Written evidence submitted by the Town and Country Planning Association [LVC 073]

About the TCPA

Founded in 1899, the Town and Country Planning Association (TCPA) is the UK's oldest independent charity focused on planning and sustainable development. Through our work over the last century we have improved both the art and science of planning in the UK and abroad. The TCPA puts social justice and the environment at the heart of policy debate and seeks to inspire Government, industry and campaigners to take a fresh perspective on major issues, including planning policy, housing, regeneration and climate change. Our objectives are to:

- Secure a decent, well designed home for everyone, in a human-scale environment combining the best features of town and country;
- Empower people and communities to influence decisions that affect them;
- Improve the planning system in accordance with the principles of sustainable development

The TCPA has had a 120- year interest in land value capture. The Garden City model of mutualising land and development values for the benefit of the community remains the most compelling way of creating inclusive, high quality communities.

1. Summary

The regulation of land and investment in infrastructure generates substantial betterment values which are created by the action of public authorities but which largely accrue to land owners. This can distort the planning system leading to a high level of speculation in land. It also leads to an unfair distribution of values in terms of meeting the costs of infrastructure and social facilities and reduces the opportunities for long term stewardship of community assets. Current methods for dealing with land value capture do generate significant values but tend to be based on ad hoc legal agreements dependent on complex viability testing. Current mechanisms of capturing land values are also spatially regressive yielding most in high demand areas and little or nothing in places with extensive regeneration needs. In some cases the government has given away very substantial values to property owners though the extension of Permitted Development.

A more effective way of dealing with betterment is a vital component of a reformed planning system. This should be based on three measures:

- Capturing land values at or close to current use value for large scale growth conducted by development corporations and planning authorities.
- A reformed section 106 and Community Infrastructure Levy (CIL) process based on a codified approach to the inputs to viability assessment and open book accounting
- A modest element of betterment taxation as part of capital gains tax which should be directed towards regeneration in low demand areas.

The key issue is that betterment values can support core infrastructure provision, enhance design and housing standards and create resources for the long-term community stewardship of assets such as green infrastructure. This submission seeks to provide a high-level view of the key issues around the land and betterment tax question. It sets out the background to land values and the components of the current trader model of development which dominates the housing market. This paper summarises the differing forms of land and betterment taxation, providing a brief background on the implementation of these models. As a short briefing paper, we cannot do justice to the wealth of expert literature on this issue. A wide variety of experts[1] have written on this subject but

[1] Including Faulk (2016), Walker (2014), Barker (2014)

'Planning Gain' by Crook, Henneberry and Whitehead (2016) provides an excellent summary of the historical, international and contemporary issues around development taxation.

2. Detailed comments

2.1 Introduction

"Debate has raged in this country over the right way to recoup the share of the profits from land development that rightly belongs to the community, since public agencies have had to provide much of the physical and social infrastructure, and since the land values arise in large measure through the grant of planning permission. What has eluded us is…to find a way of capturing the added value that is effective, efficient in operation and politically acceptable enough to be stable over time"

(Peter Hall and Colin Ward, Sociable Cities, 2nd edition, 2015)

Peter Hall's quote is perhaps the most direct expression of what has become a complex debate. This debate is not new, but it is often surrounded by confusion about the source, collection and distribution of the values which arise from development of land and property. The issue is particularly important to anyone working in planning and development sectors because the regulation of land in the public interest has a direct impact on land values. The English planning system has employed multiple ways of capturing these values since 1947[2] but has ended with a system which, while yielding major benefits, can lack transparency and tends to support high values areas. The core issue is that land use regulation creates value which can support positive planning and this require a fairer distribution of values between taxpayers and landowners.

2.2 Where do land values come from?

Land values are generated from societal demands for goods and services, which each depend on the development of land (including everything from food production to housing). The regulation of land impacts on how land values are distributed by controlling the uses to which land can be developed. Both giving consent and investing in infrastructure by public bodies generates values know as 'betterment'. Taxing these values for the public benefit would seem to be a straightforward proposition. However, the debate on how to capture these values has become both popular and confusing in equal measure.

