



# **Government Response to the Housing, Communities and Local Government Select Committee inquiry on land value capture**

Presented to Parliament  
by the Secretary of State for  
Housing, Communities and Local Government  
by Command of Her Majesty

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## Introduction

1. This Government welcomes the Tenth Report of Session 2017-19 of the Housing, Communities and Local Government Select Committee inquiry into Land Value Capture (HC 766), which was published on 13 September 2018. The inquiry has looked closely at the effectiveness of the existing mechanisms for capturing land value uplift and the Government has considered the Committee's findings and recommendations carefully in formulating its response below.
2. The Government's response is in respect of England only in relation to planning and the Community Infrastructure Levy and England and Wales with regards to compulsory purchase compensation.
3. The Government is committed to capturing increases in land value to reinvest in local infrastructure, essential services and further housing. This will make it more certain that communities benefit from the increase in land value that arises from urban regeneration and development. Developer contributions are the main existing mechanisms that local authorities use have available to capture land value uplift and we are already taking steps to improve the way the existing system works. As the Housing Minister stated in his evidence to the HCLG Select Committee, our objective, through reforms to developer contributions and wider planning reform, is to reduce speculation and negotiation and try to inject more certainty into the system. The Government has been clear that it is a key priority to get more homes built as everyone deserves a decent, affordable and secure place to call home.

## Response to recommendations

4. We welcome the Committee's consideration of how the Government could improve the way uplift in land value is captured. We believe the following responses to the recommendations demonstrate our strong commitment to using the existing mechanisms of land value capture as effectively as possible to create places where people want to live, work and raise families and ensure infrastructure is provided alongside high quality new homes.
5. The Committee has made recommendations on a number of key themes relating to land value capture including;
  - Principles of land value capture
  - National policy changes to viability
  - Strengthening the use of planning obligations
  - Reforms to developer contributions
  - Compulsory purchase and compensation
  - New town development corporations and the role of compulsory purchase
  - Alternative approaches to land value capture
6. We have structured our response to group these into the topics listed above. The text taken from the HCLG Select Committee report is highlighted in bold.

### Principles of land value capture

**We acknowledge that land values increase for several reasons, but have focused our work on the significant increases that arise from the granting of planning permission by local planning authorities and from public investment in infrastructure. Such increases can be**

**substantial and, given that these are significantly created by the powers of the state, it is fair that a significant proportion of this uplift be available to the state with the potential to invest in new infrastructure and public services. (Paragraph 22)**

**In our view, there are four distinct categories of property taxes and charges—only some of which are relevant in the context of the land value capture debate:**

**First, there are charges that relate to raising revenues for essential infrastructure arising from new developments, primarily Section 106 agreements and the Community Infrastructure Levy (CIL).**

**Second, there are taxes that are levied on assets and businesses, such as Corporation Tax, which do not capture land value increases.**

**Third, there are mechanisms such as Capital Gains Tax, Business Rates and Stamp Duty Land Tax, which are not specifically designed to capture land value increases but will have this effect in practice.**

**Finally, there are taxes and charges designed specifically to capture increases in land value arising from the granting of planning permission, of which there are currently none with this explicit purpose, although affordable housing requirements through Section 106 agreements do have the function of capturing land value for the public benefit.**

**The Government and other stakeholders should not confuse these different approaches when developing policy in this area. Land value capture mechanisms should create value for the public purse in addition to generating revenue for infrastructure made necessary by the granting of planning permission. (Paragraph 25)**

7. The Government agrees that there are some circumstances where significant increases in land value arise from the granting of planning permission by local planning authorities, and from public investment in infrastructure. We agree with the principle that it is fair that a proportion of this uplift should be retained by the public sector to invest in new infrastructure and public services.
8. The Government also recognises that there are number of different categories of property taxes and charges that can be linked to land value capture. Whilst we accept that these property taxes and charges do not all create value for the public purse in the same way, regulations, as well as direct taxation, can have a viability impact on development and it is therefore important for these to be considered alongside each other as they have a cumulative impact on housing supply.

