

THE PLANNING BILL—EXTRACTS FROM THE DEBATES

HOUSE OF COMMONS

The Bill in Committee, February 25th

Despotic Powers of the Board

THE MINISTER OF TOWN AND COUNTRY PLANNING (MR. SILKIN): There will be cases where, in the public interest, it would not be desirable to make public the policy on which the Central Land Board will be required to determine development charges. One of the functions of the Central Land Board, and the policy which they must follow, must be to steer industrial development to the Development Areas, that is, positively to the Development Areas, and, negatively, away from London. It will be necessary to encourage development in one place and discourage it in another. It may not always be desirable to notify the Central Land Board of the detailed reasons why a regulation should be subjected to Debate in the House. It might be against the public interest to disclose in too great detail exactly where, in a development order, it is desired to encourage development and where not. I recognise that there is a danger in complete secrecy in the public not even knowing that any such direction has been given, and that there is no protection against possibly improper directions being given. In that report they would give a general account of their activities, in such form as we may decide upon, but they would also make statements on the directions which they had received, with the exception of those which it was not in the public interest that they should disclose. At any rate, the House will be informed of all due directions which have been issued with that exception, and with the nature of the directions, and that will give the House some safeguard that the power to issue directions has not been abused.

Secrecy and Discrimination

MR. THORNTON-KEMSLEY (Kincardine, W.—Conservative): An unfortunate industrialist who wants to establish a factory has, first of all, to go to the Planning authority in the area in which he desires to set up his works, look at the plan and see if it will be in an industrial area. He then has to go to the Board of Trade and make out his case for the establishment of a factory there, and the Board of Trade has absolute power to veto the establishment of a factory without appeal. If he is fortunate enough to get a certificate from the Board of Trade, he goes back to the planning authority to get permission to develop in that area and, having got it, he has to go to the Central Land Board and ask what the development charge will be. The Central Land Board tell him that they have had secret directions from the Minister, and he will not be entitled to ask what it will be if he moves slightly to the right or to the left. It may be that the charge will be different in different parts of the same area. Discrimination of this kind, if it is to be made at all, ought to be made in public and not in secret.

In Committee, March 20th

The State as Monopolist

MR. SILKIN: In accordance with the clauses with which we have already dealt relating to compensation, the Central Land Board is now virtually the owner of the development land and in this respect it is in exactly the same position as any other owner of land. It is not, of course, in terms, an owner of land, it merely gives a right to develop. It is a monopoly but is in the position of a person who has something to dispose of. It is in the same position as the Crown Land Commissioners or any other large body of landowners. That conception of the Board is quite inconsistent with the requirement that there should be some independent body to regulate what is, after all, a commercial relationship between themselves and private individuals. Whether people will be satisfied or not depends on the way in which the Board conduct themselves. If they are a reasonable body, if they behave with that commonsense and sound judgment then I think there will be general satisfaction with their behaviour. If not, whether there is a right of appeal to an independent tribunal or not, there will be dissatisfaction. I am not prepared to accept the position that there should be any appeal against the decision of the Central Land Board. They will decide these cases in accordance with general directions and regulations, and the

Minister will not be in a position to give individual direction, or directions relating to individual properties to the Central Land Board.

A Significant Admission

We are all agreed that a development charge should be imposed based on the increased value of the site. But development may also be change of user, and the question arises whether there should be a development charge in respect of change of user. We have the familiar case of what is happening in many parts of London to-day where the old residential building which has outworn its usefulness, and is too large for a single family to occupy is being converted by planning consent to an office building. The planning consent that is given very substantially increases the value of the land and the buildings on it. Is it that hon. Gentlemen opposite contend that there should be no development charge imposed in respect of the increased value of that building as the result of planning consent? This may be a building which has a life of 100 years and the increased value of the site by reason of the change of user may be nothing that can be assessed. I would submit that there is no increased value in the site itself by reason of the consent to change the user of the building to a more profitable use. I should have thought that it would be appropriate in that case for the Central Land Board to impose a development charge in respect of the change of user and to base it on the increased value of the land which, under Clause 107, includes buildings.