2.3 Where do developers' profits come from?

"The vast majority of house builders follow the 'current trader' business model which consists, in essence, of cycle of land acquisition, development and outright sale. Profit is the margin between sale price and development costs; the developers retain no long-term interest in the property"[3]. Development costs are made up of range of factors from: materials and labour; to the cost of land[4]; borrowing; and planning requirements. The cost of borrowing can be higher for developers because of the perceived risks of the planning and development process. There is an active debate about the extent of this risk. While market volatility is a real risk, the claim that regulation generates risk is less compelling in the context of 80% plus approval rates for housing schemes of which more than 80% are approved on time[5]. After accounting for all of these costs, housing developers often seek profits of between 20% to 30%. This is relatively high in relation to other major domestic commodities, a factor that the industry say reflects the inherent risk in the business.

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[2] Forms of betterment taxation go back to at least the 1909 Planning Act

[3] The Callcutt Review of House Building, HMSO (2007)

[4] The cost of land as a proportion of the development cost has risen over time.

[5] According to DCLG statistics on planning applications decided, granted, performance agreements and speed of decisions on major and minor residential.

Many challenges of the planning system on quality, affordability and long-term stewardship flow out of this dominant development model, but two issues are particularly relevant for the land tax question:

1. In theory if higher requirements are placed on developers for quality outcomes then developers will seek to preserve their profit margin by paying less for land.
2. The commercial expectation of relatively high profit margins means that developers will simply not build if requirements or taxes are set at too high a level. This is at the heart of the NPPF viability test, which was written specifically to support the current trader business model.

In short, it matters when the burden of taxation falls between landowners and developers. It also matters that methods for land value capture are understood before land is purchased or optioned. Finally, any debate about the current trader business model needs to consider that the model is subject to very substantial public subsidy through direct support for owner occupation through schemes like 'Help to Buy' and through wider investment in infrastructure where the costs are not fully met by the private sector.

2.4 Getting to the heart of betterment

Betterment value results from the actions not of the landowner but of a public authority. The best description of the betterment question remains the Uthwatt Report (1942). Previously described as the "unearned increment", betterment values arise continuously across society by the provision of public services. The most obvious example is through the provision of new transport infrastructure leading to increased property prices. Transport for London has explored mechanisms for capturing these values including Tax Increment Financing (TiF).
Betterment also occurs through any system of land use control where the right to develop land rests with the state rather than with the landowner. Gaining planning permission from a current use to a new, and higher-use value, changes the price of land. This change can be up to 100 times the current use value of the site.

It is worth reinforcing the legal reality that development rights were nationalised in 1947. **Landowners do not own the right to develop their land. It is therefore logical that they have no legal 'right' to the values created by the grant of permission.** This was the powerful logic of the 1947 betterment taxation regime, which recouped betterment at a rate of 100%. The subsequent practical experience illustrated that this logic was unworkable in a market economy where the supply of land depended on willing sellers. That is why extreme care is needed when setting the level of any tax or charge at rate, which does not extinguish the land market and/or give public authorities a much greater role in development.

Land value uplift is not an abstract 'money tree' which can be tapped for public good. Such values depend on wider societal demands for development, and any intervention in the market to recoup these values will impact on market conditions for land. Finally, the development of land is special and unlike most other commodities. No development happens without a relationship between the public and private sector in terms of wider patterns of infrastructure. Nothing but the most minor forms of development can be seen to be purely a private sector-dependent operation.

