles Gibson, you introduced the notion of stocks and flows, I think. Can you expand on that?

Miles Gibson: What I mean by the stock and the flow is that, if you think about when London is developing, we have a flow of development into the stock. What we are talking about here is capturing some of the value of that development as it proceeds into the stock. But we also have the stock. We have hundreds of thousands, if not millions, of houses in London, which are all appreciating very nicely in value—house prices—through no action of the landowner concerned, the house owner. That is what the business rate supplement that I was referring to before and the council tax supplement that the mayor put on homes in London aim at. They aim at the fact that owners of land are getting windfall gains in the value of their property. It has been argued that it is legitimate for the state to attempt to tax those. That is the logic of all property taxes, whether it is stamp duty, council tax or business rates.

My point is twofold. First, where, as a politician, do you view the right balance to strike between taxing the stock and taxing the flow? Secondly, what are the timing effects of doing so? Of course, in a new town situation, there is no stock to tax so one cannot do that; you have to go after the landowner who is doing the development. Over time, of course—Milton Keynes now is experiencing taxes on the stock because everyone in Milton Keynes pays council tax and stamp duty. There is a question about whether the stamp duty and capital gains tax, which you mentioned, should be allocated back to the locality in which they were raised. That is a separate question, which I do not think we have time to get into, but it is a possibility in respect of these new towns that national taxes be allocated locally to help pay for the infrastructure.

To come back to your point about equity, I think that land value capture systems in this country are inequitable. Section 106 is a barter system. Bartering means that the results are a function of negotiating power as much as they are the actual values involved. Section 106 is not a

success. I am being provocative for effect, but Section 106 raises only £6 billion a year. Who says that that is the right number? Who says that it could not be £12 billion a year? If I may give an example, half of all local authorities in the south-east of England—I am sorry, I have forgotten the point; if I could write to the committee on that.

But there are substantial numbers of local authorities which do not charge any Section 106 or any CIL on developments, usually smaller developments, but on some significant-size developments as well, including in the south-east of England—which was the point I was going to make—where there is plenty of value to be captured, but still the local authority either does not have the skills or the capacity or the inclination to tax that value. Why do we have that system? I am not sure that we know the answer to that question. I think it is simply because it is the system that we have and we quite like not changing the status quo.

Viscount Hanworth: Those rate supplements are part of a very disjointed system, I think. Viscount Young is my colleague in this question.

Viscount Younger of Leckie: This is following on from Viscount Hanworth. Pens poised, because I have a number of fairly quick questions.

I wanted to dive a bit more deeply into the assessment of compensation. Miles, you mentioned the Levelling-up and Regeneration Act 2023, and we know that allows the assessment of compensation for the valuation of land to exclude hope value in certain circumstances. What, in your opinion, are the certain circumstances or specific circumstances where hope value is excluded, and what are the ramifications for landowners in this respect, where many landowners, of course as we know, will be needed to be persuaded to sell if it is not a CPO? Secondly, what do you all think are the greatest challenges if you are building an urban extension or a new town for persuading landowners?

The next one is: can any lessons be learned from HS2? We know that it was all in the papers about persuading landowners and CPOs. You may say that is very different, but it would be interesting to have your views on it.

Finally, on something slightly different, which may be appropriate for Kathryn, the removal of hope value in certain circumstances could be seen to be a state intervention. How fair is this? Could this encroach on an individual's or a landowner's human rights? It is a slightly quirky question. Maybe, Kathryn, we could start with you on that and then move to Miles and Edward.

Kathryn Jump: Unlike my fellow panellists, I am a bit of a sceptic about hope value as a concept. When you are starting to promote a compulsory purchase order, you want to start treating the landowners fairly. The initial interactions are very important, because very early on you can

start being diametrically opposed. It is a huge draconian step to have your land taken off you when you do not want to sell it.

Having been in that position acting for acquiring authorities, I would not advise an acquiring authority to try to exclude hope value, because I think from the start you will entrench the acquiring authority versus the landowner and the ability to come to a reasonable and fair negotiated settlement. My first concern is that I do not think you even start being able to have those conversations.

Then there is the concern that once you are there, there is a real risk of ongoing litigation. While it is fair and it might be only the first big scheme that has that, the first big scheme then fails or gets hugely delayed because of those risks. What does that say for the other schemes that are trying to be brought forward?

