

RELEASING LAND FOR DEVELOPMENT

First Housing Commission Roundtable Discussion Paper

After years basking in the sun of low interest rates and supportive government policies, a perfect storm has hit Britain's housebuilding sector. Surging interest rates, the end of Help to Buy and strict new planning regulations mean a further slump is expected.

Housing Secretary Michael Gove watered down housing targets last year by making a target to build 300,000 homes per year – broadly accepted as the number needed - advisory rather than compulsory.¹ Since the announcement, more than 60 local authorities have withdrawn their housing plans. Between July and September last year, the number of housing starts – a key lead indicator for future completions – fell by 68pc compared to the previous three months and were down 52pc year-on-year.

Sounding a warning, the Home Building Federation has argued that annual completions could soon drop below an all-time low of 120,000 if current trends continue.²

ISSUE 1: LAND AVAILABILITY

The picture is a jigsaw of contradictions, conundrums and uncertainties. Currently, around 10 per cent of land in England is classed as 'urban' and one per cent has domestic buildings on it. While there is sufficient land to build on, land is scarce in economic terms as its supply is inherently limited and fixed.

This results in, it is argued, developers having to undergo "fierce" competition for land while remaining uncertain as to what planning permissions they will be able to secure. Likewise, growth is at different rates for different parts of the country. Land availability is different, too. Some urban local authorities have little undeveloped land within their boundaries; others are constrained because land has a protected status (eg Green Belt or National Parks). Public investment in a new rail line or motorway can generate huge increases in surrounding land values.

ISSUE 2: THE PRICE OF LAND

One of the biggest barriers to housebuilding is the high price of land. The gain in value planning permission offers is said to encourage strategic land trading, rather than development, resulting in the most profitable beneficiaries of residential development being

¹ <https://www.theguardian.com/society/2023/jan/15/new-homes-at-risk-as-english-local-authorities-cut-housebuilding-plans>

² <https://www.hbf.co.uk/news/hbf-beyond-barker-report/>

the landowner, not the developer. The NHF's submission to the Budget as long ago as 2018 highlighted the fact that "the cost and availability of land remains the single biggest barrier housing associations face to building more homes, more quickly." Since then, the situation has worsened with consumers complaining that housing has become "unaffordable".

The effect of high land prices is that they force down the quality and size of new homes and present difficulties for small and medium sized enterprises (SMEs) when seeking to compete for sites to develop. Competition is thus focused on acquiring land, rather than satisfying consumers. The result is a vicious circle in which high land prices ensure housing output remains low and house prices high – which in turn feedback to sustain higher land prices. This has led many to conclude that what is unaffordable about unaffordable housing is not the house itself, but the land beneath it.

The One Public Estate Programme: the Local Government Association (LGA) has called for a longer-term approach to releasing and repurposing public sector land instead of the annual process of bidding for funding from the One Public Estate programme. Certainty associated with a three-year programme would mean "public bodies would be more assured to plan and develop a solid pipeline of projects".³

ISSUE 2: ACCESS TO HOME OWNERSHIP

Why has house price inflation been so ruinous? Is it because of the failure to build enough homes - as most politicians believe - or is it more to do with the progressive over-supply of housing finance since the abolition of the 'Corset' in 1979-80?⁴ If so, could the problem be addressed through some kind of credit controls and stakeholder banking?⁵

ISSUE 4: SHARING THE BETTERMENT

In countries from Germany to Singapore to Australia, local councils participate in a share of the proceeds from any land sold, often receiving as much as 50 per cent of the profits. This money is then reinvested into the local community, meaning that, while landowners are still rewarded for their investments, the area surrounding the new development also benefits. It is not the case in this country, where even government bodies such as the Ministry of Defence are unwilling to sell vacant land at less than market price to housebuilders.

³ <https://www.local.gov.uk/publications/spending-review-2021-departmental-supplement-department-levelling-housing-and>

⁴ David Boyle: *Broke: Who killed the Middle Classes?* (London: Fourth Estate, 2013).

⁵ Josh Ryan-Collins: *Why Can't You Afford a Home?* (Cambridge: Polity Press, 2019).

London and the South East: The problem has intensified in the south-east of England where decades of British government policy have sucked in economic growth placing it under acute pressure. Meanwhile up and down the country, housing demand in booming cities is conditioned as much by the overall economy as by new building, which meets less than 10 per cent of property sales. New building in London, where there is poor regulation of existing housing stock, barely compensates for the number of properties lying vacant, officially around 35,000, which is probably half the true total.⁶

Left with the stark choices of building up in towns and cities, unpopular in the wake of the Grenfell Tower fire, or out into rural areas, where Nimbys mobilise formidable opposition, developers feel blocked off at every turn.