2.5 The relationship between taxation regimes and the status of development plans

There is very useful literature on the international approaches to land tax. There are, however, some difficulties in transposing approaches, which are often based on zonal planning systems, into the discretionary English planning system. Taking forward the German system, where land values are frozen at current use value when allocated in plans, would be more problematic for an English system where the plan has a lesser status in final decisions. The point here is that there is an

interesting and potentially positive benefit from strengthening the status of the local plan in terms to the certainty it might bring to new forms of betterment taxation.

2.6 Are current methods, such as the Community Infrastructure Levy, planning obligations, land assembly and compulsory purchase adequate to capture increases in the value of land?

The short answer to this question is no. However, trying to summarise the current approach to land value capture is not easy. A range of general taxes and charges relate to development values falling at different stages of the process and on differing players. In practice, we have a combination of general taxation measures which relate to land values but do not focus specifically on betterment, and on impact fees which, while both administratively complex and spatially regressive, do yield substantial sums. However, the framework does not appear to yield enough return to cover the costs generated by development in terms of wider infrastructure. This contributes to one the strongest criticisms of the planning system: that it can't drive effective delivery by unlocking sites, which need upfront infrastructure investment. All of this suggests a failure to effectively balance the needs of society and taxpayers with the needs of landowners. In seeking to explore how the system can be improved the TCPA has distinguished between six models of recouping land values.

1. **The general model**: Land/property taxes as a general aspect of wealth and income tax seeking to recoup the overall increase in the value of land and property. A range of taxes already exist which imperfectly capture aspects of land and property value. Income tax, capital gains tax and corporation tax are capable of recouping the wealth generated by land. Council tax is closely associated with property value, but the most direct measure is in fact Stamp Duty Land Tax (SDLT) which relates to both property and land over certain thresholds. This tax is payable by the buyer of land and so only applies when a transaction takes place. It is fair to say that, taken together, this regime is less than coherent and does not deal efficiently with the kinds of betterment value discussed below.

2. **The Garden City model:** The capture of rising land and property values that results from the development of land for higher-value uses. This capturing of development values and their mutualisation for the benefit of the community through control of leaseholds and rents was at the heart of the Garden City concept of development. The source of the rising values is exactly the same as a private sector model discussed above. It is the distribution of values, which is unique, and mechanism of 'capturing the value' is through the direct control of the development process through a mutualised development company. The Letchworth stewardship model continues to show how powerful this approach can in generating funds for investment in the social infrastructure of a town.

3. **The New Towns model:** The 1946 new towns model allowed a development corporation (DC) to purchase land at its current use value and to use the profits of the development process to finance infrastructure and pay debt. Values were derived by both forms of betterment described above and rested on the use or threat of compulsory purchase. The model proved highly successful until changes to the compensation code in 1959 introduced 'hope value' into the compensation code, giving landowners a much greater share of the betterment. This is the model most discussed today and is at the heart the NEF/Shelter/Centre for Progressive Capitalism/TfL policy proposals. (There are important graduations of this model, including John Walkers' work around Strategic Land and Infrastructure Contracts or SLICs for short, which rely on the power of a public authority to trade development certainty for landowners against deferred payments for land.) This form of land value capture is popular and relates to other European models[6], being politically more acceptable by limiting the tax to specific kinds of development in particular places. The

[6] Germany has a system of freezing development values through plan allocations

powers of DCs still exist but, despite some changes to the compensation code, the issue of hope value has not been dealt with, neither does this model have any capability to spatially redistribute resources[7].

4. **The Development Charge:** The 1947 development charge model. This model was a general development charge (with exceptions) designed to ensure both a fair distribution of development values and reduce land speculation. The method was to tax any increase in land values generated by the grant of permission at 100%. The money was collected centrally and distributed to support development by a central land board. The 1947 model could have been much more significant in overall income generation than the 1946 approach and was capable of having a redistributive effect.