Third Reading Debate, May 20th

Sad Outlook for Development

MR. SILKIN: the Bill creates a number of new planning instruments. For the first time, with very minor exceptions, the county councils become planning authorities to whom the existing powers of the district councils will be transferred, and the Bill provides for the setting up of a new organisation—the Central Land Board—whose main function will be to assess and levy development charges in respect of developments after the appointed day. The Bill also radically changes the system of land tenure in this country. There will be, after the appointed day, and there may be to-day in anticipation, considerable changes in the value of land, particularly where development value is involved. It is very important that prospective purchasers between now and the appointed day, should take great care to be properly advised on the value of their land, in view of these impending changes. My Department and I do not view the future administration of this Bill with any sense of complacency. We are fully alive to the many difficulties which may arise. We are aware that the county councils, as I have said, are new to planning, and that, by and large, they have not at present the staff or the experience, and that the Central Land Board is not even set up. It will be an entirely new organisation, with people on it who possibly have not had a planning background. There will be a lack of trained staff among the local authorities, and I am fully conscious of the fact that, probably, in the beginning, the machine may well creak at times, in places. In the past, very few authorities have preceded the making of plans by a survey or the conditions in their areas. Now that will be obligatory. Very few authorities have made plans at all. The making of surveys is to a large degree in this country a new technique. There will be danger of delay. There will be the possibility of uncertainty, and perhaps the multiplicity of consents required may, in the beginning, discourage development. I am not at all sure that the administrative staff will not be even more difficult to secure and to train than the technical staff. I have had a number of conversations with the universities, and I am glad to say that they are very willing to play their part in the training of technical and administrative staffs of the highest quality in order to assist in this task.

Just a Land Racket

New and considerably greater powers are conferred by this Bill on the local authorities in respect of the acquisition of land and for the carrying out of this particular purpose. I hope that the local authorities will not hesitate to use the new powers that are conferred upon them to the fullest extent

possible, although on the other hand I hope that no words of mine will encourage them to acquire land or to exercise their powers merely for the sake of doing so.

Absent Provisions

MR. W. S. MORRISON (Cirencester and Tewkesbury, Conservative): Nothing has emerged, so far, to justify the figure of £300 million which we find in the Bill as the proper global figure for the loss of development rights. There is still no provision for ascertaining the proper figure by some impartial and expert investigation. We are told that payments out of the fund are to be made in accordance with a scheme which is to be prepared by the Treasury. Can we be told how long we shall have to wait for this scheme to be put before us? Uncertainty is fatal to willing development. Let the House be under no illusion. No operations—that is to say, building—shall be carried out until not only has the Board ascertained the proper charge, but the charge has either been paid or secured to the satisfaction of the Board. The hold-up of building operations, which is the sanction in the Bill, will hurt the would-be developer, but it will punish and hurt the community far more.

Arbitrary Procedure

MR. DEREK WALKER-SMITH (Hertford—Conservative): We have heard a good deal of reference this afternoon to the global sum of £300 million. I should like to protest against the way in which the Minister has chosen to regard this global sum of compensation as a bargaining weapon out of which he can grant preferential claims to those interests which he happens to wish to conciliate. We have the astonishing situation that there is no appeal against the assessment for a development charge. The Central Land Board determine the charge in accordance with principles that as yet are shrouded in mystery. Their fiat is like the laws of the Medes and Persians, it changeth not. A citizen can appeal against a decision of a judge of the High Court, administering a code of law which is understood, against a background of great experience and judicial training; he can even appeal on occasions against a decision of the Court of Appeal, but what he cannot do is to appeal against a decision of this new body, interpreting principles as yet undefined, with no background of judicial experience or training.

Would Prefer Taxing Site Value

MR. GAMMANS (Hornsey—Conservative): There is a vagueness and uncertainty as to the way in which development charges are to be levied. Is the development charge levied on the site or is it levied on the site plus bricks and mortar? The whole case we have heard from the other side about the justification for the development charge is that the site has been enhanced in value because of the community itself. I do not accept for one moment that only the community has enhanced the value of land, but surely, if that argument is only half right, the justification for levelling a development charge is on the site and not on the bricks and mortar. The community has certainly nothing whatever to do with any improvement in the bricks and mortar. Why is that not stated? If the development charge is levied on the site alone, it would simplify at least half of the provisions in this Bill.

