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Posted by [Sheridan Treger](#), [Clare Eccles](#) on 09/01/2019

Summary: With Government and the Mayor of London keen to capture a greater and ‘fairer’ proportion of the increases in land value which follows transport investment, to unlock the major infrastructure underpinning much-needed housing growth, interest has returned to the debate around the various revenue-raising models to be imposed. How concerned should developers and landowners be about radical increases in planning gain?

Approaching crises the British way

Whilst virtually every other capital city in Europe saw the violent overthrow of a government by its people between the French Revolution of 1789 and Russia’s in 1917, London did not. Yet the issues it faced were not wholly dissimilar and Britain has clearly changed over time, apparently inclined towards evolutionary rather than radical revolutionary change. For many countries the word “revolution” conjures up guillotines and firing squads. In Britain, books are published with titles like “A Very British Revolution: 150 Years of John Lewis”.

Money, money, money

Blood on the streets is unlikely but there are increasing calls for radical solutions to London’s growing housing crisis. But much depends on large-scale transport developments for which public funding is simply not available - £3.3bn would be needed every year to deliver the infrastructure projects identified in the Mayor’s Transport Strategy as catalysts for development.

And yet there is less central Government money available for transport and (generally) for London, so the Capital must find its own way to finance the transport infrastructure needed to underpin housing growth.

“Capturing” uplifts

There is a recognised link between transport investment and significant increases in the value of land, particularly for land close to a train station. For example, the Jubilee Line extension cost £3.5bn to build. Between 1992 and 2002 it created an unearned uplift of more than £13bn for landowners in the vicinity of the 11 new stations.

So, in recent years there has been a re-emergence in political interest into how increases in land value can be fairly “captured” and used to fund investment in new transport infrastructure.

Considering the options...

A cross-party MHCLG¹ Select Committee report into options for land value capture was published in September 2018. Its summary stated as follows:

“Land values increase for many reasons [...] but some of the most significant increases arise from public policy decisions, in particular the granting of planning permission and the provision of new infrastructure. [...] Landowners currently retain a very large proportion of the increase in land value arising from the granting of planning permission. [...] It is fair, therefore, that a significant proportion of this uplift be available to national and local government to invest in new infrastructure and

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public services.”

Developers have been used to tracking debates around CIL or section 106 obligations, particularly around affordable housing. Many may well have wondered if the renewed impetus behind land value capture could soon translate into radically increased planning gain requirements on their schemes.

We consider some of the approaches to land value capture which the Select Committee examined below.

A wee DRAM as the big solution? Alas not for London

The Development Rights Auction Model (“DRAM”) DRAM involves an allocated authority preparing an integrated zonal development plan for zones of influence around new station locations on a new rail project.

The authority would have powers to assemble land and grant planning permissions, and would then coordinate land pooling and the auctioning of developable plots.

New transport investment and coordinated master-planning should mean that the value of the pooled land would be higher than the value of individual land holdings before assembly.

Proceeds of the auction, above a set reserve price, would then be shared between the landowners and the auctioning authority, which would use its share to fund transport investment.

See our March 2018 [blog](#) on DRAM for further detail.

However, initial consideration of DRAM suggests it is unlikely to be effective in London. There is little derelict land left to develop. If you apply DRAM to land which is already in use to promote mass residential redevelopment, there are likely to be too many other costs (e.g. compensation, affordable housing and the costs of other social objectives). That leaves little left to capture from increases in land value for proposed transport infrastructure.

DRAM could, nevertheless, work well outside of London in locations where there is a clearly defined infrastructure need, defined economy and a beneficial link with a new development.

Capturing increases in value from publicly-owned land

In Holland and Germany local municipalities capture increases in the value of their land by selling or leasing sites to developers and reinvesting profits in the infrastructure and public services made necessary by the planned developments. Ownership of the land gives the municipalities significant control over the types of housing constructed, proportion of affordable or social housing and even timescales of delivery. There is certainly scope for this in London.

Taxing landowners of development sites - not developers

A new system of development taxation to be levied on landowners, rather than developers, was mooted. The tax would be on everything above the existing use sales price.

Some consider this could remove the need for viability negotiations around planning obligations, since the uplift in land value would be captured at the point of sale to the developer rather than when planning permission is applied for.

But does this simply shunt debate over appropriate land value benchmarks from the planning system into the property market, with HMRC as arbiter instead of local planning authorities? The consequences for the release of much needed land for housing is unforeseeable.

Taxing existing as well as new developments

Some argue that restricting land value capture to new development alone is unfair and greatly reduces revenue raising capacity.

Of the anticipated £87bn uplift in land values arising from eight prospective transport infrastructure projects in London (including Crossrail 2) approximately 65% is actually likely to go to the *existing* residential market. Two mechanisms have been proposed to capture some of this for infrastructure: a zonal assignment of Stamp Duty Land Tax, with a framework for calculating and assigning transport-specific uplift; and a Transport Premium Charge, where a proportion of the land value increase associated with a transport infrastructure scheme is paid at the point of sale of a property.