**Estimates of mean average increases in land value arising from the granting of planning permission are not particularly helpful, given the considerable variation in uplifts dependent upon location and previous land use. Approximations of the proportion of the land value increase retained by the landowner also vary widely, with no agreed methodology for this calculation. (Paragraph 29)**

**Where estimates have been made, these suggest that landowners currently retain around 50% of the increase in land value arising from the granting of planning permission. Much of the captured value, however, is what is necessary to provide the infrastructure and services made necessary by development, with additional value to deliver affordable houses. Our view is that there is scope for central and local government to claim a greater proportion of land value increases through reforms to existing taxes and charges, improvements to compulsory purchase powers, or through new mechanisms of land value capture. (Paragraph 30)**

**For decades, Governments have sought to capture increases in land value, but with limited success. When considering new mechanisms for land value capture, it is vital that we learn the right lessons from the past. It is clear that any new approach should have cross-party support, with the intention of being retained for the long-term and should be simple to administer, without complicated exceptions or viability processes. It will also need to allocate land value increases fairly between central government, local authorities and landowners, without undermining incentives to sell or risk holding up the development process. Consideration should also be given to a mechanism for the redistribution of revenues between high and low-value areas. Where new land value capture mechanisms reduce incentives for landowners to participate in the development process, local authorities will require effective CPO powers to ensure that communities continue to benefit from developments in their areas. (Paragraph 43)**

9. As noted by the Committee, there is no agreed methodology for calculating the amount of land value uplift retained by the landowner. The amount of uplift returned to the landowner is mostly dependent upon the final sales price for the individual plot of land. The sales price will also be dependent on how much the land sells for. This in turn is also dependent on who it is that will be buying the land and the associated tax structure that would be applied, i.e. whether the purchaser would pay capital gains tax, corporation tax etc.
10. MHCLG land value estimates are not reflective of the price paid for land and a comparison between residential and agricultural land value estimates will not give an indication of the amount returned to the landowner. The price at which a plot of undeveloped land is sold for may be significantly higher than the existing agricultural use value, this is because the market price will also reflect the potential for the land to be developed at any given point in time.
11. The Government agrees that there is scope for central and local Government to claim a greater proportion of land value increases. The Government's priority is delivery, in line with the Housing Minister's commitments to provide more higher quality housing more quickly. Changes to land value capture systems can have profound impacts on the land market in the short term, even where they are sensible for the longer term. Accordingly, the Government's priority is to evolve the existing system of developer contributions to make them more transparent, efficient and accountable. It will of course continue to explore options for further reforms to better capture land value uplift, providing it can be assured that the short-run impact on land markets does not distract from delivering a better housing market.

### **National policy changes to viability**

**We agree with the witnesses who told us that Section 106 had been successful in generating significant revenue for infrastructure and affordable housing, that its contractual nature helped to ensure delivery, and that it should be retained as part of a wider package of land value capture mechanisms. We believe that the Government has made several important changes through the revised National Planning Policy Framework (NPPF), in particularly around transparency in the viability process - something we have called for repeatedly in the past. It will, however, be important to ensure these changes lead to real improvements and the Government should report to the Committee in 12 months' time as to the effect of these reforms. (Paragraph 64)**

**Further, the recent judgement in Parkhurst Road Ltd v Secretary of State for Communities and Local Government should give assurance to local authorities that developers cannot avoid their local plan obligations by claiming that the price they paid for the site means that this would not be viable. (Paragraph 65)**

12. The Government welcomes the Committee's support for our recent changes to viability in national policy. The viability guidance published alongside the National Planning Policy Framework in July 2018 makes it absolutely clear that the price paid for land is not a relevant justification for failing to accord with relevant policies in the plan. The Parkhurst Road Ltd v Secretary of State for Communities and Local Government and London Borough of Islington judgement supports this position. However, the Government agrees that it will be important to monitor and evaluate the changes to viability that we have brought forward in the National Planning Policy Framework to ensure they are having the intended effect and we will report back to the Committee on the effect of these reforms by the end of 2019. It is important to note that there will be limited data available by this date due to the length of time it will take for changes to bed in, for example, it will take some time for local authorities to update plans following the publication of the National Planning Policy Framework.

### **Strengthening the use of planning obligations**

**It is clear that the most successful local planning authorities have well-defined local plans, which set out clear expectations of what is required of developers, and the professionalism and resources to ensure that these obligations are met in practice, resorting to enforcement mechanisms where necessary. Local authorities that expect to raise higher revenues from Section 106 agreements should ensure that they too have agreed local plans that provide clarity and certainty to developers. (Paragraph 66)**

**However, further reforms will be necessary if Section 106 is to provide the infrastructure and affordable housing that this country needs: (Paragraph 67)**

- **There is clearly an issue around capability in local authority planning departments and it is in the public's interest that this improves. Many local authorities are no match for developers and their lawyers. The Government should work with the Local Government Association to provide additional resources, training and advice to local planning authorities to ensure that they are able to negotiate robustly with developers and that local authorities are consistently able to contract for the appropriate level of planning obligations. (Paragraph 67)**
- **Further bullets addressed in the paragraphs below.**

