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THE PLANNING SYSTEM AND THE QUESTION OF HEALTH

The Planning System in the United Kingdom continues to be a political football, as it tries to fulfil a number of competing and conflicting objectives. Given that Planning is now a devolved power, I will focus primarily on Planning in England, although the tensions in some of these broad themes can also be seen in the constituent nations of the United Kingdom. Planning sits within the Ministry for Housing Communities and Local Government; there have been four Ministers in charge over the last five years – the current incumbent is Robert Jenrick.

The origins of planning as a formal discipline of government in the modern era grew in the late nineteenth century to ameliorate the challenges of rapid urbanisation, in particular the control of disease, provision of roads and utilities, public parks and the separation of functions within our towns and cities, and was largely controlled by local municipalities in an uncontentious way.

However, the tensions have existed for centuries; who owns land, and who determines how it can be used has profound effects on a nation's wealth and levels of inequality in society. This debate came into the sphere of Planning in 1947. At heart, planning is at least partly tasked with regulating the public interest in land, against the private interest.

DEVELOPMENT RIGHTS

With the 1947 Town & Country Planning Act, and the nationalisation of all development rights, a new arena for conflict was born. Today, the two most contentious issues remain the same: first: the speed and extent of development, crystallised in the arguments over how many houses to build, and where – (anywhere, but not in my back yard, or in the green belt); second: how much should developers pay for those development rights – now referred to under the umbrella term of 'value capture' which I shall address in the following sections, before returning to the original issue dealt with by early Planning regulations: The issue of health.

Until 1947, owners of land were largely free to use and develop land as they wished; if the local authority needed land for public services, or transport infrastructure, it could negotiate adequate compensation with the owner upon purchase. By the late 19th century, the idea of compulsory purchase of land in the public interest had been largely resolved after the travails of acquiring land for canals and railways. Otherwise, owners were able to take

advantage of commercial opportunities as they saw fit, and the immediate pre-war decades saw a sudden urban sprawl, aided by the arrival of the motor car, as well as extensions to urban transport systems. The potential loss of agricultural land prompted the formation of various committees to examine the question of development control, and in the case of urban land, the Uthwatt report on Compensation and Betterment of 1942 recommended the national purchase of development rights (estimated at a cost of £300m) and the introduction of betterment levies to capture any uplift in value thereafter. This was taken up in 1947 with the nationalisation of development rights, although their purchase was dropped and the levies abandoned in 1951, after a change of government. Three further attempts at introducing development charges were made by successive Labour governments, but ultimately they failed and were repealed.

Since 1990, developers honour the 1947 Act with the payment of Section 106 'planning obligations' when permission is granted. This provision – to pay for the public service infrastructure that comes with development: schools, roads, social care facilities, for example is now accepted by all political parties. In 2010, an optional alternative at fixed rates set by local authorities was introduced: the Community Infrastructure Levy, or CIL. Although the current regime is considered a success by most commentators, raising £4.8bn in 2007/08, (Crook et al., 2016) this constituted less than 1% of total government revenue for that year, a paltry sum compared to the uplift in land values over time. The current government's White Paper proposed further reform of the infrastructure levy, recommending a flat rate based on completed gross development values, which could be set regionally; this would replace section 106, forcing all authorities to adopt the levy, and move the incidence of the charge to the completion of the project.

BUILD MORE

The conservative party have led the way in criticising the planning system, saying it is too slow, complex, bureaucratic, discretionary rather than rules based. David Cameron famously vowed to 'get the planners off our backs' in one of his early conference speeches. The purpose of the White Paper is to finish the job. The main belief, is that, as a result of the planning regulations, not enough housing is built: this is backed up by some academic research, particularly by Paul Cheshire (Cheshire, 2009) at the LSE, who suggests that the system imposes a 'tax' on development, as a result of its complexity and uncertainty.

While this narrative is about building more, it is based on the assumption that house prices are a function of supply and demand; the high price of housing is a consequence of insufficient supply, so the underlying aim is to bring down the price of housing by increasing supply.

Others, such as Danny Dorling (Dorling, 2015) refute this, pointing out that the UK has never had so much living space per head of the population – it is simply unevenly distributed – both between socio economic groups and between generations; it should also be said that over 90% of planning applications are granted with few changes, while permissions have been given for over 900,000 houses which are not yet built – most of these project are to be found in the South East.

