LAND PROMOTERS & DEVELOPERS FEDERATION

Written evidence submitted by the Land Promoters and Developers Federation

(LPDF) [LVC 065]

Executive summary

1. This submission is made by the Land Promoters and Developers Federation (LPDF) and we are grateful to the Committee for the opportunity to lay out our thoughts regarding land value capture. Housing is one of the principal challenges this country faces domestically, so we are pleased to see this is, and remains, high on the agenda.
2. In our submission we have sought to give some history and context to the debate by first of all analysing why land values have been increasing and the situation as it stands, before specifically exploring the subject of land value capture.
3. Our aim in focusing to begin with on current methods such as CIL and Section 106 monies is so that the scale of existing contributions is not forgotten. As you will be aware, these can be considerable.
4. The planning system has changed enormously since the 1942 Uthwatt report and so we have also looked for guidance to previously implemented policies such as the 1970s Development Tax as well as existing policies which could be implemented more broadly, such as price caps or reformed CIL and S106 agreements.
5. Finally, we have highlighted our belief in the importance of releasing land.
6. We trust our insight and experiences which we have set out in the submission that follows is useful and we look forward to working with the Committee as the Inquiry develops.

Introduction

7. The LPDF was recently formed by a number of the country's leading land promoters and developers, who excel in the promotion and development of strategic land. We work closely with public authorities, landowners (including private individuals, institutions, charities, public sector bodies and agencies), key stakeholders, local communities and house-builders to boost the supply of housing land and therefore the supply of new, private and affordable homes. More information about land developers and promoters and the important role they play in the housing market can be found in the report sent to the committee via hclgcom@parliament.uk entitled 'Realising Potential: The scale and role of specialist land promoters in housing delivery'.
8. We understand that the ambition of the Communities and Local Government select committee is to ensure that the infrastructure required by new developments is paid for by those who stand to gain financially from the development i.e. landowners and developers. Having studied the terms of reference we understand that the Committee is concerned this is not currently the case and to this end you wish to analyse existing methods of land value capture, focusing on what is working as well as what is not working so well. Building on this, the Committee wish to understand more about alternative methods of land value capture, their advantages and disadvantages. It is with that understanding that we make these submissions.

Why have land values increased and will that trend continue?

9. The UK's housing market is complex and there are many reasons why not enough houses are being built, with demand continuing to outstrip supply. Over the years, several measures have been introduced aimed at boosting the supply of new homes, from fiscal initiatives such as Help to Buy to reforms to the planning system. For the first time in years, the number of new homes built last year is significantly up on previous years and is moving closer to the annual requirement of 300,000 new homes.
10. Things are certainly moving in the right direction, but one of the root causes of the lag in the number of new homes being built is the supply and availability of suitable and deliverable housing land.
11. In the experience of the LPDF, most landowners are willing to put their land forward for development provided that the price they receive for it is fair and reasonable, having regard to all the costs that are associated with developing a sustainable and high-quality development.

12. Paragraph 173 of the National Planning Policy Framework (NPPF) (2012) states:

'Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the [Local] plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and a willing developer to enable the development to be deliverable'.

13. The LPDF agrees entirely with that statement. It is absolutely right and a well-established principle that new development should and must, at the very least, mitigate its impact. The cost of doing so has a direct impact on the value of land, but it is the collective opinion of the LPDF, that few landowners would have any argument against the principle that the development must fully mitigate its direct impact to achieve a form of development compliant with the legitimate requirements of the local planning authority and national policy.

14. It is indisputable that the value of development land has risen over the years, generally in line with house prices. LPDF members and the landowners they work with are often accused of employing measures to deliberately inflate land values. One of the alleged measures is land-banking, which is currently being considered by the Rt Hon. Sir Oliver Letwin MP, independently of this Inquiry.

15. Landowners are understandably keen to maximise the value of their land, but the reality is landowners only expect to receive a price for what their land is actually worth on the open market when all constraints are taken in to account.

16. The basic model for valuing land has always been and still is:

Land Value = Gross Development Value (how much the properties will sell for);

less Costs (all of those items listed in para 173 of the NPPF) and planning promotion costs (which can extend in to the hundreds of thousands of pounds, sometimes millions of pounds depending on how complicated and protracted the matter of securing planning permission has been); and less the developer's profit.