Again, not to repeat myself, but I think you manage hope value. CPO compensation is calculated in what we call the no-scheme world. You have to ignore the fact that the development proposals that are coming forward for the town do not exist. It is what would have happened on the land if the garden village or garden town was not coming forward. The only way to control in the no-scheme world what the value would be is to have up-to-date planning policies that people can still read through in the absence of the big scheme that is coming forward. You control hope value by having clear, up-to-date planning policies that say, "In that scenario, you would still have to pay towards affordable housing, schools" and that automatically starts to take off the open-market value. I think that is much the better way.

In my view, government putting more pressure than it is on all local councils to have up-to-date plans is the real key to a lot of these problems. In the last 40 years, one of the main problems is that we have not had up-to-date local plans. Only a third of councils have one that is less than five years old. In the levelling-up Act, there are requirements for them to be prepared within 30 months. On average, they currently take seven years.

Councils are out of practice of having up-to-date plans and then regularly reviewing them. They should be reviewed every five years. We are miles off that. My personal view is that is where efforts are brought to bear rather than trying to, in effect, change the CPO rules and start having this battle from the start about a less-than-market value price for land.

Yes, I think there are human rights issues that will be brought to bear in any legal challenge, and there would be legal challenges, because potentially we are talking about millions of pounds, so people will be motivated to fight.

Miles Gibson: I do not think I can help you on High Speed 2 or the human rights issues, which Kathryn has just dealt with. It may be appropriate to say something about how you decide whether a landowner should receive some of the hope value. It seems to me that there are two

principles involved. The hope value is a part of the development value. The more planning gain you extract through land value capture mechanisms, the less hope value there is in the first place. In the extreme case, if you take 100% of the development value off the landowner, there is no hope value because there is no development value. Clearly, the issues are related.

The first of the two principles is: who owns the development right? If you think the state owns the development right, it must follow that the state owns the development value of that right. That is the Town and Country Planning Act 1947 settlement. What it said was, "Dear landowners, we are going to confiscate the entirety of the development value from you for all time and here is £300 million of compensation that we are going to give you for the fact we have taken all of the development value off you for ever, including any hope value that you might expect at any point in the future, including in 2025". Therefore, landowners are not entitled to any hope value, because the state owns it.

However, your question was about persuading landowners to play, and Kathryn is absolutely right that if you give no incentive at all then you are in serious trouble. Even though, technically, the state might own the development rights and development value, the state will have to give some of it back for free to persuade landowners to move their land from existing-use value, agricultural value, to at least getting some of the development value. That is a very live conversation in government about how to do that. If, on the other hand, you think the landowner owns the development rights, logically you have to compensate them for some of the hope value. For human rights reasons, I do not think you can do it any other way.

There is one caveat to that whole argument, which is about horizontal equity. If you have two landowners in different circumstances, say on adjoining plots of land, and one will have their land compulsorily purchased without hope value for the building of a new town, but the neighbouring landowner can sell his land or her land in the private market, including the hope value, is that fair? All Governments since 1945 who have grappled with this question have eventually decided that it is not fair that landowners can sell land for a different price into the private market than they can to the state.

Therefore, all Governments after 1945 have constructed mechanisms to make sure that both landowners were treated equally. The mechanism they used was not to give the hope value back to the compulsorily purchased landowner but to tax the private landowner selling into the private market so that they were treated equally.

Dr Edward Shepherd: I will expand on a couple of points raised previously. I am not going to talk about HS2, but I will talk about this point about incentive to the landowner. This raises the question of benchmark land value, which is what we call the price at which a reasonable landowner would be incentivised to sell. It is usually thought of as what the uplift is from existing-use value as to what benchmark

land value we should be thinking about. That is relevant to what Kathryn was saying about having certainty in the plans.

Plans need to be viability-tested. When you are viability-testing, whether it be plan making or via the development management planning application stage, this question of benchmark land value becomes very relevant. Benchmark land value is a negotiated agreement: what is the benchmark land value for this particular type of site or this specific site in development management terms? That is set, in part, by landowner expectations and what the policy requirement should be, but that policy requirement is sensitive and responsive to landowner expectations.

When we think about landowner expectations, we see that some of the evidence that is used in viability setting for plan making is what is in minimum land prices in option agreements, which are private agreements made between, let us say, housebuilders and the private landowner. That evidence is used to help discipline, talk up often, benchmark land values and viability testing.