Nonetheless, the Letwin review concluded that major developers were not deliberately ‘landbanking’ or controlling the price of housing by drip feeding construction and release to the market. There has always been a suspicion that the Conservative Party is close to the big house builders, and some argue that the ‘Help to buy’ scheme, which offers a subsidy to first time buyers on newly built homes has only served to increase house prices, and deliver large profits to the few companies who dominate the sector. Ryan-Collins (Ryan-Collins et al., 2017) and others, however, dismantle the supply/demand function determining house prices, and show how the monopolistic nature of location, together with the easy availability of credit since financial deregulation in 1986 have driven prices up.

Previous legislation, such as the 2012 National Planning Policy Framework, NPPF, dramatically reduced the volume of planning legislation, and introduced the concept of an assumption in favour of sustainable development, as well as the new concept: ‘permitted development’ such as the automatic right to convert office space to residential, without the need for permission. The new White Paper, published in 2020, aims to go further, classifying all land as being in an area designated for Growth, Renewal or Protection. Growth means a green light for development, Renewal areas require some development, but in a considered way, while Protection means forget it: especially if you are in the Green Belt.

However, in order to promote the benefits of development for communities, the coalition government also introduced a Localism Act in 2011, allowing interested parties to develop Neighbourhood Plans, which would then be incorporated into their respective Local Plans. The idea was, by giving people a say in development, they would come to see the benefits.

Inevitably, these provisions proved popular in communities with high numbers of educated professionals with time on their hands to promote their own interests. Localism, conceived to persuade communities of the benefits, did not lead to a bonanza for developers. The White Paper therefore seeks to limit the public’s right to comment on planning applications, restricting their contribution to plan making and design codes; if the recommendations were to become law, planning would once again become more centralised, and the power to promote development would shift back to the private sector.

So far, the White Paper has suffered a significant reversal in its aspirations, in particular, a concerted campaign by Conservative back bench MPs in rural and green belt constituencies challenged

the algorithm that was to be used to allow more houses in regions where demand is apparently high, or where population is expected to grow: particularly those in the South East. The algorithm will be changed to shift more new homes to the North, as well as more incentives given to make use of brownfield (previously developed) land.

In addition, a promise has now been made to ensure minimum space standards for office to residential conversions, given the evidence from research (Ferm et al., 2020) showing that homes with as little as 16sqm have been offered to the market – less space than that created by laying a standard football goal on the ground – and half the amount required for a home subject to normal planning rules. The new space standard for permitted development conversions will be enacted sometime this year, under separate legislation.

Perhaps more significant for the long term rebalancing of the economy, development and integration of the regions, was the abandonment of a Regional Spatial Strategy RSS for England in 2010. Part of the original thinking was to bring together public and private interests in regional development agencies with public funding to create ‘competitive cities’, an idea promoted by urban planners such as Richard Florida, who introduced the concept of creativity to drive growth (Florida, 2005), and Ed Glaeser, who emphasised the importance of an educated workforce (Glaeser, 2012) to attract innovative firms.

A regional approach is commonplace in many European Countries such as Germany and The Netherlands, where planning appears to work well from any cursory visit to those countries will demonstrate. Legislation was introduced by the Blair Government for local authorities to develop an RSS, requiring a ‘duty to co-operate’ with their neighbours, and adopt regional plans – all this was swept away in 2010 – leaving a voluntary network of privately funded bodies to do the heavy lifting, albeit, George Osborne as Chancellor provided much hot air to promote the creation of a Northern Powerhouse.

In some cases, metropolitan authorities did respond to the opportunity to come together as a Combined Authority (Manchester, and Birmingham) under elected Mayors, although the same effort was rejected by the electorate in Newcastle/Sunderland. There is some evidence that this strategy has worked to promote the interests of these cities over the interests of London, but continues to leave a vast amount of rural areas in neglect.

VALUE CAPTURE AND THE PROPERTY OWNING DEMOCRACY

It is generally accepted, that as populations in an area grow, and development takes place, land values rise. The English pioneers of planning such as Ebenezer Howard and Abercrombie, conceived the Garden City concept partly as a means to construct New Towns using this mechanism – land is purchased at agricultural value, investment is made in infrastructure by the development authority, and then sold to developers at a price to cover this cost – the system has been largely abandoned here. While the first iterations were privately sponsored, for example at Letchworth or Welwyn Garden City; after the Second World War, many New Towns were built on this principle such as Stevenage, Harlow and Milton Keynes by government sponsored development corporations.



This explains why many recent attempts to build more new towns have largely failed: For example at Ebbsfleet in Kent. Governments are unwilling to invest, and have tried to deliver the infrastructure necessary for any new development to succeed through the market mechanism, except that they expect the market agents to put up the money for infrastructure first.

