Land Value and Community Betterment Taxation in Britain: Proposals for Legislation and Practice

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Abstract

Report II presents proposals for legislation and practice in Britain for what is generally termed *land value taxation* (LVT) that is taxing the land (as distinct from land and buildings in combination) for the benefit of the community. While open to various interpretations, in this Report it comprises the introduction of a series of taxes geared to annual exactions (LVT) value capture by capital exaction (betterment) and exaction for contributions to infrastructure financing (IF). It does not in this Report include recoupment of value to the community simply as a result of public ownership of property.

The LVT proposals (Chapters 4-7) are preceded by a Context (Chapters 2-3) and succeeded by Related Issues (Chapters 8-10).

Part I (Chapter 1) presents the Scope of the Report based upon its Terms of Reference. The Context for LVT is presented in Part II. First, we present the current situation of infrastructure financing in Britain, in order to show that the frontier of such financing is steadily being switched from the traditional approach, in that increasingly the cost of the infrastructure is being borne by the sector which makes profit from development as opposed to the public purse (Chapter 2). One particular instance is picked up, namely the practice of exacting '*planning gain/obligation'* which is similar in intent to the US '*impact fees'.* This system is working badly in Britain and, following a review, our proposal is that it be replaced by exactions based upon the established practice of environmental assessment. Then we introduce the Recoupment of Betterment (Value Capture) by Capital Levy (Chapter 3). We give reasons for not returning to the three major efforts of earlier Labour Governments (in 1947, 1966 and 1975/6) to achieve such betterment. Instead we propose a continuation and enhancement of Capital Gains Taxation (CGT) which was introduced by the Labour Government in 1974, following an initiative by the Conservatives in 1973. In addition we support the suggestion for a new Greenfield Tax (GT) aimed at profits on the development of open land whose proceeds would be hypothecated for subsidy on "already developed land" within urbanised areas (brown land).

Our proposals for an annual land value tax are presented in Part III. We start with a description of extant taxes that impinge on land ownership in Britain (Chapter 4) leading to a five country review of historically used systems and past proposals for Britain (Chapter 5) together with a review of possible options. Their evaluation follows (Chapter 6) before suggesting an acceptable solution (Chapter 7).

We start with the conclusion that the traditional 'Georgist' exaction of a near 100% of economic rent at highest and best use would amount to the nationalisation of rental value and the right of owners to receive it, leading to the virtual disappearance of the land investment market. Several less drastic options are then reviewed: less than 100% tax on land rent, hope values dropped in favour of plan-led values, differential taxation of land and buildings, exclusion of some types of land ownership, incremental values over base

dates, existing use values instead of "highest and best." A synthesis of options is made to find a solution which we consider accountable to the current to Government and public opinion, that would be simple and cost-effective to administer. A transitional basis is envisaged moving from the shallow end to deeper waters as Government and public opinion permit, to ensure that the landowner bears the tax. This would take the form of an annual owner's land tax that could be passed up through a hierarchy of ownership interests, starting with an apportionment as between land and buildings of rating assessments at the next revaluation. Concurrently, vacant land or some agricultural fringe land could also be taxed at highest and best use. Gradually over time the land portion of the rating assessment could be revised from existing use to future expectations of value, and ultimately the occupier's tax on the buildings etc., element might disappear altogether, leaving the sole application of land tax as envisaged by the Georgists, but not as high as 100%.

Having presented our proposals for Land Value Taxation including Capital Value Capture, we then introduce Related Issues in Part IV. First there is an extension of the discussion from our Report I (Part III) on how to make Land Taxation compatible with development planning, on the proposition that each on its own could be in conflict (Chapter 8). But this aim for compatibility reveals a weakness in the land market which could undermine a prime purpose in this Report, to ensure that Land Value Taxation and Value Capture should be borne by the land owners and not by the developers. Just because the regulatory system which has grown up under town planning (planning permits, environmental assessment, and charges etc) is time consuming, and the bidding for land leading to sale is often under pressure, the developers are led to formulate bids under some uncertainty as to the circumstances which should determine the amount of the bid. If so, the consequences could be unfortunate in the public interest, since overbidding for the land can put pressure on the developers to cut costs in their development proposals. Thus we propose (Chapter 9) an improvement via the landowner needing to provide more information to the development industry prior to the sale of the land, linked with the possibility of introduction of transactions via options. Here we make no firm proposals except that the matter should be investigated.

Finally, in (Chapter 10) we pick up the requirement in the Terms of Reference for the Report that we have regard to political feasibility of our proposals in terms of the likelihood of their being adopted in Britain under the New Labour Government. On this we cannot draw clear conclusions since the Government has not included the topic in their election manifesto or subsequent programmes. Then we review the possibility of support for LVT from the other political parties (Conservatives, Liberal Democrats, Scottish Nationalists, Greens and European Union) and end with an account of how a shallow end approach can enhance political feasibility.

Our proposal here is not to enter into any political campaign. Instead we hope that our Reports will offer a basis for discussion around the topic, both immediately and at the next election, possibly in the year 2002.

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PART I: INTRODUCTION

Chapter 1: Scope of Report II

Terms of Reference

Our Terms of Reference are as follows (letter of 27.10.97).

> *"The Lincoln Institute of Land Policy is pleased to offer you funding to develop a second report (in the light of the findings of your first report dated 30 June 1997) being an examination of the possibilities of introducing land value and community betterment taxation in Britain at the present time. The examination will review potential options having regard to practicality in administration, acceptability in public perception and significance in political policy-making. The report will draw conclusions from this examination and will make recommendations for specific proposals for introducing legislation and practice for Britain which would be compatible with the town and country planning system, and in a way that could be compatible to the New Labour Government."*

Some Definitions

Our Terms of Reference refer to *Land Value and Community Betterment Taxation*. Since each of these terms can be subjected to various interpretations, we make clear at the outset the meaning we have adopted, and which we maintain throughout.

As in our Report I, *land* is taken to be that element of natural resources which is used, or potentially capable of being used, for physical development through change of use alone, or via mineral extraction or construction. In that context *land* is limited to the earth's surface (and thereby its natural attribute such as air and sun) and also minerals below the surface. As such it is sometimes referred to as *space*. Such land has three components: the raw land itself which is a gift of nature or God; man's infrastructure improvements required to make it useable; and man's improvements by buildings etc., which are required for the utilisation of the land for the pertinent activities. Land in this sense (which will include the inland waterways and also those parts of the seabed which are exploited for minerals) becomes the platform for all human activities.

Our primary concern is in the financial exactions which are and should be made by government for their own purposes on the land. This sub-divides into two: *Land*

Taxation (LT) which encompasses all taxes for government revenue that are levied on land, as for example local property taxes (rates in Britain) stamp duties, inheritance tax etc., (Chapter 4). *Land Value Taxation* (LVT) also refers to moneys raised for government purposes, but in a particular sense. It comprises taxes on land value aimed at sharing with the land owner some proportion of the rises in land value which are reckoned to be created by the community and not by the land owner himself. Here again there are many interpretations. For the purpose of this Report LVT encompasses all of the following; each of which has attracted distinct popular names:

- annual taxes on the rises in land value, from a base which is the current use (site value rating);
- a proportion of the rises in capital value in accordance with the principles of capital gains tax (capital gains taxation);
- the capture by means of a capital tax on the rises in the value of land as a result of a proposed development, of which there are various kinds (betterment);
- the exaction in the form of a capital payment from land owners/developers for all or part of the costs of physical or social infrastructure which are brought about by the development of the land itself (planning gain or impact fee).

On this it is apparent that one often used category of land value capture for the community is not included here. This is the levy of ground rent under lease of land which is in government ownership, which is not strictly speaking the same as levying taxes without ownership itself. It has been well described as "pre-empting the accrual of value" (Grant 1999:67).

Structure of Report

Part III represents the meat in the sandwich, in that it is the full presentation in Chapters 4-7 of proposals for Land Value Taxation in Britain. First, there is review of the current situation in Britain relating to the whole array of land taxation (Chapter 4) leading to optional proposals for Land Value Taxation (Chapter 5) and then an evaluation of them (Chapter 6) leading towards what we consider to be an acceptable solution (Chapter 7).

Part II presents a *context* for the introduction to the new LVT. This takes the form of showing the relationship to LVT of infrastructure financing (IF), both in its current situation and with some proposals for change (Chapter 2). The distinction is made that (IF) (which includes exactions on land owners/developers and the point in time of development) does not strictly fall under the heading of Land Value Taxation or Betterment. It is in effect a means of transfer of the burden of physical and social infrastructure upon the public authorities, which traditionally have met the costs, to the land owning/development sector which is picking up the benefits through profit. We then introduce the true partner to land value taxation, namely proposals for recoupment of

betterment (value capture) by capital levy (Chapter 3). We first say that we do not attempt to follow the three major schemes of the former Labour Governments which were repealed by the Conservatives. Instead we put forward three other, much more modest, possibilities. The first is an extension of the Capital Gains Tax (CGT) inspired by the Development Gains Tax (DGT) which originated with the Conservatives in 1973 and was continued by the succeeding Labour Government in 1974 to 1976, until it was superseded by their Development Land Tax (DLT). The second is a Greenfield Tax (GT), as initially proposed by the Secretary of State for the Department of Environment, Transport and Regions (DETR) in the New Labour Government, which we endorse, and add that it could be seen as a means of cross subsidy for "already developed land" (brown land) which in general terms can only be redeveloped with difficulty.

Following the introduction of the new Land Value Tax (Part III) we then introduce three issues arising from our proposals. First, comes the issue of the inherent incompatibility of Land Valuation Taxation and Planning, which was ventilated in Part III of our Report I leading to measures to make them compatible (Chapter 8). But for this compatibility to have the opportunity for successful operation, there needs to be some reformulation of the land market process in order to ensure that the incidence of the Land Value Tax falls upon the land owner and not the developer. In a nutshell, this directs the Land Value Tax from the wealth creating sector of the development industry to the sector which is not wealth creating, but derives its financial benefits from mere appropriation of the land (Chapter 9).

In general in our proposals we have had regard to the requirement in our Terms of Reference as to

> *"practicality in administration, acceptability in public perception and significance in political policy making" and to drawing "conclusions from this examination and make recommendations for specific proposals for introducing legislation and practice for Britain which would be compatible with the Town and Country Planning system, and in a way that could be compatible with the New Labour Government."*

These are presented (Chapter 10) where we consider the political feasibility of such proposals in Britain over the next few years, having regard to the character of the New Labour Government of 1997 and the likely prospects for a second term of that Government following the General Election expected in 2002.

Chapter 2: Land Infrastructure Financing: Current Situation And Proposals

What is Land?

In this Report we retain the meaning of *land* in our Report I, viz: land for development. This was taken to be that element of natural resources which is used, or potentially capable of being used, for physical development, that is change of use via mineral extraction or construction. In that context *land* was thereby limited to the earth's surface (*terra firma*), the minerals below the surface and the air and sun above: It was *land* in this form that of *space*, which becomes the platform for associated socio-economic activities, to produce development and thereby the *development value* which can be taxed. Such land was considered under three distinct heads: the raw land which is a gift of Nature or God; man's infrastructure improvements required to make it useable; and man's improvements by buildings etc., required for the utilisation of the land for the pertinent activities.

Land as terra firma is unique in the sense of being significantly different from other economic resources (Lichfield and Darin Drabkin, 1980:12-13; Gaffney, 1994). And just because it is unique in this way it attracts to it policies whose content is also unique.

For one thing, the land resource is the platform of all human activities which, the telling exceptions apart (e.g. space travel), can barely exist otherwise. For another raw land is God-given or a gift of Nature, and its original qualities are available without the use of man-made resources, albeit these are usually needed for improvements to facilitate man's use of these qualities. From this flows a third feature, its unique qualities as a factor of production compared with others: it is fixed in location, immobile and immovable, incapable of expansion of supply with only minor exceptions such as reclamation. Then it has a special place in society in that, for example, no state can be said to be independent which does not have control over its own land, and no individual can be said to be independent who does not have freedom of access to a part of that land. It is over possession of land which people have fought wars for centuries.

Because of this special place, societies throughout the centuries have found it necessary to restrict absolute ownership of any portion of the land as against the rest of society, as they do for a motor-car, television set, and so on. It has been generally accepted that the individual use of terra firma need be subservient to some overriding control, as for example by the tribal chief, nation state, the federal government or international agreement.

What is Infrastructure?

At the risk of oversimplification, our towns can be seen as comprising two main elements, (Lichfield, 1992: 1116). First, the terra firma, buildings and spaces which are the base for its socio-economic activities (production, distribution, exchange and consumption), both by the town residents and those coming in from outside as regular commuters or irregular visitors. Secondly, the *infrastructure* of these activities, namely *'the underlying foundation or basic framework'* (Longman, 1984).

In everyday usage there are many interpretations of what is conceived as *underlying*. There is general agreement on the inclusion of transportation or telecommunication (its obverse), and their associated facilities (such as lighting, car-parking, bus and railway stations, telephone exchanges) as well as basic utilities (water, sewerage, waste disposal, gas, electricity).

To this physical infrastructure others (Loughlin, 1985) would add the social infrastructure required to serve people, to comprise all those services which makes land development:

(a) *possible* (circulation streets, roads, water, sewerage, gas, electricity, telecommunications, street lighting, street cleaning and refuse services):

(b) *acceptable* in terms of amenity (parks and amenity areas) and social overhead (schools, health and welfare services, libraries and other cultural facilities).

Within the proprietary land unit on which the socio-economic activities are developed *on site* the private or public land owner, developer or occupier in question would also provide *on site* the relevant infrastructure for the development itself. Off-site the payment for physical and social infrastructure, in the traditional broad division of labour in providing urban development, is generally the province of central and local government on behalf of taxpayers/ratepayers, together with ad hoc bodies on a commercial basis for gas, electricity, water and sewerage, while private and public entrepreneurs generally provide the urban fabric which is remunerative. This division of labour is blurred at the edges. In a residential area the developer will build the streets and gift them at the required standard to the local authority for maintenance; in a rural area a local authority could build coastal protection works which are financed by tax assessment on specific beneficiaries.

Thus the building and running of a town is a mirror of our mixed economy. In this mix there is another ingredient: intervention by government (central and local combined) in the development, via the urban and regional planning system. This has broadly two aims: to remove impediments to the working of the market for both the private and public entrepreneurs; and regulate its activities in the "use and development of land in the public interest" (DoE, 1987: para 5). This combined intervention provides a wider definition of the infrastructure framework (Wakeford, 1990).

"…all the supporting services required to ensure that land development takes place in a socially acceptable way; that is it does not intrude on the landscape, cause disturbance to neighbours, create traffic congestion, or overload the school system. This would seem to bring into this definition the avoidance of unfavourable externalities which arise from development."

Current Funding of Infrastructure in Britain

Current practice in British funding of infrastructure has origins stretching back over centuries, and has evolved piecemeal with the growth in the infrastructure itself and the multiplication of public agencies and powers related to the funding. For these reasons the practice is complex (Loughlin, 1985). For our purpose we do not need a comprehensive description, but rather a categorisation of different kinds of funding as a context for the "planning gain" with which we go on to consider. Following is a somewhat heroic attempt (Lichfield, 1991).

<u>Paid for by Central or Local Government and Recouped out of Taxes, Business Rates and Council Tax</u>

These are the traditional public works funded from public sources, for example roads, rail links, drainage, sewerage, car-parking. Generally, the funds are levied on the population as a whole, paid into one pool and distributed from the pool for specific works. On occasions particular funds are earmarked or hypothecated for specific works. Or there is a special assessment levy on the beneficiaries of particular works.

<u>Paid for by a Statutory Undertaker with the Cost for a Specific Project Passed on to the Landowner/Developer</u>

These are the traditional utility services, be they in public or private hands, be they or not a monopoly. Their capital cost is typically met by developers' contributions which are passed on to the consumers in the disposal price, or to land owners in reduced purchase price of land. An example is the levy for water and sewerage in the Water Act, 1989, supplementing the requisitioning required under the Water 1945 Act by a system of general infrastructure charging, intended to fund capital costs incurred by undertakers when providing additional capacity.

<u>Paid for by the Developer/Operator under the "Polluter Pays" Principle</u>

(a) Public Health

This somewhat archaic term covers construction which is regulated in the interests of public health, such as standards in sewers, water supply, etc., and access by streets to development which are initially constructed by the developer and then transferred to the local authority.

(b) Environmental Pollution

Control over emissions have been regulated since the Alkali Act of 1874, which has been the cornerstone of industrial air pollution since that time. This has taken on new dimensions with present concerns on environmental pollution (SOS for Environment et al, 1990: part IV and Annex A). There is being introduced a more rationalized regulatory system in the Environmental Protection Act, 1990, with the adoption of the principle of the 'polluter or user pays' (both ex ante in terms of tax and ex post in terms of damage caused), and the general move towards introducing financial incentives and disincentives.

In parallel, environmental regulation under or alongside the planning system has been advanced since 1988 through the requirement for an environmental assessment to be made as a preliminary to obtaining planning permission: mandatory for a particular array of projects where environmental pollution is fairly certain (e.g. power stations); and at the discretion of the local planning authority where the environmental impacts are "likely to be significant" (e.g. large scale urban development) (DoE, 1990b); or in parallel legislation introduced for projects falling outside the planning systems, e.g. forestry. In these the developer as potential polluter would be called upon to pay, via his amelioration in kind of the potential side effects (DoE, 1990b).

(c) Planning Permission

When faced with an application for development an authority may grant permission with or without conditions, or may refuse. For this purpose, planning authorities have formidable powers of regulation over all but a complex array of exceptions (typically non-significant) in physical development (new works and material change of use). The objective has been given by the Department of the Environment to secure the "use and development of land in the public interest" (DoE, 1997, para 5).

In general the development control seeks improvements in the quality of the development which is being proposed, so affecting private costs; minimisation of the divergence between private and social costs and benefits through amelioration of disbenefits in the proposals and thus internalisation of the costs; co-ordination with other development to minimise overall costs. Thus in practice development control passes on to the developer/landowner the financing of costs which would otherwise fall on the public purse.

The Shifting Frontier of Financing Infrastructure Development

This traditional frontier between the financing of the urban fabric for socio-economic activity and its infrastructure has, of recent years, been shifting towards a greater reliance on the developers for off site infrastructure, as the following shows:

- the privatisation of the utility services (water, gas, electricity, telecommunications, etc.) has shifted the financing of these services to private companies operating in the market;
- freedom to opt out from the education and health services has created inroads into the financing of those services from the public purse;
- increasing use of the "polluter pays" or the "user pays" principle transfers the responsibility for the protection of the natural environment from the public purse to that of the operators or users;
- conditions imposed under planning permission transfer part of the cost and operation of developments from the public to the private purse;
- by the same token, planning gain/obligation agreements make such transfers for matters which cannot be dealt with by planning conditions and must be provided for under agreement;
- where the element of infrastructure is too big to be passed on to the landowner/developer as part of a planning permission, as on major road schemes, the financing has been sought entirely from the private sector, as provided for in the New Roads and Street Works Act 1991. In this the private sector would seek to recoup from sources which would otherwise be used by the public sector, such as tolls on the roads or recoupment from rising land values, or associated property.
- the Private Finance Initiative (PFI) has resulted in the private sector financing buildings for occupation by the public.

The Shifts through Ad-hoc Planning Agreements on Development Control

Here is amplified the fifth of the above points. When deciding to grant approval to a planning application, local planning authorities have been able to impose conditions on approval as they think fit (TCPA 1971, Section 29). But their freedom for imposing such conditions have been firmly constrained (DOE Circular 11/95) following rulings in the Courts against unreasonableness. In order to overcome such constraints local planning authorities have long been able to enter into agreements with the relevant developer which enable them to extend the scope of relevant "conditions" (TCPA 1932 Section; TCPA 1947 Section). While originally conceived as a minor addition to planning control powers, the scope of such agreement expanded considerably during the 1970s. The reasons were ones of expediency (Lichfield, 1989).