5. **The contemporary 'planning obligations' model:** The final end of any form of national approach to betterment taxation came in the 1985 budget when the remaining elements of development charge were removed from the capital gains tax formula. There then followed an almost 20-year gap before Kate Barker's 2004 recommendations for a 'Planning Gain Supplement' reignited interest in explicit attempts to tax landowners at the point permission was granted. Barker articulated the same basic call for tax on the windfall of betterment values accruing to land owners[8]. After much debate and scrutiny this system was not introduced partly because it was perceived to remove local flexibility.

   Instead an ad-hoc system of legal agreements and, latterly, impact fees have evolved around Section 106 agreements and the Community Infrastructure Levy (CIL). Section 106 agreements are contracts between the developer and the local planning authority, and can involve lengthy and complex negotiations that provide highly variable yields to localities. Simply, you get much less 'planning gain' in low demand areas. Section 106 agreements, which can include in-kind provision of affordable homes, are generally related to development costs rather than values and can be viewed as charges or 'impact fees' rather than taxes. The costs accrue to developers rather than landowners. Section 106 agreements are therefore, in principle, regressive taxation mechanisms and are inefficient in terms of capturing betterment because they tax development values rather than land values. Section 106 agreements survived the introduction of CIL with some restrictions. Crucially they appear to yield much greater levels of direct and in-kind benefit, particularly in relation to 'affordable' housing provision. In 2011/12 the total value of Section 106 agreements in England was estimated to be £3.7 billion, a decrease from £4.8 billion in 2007/08[9]. The increasing dominance of the NPPF viability test along with the power to renegotiate affordable homes will have reduced this figure.

   Widespread concern about the lack of transparency of Section 106 agreements for the public and the transaction costs for the private sector led to the development of a more codified-impact-fee approach in the CIL regime introduced in 2008[10]. Again, the stated logic of CIL was not to tax betterment but to provide funds for infrastructure costs that resulted from the impacts of new development.

   The CIL regime was comprehensively reviewed in late 2016 by a review group led by Liz Peace[11]. Peace found that by October 2016 only 130 LPAs had CIL charging regimes, and these were focused in high-demand areas. Many low-demand places have no scheme and

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[7] In theory LPAs could still act as master developers on land they have allocated in their development plan. Disregard for the scheme applies to such allocations but the issue of hope value would still apply.

[8] Barker,2004 p.7

[9] DCLG, 2014, Section 106 Planning Obligations in England, 2011-12. Report of study.

[10] Planning gain supplement

[11] CIL review group, 2016, A new approach to developer contributions

no intention of applying one. Second, the amount generated by CIL was much lower than anticipated with an expectation that it may yield between £470 and £680 million per annum, yet by March 2015 it had only yielded £170 million. The estimate of the contribution of CIL to local infrastructure is between 5% and 20%[12] of the total cost.

This picture reinforces two significant points:

1. The current method of recouping development values relies on the voluntary implementation of CIL and the ad hoc use of Section 106 agreements. Both are spatially regressive taxation measures.

2. The approach does not cover the cost of the majority of infrastructure investment and must be provided by public sector[13]. Given that house building is also subject to very significant public subsidy, it is interesting to reflect on the wider question of fairness between taxpayers and those who profit from betterment values.

Both Section 106 and CIL charging schemes must be set in the policy context of the NPPF viability test, which preserves the expectation of high developer profit margins. The CIL review group recommended changes to CIL and Section 106 regimes to reduce complexity and distinguish between a low-level flat rate charge and bespoke measures for larger sites. The team was not given the brief to go beyond the impact fee regime nor to consider the regressive nature of the system.

6. **Setting high standards in the development plan:** For completeness, it is also important to note that some commentators have argued that the simplest and most direct method of capturing development values is to set ambitious policy in local plans for a range of public goods. These requirements will have the effect of driving down land prices in the way described above. This is a powerful proposition, but questions remain about how it might operate in the context of viability testing and in the ongoing conversation about legal weighting of the development plan.