What this reveals is that the question around incentives to the landowner is set in part by their expectations. I think the role of the hope value provisions is to basically reset those expectations, because otherwise we will be constantly fighting against the landowner thinking they should get this amount because that is what the market has been saying. But that market has not priced in either necessarily current policy requirements, because of the flexibility of negotiation that Miles drew attention to, which is the big shortcoming of the Section 106 settlement, and perhaps because of future policy requirements being limited by the benchmark land value.

That is the potential of the hope value provision. We should keep it in mind that it is there to help deal with the stickiness of the benchmark land values and those negotiations, because the hard stop will be, "You are going to get existing-use value unless you meet us at X times existing-use value rather than Y times, which is what you are looking for here".

Human rights have been talked about time and time again. I am not a human rights lawyer, but from the reading that I have done around this, I know that, for a start, it has got on to the statute books—I imagine that Michael Gove would have had some pretty good legal advice from barristers who know about this stuff that gave him confidence that this would not fall down in court if it went on to the statute books. There is that point.

There is also precedent here in the sense that new towns hope value provisions were in place and being used after Article 1 of the First Protocol to the European Convention on Human Rights was in place. There are other countries in Europe, such as Germany, that freeze land values at the point at which a plan is made, thereby enabling land value to be captured by the state through land assembly.

I am sure this will be fought out by far more learned and expert people in the court should it come to that, but it is not simply a case of it infringing landowners' human rights because they are not getting market value. We have to remember that market value is not just something that exists in some rarefied parallel universe; it is something that is shaped by policy and politics. Therefore, when we are thinking about "It is not market value", it absolutely is market value, because the market has to reflect what the laws and policies of this country impose on the market.

Viscount Hanworth: Can I interpolate a quick question? I asked about use of capital gains tax. I imagine that that is vitiated by the fact that there is no prior valuation of the land in many cases. Is that true to say?

Dr Edward Shepherd: I am not a capital gains tax specialist.

Viscount Hanworth: But there has to be a prior value if you are going to raise a capital gains tax.

Dr Edward Shepherd: Yes.

Viscount Hanworth: Is the difficulty there that there is no prior value or that it is difficult to determine what it should be?

Miles Gibson: Capital gains tax raises £8 billion a year. It must be the case, surely, that HMRC has worked out a way to do this. It places an

This was an under-estimate. In 2023-24 Capital Gains Tax raised £14.5bn (House of Commons Library, 'Capital Gains Tax: recent developments', Research Briefing No. 5572, 9 December 2024, page 6.

obligation on taxpayers to establish what that existing use valuation is or what the cost of acquisition of the asset was in the first place. Then capital gains tax is imposed on the sale of that asset and the difference between the two values. I cannot see how capital gains tax could possibly work unless it was possible to establish those two valuations.

Q64 **Lord Bailey of Paddington:** Compulsory purchase for land assembly can be a long and complex process, and successive Governments have tried to reform it. Can you identify any legal or practical changes to the compulsory purchase regime that would make the process smoother?

Kathryn Jump: To carry on a theme, I do not think it needs hugely to be changed. It is a tried and tested system. What we have is a risk of lack of specialism. I am old enough to have worked at St Helen's council when we were still slum clearing all the houses in the late 1980s and early 1990s. At that time, every local council had a compulsory purchase legal specialist, surveying specialist, and that level of knowledge has been lost. I am not sure it is the system that is wrong; rather it is a question of training and capacity.

My concern is that any significant changes at this point will just create delay and uncertainty, so I am not in favour of huge change. On what

could easily be changed, digitising the system is an example. At the moment, it is still a very paper-based exercise to make a compulsory purchase order and serve it on all the affected people, and to go through the public inquiry. We could digitise the process of doing the consultation linked with that, but also recording then what has been compulsorily purchased. It is very hard when you are advising a client on a CPO that may have happened some time ago to even find the order. It is not like planning portals at local authorities where all the information is just there publicly available. It is very hard to find those historic records, so just a better system of bringing it to life and in the public domain—digitising the process—would be one for me.

