

# Briefing note for the Secretary of State

## *Matters Considered: Land Value Capture & Compulsory Purchase Orders*

### Land Value Capture

The LPDF absolutely supports the principle that those responsible for development should bear the costs of its impact on existing communities. This is a point of practicality and fairness, as well as being central to securing support for development. As the Government considers ways to help local authorities capture land value more effectively, the LPDF offers this note on how the current system of developer contributions and taxation, when looked at in the round, captures significant value for the public purse.

A system of Land Value Capture is in place through the correct use of the existing tools at the disposal of Local Planning Authorities: The NPPF, Section 106, Section 278 of the Highways Act, and the Community Infrastructure Levy. This is further supported by the Capital Gains Tax regime (generally at 28%) for the landowner's receipts on sale, following the deduction of the above noted items.

In addition, any corporate, promoting entity trading in the land would pay Corporation Tax at the appropriate rate on any profits made. Again, this is effectively after deduction of the community benefits already paid from the Gross Land Value<sup>1</sup>.

A small number of 'real world' examples are cited in the undernoted table. These do not take into account Capital Gains Tax or Corporation Tax:

LPA	Number of dwellings	Affordable Housing as a % of Gross Land Value	S106 /CIL as a % of Gross Land Value	S278 Works as a % of Gross land Value	Total % of Gross Land Value Captured
Ashford	≈100	16%	17%	3%	36%
Bedford Borough	70	28.80%	8.60%		37.40%
Cheshire East	147	37.70%	3.60%	1.50%	41.30%
North Warwickshire	100	44.70%	6.90%		51.60%
Nuneaton & Bedworth	200	25.40%	19.10%		44.50%
South Gloucestershire	≈100	16%	13%	2%	31%
South Gloucestershire	≈100	16%	19%	2%	37%
South Staffs	100	38%	0.80%	2%	38.80%
Stafford	100	29.60%	22.60%	3.50%	52.20%
Stroud	≈100	16%	11%	2%	29%
Vale of White Horse	200	31.40%	13.50%		44.90%
Warwick District	735	27%	16.20%	3.20%	46.40%
Waverley Borough	55	23.40%	3.20%		26.60%
Wealden District	390	30.10%	15.80%		45.90%

<sup>1</sup> Gross Land Value = the value of the land with planning consent before the delivery of affordable housing, the payment of s106, s278 or Community Infrastructure Levy

A few points to note:

- That the examples are all of greenfield development, with an existing use as agriculture. In excess of 95% of land brought forward by LPDF members falls into this category. Much of the debate seems to focus on urban sites, with alternative uses, a higher existing use value and other issues which impact on the viability of proposals. No such issues exist in relation to greenfield land as identified in this note;
- It can be seen that the existing system can be an effective method for the community, local authorities and other statutory service providers to capture the value of the land upon planning. When the Capital Gains Tax that a landowner would further have to pay is taken into account, the net receipt can equate to less than 40% of the Gross Land Value. For example, in Wealden District noted above the Council has collected 45.9% of the land value, leaving 54.1% to be received by the landowner who would then pay Capital Gains Tax at 28%, equating to a further 15.1%, leaving a net figure received of 39%. The effective amount of value captured is therefore 61%;
- That the planning system is a transparent, evidence-based process and during the making of the Local Plan it is open to all parties, such as DfT, the Department of Health and others to make representations in relation to the fair and reasonable costs of the impact of new development in each particular community. In many instances Local Planning Authorities are not well supported in the provision of evidence to sustain this;
- That in the experience of our members, the local authorities that are most effective at capturing land value are those with up to date policies on developer contributions;
- That with significant regional differences in gross land values, land value capture, is, as can be seen in these examples, more effective in the South Midlands, East of England, South and South East (though there would be sub-regional exceptions such as more affluent areas such as Cheshire, Harrogate, York etc).

## Compulsory Purchase Orders

The use of Compulsory Purchase Orders has been previously examined by the Housing, Communities and Local Government Committee in the context of Land Value Capture in September 2018. That assessment concluded that 'Government should build on its reforms to the CPO process and consider ways in which the process can be further simplified, to make it faster and less expensive for local authorities, whilst not losing safeguards for those affected'. We wholeheartedly endorse that conclusion and believe that any greater initiative to address established legal concepts of 'hope value' will fail.

It is, in this context, important to recognise the current planning system is inherently structured to provide for value capture and this is best reflected in the provision of affordable housing. This requirement is entirely a product of policy and can provide that some 50% of a development scheme is prescribed to this use, notwithstanding the established fact that it is secured primarily for the wider public good and it is not inherently needed to secure a sustainable development scheme.

## Conclusion

The existing system can work effectively. It requires pro-active interaction by all stakeholders with the Local Plan system to ensure that it arrives at the appropriate level of value captured to facilitate new development. This should be reviewed regularly by LPAs. Further, HM Treasury, through CGT rates and reliefs, can ensure that additional receipts can be obtained.

Clearly the use of such mechanisms should be balanced with the desire to incentivise privately owned land to be brought forward for development. The point at which landowners will be disincentivised to do this varies by geography and the expectations of individuals.