



April 2014

Mechanisms to increase housing land supply in England and Wales



A low-angle, blue-tinted photograph of residential buildings. The foreground is dominated by the textured, wavy pattern of a tiled roof. In the background, several multi-story buildings with windows and balconies are visible, creating a sense of a dense urban or suburban environment. The overall mood is somber and industrial due to the monochromatic color scheme.

Mechanisms to increase housing
land supply in England and Wales

Report for Royal Institution of Chartered Surveyors

Report written by:

**The Cambridge Centre
for Housing and
Planning Research**

Dr Gemma Burgess
University of Cambridge
Glb36@cam.ac.uk

Sarah Monk
University of Cambridge
Sm23@cam.ac.uk

RICS Research team

Dr. Clare Eriksson FRICS
Director of Global Research & Policy
ceriksson@rics.org

Amanprit Johal
RICS Global Research and Policy Project Manager
ajohal@rics.org

Anthony Walters
RICS Global Research and Policy Project Manager
awalters@rics.org

Pratichi Chatterjee
Global Research & Policy Assistant
pchatterjee@rics.org

Published by the Royal Institution of Chartered Surveyors (RICS)
RICS, Parliament Square, London SW1P 3AD
www.rics.org

The views expressed by the authors are not necessarily those of RICS nor any body connected with RICS. Neither the authors, nor RICS accept any liability arising from the use of this publication.

Copyright RICS 2014

Funded by:



The RICS Research Trust, a registered charity established by RICS in 1955 to support research and education in the field of surveying.

Contents

Executive Summary	5
1.0 Introduction	7
1.1 Aims and objectives.....	7
1.2 Methods	7
2.0 Background: bringing land forward for housing	8
2.1 Supply and demand	8
2.2 Perceived constraints in England	9
2.3 Current policy and practice	9
2.4 International review of land supply	10
2.5 Mechanisms to bring land forward for housing	10
2.6 Potential for use in England.....	11
3.0. Land supply mechanisms in England	12
3.1 Flexible growth limit boundaries - Green belt 'swaps'	12
3.2 Putting infrastructure in place prior to development - Revolving Infrastructure Fund	15
3.3 Putting infrastructure in place prior to development and land value capture - Tax Increment Financing	18
3.4 Land value capture and compensation and incentives - the Community Infrastructure Levy.....	20
3.5 Local authority involvement in land assembly - Compulsory Purchase.....	23
4.0 Discussion and conclusions	27
5.0 References	29

Executive Summary

The UK faces a housing crisis. Successive governments have accepted the need for more housing but output runs far below the requirement for around 230,000 new homes each year up to 2031. Bringing more land forward for housing is crucial if availability and affordability are not to worsen.

A recent review identified measures taken successfully in other countries to bring land forward for housing (Monk et al, 2013). However, it showed that in England and Wales many of these mechanisms are already available or in place in some form. This research builds on the review to identify case study examples where the mechanisms have been used successfully.

Flexible growth limit boundaries – Green belt ‘swaps’

Planning officers and elected members are concerned that adjustments to green belt boundaries should not be termed ‘swaps’ even though the term has been used by the current government which wants to encourage their use. Planners are keenly aware that green belts are popular with the general public and are fiercely defended by numerous pressure groups.

This mechanism has potential for wider use across the country. However, it is unlikely to be used in areas where countryside protection is high as it is clearly contentious and elected members will not want to prejudice their chances of re-election. Where it can be used in a low key, low publicity way, it will continue to be a useful tool for managing growth.

Putting infrastructure in place prior to development – Revolving Infrastructure Fund (RIF)

This is a useful funding mechanism for infrastructure provision ahead of development. However, the fund was kick-started by receipt of additional grant so it is not clear how areas without grant funds would be able to use it, making it difficult to replicate more widely across the country. As a principle, it makes good economic sense to use grants as loans that can be recycled rather than simply a one off funding source. As the case study shows, it is a way of managing risk. But for both grants and loans, if the investment fails, the money is lost (cannot be repaid) whereas if the investment is successful, it can only be recouped for further investment if it takes the form of a loan rather than a grant.



Putting infrastructure in place prior to development and land value capture – Tax Increment Financing (TIF)

While clearly successful in the USA, TIF has not developed as quickly in England and appears to carry significant risks for the local planning authority. It is predicated on eventual economic growth, which would be underpinned and encouraged by the infrastructure provision. In a sense it is similar to a revolving fund, because the investment cost will be recovered once it has become successful. That of course is where the risk lies for the local authority. TIF is likely to be most useful for large schemes in areas that would be expected to be buoyant in normal economic conditions, such as London, but not necessarily elsewhere.

Land value capture and compensation and incentives – the Community Infrastructure Levy (CIL)

The use of CIL as a local incentive for development is novel in the English context, not least because the CIL itself is still bedding down and is not yet operative across all local authorities. For this reason it is difficult to assess how successful it might be, or whether it would be a useful mechanism in other areas. The case study shows that it may work best in small rural communities where people know each other and can more readily appreciate the benefits of new development and local infrastructure investment in helping to save schools, post offices, and other local services from closure. However, in most places CIL revenues are not large so it is not ever going to fund everything that might be required.

Local authority involvement in land assembly – Compulsory Purchase

The two case study examples of the use of compulsory purchase orders suggest that these are also viewed as contentious by planning authorities. In some cases the costs will be prohibitive, while in others the situation in terms of land ownership and land assembly can be extremely complex and time consuming even if the authority is prepared to use compulsory purchase.

Discussion

It is clear that without action to increase the supply of housing, availability and affordability will worsen. However, while the mechanisms discussed here were selected because of their potential for greater use in England, the case study examples illustrate why it may be difficult for them to become an established part of the planning toolkit, particularly in the current economic climate.

Government might be able to play a stronger role in encouraging the use of these mechanisms. However, it could be argued that the abolition of the regional tier of government has made this more difficult. All of the countries studied in the 2013 Joseph Rowntree Foundation (JRF) research had a regional tier, and some had a further tier as well. The current duty to cooperate is more difficult to monitor and almost impossible to enforce. This means that some authorities can continue to refuse to allow much needed development to take place in their area, assuming that others will provide instead. Yet if they all took that approach, more areas would become unaffordable and the preserve of the wealthy.



1.0 Introduction



The JRF Housing Market Taskforce identified land supply as a key issue contributing to housing market volatility and problems of housing affordability in England.

It therefore commissioned research to establish whether experience in other countries can contribute to our understanding of the constraints on land supply in England and whether policies that work well in other countries might be introduced or adapted to help unlock new housing supply here. The Cambridge Centre for Housing and Planning Research recently completed this international review of land supply and planning systems (Monk et al, 2013¹).

The review identified measures taken successfully in other countries to bring land forward for housing. However, it showed that in England many of these mechanisms are already available or in place in some form. The key issue is therefore why are they not used more widely or more effectively?

This research builds on the review to identify examples where the mechanisms have been used successfully. It has selected one case study example of each type of mechanism to explore why and how they were used, through interviews with the stakeholders involved.

1.1 Aims and objectives

1.1.1 The key research questions are:

- What measures are used successfully in other countries to bring more land forward for housing?
- What can we learn from case study examples of local authorities or other units that have successfully used some of these mechanisms in England to bring land forward for housing?

1.2 Methods

1.2.1 Literature/policy/web review

Building on the research conducted for the JRF on international land and planning systems, the review explored where the mechanisms identified fit into the current planning, policy and legislative framework.

1.2.2 Case studies

Case study examples of local authorities or other units where the mechanisms have been successfully used in England were identified. These include, for example, cases where green belt swaps, infrastructure provision or compulsory purchase have been used. Interviews were conducted with key stakeholders in the case studies, such as local authority planning officers and developers, to analyse why and how the mechanisms were used, and what lessons can be learnt for application elsewhere.

¹ <http://www.jrf.org.uk/publications/international-review-planning-systems>

2.0 Background: bringing land forward for housing

The UK faces a housing crisis. Successive governments have accepted the need for more housing but output runs far below the requirement for around 230,000 new homes each year up to 2031.