2.8 The case for modern betterment taxation

The inter-relationship of the property development market and the land-use planning system as well as direct public investment in infrastructure creates a substantial and unrecouped public asset. This betterment asset should, as a matter of principle, be used prudently for the public good in ways which support public interest objectives. This is principally an issue of equity, but the use of such an asset for infrastructure has obvious benefits for the wider economy and society. Conversely, giving away betterment values to landowners drives a highly speculative land market which can reward inactivity and contributes to the adversarial culture of the current system.

The social policy benefits of betterment tax

Betterment taxation could influence the consumption of sites to achieve an environmentally and socially more benign land-use pattern by imposing graduated tax rates by, for example, zero-rating social rent or using brownfield sites. This graduation would need to address the spatial variations in the strength of the property market; differences in the different elements of property development, for example between office and industrial development; and finally, would need to be hypothecated so revenues were applied in a way to facilitate the regeneration of urban areas or mitigate environmental harm. The need to set betterment at a politically acceptable rate may also limit its effectiveness.

Reducing market volatility

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[12] A New Approach to Developer Contributions. The CIL review team 2016.

[13] CIL is also subject to wider ranging exemptions and reliefs

Some commentators have argued that betterment taxation may lead to a slight reduction in the cyclical nature of the property development market. Such a tax is likely to suppress volatility to some degree by decreasing the elasticity of supply of land.

2.9 The case against a betterment tax

A betterment tax would impact on competitiveness. The degree of this impact is dependent on the rate at which it was established and how far graduation measures conflicted with market behaviour. It would also depend on where the tax burden fell. For example, if costs fell on land ownership interests rather than the built development industry, the effect on competitiveness would be reduced. The tax would need to overcome the very significant problem of establishing and collecting the true development value for each project, a process likely to create additional administrative burdens on the development industry. It should be noted, however, that considerable complexity and inefficiency already exists in the current system of planning obligations particularly with regard to the valuation of proposed developments.

2.10 The objectives of a new betterment tax regime

Development taxation could have five principal objectives:

1. Provide a way of mitigating the direct impact of development on infrastructure or the environment.
2. Recoup the betterment values created by the grant of planning permission or other investment by the state.
3. Encourage the objectives of sustainable development by reinforcing a set of 'good' behaviours such as support for the plan-led approach.
4. Be defined by progressive taxation principles requiring a redistribution of resources to support investment in regeneration.
5. Retain public legitimacy by being transparent.

2.11 The components of a new system?

Developing a new betterment tax regime requires more detailed analysis but if we assume a system must be progressive; efficient in focusing tax directly on those who accrue betterment (i.e. those who control land assets); and retain some form of local flexibility, the system might be based around four components:

1. The greater use of development corporations to deliver large sites based on their ability to buy or compulsory purchase (CP) land without the application of speculative hope values. Instead landowner should be paid a flat rate of compensation based on current use values (CUV) plus a percentage of consented use value. (Extending this approach to land allocated in development plans also has significant potential). This implies the abolition of CIL and changes to the compensation code. It would not restrict public authorities from adopting an area based betterment system for new infrastructure although such systems, such as being considered for transport investment, would have to avoid double counting the betterment impacts and creating unfair tax regimes.
2. A flat-rate betterment charge levied on land owners at the point of planning consent and based on a modest proportion of the increase in value between current use and consented use. This is crudely the reimagining of the 'Planning Gain Supplement' proposed by Barker. Exemptions would apply to a wider range of minor domestic and commercial development. The revenue would be collected locally by local planning authorities (LPAs) and hypothecated for a broad range of development activities. A national infrastructure contribution would be paid by LPAs to Treasury to generate a fund to support investment and growth in areas in need of regeneration.
3. The continued ability for developers and LPAs to enter into Section 106 agreements but with the codification of aspects of the viability process to reduce complexity and ensure the system was 'gamed' by, for example, the use of unrealistic land costs.

4. The restoration of a modest element of betterment taxation as part of capital gains tax which should be directed towards regeneration in low demand areas.