> *"The practice is a common-sense response to the contemporary situation. With the firm abandonment by the current government of the third post-World War II attempt at collecting betterment (in the Community Land and Development Land Tax Acts) landowners/developers/financial institutions can make fortunes out of a planning permit for using development rights which are still nationalised (the relevant*

provisions of the Town and Country Planning Act 1947 never having been repealed). Concurrently, under the present Administration, local government has restrictions on its financial resources and freedom to spend. Thus, the tax which planning gain imposes on the development industry, which it is generally prepared to accept to obtain the planning permission, offers a way of assisting local government in the financial trammels in which it finds itself, and comforts the taxpaying public in seeking social justice."

These practices were recognised by the then Government who attempted to regularise them in their Circular *Planning Gain* (DOE 1983).

"'Planning gain' is a term that has come to be applied whenever, in connection with a grant or planning permission, a local planning authority seeks to impose on a developer an obligation to carry out works not included in the development for which permission has been sought, or to make some payment or confer some extraneous right or benefit in return for permitting development to take place.

It is distinct from any alterations or modifications which the planning authority may properly seek to secure to the development that is the subject of the planning application (para 2). But the planning gain must be reasonable, depending on the circumstances (para 5) and tests of such reasonableness are presented (paras 6-8)."

The Shortcomings of Planning Gain

The experience under planning gain has been very mixed, as authorities have experimented with the application of this national policy in their locality. There is considerable and rich literature on the topic (e.g. Healey, P. et al 1992). But here we rely on just one highly pertinent source. Following a review of some twelve agreements in action, Elson, M. (1990:35) brought out the patchwork application of the policy in the following terms.

"A number of the schemes exceed the guidelines in Circular 22/83, by providing off site facilities mainly of use to the town or settlement, rather than exclusively for the development itself.

In some cases the facilities provided were not necessary to enable the development to proceed. In other cases, the facilities constituted requirements for a reasonable balance of uses, but their need was not established in development plans.

Planning agreements are being used to commit different bodies to action (building roads, producing management plans or providing cash for long term maintenance). They appear to be important tools to commit the public sector to providing, or bringing forward, infrastructure.

In many cases agreements have an important role where sites are difficult to develop. We can see the presentation of a package of measures by developers which may involve some compromise in existing policies (e.g. green belt or densities).

In most of the cases here approvals and agreements have led, or significantly influenced, policies in development plans. In areas of high growth and development pressure local plans tend to be making sense of agreements across a range of sites, after most have been concluded, as well as others still under negotiation.

The schemes provide wide ranging off-site benefits. A number fall outside any definition of directly related infrastructure under the 1983 Circular, although others fall in a grey area between what might be regarded as strictly necessary for the scheme to proceed at all, and generally desirable local infrastructure or community provisions.

A wide variety of environmental, and some community, groups were involved in the negotiations surrounding agreements. These included Housing Associations, Parish Councils and local wildlife groups.

Many of the schemes suffered major time delays. A four year time span from application to approval, often including an appeal, was commonplace in the case studies."

From Planning Gain to Planning Obligation

After some years of controversial practice, it became necessary for the Department of the Environment to attempt once more to clarify the situation. This they did initially in a Consultation Paper (DOE 1989), which "substantially reaffirmed" the guidance in Circular 22/83, which it would supersede. In doing so it introduced certain welcome clarifications, including their intention to abandon the controversial title of "planning gain" and replace it by "planning agreement," for the name had

"…come to be used very loosely to apply to both normal and legitimate operations of the planning system and also attempts to extract from developers payments in cash or in kind for purposes that are not directly related to the development proposed but are sought as the price of planning permission. The Planning Acts do not envisage that planning powers should be used for such purposes, and in this sense attempts to exact 'planning gain' are outside the scope of the planning process."

The clarifications just mentioned were introduced by the Planning and Compensation Act of 1991, by substituting a new Section 106 in the Town and Country Planning Act 1990, replacing Section 52 of the 1971 Act. The policy change was in DoE Circular 16/91. The new provisions adopted the term 'planning obligations' instead of 'planning gain' or 'planning agreements' but the term 'planning gain' continues to be used. While

introducing what has been termed technical changes, also reflected some of the fundamental criticisms of the former system.

The changes relate to detail, albeit significant detail. All in all, planning obligations have legitimised and institutionalised planning gain and have clarified some important policy details. In this perhaps three stand out:

- planning obligations can be seen as part and parcel of the development application itself, even though the obligation relates to land other than that included in the initial application.
- the infrastructure which is the prime purpose of the obligation is no longer limited to the physical but can take in social facilities also.
- the gain can also directly relate to the conservation/preservation of the natural environment.

But while the switch from planning gain to planning obligations was a welcome clarification, and has affected procedural practice, it has hardly made any significant difference to everyday practice and nor to the acceptability of the system. Indeed, the Elson critique introduced above is relevant to that under planning obligations (Elson, by communication).

Should There Be a New Code of Practice for Planning Gains/Obligations?

From the preceding it is seen that planning gains/planning obligations are now well embedded in the statutory planning system, and does make an important contribution in supplementing public development resources, despite the continuing criticism and protests. One possible way forward is that recommended by Elson (1990):42) as follows

> *"There is widespread agreement that a code of practice, giving clear and well understood advice on best practice, would be advantageous to all involved. The model for this could be the Guidelines on Environmental Impact Assessment produced by the Department of the Environment in 1989. Any code should be produced by Central Government, after convening a representative group for the purpose, and obtaining input from private, public and voluntary sectors.*
>
> *Such a document should clarify the following issues:*
>
> - *the types of on-site requirement and off-site benefit seen as appropriate for different broad use categories, including mineral extraction;*
> - *how far contributions should deal with revenue as well as capital items;*
> - *how small scale developments would be dealt with*

- *how policies might be specified in development plans;*
- *the use of development briefs in negotiation;*
- *methods of broad financial calculation of scales of possible benefit;*
- *procedures for accountability and public consultation;*
- *village appraisals and town surveys of local requirements."*

It must be agreed that a new code of practice on the lines suggested by Elson would be an improvement on the current practice for planning gain/planning obligations. It would tidy up a very patchy situation, born of a national policy which is being variously interpreted in different parts of the country by local authorities faced with very different local situations. This has led to minimal requirements in certain localities because, for example, of local hunger for investment for new development, adverse pressure from local development interests or lukewarm policies on planning gain from the local authority. In others the applicant is faced with a standard shopping list as the basis for negotiation, in which many items go well beyond those conceivably associated with the particular development proposed, e.g. in Ealing BC, Berkshire CC or Bracknell Forest BC (Elson, M. 1990, Appendix 1:43-51).

But the question arises: would a new code of practice such as Elson's do sufficiently more than the reforms introduced by Circulars 16/91 and 1/97 over that prevailing under the previous Circular 22/83? Here doubts must arise, not simply from the "patchy" practice but from the absence of any firm underlying theory behind the practice, which was borne of expediency in the 1970s and has continued with expediency.

Put simply, planning gain is a fuzzy concept in itself, and is being applied within the fuzzy concept of development control (Lichfield, 1989:6a). Furthermore, it has had continuing criticism from the start. It is piecemeal operation of a national policy by local authorities with varying objectives. It is legally very complex (Grant 1999:68-70). It is often seen not in the development planning context which is its intended home but as bargaining over the planning permission, and thus been accused of being planning blackmail. It is not equitable between land owners.

An Alternative Approach

Our conclusion therefore, from some 20 years of experience on planning gain/obligations is that, despite the promise of Elson's proposals, the planning gain system will be difficult to mend, and therefore this critically important element in our planning system would still remain inadequate. An alternative approach is needed.

One that has been explored and advocated over some years is the introduction into Britain of the US practice of "impact fees" on new development as a means of paying for growth.

(Nelson 1998).

> *"Development impact fees are one time charges against new development to raise new revenue for new or expanded public facilities necessitated by new development…Generally speaking, impact fee programmes are local efforts to bridge the gap between the money need to build or expand public facilities to accommodate new development and the funds available to do so."*

This would certainly produce some improvements over British planning gain/obligation practice: for example it is better thought through in principle, applied consistently and not patchily, is fair as between land owners and is **not** "ad hoc" but based on a planned programme. Considerable discussion has been mounted over this possibility but without clear conclusion. But even if the doubts could be quelled on the suitability of its transfer to this country our view is that a quite different approach should be followed, that is, one which is grounded on established planning theory and practice in this country. We start with some fundamental principles which are all accepted in established planning practice. These are that:

(1) the future of our towns and countryside are the subject of planning and development policies under our plan led system.

(2) while this guidance relates to what is generally described as *Land Use Planning* the content of the plans does not relate simply to the *use* of the land itself but also to the socio-economic activities that are visualised as a basis for determining the land use in question.

(3) planning decisions in relation to the use and development of the land must be taken with regard to the *public interest*.

(4) any development of land, comprising a material change in its use or the carrying out of construction or mining, will produce some repercussions from the use of the land, which we term environmental effects/impacts.

(5) in considering a planning application, the local planning authority, Secretary of State or Planning Inspector must take into account environmental considerations DoE 1988: (SI 1199, 4(2)). Here a distinction is made in these Regulations, and similar Regulations for the Departments outside DETR who require environmental assessments which are not under the planning system (DOE 1989) between *projects* where environmental assessment is <u>obligatory</u> (Schedule I) and where they can be demanded since there is *likely* to be a <u>significant</u> environmental impact (Schedule II).

(6) This being so, there arises in practice the need for greater integration of development planning and environmental assessment (Lichfield, 1992) which goes beyond the simple requirement in the Regulations that the environmental information must be taken into account.

(7) In practice this integration is best carried out on considering planning applications by recognising the overlap between planning and environmental considerations, and taking account of the whole, rather than the common practice of considering the content of environmental assessment separate from the considerations leading to the planning decision.

(8) A useful move in this direction lies in the model for his new code of practice proposed by Elson, (1990:42) which is in the *Guidelines on Environmental Impact Assessment* produced by the Department of Environment in 1989. This would offer a more logical and comprehensible approach than struggling with the complex legal requirements of DoE Circulars 22/83, 16/91 and 1/97 and their judicial interpretation (Grant 1999). Other useful moves would be the examination of the Urban Task Forces' approach (1999: 221-223). They call for wider environmental impacts being taken into account when considering planning gain/impact, together with a system of environmental changes. In doing so they correctly recognise that "we are in the foothills of an important but complex debate, where the guiding principle is a sound one but the implementation strategy is far from clear." Moves in this direction would help to heal the unfortunate gaps that appear in practice, between the content of planning application, planning gain/objections agreement and environmental assessment. Better integration of all is needed if decisions on development are to be improved and made more accountable in the public interest. A method on these has been put forward and tried out in practice (Lichfield, N. 1989; Lichfield, N. 1992a; Lichfield, N and D. Lichfield 1992); Lichfield, N. 1992b; Lichfield, N. 1996).

For a large number of *projects* (those which are likely to produce significant impacts) the exploration of environmental effects and impacts will already be carried out under the existing Regulations. They cover all the considerations encountered in planning gain/obligations. Accordingly, such environmental assessment will give all the necessary environmental information to be taken into account for the purpose of considering the "planning gain" aspects of the planning application. For the remaining projects which are not likely to produce *significant* impacts there would need to be designed a simpler approach to environmental effects/impact which would give the necessary information for the purpose of "planning gain" assessment. An example is seen in New Zealand where under their Resource Management Act 1991 all proposed developments require a prior environmental assessment (Southgate, 1999). Clearly some considerable detail would need investigation as, for example, exclusion of the minor projects, requirement for preparation of the assessments and right of appeal.

From this the "planning gain" to be strived for will be based upon the reasonably rigorous nationally standard environmental effect/impact assessment and not upon some patchwork of procedures and principles enshrined in official practice since the 1970s, which are locally interpreted and so much the subject of dispute as outlined above.

This, however, does not mean that the scope of the impacts to be meliorated by the

applicant will necessarily be less broad than those envisaged in the Elson code of practice referred to above. It stems from the fact that environmental assessment must necessarily take into account the effect/impacts which are. "secondary, cumulative, short, medium and long term, permanent, temporary, positive and negative" (Regulations S1 1999, Schedule 3, para 3), once for all or recurring. But whatever the scope there will be some logical basis on which the inevitable negotiations will take place.

Furthermore, the *melioration* will not necessarily relate, as in the current practice of environmental assessment, to just *efficiency* considerations, that is reducing the damage that could arise from adverse effect/impacts or enhancing the benefits where possible. What is also relevant in planning is also equity: In brief, who will pay and who will gain from the post melioration changes that could be introduced from the effect/impact, be they other land owners/developers or associated land use activities, or passive neighbours whose established interests are likely to be affected. This could give rise to compensatory proposals being included in the conditions of the planning decision or agreement, i.e. compensatory payments in money, or by associated works in kind, as for example the screening of established residential development against new development which destroys views (Lichfield D 1981).

To be sure, the switch of planning gains/obligation principles and practice in the way described would necessitate the abandonment of established practice (DOE Circulars 22/83, 16/91and 1/97) except for certain of the provisions which it may be thought necessary to retain in the new system. In its place there will need to be incorporated established practice under the Environmental Effects Regulations (S1 1196), which would need to be redrafted to accord with the new situation outlined above. There will also need to be major reconsideration of related Planning Policy Guidance from the DETR.

There would also need to be changes in the practice of environmental assessment, to ensure that it is in accord with the new requirements. Of particular importance here will be a remedy for what we consider to be current defects in environmental impact practice (Lichfield 1996: 61-2). In essence, the terms "effect" and "impacts" tend to be used interchangeably, whereas they are really distinct. The former are scientifically observable and measurable (e.g. road traffic or aeroplane noise, adverse pollution). This can be extended to indicating the people on whom the *effects* will fall and thereby the *impacts* on their way of life. Since these will not be uniform in incidence of effect the people will need to be subdivided between the groups which will be differentially impacted. In other words the conventional effects assessments would move towards *community impact analysis*, which in itself will make them much more amenable to utilisation and involvement in decisions on planning applications (Lichfield 1996:Ch. 14)

Implications of the New Approach for Land Value Taxation

The alternative system to planning gain/obligation as outlined would have six implications which are essential to the focus of this Report.

(1) It will make better the recognition of the fact that the development rights in Britain are nationalised, enabling a systematic national policy to be pursued in the grant of such rights through planning permission, as opposed to the local and partial approach of planning gain/obligations which are the domain of the local planning authorities.

(2) It will advance the shift in the burden of infrastructure financing which was introduced above (Section 2-3) in the direction indicated (from the public sector to the private/public land owner/developer), and do so in relation to a consistent philosophy, policy and practice as opposed to the patchwork which has grown up.

(3) In this it will recognise that the impacts which will necessary flow from the proposed development are part and parcel of development planning considerations, and integrated with them, and be treated consistently within the plan led system.

(4) In advancing the shift in that direction it will seek to place the burden or advantage of the effect/impact on the land owner as opposed to the developer, on principles consistent with the Georgist principles raised in this Report.

(5) If the burden of *'infrastructure financing'* is to be transferred to the landowner (as opposed to the developer) that burden must be quantified up front so the developer knows with some certainty what to budget for in order to make a sound residual calculation for an affordable land price.

(6) This incidence will be better secured if, in parallel, measures are taken to modify the land transaction system which has grown up, so that the exigencies of the land market will not in themselves distort that incidence. To this we return in Chapter 9.

Chapter 3: Recoupment of Betterment (Value Capture) by Capital Levy

Should There Be a Revival of the Earlier Labour and Now Disbanded Schemes?

In our Report I (Lichfield & Connellan 1997: Chapter 11.2.3–6) we described the introduction of three different approaches to capital levies which were legislated by former Labour Governments: The development charge of the 1947 Act, the betterment levy of the 1967, and the development land tax of the 1976 Act. While differing considerably in their approach they all had the common aim of siphoning from the land owner/developer to the benefit of the community some significant share in the increase in development value at the point of development.

We also showed that in each of the three cases the provisions were scrapped after a comparatively short period by succeeding Conservative Governments. Thus while the scrapping left certain quite important residual elements (e.g. nationalization of development rights under the Town and Country Planning Act 1947, and the Land Agency for Wales introduced in the Community Land Act) none left any machinery for collecting betterment for the community, other than by the operation of planning gain/planning obligations referred to above (Chapter 2) which was not strictly betterment but transfer of infrastructure costs.

We also described the announcement by the Conservative Government of 1973 of Development Gains Tax for land (as opposed to the general capital gains tax already extant), which would be charged on "substantial" capital gains arising on the disposal of land or buildings with actual or potential development value; and also for a Capital Tax to be charged on the occasion in which a building (other than one used for residential purposes) was first let following "material development." It is somewhat ironical that this is the only scheme for land value capture ever introduced by a Conservative Government, and it in fact survived when the incoming Labour Government of 1974 adopted the proposal in its Finance Act of 1974, under the title of Development Gains Tax (DGT). We described this rare process of common purpose in political thinking on the topic in our Report I (1997:30) as follows:

> *"On 17 December 1973 the Conservative Chancellor (Anthony Barber) announced during an emergency Budget that the Government proposed to introduce legislation to alter the basis on which tax was charged on 'substantial' capital gains arising on the disposal of land and buildings with development value or potential. He also announced that provision was to be made in the legislation for tax to be charged on the occasion on which a building (other than one used for residential purposes) was first let following 'material development.'*
>
> *However, there was soon a change of Government following the general election of 28 February 1974 and it fell to a new Labour Chancellor to put these proposals into legislative clothing, in Part III and Schedules 3 to 10 of the Finance Act 1974. This was regarded by the Labour Government as an interim measure only, to bridge the gap until a more far-reaching one could be found (Prest, 1991:96). Consequently these limited arrangements for a Development Gains Tax were replaced as respects disposals after 1 August 1976 by the more comprehensive (DLT) Development Land Tax Act 1976."*

The question then arises in considering this history: would it be appropriate to revive these approaches, either any of the four or in combination, but modified with the benefit of experience. The answer would appear to be *no* for the three major Labour innovations

and *yes* for the combined Conservative/Labour DGT. The reasons are varied.

As to the Labour innovations, while all had the strength of being based on the profound insights of the Uthwall Committee (1942) into possible solutions of the compensations and betterment issues in town planning they could hardly be revived in the contemporary political atmosphere under "New Labour." The challenge they would offer to the contemporary land owning/property development interests would hardly fit in with the contemporary philosophy of New Labour with its indulgence towards the market system. And as our Report I shows, none with hindsight appear to be free of defects, and none were given the opportunity by succeeding Conservative Governments to show their capacity to deal with the defects. Furthermore, they were all directed at collecting betterment only at a particular point in time of the property life cycle, namely at the point of change through development; they thereby did not address themselves to the on-going increases in land value from property which accrued during the life cycle between the points of development.

The answer is different with regard to Development Gains/Capital Gains Tax. Having been introduced by a Conservative Government and applied by Labour, it fits more acceptably into the bi-lateral approach of Capital Gains (CGT) which was introduced into the UK in the Finance Act 1965 and as such it has been continued since the 1970s as an enduring feature of our taxation system, except that it is now seen as part of *general taxation* and not specifically in relation to land itself. Accordingly some alternative approach is now looked for.

Capital Gains Approach

Prior to the merging of Capital Gains on land with general taxation, the land related DGT was conceived as follows by the Conservative Government in 1973. With effect from 17 December 1973 "Development Gains Tax" was charged whenever there was a "disposal" or "notional disposal" of land or buildings with development value or development potential. The incidence of the tax, and the amount of a chargeable gain, were derived from the application of an arithmetical formula to be the *least* of the following:

(1) The disposal proceeds less 120% of the cost

(2) The disposal proceeds less 110% of the current use value at the date of the disposal

(3) The full gain less the increase in current use value over the period of ownership, or since 6 April 1965, where land was owned before that date

In its making these calculations, a "threshold" of £10,000 (£1,000 in the case of companies) with a relief up to £20,000 (£2,000 in the case of companies) was allowed. Gains calculated in accordance with this formula were taxed at Corporation Tax rates in the case of companies, and in Income Tax rates in the case of individuals. Any gains not

subject to DGT under the former would be subject to CGT. In effect, general taxation and betterment were being distinguished with the charge to tax being made first on the specific and then on any general betterment remaining.