On my only other, there are various ways in which you exercise your compulsory purchase powers once you have them as acquiring authorities. You can make a general vesting declaration; that is, once you have the powers to acquire the land, as the acquiring authority, you can serve a notice on the landowner saying, "In three months, the land will automatically vest with us". That is a very clear and easy to understand process, quite a quick process. There is also a parallel process called a "notice to treat", where you have your CPO powers and you say, as the acquiring authority, "We would now like to buy your land. Can we negotiate the price?" That can take a long time. It is quite a historic process. We do not really need that second process, so some consolidation around how you exercise your powers could expedite. But in broad terms, we think the system is fit for purpose if people know how to use it.

Lord Bailey of Paddington: This goes back to your comment about a central department to administer all this. I like the idea of that because you need someone to drive through. Things that are done by committee are never done, so you need someone who is responsible. Dr Shepherd, would you like to add a point?

Dr Edward Shepherd: No, I have nothing to add there. The broader point around resourcing is important. We all know the impact that the cuts to funding of local planning authorities have had on plan making and delivery. This wider point around proper resourcing to the acquiring authority to enable any CPO powers to be used efficiently is essential.

Lord Bailey of Paddington: I also like the idea of a development corp for reasons I will not bore you with, but could you capture it in that mechanism? Could you say, "We will put this power centrally to help everybody in this region", or subregion, whatever it is?

Kathryn Jump: Yes, that would be very helpful, and you could then have specialist teams within that.

Miles Gibson: My understanding is that Homes England also has compulsory purchase powers, so there would be an opportunity for central government to do it on behalf of other agencies, or indeed on behalf of the development corporations if that was the model that the Government chose to use for the new towns.

I am certainly not a CPO lawyer, but reform will come with a time penalty, and it seems to me that the Government are in a hurry, so that may again support the argument that we should just make the best of what we have.

There are clearly skills and capacity issues; it is a long time since this has been done at this scale. There is also the question of whether the money is available to buy the land in the first place, and whether the Treasury is willing to play ball and provide the amount of money necessary to go around hoovering up land in the south-east of England, with or without hope value. The evidence from history is that when push came to shove, the Treasury was not in fact willing to put up the money that was necessary, and landowners knew it.

Lord Bailey of Paddington: Would the Treasury be able to put up that money, knowing that they would get it back in the future as a patient investor? Would that factor in the conversation?

Miles Gibson: It appeared not to be enough to persuade it last time round. In fact, in 1947, the Treasury gave the Central Land Board, which was the purchasing authority at the time, what would be in today's money £3 million, which might buy a house in Notting Hill, if you are lucky.

Lord Bailey of Paddington: No, it would not, just to be clear. One last tiny question: does the technology exist to digitise? Is there an app out there, a company out there?

Kathryn Jump: There currently is not, but it would not be very complicated. It is a central record system and then each acquiring authority would serve its own notices. The technology exists.

Lord Bailey of Paddington: Sounds like a basic website.

Kathryn Jump: Yes, and that could be maintained in perpetuity. Each CPO would have its own web page now, but as soon as the inquiry is over or the land is acquired it all gets shut down so there is no permanent record.

Baroness Warwick of Undercliffe: As a follow-up, you have talked about the trickiness of changing the system. Previous Governments have tried unsuccessfully to reform the system. In your view, what are the political implications of changing the compulsory purchase regime? Were they the ones over which everybody stumbled in the past? Let me start with Dr Shepherd.

Dr Edward Shepherd: Could you repeat the question, Baroness Warwick?

Baroness Warwick of Undercliffe: Yes, it was about the political implications of changing the compulsory purchase system, because previous Governments have tried to do it but have not succeeded.

Dr Edward Shepherd: Would you be able to help me with having some examples as to what particular changes you have in mind that they were not successful in implementing?

Lord Bailey of Paddington: In all of them.

Baroness Warwick of Undercliffe: Yes. I do not have any specifics in mind, no. It just seems to me there have been occasions in the past where this has happened and it has not been successful. Perhaps I am wrong.

Dr Edward Shepherd: I would not profess to have detailed knowledge of all the many changes that have been tried to be introduced, but I think again it comes down to the complexity of this area. Compulsory purchase is a very serious power to be exercised by the state, so you have to be very careful that it is not used arbitrarily; there have to be checks and balances in place. I am here advocating for land being purchased or the potential for land to be purchased net of hope value to discipline the land market, but that is not to say that I do not think that it should be used very carefully.

Therefore, there need to be rules and regulations in place to ensure that the state actors are disciplined accordingly. There needs to be due process, sufficient time for negotiations to happen and a potential pursuit through a formal inquiry. All these are quite serious steps to take and require a lot of paperwork, essentially.