17. If the Gross Development Value were to remain the same and the Costs were to increase, then it would follow that the Land Value would decrease. If the Gross Development Value were to increase at a higher rate than the Costs, then the Land Value would also increase.

18. Land values typically follow economic cycles, decreasing during economic recessions and increasing when the economy is performing well and the housing market is strong. In recent years land values have increased and are higher in those parts of the country where house prices are highest.

19. Condensing a complex issue, house price growth is determined by demand which is influenced by need and availability, quality of environment and the location. Such things are often controlled by public investment in infrastructure e.g. roads, transport, schools etc, which all help to create places where people desire to live. They are also controlled by the corporate strategies of local authorities and local planning decisions which influence public/private sector investment and that an adequate supply of land for housing and economic development exists. So, it follows that many homeowners have seen the value of their house rise significantly over many years as a result of positive public investment and policy.

20. Prices have also increased in areas where local planning authorities have adopted overly restrictive development policies and failed to plan adequately for the needs in their area. The Government has recognised this and has recently advised 15 local authorities that it will 'intervene' in the preparation of their Development Plan unless they [the local authority] take action to remedy the situation. There are however still too many local authorities who have and continue to fail to prepare robust up to date Development Plans, which is restricting housing delivery in those areas.

21. If there is high demand for houses in an area where supply is limited, it further pushes house prices up. Assuming costs remain 'normal' and the developer continues to make a 'typical' profit, the unintended consequence of this is that the value of land will increase.

22. Having said that, in the experience of members of the LPDF, in general terms, increases in land values have started to 'cool off', and in some areas they have decreased as costs have continued to increase at a faster rate than house prices and the supply of housing has started to increase.

23. Cost inflation is another complex area, but it is largely down to demand for labour and materials far exceeding supply. The shortage of skills, labour and resources (private and public sector), and materials is arguably one of the biggest challenges that the industry must tackle if we are to deliver the number of new homes required.

Capturing Land Value

24. Having outlined in very basic terms some of the determining factors that influence land value, we turn now to look at the concept of land value capture, whether it is reasonable and, if so, how it is best achieved.

25. The Members of the LPDF have been responsible for and are currently involved in the promotion and development of sites of varying sizes from small sites i.e. less than 100 new homes, to large sites i.e. over 10,000 new homes across the country in areas where demand for housing varies. The vast majority of these developments have been, or will be, fully funded and delivered, including all of the associated costs (affordable housing, infrastructure, standard build costs, local requirements, S106/CIL contributions etc), by the developer and landowner using private finance with no subsidy from the public sector. The resultant land value, which can vary hugely based on geographical location and the specifics of the site and associated values and costs, is achieved by sale to house builders and that sales value, less planning and funding costs, is then retained by the landowner. In such cases, it is questionable what the justification is for seeking to capture any of that land value from the land owner and what impact this would have on the willingness of landowners to bring forward further land in future.

26. There are instances where a developer or landowner will not be able to fully fund and deliver a development having regard to all the local requirements and costs, without reducing the land value to a level that is below what a willing seller would expect. That situation should not normally arise if development proposals are subject to robust viability assessments through the Development Plan and Management processes. However, if market conditions change over time and unforeseen costs arise, the NPPF (para 205) and local planning policies normally allow for the viability of a scheme to be examined in more detail. This is normally done with the local authority (who often employ an external specialist), developer and landowner to establish whether:

    A there is actually a viability deficit or whether the expectations of the landowner/developer for what constitutes a competitive return are unreasonable having regard to the facts of the case, and

    B whether improvements can be made to the scheme that results in additional value or cost savings being achieved to allow the development to proceed in a manner that is still acceptable in planning terms and provides a competitive return to a willing land owner.

27. Through that review process, the landowner, developer and the local authority will try to agree what an acceptable land value should be based on, inter alia, local market conditions. The parties will hopefully reach an agreement that allows the development to proceed in a manner that all are content with, or if not, planning permission is refused and the development does not proceed. Either way, there would be no additional need for any form of land value capture.