The mechanism described above is the same, but suffers from a lack of trust, as well as the failure to ensure that local authorities can purchase land slated for development at its existing use value – it is no longer possible to fund infrastructure development from the uplift in value. A reform of the 1961 Compulsory Purchase Act would be necessary to rectify this problem. Meanwhile, it continues to be used to fund and promote urban expansion in many European Countries, and is advocated as a means to fund public investment for developing countries around the world (Falk, 2020).

The journey of England's relationship to land, and how the public interest has been trumped by the private interest is well told by Michael Tichelar in his history of the failure of land reform in the 20th century (Tichelar, 2019). Following the Liberal attempt to introduce a comprehensive land value tax, the Labour party put more emphasis on nationalisation, the public house building programme and the planning system to promote the public interest.

However, during the century, land as a source of wealth was no longer derived from rental income from agriculture, but urban residential land for the property owner, as well as the financial institutions that make this possible. "A strong property-owning ideology" page 13 has been developed by right leaning think tanks, and tax changes have enhanced the value available to owners. Part of this process was facilitated by a major transfer of land, from large tenanted estates to smaller owner occupiers, especially in urban areas – a new alliance was forged to bolster the conservative vote; as Tichelar says:

The spread of owner-occupation after the war also created a significant block of middle and working class property holders in urban areas, owning both the house and the land on which it was built. This constituted a powerful electoral interest group which would have in practice opposed any attacks on the principle of private ownership". (p. 16)

Furthermore, having built up a significant public land holding through programmes such as the Municipal farms of the 1930s, nationalisation of industries with considerable land holdings in the 1940s and 1950s, together with the council house building, when this ideology was given free expression in the 1980s by Thatcher's government, the potential to increase small scale property ownership was enhanced – the property owning democracy was given true expression.

Subsequent governments, adopted a strategy of selling 'surplus land' in public ownership, land previously used by nationalised industries, reducing the public estate over the next 40 years from 30% to only 12% of the total land area (Christophers, 2018). This interest group, the new property owners, having enjoyed extensive capital gains and tax breaks, pulled up the drawbridge, and form the backbone of the anti-development movement in sensitive areas.

By the time Labour returned to power in 1997, many of their policies aligned more closely with those introduced by the Tories over the previous 18 years, any attempt to interfere in the land market was expressed as seeking to encourage 'comprehensive planning' which was replaced by the notion of 'positive planning' (supporting market actors) so that the role of the state and local authorities in place making was much reduced. Future support for housing would be through the benefits system, rather than direct local authority building for social rent.

By the time Blair became leader, the role of the market was fully accepted, and relatively soon after, the Clause 4 commitment to public ownership of the means of production was dropped by the party.

In response to ever rising land/house prices, the Labour party commissioned Kate Barker to report – initially she was critical of developers for maintaining slow build out rates, in order to keep prices high – but the final report was more restrained, and the concrete proposal to increase the collection of betterment was the 'planning gain supplement' seen to be a simpler mechanism to existing section 106 agreements, as well as previous attempts to tax development.

In the end, the government rejected this proposal, but indicated that the solution was to lift planning restrictions, in order to increase housing supply – a refrain that was constantly heard from conservatives both in opposition and back in government in 2010.

The object of radical policies of land reform had shifted by the mid 1960's from the aristocratic landowner, to the property speculator, and by the 21st century, the rapacious, gentrifying, land banking developer. The existence of a private market in land, able to capture any uplift in value, "exercised a very negative influence on the ability of the state to intervene effectively in the redevelopment of land for public purposes." (p. 155)

There was a constant fear of intervention, which might disrupt the supply of land, as well as an ignorance of how the land market really worked, which inhibited effective reform. Instead of the visionary post war role of Planning to create modern spaces and efficiency/economic development, planning became a negative, controlling force – one which the developers had to negotiate (section 106/CIL fees) and build into their calculations to maximise their profit. House prices continued to rise. There were no winners!

The reduction, or abandonment of space standards, the 'regeneration' projects which involved wholesale removal of communities and demolition of estates such as the Heygate in Elephant & Castle followed; of the 1,200 or so flats once owned by the Council, the majority of residents have been forced to move out of London – up to 70 miles in some cases; even the displaced private leaseholders were unable to afford flats in the new Elephant Park development, of which only 82 are available at 'social rents' out of more than 2000 sold at market prices. It emerged that Lambeth Council, who sold the Heygate to Lend Lease, an Australian property company, spent more in removing tenants and assisting the redevelopment than the £50m it had received from the sale of the land.