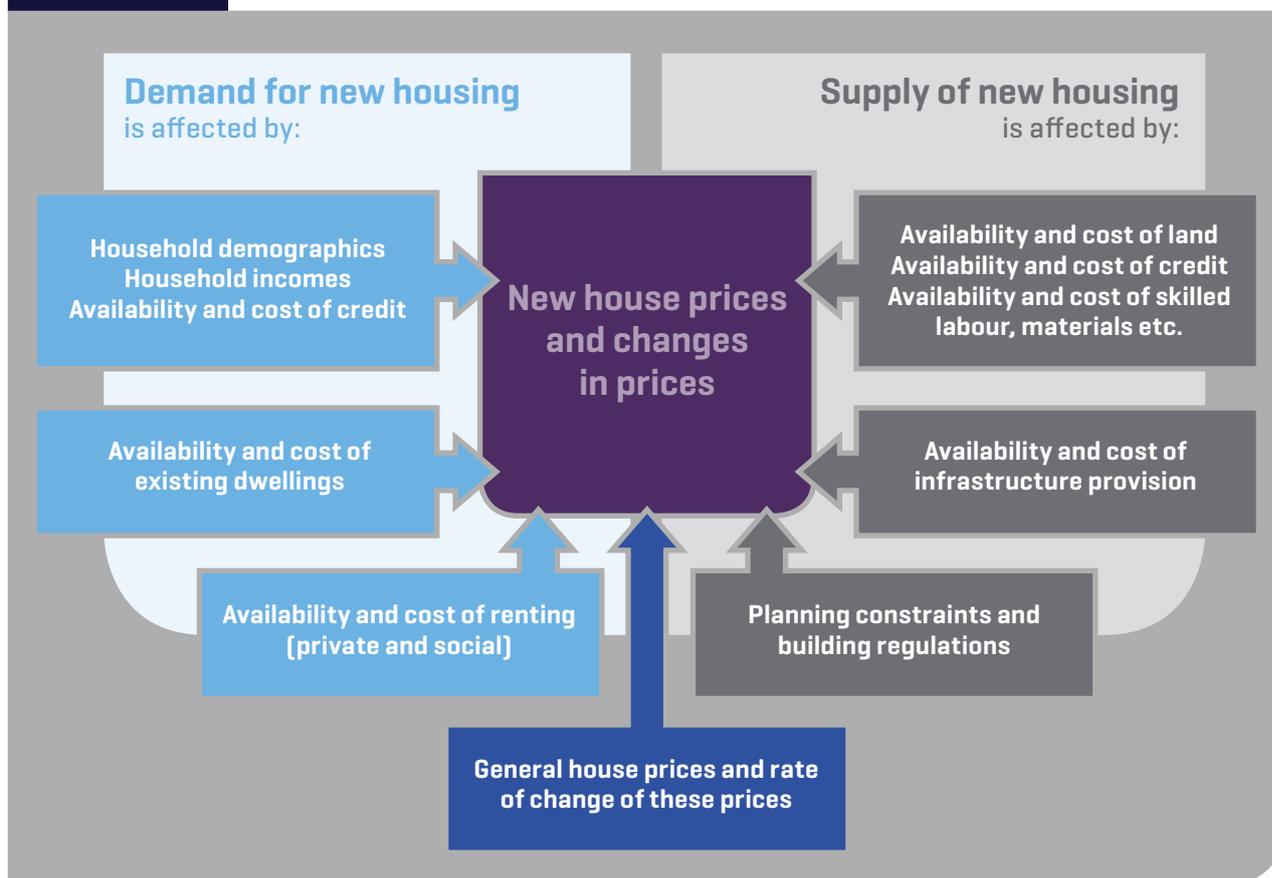
The Barker Review suggested that the problem might lie in the nature of the planning system and how it constrains the supply of land for new housing (Barker, 2006). However, planning permissions even in recession have been holding up – yet starts are still 45% below their peak in March 2007 and completions are 42% down. This suggests that rather than simply being a problem of the planning system, the shortfall in the supply of new housing is as much about how to get the allocated land actually built out. Bringing more land forward for housing is crucial if availability and affordability are not to worsen.

2.1 Supply and demand

A model of supply and demand for new housing was developed in previous research (Monk et al, 2013) which provides a theoretical base for this study.

It shows that the housebuilding market may be conceptualised in terms of supply and demand for new housing, with land supply as one of the necessary inputs to provision alongside finance, construction materials, technology and labour (Monk et al, 2013). Depending on the nature of land and infrastructure, the working of the market and governmental involvement, land may be constrained or readily available and equally it may be used intensively or extensively. As a result, prices and accessibility to land may be lower or higher depending on physical, economic and financial aspects as well as regulatory, taxation and property rights arrangements.

Figure 1 A model of supply and demand for new housing



Source: Monk et al, 2013



2.2 Perceived constraints in England

The literature examines a range of issues relating to the determinants of land supply and how that land gets translated into new housing. In England the perceived constraints on land supply include:

- An ethos of constraint with respect to planning permission.
- Incentives to land owners to keep land off the market in both periods of expansion and decline.
- Limited incentives for local authorities to support new housebuilding and anti-development attitudes among existing residents.
- The nature of the housebuilding industry where there are conflicting incentives to complete new schemes quickly so that capital is not tied up for long and to delay completion if sales are not strong.
- A particularly strong emphasis on 'brownfield first' creates problems of land assembly, particularly on regeneration sites where there may be many owners.
- Lack of mechanisms for funding and providing infrastructure.
- The cost and availability of finance.
- Market volatility which increases risks and uncertainty of development (Monk et al, 2013).

2.3 Current policy and practice

The coalition government has introduced a range of policies that aim to help achieve sustainable growth and address housing supply issues. These include the Localism Act (2011), the Plan for Growth (2011) and the new National Planning Policy Framework (2012). Individual measures include:

- A strong presumption in favour of sustainable development
- New Homes Bonus
- All planning applications to be decided within 12 months
- Fast tracking of major infrastructure projects
- Duty to cooperate with adjacent authorities and other public bodies
- Neighbourhood planning
- Land auctions and green belt swaps

2.4 International review of land supply

The research team has recently completed an international review of land supply and planning systems, looking at what works and whether successful mechanisms from other countries could be transferred to the UK context, published by the JRF (Monk et al, 2013). The study comprised a data review for 24 countries, a literature review of 11 countries, consultation with country experts and a Roundtable discussion with stakeholders in England. The review was prompted by the JRF Taskforce on Housing Market Volatility which suggested that land supply is a key issue contributing to housing market volatility and problems of housing affordability in the UK.

There were many differences but also many similarities between approaches to land supply in the 11 countries studied. All had planning systems based on zoning rather than planning permission as in England. However, the zoning systems had varying degrees of flexibility or constraint and some actually operated in ways similar to England. In terms of new development, some were even less responsive to market signals.

The review found that all the case study countries had policies to control urban sprawl and protect agricultural land as has England. The nature and level of governance and decision making appears to be important in determining the capacity to adjust boundaries to meet requirements. Unlike England all had a strategic level of decision making between national and local. The size of the administrative unit was quite small in several countries which may be a factor in supporting pro-development attitudes as people can more easily see the benefits of growth. The benefits of new development for existing communities were often more transparent in many countries. The core elements in an effective planning policy relate to incentives and mechanisms to bring land forward for development; responsive growth management policies which recognise both benefits and costs of growth; and a secure source of funding for infrastructure provision. Most of the mechanisms identified by the review as effective already exist in England – although not necessarily in the same form.

The three main messages from the research were:

- There is no one single policy or planning measure that will solve the problem – all countries struggle with balancing the need to constrain urban sprawl with the need to build sufficient homes to keep housing (more) affordable.
- But some countries, while having hot spots with high demand for housing and pressure on urban boundaries, do provide adequately outside these high pressure areas.
- Successful countries appear to be much more pro-active in the land market than the UK (Monk et al, 2013).

2.5 Mechanisms to bring land forward for housing

The review identified measures taken successfully in other countries to bring more land forward for housing.

Flexible growth limit boundaries

Flexible growth management boundaries/urban growth limits are used by most countries to prevent urban sprawl. To ensure price stability, the limit is normally revisited at regular intervals. There are some examples of successful urban containment and relative price stability over time, notably Portland, Oregon, but successful management requires planners to be pro-active in monitoring and adjusting land supply.

Local authority involvement in land assembly

In many countries local authorities play an active role in land assembly, often using compulsory purchase powers. For example, in Germany in order to redevelop areas with fragmented ownership, the municipality assembles the land so that the increase in value following development is shared proportionately among the original landowners after repaying the municipality for any necessary infrastructure provision.

Putting infrastructure in place prior to development

Several countries have mechanisms to ensure that infrastructure is in place prior to planned development. For example, France has a tax on employment in larger towns and cities which is hypothecated to transport infrastructure and early infrastructure provision takes place in the Netherlands through municipal land purchase and sale.

Compensation and incentives

Many countries have compensation and incentive mechanisms in the form of increased benefits to local authorities. For example, in Switzerland the cantons² (districts) retain the tax revenues that accrue to new development and since this is their main source of revenue it acts as an incentive for further development. Tax Increment Financing (TIF) – which depends on hypothecating future local tax revenues – has been used extensively in the USA to incentivise inner city regeneration schemes. Density bonuses are used in a number of countries to compensate developers for potential loss of income from providing affordable housing on site.

Land value capture

Underpinning many of these mechanisms are forms of land value capture in zoning systems (planning gain in the English context). These include infrastructure charges, inclusionary zoning to provide affordable housing, and land value taxation. Infrastructure and services provided by local authorities can often be funded from the increase in land values associated with development.

² The 26 cantons of Switzerland are the member states of the federal state of Switzerland. The cantons are responsible for healthcare, welfare, law enforcement and public education; they also retain the power of taxation.

2.6 Potential for use in England

The English planning framework has always called for adequate land to be made available and gives authorities powers to identify the most appropriate land for development. However, the overall ethos is one of constraint as is shown by the continuity in green belt policies which have hardly changed since the 1930s and the brownfield first approach has further limited expansion. The form of governance makes it relatively difficult to plan strategically and incentives to local authorities are limited. Particularly important are the lack of a clear mechanism for funding appropriate infrastructure; poor procedures for land assembly and land readjustment; and limited flexibility in response to changing requirements.

Yet all the measures identified above exist in some form in the English context although often not in ways that generate a holistic approach to growth. In particular:

- Growth management has potential in terms of making green belts more flexible. This has been done with green belt 'swaps', whereby green belt land is designated for housing and the green belt is extended elsewhere to compensate.
- There could be more active land assembly especially for public land or where ownership is fragmented. Such an approach would almost certainly require a greater use of compulsory purchase.
- Infrastructure provision ahead of development requires funding. One mechanism includes a rolling fund whereby infrastructure is financed through loans or equity so that the municipality recoups its investment which can then be recycled further in future.
- Land value capture has been used in England for more than 20 years through Section 106 (S106) and the Community Infrastructure Levy (CIL). Combined with TIF, there is potential to use future receipts from planning obligations to forward fund infrastructure.
- Incentives to local authorities to encourage new development exist in some form, for example, the New Homes Bonus. But incentivising local communities to accept new development is also very important. S106 was successful partly because it was negotiated and delivered locally. However, there is potential for CIL to act as a local incentive for development.

The review showed that in England all of these mechanisms are available in some form (Monk et al, 2013). So there is a need to modify the planning and land supply framework to create an overall coherent policy and make wider use of these mechanisms, rather than start from scratch. The key issue is therefore why are they not used more widely or more effectively? This research builds on the review to identify case study examples where these mechanisms have been used to explore what the barriers and constraints are on using these mechanisms more successfully here.