28. 28) In terms of ensuring that landowners and developers 'pay their way', while the current system of S106 obligations and CIL is not perfect, it is working adequately enough to ensure that this is the case, and there is no need to introduce an alternative system for capturing land value.

29. What constitutes best value and a competitive return will vary massively, but at a time when more land needs to be released for housing, there is a real risk that some form of arbitrary land or development tax could 'choke' some of the supply of the most suitable and sustainable sites for development. Anecdotally, this is what some members of the LPDF reported happened when the Government introduced a Development Tax in the 1970s. If the supply of land for development reduces, then land values are likely to rise further.

30. As acknowledged in the barker Review of Housing Supply (2004), one way to control land values and house prices is to release more land for housing and ensure more houses are built. In areas where there is a good supply of new homes being built, house builders have to be more competitive to secure sales. In areas where there are only a small handful of sites being developed, the demand will continue to outstrip the supply and consumers will inevitably pay higher prices.

31. Another way would be to place a price cap on the retail prices of new build homes. This is already happening to some extent through the provision of affordable housing and low cost market housing (Starter Homes) where the rental/retail value of the homes are capped at a fixed percentage. The reduced value of the property, which is not matched by an equivalent reduction in costs, reduces the value of the land on which it is built.

32. At present, developments typically have to deliver between 20-40% of all new homes as affordable homes. Typically, the provision of affordable housing generates little, if any, value given limitations on resale values and the way in which housing associations have to operate. It is therefore another significant cost that comes off the land value, which is often not viewed that way.

33. If measures were introduced to cap the price of more homes on new housing developments it may reduce land values but would also inevitably have a knock on effect on the wider housing market in the area, leading to a fall in house prices. While this might be welcomed by people looking to get on the housing ladder, it could potentially put existing occupants who purchased their property nearby at full value into negative equity, which could have consequences for the wider economy. How would an existing housing development be able to compete with a new development where house prices were artificially suppressed? Quite simply, the existing development would grind to a halt, as potentially would the sale of 'second-hand' homes.

34. There is also the point that, if house prices were depressed, all the people who have bought houses through the Government's help to Buy scheme would be placed into negative equity and the Government's investment would therefore be at significant risk.

35. Returning to the first point listed in the scope of the Inquiry, the LPDF believe that the current methods of securing obligations and contributions from developers and landowners through CIL, S106 Agreements and S278 Agreements work reasonably well, but there is certainly scope for improvement.

36. As stated above, in the experience of the members of the LPDF, landowners and developers are not averse to the principle of paying the costs associated with a development, accepting a planning obligation or making payments whether they be through S106 Agreement, S278 Agreement, in kind or CIL. By way of example, typically a single dwelling will delivery between £10,000 and £25,000 worth of S106 contributions and/or CIL (geographical location is often an important factor influencing this figure). A development of some 1,500 homes to the south of Warwick has for example generated in excess of £27million in Section 106 contributions alone for the provision of infrastructure. Other such schemes, on smaller sites, put forward by land promoters have, by way of example, generated circa £2.7million worth of contributions for 117 homes in Aylesbury Vale.

37. The level of contributions made by residential development schemes can sometimes get lost in the system. Often the benefits brought about by, and paid for by, the delivery of housing are not noticed or appreciated until the development is complete.

38. As the Committee may be aware, a long-established principle of the planning system (as set out in paragraph 204 of the NPPF and clause 122 of the Community Infrastructure Levy (CIL) Regulations (2010)) is that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

39. If an obligation meets these tests, then they are 'legitimate' as described above. If a requested obligation does not meet all of these tests, then it would be deemed unreasonable and unlawful to seek it. This is clearly an area where if more flex were built in, more value in terms of community facilities and infrastructure could be derived from development. One example that is often overlooked is the provision of allotments. Whilst these may often not be a CIL contribution it does not mean that their provision isn't desired by local people and that they aren't of benefit to a community.

40. Another suggestion might be to encourage more landowners to put their land forward for development, perhaps offering a fast track planning process or other inducement/protection for those landowners who offer community benefits in excess of those strictly applicable. To some extent, this is what members of the LPDF are experiencing through the preparation of some Neighbourhood Plans.

