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In trust

The planning system enables developers and landowners to make large profits while the public sector struggles with infrastructure costs and making homes affordable. Any new housebuilding policy should keep control over land and retain its value for the public good, argue *Steve Bendle* and *Pat Conaty*

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A HOUSE PRICE BUBBLE has once again spread out from the south east, bringing havoc to ordinary households trying to find somewhere to live, not to mention to the economy itself. The main reason is the shortage of housing, estimated at two million homes.

Another is the ready income to be earned from buy-to-let, which generates for its investors not just annual income but annual capital growth. Growth in the economy over the last five years has benefited those who were already well-off and enabled them to buy even more property to rent or just to hold.

Labour has set up the Lyons Review to identify how the current housing shortage might be addressed by building 200,000 new homes a year by 2020. The problems are considerable: lack of stock, unaffordable prices, lengthening waiting lists, a housing benefit bill of £17bn, which dwarfs investment in new houses of just £2bn over 3 years. The coalition's response has been to attack security of tenure and hike rents in social housing, in order to try and squeeze more use from what remains after the devastation caused by Mrs. Thatcher's discounted right-to-buy sale. In 1981 there were 5.6 million council and housing association properties. By 2011 there were only 4 million, against a UK population that had grown by a further 6 million since 1981.

We would argue that the scale of these problems demands major change not minor tinkering. Three examples make the point about how the present system fails.

First, say insufficient land has been identified in a local planning authority's core strategy to enable housing demand to be met. The local planning authority then suggests different locations around the urban area. Developers take out options on all the land under discussion. When the choice is finally made – a black line on the map which may transform the value of the land within it from £10,000 per acre to £2 million per acre – both the landowners and the developers make substantial profits. The public sector, meanwhile, is left having to foot the bill for the infrastructure and many of the affordable homes.

Second, the government puts redundant out-of-town NHS hospitals or former MoD sites on the market to sell to the highest bidder. The developer's plans are to maximise profit, minimise the proportion of affordable or social homes, and avoid the complications inherent in trying to attract and include workspace or strategic employment opportunities. Developers regularly argue that the inclusion of such elements is making their development 'non-viable' and, with limited practical and market knowledge, local planning authorities are ill-equipped to resist.

Third, government funds new infrastructure – a new road or rail line. Values along the route are greatly enhanced. No attempt is made to re-coup this value or to use it for the general good. For example, following completion of the jubilee line, it is estimated that property within 1,000 yards of eleven new stations rose in value nearly fourfold, from £3.5bn to £13bn. The line itself cost £3.5bn but it was local property owners who received the benefit. If joint ownership had been taken of this property through a 'community land bank' (CLB), which purchased and leased back the property to the original owners, mechanisms could have been built in which allowed the private owners a fair return and the opportunity to invest but used the excess surplus value to create community value.

So the planning system enables developers and landowners to make large development profits, while the public sector is left struggling to secure a contribution to infrastructure costs or to deliver a proportion of homes that can be afforded by those on average incomes or below. 'Affordable' homes may be a misnomer too: in some cases, they are the least the developer can get away with while still meeting a planning condition. At worst they could be homes sold at 75 per cent of a very high open market value. The coalition's redefinition of 'affordable' to mean 75 to 80 per cent of market value instead of the 40 to 60 per cent level deepens the poverty trap and inflates the housing benefit bill.

The problem lies in the way land is dealt with. The government ignores how planning decisions and infrastructure construction decisions give away the development value created instead of retaining it for the public good.

Nor does it see the land already held by the public sector (and housing associations and community land trusts) as assets to be used for the long-term benefit of local communities.

Successive attempts to change the planning system have failed or been given up in the face of industry resistance and circumvention. 'Planning gain' used to be the term for ensuring new development contributed to infrastructure. In the 2000s 'section 106' agreements succeeded for a time in delivering a proportion of affordable homes but this objective competed with the funds also wanted for roads, schools and hospitals. Agreements were always liable to challenge by developers on viability grounds. The 'community investment levy' (CIL) was the next idea but all these have now been downplayed or cast aside by the coalition, which has succumbed to the argument that high land values have put too much pressure on what schemes can deliver.

We would argue that direct land ownership is key. Three examples illustrate a better way forward.