3.0 Land supply mechanisms in England

3.1 Flexible growth limit boundaries – green belt ‘swaps’

The Office for National Statistics used census data to estimate that urban land represents about 9% of the UK’s total land area in 2001 (Pointer, 2005). More recently, a satellite imaging exercise conducted for Defra generated a figure of 10.6% for England (NEA, 2011). Both of these studies measured continuous urban areas, rather than all land that has been built on. The government currently states that all housing needs could be met if another 3% were to be developed, so that urban land totalled 12%. This compares with almost 13% of the total land area that is green belt, protected by the planning system to prevent urban sprawl and remembering that green belt land includes some built up areas and infrastructure (House of Commons Library, 2012). It could therefore be argued that even if we were to use significantly more land for homes, there would only be a limited impact on the countryside (Monk et al, 2013).

There are both pros and cons to growth management policies (Monk et al, 2013). Growth management that aims to contain urban sprawl and maintain the central areas of cities in ways that are compatible with house price stability is clearly an attractive proposition. However, the evidence is conflicting on how far this is possible over long periods of time and both the specifics of the growth management process itself and the nature of political control and local incentives may be critical (ibid).

Most countries have policies to prevent urban sprawl and protect agricultural and other land with special amenity value. The most common approach in the countries studied in the review is to undertake growth management alongside an urban limit (Monk et al, 2013). This is a dual policy of increasing densities and amenities including services within the urban boundary (compact cities) while reducing development outside it. For success in terms of house price stability in the face of rising demand, it cannot be total containment but requires revisiting the boundary, usually at regular, pre-determined intervals. A key aim of growth management is to ensure that infrastructure (roads, sewerage, etc.) is provided in the undeveloped countryside before the boundary is adjusted and development takes place. Some countries have several policies – urban growth boundaries, urban service areas, metropolitan urban limits – that differ in the detail but have similar aims and impacts. Most only cover large or fast growing cities. Some also have green belts.

The evidence suggests that in some countries growth management can be successful in stabilising land and house prices provided it is not a permanent and inflexible constraint (Monk et al, 2013). Urban growth boundaries

have the effect of increasing the desirability of locations within the boundary and reducing options for those outside it. Therefore land and house prices will rise within the boundary, reflecting this desirability, relative to land outside it. This is different from a green belt, where land and housing within the belt may be more desirable than those either in the city or in the countryside beyond it. Green belts are not empty, they include towns and villages that existed before the green belt was drawn up.

Urban containment policy was introduced in England in the 1930s as large scale greenfield development outside the major urban areas occurred. The countryside is protected by a series of green belts which are swathes of protected land around major cities, rather than urban limits which draw a boundary to a city. This is partly because towns and cities in England are close to one another and planners wanted to ensure that they did not merge but mainly because the system of green belts was put in place before the formal structures of the 1947 Town and Country Planning Act. They were based on the assumption that growth would be allowed beyond the green belt boundary i.e. it would ‘jump’ to the other side of the green belt. Green belt boundaries could be revisited, either occasionally (which some authorities have done) or on a regular basis. However, the overall scale of the green belt has if anything increased.

It is clear that the green belt as operated over the past 60 years has protected the countryside and helped to maintain inner urban areas. As a result it is a popular policy which should be continued. However, it has constrained land supply in pressured areas which comes at a significant price. The evidence from other countries suggests it should be operated far more flexibly than has been the case over the decades. Boundaries should be revisited at regular intervals, local planners should monitor the land supply within those boundaries to ensure that prices do not ‘go through the roof’ and should play a more active role in the local housing market, particularly with respect to publicly owned land. Green belt adjustment or swaps are a starting point, especially where clearly related to land that has little amenity value but good accessibility. ‘Green belt land swaps’, whereby brownfield land in the green belt is given permission for development but in return other more attractive land for leisure and other purposes would be added to the green belt, are currently being encouraged by government. A longer term approach in England would be to revisit the green belt boundaries at regular intervals. This might involve ‘shifting’ the belt further away from the town it is protecting in areas where accessibility is good. New legislation is not required as councils can already change the boundaries.



Case Study: Cheshire East

Cheshire East's local plan, published for consultation in January 2013, aims to deliver 27,000 homes and 20,000 new jobs by 2030³. It is proposing to release around 80 hectares of council-owned green belt farmland east of Handforth, near Wilmslow in the north of the borough, to develop a new community of 1,800 homes. It is also proposing two new 1,000-home villages to the south east of Crewe, one of which would be partly on green belt land and the other located on land identified as a "green gap" in the existing local plan. Meanwhile, the council wants to designate a new area of green belt in the south of the borough, to preserve the character of the historic town and prevent Nantwich and other settlements merging with Crewe. Despite this area of land being a green gap in current policy, the authority said that the expansion of Crewe in recent years means there is continued pressure on the land between the two settlements.

The Local Planning Authority (LPA) was very clear that the proposed changes are not a 'green belt swap', but two separate and unconnected changes in response to specific development and planning pressures in different parts of the borough:

"It is not a green belt swap. That term does not exist in planning terms. We are proposing two separate and unrelated changes. We propose to create a new green belt around Crewe, but this is unique to the area and its issues. We also propose to alter the boundaries in other parts of the borough". (LPA planning officer)

For one part of the borough a new area of green belt has been proposed to act as a new means of urban containment to prevent further urban sprawl around a rapidly growing town:

"For the new green belt, Crewe has grown rapidly in the last few decades and there is a focus in the new local plan on regeneration and growth and jobs. But a lot of the surrounding settlements are getting close to the edge of Crewe so it is hard to tell where one ends and one begins. There is increasing development pressure in the strategic gap. The green gap policy has failed and at appeal we are under fire. The council wants to prevent them expanding further". (LPA planning officer)

However, in another part of the borough it is proposed that the boundary of the green belt is altered to allow development in an area where there is severe development pressure within the existing urban area and a lack of alternative brownfield sites:

"But the southern fringes of the borough up towards Manchester and Wilmslow are areas of high demand and the green belt is constraining development. They are not meeting their development needs and they are losing population and services. We need to make sure they are viable towns into the future. So we propose to alter the boundaries to allow new development. It is not a strategic change in the extent of the area but a boundary change to accommodate some development. The level of development will still be lower than you would expect even using the greenbelt. They will still be exporting their development needs outside the green belt. They have recycled all their brownfield sites. There are no sites other than the green belt". (LPA planning officer)

³ <http://www.planningresource.co.uk/article/1166125/council-proposes-green-belt-land-swap>

The responses to the proposed changes to the green belt are mixed but not unexpected. Local residents are in favour of a new green belt and opposed to allowing development on existing green belt, whilst the development industry is opposed to the new green belt and in support of the boundary changes which will enable new development:

“The public support the new green belt but there is strong opposition to changing the boundaries of existing green belts. The development industry is the opposite and opposes the new green belt but welcomes the change to the existing green belt and would like it to change more than proposed. There is a reluctant acceptance amongst elected members that change is needed although they don’t agree about where the changes should be.” (LPA planning officer)

The proposed changes are very contentious and the LPA had more than 37,000 responses to the local consultation. The proposals have left the LPA “under fire” and despite feeling sure that the evidence for the proposed changes is robust and that there are legitimate planning needs which will be met by the changes, the LPA were clear that this is a difficult process fraught with challenges:

“Advice to other local authorities would be to avoid it if you can!” (LPA planning officer)

Despite having strong evidence of the detrimental impact of constraining development, it is possible that the proposed alteration of the green belt boundary to allow development on previously protected land will not be accepted as part of the Local Plan:

“You have to be sure of your evidence. These towns are struggling and suffering. They have not met their identified needs for decades. We are happy with the evidence but there is a chance it will not get through at examination”. (LPA planning officer)

The case study shows that despite the clear rationale in planning terms for the changes to the green belt boundaries, there is considerable resistance from local people. This opposition is also backed by national campaign groups such as the National Trust. The National Trust recently (December 2013) commissioned a survey of LPAs to explore how many were proposing to allocate green belt land for development⁴. The survey found that out of the 59 councils with green belt that responded to the survey (there are 186 councils with green belt land in England), 51 per cent of the 59 were now likely or very likely to allocate green belt land for development. The National Trust (2013) argued that green belt land was being considered for development “whilst brownfield sites throughout the country are overlooked”. However, although more than half of the 147 councils that responded to the survey said that their local authority had brownfield sites available that could help meet the five-year housing land supply target, these had not been considered viable for development in economic terms. This highlights how in a country reliant on private housebuilders for new housebuilding, it is not only about the basic availability of land, but also that development on such land must be financially viable for housebuilders to take development forward.



⁴ <http://www.nationaltrust.org.uk/article-1355816496611/>

3.2 Putting infrastructure in place prior to development – Revolving Infrastructure Fund (RIF)

The lack of incentives to local authorities and the perceived burden of the need for additional service and infrastructure provision in England imply a need for additional funding (Monk et al, 2013). In the UK there are several non-planning mechanisms for funding and providing infrastructure, most notably the use of private finance and public/private partnerships. However, these take time to develop and are usually only relevant for particular, large scale, schemes. These are often highly complex, for example, the Emirates Stadium development in London involved 3,000 separate deals (Huxley, 2010).

In several countries there are mechanisms to ensure that the necessary infrastructure is in place before planned development takes place (Monk et al, 2013). In particular in France there is an employment tax hypothecated for infrastructure funding while in the USA the use of TIF allows infrastructure to be funded against future revenues in large scale projects.

Traditionally in the Netherlands the supply of residential land was controlled by municipal government, through an 'active land policy' (Buitelaar, 2010) in which the bulk of the land designated for urbanisation was bought and sold by municipal land companies (Van der Valk, 2002). This meant that local authorities owned virtually all the land for development and they bought land, subdivided it, provided the infrastructure and the utilities, and sold the subdivided plots to those who would build the dwellings – property developers, housing associations or owner occupiers. The sale price covered at least the costs of the infrastructure provision. More recently, however, municipalities are finding that greenfield land has already been purchased by developers, and other mechanisms for funding the necessary infrastructure are being explored such as land value capture and land readjustment (Van der Krabben and Needham, 2008).