13. The Government recognises the importance of having the right level of resourcing and skills in local planning authorities and the challenges they face. We are committed to ensuring that local planning authorities have the capacity and capability to deliver and improve the speed and quality of plan making and decision taking. That is why in January 2018 Parliament approved regulations that provided a 20 per cent increase in planning fees, with the commitment from local planning authorities that the increased revenue would be reinvested into resourcing their planning departments. Based on the level of activity at the time, the uplift in planning fees was estimated to generate over £75 million of additional fee income annually for local authorities, which can be used for additional training or the recruitment of specialist planners. The Government consultation "Planning for the right homes in the right places" sought views on the principle of introducing a further 20 per cent increase for those authorities who are delivering the homes their communities need. We are currently considering the options in taking forward any future fee increase.

14. The Government works with the Local Government Association and other partners to provide resources, training and advice to local planning authorities and neighbourhood planning bodies to ensure they are able to effectively and consistently implement the new approach to viability set out in the National Planning Policy Framework and accompanying guidance.

- **The CIL Review Group recommended that a Local Infrastructure Tariff should be introduced, with a minimum level of developer contributions that cannot be negotiated away through the viability process, while ensuring local market conditions are recognised. This could help to address ongoing concerns around viability assessments and developers negotiating down local plan requirements. Notwithstanding the changes that have been made to the viability process within the Revised National Planning Policy Framework, the Government should give further consideration to the implementation of a Local Infrastructure Tariff in the future. (Paragraph 67)**
15. There are currently 154 authorities charging the Community Infrastructure Levy in England, and 73 others are progressing (by at least consulting on a preliminary draft charging schedule of proposed rates). This shows that many local authorities are operating the levy effectively and where the levy is in place, revenues are increasing year on year. In fact, Community Infrastructure Levy receipts have more than doubled every year since the levy was introduced in 2010. Improving the existing system in the short term will be less disruptive for local authorities than more significant changes.
16. As we set out in our consultation ‘Supporting housing delivery through developer contributions’, our reforms are aimed at making the existing system more transparent and accountable by:
- Reducing complexity and increasing certainty for local authorities and developers, which will give confidence to communities that infrastructure can be funded.
  - Supporting swifter development through focusing viability assessment on plan making rather than decision making (when planning applications are submitted). This speeds up the planning process by reducing scope for delays caused by renegotiation of developer contributions.
  - Increasing market responsiveness so that local authorities can better target increases in value, while reducing the risks for developers in an economic downturn.
  - Improving transparency for communities and developers over where contributions are spent and expecting all viability assessments to be publicly available subject to some very limited circumstances. This will increase accountability and confidence that sufficient infrastructure will be provided.
17. The Government notes that there is no precise model for a Local Infrastructure Tariff (LIT) at present, in particular, there is no proposed methodology for how the LIT would be set and the rate at which this would be charged. Without this, it is not possible to make an assessment of the extent to which different developments in different places would pay more or less (and therefore whether the viability of development would be affected, and whether individual authorities would raise more or less revenue). Accordingly the Government’s immediate priority is to evolve the existing system of developer contributions as set by local authorities. However, the Government continues to explore options for going further in the medium term, including Local Infrastructure Tariff-type models.
- **Local authorities should consider using their existing CPO powers to enforce local plan policies, in particular in relation to affordable housing, where some developers seek to use viability assessments to avoid their obligations. (Paragraph 67)**
18. Local authorities already have extensive powers to acquire land compulsorily or by agreement, including for planning and housing purposes. The use of these powers to secure affordable housing may be appropriate in certain circumstances. However, compulsory purchase is intended as a last resort and in each case, acquiring authorities (bodies with compulsory purchase powers, such as local authorities) need to demonstrate that there is a compelling



case in the public interest. The revised National Planning Policy Framework encourages local authorities to take a proactive approach to land assembly, supported where necessary by the use of compulsory purchase powers, where doing so would help to secure better development outcomes. The Government will give consideration to whether further guidance on the use of local authorities' compulsory purchase powers would be appropriate in the light of the revised National Planning Policy Framework.

