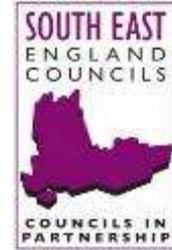


SOUTH EAST ENGLAND COUNCILS EXECUTIVE MEETING



Date: 30 November 2018

Subject: **Land Value Capture: Is it a viable option for the South East to help fill infrastructure funding gaps?**

Report of: Nick Woolfenden, SEEC Head of Policy Co-ordination

Recommendations:

Members are asked to

- i) Welcome speakers who will share their experience and views on options to help fill South East infrastructure funding gaps through land value uplift capture (LVUC).
- ii) Discuss whether potential LVUC options could work in the South East, and actions that would be required to support their introduction.

1. Context – the South East infrastructure funding challenge

- 1.1 The South East faces a £15.4bn infrastructure funding gap by 2030. SEEC members are clear that infrastructure is essential to support housing delivery – ensuring that new homes have access to the full range of support services that residents need. Better infrastructure is also required for South East business and productivity growth – for example to reduce congestion delays and improve businesses’ links to their key markets. However public sources of funding are limited, so new approaches are likely to be necessary to help fill the infrastructure funding gap. For example SEEC has called for local retention of ‘first time’ stamp duty, as this would more effectively reflect infrastructure needs arising from development. Whilst generally welcome, recent amendments to s106, CIL and viability will not alone make enough difference to significantly address the South East’s infrastructure gap.
- 1.2 One option being considered by Government and others is how the uplift in land value that arises from public policy decisions - typically granting planning permission or strategic infrastructure investment (eg. a new rail line or station) - can be captured to help fund local infrastructure needs. This is widely known as ‘land value uplift capture’ (LVUC). While there is considerable variation in land value uplifts dependent upon location and previous land use, landowners currently retain a very large proportion of value uplifts resulting from the grant of planning permission.
- 1.3 There now appears to be a willingness from Government to work with partners on possible LVUC approaches to help fund infrastructure. Our experienced guest speakers today will introduce key issues and take part in panel discussion with members to explore options for how LVUC might work in the South East:
 - **Professor Christine Whitehead**, Professor of Housing Economics at the London School of Economics and Adviser to MHCLG’s Committee on Housing Supply
 - **Julian Ware**, Senior Principal at Transport for London. TFL has been at the forefront of exploring new ways to fund transport infrastructure.

2. Land value uplift capture for infrastructure – issues and options for discussion

- 2.1 Whilst LVUC is seen by many *in principle* to offer a way of supporting much-needed infrastructure investment, there is wide consensus that there is not currently a single ‘silver bullet’ solution. This is despite significant work from a range of partners (including from GLA/TfL). The same view is also reflected in evidence to a MHCLG Select Committee inquiry and its final report in September 2018. The report highlights that previous attempts to capture land value increases have had mixed success (see Annex 1 for summary) - Governments have struggled to strike the right balance between capturing fair values for the community, without undermining incentives for private sector participation in the market, and in a way that is politically acceptable to all major parties. There have also been tensions between central and local government as to how revenues are spent.

2.2 **To help shape further SEEC views and any potential proposals to Government, members are invited to discuss possible approaches with our guest speakers.** To help discussions, some principles for consideration and options already being explored elsewhere are set out below and in annex 2 (overleaf). The Mayor of London is also interested in workable approaches - areas of common ground can be discussed by SEEC's members through the Wider South East Political Steering Group to help inform any proposals to Government.

i. Principles for how a LVUC system could operate. Should it:

- Focus on land value capture (which could help fund infrastructure and affordable housing) from new build homes/business developments? This would exclude existing development ie. the intention is not to increase taxation on existing properties.
- Be relatively simple, allowing local (rather than national) collection?
- Secure funding for local infrastructure but without undermining the financial viability of development?
- Are there any other principles that should be included?

ii. What practical options might work best in the South East, and what actions would be needed to implement a suitable approach?

The following list includes five options considered by GLA/TfL (for example in GLA's recent [Capital Gains](#) research on land assembly models) and the MHCLG Select Committee. It is important to note their conclusion that these are not appropriate for all areas. Members may wish to explore the merits of these, or other options, for the South East with today's experts (further detail in annex 2):

- A. Freedoms that could be granted under the 'Lucas Clause'.**
- B. Development Rights Auction Model (DRAM).**
- C. Land Fund.**
- D. Compulsory purchase.**
- E. Proposals in Sir Oliver Letwin's Independent Review of Build Out Rates (see also Item 3 today).**

Annex 1: Past approaches to LVUC - development charges and betterment levies

The recent MHCLG Select Committee highlights a number of attempts since 1945 to introduce some form of national development taxation. These include:

Dates in force	Approach	How it worked
1948-51	'Development Charge', Town and Country Planning Act 1947	100% tax on the difference between the value of a property with planning permission and the existing use value.
1968-70	'Betterment Levy', Land Commission Act 1967	Payable on the sale or lease of land, or following "material development". Initially charged at 40% (due to rise to between 60% and 80% in subsequent years) of the development value when land was sold, leased or realised by development.
1976-85	'Development Gains Tax' 1973, and 'Development Land Tax', Development Land Tax Act 1976	Taxed the 'realised development value' of land upon disposal. Local authorities also given extensive powers of compulsory purchase through the Community Land Act 1975, with the compensation due to landowners being the market value less any Development Land Tax.
2004 partially implemented	'Mandatory Tariff' 2001 and the 'Optional Planning Charge'	A proposed flat fee as an optional alternative to a Section 106 agreement.
Not implemented	'Planning Gain Supplement', recommended by Kate Barker's Review of Housing Supply 2004	Infrastructure associated with new development would be financed by capturing land value uplift at the point at which planning permission for a proposed development is granted. Not implemented because of opposition from the industry and insufficient support from local authorities.

Annex 2: Possible options to explore for LVUC

Option A: Freedoms that could be granted under the 'Lucas Clause'

Last year Tim Leunig, advisor to Treasury and CLG, outlined to SEEC how freedoms that could be granted by Ministers under the 'Lucas Clause' might help capture value uplift:

- Land owners would be able to put up their sites for consideration in a SHLAA process and they would agree to the council being able to buy the site for a specified multiplier of existing use value, but not the full 'planning-granted' value-gain.
- In this way, the land owner gets a small windfall and the council gets the bulk of the increase in land value from agricultural to housing land by granting planning permission.
- The increase in value could then be used to front-load infrastructure.

Option B: Development Rights Auction Model (DRAM)

DRAM looks at a way of capturing value uplift arising from new development. It draws on the 'rail plus property' model, which has been successfully implemented by a number of public transport agencies internationally:

- Requires preparation of an integrated zonal development plan for zones of influence around new station locations on a new rail project.
- The auctioning authority, which would have powers to assemble land and grant planning permissions, would coordinate land pooling and auctioning of developable plots.
- As a result of new transport investment and coordinated master-planning, the value of the pooled land would be higher than the value of individual land holdings before assembly.
- The auction proceeds, above a set reserve price, would be shared between the landowners and the auctioning authority, which would use its share to fund transport investment.
- A joint taskforce between the Government and London partners concluded that given a set of

specific constraints, principally associated with developing residential property on industrial land in London, this model is unlikely to be a good method of extracting value uplift for transport investment in the capital. The DRAM may be more applicable in other parts of the country, where lower value industrial or agricultural land is available for redevelopment, so there may be scope to test the model further.

Option C: Land Fund

A new 'Land Fund' could make funding available to local authorities to buy land. This would be repayable with nominal interest after land value has been captured:

- The UK's approach towards infrastructure projects is generally a long process, which enables the private sector to speculate on increases in land value during the scheme's planning process and subsequently.
- There is therefore an argument for Government to imitate the private sector and support public acquisition of land adjacent to the proposed infrastructure either prior to any formal announcement or during the planning process, whether via negotiation or a Compulsory Purchase Order.
- In terms of financing, a Land Fund could be 100% Government-owned or owned in conjunction with the private sector. It could be available to any public sector body promoting a scheme where there is an opportunity for land value capture.
- In the event that a scheme failed to progress, the acquired sites could be sold and the Land Fund reimbursed.

Option D: Compulsory purchase

As concluded by the MHCLG Select Committee, the compulsory purchase process should be further modified to support LVUC and make it faster and less expensive for local authorities, whilst not losing safeguards for those affected:

- Compulsory Purchase Order (CPO) powers can be important in enabling the development and provision of necessary infrastructure on large sites, particularly where ownership is fragmented.
- The Land Compensation Act 1961 requires reform so that local authorities have the power to compulsorily purchase land at closer to existing use value. The present right of landowners to receive 'hope value' – a value reflective of speculative future planning permissions – leads to distorted land prices, encourages land speculation, and reduces revenues for affordable housing, infrastructure and local services.
- The Government should also build on its recent reforms to the CPO process - for example, the requirement for the Secretary of State to confirm CPO submissions causes unnecessary delays; instead such decisions should be made locally.

Option E: Proposal in Sir Oliver Letwin's Independent Review of Build Out Rates

Sir Oliver Letwin's Independent Review of Build Out Rates (see also Item 3) proposes introducing a power for local planning authorities in places with high housing demand to designate particular areas as single large sites, and create master plans/design codes to ensure diversity. The review recommends policy changes which it says would not only improve build-out rates, but also facilitate LVUC:

- Local authorities should be given statutory powers to purchase large sites compulsorily at prices which reflect the value of those sites once they have planning permission.
- Guidance for councils to increase diversity would cap maximum residual development value for the land at around 10 times existing use value rather than current huge multiples of existing use value.
- The review concludes that residual open market value for land with development permission subject to the constraints of large site diversity planning rules will be significantly lower than present values for land with unconstrained development permission.
- Therefore the full difference between this residual land value and the unconstrained gross development value of the land will be available to contribute towards the cost of infrastructure, the cost of affordable housing and the opportunity cost associated with other forms of diversification.