One mechanism that is available in England is the Revolving Infrastructure Fund (RIF). The Growing Places Fund (GPF) is intended to be used by Local Enterprise Partnerships (LEPs) to invest in key items of infrastructure to enable development, with the money invested to be returned to the LEP for re-investment in further provision of infrastructure, a mechanism referred to as a Revolving Infrastructure Fund (RIF) (HCA, 2012).

The Homes and Communities Agency (HCA) explains how the RIF works in principle:

The proposition is for the RIF to provide cash to pay (in whole or in part) for the installation of key items of physical infrastructure, which in turn enables associated land to be released for development over time. Through use of RIF funding, key infrastructure can be delivered early in the development process and hence contribute to making the related development more sustainable. This is the investment phase, with money being paid out to fund infrastructure. A proportion of the value of the development land released is used to pay back the RIF for its outlay (potentially plus a commensurate return). This is the repayment phase, with receipts coming back in to the RIF. Value is typically released either through sale of land to a third party for development or through the proceeds of development itself (e.g. sale of houses). In order for the GPF funds to be revolving, funding needs to be returned. Hence, a RIF is a means of providing finance to projects, not grant or subsidy.

Once it has generated sufficient receipts, the RIF is then able to re-invest amounts returned to pay for infrastructure on further projects. A fund represents a collection of single project investments that operate on similar principles and which are likely to be at different stages. Some projects will be in an investment phase and others in a repayment phase (HCA, 2012).



Case Study: West of England

The West of England Revolving Infrastructure Fund (RIF) is worth £56.7m and is made up of two elements; £16.9m from the Growing Places Fund and £39.8m from the Regional Growth Fund (RGF)⁵.

The idea of a regional infrastructure fund was first developed through the South West Regional Development Agency (SWRDA). When the RDA was abolished the West of England RIF was established as the first Local Economic Partnership (LEP) RIF. It was developed in conjunction with LPAs, housebuilders and developers who were all engaged in the process.

The LEP officer explained how the fund is intended to enable the delivery of infrastructure required to unlock or serve development that will bring about economic and/or housing growth:

“The RGF is about jobs so it is bringing forward employment sites in enterprise zones and areas. The goal is to unlock development and provide a range of infrastructure. But it is all about jobs and economic growth”. (LEP officer)

The types of infrastructure that the West of England RIF will usually support are pieces of physical infrastructure such as roads, flood relief schemes or bridges that can be classed as open access public infrastructure. The intention is that by providing this key infrastructure upfront, planning risk and planning obligation costs will be reduced, enabling development to come forward quicker than it would do so otherwise. A further aim is that the new developments will have a reduced impact on existing communities, as new infrastructure required to serve them will be in place prior to the completion of large-scale development:

“The concept of a regional infrastructure fund came about because developer contributions from S106 agreements that are pooled to fund large pieces of infrastructure come from a number of developers, but the different developments never get in the planning system at the same time. RIF is forward funding planning contributions. For example, there were planning contributions towards a junction on the M5 from four developments, but they were all on different timescales and the local authority couldn’t take the risk itself to fund it. So we forward fund private sector contributions and get them back when the developments are built out”. (LEP officer)

⁵ <http://www.westofenglandlep.co.uk/funding/revolving-infrastructure-fund>

It can be utilised in a number of ways:

- As forward funding for planning obligations or Community Infrastructure Levy (CIL).
- As grant that is repaid through business rate growth retention.
- As grant that is repaid from any other appropriate source (loan funding could be repaid through development value uplift, profit or rental income etc).
- As a revolving fund, it can programme in schemes for future funding as sums are repaid to it: as such, the RIF should be available for a good two decades to support sustainable growth across the LEP area.

The RIF is a revolving fund in that all funding that it releases should be repaid to it. There is clearly risk involved in forward funding infrastructure with the repayments based on developer contributions or income from business rates for developments that may not be built out for a number of years:

“The selling point of the RIF is that it is revolving. It is designed as a risk taking mechanism. It provides funding for infrastructure for development that might be six or seven years away. There is always the risk of not recouping the funding, but there are also other types of usual risk such as planning risk. It is a funding mechanism, not a delivery mechanism”. (LEP officer)

The RIF is a mechanism intended to enable development to come forward more quickly and to overcome local resistance to new development by providing infrastructure prior to development.

However, there is clearly a considerable degree of risk involved and such funds require significant upfront public investment in the fund. The fund will best support long term and large scale development. There is a question over whether such a mechanism to forward fund infrastructure actually generates more development than would have taken place anyway, or whether it just changes the timing. We do not have specific evidence that development does come forward more quickly as a result of the RIF.



3.3 Putting infrastructure in place prior to development and land value capture – Tax Increment Financing (TIF)

TIF has been used widely in the USA since the 1950s to help fund inner city regeneration schemes (Monk et al, 2013). Local authorities are able to borrow against the future tax income that will accrue from the redevelopment once it is completed. In the early 1950s many states created housing authorities that acted as urban renewal agencies to manage federal funds made available for urban regeneration under the 1949 Housing Act. The Act required match funding, so in 1951 California enacted implementing legislation so that TIF could be used as a local financing tool to match the federal funds. The use of TIF grew rapidly in the 1970s and 1980s when there was a shift in how urban renewal was perceived. Instead of focusing purely on land clearance and housing renewal, it expanded into a revitalisation tool to improve both the built environment and the social fabric of blighted urban areas (Sear, 2012).

The use of TIF in the USA has changed further since then. It has been used for a variety of purposes from the original federal housing programmes, to urban revitalisation and economic development. It is authorised as a financing mechanism in 49 states (the exception is Arizona). Although the details of TIF schemes vary, there are two determining qualifications: the presence of blight conditions and meeting the 'but for' test that redevelopment would

not occur without TIF. An initial study is required that demonstrates the existence of blight, shows how the 'but for' condition is met, and designates the TIF area boundary. TIF has been criticised on the grounds that commercial TIF districts reduce commercial property values in the non-TIF part of the same municipality. In other words, if a shop or supermarket is subsidised in one location, there will be less demand for a supermarket in a nearby location. However, the extent and severity of these spillover effects should be part of the pre development assessment.

In England, the possibility of using TIF has been available for some years but has been constrained by the limited revenue streams and the conservative approach taken by HM Treasury in this context. Research for the RICS has already examined the TIF models that are operational in the US to identify lessons that can be learned prior to possible adoption in the UK (Hutchinson et al, 2012). The research identified the key issues surrounding the implementation of TIF schemes in England as whether the tax revenue is sufficient to repay the debt, the funding of the upfront shortfall in income and which party is to be held liable for any shortcomings. Three case studies were examined in the report; Edinburgh Waterfront and Ravenscraig in Scotland and Battersea in London. One key point which emerged is that each proposed TIF project area is different, with its own unique set of ownership issues, development partners, scale of development, timeframe and agreed end use. TIF schemes are by their very nature long term, and flexibility is important in order to be able to respond to changes in the property market, as well as to political and economic circumstances.



Case Study: Wandsworth Tax Increment Financing

The London Borough of Wandsworth is using TIF to borrow against future CIL and S106 receipts and business rates to help fund the extension of an underground line to Battersea as part of the redevelopment of Nine Elms Vauxhall in London⁶. The Nine Elms regeneration project – covering up to 480 acres of land on the south bank of the Thames between Vauxhall and Battersea – will be the first in England to be funded through TIF and an extension to the Underground's Northern Line will provide transport links for the planned 16,000 homes and 25,000 jobs targeted for the area⁷.

"We have funding agreed for the northern line extension. The Chancellor's 2012 Autumn Statement pledged to lend £1 billion to the Mayor. Councils, TFL, the Treasury and the Mayor all discussed the arrangement to pay back the loan. The agreement between the boroughs and the TFL/Mayor is in place. The loan is being paid back in part through a percentage of the CIL and S106 monies from the area to the Mayor. The agreement is not yet finalised to also pay back through business rates but a percentage of business rates will go towards repaying the loan". (LPA planning officer)

The intention is to repay the funding from S106 and CIL receipts. Over time there is likely to be a shift to a greater proportion from CIL than S106:

"The CIL was adopted 1st November 2012. But many big applications already had planning permission so had S106 agreements attached. But some are changing e.g. the Covent Garden site already had planning permission but the developers are putting in a new application to change the scheme and this will be liable for the CIL and will transfer from S106 to the CIL". (LPA planning officer)

The loan will be used to forward fund the underground extension to bring transport links to the regeneration area. However, additional funding will still be needed for the other infrastructure necessary:

"Nine Elms has higher CIL rates, at the moment, the highest in the country. But even with the S106/CIL and business rates there will still be a shortfall for infrastructure investment as investment is also needed for schools and health infrastructure". (LPA planning officer)

Despite having relatively high CIL rates, the LPA were conscious of not setting rates too high in case the viability of the developments was jeopardised and they engaged with developers to ensure the rates were acceptable:

"When you set the CIL rates you can't set them so the schemes are only just viable. We discussed it with developers so there was no real opposition to the CIL rates". (LPA planning officer)

There was no opposition to using TIF as a funding mechanism for infrastructure. This is recognised as a major strategic development that required investment:

"Nine Elms is the biggest development in Central London with 16,000 new homes, though it could be as many as 19,000. There is also a huge amount of commercial floor space, and embassies, such as the Dutch and US embassy. It is recognised as a very important development for London. Everyone was looking for solutions, not problems". (LPA planning officer)

The LPA is confident that, despite repayment being tied to long term schemes which may not come on stream for some time, the development will go forward at a pace that will provide the necessary receipts:

"The market in Nine Elms has been very buoyant and development is going ahead faster than anticipated". (LPA planning officer)

However, the scheme is not without risk. Concerns have been raised about the slow pace of CIL income being achieved by LPAs as the new levy is implemented and doubts have been expressed about the risks involved in using TIF to fund the underground line extension as future CIL receipts cannot be guaranteed (Marrs, 2011).