There is no way to cut the Gordian knot because we are talking about complicated issues of land ownership, land valuation, deal making and negotiation. That potentially is why. There are also plenty of vested interests: professionals who make plenty of money from a long and complicated process, as well as landowners who also benefit from the process being long and complicated, and perhaps fairly for the reasons that I have mentioned earlier.

Kathryn Jump: I think the concern has been around a lot of the CPO rules being based on Victorian statutes or very old cases, particularly around valuation. A lot of the talk of reform in the past has been around consolidation rather than changing the process, because the current process has those checks and balances. I think that is why it never has been changed, but some consolidation to allow understanding and people to access exactly what CPO is could be helpful. Again, my concern is delay if we start having new statutes.

Lord Bailey of Paddington: Baroness Warwick, if I may, through the planning system, could the Government impose a system that says in any given region, "This is what we will pay, compulsory purchase"? Could they say, "We are going to give you five times its current value; don't come back", or is that impossible?

Kathryn Jump: That is a version of what we have been talking about, is it not? It would need to be a statute-based change.

Lord Bailey of Paddington: I am from the Gary School of Charm. I think some of this will need a push, and I just wonder if that is a way of doing it.

Miles Gibson: On Baroness Warwick's question about the politics, it is possible that this is a reference to the systems introduced by the Labour Government in 1948, again in 1967 and again in 1975. I mentioned before the pairing of a tax system with a compulsory purchase system. The Government did attempt this: that across the whole of the UK there would be compulsory purchase at some sub-market price associated with a tax, which had the same effect as delivering that sub-market price. Those were hugely controversial politically and the Conservatives took the first opportunity to abolish all of them. Certainly, the Land Commission was abolished immediately in 1970, and the community land scheme was abolished by Margaret Thatcher in 1979. It is very difficult to secure a political consensus on that level of compulsory purchase.

Those schemes were nationwide. I think that the situation with the new towns is politically a bit different. We do not see the same level of controversy in history between Labour and the Conservatives over the decision to compulsorily purchase for new towns at less than market value. It appears that there was rather more pragmatism on the part of Conservative politicians, who detested the nationwide nationalisation of land at some sub-market price but seemed to be able to tolerate the very same arrangements in the new towns. I suspect—I do not know—that was because the political outfall was spatially limited to the locations where the new towns were.

Viscount Hanworth: I think some of the impetus to change the system

This is a reference to the Town & Country Planning Act 1947, brought into force in July 1948; the Land Commission Act 1967; and the Community Land Act 1975

Under the schemes noted (see previous footnote), a tax was paid on sales of development land to private buyers. When the state was the buyer under compulsory purchase, the land was bought at the 'net of tax' price.

has emerged from the experience of HS2. Would you agree with that or not?

Miles Gibson: I do not know.

Lord Bailey of Paddington: I suppose the other, obvious question is the need. The one thing we all agree on is the huge need for these new towns to exist, housing to exist. I think the Government's growth agenda is the correct way to go. Done sub-regionally, does the legal mechanism exist alongside the political will, which I cannot argue, to actually deliver? I take your point about not changing the rules; I think that just rubbishes

the whole thing and puts us in a 50-year timeline. But as it stands now, there is a mechanism to compulsorily purchase, to set a price or to set a mechanism that delivers a price.

Kathryn Jump: The only way to control the mechanism is through local plan policy. That is the existing mechanism.

Lord Bailey of Paddington: You said earlier that many of those local plans do not exist.

Kathryn Jump: They are out of date.

Lord Bailey of Paddington: The Government would have to go back and fix that first.

Kathryn Jump: Correct.

Lord Bailey of Paddington: Okay.

Q65 **Baroness Miller of Chilthorne Domer:** One of the characteristics of the earlier new towns programme was that the community retained some of the benefits derived from the development to reinvest in the town in the longer term. I am sure you are all aware of the examples. Do you think that we should update that mechanism? Does it need updating? Do you think it is feasible and/or desirable to introduce that into the new town proposals on the table?

Dr Edward Shepherd: Do you mean in terms of retaining the community benefits?

Baroness Miller of Chilthorne Domer: Yes. Do you think that mechanism, which has been successful in some places—for example, to enable parks to be looked after in perpetuity and so on—is a good feature that should be retained? Do you think the mechanism needs updating? Is it fit for purpose?