DGT became chargeable where there was a disposal of the taxpayer's interest in the land and buildings concerned. In addition, a chargeable event occurred where material development had been carried out, and the buildings were subsequently let. In these circumstances the "first letting" was to be treated as a disposal for the purposes of taxation, and as giving rise to both CGT and to DGT.

A basic approach from the extant CGT is also favoured by Prest (1971: 176) as compared with introducing any revised version of DGT and we support the extension of such an existing mechanism for capturing land gains, which has recently been given a sharper edge by the amendment of the indexing procedures. If specific types of land deals are to be subjected to such special taxation then it would be necessary to bring in amending legislation, perhaps an enhanced form of CGT as a higher level of tax for such targeted transactions, plus special provisions to avoid the extant "rollover" procedures and with restrictions on offsetting losses.

This is a tax on disposals (generally calculated on the actual gain as between acquisition and disposal prices) and obviously will not bite until land changes hands. But there is an argument that an enhanced form of CGT could be targeted on an accrual basis, in that as capital values of land increase such accruals could be taxed despite retention of ownership. But such a course would have to rely on a periodic valuation process with all the attendant administrative and appellate consequences. But other "accruals" tactics could certainly be introduced, namely accrued interest from some critical date and perhaps constructive realization on death.

Greenfield Tax

Another possibility is a *Greenfield Tax.* This was originally proposed by the Secretary of State for Department of the Environment Transport and Regions in response to the debate which flowered suddenly, in 1998, in respect of the pressure of the rural lobby against what appeared to be the possibility of dramatic encroachment on green fields, in providing for the 4.4–5.5 million new households which would need accommodating between the years 1995-2016. While the knowledge of the need of expansion was not new (a lesser figure having been published by the Conservative Government in 1996) the Secretary of State thought it necessary to propose, in conciliation to the rural lobby, that the proportion of new households be accommodated on "brown land" (that previously developed within urban areas) should be increased from the Conservative Government's target of 50% to 60%. Linked with this came the proposal that the proceeds of the tax would be used to subsidize the development in the "brown land" (which would in part tend to have little or negative value owing to the increased costs of land preparation e.g.

dealing with contamination).

Following the announcement by the Secretary of State the Government shelved the Greenfield tax. But the idea has attracted considerable interest. The Final Report of the Urban Task Force set up by the Government (1989:221) introduced the idea but did not recommend it since they were concerned with its uncertainty of impact. The Georgian Group on Action for Land Taxation and Economic Reform (ALTER) (1981 regarded it as an interim solution pending the full implementation of land value taxation, which on a local level is referred to as site value rating, as follows:

> *"As a transitionary measure, until SVR (site value rating) is implemented in the whole of an authority's area, unearned profits from speculative land sales of greenfield sites should be taxed retrospectively upon the granting of outline planning permission. This "windfall tax" is justified on the grounds that granting permission recognises that the local authority is accepting responsibility for investing in the infrastructure to service the development which will follow. "Greenfields development tax" (GFDT) would be a one-off, based on the difference in value between the agricultural and developed use of the site at the time of sale (or granting of permission, whichever is the later). The valuation would be done independently by the Valuation Office (VO). The revenue raised from GFGT would be ring-fenced for capital programmes by the councils concerned and would replace any "planning gain" transactions that often take place.*
>
> *With immediate effect from the introduction by a Council of SVR (replacing UBR), all greenfield sites within settlement boundaries would become liable for annual taxation by SVR, whether or not the land continued to be farmed or planning permission for development sought. Exemptions would be granted automatically for land in public ownership or with full public access, i.e. amenity land.*
>
> *Where a council has SVR only as a replacement for Uniform Business Rate UBR (i.e. not as a replacement for council tax), present party policy would continue to apply, that is to say, UBR would be replaced by SVR on the capital value of all land except that used for principal private residences or for agriculture. Residential development (on green or brownfield sites) would only attract SVR from the time outline permission was granted until the development was complete, for as long as the site is not in use either as a principal private residence or as a public amenity.*
>
> *In accepting GFDT in the limited circumstances described above, we acknowledge the serious defect inherent in any land tax which only takes effect in the event of development or sale of land taking place. Such betterment levies or development land taxes have been tried before by post-war Labour governments and have failed. Therefore they should only be used during the transitional period before the start of implementing SVR and its full application to all land in private ownership including*

farmland. A GFDT, unlike SVR, is unlikely ever to be a significant part of local government revenue, any more than parking or other fines could be."

While attacks on a proportion of the development value released by planning permission on green fields would appear to be a very close cousin of the philosophy behind the three earlier Labour schemes (Lichfield & Connellan 1997:Chp II.2), it can be justified by a quite different philosophy. This would recognize that all development rights in the country are nationalized (and indeed as such have survived the privatization and deregulation energies of the Thatcher and Major years). From this it could be argued that a Government policy to allocate the provision of the additional homes for the predicted 4.4-5.5 million extra households would constitute the granting of those development rights from the national estate.

From this viewpoint it would be quite illogical and inequitable for the government to allow the owners of the green field sites to reap the maximum possible development values while leaving the owners of the brown land to cope with the site clearance and reclamation costs which they had inherited from the past, leading them to look to public funds as subsidy. A more logical and equitable approach, in relation to the national estate on development rights, which has been advocated, is for the very cross subsidization promoted. Otherwise, Government policy for reducing the impact on the green field site, and thereby enhancing the environmental and amenity benefits in so doing, would need to be paid for by pressure from the national tax payer to subsidize the brown land development.

Brown Land Subsidy

The brown field subsidy which, it is argued, could be linked to the green field tax, would not necessarily apply to all "previously developed land." Some could well have a positive development value (e.g.where to be redeveloped at high density) and some a negative value (one which requires expensive work to remedy contamination). In the former case, the market could be expected to find developers. It is in relation to the latter that the subsidy would be needed, and for this reason could be hypothecated, i.e. earmarked for that purpose from the green field tax. Seen this way, the hypothecated green field tax could well be a major source of "gap funding" to make feasible the redevelopment of the brown land in cases where there would be otherwise failure to do so.

Capital Gains and Greenfield Tax in Combination

What seems to be emerging is a reformulation of the Capital Gains approach which takes into account the special case of land taxation (on the proposition that this is a tax on "unearned increment" whereas Capital Gains could certainly be imposed on receipts which are well earned) together with a Greenfield Tax. It is therefore worth considering whether they are mutually exclusively or whether they could be imposed side by side. It

would appear that they could be, since their purpose and incidence would be different. The capital gain (a form of DGT) would be levied on disposal, when in fact the profit element had been secured. The Greenfield Tax would be levied on carrying out development, for particularly identified geographical areas where the green field development was to take place in accordance with local planning policy. Its justification would not be just the making of profit from the development but rather the payment for the permission to use the State's development right in the light of a national policy for such use.

But clearly there would need to be mutual adjustments to avoid hardship. For example, since capital gains is the overriding and accepted principle for taxation on disposal, there could be an offset for a Greenfield Tax made on the same land, as it were in advance of the disposal, so as to avoid the charge of double taxation.

Chapter 4: Current Situation in Britain of Taxation on Land

Legal Concept of Land

Although this is an introductory statement of the nature of taxation that is presently imposed in Britain in relation to *land* it is important to recognize that in legal parlance "*land includes buildings and other structures, land covered by water, and any estate, interest, easement, servitude or right in or over land."* (Interpretation Act 1978, s.5 & Schedule 1).

So in our interpretation of this extant land taxation we should bear in mind that our aim is to determine how far the ownership and/or occupation of 'land,' as this form of property is usually understood in the context of LVT, is already subject to taxation of one sort or another.

LVT Meaning of Land

The following definition is taken from Liberal Democrat Campaign for Land Value Taxation (1997:2):

> *"The word 'land'…is used by different people to mean different things; but here it is used in the way it was used by the 'classical' economists, which is different from the way in which it is used in English law. 'Land' in this sense means more or less the same as 'natural resources.' With LVT, the value of every piece of land will first be assessed. The assessment will ignore the value of all 'improvements'—buildings, crops, machinery and so on, which people have put on the piece of land. When the assessment is complete, a tax will be levied on the basis of the value of the unimproved site."*

This can be compared with the definition cited from Lichfield and Connellan (1997:65) as follows:

> *"The share (of assessed taxation)…would depend upon the value of the land disregarding any buildings or any other improvements upon it. With undeveloped land its value would reflect any potential for development…The fundamental idea of site value presents no difficulty. It is the value of each site estimated as at the valuation date upon the assumption that any buildings or other improvements on it did not exist, but that everything surrounding it remained as it is. That is to say that the site is to be valued as if it alone were unimproved but that it enjoyed whatever*

advantages arise from its situation, the road system, the public services, the proximity of shops, places of entertainment, schools, churches and every other convenience of civilisation. These are in fact the advantages which have always been bought whenever a vacant site has been purchased."

Current Taxes on Land

Although in this part of the study we are concerned only with the property tax, it is useful to recognize that this is only one form of taxation on 'land' which in legal terms is listed by Graham (1986:1001) as amongst as taxes which currently impinge on land in England and Wales:

- Income Tax and Corporation Tax
- Capital Gains Tax (CGT)
- Inheritance Tax
- Stamp duty
- Value Added Tax (VAT)
- Property Taxes for Local Government Revenues

Taking these taxes on the same order:

Income Tax and Corporation Tax

Individuals are liable to Income Tax which is levied on earnings and profits at the present *ad valorem* rates of 20%, 23% and 40% in 1998/9. The tax on the profits etc., of Companies is called Corporation Tax which is charged at the present main rate of 31% with a small companies' rate of 21%. From 1 April 1999 the main rate of Corporation Tax will be reduced to 30% and the smaller companies' rate to 20%.

<u>Investment Income from Land</u>

Rental profits are taxable as income under Schedule D and include unfurnished and furnished lettings, rent charges, way leaves, mineral royalties, tolls, premiums, woodlands.

Under Schedule A, as Price (1994:4) points out, there is no charge on rents as such, but on the profits which arise from rents and similar receipts from land (Income and Corporation Taxes Act 1988 s15) as follows:

"The general principle is that the profit is calculated by: (I) taking the gross amount of rent or other sum which is receivable during the year of assessment (whether or

not it is actually received in that year); and (ii) deducting certain allowable expenditure which is made within the year."

MacLeary (1991:30) further explains that specifically the charge to tax on the profits arising from rents and other receipts from land are in respect of rents under leases, rent charges, ground annuals, ten duties, or other receipts arising as a benefit to an individual as a consequence of the ownership of an interest in land. Although rent is given its ordinary meaning, that meaning is extended to include any payments made by a tenant in respect of costs incurred in repair and maintenance provided that such payments are also classified as rent payable under the lease. In circumstances where a premium may be paid then, if the lease is granted for a period of fifty years or less, part of that premium is treated as rent.

However, when a calculation of income in respect of an interest in property covered by Schedule A has been made it is permissible to make certain deductions from the gross amount to compute the assessable profit e.g. any rents payable by the landlord, cost of repairs, maintenance and management expenses.

Trading in Land

If a taxpayer is regarded as 'trading in land' then the 'trading profit' is taxable under Schedule D as income tax.

The question of such 'trading' has been the subject of judicial decisions and the position is summarized by Price (1994:28) in the following terms:

"It seems that a person will carry on a trade if:

(a) he buys land which is capable of producing a profit on re-sale, or he buys and develops land in a manner which is capable of producing a profit;

(b) he sells the land to one or more purchasers, the customers;

(c) he does so for the purpose of producing a profit

(d) he does so recurrently or habitually; and

(e) he does so in a commercial manner."

To counter tax avoidance, under the Income and Corporation Taxes Act 1988 s.776 there is a separate head of charge when a profit is made applicable to land, and any property deriving its value from land, but is not assessable as a trading profit.

The Inland Revenue sometimes raises assessments under s.776 and under the Capital Gains Tax legislation in respect of given transaction, though it may of course only enforce payment under one or the other.

Capital Gains Tax (CGT)

Where there is a disposal of an interest in land, that disposal may give rise to income tax liability either because the proceeds of the disposal are to be taken into account in the computation of trading profit, or because there is a liability under s.776. Where the disposal does not give rise to income tax liability, the transaction will consist of the disposal of a capital asset, and, in principle, there will be a liability to CGT on the increase in the value of that asset during the period for which the taxpayer has owned it.

There is a basic distinction between liability to income tax on the one hand, and CGT on the other. But S 98 of the Finance Act 1988 has provided for the harmonisation of the rates of income tax and CGT.

A taxpayer will be charged to CGT in respect of any chargeable gains that accrue on the disposal of assets during a given tax year, subject to the deduction of any allowable capital losses. For individuals, CGT is charged at the same rates as income tax with certain exemptions. Companies pay Corporation Tax at their applicable tax rates on their capital gains. A chargeable gain is a gain which accrues after 6 April 1965 to a taxpayer, such gain being computed in accordance with the relevant legislation. There must, however, be a disposal of an asset in order that there should be a chargeable gain.

Prior to the April 1998 Budget, to take account of inflation, if a disposal was made after 5 April 1982 the original cost and enhancement expenditure might be increased by indexation in proportion to the increase in the Retail Price Index from that date. However, the Finance Act 1998, provides for indexation to be frozen from April 1998 for those within the charge to capital gains tax. The proposals will mean that for assets acquired before April 1998 and disposed of after 5 April 1998, the figures to be used for calculating the indexed rise will be as set out in a table published in May 1998. The calculation should be made on the basis that there had been a disposal in 1998. No indexation allowance will be available for any period after April 1998.

Inheritance Tax

This tax applying to lifetime gifts and an estate on death was introduced by the Finance Act 1986 following the abolition of Capital Transfer Tax (CTT). Inheritance Tax is payable by reference to the calculation of value of the assets owned by the taxpayer and broadly the net value of the taxpayer's assets is known as his or her 'estate.'

A transfer of value is any disposition made by a person as a result of which the value of the 'estate' immediately after the disposition is less than it would be but for the disposition.

For Inheritance Tax purposes, each taxpayer has what might be called a 'IHT history' with a principle of cumulation which is carried over to death. This amount of tax depends on a combination of the value of taxable gifts which the taxpayer made during the last

seven years of his/her life and the value of his/her net worth on death (Price, 1994:125).

The basic rules of valuation are that assets, including landed property, are to be brought into account at the price which they might reasonably be expected to fetch if sold in the open market at the time of transfer. The price is not reduced on the ground that the market is flooded as a result of the whole of the property being notionally placed on the market at the same time. The principles which are applied in determining the market value are the same as those which apply for the purposes of CGT.

Stamp Duty

First imposed in 1694, the charge to duty does not arise in respect of transactions but upon the document under which the transaction is effected. In general, ad valorem stamp duty is payable on every instrument whereby any property, or any interest in any property, is conveyed or transferred on sale (Stamp Act 1891, s 54). The amount of duty is determined by the value of the consideration furnished by the purchaser, and not primarily by the value of the land itself. The duty is not assessed as a tax. Generally, if a person does not seek to stamp a document that is liable to duty then the Inland Revenue cannot raise an assessment against that person.

Value Added Tax

This is a tax on the supply of goods and services, which supply is a taxable supply (as defined) and is made by a taxable person (as defined) in the course of furtherance of any business carried out by that person. Supplied in the course of business for VAT purposes includes buying, selling, leasing, renting or hiring out of land or buildings on a regular basis. This could include the sale of freehold land and the sale or grant of leasehold land (exceeding 21 years) but there are various exemptions that affect sales by or otherwise than by builders. If applied the full rate of VAT is currently 17.5%.

Property Taxes for Local Government Revenues

Property taxes for local government revenues; this is the most ancient of landed taxes, having originated in the Poor Relief Act 1601. These are divided between Business Rates and Council Tax and impinge as follows:

Historically rates are local taxes raised for local government revenues which are levied on the occupiers of landed property but in certain circumstances owners can be liable—obviously when they are owner-occupiers and also when, in certain circumstances, they allow the rateable hereditament to remain vacant.

In summary (Lichfield and Connellan, 1997:11), the historical position on rating is that the basis of liability is the beneficial occupation of real property, the measure of that liability being the annual rent at which the property in question might reasonably be expected to let in its existing condition. It follows in particular that:

(a) liability for rates rests on the occupier and not on the owners;

(b) since real property includes any buildings on the land as well as the land itself, the basis of valuation is the whole property, land and buildings taken together;

(c) since the rent was to be estimated on the basis of a tenancy from year to year without any security of tenure, or compensation for improvements made by the tenant, the valuation must be of the property in its existing condition and without regard to the possibility of improving it further. This principle is known in law as the doctrine of *rebus sic stantibus*.

Basis of Assessment

The basis of assessment is the annual value of the land and buildings in occupation, apart from the more recent Council Tax assessments which are derived from the capital values of domestic properties.

The Council Tax (which in 1993 replaced the Poll Tax, previously assessed per head), relies on assessments of domestic properties which are derived from their combined values (land and buildings) allocated to prescribed capital value bands.

Interdependence of the Various Land Taxes

Looking ahead to reviewing the options for LVT (see Chapter 6) we need to recognise the interaction of all the various taxes on land.

In general terms, the imposition of LVT, in one form or another, on land has its effect on the level of the open market value (OMV) of that land. Such a measure of OMV is at the heart of other land taxes like CGT and Inheritance Tax. Thus, for example, if the obligation of payment of LVT by a land owner reduces the OMV of that land, then other land taxes are consequently liable to fall. We do not see it as necessary for our remit to trace through the detail of this process.

But in introducing any change in landed taxation such interconnections between land taxes ought not to be ignored or glossed over. However, to date, a literature search has not thrown up much detailed comment on this particular issue but it is interesting to note Andelson (1997:2) on the subject.

> *"Obviously, some economic rent is appropriated by public authority in all countries through other means—most notable income, estate and capital gains taxes. But (with a few exceptions such as South Korea's differential levy on capital gains) in most cases it is lumped together with other returns in such a way as to defy separate identification, hence cannot be dealt with in these pages."*

Chapter 5: Optional Proposals for Land Value Taxation

Introduction

This Chapter aims at options available for introducing LVT into Britain at the present time and the opening section will be descriptive in content, drawing on examples around the world whilst the latter section deals with past practical valuation experiments nearer home.

Andelson in his recent survey (1997:9) encompasses a formidably impressive list of countries where LVT (in some form or other) can be said is, or has been, a taxation issue. These countries are: Argentina, Canada, Chile, Jamaica and some other Caribbean States, United States, Denmark, Finland, Germany, Hungary, Nations of Eastern Africa, Republic of South Africa, Abu Dhabi, Hong Kong and Singapore, Japan, Kiao-chau, South Mkorea, Papua New Guinea, Australia and New Zealand. But he points out because the degree of land value taxation in actual operation around the world is usually too slight to provide definitive data, so there is a paucity of hard empirical evidence for its success in practice. Yet the evidence that does exist is consistent, and its cumulative weight, if not entirely conclusive is, at the very least, impressive.

This section of the Paper concentrates on five examples of countries (Kenya, Australia, Jamaica, New Zealand and South Africa) which have historically used land value systems (Connellan, McCluskey and Vickers 1998). One of the emerging themes has been the strength of land only taxation, as compared with combined taxation of land and buildings, within developing countries.