In a period when public sector expenditure is likely to continue to be severely constrained, the momentum behind the campaign to roll-out the TIF model across the UK is understandable (Hutchinson et al, 2012). However, the model is predicated on the uplift in land value which may be difficult to achieve during a recessionary period. There are also concerns over the potential abuse of the scheme and the risks that are borne by the public sector (ibid).

Funding infrastructure by borrowing against future income from S106, CIL and business rates should be viable in London due to the city's relative economic strength, but the opportunity to use TIF in other parts of the country or on smaller development schemes is perhaps questionable, as TIF models are easier to implement in economically vibrant locations⁸.

6 <http://www.nineelmslondon.com/>

7 <http://www.transport-network.co.uk/Englands-first-TIF-scheme-is-hell-of-a-risk-for-GLA/8649#UuoUS7QQ3mh>

8 <http://www.out-law.com/en/articles/2013/april/london-suited-to-tax-incremental-financing-funding-model-says-expert/>

3.4 Land value capture and compensation and incentives – the Community Infrastructure Levy (CIL)

Land value capture

Land value capture (or recapture) is a way of enabling the wider community to benefit from the uplift in land values created when land is developed or redeveloped (Monk et al, 2013). The argument is that the increased value is only possible because of the operation of the planning system in its role of addressing negative externalities, as well as from publicly provided infrastructure (funded in the past from taxes).

In Australia, the Netherlands, New Zealand and the Republic of Ireland, development contributions are charged to landowners to fund the provision of infrastructure (Monk et al, 2013). In most cases the charges are based on standard tariffs so that the developers know in advance how much they will cost. The charges can vary by location, local authority area and greenfield/brownfield site.

Land value capture in the form of planning obligations and S106 contributions has been used in England for over 20 years. The CIL is another form of land value capture which is seen as more transparent and fairer because the charges are published ahead of time and it applies to all development unless the local authority makes certain exceptions (which many of them are doing).

Compensation and incentives

The idea of compensating those who suffer losses as a result of new development or changes in zoning rules has existed in many countries over time (Monk et al, 2013). In the Netherlands there is provision for compensation in the case of ‘worsenment’ whereby individuals affected have to apply to the municipality for compensation. Particularly since the burden of proof is on the applicant, it is not widely used. The municipality bears the cost of successful applications.

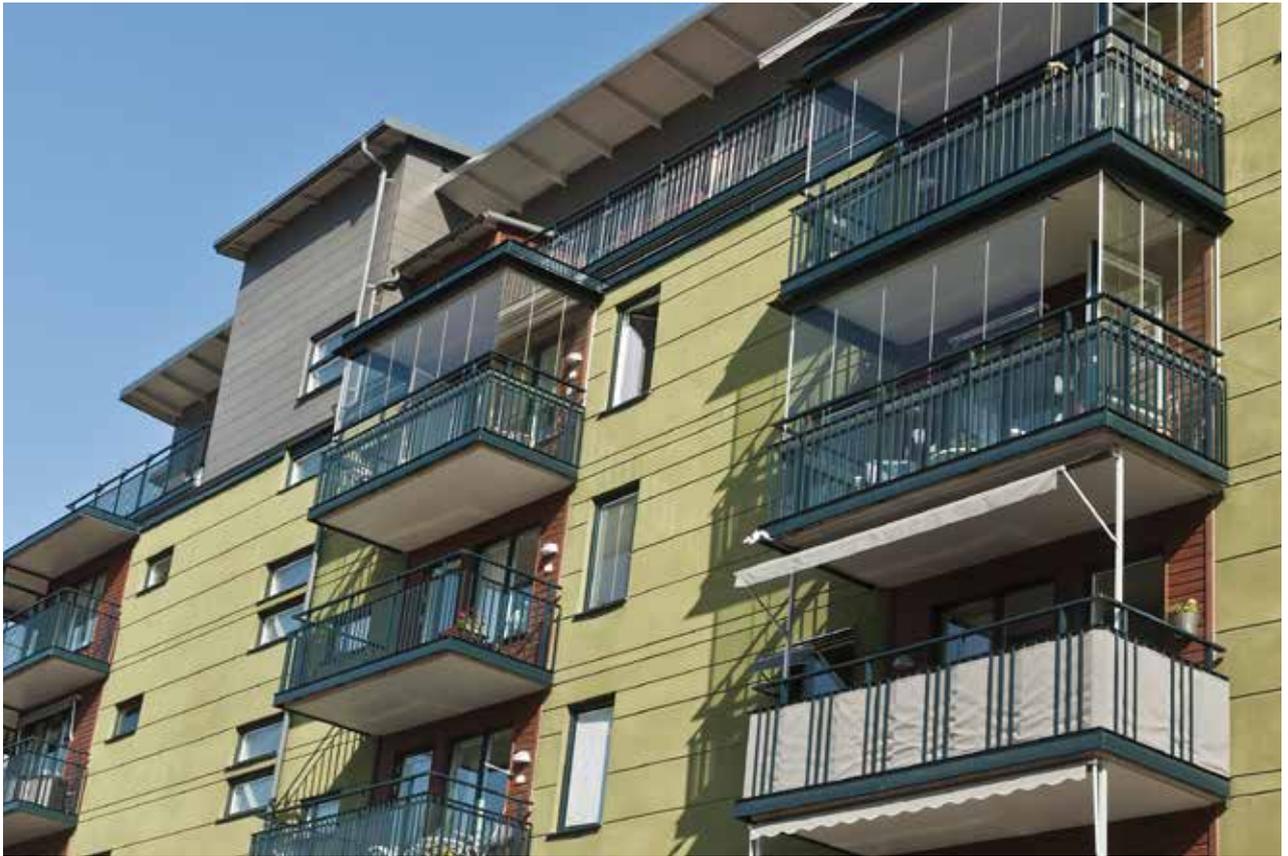
Other types of compensation or incentives include benefits to local authorities. In Switzerland, for example, the cantons retain the taxes that accrue as a result of new development. As this is their main source of revenue, it provides a natural incentive for further development (Evans and Hartwich, 2005). Indeed, in most of the countries studied, there are local taxes which produce meaningful sums that can be spent on local community amenities (Monk et al, 2013). Because the size of local government unit is generally much smaller than England these benefits are more transparent.

England lacks the local tax systems that can encourage growth in some countries. S106 was successful partly because it was delivered locally, rather than going to the Treasury. The extent to which it is hypothecated to affordable housing is also atypical – other countries are more likely to use land value uplift for offsetting the external costs of development and for infrastructure provision. The New Homes Bonus is a first step in the direction of incentivising local authorities, although it is thought to be insufficient to deliver the desired outcomes. However, there is also potential to use the Community Infrastructure Levy as a local incentive for development.

The Community Infrastructure Levy (CIL)

The CIL is a new planning charge that came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 (now amended by the Community Infrastructure Levy (Amendment) Regulations 2011 (DCLG, 2011). It allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area (DCLG, 2011). The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres (ibid). In principle the levy can be applied to all development, not just sites above a certain threshold, although LPAs have discretion over whether they implement this or make exceptions for either types of development or different parts of the district.

The CIL is intended to be fairer, faster and more certain and transparent than the current system of planning obligations which has been accused of causing delays as a result of lengthy negotiations (DCLG, 2011). Levy rates are intended to be set in consultation with local communities and developers and it is anticipated that CIL will provide developers with much more certainty ‘up front’ about how much money they will be expected to contribute (ibid).



Case Study: Shropshire CIL as a local incentive for development

Shropshire was the second LPA to adopt a CIL charging schedule and the charge began operating 1st January 2012. The LPA used consultants to assess the viability of CIL rates across the area. The viability evidence led to the adoption of a charge only on residential development. As viability varies across the LPA, there are three charging rates of £0 on non-residential development, £40 sq m on residential development in the market towns and £80 sq m in all other areas. The proportion of affordable housing sought through planning obligations also varies in line with viability. The LPA has an industry 'developer panel' which is consulted on policy decisions such as these to ensure local buy in. By May 2013, £130,000 had been collected with £400,000 committed where building has started and £1.2 million is potentially liable.

The LPA has tried to ensure transparency and clarity over how funds will be spent. For infrastructure delivery there is an overall implementation plan and local infrastructure delivery plans (called Place Plans and available online). The plans define local infrastructure and investment priorities. They identify contributions to priority projects from a range of sources including CIL, S106 and the new Homes Bonus. The LPA said that this clarity is valued by developers and utilities because it enables them to plan ahead.

Most CILs will have a spending sequence which determines the proportion of the collected levies spent on different aspects. For example, Shropshire uses 5% as an administrative charge to go towards the cost of collecting the levy, 15% for the Neighbourhood Fund which goes to parish councils (25% in Neighbourhood Plan areas). Of the residual, 90% is spent on local infrastructure priorities and 10% on strategic infrastructure priorities, defined in Place Plans.