## **Reforms to developer contributions**

**If the Community Infrastructure Levy (CIL) is to become an effective mechanism for capturing development value for the provision of local infrastructure, it requires considerable reform, as highlighted by the CIL Review Group. CIL is far too complex and the extensive range of exceptions need to be removed. Importantly, there has to be greater certainty that the infrastructure associated with development is actually delivered at the appropriate time, sometimes in advance of development commencing. It is regrettable that the Government has decided not to implement a Local Infrastructure Tariff, as recommended by the Review Group, which would address some of these concerns. We call on the Government to reconsider its rejection of this proposal. (Paragraph 77)**

19. The Government accepts that further reform to the Community Infrastructure Levy is needed. This is why we are bringing forward reforms to developer contributions that will reduce complexity and increase certainty for local authorities, developers and communities. As we have set out in paragraph 16, the key objectives of these reforms are to make the system of developer contributions more transparent and accountable. The proposed reforms will provide continuity and certainty for developers in the short term. In the longer term, the Government will continue to explore options for going further.
20. Government recognises that there are circumstances where infrastructure may need to be provided in advance of development taking place. That is why Government has committed to provide greater certainty of infrastructure funding by committing to multi-year budgets in road and rail, and at Autumn Statement 2016 created the National Productivity Investment Fund to provide £31 billion of additional investment in areas crucial to boosting productivity. At Autumn Budget 2017, we more than doubled the Housing Infrastructure Fund (HIF), funded by the National Productivity Investment Fund, from £2.3 billion to £5 billion. To demonstrate our commitment to the Housing Infrastructure Fund, Autumn Budget 2018 further increased the available funding to a total of £5.5 billion unlocking up to 650000 new homes in England by providing infrastructure in areas of greatest housing demand. In addition, MHCLG and the Department for Transport are already working to improve integrated delivery of housing and transport projects.

**The Mayoral CIL in London indicates that Strategic Infrastructure Tariffs that are simple, generally accepted and universally-applied could be effective mechanisms for capturing value to fund specific large infrastructure projects. The Government is right to explore how Strategic Infrastructure Tariffs can be extended across the country, and in particular to combined authorities, who may wish to seek advice from the Greater London Authority as to how such schemes can be successfully implemented. However, the Government should show greater urgency in this respect, given the CIL Review Group made its recommendations nearly two years ago. Care must be taken, however, to ensure that Strategic Infrastructure Tariffs create an additional source of revenue and do not undermine Section 106 receipts. Once a number of Strategic Infrastructure Tariffs are in place, the Government should undertake an assessment to ensure that they have indeed raised additional revenue and not simply diverted money from one pot to another. (Paragraph 78)**

21. The Government welcomes this support for Strategic Infrastructure Tariffs (SIT). Earlier this year we consulted on a proposal to enable Combined Authorities where they have strategic planning powers to implement a Strategic Infrastructure Tariff. We have recently announced our intention to take this proposal forwards for Combined Authorities and further detail is set out in our Government response to the consultation. In the longer term, the Government will bring forward proposals for allowing joint planning committees to charge the tariff and will review options for giving other groups the power to levy a tariff. We will also amend guidance to encourage groups of charging authorities to use existing powers to more effectively support the delivery of strategic infrastructure through the pooling of their local Community Infrastructure Levy receipts.
22. In order to introduce a Strategic Infrastructure Tariff, Combined Authorities will need to test the proposed rates for any impact on the viability of development in their areas. The proposed rates will also be subject to public consultation and independent examination. We therefore do not expect a Strategic Infrastructure Tariff to have a negative impact on local developer contributions. However, we will monitor the impact of the Strategic Infrastructure Tariff, where it has been taken up. We have recently consulted on a proposal to require local authorities to produce Infrastructure Funding Statements on an annual basis. The information set out in these statements will enable local communities, developers and central Government to view information relating to developer contributions in a transparent way. The use of these Infrastructure Funding Statements along with additional monitoring of our proposed reforms (as set out in paragraph 12) will enable an initial assessment of the impact of a Strategic Infrastructure Tariff.

## **Compulsory purchase and compensation**

**Compulsory Purchase Order powers can be important in enabling the development and provision of necessary infrastructure on large sites, particularly where ownership is fragmented. This could facilitate completely new developments, extensions to existing communities, or the build out of large schemes within urban areas. The Government should build on its reforms to the Compulsory Purchase Order process and consider ways in which the process can be further simplified, to make it faster and less expensive for local authorities, whilst not losing safeguards for those affected. We heard that the requirement for the Secretary of State to confirm Compulsory Purchase Order submissions causes unnecessary delays. Such decisions should be made locally, including by local authority-led New Town Development Corporations. (Paragraph 88)**

23. The Government will keep the Compulsory Purchase Order confirmation process under review to ensure it is operating efficiently and effectively. The Government agrees that compulsory purchase powers can be an important tool for assembling land needed to deliver a wide range of development, regeneration and infrastructure projects. Used properly, they can bring about improvements to social, economic and environmental wellbeing. Nevertheless, compulsory purchase interferes with the private property rights of those affected. It is intended as a tool of last resort, with the acquiring authority having taken reasonable steps to acquire the land by agreement. Compulsory Purchase Orders should only be made where there is a compelling case in the public interest.
24. Given what compulsory purchase powers entail, it is vital that their proposed use is subject to thorough, transparent and independent scrutiny. The role of the Secretary of State in the confirmation process can help to maintain confidence that Compulsory Purchase Orders are rigorously and fairly examined, that objectors' views are fully considered, and ensuring the use of compulsory purchase powers is justified and proportionate.

