

**APPG on Land Value Capture
Roundtable Session on
Amending the 1961 Land Compensation Act
MINUTES of MEETING**

Portcullis House, Room R, 26 June 2019, 16:00 to 18:00



Attendees

APPG Members:

Parliamentarians in attendance:

Tony Greaves, Baron Greaves of Pendle in the County of Lancashire

Apologies and non-attending members

Sir Vince Cable MP (Chair)
Richard Bacon MP (Vice-Chair)
Ruth Cadbury MP (Vice-Chair)
Caroline Lucas MP (Vice-Chair)
Sir Edward Davey MP (Vice-Chair)
Kevin Hollinrake MP (Vice-Chair)
Nick Boles MP
Tom Brake MP
David Drew MP
Kelvin Hopkins MP
Helen Hayes MP
Ben Lake MP
Stephen Lloyd MP

Tony Lloyd MP
Angus McNeil MP
Seema Malhotra MP
Neil O'Brien MP
Matt Western MP
Seema Malhotra MP
Tony Lloyd MP
Chris Williamson MP
Richard Stuart Best, The Lord Best OBE DL
Christopher Fox, The Lord Fox
Jenny Jones, Baroness Jones of Moulsecoomb
Alison Suttie, Baroness Suttie
William Wallace, Baron Wallace of Saltaire

Witnesses

Tom Aubrey, Advisor, Centre for Progressive Policy
Anne Baxendale, Shelter
Rose Grayston, Shelter
Robin White, Shelter

Secretariat (Coalition for Economic Justice)

Joseph Bourke, Ed Randall

Parliamentary researchers and staff members

Jamie Sweeney (Parliamentary Assistant to Matt Western MP)

Observers and others in attendance

Tony Vickers, ALTER

Minutes of Proceedings

Item 1 – Welcome and Apologies:

Joe Burke, Chair of the APPG LVC's Secretariat, welcomed all those who had agreed to attend the APPG Roundtable on reform of the 1961 Land Compensation Act. In particular, Joe warmly welcomed Anne Baxendale, Rose Grayston and Robin White of Shelter and Tom Aubrey from the Centre for Progressive Policy (CPP). He said that they had all made it clear that in addition to the presentations they had prepared, for the APPG LVC, they would do their best to respond as fully as possible to any questions from the APPG LVC's members.

Joe was also pleased to welcome Lord Greaves, who had previously signalled his willingness to consider giving his support to a Private Member's Bill amending the 1961 Act. Joe explained that Lord Greaves had previously indicated he would stay for the whole of the Roundtable session and that he was keen to explore a series of issues, arising from the draft bill that had been prepared by QCs working with the CPP.

Joe explained that he had received indications from four members of the APPG LVC (Matt Western MP, Caroline Lucas MP, Seema Malhotra MP and Ruth Cadbury MP) that they were hoping to attend the Roundtable but - he added - he was well aware that members were under particular pressure today because of the ['Time is Now' Climate Lobby](#) of Parliament. The Lobby was designed to raise issues which they were of particular interest to many members of the APPG.

Joe explained that the main purpose of today's meeting was to:

- (a) Receive a briefing from Tom Aubrey on the form and content of a draft Land Compensation (Public Interest) Bill and to consider a number of technical and strategic issues, which arose from the draft Bill and its anticipated presentation in Parliament.

In addition Joe explained that the meeting would:

- (b) Receive a second briefing, this one from Anne Baxendale, Rose Grayston and Robin White of Shelter. The second briefing would concern work undertaken by Shelter – with others - aimed at bringing together and helping to coordinate the efforts of a wide-ranging group of campaigning organisations aimed at building support for the amendment of the 1961 Land Compensation Act;

and

- (c) Consider the best ways of advancing the reform agenda implied in the draft Bill as well as helping to fashion the most effective strategy for adding to support for the Bill in Parliament and improve its chances of becoming law.

Item 2 – Approval of minutes of the meeting held on 27 March:

Joe Bourke noted that the minutes of the previous APPG LVC meeting could not be agreed today as none of the APPG members who had been present for the previous APPG meeting were present for this Roundtable session.

Decision: Agreed that review and approval of the minutes of the previous APPG meeting should be held over to the next meeting of the APPG LVC, which was scheduled for 17 July.

Item 3 –Private Members Bill – Reform of the 1961 Land Compensation Act

- **Anne Baxendale**, Shelter’s Deputy Director of Communications, Policy and Campaigns, asked to say a few words before Tom Aubrey began his presentation (on the draft Land Compensation (Public Interest) Bill).