The CIL is being used in part as a local incentive to accept, even to seek, new development. The hope is that in a rural authority such as Shropshire, where small settlements face issues such as the viability of schools, the CIL funding can act as an incentive for local communities to welcome new development:

"This was our take on delivering localism. We have some good examples of how it is working. It gives a clear statement about the level of benefits. The question to communities outside the main market towns is whether development can help them to address an issue. For example, rural primary schools are not always viable, but they see if they take 100 houses then it will increase demand for the school, the local shop etc. and they can argue that the school is viable and should stay". (LPA planning officer)

There are early examples of the potential for such incentives to encourage local communities to not just accept, but to actively encourage new development:

“It is starting to be viewed as positive. There are localism style outcomes. For example in one tiny village the local pub had been closed for seven or eight years and was derelict but the owner couldn’t sell it as a pub because it wasn’t viable. But we wanted to protect it as the only community facility. The community said we will take on some development on the pub site if we get community ownership of the pub. A Housing Association is building five market and two affordable homes, the ‘profit’ is being reinvested in the community as they get community ownership and a dowry to run the pub. It is easier to understand than S106. CIL is less hidden and more upfront”. (LPA planning officer)

In Neighbourhood Plan areas, 25% of the CIL levies will go to parish councils to spend locally. However, this system is very new and has required investment by the LPA not only in developing the CIL and engaging with members and local communities to set CIL rates, priorities and local Place Plans, but will also require further training for recipients of CIL levies locally:

“We haven’t yet allocated any funds to projects or transferred the Neighbourhood Fund. First payments on the Neighbourhood Fun will be in April with precepts to make it as efficient as possible. I am also conscious that the Town and Parish Councils are not geared up to receiving the funds and there is a lot of capacity building to do! I am therefore running some training for Town and Parish Councils in February/March to ensure that they are up to speed on the regulatory requirements. The proposed CIL amendments are also likely to have a significant impact on our CIL Revenue (especially self build exemptions!) and so I wanted the opportunity to

highlight this with communities and the need for us all to work on a shared set of priorities in order to maximise delivery”. (LPA planning officer)

When asked if it had made a difference to local resistance to development, the LPA response was very positive:

“Absolutely. Our development strategy strongly supports the principle of localism whereby a strong and direct link has been made between new development and its contribution to the local community’s infrastructure needs. As such, communities have been asked whether they wish to ‘opt in’ for new development with a view that they would see the delivery of some community benefits. This is part of our rural rebalance approach whereby we are seeking to make some of our rural areas more sustainable through taking new development. Many communities have opted in to this approach and are now fully engaged in the Place Plan process”. (LPA planning officer)

The use of CIL monies to incentivise local communities to welcome new housing development may work in somewhere like Shropshire because it is a rural authority with small settlements with a greater likelihood of shared community priorities that can be agreed upon and implemented using relatively small amounts of funding.

However, the more widespread use of CIL as an explicit local incentive for development is difficult to assess. CIL revenues may not be as large as expected, particularly as new guidance emerges about how charging the CIL can be undertaken, which will reduce opportunities to incentivise local residents in this way to accept new development. It is only likely to be an incentive in local communities with an agreed need for local infrastructure that cannot be funded through other sources.



3.5 Local authority involvement in land assembly – compulsory purchase

In France, Germany, the Netherlands and in parts of the USA, Australia and New Zealand, local authorities play an active role in land assembly and land readjustment (Monk et al, 2013). This can be crucial in large scale extensions and new towns as well as redevelopment or regeneration. It is often coupled with compulsory purchase powers, which are widely used in some countries, for example, Germany and France.

The importance of land assembly in constraining land supply depends on ownership and its fragmentation and the types of land being brought forward for development – e.g. brownfield or greenfield; small or large sites; self build or large scale developers (Monk et al, 2013). Land readjustment is a way of pooling existing use values of land in multiple ownership in order to create added value through regeneration and redevelopment. Because the original owners share in the uplift, there is less need for more stringent regulatory measures such as compulsory purchase. However, like any land value capture mechanism, it is dependent on the buoyancy of the market outcome. It also appears to be associated with planning systems in which municipalities play an active role in land assembly and the land market.

Land readjustment and compulsory purchase could be used more effectively in England (Monk et al, 2013). Especially in brownfield and regeneration sites there are major issues about land assembly – arising from fragmented land ownership and the prevalence of home ownership and Buy to Let among other factors. This can mean that it takes years or even decades to bring a site to development. However, authorities have been consistently reluctant to use compulsory purchase except as a last resort, unlike the experience in Germany and France.

Legislation in England and Wales gives many authorised bodies (“acquiring authorities”) the power to acquire land compulsorily where the landowner or occupier is not willing to sell by agreement (CLG, 2004)⁹. Compulsory purchase is when the government, council or a utility company has the legal right to buy or take rights over private property (RICS, 2012)¹⁰. If the acquiring authority is unable to purchase by agreement because they are unable to agree or it is impractical to do so they will go down the compulsory purchase route (CLG, 2004). In practice, the greatest users of compulsory purchase powers are local authorities and the Highways Agency (CLG, 2004). This is in cases when a public or private construction project is considered important for social

and economic change (RICS, 2012). This can include airport expansion, electricity pylons and cables, housing developments and road and rail projects. The law on compulsory purchase in England and Wales is complex and derives from a variety of statutes and cases over more than 100 years.

The two most commonly used powers of compulsory purchase are:

- A Compulsory Purchase Order (CPO), based on a specific Act of Parliament.
- An Order under the Transport and Works Act 1992 (CLG, 2004).

When land is needed for a project, there are two stages for the approval of compulsory purchase:

1. A public general Act, which authorises the use of compulsory purchase powers to take land for a particular purpose.
2. A second stage, which specifies the land needed for a particular scheme (RICS, 2012).

Once the acquiring authority has completed their initial investigations and established the proposed CPO boundary, they will proceed to the formal resolution to use compulsory purchase powers (CLG, 2004). The resolution will define the land and state the purpose for which the land is required. The acquiring authority will seek to identify everyone who has a legal interest in, or right to occupy, the land they propose to acquire. This will include the freeholders, leaseholders, tenants and occupiers. The acquiring authority will normally seek to negotiate with objectors prior to a public inquiry or, where relevant, during the written representations procedure. The fact that an acquiring authority has obtained a confirmed CPO does not exclude a purchase by agreement. The price paid by the acquiring authority in these circumstances will normally be in accordance with the “Compensation Code” (CLG, 2004). The Code is made up of Acts of Parliament, case law and established practice but the principal Acts are the Land Compensation Acts of 1961 and 1973 and the Compulsory Purchase Act 1965 (CLG, 2010¹¹).

Compensation following a compulsory acquisition of land is based on the principle of equivalence, meaning that a landowner should be no worse off in financial terms after the acquisition than they were before, nor should they be any better off (CLG, 2010). Because the effects of the compulsory purchase order on the value of a property are ignored when assessing compensation, it is necessary to value the land on the basis of its open market value without any increase or decrease attributable to the scheme of development which underlies the compulsory purchase order (ibid).

9 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11487/147639.pdf

10 <http://www.rics.org/uk/footer/glossary/compulsory-purchase/>

11 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7719/147648.pdf

Case study: Hackney

A masterplan application submitted by Karakusevic Carson Architects in March 2011 was approved by the Hackney Council subcommittee following consultation with residents. There are currently over 400 homes at Colville, as well as 10 shops and community facilities. The area has been in need of regeneration for some time and the Council's proposal is to redevelop the site with approximately 900 homes of between one and four bedrooms, more than half of which will be for social renting, shared ownership and shared equity, with funding from the Homes and Communities Agency (HCA)¹². The existing 400 plus homes are in multiple ownership, so Hackney has used CPO to ensure that redevelopment can go ahead. Information has been provided to people living in the area:

The Council is building new homes where you live, and is re-housing tenants while negotiating with leaseholders and freeholders to purchase their properties. When everyone has moved out, the Council can then demolish and rebuild blocks with new, modern homes. As a precaution, and only to be used as a last resort, the Council has made a Compulsory Purchase Order (CPO) to purchase leaseholders' and freeholders' properties at market rates, as assessed by an accredited surveyor based on actual sales of similar properties in a similar condition in the area, and not simply asking prices or estimates¹³ (Hackney Council, 2014).

The LPA is making provisions so that leaseholders who wish to remain living on the estate will be able to move into new homes under leasehold swap, shared ownership or shared equity¹⁴. The council has promised under the shared equity arrangement leaseholders will be moved into their new homes without having to take on a new mortgage or rent arrangement (Twinch, 2013). They will also be able to retain the value of their old property in the new home so, for example, if they moved from an old property worth £100,000 they would be granted 50 per cent equity in a new home costing £200,000 (ibid). Leaseholders will be entitled to compensation for home loss of up to 10 per cent of market value – capped at £47,000 – plus reimbursement for reasonable disturbance costs. Although it has been reported that some residents feel that Hackney Council has priced their properties at less than the market value (ibid), the LPA felt that one newspaper article reporting on such claims fails to reflect the local support for the regeneration of the estate

amongst residents, the support provided by the LPA, and the complexity of the CPO process:

"The residents' association has been campaigning for ten years to get the crumbling estate redeveloped... The residents had been waiting a long time. They just wanted to get on with it". (LPA officer)

The LPA was aware of regeneration sites across London that have used or are in the process of using CPO. Large scale sites with a mix of ownership types in need of regeneration may be very difficult to redevelop without the use of CPO:

"The CPO process is concerned exclusively with establishing if there is a case in the public interest to proceed with public works which require compulsory purchase, in this case for purpose of re-providing Council homes by estate regeneration." (LPA officer)

But Hackney felt that it can be handled in different ways depending on the LPA and highlighted the politically sensitive nature of using CPO:

"But different councils have different political persuasions and provide different things to tenants. Some it is just the statutory minimum but we go above and beyond. It is politically sensitive". (LPA officer)

They argue that they offer more than is legally necessary to existing residents:

"Hackney Council offers options not always part of London regeneration schemes: Right to Return for tenants; shared equity/ownership for leaseholders to stay on the estate; newly-built homes set at target (social) rents for tenants - not new Government tenure of Affordable Rent..... The Council will enable the leaseholder to live rent-free until a newly-built home is built, if one is not immediately available. Share of market value of current home and future home is fixed on the day the leaseholder agrees to take shared ownership or shared equity home, e.g. current home worth £200,000 and future home £300,000, leaseholder will continue to own 66% of future home even if value increases to, e.g., £350,000 while waiting for it to be built." (LPA officer)

12 <http://www.hackney.gov.uk/housing-regeneration-colville-estate.htm#UvJkZrQQ3mg>

13 <http://webcache.googleusercontent.com/search?q=cache:5zM53TVcWTcJ:www.hackney.gov.uk/Assets/Documents/FAQ-Colville-Jan-2014.doc+%&cd=1&hl=en&ct=clnk&gl=uk>

14 <http://www.insidehousing.co.uk/tenancies/row-over-compulsory-purchase-order-offer/6527135.article>

Case study: Denbigh, Wales

Whilst CPO can be used as part of the regeneration of areas with different owners, it can also be used in cases where the land only has one owner. The case of Denbigh shows how long and complicated the CPO process can be and the risks involved.