The Five Country Review (data contributed by W.J. McCluskey)

Kenya

The development and historical evolution of property taxation in Kenya has to a large extent been based upon the application of rating laws and practice adopted from other countries. Due to the English colonial influence, the first recorded (1900) form of property taxation was the imported annual value system as used in England. However, due to the fact that few Kenyan cities were developed to any significant extent, there was an extremely limited supply of annual rental information upon which to base the property tax. The undeveloped nature of the country was a further drawback in utilising what was a complex improved value approach. An alternative to the existing system was to be found in operation, quite successfully in South Africa i.e. that of unimproved value. The major cities of Kenya progressively began to adopt this tax basis starting with Nairobi (1920) and Mombasa (1923) and applied the 1916 Rating Ordinance of the Transvaal Province of South Africa. Olima and Syagga (1996) suggest that the principle reason for this change of policy was that the typical English rating approach was unsuitable for the new

growing cities and emerging townships.

In 1956 a single coherent property tax law was passed to encompass the whole country. The law of rating valuation is now found in the Valuation for Rating Act 1956 (Chapter 266) and the Rating Act 1963 (Chapter 267). The legislation as written permits local authorities to implement either an improved value approach or one based on unimproved values. All local authorities have adopted the unimproved value approach as the basis of their property tax system.

The importance of property tax revenue to local authorities should not be under-estimated. Table 1 shows the contribution of rates to the income of the Nairobi City Council for the period 1991-96.

Table 1: Property Tax as a percentage of total income, Nairobi City Council

Year	% Nairobi	% Kenya
1991/92	46.9	32.7
1992/93	27.2	32.0
1993/94	54.2	31.2
1994/95	46.8	25.4
1995/96	45.8	24.8

Given the relative importance of this source of revenue it is accepted that the unimproved value system has been working reasonably well but there are a number of issues which have been and indeed still are constraining the system. These include administrative problems in relation to collection issues and a number of aspects relating to valuation. In terms of the latter, there is no uniformity of the assessment function, with each local authority responsible for its own valuation. This creates difficulties for the smaller jurisdictions in terms of being able to perform regular re-valuations. On this point, the last re-valuations for Nairobi and Mombasa were 1980 and 1981 respectively showing that even the largest authorities have difficulties in maintaining up to date values. The application of mass appraisal techniques for land valuation is noticeably absent as compared with countries like Denmark (Morch-Lassen and Pedersen 1994).

Australia

Property taxation in most states in Australia dates from around 1906 and being a federal country it is reasonable to expect some differences in both legislation and practices. From that date each state tended to develop its own independent approach resulting in the statutory basis for property taxation in Australia being quite varied. For an indication of the different tax bases see Table 2.

Table 2: Definitions currently applied in Australia

Improved Value	Annual Rental Value	Unimproved Value	Site/Land Value
▪ South Australia ▪ Northern Territories	▪ Western Australia ▪ Victoria ▪ Tasmania	▪ Queensland	▪ Victoria ▪ New South Wales ▪ Western Australia

The use of unimproved value has been diminishing over recent years, with more emphasis being placed on land value and site value. Unimproved value in most states relates to the value of the land without structural or site improvements. This means that the valuer must ignore such factors as filling, drainage, clearing and reclamation. The main difficulty with this definition is that land may have been 'improved' many years ago and therefore it becomes a hypothetical exercise to envisage the land as 'unimproved.' Because of the problems with this definition several states have adopted Land Value as the appropriate basis. Land Value relates to the value of the land without structural improvements, but would not exclude clearing, filling etc. which are now indivisible with the land.

Jamaica

Property taxation was first introduced in the mid-17th century under the then British administration. Whilst the operation of the tax system changed to some extent with the passage of time, the basis of the property tax remained on an improved capital value approach. The those who wished to improve their property. The current system assumes that the property is to be valued in an unimproved state ignoring improvements. Improvements do not include 'invisible' improvements such as excavation, filling, draining which are assumed to have merged with the land.

New Zealand

European colonization of New Zealand began in the 1800s with a system of provincial government being established in 1853. The principal system of rating at that time was the annual rental value system based on the English system. Given the differences in landlord and tenant law and the predominant pattern of land holding, property tax based on capital value became popular. However, such a system was not particularly well suited to a newly developing country which led to the introduction of the taxing of unimproved land values. This approach was to become the dominant system throughout the entire country. Legislation however, effectively allows local authorities to employ four alternative property tax systems including annual value, capital value (improved), land value

(unimproved) and land area rating, see Table 3 for a breakdown of use.

Table 3: New Zealand: Rating systems used by local authorities by percentage)

Year	ARV	Land Value	Capital Value	Land Value and Capital Value
1942	37	55	8	-
1995	30	64	2	4

South Africa

South Africa has had a long tradition in the implementation of land value taxation. After the establishment of the union of South Africa in 1910 most municipalities introduced improved value systems. However, by 1916 developments were taking place to introduce unimproved value systems throughout most of the country. By 1984 of the 112 cities, 62 were on site value rating the remainder predominantly applying improved capital value approaches (Dunkley, 1997).

Definitions of Value

Within the valuation process it is essential that the definition of value mirrors the market within which property is traded. One of the major issues of unimproved systems has been the application of a variety of definitions. In Australia and New Zealand, the problems of defining unimproved value van be measured by the number of court cases devoted to the subject. Unimproved value due to its hypothetical nature is declining with more reliance being placed on site value. In the absence of sufficient bare land sales, definitions in Jamaica and Kenya extrapolate an unimproved value from improved value sales by deducting the depreciated cost of the building from the total transaction price. It is suggested that an over reliance on this form of indirect evidence can introduce a situation of highly subjective and hypothetical values which can lead to difficulties in defending the assessed values. From this review, what is clear is the need to have a realistic and concise definition of what has to be valued and an explanation of what is not to be valued.

Basis of Assessment

It has been suggested by a number of writers that land value systems are simpler in terms of valuation where the valuer is only concerned with the value of the bare land, improvements in heir many forms being excluded. Therefore, what has to be determined is the market value of the land on the assumption of highest and best use. Clearly this is an advantage as there is no requirement to re-value when a property has been physically

altered as is the case with improved value systems.

Mass appraisal approaches are now seen as an essential element of the appraisal process. Land value systems would tend to facilitate this approach more readily that other systems by virtue of the fact that fewer variables are required to be collected (Fibbens, 1995). Australia, New Zealand and several states in South Africa have developed computer assisted mass appraisal systems (McCluskey and Adair, 1997). What is essential for any mass appraisal procedure is the need to have access to quality data and inherent within this a process of ensuring aspects of quality control. There is little doubt that GIS will have a significant impact on the mass appraisal process in terms of enhancing the valuation of facilitating more regular re-valuations. One other aspect which is clearly evident is the need to adopt standardized valuation practices throughout a country by developing one central assessment body as in Jamaica, New Zealand and Australia. This has distinct advantages in maintaining standards and ensuring that equity issues are appropriately addressed.

Re-valuations

One of the most significant criticisms of any property tax system is its inability to maintain assessed values in line with open market values. The failure of systems to regularly re-value creates inequities, leading to an inappropriate distribution of the tax burden and excessive redistribution following re-valuations. Systems based on land value tend not to be as volatile as improved value systems since increases in value due to improvements are ignored, this would suggest that re-valuations and re-assessments can be more widely spaced. However, changes in land values due to market movements, re-zoning, highest and best use need to be reflected. Within a land value approach the need to have annual or even biannual re-valuations is not as critical as would be under the alternative approaches.

"Two-Rate" or "Split Rate" Property Taxation in the USA

Hartzok (1997:205-206) reports that the State of Pennsylvania has been experimenting with a new approach to property tax reform which has already begun to attract attention in New York, Maryland and other States. Her comments on this process are as follows:

> *"This policy offers an entirely different angle to the current mainstream dialogue on a property tax 'reform' which consists mainly of efforts to reduce and curtail the abuse of property taxes while increasing sales or income taxes.*
>
> *The property tax is actually two types of taxes, one upon building values, and the other upon at land values. This distinction is an important one, as these two types of taxes have significantly different impacts on incentive motives and development results.*

Pennsylvania's pioneering approach to property tax reform recognises this important distinction between land and building values through what is known as at the split-rate or two-tier property tax. The tax is decreased on buildings, thereby giving property owners and the incentive to build and to maintain and improve their properties, and the levy on land values is increased, thus discouraging land speculation and encouraging infill development. This shifting of the tax burden promotes a more efficient use of urban infrastructure (such as roads and sewers), decreases the pressure towards urban sprawl, and assures a broader spread of the benefits of development to the community as a whole.

Taxing land values, while decreasing taxes on buildings, is sometimes proclaimed as a way to increase development. In today's world the word 'development' is likely to be a red flag to many ears. However, it is important to keep in mind that the purpose of this policy is not first and foremost to encourage development, but rather to assure that the benefits of development be broadly shared while impacting as little as possible on existing ecosystems."

Hartzok (1997:212) comments further on the need for a gradual transition process.

"There is a lesson here in the 'art of tax improvement.' It is necessary to move to the two-rate system while maintaining a revenue neutral tax base, at least initially. Another key is to move gradually. One generally accepted guideline is to shift no more than 20% of the taxes off buildings and onto land each year for a period of five years, or 10% each year for a period of ten years, in order to fully shift all taxes off buildings and onto land value.

Such a gradual transition, combined with community education, allows the citizenry to make the adjustments required, particularly to orient away from expectations of speculative gain in real estate land price escalation and towards investment in the development of affordable housing and business activities. Obviously, as buildings are taxed less their value might rise, while the value of the more heavily taxed land should fall. While more research of these types of effects is needed it would appear from the longer continuation of this tax policy in areas that have tried it that it meets with voter approval."

United Kingdom Experience

The history of land value taxation in Britain was comprehensively documented and analysed in our previous report (Lichfield and Connellan, 1997). It is appropriate here to detail some of the practical aspects of some of the past valuation experiments as a possible guide to future proposals.

Early Experiments

Apart from a very minor scheme carried out privately by the then Sir Herbert Trustam Eve in or around 1912 on a small parish in Bedfordshire, the 1963 research programme carried out by Wilks in Whitstable was the first practical exercise of site-value rating carried out in Britain since the ancient medieval system (Wilks 1964).

This initial 1963 survey of Whitstable was carried out under the auspices of the then Rating and Valuation Association (now the Institute of Revenues Rating and Valuation) and some ten years later Wilks had the opportunity of up-dating his survey by a further report, this time for the Land Institute.

The following includes comments from this subsequent Report (Wilks 1974, 1975) on the later valuation exercise at Whitstable, Kent.

Reference to the Previous 1963 Exercise

There is one essential difference between the 1973 exercise and that of 1963. In 1963 Wilks was given a definition of value with which to work. This was taken verbatim from the old London County Council's attempt to introduce site value rating in its London County Council Bill, 1938-39.

Wilks made several quite strong criticisms of the 1938-39 definition. The prime one was, in essence, that it had been drafted at a time before the crucial 1947 Town and Country Planning Act. Because of this and other criticisms recorded in the 1963 Report he was instructed in 1973 to draft his own definition, after appropriate consultation and, having drafted it, to submit it to the Land Institute council for their approval. This was done: only minor amendments were found to be necessary.

He considered that whilst it might be easier, and perhaps a little fairer, to use capital values, the instructions were quite clear and the production of annual values was a straightforward valuation exercise. The proposition behind site value rating is that the *owner* should pay on the *site value* of some form of taxation levied locally or nationally. The definition of an owner must include the person not necessarily in rateable occupation as we know it at present.

Land Scheduled for Development

Some uncoloured land (on the Development Plan) was included in the 1963 valuation as ready for development in the belief that planning permission would have been obtained had it been asked for. Wilks later confirmed that this was contrary to the basic principles of site value rating in that a use cannot be taxed until that use is legally permissible. Therefore there was a revised approach for the 1973 exercise and consequently some land that was originally valued in 1963 as available for building was subsequently valued as agricultural fringe.

Wilks' Amended Definition of Value (1973)

This is quoted in full in Chapter 7 (Appendix A) together with various precepts to any valuer commissioned in a site rating exercise.

Chapter 6: Evaluation of Options

Introduction

The comparative detail assembled in Chapter 5 now gives us a focus for an evaluative framework from which we shall attempt in Chapters 6 and 7 to derive a workable proposal for LVT in present day circumstances in Britain.

Purposes of LVT

In considering the range of options for LVT some basic questions arise: why is such a tax to be imposed—for what purposes—what are the intended achievements, aims and objectives—how does the imposition of LVT help—and possibly are there "better" alternative ways of achieving the same ends? Such basic questions are reviewed under the following classifications:

(a) Political Pressures

The imposition of such a tax clearly has to be a political decision. But what is the thinking behind it—is policy guided by political idealism or by pragmatic politics? Is the decision in advance of public opinion or is it trailing it?

(b) Ethical Consideration

For example, is LVT a tax designed in line with a political philosophy aimed at wealth distribution by equalising incomes (*"from him who hath to him who hath not"*)? In such a context are all land owners (at whom the tax is to be targeted) to be equated amongst the "haves" for the benefit of all non-owners who are equally classified as deserving recipients. In this connection it is interesting to recall that, in order to support the LVT proposals in the Finance Act 1910, some "land owners" were practically demonised by Prime Minister, Lloyd George as being equivalent to the hated "colliery owners" in his arguments comparing wealth and income derived from land owning with that from coal mines (Prest, 1981:109,123).

If the benefit of the tax is to accrue to the "community," what is exactly intended by this aspiration? Who or what is the "community" and will its definition vary according to the particular facets of the tax in question? Prest (1981:127) contributes a pertinent comment on this matter:

> *"Further ambiguity arises in connection with the claim that land gains due to the community should be returned in whole or in part to the community. This proposition can be interpreted in four different ways depending on whether the word 'community' is interpreted narrowly or broadly on each occasion. But different interpretations lead to very different conclusions."*

And Prest (1981:182) later illustrates how the use of the ambiguous word "community" can obscure the issues.

(c) Economic Considerations

Henry George (1879) argues that land owners have no rights to such ownership (of the land itself, excluding improvements thereon). Thus the "community" should benefit by 100% taxation of those rights without dire economic repercussions as he explains:

> *"But the value that attaches to land itself is a value arising from the growth of the community, and can be taken to the last penny without the slightest degree lessening the incentive to production."*

But what are the equity perceptions in such deprival by taxation when the existing land owner has acquired these rights by purchasing them in good faith for market value and without prior warning of impending confiscatory process?

> *"The imposition of a special tax now—as Mill (1909:817) saw clearly enough—both hits the wrong people (those who have just bought land) and exempts the wrong lot (those who have just sold it)." (Prest, 1981:28)*

(d) Revenue Raising

On the other hand, the main reason for introducing LVT could be just as straight-forward as revenue raising to augment local or central government coffers. It could be regarded as an entirely additional tax or partially or wholly in substitution for other taxes. The degree of over-lapping and parallel imposition, which might arise is examined later in connection with, for example, the arguments over "equation" of rent plus rates.

(e) For Local or National Benefit?

Is LVT to be a local tax for local purposes (which might include an influence on local land policy) or is to form part and parcel of fiscal devices for National Taxation for the benefit of the wider "community" (see previous paragraphs).

(f) Value Capture of Development Gains

The idea of capturing some part of land value can be promoted in the context of a form of development gains taxation (see Chapter 3). As to the political reasoning behind such impositions, this may vary but in simplistic terms it is likely to be a response to a public

discomfort with the acquisition of large profits from rising land values in what many consider as quite undeserving circumstances

(g) Town Planning

On another tack, the main political consideration could be fashioning or promoting land policy by means of imposing or exempting LVT. (Lichfield and Connellan, 1997:48) It has long been the rationale of Georgists that LVT on the basis of "highest and best" use will encourage development at the right time in the right place by, for instance, penalising owners of vacant sites that were being withheld from the market for speculative reasons. Contrariwise, for conservation or alternative reasons, other owners might be partially or wholly exempted from LVT in the encouragement or pursuit of particular land policies.

(h) Wider Taxation Policy

Wider aspects of taxation policy are now being openly discussed. Robertson (1998) for example, advocates:

- the introduction of higher taxes and charges on the use of common resources and values, particularly including energy and the site value of land
- the reduction, and perhaps the eventual abolition, of taxes and charges on employment, incomes, profits, added value, and capital
- the introduction of a Citizen's Income paid to all citizens as of right in place of all tax reliefs and many existing welfare benefits.

Such advocacy is aimed at moving the burden of taxation away from the producers of wealth and towards the non-productive elements. The introduction of LVT is part of this wider process.

Choices—Variants of LVT Applications

(a) Trigger Mechanisms

The design and ambit of LVT depends on choosing between different applications, which choices may themselves be influenced or even dictated by the initial policy decisions previously referred to. But first a reference to the mechanisms that might be used to initiate the imposition of such taxation. These might be classified as "*trigger events*" or alternatively, these can be termed as being within the "*specification of the occasion of change*" (Prest, 1981) for the imposition of LVT on particular taxpayers. As the tax is a political event its introduction is obviously controlled by Government decree and could be upon the occasion of a number of events. For instance, there could be an "appointed day" following which the tax is applied to certain classes of land owners forthwith. Or the liability could be consequent upon the happening of defined events e.g. the disposal or demise of an interest in land, the grant of planning permission, the completion of a

development project or even a change of land use.

But this type of "trigger event" is inevitably linked with the design and ambit of the LVT, as is instanced in the following paragraphs which set out a range of choices between different applications in order to clarify some of the issues attendant upon the introduction of its various forms

(b) Additional Tax or Complementary?

Will the tax run *de novo* as a brand new additional tax or will it run alongside existing land taxes in partial or complete substitution e.g. if the existing rating system based on the annual value of combined hereditaments of land and buildings were to be split into two separate taxes chargeable at different rates of tax—as for example in some 15 cities in Pennsylvania, USA (Hartzok, 1997)?

(c) Valuation Base

Is the basis of land valuation for assessment purposes to be existing use which ECCB [Uthwatt] (1942:138) describes as *"the value of the site as actually developed at the date of each valuation")* following the *rebus sic stantibus* rule of the extant rating system, or is it to be the value of the *"highest and best use"* which can be reasonably envisaged?

(d) Plan Led or Market Led?

If it is the latter, which obviously includes the prospects of development value, is this to be strictly "plan-led" as governed by indications of future use in the approved Development Plan (Lichfield and Connellan, 1997:47) or is it to be additionally influenced by market indications of "hope value" irrespective of any firm Development Plan proposals?

(e) Valuation Method

Is the valuation method to be targeted at capital value of sites or annual value? If the latter, is the annual value capable of appraisal from direct rental evidence or does it have to be derived from capital values by a de-capitalising process?

(f) Impact: "One-Off" Hit or Continuous Assessment?

Is the assessment a novel event based on pre-determined (by Government) happenings or is it a year by year tax that continues as an expected outgoing for the foreseeable future? In other words, is LVT to be a recurring year by year tax (analogous to rates) or is it to follow the precepts of capital value capture embodied in a form of development gains taxation? But this latter process normally focuses on trapping the differences between two capital values (usually with and without the potential of development value) and it relates to actual realizations of such value differences rather than estimated accruals. As we have seen, development gains taxation is usually classified as a "one-off" operation on the occasion of a particular act of development but value capture, as a concept and as a

practical means of tax gathering, can be achieved by other LVT means on an accruals basis, independent of realization, as referred to later paragraphs.

(g) Single or Multiple Valuation Base-Lines

Is the tax to be derived from a single stance valuation or from different valuation base-lines? For example LVT could be based at a recurring fixed annual percentage (say 1%) of the capital value of a site at its highest and best use. Alternatively the tax might the form of a hit on development gains on the grant of planning permission as between the site's value with the benefit of the consent and its value without it. And again, LVT could take the form of a continuous tax on the site's incremental value (on a ground rental basis) over a base valuation as at an appointed day and these levels of value could be directed to either existing use as envisaged by Uthwatt (ECCB, 1942:136) or to highest and best use, or to a combination of the two—one eventually melding into the other as a form of "gradualism." It is interesting to note that Uthwatt (1942) only went so far as to recommend an annual levy of 75% on assessed ground rents on an *incremental* basis only and related to existing use site values.

