CABINET.

TOWN AND COUNTRY PLANNING (DEVELOPMENT RIGHTS) BILL.

MEMORANDUM BY THE MINISTER OF TOWN AND COUNTRY PLANNING.

AT their meeting on the 15th November, 1945, the Cabinet approved in principle the proposed heads of legislation annexed to C.P. (45) 275 and authorised me to prepare a Bill. Some modifications have since been considered by the Compensation and Betterment Sub-Committee of the Lord President’s Committee, but there are certain points on which I must seek the views of my colleagues urgently so that further progress can be made with the preparation of the Bill during the recess.

A.—Compensation for the General Restriction.

2. One of the main effects of the Bill will be to take all rights of development out of private hands, thus restricting owners to their existing use of land unless they receive the consent of the planning authority to any change and pay a betterment charge where appropriate. The Cabinet provisionally approved compensation for this step on a basis which gave—

(i) 100 per cent. compensation where land was “dead-ripe” for development;

(ii) a refund on an “out-of-pocket loss” basis of any money actually paid for development value since 1929;

(iii) 33\(\frac{1}{3}\) per cent. in all other cases.

3. The Cabinet withheld final approval to these proposals, however, pending an estimate of the likely cost, and from such data as are available it was later calculated that the total compensation bill might be of the order of £500–600 million or possibly more.† In view of the difficulties which the Chancellor of the Exchequer and others of my colleagues saw in the original scheme (particularly in justifying the flat percentage, which I had suggested ought to be reduced from 33\(\frac{1}{3}\) per cent. to 25 per cent.) I submitted to the Compensation and Betterment Sub-Committee on the 24th June‡ an amended scheme to limit compensation to “out-of-pocket loss”—that is to say, a land owner should have refunded to him any money actually spent on purchasing the land in excess of the value left to him after the restriction to existing use has been imposed. This seemed to me on reflection to be the only case in which we should admit that land-owners had any right to compensation for being deprived for the future of increment in land value resulting from development. The Compensation and Betterment Sub-Committee approved this proposal and invited me to arrange for inter-departmental discussion of the details at official level, with a view to immediate redrafting of the compensation clauses of the Bill.§

* C.M. (45) 53rd Conclusion, Minute 2.
† C.B. (46) 3, Appendix C; but see also Note (2) to Appendix A, infra.
‡ C.B. (46) 4.
§ C.B. (46) 1st Meeting.
4. As the Bill as drafted already included clauses to give effect to the "out-of-pocket loss" formula, I did not anticipate any difficulty in adapting the existing draft so as to exclude compensation where no monetary loss had been suffered; but in further discussion the Chief Valuer has properly drawn attention to a number of problems that might arise in applying the proposal to particular cases, and, although he does not, I understand, pronounce the scheme quite impracticable, he is nevertheless of the opinion that cases will arise in which it could only be operated with extreme difficulty. I set out in Appendix A the details of the compensation formula and indicate at which points those difficulties arise. I also suggest possible methods for overcoming some of the difficulties, but even with these modifications the Chief Valuer is doubtful whether the proposals will be capable of proper application in all cases. Shortly, the main difficulty is in making an accurate apportionment, where an owner has disposed of part of his land after building on it or otherwise improving its value for development.

5. In view of the difficulties which had arisen, the Treasury representative at the official discussions suggested an alternative method of calculation (set out in Appendix B) which overcomes most of the problems of valuation. I think it right, therefore, to submit both proposals to my colleagues in order that we may decide which we should adopt.

6. To sum up the position in a few words, the choice is between:

(a) A refund basis of compensation founded on the principle that an owner should have refunded to him any money actually spent on the purchase of the land in excess of the value left to him after the general restriction to existing use has been imposed; and

(b) a discount basis of compensation that takes as its starting point the difference between the market value unrestricted and the market value restricted and calculates the compensation payable by discounting that figure on a 5 per cent. basis back to the date of purchase.

7. For my own part, I strongly recommend the refund proposal at (a), because it is based on a clear principle that will be more readily understood by the House and the public generally and, I believe, more likely to be accepted by them as fair. The detailed suggestions in Appendix A are designed to reduce the valuation problems to a minimum and the main principle could be applied without difficulty over by far the greater part of the field. I fully recognise that difficulties may arise in some cases and if they cannot be disposed of by a negotiated settlement there will have to be arbitration or even litigation before those claims could be settled up; but this will be true of any scheme, however simple it may appear on the surface. In my view, therefore, we ought not lightly to depart from a scheme that is based on a sound and readily understood principle, unless an alternative can be found that is equally acceptable, both politically and financially.