1. First Garden City Limited acquired land by act of parliament in 1903 and began developing Letchworth Garden City. It has undergone changes, and has had to resist nationalisations and privatisations, but today the Letchworth Garden City Heritable Trust owns £56 million worth of offices, shops and business units, the rent from which is used for the foundation's community development and charitable purposes for the benefit of the community. The rented homes still exist, although subjected to right to buy and transfer to housing associations.

2. Coin Street Community Builders (CSCB) on the South Bank in London were entrusted by the GLC with a large development site of 13 acres. This was sold to them in 1984 for a below market price of £1 million on the basis that CSCB would develop the land asset in the most effective ways with community benefit a clear objective. And they have succeeded: the site now includes artist studios in and around the Oxo Tower, street markets, restaurants and affordable co-operatively managed housing. It has become both a community and a major contributor to the revival of this part of London. CSCB has retained the freehold and will be able to continue to direct the development of the area into the future as well as receiving retail income.

3. Community Land Trusts (CLTs) take their inspiration from the USA where the best known is Champlain Housing Trust in Burlington, Vermont. Like many US cities, the centre of the town had gradually been replaced by vacant lots as people and businesses moved to the suburbs. The city council began transferring vacant land and buildings often without requiring any financial payment to a new community-led body, which developed them into rented and part ownership homes, shops, offices and restaurants, often with innovative ideas about the role an existing building might play. New residential owners and shared owners were equipped to take on ownership through training and advice. The increase in the value of the home over time is shared between the part-owner and the trust so that when the part-owner moves on, the trust is able to re-sell the shared ownership home at a level which is as affordable as the original home.

In the UK, new community-led organisations have been able to use smaller social and ethical banks such as Charity Bank, Triodos Bank, Unity Trust and Ecology Building Society

Other American CLTs have followed the Burlington example and the housing security of CLT homes is notable. Throughout the USA housing crisis that triggered the worldwide banking collapse when prices fell sharply, foreclosures were rife in 2009 – ranging from 15.6 per cent for sub-prime loans and 3.3 per cent for prime loans. But this was not the case for CLTs, where foreclosures remained below 0.6 per cent.

In the UK there is the beginnings of a CLT movement that has already delivered some 200 homes. At High Bickington in Devon, county council land has been developed to provide affordable homes, workspaces, a community centre and homes for sale. No payment for the land was made up front but on completion the CLT should deliver a payment of £0.75 million and retain £0.25 million as a legacy. And in Scotland, land reform legislation has enabled communities to buy back their freeholds and reverse years of decline. Trusts in control of the islands of Gigha and Eigg have increased housebuilding, installed community wind power, revived local businesses and as a result increased school rolls and saved local schools.

Control over land is the key component that all these initiatives have in common. Retaining control over land should be a strong element in any new policy, if not the most important one. We would advocate the following.

First we should set up more garden cities and garden suburbs which follow the definition agreed by the Garden Cities Association (now the TCPA) in 1919:

> 'A Garden City is a town designed for healthy living and industry of a size that makes possible a full measure of social life but not larger, surrounded by a rural belt; the whole of the land being in public ownership or held in trust for the community.'

The land for the new city should be assembled not at the value it acquires once planning permission is granted but at its existing value. The rise in value that comes from the planning should be retained and held in trust to deliver community benefits into the future, as Letchworth Garden City demonstrated how to do. The affordable homes should remain affordable by limiting the proportion of any growth in value to which an owner is entitled, as CLTs do in the USA. And the land for commercial development should be leased for 20–25 years to provide enough return for the investment but to retain the surplus value for the community.

Second, we should not construct new infrastructure without a mechanism to share its costs with the property owners who benefit or to create a mechanism such as a co-operative land bank, through which profits are shared more fairly between the state as investor and the landowners.

Third, land already owned by the public sector should be seen as a resource for creating communities and employment, not as something to be sold off.

Fourth, communities should be supported to enable them to learn how to take on and control other developments that would fulfill community plans, or on a smaller scale, parish or town plans. John Prescott tried to make planners think proactively, to create spatial plans to deliver what their communities need and then to agree only developments that meet these needs. Few planning authorities embraced this idea and most have now reverted into the traditional reactive role.