(h) Level of Taxation

It should be apparent that if a land tax is levied at a rate equal to 100% of net income accruing (including capital gains) there would be no inducement whatever to hold land as an asset either for the sake of current income or for any capital appreciation reasons. (Hicks, 1959:242), (Prest, 1981:38-39) and (Andelson, 1997:3).

With such a 100% imposition of ground rent at its highest and best use this could very well sequestrate the whole of the site's value with a knock-on demolition of the land market so some amelioration of such draconian impact would seem prudent.

(i) Who Pays?

Most arguments are directed toward the fairness of the land owner paying LVT (a tax "which he cannot shift"). But some consideration should be given to the concept of "*equation theory*" in that the tenant can accept a total commitment of so much in rent plus rates. If the tenant is relieved of the rate bill, this may be argued to be a short term gain as eventually that tenant will have more available with which to pay the owner in pure rental terms. In such circumstances if additional rent accrues to the owner, some of this can be allocated to the site value, then consequently the changing LVT assessment will reflect this increase and the owner's taxation position does not improve. The other concomitant question is the imposition and distribution of a land tax where there is a hierarchy of leasehold and sub-leasehold interests on a particular property. In fact the Valuation and Rating in Scotland Act 1955 demonstrated how this problem could be solved "*without any shattering legal, moral, or practical consequences*" (Prest, 1981:143). We examine the practicalities of this process in the following Chapter.

(j) Cushioning LVT (gradualism)

Prest (1981:170) warns of the danger of being too precipitate in the introduction of LVT and if his advice is to be taken seriously then various "cushioning" devices could be introduced to ameliorate the effects of LVT as follows:

- exemptions (e.g. agricultural, private residences etc., etc.)
- incremental levies (Uthwatt)
- current values as against potential values (or moving gradually from one to another)
- indexation of gains or increments (from a base date as per CGT)
- direct amelioration (selected tax breaks etc.)
- gradually moving from increases on current value increments to potential value increments
- "equilibrium" values as if the tax thereon were payable—in anticipation of full capitalisation—termed by Prest (1981:37-38) as some sort of Chinese puzzle—but mathematically solvable!

Summary

This Chapter merely sets out an indicative framework of options for imposing LVT in some form or another. These options are certainly not presented as exhaustive, and further investigation will no doubt reveal more, but they do indicate the likely range of choices from which we have to build a rationale for recommendations. What does emerge thus far, in the context of proposals for Britain, is the case for gradualism in the sense that any acceptance of new and changed land taxation by politicians and the general public alike will have to be weaned by stealthy progression rather than by challenging confrontation.

Chapter 7: Towards an Acceptable LVT Solution for Britain?

Introductory Rationale

In reviewing the land taxation practices around the world we are inclined to accept Andelson's view (1997:3) that implementation of LVT has really been extremely modest and has often been blunted by countervailing policies. So what lessons emerge from such reviews that can be applied to present circumstances in Britain? One thing is clear: there is a considerable range of options. We look at the extremes, as suggested by Prest (1981:170).

Deep End, the Georgist Approach

We first consider an interpretation of the deepest (Georgist) end, which involves the assessment of all land at its valuation for highest and best use (as interpreted by the market including "*hope*" value in advance of any planning confirmation) and taxing the owner at approaching 100% of the full economic rental value. This would be tantamount to Government sequestration of the value of the land. Several commentators have made this point in various ways and contexts:

> *"Were a site's rent to be socially appropriated in full for the foreseeable future, its capital or selling value would be extinguished."* (Andelson, 1997:3)

> *"Indeed, to raise the land tax too sharply (to say nothing of suddenly collecting the entire land rent for the public sector) would create a financial crisis, because the rental income cannot be paid both to the government and the creditors."* (Andelson, 1997:32)

> *"…if a land tax is levied at a rate equal to 100% of the net income accruing (including capital gains) there would be no inducement whatever to hold land as an asset either for the sake of any current income or for capital appreciation reasons. In these circumstances, speculative land holding would be pointless."* (Prest, 1981:38-39)

So what would the point of "*owning*" land other than for occupation? An owner in occupation would pay a full economic rent by way of taxation to some level of Government. There would be no real investment market as such in land—no freeholder could lease the land at a rent as this would all be swallowed up by land tax. Nor could the freeholder sell his interest as an investment because there is no positive cash flow only a tax liability. Only a prospective occupier could be interested in such a scenario of land tax payments and then only as quasi-rent which would be paid to the Government not to the erstwhile freehold owner. The end product would virtually be that while the Government has not nationalised the land but it has nationalised the rent in the land without payment of compensation. This leaves the owner-occupiers to be allowed to exercise occupational opportunities of investing in improvements and carrying on businesses on the land, or just exercising habitational rights in return for 100% taxes on the land's full economic rent.

What does all this mean?

Landowners would have their interests "*liquidated"* by taxation and even owner-occupiers, paying land value tax in lieu of rent, would feel the financial pinch if their occupational activities were anything less than the highest and best use value that the market might assume. And this in itself assumes that there is still a market to be interpreted to find such values—a very doubtful premise on which to balance a land value taxation system.

Such a process is really the nationalisation of rental value and the right to receive it, as compared with the extant system of nationalisation of development rights and holding them, in almost escrow-like fashion, until the time comes for obtaining planning permission with no compensation for refusal and no betterment levy for approval except for buying into "*planning gain*."

Away from that Deepest End

In contemplating anything less than the full Georgist solution there is a whole range of options but these rely on acceptance or rejection of certain starting principles:

(1) Full economic rental values (including hope values) may form the basis of the land assessment but the rate applied could be less than 100% so ensuring that some semblance of ownership of rental value rights maintain within a surviving land market.

(2) As for (1) but only allocating values to highest and best uses that are plan-led i.e. having Development Plan expectations of approval. This was the amended basis adopted by Wilks (1974) in his second Whitstable survey in Kent (see **Appendix A** for further details).

(3) Instead of abandoning taxation on improvements on land another solution would be to value the land and the buildings etc. separately and to allocate differential rates of tax to each, e.g. the Pennsylvania "two-rate" system as reviewed by Hartzok (1997).

(4) The above approaches in (1), (2) and (3) assume that the owner of the land would bear the tax burden and that virtually all land would be so taxed. But in order to deal with political and other oppositions some exemptions from such an all-embracing tax could be incorporated to ensure acceptability e.g. some agricultural interests, ownerships having charitable and cultural significance and possibly residential property (which would have considerable political influence). Furthermore, selective taxation principles might even be extended ultimately to encourage land policy aspirations.

(5) All the above involve the proposition that the tax relates to the full current value of the site (taking into account the cited provisos). But there is another basis, designed to meet objectors who claim unfairness, in that the tax should be raised incrementally, i.e. the tax would only apply to excess values beyond a valuation base date. This was a principle recommended by Uthwatt, but it is important to recall that his Committee were only considering taxing incremental existing use values of land not highest and best values. But even adopting the highest and best use scenario this has the political attraction in that existing owners would retain the land value that they already own despite their future prospect of being taxed on incremental gains.

(6) Which brings us to one of the shallowest options of all, in that a system of land taxation could be based on current existing use. That would eschew some of the

fundamental arguments for LVT e.g. that it should encourage development and should penalise land hoarding. Such a restrictive course could also be incorporated within some of the previous options right down to the incremental basis on existing use values favoured by Uthwatt.

Let us first refer briefly to some of the technical and other objections to introducing LVT even at the shallow end (which are responded to later in this Chapter);

- Valuation difficulties and revaluation costs
- Upheavals and costs of aborting existing local revenue tax systems
- Tracing owners and apportioning their tax liability throughout the hierarchy of possible legal interests that may subsist within an individual land holding.

> *"The serious question, and the one which has been the subject of most controversy, is the division of the site value rate between the owners of interests superior to that of the occupier."* (Turvey, 1957:79)

> *"Moreover, even if one can disentangle the total value of a site by some means, the apportionment of tax liability between a freeholder and a lessee may be a source of further difficulty, unless one imposes the whole of the tax at one level and allows the different interests to sort it out between them. But that has been held to be a Draconian situation."* (Prest, 1981:42)

However a remedy that would appeal more to Solon than to Draco is worth considering in an effort to disentangle such difficulties in tracing owners and allocating the tax burden amongst hierarchical land interests. **(See Appendix B)**

Synthesis: The Deep or Shallow End

So how can we put all these different strands together to form a considered view on the end product of this Report? In this we have to remember our terms of reference are to make:

> *"…recommendations for specific proposals for introducing legislation and practice for Britain which would be compatible with the town and country planning system, and in a way that could be compatible to the new Labour Government."*

What sort of LVT system could possibly play within such constraints and what is the right sort of land value tax to deal reasonably with the following situations which seem to be emerging as the reasonable objectives?

- Garnering Government revenues in a fairer and more comprehensive way.
- Supporting plan led land policy viz. encouraging the right development at the right

time in the right place and conversely, discouraging the wrong development.

It is pertinent to our consideration of an acceptable LVT system that this New Labour Government has already demonstrated a disinclination to rock the financial boat. As far as Local Government revenues are concerned it has decided not to amend the Council Tax banding basis, which is still manifestly regressive, and has put off any prospect of a revaluation for this particular tax on the grounds of expense whereas it has decided to go ahead with a revaluation of non-domestic properties for business rates for the year 2000. However the existing basic principle that the UBR (Uniform Business Rate) is set nationally, and not locally, is likely to be retained, despite contrary pre-election rhetoric on the subject, as confirmed by DETR (1988) in the following terms:

> *"…a national non-domestic rate, set annually, with revenue from the national non-domestic rate pooled and redistributed to authorities, much as now."*

Taking this caution into account and realising that any new scheme would be unlikely to emerge until after the next General Election and positing the retention of a Labour Administration in about the year 2002—the shallowest end seems the best place to fish for possible LVT solutions!

In this vein it is relevant to recap what we are aiming to do:

(i) Fairer system (equity rules!)

(ii) Slowly, slowly—gradualism and experimentation (per Prest, 1981:188)

(iii) Don't rock the boat or make too many waves for the Government

(iv) Pick up the land profiteers

As far as (iv) is concerned Prest (1981:178-9) argues that it is possible for an LVT (or a Site Value Rate) system to run alongside a generic development gains tax system (see final section of this Chapter). As regards the latter he suggests (1981:176-7) that there is really no point in going beyond a special form of Capital Gains Tax (CGT) targeting land deals, perhaps with:

- a higher rate
- no roll-overs
- increased taxation opportunities, perhaps on points of accrual and not restricted to acts of disposal (but this would involve periodic valuation processes which could prove cumbersome and expensive)

But apart from such special tax hits on the potential profit-takers from land deals (see Chapter 3) there is the question of annual taxation of land, basically for garnering revenues, to evaluate in terms of a system that might favour and acceptance in

Government and wider circles.

A Simple Solution?

Remembering that complexities and running costs of previous attempts at various forms of land taxation in Britain have largely contributed to their failure as fiscal or equitable devices, the keynote of any recommended system must be comparative simplicity for it to have any chance of success (or even to see the light of day)! Furthermore the doctrine of "gradualism" through transitional stages seems a common sense approach, geared to acceptability, rather than a dramatic over-night replacement of existing property taxation procedures.

It is within this context that the following scheme is now put forward:

- Revaluation of non-domestic properties for rating takes place in year 2000.
- The Government's Inland Revenue Valuation Agency should undertake splitting the new rating assessments between annual land value and annual improvement value (i.e. relating to the buildings element etc.)—both would be derived from existing uses on the principle of *rebus sic stantibus* (ECCB [Uthwatt] 1942:139). Even if there is a logistical difficulty in making these apportionments by the date of the revaluation then they could follow in due course within a year or so without too much prejudice and thus fit in with an incoming Government's mandate perhaps in the year 2002.
- Thus the annual land value would become the basis of the "*owner's land tax*" (a form of site value rating) and the improvement value would become the "*occupiers rate*." Differential taxation rates could be applied depending on Central and Local Governmental policies (following the Pennsylvanian examples of "*two rates*" in the USA). On this Hartzok (1997:205-206) reports that the State of Pennsylvania has been experimenting with a new approach to property tax reform which has already begun to attract attention in New York, Maryland, and other States. Hartzok's comments on this process are as follows:
    - *The property tax is actually two types of taxes, one upon building values, and the other upon at land values. This distinction is an important one, as these two types of taxes have significantly different impacts on incentive motives and development results.*
    - *Pennsylvania's pioneering approach to property tax reform recognises this important distinction between land and building values through what is now known as the split-rate or two-tier property tax. The tax is decreased on buildings, thereby giving property owners and the incentive to build and to maintain and improve their properties, and the levy on land values is increased, thus discouraging land speculation and encouraging infill development. This shifting of the tax burden promotes a more efficient use of urban infrastructure (such as roads and sewers), decreases the pressure towards urban sprawl, and*

assures a broader spread of the benefits of development to the community as a whole.

However it is worth re-iterating the need for "*gradualism*" in the process which is emphasised by Hartzok (1997:212) in reviewing the Pennsylvanian "*two-rate*" system:

- *"There is a lesson here in the 'art of tax improvement.' It is necessary to move to the two-rate system while maintaining a revenue neutral tax base, at least initially. Another key is to move gradually. One generally accepted guideline is to shift no more than 20% of the taxes off buildings and onto land each year for a period of five years, or 10% each year for a period of ten years, in order to fully shift all taxes off buildings and onto land value.*
- *Such a gradual transition, combined with community education, allows the citizenry to make the adjustments required, particularly to orient away from expectations of speculative gain in real estate land price escalation and towards investment in the development of affordable housing and business activities. Obviously, as buildings are taxed less their value might rise, while the value of the more heavily taxed land should fall. Whilst more research of these types of effects is needed it would appear from the longer continuation of this tax policy in areas that have tried it that it meets with voter approval."*

The combined tax liability would be met in the first instance by the "*rating occupier*" but the owner's land tax could be deducted from the rent that the occupier pays to the immediate landlord. This would allow the owner's tax burden to be passed upward and apportioned through a hierarchical chain of successive owners' interests (see further explanations and examples below and in **Appendix B**).

Proposed Rules for the Apportionment of Land Taxes

Owner's land tax is set at x% on the assessed annual site value.

All tenants and leaseholders can deduct the following from the rent that they pay to their immediate landlord:

- x% of the assessed annual site value, OR
- x% of the rent that they pay to their landlord.

whichever is the **LESS**

This procedure would pass the burden of land tax upwards through the hierarchy of legal interests from the occupying tenant to the ultimate freeholder—apportioning that burden on the way. This is analogous to the procedure of apportioning income tax liability from imputed Schedule A (Income Tax) assessments. Furthermore it was also a feature of the

LCC Site Rating Bill of 1938 and was recommended in the Minority Report of the Simes Committee (1952: 88), as referred to by Lichfield and Connellan (1997: 15). The effectiveness and equity of such procedure is demonstrated in the examples in **Appendix B.**

Progressions (Towards a More Comprehensive Form of LVT)

The above procedures commence with and are related to the shallowest type of dual rate taxing of land and buildings, being separately targeted on existing uses, or as (Uthwatt, 1942:139) puts it:

> "*...the annual value of the site as then actually and physically developed and as if it were permanently restricted against any other form of development.*"

But at some time consideration would also have to be given to properties outside the present rating system e.g. agricultural holdings particularly on the urban fringes, vacant sites and derelict property—this is apart from any increased CGT obligations previously mooted. This is a political decision but if it is decided to extend the taxation net and to embrace the long argued merits of LVT in influencing land policy it would be possible to assess such land on the basis of highest and best use on *"plan-led*" principles and to tax the owners direct alongside the dual rate system described above. For the required details of such a valuation exercise in Britain we can really do no better that to return to Wilks (1974) and the bases he adopted in his experiments at Whitstable in Kent, See **Appendix A**.

However this would be a bold political initiative which might prove too insensitive to public and particularly to electorate opinion. A more cautious approach would be to introduce LVT on these unrated properties on an incremental basis following Uthwatt precepts but geared to highest and best use values rather than existing use values. This would mean taking a base date (say the year 2000 as with the next rating revaluation) and taxing property owners on the yearly increments in their land value at an assessed percentage tax. For a description see **Appendix C.**

But moving on down the line of progressions towards a more comprehensive form of LVT, at some later time it would be possible to re-assess the annual land element and change the valuation basis of the owner's land tax from existing use to highest and best use but still retaining the occupier's assessment on existing buildings and improvements. The dual rate system might run for a while on this basis but it would then be but a short technical step towards dropping the occupier's assessment altogether and taxing the owner solely on the land's highest and best use value. Both of these adjustments between valuation and tax bases could be "*cushioned*" by transitional steps over a period of time if thought politically and socially appropriate.

But the actual method of collecting the owner's progressing tax liability could follow the same procedure outlined above i.e. that during the operation of the dual system the identified rateable occupier could initially pay the owner's tax and then deduct it from the rent payable to the immediate landlord and so on upwards through any chain of ownership interests. However, by the time when the occupier's assessment might eventually be superseded, the immediate (and lowest order) owner should have become readily identifiable and the owner's tax demand could be re-directed accordingly.

Council Tax

All the above considerations apply to business rates on non-domestic properties. As far a houseowners are concerned, who now contribute to local government revenues on the basis of the Council Tax, it seems almost axiomatic that in the current political climate that they should be excluded from any like form of land taxation as indeed such exemption might well be a popular political decision. However it is pertinent to examine how could the same LVT considerations be incorporated into the Council Tax system, which system now seems set to run without a revaluation in the foreseeable future? In particular, if allocation into value bands, rather than individual property valuations, is the norm how could apportionments between land value and building etc. value be made?

To find a ready solution in the face of such constraints needs a relatively broad-brush approach to the valuation process in that apportionments to land value could probably only be made within the existing value bands on across-the-board percentage bases. In other words, within a particular rating area certain percentages would be prescribed for the various value bands to represent an approximation of the constituent land value element paving the way to a dual tax rate system, analogous to the non-domestic system previously described.

As to progressions towards a more comprehensive form of LVT, with some forward thinking from tax administrators and assessors, the same trail could be followed as regards the collection and apportionment of hierarchical landowners' tax liabilities and also as regards the possibility of ultimate development towards a single tax on domestic landowners based on the highest and best use of their land. But again the speed and extent of such progressions would have to be measured against political and social expediency as does the basic issue of whether it is sound policy to disturb the existing Council Tax arrangements at all.

Commentary on the Proposed Scheme

The aim is to get some modest form of LVT started and to provide the opportunities to let the system progress still further as time passes, providing that political will and public opinion goes with it.

However there may be a dichotomy in the design of the Scheme whether we go slowly by apportioning existing use land values derived from rating assessments and/or by incorporating incremental land values on the highest and best use basis. This point is discussed in more detail below.

The proposal is that the first introduction of an owner's LVT happens in about the year 2002 by splitting the latest non-domestic rating assessments between 'site value' and 'improvements' (buildings etc.).

But no doubt certain technical problems will be raised by rating practitioners. For example, how far are the processes of splitting the assessment prejudiced by the original methods of valuation e.g. comparative, profits, contractors (cost), or statutory formulae? In this connection the RICS (1995) gives some advice in Guidance Note 5 on the apportionment of a valuation between land and buildings:

> *GN 5.3.4 Where the property has been acquired and is carried in the balance sheet… it is necessary for the Valuer to ascertain the value applicable to the buildings and the value of the land by an apportionment of the cost or the valuation as between buildings and land. The building will be the 'depreciable amount' and the land element will be the 'residual amount.'*

GH 5 then goes on to describe two methods of carrying our the apportionment process. This process has been previously commented upon by Connellan et al (1991:161-167) and the relevant parts of this commentary are reproduced in **Appendix D.**

Although the above guidance to valuers is directed primarily towards apportionments of capital values for accounting purposes it is not a quantum leap for rating practitioners to adapt such recommended methods to apportioning annual values in like fashion. Doubtless some broad brush strokes would have to be incorporated into the processes of apportioning large scale undertakings currently assessed by the profits method or by statutory formulae. However by using some ingenuity, which has never been in short supply within the rating valuation profession, the outcome certainly need not be one of insurmountable difficulties.