So what are the options for sharing betterment?

Section 106: under the existing Section 106 system, levels of affordable housing are often negotiated downward on viability grounds, resulting in fewer units being delivered than a local authority initially sought.

Land Value Capture. The Levelling-up and Regeneration Bill contains new provisions to enable Community Land Auctions (CLAs) to be piloted. The explanatory notes describe CLAs as “an innovative approach to identifying land for allocation for development in a local planning authority’s area, in a way which seeks to improve land value capture for the benefit of local communities.”⁷ There is some support amongst economists for a Land Value Tax to replace business rates, and, ultimately, Council Tax and Stamp Duty Land Tax. These ideas have not garnered wide political support.

Infrastructure Levy: The Government has said, because the new Infrastructure Levy (IL) would be mandatory for all developers, it would prevent them from negotiating their contributions “downward on viability grounds”. A new ‘right to require’ will enable local authorities to set out what proportion of the Levy they want delivered as affordable homes and what proportion they want delivered as cash. But critics have argued that, in its current form, it could lead to the diversion of developer contributions away from affordable and social housing and towards other, unspecified forms of expenditure entirely unconnected to development. The Shadow Minister for Housing and Planning, Matthew Pennycook, has

⁶ <https://www.theguardian.com/commentisfree/2023/may/26/shredding-green-belt-recipe-for-disaster-planning-policy-housing#:~:text=Currently%2C%20new%20building%20in%20London,existing%20housing%20stock%2C%20e specially%20rents.&text=Developers%20want%20greenfield%20sites>.

⁷ <https://www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation/levelling-up-and-regeneration-bill-consultation-on-implementation-of-plan-making-reforms>

expressed concern that receipts from the IL would not be sufficient to meet both affordable housing needs and build the local infrastructure new development requires.⁸

A Land Development Charge: A Land Development Charge set at 20 per cent of the market value of all new development when sold was proposed by the urban policy research unit Centre for Cities in 2019. It said a flat rate, based on the gross development value of the finished development, like the IL, would benefit both developers and local councils. Instead of having to bargain with developers claiming higher levels of contributions are unviable, councils get more funds to spend on infrastructure to mitigate the congestion problems that come with growth, while developers benefit from having total up-front certainty about what level of contribution is expected when acquiring land and making planning applications, minimising delays.

Taxing mechanisms: The New Economics Foundation suggested taxation mechanisms could “either involve capturing one-off increases in value that come with new development or capturing some or all land value increases over time”.⁹ It has also proposed giving local authorities the option to charge council tax on the landowner in respect of the number of proposed dwellings where development has not started on sites with planning permission within an expected time period.

ISSUE 5: PLANNING REFORMS AND RELAXATION

In February, Michael Gove published a package of reforms with the aim of relaxing planning restrictions in urban areas.¹⁰ In England’s 20 most populous cities and towns, authorities will be made to abide by a “brownfield presumption”, which will limit their ability to reject development on brownfield land if housebuilding falls below ‘acceptable’ levels. This is an attempt to remedy decades of overlooking brownfield sites, in part because of the cost of cleaning them up but also because developers view them less favourably. But critics believe this will make little difference since the availability of brownfield land is disproportionately in areas with less pressure on the housing market.

Permitted development rights: Permitted development rights will be expanded, making it easier for shops, office blocks and derelict buildings to be converted into new homes.

⁸ https://www.theyworkforyou.com/psc/2022-23/Levelling-up_and_Regeneration_Bill/19-0_2022-09-06a.617.4

⁹ New Economics Foundation (2023) *Beyond New Build*: <https://neweconomics.org/2023/02/beyond-new-build#:~:text=Millions%20experience%20acute%20housing%20need,rises%20in%20their%20housing%20costs>

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¹⁰ Dept for Levelling Up. etc (2024), White Paper; Long-Term Plan for Housing, <https://dluhcmedia.blog.gov.uk/2024/02/13/michael-gove-sets-out-planning-measures-to-build-on-long-term-plan-for-housing/>

ISSUE 6: GREEN BELT

There is intense interest in Green Belt land, a creation of post-war British planning (1946) – the concept of a national park within reach of every city-dweller – with the fundamental aim of preventing urban sprawl by keeping land permanently open. The Green Belt is said to have more than doubled in size over the past 40 years and is currently, according to government statistics (March 2021) estimated to cover 1.64 million hectares representing around 12.4 per cent of the land area of England compared with just 2 per cent for all residential buildings and their gardens. Yet only 22 per cent of London’s Green Belt is publicly accessible and environmentally protected, and 35 per cent of England’s green belt is intensive agricultural land and since 2006 it has been shrinking by about one per cent since 2006.¹¹