The compulsory purchase process has been started for a derelict hospital in Denbigh that was a Victorian mental asylum. The hospital closed in 1995 and the main part of the building is Grade 2* listed. Before it closed various public organisations including the LPA and the Health Board sought to market the site to generate interest in the 1980s and 1990s with planning documents, guidance and ideas about how the site could be used. This failed and the site was put up for sale at auction.

The site was bought by a speculative developer who sold some small parts as there were a couple of houses with people living in them on the site, but after making a profit on these sales he was left with a very large site. There were a series of thefts from the site and the listed building increasingly fell into disrepair.

The site was put up for auction in 2002 and was bought for £310,000 unseen by a company using a solicitor as their agent. They worked with the council to submit a hybrid planning application for a residential 'enabling' development. This would have maintained certain parts of the listed building by a phased housing development which would have generated receipts which would have been used to maintain the building.

The application was subject to a Section 106 agreement to put the capital receipts from the development into a repair fund and it was estimated that £4.6 million was required to repair the main part of the listed building. The S106 was signed and planning permission was granted for 3 years.

During the council's due diligence process they discovered that the site had transferred ownership to Denbigh Freemont Limited, a company based in the British Virgin Islands, meaning the council would have no enforcement capacity for the S106. The LPA asked the owner to arrange for a British bank to hold a bond to underwrite the S106. Once this was in place, the S106 was signed and a hybrid planning permission granted.

However, the planning consent was issued in 2006 and lapsed in 2009 with no development taking place. Negotiations over a clause in the S106 enabled the LPA to secure some funding for repairs from the underwriting bank. The LPA stepped in and undertook some of the most urgent repair work:

"We were concerned as the building was in a poor condition and its stability was coming into question with a chance of collapse. We kept writing to the agent who said they had no money. We served an Urgent Works Notice but they did not respond. So we carried out the work on the crucial part not the whole building. We needed specialist contractors as there was asbestos etc. and the work took about 12 months. The council paid for the work at £930,000. We served Section 55 demands



under the Listed Buildings Act on the owners to try and reclaim it. We served five separate demands, the owners appealed all five... The inspector said it required a public inquiry. There was a pre meeting in January 2014. There will be a four day public inquiry April 8th to see if the S55s are valid. The owner's grounds for appeal are that the work was not necessary, that it was not described clearly and was excessive. They also claim financial hardship to the owners. This will be dealt with at the public inquiry". (LPA planning officer)

Since the work was completed the LPA has served a repairs notice for the main building that is estimated to need £1 million of repair work. The land owners did not respond. The LPA then decided it had the authority to serve a CPO. The LPA hopes to develop the site through a non-profit North Wales Building Preservation Trust which will sell parts of the site to housebuilders and use the funds to preserve the listed building:

"It will be served in the next couple of weeks. To support the CPO we need a statement of reasons and a vision for the site. Our vision is similar to the previous planning application of an enabling development. If the CPO is successful we have a buildings preservation trust ready to go with trustees and they will take ownership of the site and apply for planning permission. They will sell chunks of the land off to generate capital receipts. This will be used to repair the most important sections of the listed building. It is not a quick fix. It is non profit making. It would be an unviable site if it was trying to generate a developer's profit. It has a master plan and the appraisal supports the viability and shows that it is on the margins but doable. We hope that the market will pick up and that confidence in the site will pick up as houses go up and the building gets repaired and the land will increase in value". (LPA planning officer)

The LPA is clear that the CPO process has only been undertaken to try and preserve the listed building, not to generate new house building:

"It is not an allocated site in the Local Plan and it is not an important development for meeting housing supply. It is outside the settlement limit and the only reason we would give permission and use the CPO is to enable the preservation of an important listed building". (LPA planning officer)

However, whilst the LPA feels that the use of CPO is a last resort, it is being undertaken with considerable risk to the LPA as they do not know what compensation they will have to pay the land owners. Redevelopment of the site would have to begin immediately if the CPO was granted:

"We will still have to pay the owner compensation and the question is how much? This is decided at a late stage if the two sides can't agree, and the owner's valuation is hugely inflated. The advice is to make an offer before issuing a CPO. We offered £15,000 but the owner valued it at £1.9 million. We expect that if the CPO is successful the compensation will not be negotiated but will go to a lands tribunal to set the fee. But the problem is that we don't know if that will be £15,000 or £1 million". (LPA planning officer)

But the only way a CPO is likely to be granted is if the LPA can show that preservation of the building will begin immediately, which means starting the redevelopment of the site as soon as the CPO is granted, even though it may take a long time for the compensation amount to be agreed:

"The advice we have been given and what everyone wants is that we carry on with all this even whilst we are waiting for the lands tribunal to decide what to pay to the owners. We are under pressure to sell chunks off and get the receipts to repair the building. We will only have a successful CPO if we can convince the inspector that we have a viable scheme, can preserve the building and are actually going to implement it. We will only get the CPO if we use the site. We won't get it if we say we are going to wait and see what the compensation will be. The problem is that it is a huge financial risk to the LPA at a time when councils have no money". (LPA planning officer)

It is a very long process and one the LPA feels it has no choice but to take if the building is to be preserved:

"We have been working on this for a long time. It is one reason why the urgent works were so important as it takes so long that by the time we had the CPO we might have just had a pile of rubble". (LPA planning officer)

This case shows that CPO is a useful tool for local authorities to deal with strategic sites in the public interest where the landowner's inaction has had a detrimental impact. If the CPO is successful and development of the site goes ahead, a derelict but financially unviable site that has architectural and historical importance will be repaired and maintained. However, the process is very long and time consuming, with an uncertain outcome and a considerable financial risk to the LPA.

4.0 Discussion and conclusions



Lessons learned from the case studies are summarised below:

Green belt swaps / flexible growth boundaries

The case study of Chester East shows that planning officers and elected members are concerned that adjustments to green belt boundaries should not be termed 'swaps' even though the term has been used by the current government which wants to encourage their use. This is consistent with the findings from the earlier JRF research (Monk et al, 2013) where Cambridge was shown to have adjusted its green belt boundaries on several occasions in order to facilitate housing supply, but without publicity, keeping it low key. Planners are keenly aware that green belts are popular with the general public and are fiercely defended by numerous pressure groups.

This mechanism has potential for wider use across the country. However, it is unlikely to be used in areas where countryside protection is high as it is clearly contentious and elected members will not want to prejudice their chances of re-election. Where it can be used in a low key, low publicity way, it will continue to be a useful tool for managing growth. There would not appear to be an obvious way that central government can promote it, although changing the terminology could help.

Revolving Infrastructure Fund

This mechanism is also already in use in England. The previous research identified it in Cambridge and the West of England case study suggests it is a useful

funding mechanism for infrastructure provision ahead of development. However, in both examples the fund was kick-started by receipt of additional grant so it is not clear how areas without grant funds would be able to use it, making it difficult to replicate more widely across the country.

As a principle it makes good economic sense to use grants as loans that can be recycled rather than simply a one off funding source. As the case study shows, it is a way of managing risk. But for both grants and loans, if the investment fails, the money is lost (cannot be repaid) whereas if the investment is successful, it can only be recouped for further investment if it takes the form of a loan rather than a grant.

Tax Increment Financing

While clearly successful in the USA, TIF has not developed as quickly in England and appears to carry significant risks for the local planning authority. Yet it could help fund infrastructure where setting a high CIL or S106 contribution would make development unviable, at least in the current economic climate. It is predicated on eventual economic growth, which would be underpinned and encouraged by the infrastructure provision. In a sense it is similar to a revolving fund, because the investment cost will be recovered once it has become successful. That of course is where the risk lies for the local authority. TIF is likely to be most useful for large schemes in areas that would be expected to be buoyant in normal economic conditions, such as London, but not necessarily elsewhere.



Community Infrastructure Levy

The use of CIL as a local incentive for development is novel in the English context, not least because the CIL itself is still bedding down and is not yet operative across all local authorities. For this reason it is difficult to assess how successful it might be, or whether it would be a useful mechanism in other areas. The Shropshire case study shows that it may work best in small rural communities where people know each other and can more readily appreciate the benefits of new development and local infrastructure investment in helping to save schools, post offices, and other local services from closure. However, in most places CIL revenues are not large so it is not ever going to fund everything that might be required.

The case study suggests that there may be a possibility to use CIL for neighbourhood planning, which is also at an early stage. To date three such plans have been formally adopted (in South Oxfordshire, Cumbria and Exeter) but there have been 408 designations and 35 draft plans. Milton Keynes is the first business-led forum to publish its draft plan.

It would appear that both the CIL and neighbourhood planning are too early to call.

Compulsory purchase orders

The two case study examples of the use of compulsory purchase orders suggest that these are also viewed as contentious by planning authorities. In some cases the costs will be prohibitive, while in others the situation in terms of land ownership and land assembly can be extremely complex and time consuming even if the authority is prepared to use compulsory purchase.

Discussion

It is clear that without action to increase the supply of housing, availability and affordability will worsen. However, while the mechanisms discussed here were selected because of their potential for greater use in England, the case study examples illustrate why it may be difficult for them to become an established part of the planning toolkit, particularly in the current economic climate.

Government could ensure that the terminology they use is acceptable for example, replacing the term 'green belt swap' by 'flexible growth boundaries' or something similar that has no pre-existing implication or perception.

