

■ CHAPTER FOURTEEN

## *Making LVT Compatible with Planning*

**T**his 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 D for further reference).

### **Introduction**

There is an inherent conflict between the application of land value taxation and the planning of development in any particular locality (Lichfield and Connellan 1998, 45–46). LVT, which was introduced as a concept long before government began planning land use, was necessarily based on highest and best use of the land, as defined by the prevailing land and property market. Town planning, introduced in Britain in 1909, involves the government's deliberate intervention into the market process in the interests of the community.

In order to effectively introduce LVT in Britain, the two systems will need to work together somehow.

### **Britain's Current Town Planning System**

In general, the British planning system has much the same purpose as those practised around the world. Plans are made as a basis for implementation, and control of development is a key factor. The British system, however, currently has certain features that are singular when compared with those of other countries. First, the plans are proposed in the form of written policies, and thus are not solely dependent on maps. Second, a plan in the U.K., when approved by the appropriate authorities, does not convey development rights to the landowners. This differs from systems in the U.S. and Europe where the plan contains zoning provisions, and proposed development in accord with the plan cannot be refused permission without compensation (Davies et al. 1989).

In Britain, although land is owned by private or public individuals or bodies, the development rights are owned by the state. To exercise the development rights that are attached to land units, landowners and/or developers must obtain planning permission, supported as necessary by related planning agreements, and then carry out development subject to conditions and agreements. But in the U.K., if development permission is refused, the applicant can appeal to the secretary of state for the Department of Environment, Transport and the Regions. Since there are no established development rights, the authority is able to exercise discretion in the determination of the planning application.

The Planning and Compensation Act of 1991 signified a shift towards a plan-led system as follows:

Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. (sec. 26)

In practice, if proposed development would be in accord with the plan, then the plan-led system gives a presumption for permission and therefore, although this is perhaps still at the questionable stage, for compensation on refusal.

#### *The Difficulty of Assessing Land Value Under the Plan*

Since the British development plan does not convey development rights to the landowner, but is comprised of policies, it does not specify what type of land use is permitted. Most development plans only allocate a small number of sites for development, both on greenfield and brownfield land (i.e., previously developed) sites. In addition, development plans do not generally address existing sites, where no change is proposed. This creates confusion: a policy-based plan, which is open to interpretation, particularly when policies conflict and have different weights, does not provide a clear picture of acceptable land uses and thereby potential development value.

Regarding the changing British planning system, see Appendix D, which examines the possibilities of ameliorating such problems of interpretation.

#### **Working Towards Compatibility**

LVT can be said to be compatible with planning when land valuations are based not on the highest and best use as determined by the market, but instead on the value the land will have under the development plan. The degree of compatibility will depend on two variables:

- which planning policies are actually in effect; and
- the depth of the LVT system introduced.

One possible way to achieve compatibility is through land valuation briefs, prepared by the local planning authority and based on the policies established in the local development plan, which has already obtained approval through a statutory consultation process. The principle of such briefs is not new. Hudson (1985, 6–8) advocates the introduction of a Certificate of Development Value (CDV), which would be similar to an outline planning permission. An application could be made to the Local Planning Authority (LPA) to establish exactly what uses and in what quantum they would be allowed. The decision or valuation would not be binding on the LPA, but used until any planning permission was granted.

### **Influencing Implementation**

LVT could be a mechanism to aid plan implementation in accord with planning policies. Tax rates in the LVT system could be varied in order to encourage or discourage development. For example, LVT might tax conservation areas at a relatively low level to increase their protection. LVT could also serve as a way to bring forward land for development. Owners of derelict sites would be taxed based on highest and best use of the land, and thus be induced to develop those areas, or pass them on to those who will.

### **Summary**

Certain special qualities of the British planning system seem likely to hinder the establishment of LVT in Britain. In practical terms, are such anticipated problems surmountable? We have presented possible solutions for reducing the uncertainties in the planning system that are at the heart of the compatibility problem. We have also indicated other possibilities that may flow from changes the government intends to make in the planning system, which may well also work towards that end.<sup>1</sup>

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1. See Appendices C and D for updates on these measures (contained in the government's latest Planning and Compensation Bill).