8. My main objection to the "discount" proposal put forward by the Treasury representative is the difficulty of explaining why the discount should be applied and of defending it. The formula takes as its starting point what purports to be the actual loss of value (although, in fact, the amounts so arrived at would be very heavily swollen because of the factor of "floating value") and then reduces the compensation without regard to what the actual monetary loss is or, indeed, to whether there was any monetary loss at all. Nevertheless, the defence would have to be based primarily on the "out-of-pocket loss" principle, but with the added refinement that we are compensating, not on the basis of what an owner in fact paid, but on what we think he would have paid had he been able at the time of purchase to forecast accurately the level of "market" value (including "float") which a valuer would put on his land at the present time. Apart from the difficulty of explaining and justifying this proposition, I believe it would give many owners far more than their monetary loss and other owners—particularly those already hit by the war—substantially less.

9. Finally, although no firm estimate can be made, the total cost to the Exchequer under the discount proposal may be considerably higher than under the refund proposal. This depends partly on what is taken to be a "purchase" for fixing the discount period—a fruitful source for litigation in any event. I doubt if we could limit it to actual purchases for full monetary consideration; we should certainly be pressed to admit sales for partial consideration and, even sales for nominal consideration and, ultimately, gifts and
inheritance. On that basis, the total bill is bound to be very much higher than under the refund proposal which is based on actual, not hypothetical, loss.

10. Assuming my colleagues agree that, politically, the straightforward "refund" proposal at (a) is preferable to the "discount" proposal at (b), the question for decision is whether the practical difficulties in the "refund" proposal are so formidable as to make it necessary to abandon it and adopt (b) or some other alternative. The main difficulty arises where the original purchase was a long time ago and changes have since occurred (e.g., where part of the land originally purchased has since been sold off or where part of a lease has expired or where improvements such as roads and sewers have been made and only part of the benefit has yet been reaped by development that has taken place). To a limited extent, the necessary apportionments in these cases might be reduced by Regulations to a mathematical formula, but it would still be necessary in some cases to ask the valuer to cast his mind back to a date in the past and provide data for the necessary calculations. The Chief Valuer properly draws attention to the fact that complete accuracy would not be possible in all cases, because the number of valuers with a knowledge of market conditions in the past becomes more limited the further back we go; that a settlement would sometimes have to be reached purely as a matter of hard bargaining; and that, as the Arbitrator tends to lean to the subject, we should have to recognise that a measure of overpayment might be necessary in these difficult cases in order to reach a settlement.

11. I think we should try to ease the problem by drawing the backward limit at 1926—twenty years ago. This will reduce the number of difficult cases to a very limited range. I should not, notwithstanding the difficulties mentioned in the preceding paragraph, feel justified in recommending the abandonment of a scheme that has the merit of being simple, that can be easily defended and that will produce the right result in most cases without any difficulty, in favour of an alternative that, in my view, offends all three of these criteria. I recommend, therefore, that we should adopt the "refund" scheme, set out in Appendix A.

B.—Application to Developed Land.

12. At the suggestion of the Chancellor of the Exchequer I was invited by the Lord President's Committee* to consider further whether payment of no compensation—by which I assume a limitation of compensation to "out-of-pocket loss" was meant—could be defended in the case of developed land. In my view it would be quite illogical to treat developed land on a different basis from undeveloped land. The potential development values are in both cases the result of community influences and I can see no justifiable reason for saying that owners of built-on land have a right to future increases in land value, and to a higher purchase price if their land is wanted to provide, say, open spaces or roads, while an owner of unbuilt-on land has not. Moreover, it would not be easy to find a satisfactory definition of "developed land." There may be some cases of owner-development where it will be expedient to be lenient in the matter of betterment, but that applies no less to undeveloped land and can be met in administration by an adjustment of the betterment charge.

C.—Finance and Central Purchase.

13. At the meeting of the Lord President's Sub-Committee on the 25th June at which proposals for the Central Purchase of land were considered, I was asked to arrange for the examination, by officials of the Departments concerned, of—

(a) a grants system that gave the necessary measure of financial assistance to local planning authorities, but had regard to the finances of the Authority concerned;

(b) a central purchase system that achieved a similar result;

I attach (Appendix C) a Report on these matters, prepared by my Department in consultation with the Treasury, the Ministry of Health and the Scottish Office. Part I of the Report sets out a scheme of grants which could be adopted

* C.B. (46) 1st Meeting, para. 1.
if it is decided not to centralise land purchase; Part II sets out an equivalent renting basis which could be established under central purchase. Whichever of the alternative bases is approved by my colleagues the details will need to be worked out in consultation with these Departments and with the other Departments, particularly the Ministries of Transport, Health and Education, who are concerned with land in reconstruction areas.