Dr Edward Shepherd: I will take the first question. I think it is a fundamental part of the new towns idea that the community retains some kind of control or ownership of community assets. The successful delivery of new towns, as I imagine them, would absolutely require that. The way it is done could vary, but clearly there needs to be some kind of interest, ownership, retained on the land to ensure that there is some kind of control.

I am familiar with the Milton Keynes Parks Trust. This is a model that we are all probably pretty familiar with. It was founded in 1992 and has a 999-year lease for 4,500 acres of green space. It is funded by an endowment from freehold interest in commercial property. There, you can clearly see the legacy impact of there being a new towns model that was predicated upon community ownership of the land, acquired via compulsory purchase or otherwise, that was retained and could therefore generate income to support the stewardship and long-term management of a community asset such as the green space in Milton Keynes.

What has not been talked about today, probably because it has been quite a technical or technocratic discussion, is the spirit of new towns. If we are going to use the name new towns, we should not forget that there is a spirit, a legacy, here which is very much worth bearing in mind. It is not just a technical matter of delivery of housing and securing the land at the right price to ensure the delivery of housing; it is ensuring that these are good places for communities, places that people want to live in and successful places for the long term. For that to happen, we need to keep in mind the spirit of the new towns and embed within the design of their delivery structures the means to ensure long-term stewardship and retention of these assets.

Baroness Miller of Chilthorne Domer: Is the mechanism fit for purpose? Does it need updating?

Dr Edward Shepherd: It seems to be working pretty well in Milton Keynes. I am sure that the various legal structures that would enable this to work would vary, and we could hear more about those, but the fundamental principle of using property assets that create revenue streams to subsidise or pay for community management is sound. There are other models such as community land trusts, for example. These are getting a lot of traction—I do not know whether you have spoken to Tom Chance, or whether he has given evidence—but there would be a lot of potential to experiment with community land trust models in new towns.

We are in a new era, so there are different models that we could experiment with, but the core principle of keeping assets out of the market, whether via community ownership or ownership via the development corporation for community benefit, has to be at the core of what we are trying to do here.

Miles Gibson: It is very important that these systems exist for political support and community support up front. You do not want to be told that it is all beautiful when it is built and 25 years later it will look horrible. You want to be told that there are systems in place that will ensure that the qualities of the place that has been created will be maintained.

As Ed says, it is not rocket science. If you own the land, if you took that route in the first place, you can sell that land in parcels, as they did in Milton Keynes and the other new towns, and recycle that receipt into either further growth or further infrastructure to improve the quality of the place, or you can keep hold of the land. You can be a landlord and you can rent it out. You can either rent it out substantively to secure some income to put back into the new town or through the form of a ground rent. Ground rents are terribly unfashionable at the moment, but ground rents and service charges could play a role in providing a stream of income for the very long term to support the maintenance and the quality of the place.

If you own the land, you can also impose qualitative conditions on any resale. You can put a restrictive covenant in place saying, for example, "You may not sell on this land above a price or without the garden", or

other quality-related measures can be built into the way in which sale contracts are done. The land ownership route for value capture enables you to put some of these long-term mechanisms in place. There are plenty of options for where that money ends up, whether it is a community land trust, or a local charity, or indeed the local authority because it is the landowner. Then, of course, you can also use the taxation mechanisms that we have already discussed.

- Q66 **Baroness Janke:** My question is about development corporations and democratic oversight. You have local authorities and a host of local institutions, particularly parishes and community organisations, to be involved. We have heard from quite a few people that development corporations are how new towns will be delivered—for public confidence and trust. We have also heard that local development corporations have been locally led and include local councillors and representatives. What do you think of them? At best, they may be a streamlined way of bringing together the kind of co-ordination you need to deliver the new town, but at worst you could end up with difficulties in the existing structures, the local council having been less involved but in the end responsible for maintaining and ensuring the longevity of whatever is created. How do you see that dilemma, between streamlining delivery and the ability to fulfil democratic oversight, and inspire trust in local populations, which I think is in a bit of a short supply at the moment.

Dr Edward Shepherd: There is no doubt that there will be difficult conversations to be had locally should new towns go forward in the way that the Government are intending. That is clear.

To start with the delivery model, development corporations are a tried and tested way of delivering these kinds of things. They have the benefit that they would have the required key powers all within one body—strategic land assembly, plan making, development management, finance-raising powers and so on—and there would be a clear strategic objective and the power to deliver those objectives. That would give confidence to the people financing or supporting the project.