The NPPF: The Government’s policy on protection for the green belt is currently set out in chapter 13 of the National Planning Policy Framework (NPPF). The Government agency Natural England and the countryside charity the Council for the Protection of Rural England (CPRE) have declared the green belt policy “highly effective” in its principal purpose, and called for “more ambition” to further enhance its protection for future generations. The CPRE warns that “piece by piece, local authorities are eating into protected countryside, using blunt, numerical targets that fail to deliver affordable and social housing”.¹²

Levelling up: It is clear that the Government views Green Belt reform as separate from levelling up. Last year’s Levelling Up and Regeneration Bill did not include Green Belt reforms. To some, this seems ironic because the Green Belt has, to some extent, driven the north-south divide, which itself brought about the need for the levelling up agenda in the first place. The Green Belt constrains growth around cities such as Oxford, Cambridge and London, inflating house prices beyond the means of many, especially the young, and lending a perception of exclusivity.

A Domesday Book of the countryside: Farmland is already recorded for agricultural subsidy purposes. The same could be done for the Green Belt. It would be for local authorities in consultation with local people to assign gradations of protection, from grade 1 for national parks and lesser grades to scenic and other value, down to whatever grade indicates release for building.

ISSUE 7: A NEW QUANGOCRACY?

¹¹ https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/archives/archive-assembly-reports-plansd-growing-food.pdf

¹² <https://www.cpre.org.uk/news/our-report-housing-crisis-poses-threat-to-survival-of-rural-communities/>

At last year's Labour Party conference, Sir Keir Starmer pledged to build 1.5 million homes by the end of his first five-year term in power, including a "next generation of new towns" in close commutable proximity to English cities. Specifically, Starmer proposed a return to the mandatory 300,000 target with the aim of bringing about 70 per cent home ownership.¹³

Targets: He called for a return to a system of housebuilding targets for local authorities, which they would be required to fulfil or face penalties such as losing the right to decide where homes would be built. He also plans to give local officials sweeping new powers to buy land cheaply and develop on it, as part of the party's new "pro-building" agenda. This would involve reform of the 1961 Land Compensation Act to clarify that local and central government can purchase land at current market values, not inflated or speculative "hope" values – a massive price premium granted to any land on which developers hope to secure planning permission.

Development corporations: A key pillar in Labour's reforms will be a string of new and powerful "development corporations", public-private quangos that will be responsible for driving forward house building across certain economic areas.

These are expected to combine the best aspects of the regional development agencies (RDAs) set up by Prescott in the New Labour years – since abolished – and the development corporations used by Heseltine to successfully rejuvenate dilapidated parts of London, Liverpool and Manchester in the 1980s and 90s.

Details are still being worked through, but the idea would be for corporations to be created by the Government in consultation with local areas. They would focus on long-term housing plans that go beyond a single electoral cycle to prevent them becoming political footballs.

They may also play a role in getting the biggest housing sites ready for development, for example cleaning them up, building key infrastructure and then parcelling up the land into plots that developers could buy and build homes on.

Adding new regional development corporations into the mix has not been universally welcomed with some saying the extra layer of bureaucracy might ultimately hinder, rather than help the drive to build.

Labour's pledges for more social housing include building on the Green Belt although Labour insist this will only apply to non-desirable "poor-quality ex-industrial land and dilapidated,

¹³ <https://www.housingtoday.co.uk/news/labour-will-bring-back-mandatory-housing-targets-says-starmer/5122977.article>

neglected scrubland” - referred to by the party as the “grey belt” - that currently enjoys protection.

Nimbys: New houses in rural areas have intense local impact, yet they form a trivial element in the housing market, of which some 90 per cent involves existing stock. Nimbys are, in the eyes of some, acting rationally. Housebuilding in their area is likely to exert downward pressure on property prices and stretch public services for no obvious personal gain. Would a sizeable and direct financial compensation radically alter their attitude?

ISSUE 8: OTHER SOURCES OF LAND FOR BUILDING ON

Agricultural land is also within Starmer’s sights. He will make it cheaper to buy farmland for development and believes the whole “pro-building” programme could lead to the construction of an additional 1.5 million homes.

However, the move to facilitate the buying of agricultural land has prompted warnings around the loss of food security. The rate at which infrastructure is built on prime farmland in England has risen a hundredfold in the past decade, a CPRE report found in 2022. Farmland that could grow 250,000 tonnes of vegetables a year has been lost to development, with 300,000 homes built on prime land since 2010.¹⁴

More generally, there have been calls for golf courses and land owned by the church to find space for affordable housing. In 2021 a study reported that if publicly-owned golf course land across London was turned over to housing, homes for 300,000 people could be housed on it.¹⁵ Britain is home to a quarter of all the golf courses in Europe, with one in 20 found in London, despite the capital making up just 0.65 per cent of the UK’s total land area.