2.12 Do we need further changes to Compulsory Purchase Law and compensation code?

The Compulsory Purchase (CP) powers, which would be fundamental to the approach set out above, are well established for local authorities and development corporations. The key problem is the compensation code and while Government has made procedural changes to the CP system is has not dealt with the fundamental problem of hope value in compensation payments. Capturing the uplift in land values which the granting of planning permission and development creates which is vital to fund debt repayment and the long-term reinvestment in a new community. If land compensation deals are too generous to landowners then this viability may be compromised. If, on the other hand, compensation is unfair then settlements will be challenged in the courts. In relation to paying fair compensation for land that is acquired by compulsory purchase, there are two contemporary issues that need to be resolved.

1. That case law has tended to lead to more generous settlements in terms of the amount of hope value that has been paid to landowners.
2. That the introduction of the Human Rights Act 1998 has reinforced the position of landowners and has made changes to the law to redress this balance more difficult.

The current legal framework for compensation

The core legal framework for compensation is set by the Land Compensation Act 1961[14]. From 1946 the new towns legislation has contained its own CP powers but the current compensation regime is largely framed by the 1961 Act[15]. This legislation, along with case law, established the compensation code which is applied in cases of compulsory purchase.

The most relevant aspect of the code is Rule 2:'the establishment of market value for land and property' (section 5 (2) of the 1961 Act). The central issue is the way which market value can reflect not just current use value but, in addition, a measure of 'hope value'. This 'hope value' is over and above any value created by any existing planning permission: it is the value that may be created by the hope of future development. The amount awarded in compensation is the sum of: the current use value; plus any hope value; plus a sum paid to compensate for disturbance. Hope value, like many other aspects of compensation law is determined on what can be justified on a case-by-case basis, based on the evidence.

Disregarding the impact of a new town/garden city designation on hope value

The designation of a new town is specifically listed in section 6 of Schedule 1 of the 1961 Act as being a form of development whose impact on determining market values should be disregarded[16]. Section 51 of the 1973 Land Compensation Act allows for Secretary of State to make a direction prior to the designation of a new town taking place that any increase or decrease in value due to public development should be disregarded. It is not clear if this power has ever been used.

The Impact of Myers case

The problem for a new generation of new towns is that the compensation code enshrines a conflict between allowing hope value while disregarding the impact of a new town designation. The Myers[17] case in relation to Compulsory Purchase in Milton Keynes illustrates the nightmare of complexity in

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[14] as amended principally by the 1973 Land Compensation act and the 2011 Localism Act
[15] The 1981 New Towns Act does contain amendments to the 1961 Act on compensation rules.
[16] Essentially bringing into statute the Pointe Gourde principle
[17] Myres v Milton Keynes Development Corporation [1974] 2 All ER 1096

trying to work out what the price of land would have been worth if no new town designation had happened and what sensible planning assumptions could otherwise be applied. Very broadly the problem is that development corporations and local authorities can no longer assume acquisition at current use value.

For example, where a designation of new community takes place in an area where there is no reasonable prospect of development (and, therefore, lower hope values) then market value will be closer to current use value. However, it is hard to conceive of such a site in the south east of England and, in the case of a designation to expand an existing town, the calculation of hope value at Rule 2 (because of existing legitimate planning assumptions) might be substantial even if the new town scheme itself was disregarded through Rule 6:

The current position on hope value is confused and illogical. Hope value based on the expectation of future planning approvals was recognised as legitimate in the 1959 Act[18] and reaffirmed in the 1961 Act. Since that time landowners have been gaining compensation for values (betterment) which, put simply, do not belong to them[19]. What is quite remarkable is not simply that the state does not collect betterment directly, but that it compensates landowners for hope value for rights and values which the state in fact already owns.