14. Briefly, the grants scheme is as follows:

(a) The cost of acquiring and clearing land required for a reconstruction area will be carried in a reconstruction account.
(b) All land will be transferred, after clearing, from the reconstruction account to the account of the local authority appropriate to the purpose for which it is to be used, at a price to be fixed on a basis which is set out in paragraph 10 of Appendix C.
(c) The reconstruction account will carry all capital costs not transferred to other accounts of the local authority.
(d) Exchequer grant will be paid as a percentage of the annual loan charges on the capital cost remaining in the reconstruction account.
(e) The percentage might be, say, 50 per cent. of such charges for five years, 40 per cent. for the next five years, and 30 per cent. for the next fifty years. For the first ten years grant will be paid on ascertained relevant loan charges and thereafter on an estimate made at the end of the tenth year.
(f) Poor or heavily blitzed local authorities might receive extra grant up to, say, 20 per cent. over and above the standard percentages, on a basis to be settled.
(g) The grants will be payable for areas of blitz or blight.

15. My only doubt about this scheme is that I think the percentages are too low, because a maximum of 70 per cent. for five years, and 60 per cent. for the next five, may leave a Local Authority, particularly in a blitz scheme, with an undue burden during the early years. The 1944 Act grant for blitz provides 100 per cent. of loan charges for the first two years of every borrowing and thereafter, during the next eight or, exceptionally, thirteen years, until such time as the related land has been brought into substantial use. It will be necessary to secure that blitzed Authorities are not materially worse off under the new than under the present scheme during the first ten years. The simplest method may be to provide special higher percentages for blitz during those years. As to the basic or standard grant, the Treasury feel doubt whether a grant as high as 50 per cent. followed by 40 per cent. and 30 per cent. is not too much for the richer Authorities. To harmonise with the general policy of directing Exchequer assistance where it is most needed, a lower starting point and a wider range for additions, would, in their view, be desirable.

16. In the circumstances I would propose, if my colleagues agree to the general principle, that, in consultation with the Secretary of State for Scotland, I should settle with the Chancellor the general standard or basic percentages, the addition for blight for poorer Authorities, and the special provision for blitz.

17. The rent alternative under a scheme of central purchase is set out very briefly in Part II of Appendix C. For reconstruction areas it produces the same financial result as the grant scheme and has the additional advantage that it avoids anomalies between the cost to local authorities of land in reconstruction areas and other land. Accordingly, of the two methods of sharing the burden with local authorities I recommend it.

D. Planning Authorities.

18. I was also asked by the Compensation and Betterment Sub-Committee* to examine, in consultation with the Minister of Health, whether planning functions ought not to be taken out of the hands of the country districts and the City of London, and placed with the County Councils and County Borough Councils. We have come to the conclusion that it would be unwise to make this change in the present Bill. Full arguments on the question are set out in Appendix D.

* C.B. (46) 1st Meeting, paras. 2, Conclusion (2).
E.—Control of Outdoor Advertisements.

19. The Compensation and Betterment Sub-Committee also invited me to consider whether the control of outdoor advertisements could be included in the Bill. It will be possible to bring the erection of hoardings and the use of land for advertisement purposes within the main control machinery of the Bill and I propose to do so.

F.—Other Outstanding Questions.

20. There are two other major matters that will need examination, namely—

(a) the payment of betterment by local authorities in respect of land they purchase in future for their statutory purposes;
(b) the extent of Exchequer contribution to the compensation payable for interfering with existing buildings and uses that contravene planning requirements.

If my colleagues agree, I propose to discuss these points with the Chancellor of the Exchequer.

L. S.

Ministry of Town and Country Planning,
24th July, 1946.

* C.B. (46) 1st Meeting, para. 2, Conclusion (6).
APPENDIX A.

THE "OUT-OF-POCKET LOSS" OR "REFUND" BASIS OF COMPENSATION.

1. General formula.

The formula would provide that compensation should be the difference between—

(a) the price paid for the land (with a "ceiling" of present market value) and
(b) the present value restricted to existing use.