25. Where there are no remaining objections to a Compulsory Purchase Order, current legislation<sup>1</sup> already allows for confirmation decisions to be taken locally. In such cases the Secretary of State has a discretionary power to give the acquiring authority responsibility for confirming its own Compulsory Purchase Order. In the last 5 financial years (Apr 2013 – Mar 2018), over 60% of the housing and planning Compulsory Purchase Orders submitted to MHCLG were passed back to acquiring authorities for confirmation in this way.
26. Furthermore, the Government has recently taken steps to speed up and streamline the confirmation process. Measures in the Housing and Planning Act 2016:
- introduced timescales and targets for confirming Compulsory Purchase Orders;
  - allow the Secretary of State to ‘delegate’ Compulsory Purchase Order confirmation decisions to an Inspector; and
  - require the Government to report to Parliament on timeliness of Compulsory Purchase Order decision taking.
27. These measures seek to significantly speed up the process for taking confirmation decisions. However, having only come into force on 6 April 2018 they need time to take effect. As required by the Act, Government will submit an annual report to Parliament setting out the extent to which confirming authorities have complied with these new timetables for confirming Compulsory Purchase Orders. We intend to publish the first such report in Spring 2019, a copy of which can be provided to the Committee.
28. The Government considers that the current arrangements strike the right balance between ensuring independent scrutiny of Compulsory Purchase Orders and allowing flexibility for acquiring authorities to confirm their own orders in less controversial cases. However, we will keep the operation of the current procedures under review and consider whether further improvements would be beneficial. To increase transparency around how Compulsory Purchase Order decisions are taken, and how long it takes to reach those decisions, MHCLG will prepare an online register of Compulsory Purchase Order cases. Such a register will increase the amount of publicly accessible information about current and past cases, and support monitoring of the timescales and targets introduced on 6 April 2018. In addition, in the Autumn Budget 2018 the Government committed to publish a further consultation on planning measures to support high streets, including how to support the more effective use of existing tools such as Compulsory Purchase Orders and Local Development Orders.

**In addition, we believe that the Land Compensation Act 1961 requires reform so that local authorities have the power to compulsorily purchase land at a fairer price. The present right of landowners to receive ‘hope value’ - a value reflective of speculative future planning permissions - serves to distort land prices, encourage land speculation, and reduce revenues for affordable housing, infrastructure and local services. We do not believe that such an approach would be incompatible with human rights legislation, as there would be a clear public interest and proportionality case to make this change. (Paragraph 111)**

**We believe that increases in the value of privately-owned land arising from public policy decisions should be shared with the local community. The compensation paid to landowners should, therefore, reflect the costs of providing the affordable housing, infrastructure and services that would make a development viable, as well as capturing a proportion of the profit the landowner will have made. The value paid to landowners should be determined by an independent expert panel and be binding on all parties. On land acquired by the public sector, this would allow local authorities to capture the remaining**

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<sup>1</sup> Section 14A Acquisition of Land Act 1981

**value to provide the infrastructure and services made necessary by development, as well as additional revenue for other local priorities. It would also serve to lower land prices traded within the private sector, ensuring that developers are able to meet their local plan obligations in full. (Paragraph 112)**

