

THE SECRET TAX: PLANNING GAINS

THE FLUID nature of proprietorial rights over land is illustrated by the evolution of a secret tax under the guise of "planning gain".

In Britain, the community's legal right to regulate the use to which land is put has long been established. But in the last 30 years, local governments have worked towards a situation where they can levy a huge tax on landowners. It works like this.

Usually behind closed doors, developers negotiate for permission to develop a site. Cash-strapped councillors keen to improve the amenities of their communities agree, but exact a price for granting permission: the developer has to finance the provision of facilities that are not always directly related to their projects.

• In the 1970s, the rural housing boom strained the infrastructure, so councils began to demand the provision of new roads and sewage works.

According to one estimate, the value of road-related agreements in England and Wales has increased from £42m to £134m over the past three years, with deals worth a further £500m in the pipeline.

• In the 1980s the emphasis shifted

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ted in favour of schools, youth centres and recreational facilities.

• In the 1990s, suggests a new report by Prof. Martin Elson¹ "green" issues will dictate the content of these deals, including, for example, pollution-cutting public transport facilities and the reclamation of contaminated and waste land.

Who pays? Ultimately, the landowner. For developers operate in a competitive milieu. Their profits are kept to a level dictated by the yields from alternative uses to which their capital could be put.

So when a developer seeks permission to build on a site, he does so before settling a price with the landowner. And the price of the

1. *NEGOTIATING THE FUTURE: PLANNING GAIN IN THE 1990s*. Chipping Sodbury: ARC Ltd. 1990.

2. *PLANNING POLICY GUIDANCE: HOUSING, DRAFT FOR CONSULTATION*, London, 1989.

"planning gain" is added to total development costs, which cuts the surplus that can be paid to the landowner.

The British government acknowledges that this is a tax on landowners. The Department of the Environment states: "..... plan policies should be explicit about the provision which developers will be expected to make to costs of infrastructure and community facilities, and about social housing provision so that land values take account of these costs."²

Some landowners are thus taxed on the windfall gains arising from a change in the use of their sites.

Planning gains have been criticised as "a local land tax thinly disguised," arbitrary in its incidence, random in its exactions.

But until a fair, nation-wide tax on the rental value of all land is instituted, it is the only way for a community to claw back some of the "surplus value" which - through its presence and everyday activities - it creates.

Planning gain does not have a very long formal history, but in the article below Dr. FRANCIS SMITH argues that its roots can be traced back to the philanthropist entrepreneurs of the 19th century.

Planning gain: case made

IN VICTORIAN times industrial entrepreneurs in the North of England amassed large fortunes from their cotton mills in Lancashire and from woollen goods in Yorkshire. They realised that their success depended on two factors: the cheap labour which flocked into the towns from the surrounding agricultural areas and their increasingly privileged positions as owners and employers.

In these circumstances it seemed natural to many of them that they should return to the community some of the wealth they had acquired. They presented or bequeathed parks,

By DR FRANCIS SMITH

churches, libraries, art galleries and schools and thereby recorded their names and their generosity for posterity.

No doubt their benevolence was a form of paternalism rather than a recognition of the benefits they derived from the exclusive use of land and its natural products. It was a common attitude amongst big land owners and persists to a limited extent today.

In general, however, the slumps and booms of the twentieth century in industrialised coun-

tries like Britain, have brought with them a tougher approach to the interplay of market forces and country-gentlemen/land-owners have been replaced by hard-nosed property developers who see no need for the paternalism of yesteryear.

They regard the financial gains to be made from increases in land values as the prize to be fairly won by speculation, foresight and enterprise and by being in the know.

Thus we have seen the property developers' bonanza of the 1960s follow the economic boom period, in its turn to collapse with the economic down-turn of the 1970s. The connection with land values was still not apparent to the general observer who regarded the rise in values of property as a natural event from which the astute businessman benefited, and the collapse in value of property as somehow the penalty for lack of business acumen.

During this time the Town and Country Planning Acts of 1968 and 1971 were introduced, calling for the drawing up of county structure plans and local district plans intended to set the scene for 20 years ahead. This seemed a sensible way of protecting the countryside from undesirable development and a method of guiding such development as there was into acceptable forms of land use. Initially there was not a lot of pressure on the planning constraints because the late 1970s was a period of economic depression with extensive closures of traditional industry and a rapid rise in unemployment.

In the 1980s a new conflict developed which drew attention to rising land values in dramatic ways plain for everyone to see. The rapid rise in house prices in the south east of Britain and a proportion of those in more desirable areas of the provinces started in 1984 and continued at over 25% a year until 1988. It is being generally accepted that rising land values were at the root of this trend.

Then a great deal of publicity was given to the sale of in-fill sites for small numbers of houses where the arithmetic required to arrive at the land cost per house is not too difficult. The cost of the land as opposed to the cost of the buildings seems both puzzling and unreasonable to the man in the street. More striking situations arise from the conjunction of three factors:

1. The speculative development of private office, housing estates, industrial and retail sites and leisure centres prompted by rapidly rising land values.

