

■ CHAPTER THIRTEEN

Future Contributions to Infrastructure Costs

This chapter, contributed principally by Nathaniel Lichfield, is based on Lichfield and Connellan's working paper *Land Value and Community Betterment Taxation in Britain: Proposals for Legislation and Practice* (2000a; see also Appendix C for further reference).

Introduction

One way to capture value for the benefit of the community when land is being developed is to require developers to make a contribution to the community's infrastructure costs. Britain currently does this through a planning gain/obligation system, which has come under justifiable criticism. What follows is an outline of research on six possible avenues of change:

1. Elson: Code of Practice

To improve the planning gain/obligation system, Elson (1990, 42) recommended a Code of Practice that would clarify the following issues:

- the types of on-site requirement and off-site benefit seen as appropriate for different broad use categories, including mineral extraction;
- how far contributions should deal with revenue as well as capital items;
- how small-scale developments would be dealt with;
- how policies might be specified in development plans;
- the use of development briefs in negotiation;
- methods of broad financial calculation of scales of possible benefit;
- procedures for accountability and public consultation; and
- village appraisals and town surveys of local requirements.

2. Countryside Agency: Development Obligations

This approach, which defines how a development compensates for its impact on a community, would consist of three elements, as proposed by the Countryside Agency:

- policies for development obligations included within development plans (without this framework, contributions from developers would be seen as opportunistic);
- a method for calculating obligations (including suggestions of techniques for assessing environmental capital);
- a mechanism in planning law to enable and enforce the above. (1999, 7–8)

3. Urban Task Force : Environmental Impact Fees

Under the heading of “environmental impact fees,” the Urban Task Force (UTF) stated:

There is a series of wider environmental impacts which are not currently taken into account within the existing system of planning obligations and planning gains. These include:

- increased air pollution caused by increased road traffic use;
- increases in energy consumption and greenhouse gases emissions;
- the loss of countryside and landscape;
- damage to bio-diversity;
- impacts on historic and cultural resources;
- soil erosion and loss;
- pressures on waste and water management systems. (DETR 1999a, 221–223)

The UTF recommended introducing environmental impact fees to help defray the environmental costs of development.

4. The Urban White Paper

The British Government’s Urban White Paper (2000, annexe) lists each of the recommendations of the UTF along with the government’s response. DETR intends to issue a consultation paper on planning obligations (see Planning Green Paper referred to below).

5. Replace the Planning Gain/Obligation System with the U.S. Impact Fees System

One approach is the U.S. practice of implementing development impact fees: one-time charges against new development to raise revenue for new or expanded public facilities.

There are some advantages to the U.S. system; however, the context for implementing such a system is widely different between the two countries, and constitutional dissimilarities require differences in application. Thus, while this

particular question has been discussed, the approach is not favoured for the U.K. (Grant 1982, 51–59).

6. Land Readjustment (Assisted Land Pooling)

The system known by various names, but generally described as assisted land pooling (see Chapter 12), is an alternative to acquisition by compulsory purchase (eminent domain): land is assembled for comprehensive development, but existing landowners retain some stake in the ultimate ownership of the land and its value (UVF 2001, 10).

See Appendix C for reference and comparison of subsequent ideas on infrastructure costs, including some of the issues discussed below.

Latest Government Thinking and Proposals

Planning Green Paper

The government's discussion document *Planning Green Paper* (ODPM 2001) invited comments on certain planning proposals. Regarding planning obligations, the government is reviewing one of its main proposals: local tariffs aimed at "requiring developers to bear more fully the social and environmental costs of their development."

Planning and Compulsory Purchase Bill

The Planning and Compulsory Purchase Bill was introduced in 2002 as a legislative consequence of the above green paper and consultative process, with the stated purpose of expediting the planning system. It legislates reform of the compulsory-purchase and compensation regime, including a series of necessary reforms to improve the predictability of planning decisions, speed up the handling of major infrastructure projects and provide for the introduction of business planning zones. In addition to making the planning system faster, simpler and more accessible, the government believes that these measures will help achieve sustainable development.

Summary

The government seems to be heading towards a system of locally set tariffs that look more akin to impact fees than individual negotiations for planning gain or planning obligations under planning agreements. But the detail of the government's way forward on the issue of contributions for infrastructure costs (ODPM 2002b, paras. B1–B4) has yet to be finally confirmed. However, as these measures (now contained in the government's latest Planning and Compensation Bill) progress through parliamentary stages, the position will be clarified and consequently updated in Appendixes C and D on the Lincoln Institute Web site.