41. Members of the LPDF are often asked through the preparation of a Development Plan or the determination of a planning application, for obligations and to make contributions that do not meet the tests of the NPPF and CIL Regulations. As a result, local authorities, landowners / developers, Planning Inspectors are not able to accept them. One area in which the current system could be improved is providing better guidance and support to local authorities and/or additional, statutory bodies on the evidence base that they must provide in order to secure obligations.

42. Another area would be to review the recently introduced system (clause 123 of the CIL Regulations) whereby contributions cannot be 'pooled'. Where a local authority has collected 5 lots of contributions for one piece of infrastructure from different developments, they are prevented from collecting any more, which means that it may leave a gap in the funding required to deliver a particular item. Perhaps the pooling restrictions should be relaxed or revoked altogether.

43. While there was some concern from the development industry about CIL when it was first announced, members of the LPDF believe that the system (or a similar roof tax tariff-based system set locally) has advantages over the traditional system of negotiating most obligations through S106 Agreements on a site by site basis.

44. Part of the problem with CIL is that it can only be introduced once the local authority has an adopted Local Plan. As the Committee will be aware, there are still a significant number of local authorities that do not have up to date, NPPF compliant, Local Plans, so it follows that the take up and introduction of CIL remains relatively low.

45. The evidence base requirements, enforcement of CIL and application of contributions collected through CIL is often seen as being complex and time consuming to many local authorities, many of whom have inadequate resources to implement it effectively and efficiently. Therefore, many local authorities have not pursued or adopted a CIL, electing instead to deal with infrastructure requirements through the negotiation of S106 agreements, often putting the onus on developers to implement the necessary infrastructure at the appropriate time.

46. 46) The concept of higher rates of CIL being levied from areas within a local authority area where land values are higher does make some sense, but only if that money (or the majority of it) is to be invested in infrastructure generated by and serving development in those areas. If it does not, then it may go beyond the tests of clause 122 of the CIL Regulations as it would constitute a form of cross subsidising. Equally, it must continue to be subject to rigorous viability testing to ensure that it doesn't render scheme unviable and therefore undeliverable.

47. In terms of land assembly and Compulsory Purchase, we note the comment in the Terms of Reference that post-war new towns would never have been built without buying land at the existing use value. It would be difficult to apply that today as the housing market and the finance and development industry is much more sophisticated, diverse and adept at delivering successful and viable developments without public sector finance whilst still providing a competitive return to the landowner.

48. There will continue to be instances where local authorities need to use their Compulsory Purchase Order (CPO) powers to assemble and deliver sites, but the LPDF do not consider that widening the use of CPO powers is necessary or an efficient use of public sector money when development continues to be delivered and fully funded by landowners and developers. It would also be questionable how equitable this would be where a landowner, for no fault of their own, would have their land forcefully taken at an existing use value, whereas a landowner elsewhere would still realise the full enhanced value.

49. As a final point, in the experience of most of the LPDF members, the realisation of increases in land values is seldom down to public investment in infrastructure, but more down to the population growing and requiring more land for housing. What land gets developed and where has always been and must continue to be based on an assessment of need and what is considered to be sustainable development, which requires a consideration of the social, economic and environmental dimensions. Only land that offers the best overall package, including a site's ability to pay for itself, should be developed. Land economics will continue to be a determining factor in that process, but to elevate its importance over all other considerations would, in the view of the LPDF, do little to address the main problem – not enough houses are being built.

Conclusion

50. LPDF members believe that land values have and will continue to increase when the economy and housing market are strong. The underlying cause of this is that not enough homes are being built in areas where demand and need is greatest – it is not simply a product of public investment and policy. Where land is being developed, the LPDF are in full agreement that the developer and landowner should fully fund and deliver the development and necessary infrastructure without cost to the public purse. Where it does so, the LPDF believe it would be unfair to recover any more of the remaining land value.

51. More focus needs to be given on measure to boost the supply and availability of housing land and new homes, which would likely reduce the rate at which land values have increased. Government has already introduced fiscal and planning measures to achieve this, and it appears things are moving in the right direction. However, more needs to be done and the LPDF remain committed to working with the Government and other key stakeholders in the housing market to bring about wider change to achieve this goal.

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