Anne outlined and underscored Shelter’s conclusions, from several decades of housing policy analysis and campaigning: *The high and rising cost of land has come to play a critical role in delaying and – in many cases – preventing the construction of new, decent and affordable homes in the UK.* Anne explained that a substantial part of the resource needed to build quality social homes and to provide infrastructure for new settlements and communities was being going to a select group of landowners able to set the price for developable urban sites that were in high demand. Anne held up a copy of a new Shelter publication, launched just a few days previously, and explained that [Grounds for Change: The case for land reform in Modern Britain](#) crystalized views that were now shared across the political spectrum. There was, she said, an urgent need for land reform; it was a precondition for transforming the prospects of the homeless in Britain and to meet needs of those who were badly housed in modern Britain. Despite their different starting points all of the contributors to the Shelter essay collection shared and were signed up to a common objective: reform the 1961 Land Compensation Act.

- **Tom Aubrey**, of the CPP, began his presentation by distributing the most recent draft of the Land Compensation (Public Interest) Bill. He explained that work on the draft Bill was continuing and that what he was presenting to the APPG LVC was the most recent iteration/product of a lengthy drafting process; that process had employed 5 (five) QCs with a detailed knowledge of and specialist interest in English land compensation law and feedback on their work from the CPP.

Tom said he was keen not to oversell what was being proposed. There wasn’t a single silver bullet that could provide for a comprehensive reform/transformation of Britain’s housing system. Planning practice and regulations and access to development finance were highly

complex matters and part of a system that had become increasingly complex. The draft Bill was intended to address a relatively limited set of issues, which had come to play a particularly important role in increasing the price of land for residential development in Britain. In particular the draft bill was aimed at displacing and challenging valuations, based on prospective planning permission, from the market valuation of land identified for residential uses by certain kinds of (designated) public bodies. Tom explained that what he referred to as 'land valuations based on prospective planning permission' were often referred to as valuations incorporating 'hope value'.

One major objective of the planning framework set out in the 1947 Town and Country Planning Act of 1947 had been to capture – for the greater good/public interest - betterment that came with planning/prospective planning permission for residential and other development sites. However the interest, which private landowners had in benefiting financially from the betterment or uplift in land values dependent upon the award of planning/prospective planning permission, had been reflected in changes in planning practice and legislation made in the 1950s and 60s. The interpretation and application of what was known as the 'no-scheme' or *Point Gourde* principle – exemplified in one particularly significant case, which concerned the new town of Milton Keynes ([Myers v Milton Keynes Development Corporation 1974](#)) – had fatally weakened the ability of new town/development corporations to acquire land for development at a cost that enabled them to meet the cost of infrastructure and produce good quality new homes they could sell or rent at truly affordable prices. The Myers' case, which had been decided by (Master of the Rolls) Lord Denning, had rested in part on Lord Denning's interpretation of section 14 of the 1961 Land Compensation Act.

The draft Bill, in its current form, was printed on just the two sides of an A4 sheet of paper. Getting the draft Bill down to this size had been one important objective for the drafters and for CPP. CPP and Shelter are well aware that the prospects for actually changing the law were likely to be enhanced by proposing a small number of very specific changes, which could be successfully promoted as part of a private members measure in either the Commons, the Lords, or both houses of Parliament.

The draft Bill had been designed so that it would only apply to larger sites/large scale residential developments. Tom said it was important to recognise that this means that many smaller sites on which residential developments could take place – urban as well as rural sites – would be left outside the scope of the legislation.

The draft Bill is concerned with the powers of *designated authorities*, defined as public bodies – such as Mayoral Development Corporations and new towns - with statutory powers over transport projects. Such bodies will have been/would have to be designated by central government and approved as such by the Secretary of State. For the purposes of the Bill designation governing the business of land acquisition and site assembly would subject to statutory instruments laid before Parliament.

Tom made it clear that the issue and processes of designation were ones that he/CPP would be happy to discuss and review in the light of comments from MPs, Lords and other interested parties.

The draft Bill does not make or propose arrangements for either Scotland or Northern Ireland – it is a measure intended to apply exclusively to England and Wales. It could – however - inform policy developments elsewhere in the UK.

A key concern for the team of QCs who had advised on the legislation was the draft Bill's compatibility with human rights legislation and, in particular Protocol 1, article 1 of the European Convention on Human Rights. The Convention acknowledged 'a right of natural and legal persons' to "peaceful enjoyment of his possessions", subject to the "general interest or to secure the payment of taxes". Tom explained that key features of the proposed Bill had been drafted so that they were consistent with Protocol 1, article 1, while also ensuring that the general interest of the population could be clearly defined, protected and advanced.

