Town Planning and Land Values

A MISTAKE REPEATED

Edgar Buck

LORD JUSTICE HARMAN, in Britt v. Buckinghamshire County Council (All England Reports 1963 2 179), said of town and country planning: "This is a subject which stinks in the noses of the public."

And so it does—both economically and administratively. By its short-sighted and contradictory development, a monopoly within a monopoly has been created, which, on an increasing scale, is taking from the production of industry and giving nothing in exchange.

Land tenure in Britain ever since the Enclosure Acts has resulted in monopoly, but, leaving that larger subject on one side, a scandalous position has arisen by the operation of the planning legislation itself. The Town and Country Planning Act of 1947 obliged local authorities to publish Development Plans showing the purpose for which land within the planned area (scheduled land) could be developed. There was an obligation on the public to obtain from the Planning Authority permission to develop, and by Section 14 the Planning Authority was to have regard to the provisions of the Development Plan when dealing with planning applications. The effect of this was to concentrate all development value in scheduled land and consequently to reduce the value of land outside it to "existing use value."

To have left the law like that would have been unjust as between land owner and land owner. Further, it was recognised that development or amenity value was created by the community and not by the land owner. Consequently, to meet these twin elements, the Act provided in Section 69 for a Development Charge to be paid before any permitted development took place. This charge was the difference between the existing use value and the permitted use value, and went into the public purse. Compensation for loss of development value was provided for and a ceiling fund of £300 millions was set aside for this, but it was well-known to be insufficient.

It was clear that if the law remained there, the owners of scheduled land would not develop, so Section 43 gave powers to a Central Land Board, set up under the Act, to acquire land compulsorily at existing use value, and to re-sell to a developer at that value plus the development charge. This was a key section, and upon it rested the whole effectiveness of the Act.

It was hoped by the legislators that the very presence of these compulsory powers would impel land owners to sell at slightly more than existing use value. In very few cases, and for a short while, it did, but the section was diffidently and sparsely used. Only a very few purchases under it were made in the whole country. Consequently owners refused to part with or develop their land, and sat tight, awaiting a change of government and legislation.

In due course the following changes were introduced and took away the protecting provisions of the original Act:

By Section 1 of the Town and Country Planning Act 1953 Development Charges were abolished, and by Section 3 (4) the compulsory purchase powers of the Central Land Board were taken away.

By Section 1 of the Town and Country Planning Act 1959 the provisions as to compensation payable on compulsory acquisition contained in the 1947 Act were repealed and the open market value became payable for land compulsorily acquired. Certain assumptions for valuation were to be made, including an assumption that planning permission would be granted for the purpose indicated in the Development Plan.

Now the owner of scheduled land could hold it out of use indefinitely, and the worst that could happen was that a statutory authority would acquire the land compulsorily, an event which could bring him full value in compensation, including amenity value. Broadly speaking that is what the landowner in fact does. In dynamic communities the demand for land increases, sending up prices almost week by week.

Planning applications to develop land outside the designated area are, in the main, refused because it is said that "land is reserved in the Development Plan for the kind of development sought." Although this is unreal when the owner will not part with it, it is unblushingly asserted in appeal after appeal. In cases where planning permission is given there is a bonanza for the owner. This serves to indicate the enormous value concentrated in scheduled land—which unscheduled land becomes when planning permission is granted for it.

The results of this monopoly are well known. Its evil extends beyond land being held out of use. The artificial scarcity makes all houses dearer, makes building operations inefficient because of lack of competition, and takes from house-dwellers and industry an increasing share of the results of their efforts.

Development plans were prepared by experienced town planners who knew the needs and prospects of their respective areas and who estimated the development needs

for years to come. The fact that in almost every case scheduled land has not met these needs could mean that their estimates were wrong, but this is difficult to believe, and on investigation is shown to be untrue. The reason why there appears to be a shortage of scheduled land is that much of it is held out of use. Owners naturally postpone sale until they feel that the top price has been reached. In conditions of monopoly the price spiral is continuous and the disposal of land development is postponed. The situation is made worse by the refusal of planning permission for land outside scheduled areas on the ground that it is in a green belt. This completes the monopoly.

What has been said shows the dire economic effects of the present planning law. Administratively it stands condemned too. On the decisions of local Planning Committees depend enormous cash values. The value of a planning permission on unscheduled land can run into hundreds of thousands of pounds. With such high values at stake the system becomes suspect and subject to local pressures and loyalties.

The remedy now proposed by the Government is contained in the Land Commission Act. It had a difficult passage through its parliamentary stages, and has been criticised for its complexity. And yet it is not a true remedy. It is going back in important respects to the old repealed sections of the 1947 Act and repeats the defects it contained.

The main defect is that although the levy is at 40 per cent. instead of the 100 per cent under the old Act, it is still charged at the point of development or sale for development. This will have the effect of discouraging development, and the tendency will be neither to sell nor develop but to wait for a change of government and repeal. This, substantially, is what happened last time.

Now, as then, there are to be powers for compulsory acquisition, but the financial position now is at least as acute as in 1947, and when one contemplates the enormous sums required for compulsory purchase compensation, and the fact that the decision to purchase will be made by official committees in the hope that some-

one will lay out money in development, the prospect is depressing.

If the true remedy were adopted, these trends would be reversed, the public would *receive* amenity values, not *pay* for them, and land would be on offer for development and not held back.

There is a natural way of dealing with the problem, but before this is given it is necessary to recognise that when we talk about development value or amenity value, we mean those values that arise from the presence and activity of people in general. It is the difference, to use an extreme example, between a square mile in the highlands of Scotland and a square mile in the centre of a large town. The difference is, of course, very great, and is attributable to natural geographical factors, like nearness to passing customers for shops, a labour force, and proximity to railheads and ports for industry. The difference increases with the intensity of effort of the people in the area. We are all familiar with the term "personal earned income." Amenity value is *public* earned income. All the factors are reflected in the value of land, and none is attributable to the land owner.

All that it is necessary to do is to take the amenity value into the public purse by way of taxation, to the relief of existing taxation.

At present it is effort that bears the main burden in the shape of taxation on personal and industrial earnings, on buildings and improvements, and on the provision of capital and the like, while, for instance, vacant land which may have a huge value, goes free. A tax on land value, or rent, would be a new contribution to the total annual budget requirements, and the proceeds would consequently relieve the present taxation on effort.

The tax would be levied upon the true value of land, developed or vacant, slum or palace, but buildings and other improvements would be exempt. The result would be that:

(a) All land would be properly used. This would lead to the disappearance of dilapidated and slum property in the centres of towns, which though poor in themselves stand on valuable land.

(b) Scheduled land would be brought into use and the purpose of development plans fulfilled.

(c) The estimates of the development planners would consequently be justified and the quinquennial revisions under Section 6 (1) of the 1947 Act would ensure that the communities' requirements were met.

(d) Applications for planning permission for unscheduled land would fall away.

(e) Revisions of the Development Plan and intermediate planning permission for unscheduled land would not result in ugly administrative difficulty because the benefit would go not to land owner but to the public through the tax.

(f) Urban sprawl would diminish because central land would come into use.

(g) Effort would be rewarded and idleness penalised.

Finally a tax on rent is the one tax that could not be passed on to the consumer in increased prices. It would reduce land prices because, with vacant and unused land bearing tax acording to its real value, land would be quickly on offer for use and the monopolist would find himself holding a hot potato.