The impact of the Human Rights Act on compulsory purchase and compensation in new towns

The Human Rights Act 1998 is often said to be a barrier to reforming compensation rules by enhancing the rights of property owners. The Act gives effect to the EU Convention on Human Rights, so EU examples of how compensation is dealt with are relevant and useful. For example, the German Federal Building Code appears to allow for tighter definitions of current use value in some compensation cases without any necessary breach of convention rights. While the Human Rights Act does create new areas of challenge, as a matter of general principle there is nothing in it that prevents the effective use of Compulsory Purchase (CP) powers or prevents compensation at current use value.[20] It is true that Articles 1 and 8 give rights for the protection of possessions and to a home. However, the deprivation of rights under Articles 1 and 8 is perfectly lawful so long as the tests of proportionality, and the public interest, have been met. In the context of new towns, the case for compulsory purchase of land for the provision of new housing and social facilities falls firmly within the public interest test. Case law has found that there must be a 'reasonable relationship' between compensation and the value of the property. In terms of proportionality, it is important to demonstrate that alternatives to CP have been considered. The degree to which current use value could be justified would require careful consideration of arguments discussed above surrounding betterment. As a matter of basic reasonableness it would seem hard for landowners to bring a successful Human Rights Act challenge to justify hope value if that value was not, and had never been, in possession of the landowner.

2.13 What lessons may be learned from past attempts to capture the uplift in value?

While in principle land value capture is fair and logical, there have been a set of important implementation issues. There are a number of important lessons from past attempts to introduce specific betterment taxation:

1. **The rate of betterment taxation:** Historically betterment taxation rates were based on the laudable principle that all the value created by the state should be recouped by it. Experience after the 1947 Planning Act illustrated that such a 100 per cent levy effectively killed off the speculative market in land, reducing supply to a very low level. One might argue that in an era when it was assumed that most development would be delivered by the

[18] Town and Country Planning Act 1959
[19] As a result of the 1947 Planning Act the right to develop land is no longer a propriety right in English land law.
[20] Plus disturbance

public sector this was not a problem. The repeal of betterment taxation in the 1950s led to a resurgence of private sector development and it is clear that a future betterment tax would have to be set at a socially acceptable level. This figure would need take account of the fact that the private sector is already paying considerable and complex informal taxes through planning gain deals.

2. **A lack of cross-party consensus:** The reintroduction of betterment tax in the 1960s and again in the mid-1970s under several Labour administrations failed largely because the opposition made clear that they intended to repeal the legislation if they came to power. Landowners therefore horded land in the hope of receiving the full value later. In the future, it would be vital to have a consensual approach to setting taxation rates at levels which do not destroy the land market.
3. **Estimating land values:** Any betterment taxation system is founded on the ability to achieve accurate assessments of land values in particular localities and, potentially, for differing development sectors. Calculating land values is complex[21] but it is already being achieved for commercial and taxation reasons which reflect regional variations.

The financial success of the new towns programme: The TCPA has looked in detail at lessons from the delivery of the garden cities and post war new towns programme[22]. Land value capture played a fundamental role in the delivery of these projects and provide important lessons for considering approaches to land value capture today.

How were the New Towns paid for? New Towns were financed by a combination of 60-year, fixed-rate loans from central government, budgets from other agencies (such as highways and health authorities) and the per-capita budgets for local government services (for example for schools). Initially, the New Town Development Corporations were allowed to borrow only from HM Treasury. In the early stages, land was bought by the Development Corporation at near existing-use values (which were, in the main, agricultural price levels, fixed at current prices), which provided the New Towns with the financial wherewithal for subsequent development. Infrastructure such as roads and parks had to be built in advance of population growth and demand, and thus before any increase in local taxation. New Town construction therefore required significant investment over a considerable period of time. As the New Towns progressed, the Development Corporations sold freeholds, as well as acquiring land. Land for schools and hospitals, for example, was sold to the relevant authorities or given away for free. Open space was typically given with an endowment, either to the local authority or to some other not-for-profit body, in perpetuity.