Talking about Private Developers

Will any private developer be prepared, or able to undertake development under this Bill? There is the delay in getting permission to go ahead at all. Then think of the haggling which will go on as to whether the development charge they propose to levy is right or wrong—haggling, incidentally, against which there is no appeal. Then there is the uncertainty he will have as to whether the scheme will be a success or not. Hon. Members opposite, in talking about private developers and business men always assume that every venture is a howling success; they do not know, or they choose to ignore, those which are failures. Lastly, in many cases there is the sheer impossibility of private developers having the money to put down for the development charge before they start. The vast majority of these people work on an extremely narrow margin and it will mean the end of many private developments. So what will happen under this Bill is that the State will have prevented the private individual from developing, without any certainty that the State will do any better themselves. This Bill may attain

its first object, of preventing bad development, but it is not capable of encouraging good development.

No Basis of Valuation. Troubles in Store

MR. THORNTON-KEMSLEY (Kincardine, W.—Conservative): I want to consider its effect on the ordinary small owners of quite humble property. As soon as this Bill becomes law, they will have to review the value of their holding, whatever it may be—that piece of land they own, that land with buildings upon it, it may even be the value of the house in which they live; they will have to review its value. This will have to be done not only by individual owners, but by trustees and mortgagees, by banks and insurance companies, commercial and industrial undertakings, schools and colleges, churches, charities and clubs of every kind. They will have to value, first of all, the unrestricted value of their property, and to deduct from that its restricted value for its existing use, and upon the assumption that it may only be used for those minor developments which are sanctioned in the Third Schedule to the Bill. The basis upon which this valuation is to be carried out will not be known until the regulations, which will be drawn up after this Bill becomes the law of the land, have been made by the Treasury and approved by both Houses of Parliament. Then, somewhere around the year 1951, these owners of property will have to look out for the development plans which will then begin to be deposited. They will have to look at those plans very closely indeed, and will have to see, in particular, whether their land has been scheduled for compulsory acquisition during the next 10 years, whether it is land which is designated for compulsory acquisition. Even if it has not been designated they will have to obtain permission for every change in the use of their land, and they will have to pay, in respect of those changes development charges of unknown amounts, which will be assessed by the Central Land Board.

Other Features, including the "Compensation for Hardship"

SIR HUGH LUCAS-TOOTH (Hendon, South—Conservative): The methods of control are exercised, in the first place, through the Central Land Board, appointed by the Minister and bound to obey his directions. They are exercised also through the local planning authorities, who are bound to carry out a development plan, and although it is true that they may make that plan themselves, before it can become effective it has to be approved by the Minister, who can modify it to any extent. Finally, there are the powers of the right hon. Gentleman to make regulations. By these methods the Minister will be able to do exactly what he pleases with every inch of land, and every stone of every building in this country. He proposes to give the builders the first cut out of the sum of £300,000,000 to make their compensation precisely equal to the development charge on the greater part of the land which they hold. But why give this priority to the builders? The right hon. Gentleman says that payment out of this total sum is a payment to relieve hardship. Why should the builders specially be relieved of hardship? Are the builders a particularly poor, abused, down-trodden class of the community? Is that his suggestion? Why should it be said that on grounds of hardship the builders should get special priority? That brings me to our objections to the development charge. Coupled with the need for permission, there will be the cumbersome and arbitrary procedure for paying the necessary development charge. This machinery will delay and frustrate enterprise. Surely a complication of this sort is the last thing required at the present moment when the need is to get industrial activity started again. The Central Land Board are to have regard to the value of permission to develop and there are regulations to be made to prescribe the general principles on which they are to levy the charge, although those principles are entirely undefined in the Bill. Otherwise the Central Land Board can charge exactly what they please. We object to this Bill because it contains features which we think will deter development, it contains grave injuries and will only complicate matters, and we shall go into the Lobby to vote against it.

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