The latest private sector scandal to unfold is yet to be fully exposed: The Grenfell enquiry has so far shown how manufacturers and suppliers of insulation products for high rise buildings were able to fabricate test results to claim their products met the required safety standards.

This tragedy clearly illustrates how far local authorities through planning de-regulation and building control light, have been prevented from serving the public interest.

The end result of this? Millions of ordinary leaseholders in these new housing developments are now, essentially, unable to sell, until safety can be guaranteed with the removal of the flammable cladding.

In conclusion Tichelar notes:

This book has argued that the primary cause of this failure (to reform land) was the ideological difference between the two main governing parties on the question of right to land and wider issues relating to the role of property and the meaning of freedom in a democratic society. (p. 206) Finance capitalism has certainly taken the place of the aristocratic landowner as the enemy of progressive politics. (p. 207)

The ideological battle found in Tichelar's book was played out during the 1970s, and had been largely abandoned by New Labour in the 1990s.

On this topic, we are left with a question – will the financial speculator cause enough opposition and opprobrium to inspire a new generation of land reformers?

One factor would suggest that such an outcome may be possible. After an ever increasing percentage of the population becoming owner occupiers during the last sixty years, the balance has begun to move the other way. This is especially true for London, where now less than 50% of the populations own their own homes, and doubly so for those under 40 years of age.

This exact constituency might begin to reverse the tide, and force a change in ideology to recognise the need not only for better standards of housing, but a more rational understanding of the forces causing high house prices. At least the topic of wealth taxes are back on the political agenda, with the recent publication of a report from the Wealth Tax Commission.

A RETURN TO HEALTH?


The original impetus to have a planning system was the health of the nation, particularly in cities. Famously, the origin of a Cholera epidemic in Broad Street in 1854, was traced to a water pump that all local residents were using by the Physician John Snow, and led eventually to public works to ensure clean water was available to all residents.

With the current pandemic, much evidence seemed initially to point to a high death rate amongst certain ethnic groups; however, the cause is now recognised as being related to socio-economic factors rather than ethnicity per se. People living in crowded, multi-generation homes, with inadequate outdoor space, are more susceptible to infection.

Similarly, a link between living close to busy polluted roads and poor health has been well established, not only in scientific articles, but also the Coroner's court. These factors might encourage more local authorities to separate cars from the high street, and restrict the type of car that can be driven in residential areas, offering a far greater role for Planning to restore public health.

The evidence from 'mini-Holland' schemes in Waltham Forest and Kingston, for example indicates that only a heavy intervention scheme encourages a change in behaviour: in terms of people walking or cycling more in their locality.

Will the high cost of dealing with pandemics, which are predicted to increase in the years ahead, prompt governments to invest more heavily in preventive measures such as reduced densities in urban areas, provision of more open space in neighbourhoods, or facilities to allow more people to work closer to, or at home, thus reducing the need for crowded public transport systems. Or could governments go further, and re-examine the role a land value tax could play in re-balancing economic activity towards the regions, and rural constituencies?

Growing interest in promoting a 'foundational economy' rather than one attracting outside investment in a competitive race to the bottom, would suggest that there is some hope. 

BIBLIOGRAPHY

Cheshire, P., 2009. *Urban containment, housing affordability and price stability - irreconcilable goals*.

Christophers, B., 2018. *The new enclosure: the appropriation of public land in neoliberal Britain*. Verso, London ; Brooklyn, NY.

Crook, T., Henneberry, J., Whitehead, C.M.E., 2016. *Planning gain: providing infrastructure & affordable housing*. John Wiley & Sons Inc, Chichester, West Sussex ; Hoboken, NJ.

Dorling, D., 2015. *All that is solid: the great housing disaster*. Penguin, London.

Falk, N., 2020. *Applying land value capture tools*.

Ferm, J., Clifford, B., Canelas, P., Livingstone, N., 2020. *Emerging problematics of deregulating the urban: The case of permitted development in England*. Urban Studies 004209802093696. <https://doi.org/10.1177/004209802093696>

Florida, R.L., 2005. *Cities and the creative class*. Routledge, New York.

Glaeser, E.L., 2012. *Triumph of the city*. Pan Books, London.

Ryan-Collins, J., Lloyd, T., Macfarlane, L., Muellbauer, J., 2017. *Rethinking the economics of land and housing*. Zed, London.

Tichelar, M., 2019. *The Failure of land reform in twentieth century England, the Triumph of Private Property*. Routledge.