Beware the law of unintended effects

Government responded to the MHCLG Select Committee in November 2018:

- “The Government agrees that there is scope for central and local Government to claim a greater proportion of land value increases.
- The Government’s priority is delivery, in line with the Housing Minister’s commitments to provide more higher quality housing more quickly.
- Changes to land value capture systems can have profound impacts on the land market in the short term, even where they are sensible for the longer term.
- Accordingly, the Government’s priority is to evolve the existing system of developer contributions to make them more transparent, efficient and accountable.
- It will of course continue to explore options for further reforms to better capture land value uplift, providing it can be assured that the short-run impact on land markets does not distract from delivering a better housing market.”

The limitations of politics

Government is clearly mindful of the substantial constraints on land value capture.

The politics around how existing homeowners, or indeed commercial landowners, are taxed make it highly problematic for such taxation to become a route to increased revenues for funding major transport schemes, and would probably not be enough on its own in any case.

There must also be underlying political concern with models like DRAM becoming a preferred and widespread way forward because these ultimately rely heavily on compulsory acquisition, or its threat. The principle of private property is perhaps more highly valued in the UK than in some other jurisdictions. Compulsory purchase powers also carry the costs resulting from understandable expectations around compensation levels.

Fundamentally, it is difficult to find a standardised approach to land value capture that could be introduced on a national basis and strikes the right balance between maximising appropriate revenue without discouraging landowners from bringing forward development in lower value areas. There is no point in a land value capture mechanism that has cumulative cost impacts which render planning permissions commercially unimplementable.

Incrementalism and pragmatism

Though the term “land value capture” sounds, when heard out of context, like it would not be alien in the lexicon of any 19th century revolutionary, the reality for London is that any approaches introduced in the future are likely to be incremental, pragmatic and subject to limitations.

Isolated but innovative pilots allowing local authorities to tailor approaches to land value capture to their local circumstances are likely to be encouraged. Even so, major transport schemes in London are most likely to be funded by existing strategic techniques like Mayoral CIL (with MCIL2 likely to be levied for Crossrail 2 from April 2019) and maximising the value of public authority land and opportunities for over-station development. A very British revolution indeed, which we all in London’s development industry wish much success.

For more on land value capture see BCLP Partner Jason Chamberlain’s [article](#) on “Funding railway infrastructure when there is no magic money tree”.

¹ - Ministry for Housing Communities and Local Government

This blog includes views expressed during a breakfast seminar held at BCLP on 1 November 2018 on housing delivery in London post NPPF2. Panellists included Julian Ware (TfL); Sarah Bevan (London First); Robert Fourt (Gerald Eve); Rupert Warren QC (Landmark Chambers); and Janany Kathirgamanathan and Sheridan Treger (BCLP).



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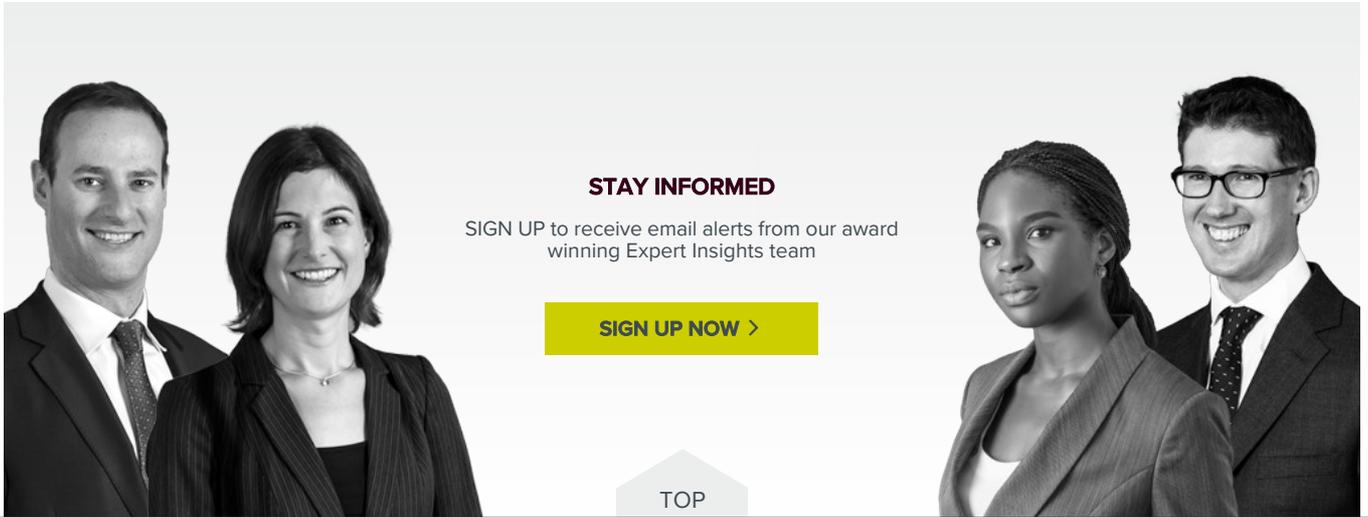


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