But it is interesting and relevant to this proposal that Uthwatt proposed virtually the same procedure of apportioning the annual values of land and buildings as part and parcel of the rating assessment process without any qualms as to its practicability (ECCB [Uthwatt] 1942:137)

Alternative Initial Approach

It was our original approach that non-rated land should be taxed at an appropriate percentage rate on a full LVT value based on highest and best use. But this might well be challenged as discriminatory as other (rated) owners are to be taxed on the basis of land

value related to existing use. A possible alleviation for consideration is that these unrated owners should initially be taxed on an incremental basis (ECCB [Uthwatt] 1942) but related to highest and best use, remembering that this is only a partial tax hit on development rights which are actually now in the ownership of the Crown as emphasised by Lichfield and Connellan (1997: 41) as follows:

> *"However this has now an additional importance beyond the solution to the compensation problem when land value is mooted as a new taxation base. Any objections from land owners, for example, to an incremental betterment tax, as envisaged in the Uthwatt Report (1942: 135-154), on the development rights which they do not own but nevertheless can enjoy, would hardly make a credible case at the Court of Equity."*

Transitional Stages

The process of development will, of course, bring non-rated land into the net of apportioned rating assessments and the land value thus determined will reflect the development rights thus far exercised by the owner. This development and rating process will subsume any prior incremental taxation (or fuller taxation) of such previously unrated land.

But there are wider transitional concepts to consider, namely any movements beyond existing use value on rated land and possible incremental value on highest and best use on unrated land. An ultimate goal of an overall standard of full highest and best use value on all of this rated and unrated land as a basis for a consolidated LVT programme (at appropriate tax rate percentages) might be on a future Government agenda depending, of course, on political will and public acquiescence. Such an advance would provide an opportunity of eliminating any existing occupiers' rates based on buildings and improvements and replacing them within the owner's extended liability for land tax based on highest and best use principles which Wilks (1974, 1975) argued as eminently feasible.

The effect of any transitional arrangements between different valuation and taxation bases on land can be "*cushioned*" over time by slowly merging those bases. But as they gradually become capitalised into land market prices (and a downward pressure could be anticipated in real terms) these will in turn tend to affect other fiscal measures that are geared to the land market (e.g. CGT, Inheritance Tax, Income Tax etc.) In addition it should be remembered that all the tenets of "*value capture*" through LVT itself, planning gains, impact fees, greenfield taxes and the like will tend in time to work through the capitalisation process to produce ripples in the land market in what Prest (1981:37) refers to as "*a sort of Chinese puzzle argument.*"

Possible Criticisms of Scheme

- Technical difficulties over apportionments of rating assessments between land and buildings. But as previously indicated the feasibility of the exercise has already been endorsed by Uthwatt and the practice is widespread in the "two rate" system adopted in the State of Pennsylvania.
- "*Scratching the surface*" by only going for existing use land values. But it is at least a start and it establishes the principle of an owner's assessment and tax liability on land value. It also provides scope for differential taxation (via different percentage rates) as between owners and occupiers and also as between different types of land uses.
- The scheme is just another form of rating (local property tax). But it lessens the load on the occupier by transferring some of the tax burden to the owner. Furthermore it opens up the possibility of progression towards a more universal form of LVT affecting owners of land now currently rated and unrated.
- The system only hits ratepayers. But there are proposals which encompass unrated land possibly by firstly introducing incremental LVT which may eventually lead to the full valuation assessment of land at highest and best use (levied at appropriate percentage rates)
- Within the ambit of existing rating valuations there are "*grey areas*" which will only achieve minimum assessment for what may be temporary existing uses e.g. reserve land held for future expansion within an industrial complex or within a 'statutory formula assessment'—but rating assessments are derived from hypothetical tenancies on a "*year to year*" basis and are therefore unlikely to reflect underlying and unrealised development values. However if the proposed transition is eventually made so that all land falls to valued on a highest and best use basis then this will resolve any differential problems, either between the classifications of rated and unrated properties or even within those classifications themselves.
- There is nothing in the scheme for owners—but whilst admitting that a land tax burden is to be placed on those arguably best able to bear it, there might be some solace for those taxpayers who have long been claiming unfairness in the lack of tax write-offs for building etc. depreciation. If property owners are clearly to be taxed on "*the indestructibility of the soil*" in that a separation is made in taxation terms of real estate i.e. from the parts that are destructible, will not this lend weight to those claims from those same owners for an introduction of income and/or corporation tax deductions for depreciation of buildings and other improvements to land that have limited lives (perhaps on the US pattern)?

Conclusion on Possibilities

What seems to be emerging is a combination of an enhanced CGT and an annual

betterment levy and it is worth considering whether they are mutually exclusive or whether they can be imposed side by side. Prest (1971:178-179) unsurprisingly has some interesting and relevant views on the subject:

> *"Objections of principle are sometimes raised on the grounds that it would be inequitable to have a tax system which includes both taxation of the stock of capital and taxation of the increments in the stock. This point is misconceived. First of all, it is generally accepted today that capital gains are a form of income and that some kind of annual tax should therefore applied to them as well as to other forms of income. The taxation of wealth separately from and in addition to income is a matter for considerable discussion depending on whether one thinks there is a case for differential taxation on investment income… However, even if one were not convinced of the separateness of wealth taxation and capital gains taxation at the national level, the proposal in question is the combination of the local site value rating with a central DLT. If it is considered desirable to have a local source of local finance and some sort of tax on realty as the best way of giving effect to that principle, then it is perfectly reasonable to have the two taxes simultaneously. Most people accept the combination of DLT and the present local rating system (and for that matter are combination of income tax on rents and local rates) without too many qualms.*
>
> *What seems to be behind the incompatibility arguments is the proposition that gains on development amount to a large fraction of land capital values and so that two taxes would have a very similar base. Even if this proposition were true, it would be incorrect to deduce that one cannot have both kinds of tax operated simultaneously, especially when one is at local and the other at central level. And, in any case, as we have explained at various times, it is simply not the case that the two tax bases are identical.*
>
> *What is perfectly true is that if both taxes existed simultaneously there would be a number of interaction is between them. Thus SVR might be expected to reduce the land values through the capitalisation process… More generally, if the combined burden of local SVR and national DLT, or any other tax on land gains, were thought to be too great an imposition on allocation or distributional grounds, there would be plenty of scope for some sort of crediting arrangements of local SVR against national taxes, as with property taxation in different parts of North America today*
>
> *Those who think that any idea of combining these two sorts of taxes together is a wicked modern invention might be referred to other times and other countries… So we may say that neither arguments or general principle nor historical precedent lead to the conclusion that it is impossible to have a combination of the two main types of tax if it is so desired."*

As with many other issues perhaps we should leave Prest with the last words on that

particular subject.

Appendix A

Approach to Site Valuation in Britain

In considering how to apply land taxation in Britain we favour following the same valuation approach as Wilks in his two research exercises at Whitstable in 1963 and 1973.

In his earlier exercise Wilks took his guidance from the old London County Council's attempt to introduce site value rating via its L.C.C. Bill (1938-39) in that this measure was considered to be a well thought out example of prospective legislation. However Wilks did identify some practical difficulties in applying some of the valuation principles enumerated therein and so in his later exercise he made some important amendments to clarify the task for the valuer and to encourage most consistency and acceptability in the results.

We therefore adhere to Wilks' changes to the scenario and in particular to his amended definition of value:

> *"The annual site value of a land unit shall be the annual rent which the land comprising at that land unit might be expected to realise if it demised with vacant possession at the [appointed valuation date] in the open market by a willing lessor on a perpetually renewable tenure upon the assumption that on the [appointed valuation date]*
>
> > *(1) there were no buildings, erection or works on or under the land unit except existing roads adopted by a public authority and existing public utility services;*
> >
> > *(2) there were no encumbrances on the land saved those registered under the Land Registration Act 1968*
> >
> > *(3) all planning considerations relevant to the development value to be reflected in the annual site value having been taken into account;*
> >
> > *(4) subject to (5) below there were not upon or in that that land unit anything growing except grass, heather, gorse, sedge or other natural growth;*
> >
> > *(5) in the case of agricultural land, the land was unimproved and in a state and condition such that, under the provision of the Agricultural Acts, neither claim or counter claim would arise upon a change of occupancy."*

As points of further relevance, Wilks tendered the following precepts to any valuer commissioned in a site value rating exercise (Wilks, 1975):

"Certain broad planning policy statements should be ignored by the valuer as they must involve 'hope' value and not assist any site value determination as a result of delegated powers. With all policy statements the valuer must determine as to whether the statement is a 'puff' or a solid fact direct affecting the immediate site value."

"The valuer is to be totally dispassionate and will disregard deliberately and totally all civil transactions relating to landlords and tenants and all legislation affecting those transactions."

Wilks also further comments (Wilks, 1975) on the above definition of value i.e. that he could do the 1973 exercise based far more on the planning situation than he was able to do 10 years previously:

"Thus I have placed less extravagant values for underdeveloped land where there was in effect only hope value. It seemed to me that hope without planning permission was of no value within the definition. Equally, on amenity land, public open space and so on, whereas before I used the compulsory purchase value, I now realise that was wrong in principle and that it should be the value of the land as if it were perpetually restricted to open space purposes and therefore worth considerably less. In this way I was able far more closely to follow the actual planning requirements and the actual permissions on any and every parcel of land."

"It is crucial to the valuer to regard positive town planning restrictions as limiting the site user of any site just as much as increasing the potential of underdeveloped sites."

"Town planning restrictions will not affect supply and demand unless the restrictions are backed up by Statute, or the equivalent. It is submitted that any statutory 'guidance' as to the use and intensity of use of a site amounts to a restrictive covenant on that site."

"The valuer's problem is not too easy. If land is designated for development, the position is very clear. There will be many cases where appeal decisions etc. indicate hope for development. We submit it as a matter of fact alone for the valuer to decide whether the evidence proves a site value or whether the evidence should be ignored simply because it indicates "hope" value."

"In conclusion the valuer therefore sees 'Town Planning' as imposing site restrictions or limitations. The line between hard facts and high hopes is faintly drawn but it is the valuer's duty to value as he sees them, not to prognosticate as a town planner."

Appendix B

Apportioning LVT to Hierarchical Owners

Example Property Holding

This proposed process can best be illustrated by an example of a property with a hierarchical ownership extending from the freeholder right down to the occupying tenant via a ground lessee and an intermediate leaseholder as follows:

F/H grants a 99 year ground lease to **G/L** at a rent of £200 pa

G/L grants a 42 year lease to **L** at a rent of £1,000 pa

L lets to **T** on an occupational tenancy for 20 years at a rent of £5,000 pa

Rules for Apportioning Land Tax

Owner's land tax is set at x% on the assessed annual site value.

All tenants and leaseholders can deduct the following from the rent that they pay to their immediate landlord:

(1) x% of the assessed annual site value, ***OR***

(2) x% of the rent that they pay to their landlord.

whichever is the **LESS**

Land Tax Assessment

Land value assessed at £1,500 @ 50% rate = £750 tax liability to be apportioned

Applying the Apportionment Rules

T (the occupier) pays the initial land tax of £1,500 @ 50% = £750 to the assessing authority and immediately deducts it from the payment of rent to **L** i.e. £5,000 less £750 = £4,250

L (the intermediate leaseholder) receives the reduced rent of £4,250 but can only deduct £1,000 @ 50% = £500 from the payment of rent to **G/L** i.e. £1,000 less £500 = £500

G/L (the ground lessee) receives the reduced rent of £500 but can only deduct £200 @

50% = £100 from the payment of rent to **F/H** i.e. £200 less £100 = £100

F/H (the freeholder) receives the reduced rent of £100

Consequential Effects of Apportionment

By comparing the 'before' and 'after' situations of each party in relation to their individual profit rents the distributional pattern of the land tax can be identified in the following table:

Party	**Profit Rent Before Land Tax**			**Profit Rent After Land Tax**			**Reduced Profit Rent**
	Rent Received	**Rent Paid**	**Profit Rent**	**Rent Received**	**Rent Paid**	**Profit Rent**	**Land Tax Allocation**
T	£5,000	£5,000	£0	£4,250	£4,250	£0	£0
L	£5,000	£1,000	£4,000	£4,250	£500	£3,750	£250
G/L	£1,000	£200	£800	£500	£100	£400	£400
F/H	£200	£0	£200	£100	£0	£100	£100
Totals			**£5,000**			**£4,250**	**£750**

What is being taxed here is the right to receive any profit rent that can be ascribed to the land value. As the latter has been assessed at £1,500 then the tax payable of 50% has therefore to be distributed amongst those who enjoy such land profit rents to the tune of a total tax payment of £750.

Appendix C

Uthwatt's Betterment Levy Scheme

The following selected extracts are adapted from Uthwatt (1942: 135-154) describing the then recommended scheme as points of reference for latter day revisiting of those ideas in our current consideration of LVT

Recommended Scheme for Periodic Levy on Increases in Annual Site Values

Outline of Principles

- That, as soon as the necessary legislation is passed, there shall be ascertained the annual site value of every rateable hereditament as actually developed, such value to be a fixed datum line from which to measure all future increases in annual site value. No valuation is to be made in the case of agricultural land and farmhouses.
- That a revaluation should be made every five at years of the annual site value as then developed.
- That there should be a levy in each of the five years following each revaluation of a fixed proportion (say 75%) of the amount of any increase in the annual site value over the fixed datum line as revealed by the revaluation.
- That the levy should be borne by the person actually enjoying or capable of realising the increased value.
- That the necessary valuations should be made through the existing valuation of machinery for ordinary rating purposes, and entered in the rating valuation lists.

Practicalities of Assessment

What the Committee had in mind was that, when the annual values of hereditaments were being arrived at quinquennially in the ordinary course, it should not involve much extra expense to ascertain and record their annual site values at the same time. It recommended, therefore, that in the valuation lists made for rating purposes there should be provided an additional column in which should be entered quinquennially the annual site value of every hereditament separately assessable for rates**.**

Conclusion

The following advantages were claimed for the levy scheme:

- The scheme will catch increments arising from the public expenditure, from the operation of the provisions of planning schemes, and from general community causes;
- The scheme excludes from levy all increases the annual value of property due to individual skills and enterprise and it does not tax improvements;

- The scheme does not import hypotheses as to what could be done with the site, but is confined to the facts that happen;
- The increase in site value will in fact have been realised or enjoyed or be realisable before becoming subject to the levy;
- The use of the existing rating valuation machinery is the most economical way of ascertained annual site values;
- The machinery for local assessment an objection to local valuation lists is already familiar to the public; and
- The ascertain of annual site values will provide a basis for the differential rating of sites and buildings to the relief for improvement, should it be desired to introduce such a system.

Appendix D

Apportionment of Land and Building Values

The following passage is adapted from Connellan et al (1991: 161-167) and deals with some of the issues relevant to apportioning land and building values as advised by the Red Book of the Royal Institution of Chartered Surveyors (RICS, 1995).

1. There is a reference to DRC (Depreciated Replacement Cost) as a method of apportionment in (RICS, 1991: SAVP18) where it is necessary to find the "building element" which will be the "depreciable amount" and the "land element" which will be the "residual amount." The apportionment is arrived at in one of two ways:

   (a) By deducting from the cost or valuation of the asset the value of the land for its existing use; or,

   (b) where little evidence or no evidence of land values exists, greater reliance may be placed on an assessment of the net replacement cost of the buildings (i.e. based on depreciated replacement cost).

2. Before examining possible incongruities that might arise in such apportionments it is worth noting the constituent parts of the calculation that go to make up "gross replacement cost" of a building (RICS, 1991: SAVP3). "... the Valuer is concerned not with what it would cost to erect a building in the future but rather what it would have cost if work had commenced at the appropriate time so as to leave the building available for occupation at the valuation date" (Sec 4.1(b)), and "additions will normally need to be made to the estimated building contract for professional fees and for finance charges" (Sec 4.1(c)), and "various grants payable from time to time under legislation...the valuer should make clear how he has treated the availability of grants in the valuation" (Sec 4.1(d)).

3. It might be argued that para 2. above indicates a form of "Developer's Balance Sheet" at the end of a development period when all the actual building costs are rolled up with fees, finance costs etc. What it would take to complete the Developer's Balance Sheet is, of course, the inclusion of the land value/cost element (plus associated fees, costs etc) and the *sine qua non* for the Developer—his profit on the project as a reward for risk and enterprise.

4. The International Assets Valuation Standards Committee (1986, GN3:7) also advises on "Gross Replacement Cost" in its Guidance Notes in that " ... the figure may include fees, finance charges appropriate to the construction period and *other associated expenses directly related to the creation of the asset*."

5. The wording of the RICS (1995)'s advice differs from that of the IAVSC particularly as

regards the reference to *"associated expenses"* etc. The immediate question that arises is whether or not it would be justifiable to argue that under IAVSC's GN3 a developer's profit is one of the expenses envisaged that is directly related to the creation of the asset. This argument would have further weight if it could be demonstrated that a developer's profit on the project forms a link between cost and value.

6. To discover the possibilities of such a link we looked at the two procedures outlined in para 2. above as methods of finding the "depreciable amount of a building." One is to deduct the existing use value of the land from the total value of the asset—the other is more direct and involves assessing the Net Replacement Cost of the building.

7. We then hypothesised that if DRC as a method of valuation has validity there should at least be some measurable consistency between the two approaches outlined in the previous paragraph.

8. To test such consistency we compared two options facing a Trading Company requiring warehouse accommodation for its products.

<u>Option A</u>

On a thriving Trading Estate it buys the outright freehold of the last available vacant warehouse (as recently constructed), just fending off a competitor who wanted to rent the building, and thus having to pay virtually an investment price (going rent capitalised at going yield). The Developer's final Balance Sheet for this warehouse (which has been simplified for this presentation) could therefore be on the following lines:

Building Cost	1,000,000
Fees, etc.	100,000
	1,100,000
Land Cost	300,000
Fees, etc	15,000
	315,000
Financing:	
¾ yr on building costs, etc @ 15%	123,750
1 ½ yr on land cost, etc @ 15%	70,875
	194,625
Developer's profit (20% on all costs)	321,925
Development Appraisal	£1,931,550

It follows that the same warehouse if let at market rent and taken on at a 10% investment basis would have been valued and purchased thus:

Estimated Market Rental Value	193,155
YP @ 10% in perp	10
Capital Value	£1,931,550

However on the apportionment, as there is ample evidence of open market value of land for existing use, the calculation for the depreciable amount would have to be:

Capital Value	1,931,550
Less Value of Land*	385,875
Depreciable Amount	£1,545,675

(* It is argued that increase in this value over the development period of 1½ yrs is appropriate i.e. original cost + fees + finance charge).

Option B

Alternatively on its own freehold central urban site the same company can build an identical warehouse employing consultants and a contractor and borrowing interim finance. As stated in SAVP18 para 5.4 "For many central urban properties there may be little or no evidence of land values and in such cases greater reliance will have to be placed on the method below... " i.e. net replacement cost (based on DRC) for which, with such a new building the calculation would be:

Building Cost	1,000,000
Fees, etc	100,000
Financing (¾ yrs av @ 15%)	123,750
Depreciable Amount	£1,223,750

Difference

There is thus a difference of **£321,925** (£1,545,675 less £1,223,750) between the two depreciable amounts **which exactly equates to the Developer's Profit as described above.**

9. Differences in the two approaches to depreciable amounts have been revealed elsewhere by practitioners and commentators in other works:

   (i) C.A Westwick, (1980: 31/4).