The first generation of New Towns proved so financially successful that, assisted by relatively low interest on the loans to the Development Corporations (set at a rate of 2% above Libor), they were net lenders to other public bodies. For example, Harlow repaid all its loans within 15 years and started to produce a surplus for HM Treasury. However, the cost of borrowing was a major financial burden for the 'Mark Three' New Towns during the 1970s and 1980s, when interest rates rose dramatically, up to 16%.

Destroying the New Towns financial model. The decision to wind up the New Towns program and consequent the forced sale of Development Corporation commercial assets (both mature and immature) from 1981 onwards removed income growth from this source. In addition, HMT demand early repayment of loans and impose early repayment penalty clauses. The net result was a fire sale of immature assets and the transfer of new towns to local authorities which were in some case only half developed. Many of the key assets of the towns had been sold off while infrastructure liabilities were retained with inadequate balancing payments.

[21] Crook et al (2016)

[22] https://www.tcpa.org.uk/research-gcnt

Any subsequent sales by local authorities of the assets they had received from the Development Corporations were subject to 'claw-back', under which the increase in the value from the sale of any of the assets for commercial purposes had to be given back to the Commission for the New Towns or its successor bodies. This limited the ability of the New Towns to reinvest in their renewal and upkeep. Many of the renewal problems confronting the new towns now stem from this disastrous approach to the disposal of their assets

Despite these problems created by central government the total £4.75 billion loan made to the New Town Development Corporations by HM Treasury was repaid in early 1999 (assisted by the sale of sites). After that, by 2002, land sale receipts had generated around a further £600 million, of which only £120 million was reinvested in the New Towns[23]. More recently, between 2010 and 2014 alone, land sale receipts generated a further £70,316,130 for HM Treasury[24].

4. Conclusion

A fair and efficient approach to capturing land values could transform the quality and deliverability of the new communities the nation needs. However, the creation of land value is complex and any new approach requires real clarity as to where the tax will fall and its impact on the wider property market. The TCPA has noted four potential routes to achieve this and has also noted the current system does not deliver a fair balance between land owners and tax payers. The Governments approach remains incremental and dominated by supported the 'current trader' model of development which secures record profits for house builders but very little of the affordable homes or quality development that is in the public interest.

The introduction of betterment taxation would provide a mechanism for resolving much of the complexity of the current system providing certainty to the development sector (assuming rates were not draconian) and transparency to the general public. Betterment taxation would, in principle, be equitable, allowing distribution of revenues on the basis of need rather than market circumstance. A graduated betterment tax could reinforce the achievement of socially inclusive place making. But betterment taxation alone would remove the aspect of local flexibility and direct hypothecation that is currently enshrined in the planning obligations system. The question is how to strike the right balance between these competing objectives.

One final example of Government's policy on land value tax is HM Treasury's relaxation of Permitted Development rights so that office and commercial property can be converted to housing units vastly inflating the asset values of property owners. While there is no definitive figure of the scale of this financial return it is likely to have been the greatest single transfer of a public asset to private land owners in the post war period. One result of this regressive taxation move is that local councils can no longer require any planning contributions for things liked affordable homes or education from such development. Such a policy starkly underlines the need for a rational and progressive debate about land value tax in general and betterment taxes in particular.

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[23] Memorandum NT 33, submitted by the Department for Transport, Local Government and the Regions to the House of Commons Transport, Local Government and the Regions Committee, Apr. 2002. http://www.publications.parliament.uk/pa/cm200102/cmselect/cmtlgr/603/603m38.htm. Published within New Towns: Follow-Up. HC 889. Ninth Report of Session 2007-08. House of Commons Communities and Local Government Committee. TSO, 2008

[24] Figure provided by the Homes and Communities Agency, July 2015. Includes all land in the New Towns, and not just land formerly in the ownership of the Commission for the New Towns