A 2021 report written by ten housing experts and commissioned by the Archbishops recommended that the Church of England should look at using its lands to build truly affordable homes for the 8 million people in England currently living in overcrowded, unaffordable or unsuitable homes, rather than for making a profit.¹⁶

ISSUE 9: BUILD-OUT RATES

¹⁴ <https://www.cpre.org.uk/resources/building-on-our-food-security/>

¹⁵ <https://www.theguardian.com/politics/2021/aug/26/london-golf-courses-could-provide-homes-for-300000-people-study-says#:~:text=London%20golf%20courses%20could%20provide%20homes%20for%20300%2C000%20people%2C%20study%20says,-This%20article%20is&text=London's%20golf%20courses%20make%20up,people%2C%20according%20to%20new%20research.>

¹⁶ <https://www.archbishopofcanterbury.org/sites/abc/files/2021-02/coe-4794-hcc-full-report-v6.pdf>

Sir Oliver Letwin reported in his 2018 independent review of build out rates - building on the work of Dame Kate and many others before them - that the often-repeated idea of housebuilders 'sitting on' land is overstated.¹⁷ However, the Government is absolutely clear that new homes should be built out as soon as possible. Where build-out is delayed, it is for councils and developers to work closely together to overcome any barriers. However, developers argue that a range of factors outside their control can influence build-out rates.

ISSUE 10: MEASURING PROGRESS

The revised NPPF set out an expectation of how authorities should monitor the supply and delivery of new housing within their areas. The National Housing Federation (NHF) has called for a transparent database of land ownership. Better data would, it argued, create a more level playing field and enable small builders to find sites more easily. It would assist in effective plan-making by enabling local authorities to properly assess land availability and the record of landowners, agents and developers in bringing forward sites. It would assist LAs and other developers in land assembly, and provide information on achievable prices to landowners. It would improve understanding of the viability of schemes to assist in negotiations of planning obligations.¹⁸

The Duty to Co-operate: has been criticised for simply requiring evidence of attempts to co-operate. There is little incentive for a neighbouring authority to co-operate and its enforcement relies on planning inspectors taking a “robust approach”. There have been calls for the duty to be strengthened, as well as an expectation that, where there has been no agreement across boundaries on distributing housing needs, the Government should take and use powers to direct the preparation of a high level Joint Local Plan for the housing market area.

¹⁷ Sir Oliver Letwin: *Independent Review of Build Out: Final report*, London: Ministry of Housing, Communities and Local Government, 2018).

https://assets.publishing.service.gov.uk/media/5bd6eb3940f0b6051e77b6a6/Letwin_review_web_version.pdf

¹⁸ https://www.housing.org.uk/globalassets/files/resource-files/consultation-responses/social_housing_green_paper_-_nhf_response.pdf

POSSIBLE QUESTIONS:

Slowburn solutions

Strategic context

1. What is the fundamental cause of house price inflation? What are the policy implications of that?
2. How can we make the planning of land for housing more strategic - less piecemeal and more closely linked to existing or planned transport links?

Planning reforms

3. Is there any way of measuring the impact of volume building in the countryside. As a way of trading off environment and housing - amidst other pressures on land use?
4. How can we successfully reform the disposal of public land strategy to make the best use of surplus public land? Is it wrong to sell public land to the highest bidder when social housing providers struggle with the cost of land?

Public sector land

5. How do we best capture the value of the betterment to contribute towards the cost of infrastructure and social housing, yet still allow a profit to be made?
6. Should local authorities be allowed to introduce a Strategic Infrastructure Tariff to help fund or mitigate strategic infrastructure?

Commercial models

7. What help should be given to small builders who can't afford to buy in expertise to help them acquire land for building?

Quicker wins?

Public sector land

8. Could councils be given borrowing powers to buy land and grant themselves planning permission, to enable councils to capture more of the gains from development?
9. Could the CPO (compulsory purchase order) process be reformed further to make it faster and less expensive?

10. Should developers be hit with “use it or lose it” taxes if they fail to build homes on land for which they have secured planning permission/be incentivised to swiftly deliver housing allocated in a plan?

Commercial models/Capturing land values

11. Could local authorities set up joint ventures to lease land to affordable house builders, or institutional investors, while retaining the freehold? Leasing the land would mean authorities could receive a share of any rental income.
12. Could Tax Increment Financing (TIF) - drawing forward the local taxes that will be paid by the inhabitants of the new homes to make it possible for them to be there in the first place - be used more to fund infrastructure in enterprise zones?

Ends/LY and DB: 8 April 2024