29. The Government recognises that there is considerable interest in reforming the basis of compulsory purchase compensation under the Land Compensation Act 1961. We share the Committee's view that compulsory purchase compensation should be fair, reflecting the requirements of planning policy. This is what the current legal framework seeks to provide for. Through the Housing and Planning Act 2016 and Neighbourhood Planning Act 2017, the Government has recently taken forward wide-ranging reforms to make the compulsory purchase process clearer, fairer and faster for all. These reforms include extensive changes to the Land Compensation Act 1961. We are keen to let these recent reforms bed in but will continue to monitor their practical application and remain open to considering practical improvements to the framework. The Committee will be aware that the Rt Hon Sir Oliver Letwin has published his independent review of build out alongside Autumn Budget 2018. The review has set out recommendations to increase the market absorption rate of new homes – which Sir Oliver identified as the binding constraint on build out rates on large sites – including on compulsory purchase. The government will respond to Sir Oliver's report in February 2019.
30. Compulsory purchase compensation is currently based on the overriding principle of 'equivalence'. This is the principle that people whose interests are acquired compulsorily, or under the threat of compulsion, should be put – at least in monetary terms – in the same position as if the land had not been taken, being entitled to compensation which is neither less nor more than the value of their loss. Reflecting this, they are entitled to the market value of the land to be acquired<sup>2</sup>, disregarding any increase or decrease in value caused by the 'scheme' (e.g. regeneration project, new settlement, trunk road etc) underlying the acquiring authority's Compulsory Purchase Order – or the prospect of that scheme. This is known as the 'no scheme principle', which was codified through changes in the Neighbourhood Planning Act 2017 which came into force in September 2017. The basic premise is that compensation should reflect what the land or property would be worth on the open market if the scheme to which the Compulsory Purchase Order relates did not exist (i.e. in the 'no-scheme world').
31. Compensation includes 'hope value' (i.e. value based on the land's development potential) only insofar as it can be demonstrated to exist in that no-scheme world. The extent of this hope value will reflect the prospects of obtaining planning permission for an alternative development in the absence of the scheme, taking into account the risks, uncertainties and costs associated with implementing such a development. This includes the costs of providing the affordable housing, infrastructure and supporting facilities required to make the development acceptable in planning terms, as well as any Community Infrastructure Levy liability.
32. The Government recognises that compulsory purchase is a complex area and there is limited awareness of how compensation is assessed in practice. In 2004 the Government published a series of booklets that sought to provide a plain English guide to compulsory purchase compensation. Given that significant reforms have been implemented in the intervening period, we propose to review and update these guides.

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2 There are broadly three elements of Compulsory Purchase Order compensation:

- The open market value of the interest in land that is to be acquired
- 'Disturbance' payments for losses caused by reason of losing possession of the land and other losses not directly based on the value of land (e.g. removal costs, professional fees, stamp duty); and
- Loss payments for the distress and inconvenience of claimants being compelled to sell and/or relocate at a time not of their choosing.

**It is concerning that, in many low-value areas, the financial compensation offered by local authorities or central government for property is not sufficient to purchase an equivalent replacement elsewhere. The Government needs to assess how best to address this inherent unfairness in the Compulsory Purchase Order system and explore whether, in some circumstances, it may be more appropriate to provide an equivalent replacement for what has been acquired. (Paragraph 90)**

33. The Government shares the Committee's concerns and accepts the need to explore this matter further. As noted in paragraph 30, compulsory purchase compensation is based on *financial* equivalence – with three principal heads of claim: the market value of the interest acquired, disturbance and loss payments. We are aware that in certain circumstances, the value of compensation paid may not enable claimants to purchase a replacement property in the immediate area. In practice, acquiring authorities can address these situations through bespoke support packages for affected residents, including shared equity or shared ownership arrangements.
34. This can be, for instance, a particular issue for Compulsory Purchase Orders supporting estate regeneration, and the Government's Estate Regeneration National Strategy already provides guidance on appropriate resident engagement and protection. It sets an expectation that leaseholders should be offered a package that enables them to stay on the estate or nearby. We will give consideration to whether our compulsory purchase guidance could be more explicit about the Government's expectations as to resident protection in a compulsory purchase context.

### **New town development corporations and the role of compulsory purchase**

**The first generation of New Towns owed much of their success to the ability of Development Corporations to acquire land at, or near to, existing use value and capture uplifts in land value from the infrastructure they developed and subsequent economic activity to reinvest in the local community. Reform of the Land Compensation Act 1961, alongside the enhanced CPO and land assembly powers that we recommend, will provide a powerful tool for local authorities to build a new generation of New Towns, as well as extensions to, or significant developments within, existing settlements. This is a model that has worked well in the past and would lead to a significant, and much-needed, catalyst for housebuilding. (Paragraph 113)**

35. The Government accepts that the use of compulsory purchase can play an important role assembling land for new settlements. If land is acquired by a new town development corporation, compensation would be assessed in accordance with the no-scheme principle<sup>3</sup>. In practice, the value of compensation would depend on the location, character and planning status of the specific land being acquired. If there are limited prospects of the relevant land being developed in the absence of the designated new town, the market value is likely to be the same as or close to existing use value. As noted in paragraph 31, even where planning permission for an alternative development has been granted or can be assumed, the level of compensation would reflect the ability of a claimant to implement that development, and the costs of providing the necessary infrastructure.
36. New town development corporations have extensive compulsory purchase powers under section 10 of the New Towns Act 1981. The exercise of these powers is likely to be important in carrying out the necessary land assembly to deliver designated new settlements and