Depreciable Amount (OMV minus land): £420,000

Depreciable Amount (NRC of buildings): £508,000

(ii) W.H. Rees (Ed), (1988: Chapter 16)

Depreciable Amount (OMV minus land): £132,500

Depreciable Amount (NRC of buildings): £87,916

10. A dilemma is thus identified in that both approaches to the "depreciable amount" arguably ought to be reconcilable. In the first example cited in para 8. above they are clearly not unless one makes use of a possible missing link between cost and value which may now be identifiable as the developer's profit.

11. Standard works on American appraisal methods have discussed the inclusion of entrepreneurial/developer's profit at some length. In the main their authors support the proposition in the attempt to reconcile the cost approach to a predictive role in the valuation process; however this view is not unanimous and there are some dissenting voices. Some interesting references are: Shenkel, William M. (1978) Khan, Sanders A. and Frederick E Case (1976), American Institute of Real Estate Appraisers (1987). Acolia George R. (1984).

12. A possible proposition now arises from the above that an element of developer's profit ought to be built into DRC calculations in order to proceed from cost to quasi-value; developer's profit perhaps being classified as "*associated expense directly related to the creation of the asset*" (IAVSC 1986,GN3).

13. This concept is not a new one, even in the U.K. Westwick (1980:52-4) addressed the problem and we are grateful to the author for giving permission to quote the following extracts:

"Developer's risk

Another reason for the value of the property not being equal to the sum of the values of land and buildings is the profit expected by the developer. This profit relates partly to the exposure risk incurred by the developer, and he will take into account, in assessing the profit he requires, the time period over which his exposure will last, the gross amount of capital at risk, the margin between the likely costs and the likely end value, and the quality of the investment. There is no rule of thumb to determine developer's profit which will depend partly on competition among developers. The risk involved in development is a factor which

must be taken into account in the relationship between the value of the land and the cost of the buildings on the one hand and the open market valuation of the property on the other.

The foregoing may be summed up in the following formulae:

(1) Pc = Bb + La + DPb

(2) Le = Pa - DCd

where

P = Value of property

B = cost of building

L = Value of land

DP = Developer's profit

DC = Demolition costs

a = now

b = time taken to construct

c = end of period b

d = time taken to demolish

e = end of period d"

"*Problems of arriving at a basis for depreciation*

This lack of equality between the value of the property, and the value of the land and buildings of which it is composed, can cause problems in discussions between valuers, accountants and business-men when a figure for the value of buildings is required for the purposes of calculating depreciation in accordance with SSAP 12. R.I.C.S. (1991) in its Guidance Note J1 is careful to avoid the impression that an open market value of a property can be divided into one figure for buildings and one for land with no remainder (positive or negative), as the following quotation shows.

"When providing figures for the purposes of depreciation, the valuer should emphasise in the report, that the resultant figures, i.e. the depreciable amount and the residual amount are informal apportionments and that the individual figures do not represent the open market value of the building and land elements."

This issue is also discussed in Noke (1979:53-4).

14. Westwick (1980: 52-4) then goes on to quote "An Economist's view" from Turvey (1957: 23-24) who believes that any attempt to divide "property" into "land" and

> "buildings" has no analytical value, because of the impossibility of physically separating land and buildings and is meaningless except in long-run stationary equilibrium.

Nevertheless, Turvey does add that in order to secure rules of assessment for property taxation which are both simple to apply and capable of precise formulation on artificial distinction may be used as in most American cities. The 'building value' is often a rough estimate of cost less depreciation according to some rule of thumb. The other part of the assessed value—'site value'—is then made comparable for different properties, which has the advantage that it can be seen whether the relative assessments of different properties appear equitable.

But Turvey's main argument is as follows:

> "The following magnitudes can be ascertained or estimated:
>
> T = the market value of a building on a site,
>
> R = the replacement cost of the building,
>
> T' = the market value the property would have if the building on it were new and represented the highest and best (most profitable) use of the site,
>
> C = the cost of constructing such a building,
>
> S = T' - C, market value of the site.
>
> If S exceeds T by more than the cost of demolition (net of scrap value), it will pay to demolish the building. Thus it might be said that T could be divided into S and (T - S) the value of the building, since if (T - S) is positive it represents the sum which would just compensate the owner for removal of the building. Nobody, however, will ever offer to pay (T - S), so it is not in any sense a "market" value.
>
> Alternatively, it might be said that T could be divided between R, the value of the building, and (T - R), the value of the site. But R may be irrelevant to any proposed action, so cannot be called a "market" value. Thus neither method of division has any useful meaning except in the event of their coincidence, when:
>
> S = T - R
>
> which requires that:
>
> T' - C = T - R
>
> Apart from coincidence, the only general case where this equality is fulfilled seems to be where the existing building is that representing the highest and best use (so that T = T') and is new (so that C = R). But then the division is useless since one can simply speak of S, site value, C, construction cost, and T, market value of the property. T will equal S + C in a competitive market, if a developer's profit is included in C.

The two divisions will thus be consistent only in the long-run stationary equilibrium. But since building value is defined residually and since its equality with R only follows from the assumption that there is equilibrium, the concept is useless for economic analysis. Since no ordinary building is ever sold floating in the air, this is not surprising."

15. Having regard to the preceding paragraphs it appears that there is now a proposition which ought to be seriously considered, *viz.* there is an element of entrepreneurial/developer profit which might possibly be built into DRC calculations in order to proceed from cost to quasi-value: the fact that such profit might perhaps be classified as an "*associated expense directly related to the creation of the asset*" under para. 7, GN3—IAVSC Guidance Notes should not be overlooked.

16. We are aware of the main case against this proposition. Part of the rationalisation for cost-based methods of valuation is that if the property did not exist, the owner/occupier would buy a site and build a similar property. Such an owner/occupier is not necessarily an entrepreneur/developer and the argument goes that the costs of an owner/occupier include something for contingencies and risks but not a profit element as such.

17. We feel that this argument has more weight with public sector properties than in the private sector but nevertheless, we still feel that the issue is sufficiently moot to justify this particular review.

Chapter 8: Compatibility of Land Value Taxation and Development Planning

Focus

In our Report I (Lichfield & Connellan 1997: part III. 1) we pointed out that there is an inherent conflict between the application of Land Value Taxation and Development Planning in any particular locality. In the former, which was introduced as a concept long before Government-led town planning was practised, Land Value Taxation was necessarily based upon "highest and best use" of the land in accordance with the prevailing land and property market. In the later introduction of town planning (from 1909 in Britain) there was decided and deliberate intervention into the market process in the interests of the community.

> "*From this it follows that land/site taxation can imposed taxes on land owners (including in built up areas) at levels which will not correspond with the levels that the land owners will eventually earn with the relevant planning permits. Inevitably confusion will arise in the mind of the landowner/developer for particular parcels, when he is taxed at a certain level which is not accepted as appropriate to the planning proposals by the planning authority. For this reason, it would be impracticable and inequitable to run the two systems independently of each other.*"

Accordingly some compatibility needed to be sought between the two systems (Lichfield & Connellan 1997: III.2).

> "*Once the need for inter-dependency arises, it is inconceivable that in Britain land use planning policies and proposals in the public interest should follow the market, indicated by the taxation assessments, which does not reflect public policy values. But the reverse is not inconceivable. Indeed it would make considerable sense if the land/site value taxation assessments were geared precisely to the planning policies for proposed land uses in the area in question. In this way the taxation measures can be seen as tools for the implementation of the planning and environmental policies, and as a means of assisting them to come into effect.*"

Here we focus on the search for this compatibility. We discuss the following key issues for Land Value Taxation alongside the planning system in the UK:

- Having described the nature of Land Taxation (Chapter 5-8) we then introduce the nature of the current Town Planning System in Britain, bringing out its special characteristics which are different from those in other countries, which accordingly give special problems for compatibility.

- How the compatibility can be sought both in general and in particular terms
- When should LVT be levied in relation to the operation of the planning system
- How would the LVT be levied in practice having regard to the options posed above (Chapter 8) as to whether the introduction of the LVT is at the 'shallow' or 'deep' end.

The Property Taxation System (Rates)

The system of property taxation in Britain is ancient, having been initiated in the Poor Relief Act of 1601. Since then there have been many changes (Lichfield & Connellan 1977 Chapter I.2.1) but the essentials have remained the same.

- Periodically there is a nationwide valuation of real property that is to be valued for taxation purposes
- From this valuation properties are *assessed in terms of existing use value*, as a basis for the application of a tax rate at percentage
- The taxes are levied by the authorities charged with the purpose (which are different from the planning authorities) and the money is raised or otherwise pursued
- Changes can be made to the assessment for reasons derived from the legislation and practice.
- Periodically, every three or five years, there is comprehensive re-valuation and re-assessment on contemporary values.

This system is well tried and established. There is no reason to suggest fundamental changes in it for the purposes of seeking compatibility between the extant rating system and the planning system. However, when we come to consideration at our proposals for LVT then the question of compatibility is an important issue.

The Current Town Planning System (Cullingworth & Nadin, 1994)

General Description

The Town Planning system can be said to be split into three broad categories: plan preparation, implementation and plan review. Implementation includes development control. Under this, apart from some minutiae (minor operations and alterations to dwellinghouses, other "permitted development" covered under the General Development Order, or changes of use under the Use Classes Orders), planning permission is legally required by an applicant wishing to develop land. Development control is usually carried out having regard to the development plans, which are divided into three main tiers. The

first is the Central Government's Department of Environment, Transport and Regions (DETR), which determines the overall strategic framework for development plan preparation, including guidance in the form of circulars, Planning Policy Guidance Notes, and specific guidance to the regions via Regional Planning Policy Guidance Notes.

The second tier, usually prepared by the County Councils which has in some cases been transferred to the new Unitary Authorities, is the Structure Plan. This high level development plan provides a framework for the local planning authority (Cities, Boroughs and Districts), by interpreting national guidance.

The third and final tier is the Local Plan, which provides detailed guidance in the form of policies and local plan proposals for the determination of planning applications.

Both the second and third tiers go through a lengthy plan preparation process and there are minor variations in the process between the two levels. Once a plan has progressed through the adoption process it caries considerably more weight than before when determining planning applications for development and change of use.

What Makes the British Planning System Different?

In general principle, the British planning system has much the same purpose as that practised around the world. In essence, plans are made as a basis for implementation, and control of development is a key factor in the implementation. The British system, however currently has certain features that are singular when compared with those of other countries. These are:

First, the plan proposals are in the form of written policies and not only on maps. Second, the plan in the UK, when approved by the appropriate authorities, does not convey development rights to the land owners (except for the minutiae mentioned above), as it does in those systems where the plan contains zoning provisions, such as in many countries in Europe. In general terms, proposed development in accord with the plan cannot be refused permission without compensation. And if it is not in accord then it cannot be granted permission (Davies et al 1989).

By contrast, in Britain land is owned by private or public individuals or bodies but the development rights are owned by the State, since their nationalisation under the Town and Country Planning Act 1947. To exercise the development rights attached to land units, the land owner/developers must obtain the planning permission, supported as necessary by related planning agreements, and can then carry out development subject to conditions and agreements. If refused the applicant can appeal to the Secretary of State for the DETR. In current law he need pay no fee for obtaining the permission. But he could be subject under agreement to contribute in money or kind for physical or social infrastructure that will be occasioned by the carrying out of the development in question—the well known planning gain/planning obligations (Chapter 2 above).

Since there are no established rights, the authority is enabled to exercise its discretion in the determination of the planning application. The opportunity for this discretion gave rise in 1948-1991 to the need for balancing between the "*...provisions for the development plan, so far as material to the application, and to any other material considerations…"* (TCPA, 1990 Section 70). Under the PCA 1991 the relative weight of the plan and other considerations then changed towards a "plan led" system as follows:

> *"Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise."*

In practice, if the development would be in accord with the plan then the "plan led system" gives a presumption for permission and therefore, perhaps, for compensation or refusal.

The Difficulty of Establishing Value for Assessment Under the Plan

Since the British Development Plan does not convey development rights to the land owner, but comprises policies, it is not specific in the land use which would be permitted. The majority of development plans only allocate a small number of specific sites for development, both on greenfield or brown land (i.e. previously developed) sites. Further, development plans do not generally allocate existing sites, where no change is proposed. Clearly this creates difficulty in itself for a policy based plan, which is open to interpretation, particularly when policies conflict and have different weights, and so does not provide a clear picture of acceptable land uses and thereby potential development value.

Achieving Compatibility

General Compatibility

LT can be said to be compatible with planning when valuations for assessment are not based on the highest and best use having regard to the market, but instead to those values as affected by the policies contained in the Development Plan. The degree of compatibility will depend on two variables:

First, in the British system the planning policies are in a state of flux. They take considerable time to prepare and reach approval; and once approved they are subject to review at least every five years. Accordingly, the plans/policies which determine the value must be those which are in fact formally approved. Second, the degree of compatibility with the planning system will depend on the depth of the LVT system introduced. A shallow system based on current use value will create little conflict. A deeper LT system will raise a range of compatibility issues.

One possibility for achieving compatibility is Land Valuation Briefs prepared by the local

planning authority which would be based on the policies established in local Development Plan, which has gone through a statutory consultation process and obtained approval. The principle of such briefs is not new. Hudson (1985) advocates for the purpose the introduction of a "Certificate of Development Value" (CDVs), which would be similar to an outline planning permission. An application could be made to the Local Planning Authority (LPA) to establish exactly what uses and in what quantum they would allow. The decision or valuation would not be binding on the LPA, but used until any planning permission was granted

Influencing Implementation

LVT is now considered as a mechanism to aid plan implementation in accord with planning policies.

Development Control in the UK is the sharp end of planning, in being the principal mechanism for plan implementation. This being so, it could be used to aid implementation by the use of variable percentage rates in the LVT system in order to encourage or discourage development. The following examples highlight three positive ways in which this mechanism might operate.

- Protection of Conservation Areas: LVT could increase the protection given to Conservation Areas, because a low level would reduce the pressure for development within them. The particular percentage rate attributed to conservation interests would reflect the relative quality of the particular conservation. The rate at which the tax would be set is likely to be minimal, compared with other areas where a change of use and of development is thought desirable.
- A mechanism for bringing forward land for development: LVT could be a positive mechanism for bringing forward derelict or other sites for redevelopment. Following are some examples. Land owners would be stimulated via an assessment based on highest and best use, as modified by planning, to develop sites or pass them on to somebody else who would do so. Furthermore, LVT could affect location and the system could well adjust percentage rates to favour renewal of town centres locations rather than out-of-town locations (Law, 1995). Additionally, LVT could encourage, via relative percentage rates, redevelopment of selected low value uses within comprehensive redevelopment schemes in a town centre, and can act as a supportive mechanism for mixed use.

How Should LVT Be Levied in Relation to Planning

In order to determine when it is appropriate that LVT be applied to land it is necessary to understand how a development plan and planning permission affect land values and when this effect takes place (Lichfield 1956, Part V). From this understanding certain principles follow.

Without a development plan in operation, or any history of planning consents, the land market has no certainty of what is likely to be permitted under planning, beyond "hope value," i.e. a value based on the 'hope' that a particular permission will be granted. The presence of a development plan does introduce a degree of certainty, a degree that will vary according to the status and content of the plan.

As stated above, without a planning permission development cannot generally take place. It does not follow, however, that a grant of planning permission will necessarily result in development in accord with the permission, or indeed at all. But all the valuer can assume is that the land has a value in accordance with the development possibilities indicated by the plan and from any planning permissions granted. LVT assessments could follow that lead.

Assessments will be carried out periodically and will depend on those realistic development expectations or actual achievements as at the appointed date of valuation. If subsequently a landowner is refused planning permission for development on which expectation of approval has been reflected in an extant LVT assessment, then clearly there should be a mechanism for tax refunding (Hudson 1985).

Chapter 9: Reformulation of the Land Market Process for LVT Incidence

The Issue

In our Report I (Lichfield and Connellan 1997: 6-9 and 61-64) we showed that in economic theory a tax on land would fall on the land owner rather than on the developer, occupier etc. However, while this may be generally true in relation to the land resource in general, there are special circumstances that currently persist in the UK planning system which have a bearing on the application of the theory these stem, for example, where the plans restrict the allocation of land for development to less than the market would allocate, as for example in Green Belts.

Let us take the general principle that the landowner cannot shift this taxation responsibility and see how that would apply in a typical example of land eminently suitable for development on an urban fringe. Under our advocated LVT proposals this land would have attracted an on-going annual assessment, based on that developable use, which the current owner and any subsequent owner has to pay. This is a transparent burden running with the land and by the process of capitalisation would be expected to depress future transaction prices.

In addition, our value capture proposal of enhanced CGT will, on the act of disposal, also commit the current owner to a capital tax payment which cannot be avoided (being a percentage tax on the difference between defined acquisition and disposal prices).

Whilst the Georgist theory is satisfied in that the current landowner cannot avoid the eventual impact of such land taxes on his pocket it is the **bidder** for the land who provides the **gross sum**, by way of the purchase price, from which the enhanced CGT imposition is derived and levied on the proceeds going into the vendor's hands. It is the effect of the bidder being forced to find such considerable gross sums in the current UK situation where we see a land market problems.

Let us take an example where there is an obvious inadequate supply of land for particular development purposes with heavy demand for that development. Here the supply price will be more inelastic, thereby enabling landowners to drive a bargain which is not conditioned by the freer competition that would obtain in a less restricted market. The heavy competition and the demand could well lead bidders into paying more for sites than would be justified on the rationale of the residual value of that land for the purpose of development.

In such situations the developer, building owner etc., is negotiating under time pressure with the land owner, which he cannot readily resist by the normal market gesture of seeking an alternative site which, by definition in this type of situation, is relatively scarce. For this reason he cannot necessarily prepare with sufficient thoroughness to enable him to estimate the *ceiling price* he can offer under the residual valuation formula, which is calculated by estimating the value of the completed development at a particular time in the future and deducting from it the total cost of achieving that value, discounting for the time lapse between the two dates (Britton et al, 1989). To do so requires at least the preparation of sketch optional plans for the development and environmental assessment where needed; discussion with the local planning authorities; negotiations on planning gain; the uncertainty in obtaining the planning decision, the possibility of needing to appeal. All these add to the uncertainty facing the bidder in relation to the maximum price that he can afford to offer.

In such circumstances, there will be tendency because of the competition between them for the bidders to go beyond the maximum price they *should* be offering and for the successful bidder to pay more. This in itself may not be of public significance. The land owner will obtain a higher price and have higher land tax and the bidder will be faced with higher costs than would reasonably have appeared in his residual valuation. The significance arises in what the successful bidder will then do in relation to the scheme prepared as the basis for the bid on a residual value approach. In essence, he is likely to translate the residual value of the land in his calculation into the higher cost which he *has* to bear, so implying that other development costs will need to be reduced. In the unlikely event that he will be prepared to accept significantly a lower developers profit, the squeeze will come on the other costs in the equation: such as the amount allocated for the constructions; or the professional fees he is prepared to allocate to achieve good planning and development in his scheme. Or he may need to increase the visualised density to increase the site value. It is any of this which could have unfortunate consequences to

consumers (on site and off site) and to the community at large.

In order to allow freer and fairer competition there needs to be a way of reducing the uncertainty for prospective purchasers of development sites, which would also have a required outcome of reducing the development risk. There should be more transparency in the factors governing the development process, including the specific nature of the development that will be permitted, and other considerations that could affect the developer's bid e.g. the imposition of LVT, planning gain, obligation and so forth.

Solutions for Reducing the Uncertainty

Given the desirability of reducing the uncertainty for the developers in their bids, there are two possible approaches which could be used, in combination or separately. The first relates to improving the knowledge that is typically available to the developers in formulating their bids; and the other is to seek an extension of the time typically available for a developer to carry out the necessary task.