There are plenty of versions of new towns in legislation—maybe five versions. One of the measures in the Planning and Infrastructure Bill is to consolidate and make them more consistent. They are already there; there is a recurring issue around delay and so on. I am very keen that we think of new towns as being delivered by development corporations, but they have been criticised in the past for the reasons that you have mentioned. There is no doubt about that.

On one hand, not to give too mealy-mouthed an academic's response to this, central government support and commitment are needed to make them happen. There needs to be a degree of, "This is happening, but let's work with you to make sure that it's a version that you can support", rather than leave it entirely to, maybe, local authorities to collaborate on delivering. That is a benefit. There is a slight strength of delivery that comes with that, but it needs to be tempered with what Miles talked about in terms of securing local community support by making sure that

it is not just more of the same kinds of development that people already hate so much—the volume housebuilder-backed “no places” that have been imposed on communities time and time again, partly through changes made in the National Planning Policy Framework in 2012 and the rise of land promoters and so on, pushing forward those sorts of schemes, which are there largely to extract rents rather than deliver good places. I generalise slightly, but that is the perception at least of many local community members.

It comes down to working closely with locally elected politicians, doing effective consultation and making sure that these places are well-designed, good places to live, where, if people choose to have children, those children can have families near to where they grew up, which is what lot of families would like, I am sure. It comes down to those sorts of things and goes all the way back to how they are funded and how the land assembly process can support those sorts of places.

Kathryn Jump: I agree. Development corporations are tried and tested. They have the right breadth of power with some central government oversight to avoid local relationships falling down. How we do that is worth exploring.

As for what next, it is all about legacy and thinking beforehand about what happens when the final house is built. How does this stay a good place to live for 100 years after that? There is potentially not enough thought about that right at the beginning, when you are trying to get a spade in the ground.

Miles Gibson: I do not have much to say about the democratic questions, but it seems to me that the selection of the delivery body is a function of the job that you want it to do. The question for me is: do development corporations have the right powers to be able to deliver what they are asked to deliver? I am not sure that they do, so perhaps I have a slightly different view. They do not have the recurrent tax powers on the stock that I mentioned before. They are not local authorities; local authorities do have that. As the new town builds out, the tax arising from the houses that are built will accrue to the local authority and not the development corporation. A mechanism would be needed to deal with that if the local authority was even willing to agree to such a mechanism.

It is also my understanding, although I may be wrong about this, that development corporations cannot charge CIL, which means that they would have to rely on Section 106 as the planning mechanism to achieve value capture. There may be a gap in the in the law there and therefore the development corporation would have to ask the local authority to charge CIL on its behalf.

Either way, it seems to me that the existence of a development corporation has one key advantage, which is that it locks in central government and, for investors, that confidence effect may be significant. If investors know that they are dealing with a local authority, that is one thing, but if they know they are dealing with a development corporation

set up by the Deputy Prime Minister, that might have an effect on pricing, confidence and risk assessment.

Baroness Janke: Do you have any examples of places that have been delivered by such a body that have been particularly successful? What does success look like with a development corporation?

Miles Gibson: No, I am afraid is the short answer.

Baroness Janke: Neither national nor international? No?

Kathryn Jump: The only one I have been involved with is Stockport. Stockport has had a mayoral development corporation that has done some significant work, drawing all the relevant agencies together to regenerate their town centre. It is not a garden town scheme, but development corporations can function well.

Baroness Andrews: I would like to follow up on a couple of those questions. Things are a lot less simple now than they were in 1947, with this tremendous plurality of interests and powers and not least the evidence we have received from local authorities, which are much more anxious to be involved despite the fact that they do not have local plans in many cases, as you said, and that will be critical for land assembly around whatever sites are chosen. The development corporation powers in the Bill are slightly different. They are somewhat enhanced in the new Bill. Do you think they will make a difference?

Secondly, Miles, you said that one of the problems is that there is no stock so there is no tax. You have been talking about the long term, and we may well be talking about 20 years to properly build out infrastructure and everything else. What are the implications for the local authority taking over a development corporation? At what optimum point in an ideal scheme would the local authority be able to take over the full range of responsibilities, given of course capacity issues at the moment? Is there a new sort of delivery model on the horizon, especially for a new town?