In response to questions, particularly from Lord Greaves, Tom said that the issue of what constituted *the market value* of a plot of land *zoned, approved or identified* for development (in local plans or in other ways) had been an important consideration for the team of QCs advising the CPP. They had wrestled with the factors that could be taken into account in reaching a valuation. Some account had been taken, in preparing the draft Bill, of provisions in the Leasehold Reform Act of 1967. Market value – should the draft Bill succeed - was almost certain to be greater than current use value but the approach to determining how much greater would need to be robust and to take account of the interests of landowners and of designated authorities empowered to acquire land for residential development in the interest of the public.

The approach envisaged by the CPP and its advisers was one that acknowledged the need to develop a methodology for settling on a market valuation that would minimise the motivation of sellers as well as public purchasers to go to law/make use of Compulsory Purchase Orders. Tom explained that arrangements in other European countries showed that it was practicable (and desirable) – even allowing for differences between UK law and relevant law in other European states – to reach lawful agreements (between public and private parties) on the valuation of large sites acquired by public bodies for residential development. It was important to proceed in a way that could help create and sustain expectations about site valuations, which were likely to be accepted by private landowning interests and, at the same time, satisfy the public interest in funding essential infrastructure and building affordable homes along with strong and sustainable communities.

Tom pointed out that the draft Bill – as drafted - was also consistent with a high degree of continuing landowner involvement in development schemes. He had in mind joint schemes (involving private and public parties) where there was pooling of land and sharing of development costs. Joint development agreements were most definitely not excluded by the

draft Bill that there were some [interesting policy discussions and developments in Scotland](#), which he wanted to draw to the attention of APPG LVC members.

- **General discussion and questions:**

Tom's presentation led to a wide ranging discussion of issues; it also generated a great many questions.

Joe Bourke asked about the no-scheme/Point Gourde principle and Tom responded with a detailed account of how case law, in combination with the shifting interpretation and application of the 1961 Land Compensation Act, had intensified the difficulties that public bodies faced in acquiring and then developing large sites in areas of high housing demand judged to be suitable for residential development.

Tony Vickers raised the issue of authorities with major development schemes that would not be designated authorities (for the purposes of the Bill). Tony referred in particular to Reading/a major development site in the Reading area where the construction of some 20,000 new homes was planned. Tom expressed the view that development on the scale mentioned by Tony was likely to attract new town/development corporation status (if it didn't already apply) and was also likely to be linked with work on a major transport projects. In some cases there would probably need to be shared action – involving a number of authorities/public bodies – so that designation, as defined in the draft Bill, could be sought and obtained.

Lord Greaves followed Tony's question up by raising a number of questions of his own about the issue of designation and the powers of the Secretary of State in giving approval/drafting statutory instruments under the terms of the Bill. Lord Greaves thought that there would need to be clear rules governing the decisions of the Secretary of State about designation and that the criteria would have to be spelt out for parliamentarians, ministers and officials. Tom acknowledged the importance of setting out the criteria for designation as clearly as possible. He made it clear that the CPP was keen to work with Lord Greaves on the criteria that would be required to govern the decision making powers of the Secretary of State concerning designation and transport planning.

Jamie Sweeney said that he was concerned about how many public authorities wanting to promote affordable housing programmes and schemes for their local area might be left out. Jamie said he was thinking about parts of the country, such as Warwick and Leamington, which could find it difficult to get Secretary of State approval/support for designation and land assembly. Tom responded by saying that the Bill's drafters had consciously decided not to prepare a Bill that would apply to every local authority in the country. An important reason for this was that scale was thought to be a key issue in winning Government support/tacit support and in minimising parliamentary opposition.

Lord Greaves said it was important to look at the areas covered by ITA (Integrated Transport Authorities) when considering how many areas in England and Wales might qualify for designation and the number of combined ITA authority areas, which might be able to work together in seeking/obtaining designation. Tom agreed.

Ed Randall made several observations and posed two questions to Tom. They concerned: (a) the status and continuing involvement, in refining and revising the draft Bill, of the CPP's QC panel and of APPG LVC members; and, (b) (what he referred to as) 'benchmarking' of land values for the purpose of establishing public valuations/market valuations for important sites in designated authority areas.