Expertise is a key requirement to allow proactive approaches to flourish. Some of this existed in previous government initiatives, like English Partnerships or regional development agencies (another Prescott initiative). At the local level housing associations used to have property and community development skills.

The other key requirement is finance. In the USA in a growing number of local authority areas, City-CLT partnerships have been developed to promote the mutualisation of land, and land stewardship and local management solutions. Irvine Community Land Trust is the most ambitious urban CLT with a master plan well underway since 2006 to build 5000 'permanently affordable' homes by 2025 on a redundant military base. Evergreen Co-operatives in Cleveland, Ohio is working in a city partnership which has a public procurement of $3bn yearly and is utilising CLT methods and a community development finance fund of $200 million that is invested patiently at one per cent.

In the UK, new community-led organisations have been able to use smaller social and ethical banks such as Charity Bank, Triodos Bank, Unity Trust and Ecology Building Society. Major UK charities too have also begun to experiment in investments rather than grants that generate a small financial return and a significant social one. The community investment mechanism which enables individuals to invest directly in local provision such as community water or wind energy generation also has great potential to provide investment.

These social banks and community funding mechanisms need greater encouragement and support. A public development bank, with a regional rather than a national focus, could also help fundamentally. Such a body could work hand in glove with the existing network of social banks, plus the 50 regional community development finance

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institutions in the UK. Germany shows how to operate such a social investment partnership. But key here is what Keynes called patient, cheap money, which he argued was long-term, low-cost capital for public policy purposes.

The German KfW public bank, set up in 1948 under the Marshall Plan, is a unique example of such an entity. KfW is not a direct lender but provides capital at one per cent to local co-operative banks and municipal savings banks to locally invest. These in turn make loans at 2.65 per cent to homeowners and small businesses to create jobs and to reduce energy waste and carbon. The German programme is now on a national scale and investing €1bn a year. This programme has created and is supporting 368,000 construction jobs, upgrading the housing and commercial infrastructure of the country. Packages of energy conservation and renewable energy measures are tailored to realize rigorous carbon reduction savings.[1]

KfW operates on a national scale. Its commitments amount to €10bn a year and leverage an additional €17bn annually in energy efficiency investment, new build and retrofits to Germany's housing and commercial infrastructure. Since 2001 more than 2.5 million homes have been upgraded to high-energy savings standards. The current annual upgrade volume is more than 358,000 units. Germany is on target to cut carbon emissions from homes and commercial buildings by 40 per cent by 2020 and by 80–95 per cent by 2050.

As these inspirational examples show, the community land trust mechanism and a co-operative capital innovation (like in Germany and in Cleveland) is more than a means of capturing the value created by the grant of planning permission or the construction of infrastructure. We would draw the parallel with the idea of an operating system and the 'apps' that can be devised to use it.

The operating platform is the community–owned or controlled land and the revolving co-operative capital finance. The apps could be a wide range of emerging types of organisation that involve community engagement and leadership including co-ops, community land trusts or co-operative land banks at the Garden City scale. What these co-operative place making social enterprises could deliver is wide-ranging but could include renewable energy, community food and agriculture, social care co-operatives, car share schemes and community transport.

Winston Churchill, writing in 1909, argued against the monopoly power of land ownership:

> "Roads are made, streets are made, railway services are improved, electric light turns night into day, electric trams glide swiftly to and fro, water is brought from reservoirs a hundred miles off in the mountains – and all the while the landlord sits still. Every one of those improvements is effected by the labour and cost of other people … To not one of those improvements does the land monopolist, as a land monopolist, contribute, and yet by every one of them the value of his land is sensibly enhanced."

Churchill ends his piece with a quote from Richard Cobden, an ardent and successful free-trade campaigner in 1845: "You who shall liberate the land will do more for your country than we have done in the liberation of its commerce."

We can only hope that 100 years after Churchill's insight and nearly 1,000 years after William the Conqueror concentrated land ownership in the hands of a few, we will finally get the land and spatial planning system we need. F

Notes

1. Gudrun Gumb (2012) 'Financing Energy Efficiency in Buildings – the German Experience', KfW paper presented at the International Workshop on Financing Energy Efficiency in Buildings, Frankfurt, 16–17 February 2012.