The word on the street is that this will be largely extension rather than new town developments because of the added value of having some infrastructure already there, a population in need of affordable housing and where jobs are likely to be multiplied. Will the governance model depend a bit on whether it is a new town, with a different requirement for different sorts of resilience, or an extension that would be dealing with some inherited legacy problems?

Finally—sorry, this is a bit of a package question, but this is just one for Miles—is there anything to be learned from Olympics legacy model?

Miles Gibson: I do not know the Olympics model well enough to be able to comment, I am afraid, but I can say something about transition from the development phase to the long-term management phase.

It is quite right that there may be a different model for urban extensions to existing urban areas, the growth of which the local authority is already responsible for. I can see that if we are heading down that route and urban extensions are the majority of these not-so-new towns, perhaps some of the discussions around development corporations are not necessarily as relevant, although, as we have just heard in the Stockport example—and you have heard from witnesses about Old Oak Common—development corporations can work in urban areas as well, and not simply in new town locations.

It seems to me that one way of managing that transition is to design it up front so that if you have a situation where there is likely to be a development corporation from which the local authority can take over, there are possibilities for intervening or what you might call intermediate structures between the development corporation and the local authority and the locality. I am thinking of something like a garden city company or some kind of structure that is owned initially by the development corporation, a government-owned company if you like, which can just give the shares to the local authority at an appropriate moment. It would make a number of the technical issues more manageable.

Of course, that company could be the management company. Certainly, many entrants to the Wolfson Prize said, “Why don’t you set up a company rather like the Letchworth Garden City Heritage Foundation?” The Parks Trust has already come up in conversation. Set these things up at the start and have a plan for who will manage them rather than the corporation being a very large and statist thing that manages everything itself and then those structures have to be put in place halfway through the process as the project starts to come to maturity.

Baroness Andrews: That is a very interesting idea. It is about planning your exit strategy on day one and having some realistic idea of a timeline.

Kathryn Jump: And asking yourself the right questions at the beginning.

Baroness Andrews: Sure.

Dr Edward Shepherd: I reread the Wolfson Prize essay this morning on the way in. One thing that has not been mentioned is the role of the trust arrangement in the Wolfson Prize proposal, which is intended to address some of the issues that Kathryn raised about the almost combative nature of the CPO process. If you create a trust whereby landowners put their land into the trust in return for payment, which is a relatively small multiple of existing use value, in return for the right to receive payments over the course of the lifetime of the development, over many decades, it creates a kind of partnership arrangement and a land stewardship arrangement rather than this kind of combative, extractive model that current developments are predicated on. I thought that idea was interesting.

To the question about the implications of the Planning and Infrastructure Bill, I will not read it out, but paragraph 753 of the Explanatory Notes is quite helpful here. It basically says that the various versions of development corporations that have come from different historical periods with different objectives will be made more consistent in terms of their all now being able to deliver urban extensions, develop both brownfield and greenfield and do new development as well as regeneration. That is encapsulated and I think it is a good principle. It allows for a variety of types of new towns and types of models of delivery and that is what we need. There is no one-size-fits-all here. There is no one type of solution. There must be principles and structures set in place for some local freedom and determination in response to local political will, local market conditions and so on.

Lord Bailey of Paddington: I have an observation about the transference of the initial development to the ongoing situation. My understanding is that in London that was negotiated up front so the local authorities were at least part of the conversation with the development corporation, and in many cases very core to it, with the understanding that they would definitely take it on. All the decisions made by the corporations had in the background that at some point the local authority would have to manage the development and so had a right to have some kind of opinion about it. There is a tried and tested model.

Then, of course, there are all the metro mayors. Could they not be part of the ongoing future of a given place? One of the biggest challenges is the upkeep. Maintenance is one of the country's biggest challenges. We have very old stock that has been very poorly maintained. We would want to build into any contract how we avoid that in the future. I do not know whether it is legally possible for the metro mayors and local authorities to be part of the development corporation—I leave that to you and maybe Kathryn has a view about that—but having them integral to the conversation in the first place means that they could take it on because it was prepared for them to take on.

Kathryn Jump: Yes, that could be accommodated.

The Chair: Thank you very much. You will be pleased to know that we have come to the end. It has been a good and interesting conversation. We massively appreciate the efforts, despite the transport logistics issues for some, that you have made to get here today. Thank you very much.