Ed said that Oliver Letwin and others had suggested that reasonable market values for large sites suitable for residential development might be in the order of 10 times existing use values. Tom referred to continental European experience in arriving at agreed valuations for important development sites and suggested that such valuations tended to align quite well with the kinds of valuations that Oliver Letwin and others appeared to believe were reasonable in the case of the UK.

Lord Greaves said that the notion of market value in the draft Bill wasn't entirely clear to him. He also raised, in this connection, the issue of how anticipated site valuations - based on a given site's existing classification in local plans - related to notional market values and to limiting or excluding any element of hope value private landowners might want to pursue. Tom made it clear that when a designated authority sought to acquire a site, under the provisions set out in the draft Bill, the site would not have any prospective planning value *unless it were sold to the designated authority on terms that could be agreed between the seller and buyer.*

The discussion focused on what was meant by the notion of 'market value' when a land monopolist (a private landowner/seller) encountered a single buyer (or monopsonist) in the form of a public body with special authority to purchase. It was clear from the discussion that the notion of establishing a legally secure means of arriving at an agreed selling price, which was identified and accepted as the market valuation, was pivotal for and integral to the draft Bill. Tom explained that some inspiration and guidance for the draft Bill had come from planning and compensation practice (recognised as lawful and consistent with the Convention on Human Rights) elsewhere in Europe:

“...under the German Building code for example account is taken of existing legal circumstances in settling on a value for particular tracts of land; that value is likely to be considerably lower where prospective planning permission has been excluded from consideration BUT not so low as current use valuation”.

There is scope to take a site's allocation, in an extant local plan, into consideration but such designation is not the only or necessarily the most important consideration when an

important site is identified as one that should be acquired by a public body for a publicly approved purpose.

Jamie Sweeney – speaking in his capacity a Parliamentary Assistant to Matt Western – asked: “How will this help Warwick and Leamington?” He received several answers. Tom said it might or might not help Warwick and Leamington directly but the draft Bill, if it became law, would begin a process, influencing the cost of important development sites across England and Wales, which would prove beneficial to the public as a whole over time.

Ed said that national funding and resources for housing, which were currently the subject of intense competition, often went to areas that had the highest land values. If those areas could reasonably be expected to fund their own housing development programmes then national finance could be directed to areas that had little or no prospect of drawing on the uplift in local land values that came with residential development. Ed acknowledged – in response to Jamie’s follow up question about whether this would happen in practice – that it was possible that central government would simply choose to reduce finance allocated nationally in support of new home construction. However, it was at least possible - with policy makers who were committed to investing more in housing across the country - that funding that would otherwise have gone to areas capable of generating finance to meet their own needs would go to support and encourage new home construction in places where that was simply a non-starter.

- Briefing from Shelter on why they see Land Value Capture as crucial to solving the housing crisis.

Anne Baxendale, Rose Grayston and Robin White of Shelter gave an account of the work that they had been undertaking with a range of organisations committed to increasing the rate at which affordable new homes were built across the UK. They were able to point to one – amongst a number – recent and important product of Shelter’s work, as a coordinator and convenor of a joint effort to bring about reform of the 1961 Land Compensation Act:

publication of **Grounds for Change**: The case for land reform in modern Britain.

Contributors to **Grounds for Change** included Will Tanner, Director of Onward; Crispin Truman, Chief Executive of the Campaign for the Protection of Rural England; Nicholas Boys Smith, Director of Create Streets; Daniel Bentley, Editorial Director of Civitas as well as Polly Neate, Chief Executive of Shelter; Clive Betts MP, Chair of the Housing, Communities and Local Government Select Committee; Andrew Potter, Chief Executive of Hastoe; Cllr Leo Pollack, a Cabinet Member responsible for social regeneration in the London Borough of Southwark and Kate Henderson, Chief Executive of the National Housing Federation. The range of contributors, they argued, demonstrated just how broadly based the campaign for reform of the 61 Act had become and how much buy in, across the political spectrum, had been achieved.

All three members of the Shelter team underlined the importance of developing, agreeing and pursuing a realistic strategy capable of overcoming the most harmful features of the 1961 Act. They were keen to work as closely as possible with member of the APPG LVC to amend the 61 Act. Reform was necessary in order to alter the trajectory of land prices in England and Wales in order to create the conditions that would make it possible to give new impetus to ‘building many more secure and affordable homes’ in England and Wales. Polly Neate had referred to reform of the 61 Act as a vital part of any plan to address “a national housing emergency” – these were the words she had used in her forward to **Grounds for Change**.