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<sup>3</sup> Section 6D of the Land Compensation Act 1961 makes special provision as to the definition of 'the scheme' in the context of areas designated as new towns. Where land is to be acquired in connection with these areas, the scheme is defined as comprising all development of any land for the purposes for which the area is or was designated.

their associated infrastructure. Compulsory Purchase Orders made under the New Towns Act 1981 would be submitted to the Secretary of State for Housing, Communities and Local Government for confirmation. Our existing guidance on the compulsory purchase process<sup>4</sup> sets out Government policy on the factors which confirming authorities will take into account when deciding whether to approve Compulsory Purchase Orders. It contains both general considerations that apply to all Compulsory Purchase Orders and specific considerations that are relevant to orders made by particular acquiring authorities.

37. The current compulsory purchase guidance does not, however, cover new town development corporations. That is why we are currently consulting on draft guidance on the use of New Town Compulsory Purchase Order powers<sup>5</sup>. This should provide additional clarity and certainty to those with an interest in proposed new settlements, including promoters, investors, infrastructure providers, landowners and local communities.

### **Alternative approaches to land value capture**

**Tax Increment Financing (TIF) has been used to some effect in Battersea and local authorities should consider how it could be used more extensively to fund infrastructure in enterprise zones. However, if TIFs are to be more widely adopted, the Treasury-approval process will need to be far less complex, while there urgently needs to be greater certainty around the Government's plans for business rates retention - something this Committee has repeatedly called for. (Paragraph 82)**

38. Within the current business rates retention scheme local authorities are able to borrow against their share of any anticipated uplift in business rates income. Such borrowing is not subject to Government approval, unless the authority is seeking to retain the uplift in business rates income beyond the date at which the business rates system itself is reset. In such cases, including Battersea Nine Elms, the Government needs to make regulations specifically excluding income from business rates from the statutory framework Parliament put in place to regulate the business rates retention scheme. Such regulations effectively mean that a proportion of future business rates in an area is not available to fund local services, typically for periods up to 25 years. Before making such regulations, the Government therefore needs to be satisfied that the projects being funded are cost effective and that financial planning is robust. We have no current plans to change the process. More generally, the Government is aiming to publish further details of its plans for the future of business rates retention shortly.

**A well-defined local plan with clear objectives and requirements for which the developer must pay, would inherently be reflected in, and could create, lower market land values. There is already much that can be done to capture land value increases arising from planned development and infrastructure provision. This reinforces the urgent need for local planning authorities to agree up-to-date local plans. (Paragraph 110)**

39. The Government is clear that having an up-to-date plan in place is essential to planning for our housing requirements; providing the clarity that communities and developers deserve about where new homes should be built; and ensuring that development is planned rather than the result of speculative applications. Planning legislation and policy is clear that up-to-date development plans are essential to effective planning. Regulations which came into force in April 2018 have established a clear requirement for such plans to be kept up to date, local planning authorities must review local plans at least once every 5 years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community.

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<sup>4</sup> Guidance on Compulsory Purchase Process and the Criche Down Rules (February 2018)

<sup>5</sup> Planning reform: supporting the high street and increasing the delivery of new homes <https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>

40. Having an up-to-date plan in place will mean that developers have greater certainty over where development can take place and what type of development is appropriate. Having up-to-date plans will also mean that developers are clear what policy requirements will be expected of them. As a result, developers will be able to identify all the costs of development at an early stage and factor this in to the price paid for land.

**The Government owns tens of thousands of acres of land across the UK and so there is much that can be learned from Germany and the Netherlands with regard to capturing increases in value from publicly-owned land. The Government should reflect on the experience of Freiburg and Amsterdam to ensure that, where public land is put forward for residential development, the maximum value is captured for new infrastructure and public services. This may not always equate to selling public land to the highest bidder, but instead on the basis of the proposed levels of affordable housing or commitment to providing the necessary infrastructure. (Paragraph 118)**

41. Government recognises that, in some instances, it may be appropriate to dispose of land at less than best consideration (undervalue) where this is justified in the wider public interest, for example, to enable the regeneration of land to deliver new housing. The Government is also consulting on giving local authorities additional freedom to make the most of existing brownfield land and dispose of surplus land that could instead accommodate new homes.