On the first, the developer relies initially on the sales information he obtains from the landowner, or his agents. This can tend to be scrappy. There should be a requirement that the perspective vendor provide full certified details. The possibilities can be seen in the Government proposals for the provision of a sellers information pack to be provided by house vendors, covering for example, Title documents, replies to standard preliminary enquiries, copies of planning and building consents, draft contract. In addition the developer relies not only on his knowledge of the market but also on the information that he can obtain from the local planning authority, local authority, environmental agencies and other official bodies. The help he obtains in that direction varies considerable for different areas. In some cases the authorities are development oriented and so are anxious to give as much help as they can to the interested developers, and are ready at short notice to provide appropriate information. For this purpose a local planning authority office could deliberately gear up to provide a 'one stop shop' for the supply of the appropriate information, and make it freely available on request. In this regard they would be performing an economic function of improving the imperfections of the market that come from lack of information. They could go further. They should be able to identify the development sites in their area for which they are ready to grant permission, taking into account for the purpose the land ownerships, availability of utility and other services, suitability for development, absence of contamination and site hazards, concordance with the plans and policies of the authority and also of the Highways Department, Department of Environment Transport and Regions and also the Environmental Agency. For such sites they would prepare planning briefs in the standard form, which would indicate specifically what they have in mind for the land in question. Their aim would be to economise in the time needed by the developers to obtain the information they need for the valuation of the site.

This could be sufficient to reduce the uncertainties to enable the developers to proceed sufficiently quickly to make their bids. It would be for experience to show the extent to which the one stop shop could sufficiently reduce the uncertainty. But it may be that this would not, over time, be sufficiently effective for the purpose. If so, another way would be by introducing an option procedure to replace current practice as part of a reformulation of the land market process. This would have to be Government inspired and backed.

The granting an option to a particular prospective purchaser has the effect of shutting out the competition for a period of time. For this privilege, normally a price has to be paid which would be lost if the option is not taken up. In order to persuade the owner to grant an option the prospective purchaser has to offer sufficiently attractive terms which outweigh the blandishments of other prospective purchasers who are seeking the same sort of option and its consequential privileged purchasing position. If purchase by option is to be made the standard procedure, then the bidding process for an option on a scarce commodity could still be in the arena of uncertainty and prospective purchasers could still be overbidding in order to get "a foot in the door."

So what could be done to alleviate this potential situation? The Government should initiate a study for alternative possibilities, differentiating between the different sub-sections of the land market. Possible answers may emerge as follows: all of which are exercisable under existing contract law and property practice.

- Safeguards can be introduced in the bid by making reservations that the option price is subject to planning approval for a certain type of scheme (density, quality etc.) which is quantifiable by the developer, as an example, by making it pro-rata to the extent of permitted development e.g. number of units or the size area of built accommodation. In other words price can be tied to a range.
- In this way the final purchase price is more closely linked to development expectations.
- Possibly options can be registered as a form of conditional contract.
- Consideration could be given for option rights over a stated time period, and this could be based on a percentage of the probable final purchase price (say 5%), such consideration being merged with the final purchase price if the option is exercised.
- The option price to be forgone if the option is not taken up within the agreed time period.

What could emerge as a positive Government influence might be an enforceable code of conduct for selected land for development. The code could insist on maximum transparency of issues affecting the likely end product so that there is a clear level playing field from which all prospective purchasers tender their bids. If there are still unresolved important issues then a tender procedure on the above lines could allow bidding for

options, giving the successful option holder time to sort out such matters.

Conclusions

In this Chapter we have had as our aim the improvement of the possibilities of developers to make realistic bids for land in the market, realistic in the sense that they would not be under the current time pressure from the market to gamble on uncertainties and submit bids which could be too high to lead a reasonable profit, and so be prejudicial because of cuts in development costs to the development which would flow. The aim is not to intervene in the market process as such, but rather to reformulate it with a view to increasing its effectiveness in meeting the aim just stated. A concomitant result of such reformulation would ensure a greater transparency in transactions leading to a more effective and equitable market pricing with a beneficial stabilising effect on LVT bases.

Clearly the solutions sketched out here will need to be probed and tested further before they could be accepted. Thus our conclusion here is to suggest that means be found of exploration of the possibilities mentioned and related matters.

Chapter 10: Political Feasibility

In our Report I we reviewed the history and achievements of the attempts to introduced Land Value Taxation in Britain for the Benefit of the Community (Lichfield and Connellan, 1997). In simple terms, the efforts were truly enormous. They started in the 1890s under the messianic influence of Henry George, who found converts in the original "think tank" of the yet to emerge Labour Party, the Fabians. From then on there were a continuous array of efforts which, in some cases, succeeded in achieving the Statute Book but then were repealed. All in all, despite the Herculean efforts the results by the end of the 20th Century were meagre indeed in terms of securing the benefits of Land Value Taxation for the community.

In our Report I, whilst recognising the political influences, we barely linked the fluctuation in the success and failure of the Land Value Taxation attempts to the political system itself, or more precisely to the parties in power, as has been done so usefully in other studies, (e.g. Douglas 1993; Offer 1981). But identification of the fluctuations with the particular governments in power tell a clear story which is not at all unexpected in the politics of Britain: the Liberal and Labour Governments were in favour of land value taxation and the Conservative Government against. To recount the story briefly.

In the opening decade of the Century it was the Liberal Government, led by Lloyd George and Winston Churchill, which initially made the running. It introduced both the initial attempts of Land Value Taxation, in the Finance (1909-10) Act, 1910; and also compensation and betterment in the initial Housing and Town Planning etc., Act of 1909.

But progress was halted by the beginning of World War I and by the end it had been replaced by a Conservative Government, and was to remain out of power for the remainder of the Century. The Conservatives continued the approach to compensation and betterment in the Town Planning Acts of 1909 and 1925 and the Town and Country Planning Act of 1932. But it was not until 1931 that the Labour Party, which was formed only at the beginning of the century, had the opportunity to pick up the theme by proposing to introduce a levy on capital value of land in the Finance Act 1931. This was abandoned when a National Government replaced the Labour Government in 1932, to be followed by a Conservative Government until World War II.

It was during World War II, in the worst days of the war, that the Coalition Government under Winston Churchill heroically set in hand the studies that proposed a revolutionary change in the town and country planning system, to be implemented after victory in the war, which at that time must have seemed somewhat problematic. The Labour Government of 1947 picked up the challenge and introduced the revolutionary Town and Country Planning Act of 1947 which placed compensation and betterment on a firm and decided footing. This was the beginning of some thirty years of battledore and shuttlecock, whereby succeeding Labour Governments saw three quite different attempts to secure for the community each of which were repealed after a short life by the succeeding Conservative Government. During this time, however, the Labour Governments made no attempts in the direction of LVT on an annual basis itself. But neither did the Conservative Government during its years of office, sandwiched in between the Labour administrations, except for the DGT of 1973. They certainly did not glance that way during the market oriented years of the Conservative Thatcher Government of 1979-91. But they did accept and indeed strengthened a different approach from what came to be called planning gain/planning obligations, which was not recoupment of betterment as such but rather imposing on the developers the obligation to meet the costs of their impact on local infrastructure (Chapter 2 above).

Given this interplay between politics and the measures for land value taxation for the benefit of the community, it is intriguing to speculate on the possible new direction to be followed by the New Labour Government which won power in 1997. The speculation arises from the simple fact that New Labour has decidedly rejected Old Labour in its political platform, and therefore would appear to be unlikely to pick up the strands of the three former Old Labour measures, with their decided attack on land owners and land value in relation to development. But, as a balancing feature, the Liberal Party (under its new name of Liberal Democrats) is currently at a greater strength than it has been since its former days of glory. They are not only absolutely more powerful in local government since their heyday but they are also close to New Labour, both in respect of their political programmes and also their political ideology. Indeed, in some respects New Labour appears to have moved to the right and the Liberal Democrats have moved to the left.

But there is even greater difficulty as just explained in predicting what might happen.

This comes not so much from the ideology, platform and policies of New Labour but from the very difficulty of trying to establish what these might be. There is no apparent consistent ideology but a reliance on the pragmatics of the "Third Way" (Giddens 1998). Another difficulty is that clearly the New Labour Government has made a top priority protection of its power and huge majority in Parliament in order to secure a second term in office at the expiry of the first (2002), since this would be the first occasion that a Labour Government had done so . If only for this reason they could emerge in its second term many different policies which are not yet apparent. Whether these will be a confirmation of a current Third Way and its caution would depend so much on the success or failure in the next election, and the retention/enhancement or reduction in their majority in the House of Commons, which is linked with the issue of Proportional Representation and not majority voting.

Thus we can only speculate in terms of what we know about the platforms of the two parties who have shown the major concern for Land Value Taxation for Community Betterment.

The Labour Party

The following is the only official Party statement prior to the 1997 Election that has been identified as relating to the topic (Labour Party, 1994).

<u>Town and Country Planning</u>

> *"Labour will regularise the planning gain system presently operating for non-domestic development proposals, to ensure that it operates transparently and according to clear rules. Where there is a substantial increase in the value of a site resulting from the granting of planning permission, we believe that the community should derive some benefit. There must be open discussion of the social, environmental, and economic costs and benefits of particular proposals."*

But there has been no amplification in the many discussion Papers and Reports that have been issued since the Election. Thus it is still an open question as to whether the Labour Government would be prepared to consider the possibilities of additional revenue taxes based on land values and betterment from development value.

The Liberal Democrat Party (LIB-DEM)

The possibilities are more encouraging with the Liberal Democrats, who increased their representation in Parliament significantly as a result of the general election. They have a long history of support for land value taxation as summarised in Douglas (1993) as follows:

> *"The alternative system of LVT has a long pedigree with both the Liberal and SDP*

(Social Democratic Party) forerunners to the Liberal Democrats. The Liberal Party repeatedly reaffirmed its support for this idea, from the 1889 meeting of the National Liberal Federation to the last Party Assembly in 1987. The Labour Party, the former home of the founders of the SDP, gave more erratic support for LVT, but in 1931 a Labour Government actually put on to the statute book proposals to value and tax land. In 1991 the Liberal Democrats declared their support for a measure of LVT within the financing of local government."

This support was given by the approval of the following resolution at its Annual Conference (September 1991):

"Poll Tax, Council Tax and UBR

Conference condemns the current Government's "reforms" of local government taxation, including the introduction of the poll tax, its replacement by the proposed Council Tax, and the introduction of the Uniform Business Rate. Conference believes these taxes are fundamentally unfair, act to remove power from local government, and are ultimately unworkable.

Conference calls for:

1. *Poll tax to be replaced at the earliest opportunity, in 1993, by a local income tax set by each local authority without central government interference but subject to the need for equalisation;*
2. *The Uniform Business Rate (UB) to be replaced by land value taxation on the (unimproved) capital value of all land except that used for principal private residences or for agriculture;*
3. *The site value levied by each council to be determined in a prescribed proportion to the rate of local income tax which it chooses to set;*
4. *The 1992-93 Community charge Benefit to be made more generous, including 100% rebates to those with no income."*

This support was part of the Liberal Democrats' platform at the 1997 General election, as explained by Vickers (1997):

"We would replace it (Uniform Business Rate) with a locally set Site Value Rating (SVR) system, using data held by the Valuation Office (Agency of the Inland Revenue) on property transaction values. It could be operating within one year of enactment by Parliament, initially using self-valuation by occupiers while the Valuation Office data was adapted where necessary."

In continuance of this approach, as part of a campaign to raise the profile of LVT within the Party in preparation for its 1997 Annual Conference, the Liberal Democrat Campaign

for Land Value Taxation (1997:31) sought "*to promote the idea of LVT, and to study the relevance of LVT to other items of concern to the Party and its members."* For example, they made reference to a number of issues which are pertinent to this Report e.g. planning, capturing betterment, how LVT would collect betterment values, land values as an aid for planning etc.

> *"It is equally inconsistent and arbitrary to attempt to collect increases in land values subsequent to individual actions of planning consent, whilst ignoring all existing land values and all increases arising from other causes. Plainly, a concept like planning gain is a hit-and-miss, random affair, not a methodical means of ensuring that publicly-created land values are regularly captured for community benefit… Under a system of LVT, the valuation would be based on the full rental value of the site, at its optimum permitted use. Thus, betterment arising from planning decisions would automatically be collected as a revenue stream, along with existing land values and betterment arising from all the other causes which influence land values. If a system of LVT were in operation, land value maps and valuation rolls would be available. Planners and responsible political authorities would thus be in a position to gauge the likely effects which any one of a series of options would have—and so, too, would the public. The likely consequences of planning policies could be more accurately appraised. Again, the mere awareness of anomalies in patterns of land values would direct the planners' attention to consideration of appropriate remedial action."*

The prospects of the Liberal Democrats continuing with this LVT policy appears to be a possible outcome of these deliberation and we conclude that the Liberal Democrats are the major standard bearer for Henry George's policies in this current Parliament.

Scotland

In Scotland, Land Reform is on the agenda, stemming from its history of land ownership and occupier dispossession (Wightman 1999). It covers many aspects, including land value taxation. Active support is given by the Scottish National Party (SNP) which, although a minority party, increased its representation in the UK's Westminster Parliament at the General Election, and is a major, although minority element in the new Scottish Assembly. The Green Party is also now represented in the Scottish Parliament and has endorsed LVT in its outline policy.

The Labour Government has devolved "tax varying" powers to the newly elected Scottish Assembly, but these are restricted to raising income tax by a modest amount. The SNP, however, which wants independence for Scotland from the UK, has gone on the offensive with the prospect of claiming powers to vary the tax structure itself—in favour of taxing land values.

Perhaps in response, the Land Reform Group of the Scottish Office, the Department of

Government which currently administers Scotland, in its final Report on land reform concluded that,

> *"…comprehensive economic evaluation of the possible impact of moving in the longer term to a land value taxation should be under consideration."*

The European Union

More and more it is unavoidable when considering the future of British policy to take into account the historic and on-going role of European Union in those policies. Over the fifty or so years since the European identity was established, the influence of Europe has steadily grown. There is no question but that there is already existing a powerful economic entity, and that the policies in Brussels are influencing a large array of issues of great importance (e.g. monetary union and also common agricultural policy). But less certain is the continuing strengthening of the political union. Will the future be one of Federalism with an eye on the model of the United States? Or will it be one of political ties without sacrifice of national identity. Here again there is uncertainty.

But an important to note is that the European Union has already introduced directives or policies which have a bearing on the land, such as environmental protection. And other portents are on the horizon. There are moves to consider greater uniformity in the planning system and also in the harmonisation of certain kinds of taxation. Within this pressure there lies the ongoing speculation: to what extent New Labour will identify itself firmly with Europe; or will continue its current ambivalence.

The Georgists

By this name are known the comparatively small but very active organisations notably the Henry George Foundation who are dedicated to the principles of Henry George and united in their propagation of Land Value Taxation. They are disciples extraordinary. They carry the flag for the apostle of one hundred years ago and are determined and vigorous in the campaigns they put up. And in this they vary from the determined 'single taxers,' who argue for rapid action, to the less determined, who would accept gradual introduction in order to ensure continued strengthening into the future.

All in all, they are a force in their vigorous campaigns and beliefs. They certainly influence the policies of the Liberal Democratic Party as they did its predecessors in the early years of the Century. They have yet to make their mark on New Labour.

Feasibility in Relation to Shallow or Deep End

The above review brings out the difference in terms of political ideology or policy in relation to the content of this Report. But there is another kind of variation affecting

political feasibility which is common to all the parties or bodies referred to above. This is the approach of "shallow or deep end" which is referred to above. (Chapter 7).

It is apparent that the extremists, as always would require some kind of revolution, perhaps reminiscent of the way in which *land nationalisation* was introduced overnight in Russia through the Bolsheviks. Even though they would not be disposed, the land owners would fight bitterly, and use political influence and other means, and so defeat any of the possible advantages seen by the extreme Georgists in a rapid advance (Harrison 1994). By the same token a shallow end approach would by definition create less immediate hostility, would be spread over several years and so give those impacted a chance of adjustment to the new circumstances and enable all to learn from the "paddling pool" as opposed to the "deep end" . An example of a "shallow end," shelving gradually into deeper water, is now introduced in illustration (Douglas R, 1999: Personal Communication).

"(1) The first step would be for the Government to decide, on principle, that it wished to introduce LVT. The public would probably first learn of this decision from a statement to that effect in a Queen's Speech.

(1) This statement would have an immediate effect both on land values and on people's conceptions of land as an investment.

(2) The next step would be for land valuation legislation to be introduced, which would have a further effect on land values and land investment.

(4) The initial valuation in response to that legislation could perhaps be conducted in a year, although I should guess that at least two years would elapse in practice. The valuation would then be published.

(5) Allow another year for objections to individual valuations to be raised and considered.

(6) By this time perhaps four years would have passed from the initial decision. No land values would have been collected at all; but the value of land as a commercial entity would have changed substantially, though gradually, over the whole period.

(7) The next step, perhaps six months after publication of the valuation, would be for the Chancellor to announce that a tax levied on the basis of that valuation would be imposed at a date in the future. That date might be about five years from the initial decision (1), even assuming that all went well politically for the government.

(8) The initial tax would almost certainly be low, if for no other reason in order to allow valuation errors to be corrected without too much dislocation.

(9) Even assuming that a land taxing government remained in office, several years more would elapse before LVT reached anything remotely like 100% of the

annul value of land.

(10) At a guesstimate, ten years, or perhaps even twenty, would elapse between the initial decision and full implementation of the LVT policy. This seems to me a very "shallow end" approach indeed. It therefore does not seem necessary (to change the metaphor) to load any more sugar on the pill.

(11) Although it would take a very long time before LVT took full effect, this does not mean that benefits would not have appeared long before that date.

- The market price of land would begin to drop immediately the first announcement was made. Thereafter land prices would continue to drop at each stage in the process.
- The long warning that LVT would eventually come into operation would help to bring idle, or under-used land into use.
- It would also enable people who had invested heavily in land to transfer gradually into other securities. That would dispose of the "widow" objection sometimes raised by opponents of LVT.
- Long before LVT came into full effect, reductions of other taxes would take place."

The Role of this Report in the Political Struggle

During our work we have made close contact with the Georgists but we have been careful to avoid joining the 'campaign'. That we do not see as our role. What we do see is our offering a reasoned basis in our two Reports for debate and discussion on the topic of Land Value Taxation and Betterment for the Community. It is hoped that as such the Reports will inform views and debate and thus be helpful in ensuring a steady move towards sensible policies relating to the land, to be taken up by the political parties as they so wish.

We do so in the recognition that there is now, following the General Election of May 1997, a window of opportunity in that the third strongest party, the Liberal Democratic party, is currently reviewing its land taxation policies in favour of Land Value Taxation, as is the Scottish Nationalist Party, the Green Party and the Scottish Office of the Government with its devolved government. From this there is the possibility of the New Labour Government, with its huge majority, being influenced in the same direction, since it is a radical party and open to ideas even though they have been put forward from other parties. After all, the pioneer Fabians were strongly influenced by Henry George, and the current Fabian Society has established a Commission on Taxation and Citizenship, Chaired by Lord Plant, which is yet to report.

In the light of this political window of opportunity, the aim of this stage of our research programme is to offer, on the basis of our eventual findings, specific and detailed

proposals for strengthening the approach formulation of land taxation which would be compatible with the town and country planning system, in a way that could be acceptable to New Labour.

As to community benefit, no attempt will be made to revive the three failed systems of former Labour Administrations, apart from our proposals to enhance CGT and introduce a Greenfield Tax and brown land subsidy. But we would urge that the spirit of those attempts should be incorporated in policy to strengthen the operation of the planning system in that direction. This would cover the rationalisation and strengthening of the private sector funding for infrastructure which is already in place; the regularisation and strengthening of the current planning gain/planning obligation system via a new system based on environmental assessment; and methods which could be introduced into the operation of the planning system to place in the forefront the application of principles which aim to secure community benefit in everyday development control (Lichfield, 1989 and Lichfield, 1992b).

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