Government might be able to play a stronger role in encouraging the use of these mechanisms. However, it could be argued that the abolition of the regional tier of government has made this more difficult. All of the countries studied in the JRF research had a regional tier, and some had a further tier as well. Regional assemblies have been argued to play a strong role in providing advice and support for local planning (and housing) authorities, conducting research and publishing good practice. In their allocation of regional housing targets between local authorities, they ensured that the results were fair and seen to be fair. The current duty to cooperate is more difficult to monitor and almost impossible to enforce. This means that some authorities can continue to refuse to allow much needed development to take place in their area, assuming that others will provide instead. Yet if they all took that approach, more areas would become unaffordable and the preserve of the wealthy.

5.0 References

Barker K (2006) Review of Land Use Planning: Final Report, HM Treasury http://www.ukcip.org.uk/wordpress/wp-content/PDFs/Barker_review_landuse.pdf

Buitelaar E (2010) Crack in the myth: challenges to land policy in the Netherlands, *Tijdschrift voor Economische en Sociale Geografie*, 101 (3), 349-356.

CLG (2004) Compulsory Purchase and Compensation Compulsory Purchase Procedure https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11487/147639.pdf

CLG (2010) Compulsory Purchase and Compensation: Compensation to Residential Owners and Occupiers https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7719/147648.pdf

Department of Communities and Local Government (2011) Community Infrastructure Levy: An overview. London: Department of Communities and Local Government.

Evans A and Hartwich O (2005) Bigger, Better, Faster, More: Why Some Countries Plan Better than Others, The Policy Exchange, London.

HCA (2012) Growing Places Fund – Guidance note on Revolving Infrastructure Funds.

House of Commons Library (2012) Green Belt – Commons Library Standard Note <http://www.parliament.uk/briefing-papers/SN00934>

Hutchinson, N., Liu, N., Adair, A., Berry, J., Haran, M. and McGreal, S. (2012) Tax Increment Financing – An Opportunity for the UK? RICS Research.

Huxley J (2010) Value Capture Finance: Making Urban Development Pay its Way A ULI Europe Publication in partnership with the ULI Urban Investment Network Founding Partners.

Pointer G (2005) The UK's major urban areas, chapter 3 in Focus on People and Migration, Office for National Statistics, London.

National Ecosystem Assessment (2011) Synthesis of Key Findings, Defra, London. <http://sd.defra.gov.uk/2011/06/national-ecosystem-assessment-synthesis-report/>

Marrs, C. (2011), 'Northern Line extension could win levy borrowing boost, Planning, 5th December, pp 6-7 http://www.regen.net/Economic_Development/article/1107342/northern-line-extension-win-levy-borrowing-boost/

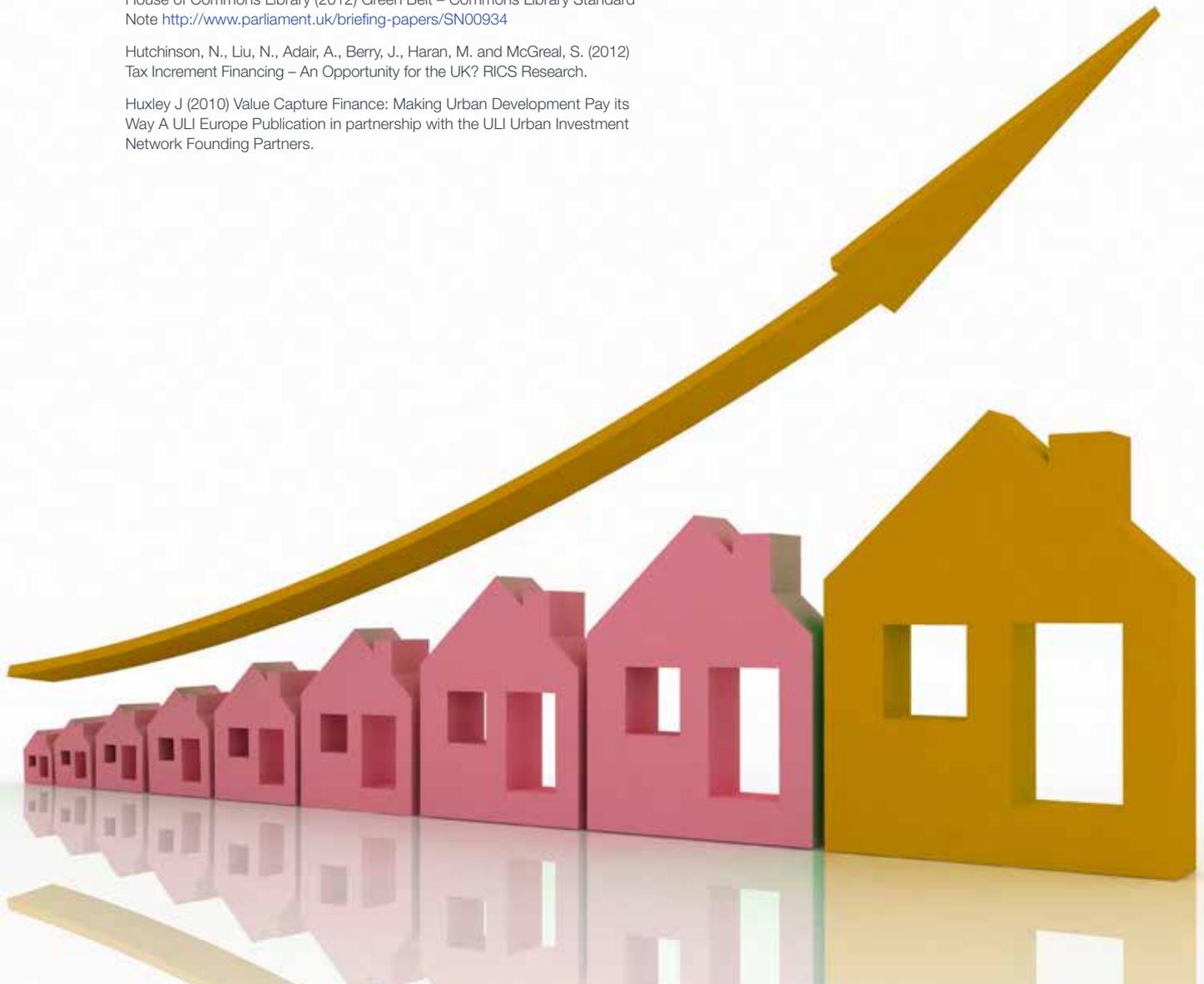
Monk S, Tang C, Burgess G, Whitehead C (2013) International Review of Land Supply and Planning Systems. Joseph Rowntree Foundation.

RICS (2012) Discover why and when compulsory purchase is used. <http://www.rics.org/uk/footer/glossary/compulsory-purchase/>

Sear C (2012) Tax Increment Financing, Standard Note SN/PC/05797, House of Commons Library, Westminster.

Van der Krabben E and Needham B (2008) Land readjustment for value capturing, *Town Planning Review* 76 (6) 651-672.

Van der Valk A (2002) The Dutch planning experience, *Landscape and Urban Planning*, 58 (2-4), 201-210.







Advancing standards in land, property and construction.

RICS is the **world's leading qualification** when it comes to professional standards in land, property and construction.

In a world where more and more people, governments, banks and commercial organisations demand greater certainty of **professional standards and ethics**, attaining RICS status is the recognised **mark of property professionalism**.

Over **100 000 property professionals** working in the major established and emerging economies of the world have already recognised the importance of securing RICS status by becoming members.

RICS is an **independent** professional body originally established in the UK by Royal Charter. Since 1868, RICS has been committed to setting and upholding the **highest standards of excellence and integrity** – providing **impartial, authoritative advice** on key issues affecting businesses and society.

RICS is a **regulator** of both its individual members and firms enabling it to **maintain the highest standards** and providing the basis for **unparalleled client confidence** in the sector.

RICS has a worldwide network. For further information simply contact the relevant RICS office or our Contact Centre.

RICS HQ

Parliament Square, London SW1P 3AD
United Kingdom

Worldwide media enquiries:

e pressoffice@rics.org

Contact Centre:

e contactrics@rics.org
t +44 [0]24 7686 8555
f +44 [0]20 7334 3811

United Kingdom

Parliament Square
London SW1P 3AD
United Kingdom
t +44 [0]24 7686 8555
f +44 [0]20 7334 3811
contactrics@rics.org

Europe

[excluding United Kingdom and Ireland]
Rue Ducale 67
1000 Brussels
Belgium
t +32 2 733 10 19
f +32 2 742 97 48
ricseurope@rics.org

Asia

3707 Hopewell Center
183 Queen's Road East
Wanchai
Hong Kong
t +852 2537 7117
f +852 2537 2756
ricsasia@rics.org

Americas

One Grand Central Place
60 East 42nd Street
Suite 2810
New York 10165 – 2811
USA
t +1 212 847 7400
f +1 212 847 7401
ricsamericas@rics.org

South America

Rua Maranhão,
584 – cj 104
São Paulo – SP
Brasil
t +55 11 2925 0068
ricsbrasil@rics.org

Africa

PO Box 3400
Witkoppen 2068
South Africa
t +27 11 467 2857
f +27 86 514 0655
ricsafrica@rics.org

Ireland

38 Merrion Square
Dublin 2
Ireland
t +353 1 644 5500
f +353 1 661 1797
ricsireland@rics.org

Oceania

Suite 1, Level 9
1 Castlereagh Street
Sydney, NSW 2000
Australia
t +61 2 9216 2333
f +61 2 9232 5591
info@rics.org.au

Middle East

Office G14, Block 3
Knowledge Village
Dubai
United Arab Emirates
t +971 4 375 3074
f +971 4 427 2498
ricsmenea@rics.org

India

48 & 49 Centrum Plaza
Sector Road
Sector 53,
Gurgaon – 122002
India
t +91 124 459 5400
f +91 124 459 5402
ricsindia@rics.org