**The compulsory purchase reforms we have recommended in this report would give greater powers to local authorities to assemble land and, in so doing, achieve a higher level of control over developments in their areas. As we saw in the Netherlands, on publicly-owned land local authorities would have greater power to introduce incentives to require developers to build sites within an agreed timeframe, through the use of options to develop and forfeitable fees. Public ownership of land for residential development would likely lead to greater developer cooperation, higher levels of affordable housing and faster build-out rates than it is currently possible to achieve through the existing planning system. (Paragraph 119)**

42. The Government accepts the recommendation that local authorities could play a more proactive role in assembling land for housing. Local authorities are already often major land owners, and many have taken a proactive role using this land and their general land assembly powers, including compulsory purchase, to shape new development in their area, often working closely with developers.
43. The revised National Planning Policy Framework encourages local authorities to take a proactive approach to land assembly, supported where necessary by the use of compulsory purchase powers, where doing so would help to secure better development outcomes. This work is supported by MHCLG's Land Release Fund which supports councils to bid for funding for land remediation and small-scale infrastructure, which will help bring sites forward for housing that would not have otherwise been developed. Additionally the £1.3 billion Land Assembly Fund, launched in September 2018, enables the acquisition of land needing work to get it ready for the market.
44. Homes England also have an important role in assembling land for housing. They use mechanisms enabling control of the pace of development on land it disposes through the Public Land for Housing Programme. Instead of freehold sales, Homes England in many cases use building leases, which grant developers permission to build homes on its land. Freeholds are passed directly to homeowners. Conditions within the building lease set development milestones. In the event of failure by developers to meet milestones or other requirements within the lease, Homes England have the power to terminate leases and bring the land

back to the market. Homes England already have broad compulsory purchase powers under section 9 of the Housing and Regeneration Act 2008 which can be used to assemble land for housing development and regeneration projects. In the Housing White Paper, Homes England committed to making more proactive use of these powers.

45. The Government is also exploring options to support faster build out rates. Sir Oliver Letwin has carried out a review on this issue and the Government will respond to the recommendations set out in his Final Report that was published alongside Autumn Budget 2018, in February 2019.

**Given cross-party support for new approaches to land value capture, the Government should be flexible and support individual local authorities in piloting some of the more innovative approaches to land value capture that have been suggested during our inquiry and elsewhere. A programme of innovative pilots would allow local authorities to tailor approaches to their local circumstances and provide useful evidence as to which methods of land value capture are most effective. (Paragraph 127)**

46. The Government is interested in exploring proposals for bespoke mechanisms of land value capture where these are put forwards. We are working with local areas through our work on the Oxford-Cambridge Arc and Housing Deals to support local authorities to develop the most effective mechanisms for capturing uplift in land values to reinvest in their areas, subject to ensuring these mechanisms do not impact on the viability of development in an area. We remain open to considering other proposals where these are proposed. The Government is happy to report back to the Committee on the progress with this work at the end of 2019.

**A truly efficient and equitable system of land value capture should not focus solely on new developments, but should also address how existing properties benefit from development and particularly from public investments in local infrastructure. The Government should commission a cross-departmental project to consider how this wider goal might be achieved and report back to this Committee within 12 months. (Paragraph 128)**

47. The Government is open to considering opportunities for how we best capture uplift in land values that arise from public investment in local infrastructure, however the Government is opposed to land value taxation of existing properties. As noted in the evidence to the Committee, it would require frequent, complex and expensive revaluations of land; would lead to very significant increases in taxation in some parts of the country and would penalise homes with gardens (a 'garden tax'). The Government is focused on increasing housing delivery and delivering the reforms to developer contributions announced at Autumn Budget 2018.

### **Cross departmental working**

48. We recognise the importance of working across departments to ensure a co-ordinated approach to maximising benefit for the public sector as a result of Government decisions on growth and investment. The National Infrastructure Commission, in their National Infrastructure Assessment have set out the importance of taking a co-ordinated approach to housing and transport and this was also highlighted in the NIC's report on growth in the Oxford-Cambridge Arc, Partnering for Prosperity: a new deal for the Cambridge-Milton Keynes–Oxford Arc. We are already working cross-Government to ensure that the Government's decisions on place-making, economic growth, the environment, and infrastructure and connectivity, are made in a joined-up way.
49. This cross departmental working in support of the high ambitions for growth in the Oxford-Cambridge Arc will set a benchmark for aligning housing and transport decisions and ensuring a co-ordinated cross-Government approach. We will report back to the Committee by the end of 2019 on our progress with this, as well as the effect of our changes to viability and the progress with the proposed reforms to developer contributions.