Parliamentary action, which they believed was essential and which they wanted to support as strongly as they could, depended upon determined and effective cooperation by all those campaigning for reform. If action in Parliament was to be effective then it needed to secure the widest possible support and to persuade ministers and officials of the strength of the case for reform, and the very close relationship between sharing the uplift in land values more fairly and achieving the Government’s own publicly stated targets for new home construction and provision of new social housing.

- **Robin White, Joe Bourke and Lord Greaves** all referred to the current parliamentary environment and the prospects for initiating, encouraging and supporting private members bills and other parliamentary action. Lord Greaves gave an account of the Private Bill procedure in the House of Lords. Peers, unlike member of the Commons, were required to submit Bill title and details when the opportunity arose to do so; MPs just put their name into the lottery and were then assailed by interests wanting them to take up a particular Bill idea.

Lord Greaves explained that the current parliamentary session would need to end before there could be an opportunity for him to propose a private member’s Bill in the upper house. The current parliamentary session was one of the longest ever [and the longest in modern times](#); it could not now end before 31st October. Ballots for private members’ Bills would open in both the Lords and Commons after the Queen’s Speech, at the start of a new parliamentary session.

Robin White emphasised the need to ‘make the best use of the time available’ for preparing the ground for parliamentary action to reform of the 1961 Act.

Lord Greaves said *that he was prepared to submit and champion a reform measure in the House of Lords*. He identified some technical issues, which he believed would require attention, and Tom Aubrey made it clear that he was ready to work closely with Lord Greaves and, through him, with the Bill office in the House of Lords, in order to ensure that when the opportunity arrived there was a Land Compensation (Public Interest) Bill – which could be submitted as a private members Bill – which was as fit as possible for purpose.

In response to a question from Ed Randall Tom Aubrey said that he was confident that CPP's QC team would be available and able to contribute to any modifications and refinements of the draft Bill that were considered necessary.

Lord Greaves emphasised the importance of working as closely and collaboratively as possible with the [Government minister in the Lords responsible for housing policy](#) (currently Lord Bourne of Aberystwyth at the Ministry of Housing, Communities and Local Government). However, in the current political climate there was great uncertainty about who was likely to hold that (or any other) position in future.

All those present agreed that while it was likely that a new parliamentary session would begin in the autumn it wasn't possible to predict the political environment in which any private member's measure would be competing for support and attention.

Robin White talked about striving for the most broadly based support in the Commons for a measure to reform the 61 Act. He referred to [Helen Hayes' Ten Minute Rule Bill](#), which had been backed by a significant group of MPs but had been presented to the Commons with just one declared Conservative supporter (Sir Gary Streeter – Conservative MP for South West Devon). Robin said that: The challenge of getting support from all parties was one that should not be underestimated and needed to be thought about very carefully.

Joe Bourke outlined APPG LVC work on obtaining backing for joint statements by parliamentarians in the form of letters and Early Day Motions. He emphasised the importance of continuing efforts to keep reform of the 61 Act in the public mind and in the minds of parliamentarians.

Joe Bourke referred - in particular - to the sponsorship of a back benchers' *debate in back benchers' time*/BBT application. The application had been made under the aegis of **Matt Weston**; it sought a debate on reform of the 1961 Act and related matters. The case for holding a back benchers' debate had arisen from the publication of the [10th report of the Housing, Communities and Local Government Select Committee on Land Value Capture](#).

The purpose and scope of the BBT application was to secure:

A debate to explore greater devolution of Land Value Capture mechanisms to mayoral and local authorities; reform of the 1961 Land Compensation Act, to provide for public acquisition of land at close to existing use values; replacement of business rates with site value rating; and the making of council tax more proportional to land rental values.

Joe expressed his thanks to Matt for taking this task on and told the Roundtable meeting that nine (9) members had so far agreed to take part in the proposed debate but that a minimum of 15 members was required in order to get the debate scheduled. The APPG LVC

would be asking more of its members to commit to taking part in the debate and he encouraged all those present to urge any MPs they knew would be interested in the proposed debate to express their willingness to take part.

Item 4 –Other Business:

- Speakers for backbenchers debate 2019 – HCLG & APPG report (see above)
- Lords debate 2019 (item not taken – deferred to a future meeting)
- Update on Communications Strategy – Land Value Capture (item not taken – deferred to a future meeting)

Item 5 – Date and time of next meeting: 17/07/2019

Feedback on Submission to Treasury Select Committee – Business Rates Reform

3.00pm – 5.00pm (in Meeting Room P– Portcullis House)