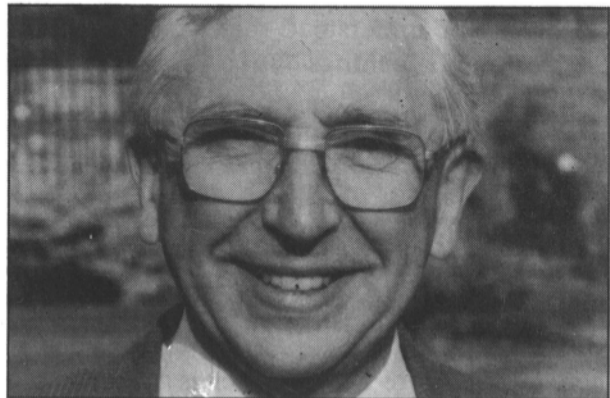
2. The encouragement of such developments by government subsidies.

3. The restrictions imposed on the plans by the Town and Country Planning Acts.

The simplistic approach of right-wing politicians is to demand the release of *MORE LAND* to relieve a supposed shortage which they claim is causing the high prices. The release of more land, it is suggested, can be achieved by encouraging the use of land held by local authorities and by encroaching on the protected Green Belt around urban areas or even into the open country, and by selling off land belonging to state industries (the Water Boards, British Railways, etc.) as they are privatised.

Public opinion is strongly against the spread of developments into green field sites and local authorities are reluctant to give up urban sites without some kind of recompense. Developers are encouraged by the government to submit planning requests since they can provide private finance; at the same time local authorities are financially constrained by central government and cannot afford infrastructure such as roads or to finance development themselves.

IN RECENT years it has been recognised that the developer will gain significantly from increasing land values when planning permis-



• Dr Francis Smith

sion is granted. The developer is therefore willing to "pay" for this planning permission and at the same time to speed up the decision.

Schedule 52 of the Town and Country Planning Act recognises this situation but applied limitations which have been tested in the courts and up-dated by further government circulars. Fundamentally the "payment" must not be confused with a "bribe" and can only be given for some additional building or infra-structure directly related to the original application.

Thus it could be a wing to a new hospital

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Welfare or Reform?

By
DAVID
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THE HISTORY of reasoned thought on the nature of economic justice, of which Professor Lister gives a modern definition, goes back at least as far as Plato (428-348 B.C.). Here are Plato's conclusions:¹

And the chief aims of their decisions (i.e. the Rulers) will be that neither party shall have what belongs to another or be deprived of what is his own.

Yes.

Because that is just?

Yes.

So here again justice admittedly means that a man should possess and concern himself with what properly belongs to him?

True.

Since a previous discussion had established a separation of occupations, including that of shopkeeper, as the economic basis of the ideal community, it is clearly to be understood that "what properly belongs" to a man includes both what he has made himself and kept, and what he has bought with the proceeds of the sale of the rest.

Roughly 2,200 years later, the

Ruth Lister, The Exclusive Society: Citizenship And The Poor, London: Child Poverty Action Group, 1990. £4.95.

American Henry George (1839-1897) would be writing:²

Here are two simple principles, both of which are self-evident:

1) That all men have equal rights to the use and enjoyment of the elements provided by nature.

2) That each man has an exclusive right to the use and enjoyment of what is produced by his own labour.

If Plato did not feel obliged to enunciate what was to be George's first principle, it was probably because, at the time he wrote, land distribution in Athens was reasonably equitable.³

The same was certainly not true of George's time, since when change has not always been for the better. But the important thing to note about the two men is the complementary quality of their aims.

Plato wished to prevent unjust

differences in wealth, George to proclaim both their cause and the remedy for them, which is related to the cause.

The importance of these facts is emphasized by the parallel development of quite a different practice, for which the motive was not to tackle the cause of the unjust differences, but to ameliorate the condition of those suffering from them.

This too begins in classical antiquity, but on a large scale only as a subsidiary part of the plan of Gaius Gracchus (153-121 B.C.) to resume from a position of power the work started under less favourable conditions by his brother Tiberius Sempronius (163-135 B.C.).

The ultimate aim was to return the economy of an empire-building Rome to its pristine condition, which was more in accordance with economic justice.⁴

Tiberius Sempronius Gracchus, seeing that the declining number of family farms, and the proliferation of great estates worked by slave labour, were between them ruining Rome, had init-

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where a superstore food retailer is allowed to build on the adjoining old hospital site; alternatively it could be road works or parking facilities; it could be meeting rooms, a public house or a swimming pool associated with the building of a housing estate.

The concept is not new: a large department store in Washington D.C. paid for the station facilities at Metro Center, a unique station which has direct access to the store.

Where the land which is subject to change of use still belongs to the original owner, a farmer maybe, the local council sees him receive a massive benefit when he sells the land to the developer, a benefit which the local community does not share. Local people are becoming angered at this unjustified *PLANNING GAIN*

and are beginning to ask what can be done about it.

The right-wing "think tanks" suggest that we should recognise the reality of the situation and allow developers to tender for planning permission, the contract going to the highest bidder. In practice this is the only way, short of land value taxation, that would force developers to calculate the discounted benefit over future years. The developer sees the "gain" as an additional cost which goes to the community out of his rightful profits.

Nevertheless we can see that planning gain is establishing the principle that land values increase with the granting of "change of use" by the community and we are now moving towards the concept that more of the benefits from this change of use should be returned to the community.