Claims below £20 should be excluded.

2. Inherited land.

It is suggested that inheritance should be disregarded. To treat it as a purchase at Probate Valuation would be at variance with the main concept of repaying actual monetary loss and would thus make the main scheme difficult to justify. Instead, the owner should be allowed to stand in the shoes of the person from whom he inherited and calculate his compensation by reference to the price which his predecessor in title paid. Where an owner had himself paid death duties in respect of a development value, it may be necessary to treat the duties so paid as an additional head of "out-of-pocket loss." This, however, is a concession that could well be left for insertion during the passage of the Bill through the House.


Development values do not normally attach to land more than some twenty years in advance of the demand for development, and to provide no backward limit would lead to valuation difficulties and demands that, for the purpose of the calculation, purchase prices should be adjusted to take account of changed money values, &c. Moreover, it would extend the range of difficult cases where substantial changes of character may have occurred but where the necessary data to check the claim would not be available. It is suggested, therefore, that no claims should be entertained if the last purchase was prior to 1926.

4. Mortgages.

The question whether a mortgage should be treated as equivalent to a purchase has been further considered, and it is thought that it should not. In general, financial houses will not advance money on the security of a development value—it is too speculative. They would normally require collateral security, unless they are satisfied that the personal covenant is adequate, and there would, therefore, be no hardship or cash loss.

5. Change in unit.

Where part of the land originally purchased has been disposed of it will be necessary to find a method of settling how much of the purchase price was attributable to the unit of land left. The Bill as drafted (which imposed a backward limit to 1929 for "out-of-pocket loss" claims) left it to be done by a valuation process, with resort to the official arbitrator in default of agreement; but the Chief Valuer advises that this would be difficult, as a matter of valuation, as far back as 1926.

It is suggested, therefore, that the calculation might be reduced to a mathematical formula, by taking the price realised on the sale, discounting it back to the date of purchase and deducting that amount from the original purchase price. Thus—

<table>
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<tr>
<th>Description</th>
<th>Amount (£)</th>
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<tr>
<td>100 acres purchased in 1926 for</td>
<td>20,000</td>
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<tr>
<td>40 acres sold in 1936 for £15,000</td>
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<tr>
<td>Discounted for 10 years = £9,000</td>
<td>9,000</td>
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<tr>
<td>Add rents received 1926-36 for existing use* = £600</td>
<td>600</td>
</tr>
<tr>
<td></td>
<td>9,600</td>
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<tr>
<td>60 acres left: notional purchase price</td>
<td>10,400</td>
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This would not do violence to the main principle and would, on the whole, be fair because it gives full weight to actual happenings.

* This calculation could most conveniently be based on the Schedule A assessment for Income Tax purposes.
The main difficulty that arises is where the land disposed of had been improved before sale — e.g., by the building of houses, or the laying of roads and sewers. In such cases it would be necessary to estimate how much of the amount realised on the sales was attributable to the improvements, and the Chief Valuer rightly points out that this will not be an easy task. On the other hand, cases of this sort will not be numerous and in many of them it will be desirable to grant planning permission to round off the building development already started, free of compensation and betterment. The rest would have to be left to a negotiated settlement or, if necessary, arbitration.

6. Running out of leases.

A similar problem arises where a lease has partly run out and the initial purchase price has to be adjusted to the term now remaining. Again, however, the number of cases where a lessee’s interest is reduced by the general restriction will be relatively few, and a general formula enabling the Land Commission or the Arbitrator to make any necessary adjustment should be sufficient for practical purposes.

7. Deterioration.

Cases will similarly arise where values have dropped because of deterioration in the condition of buildings, changes of fashion, fluctuation of demand, demolitions, &c. In these cases the “ceiling” of present values will prevent the owner getting more than 100 per cent. compensation, and that, together with the backward limit will be sufficient safeguard. Special provision will, of course, have to be made for cases of war-damage, destruction by fire or other accident, and demolition with the intention of immediate rebuilding.

8. Improvements.

Where improvements made since the purchase have operated to increase the present “existing use” value of land, the effect will be to reduce the amount of compensation; and as the owner would have to sacrifice those improvements to reap his development value, this would not be inequitable. Where improvements have been made in anticipation of development, they will not normally increase the “existing use” value. Special provision should be made on the lines of existing law for paying additional compensation where work of this kind is rendered abortive by a future refusal of permission to complete the development, provided the work was not carried out in defiance of a planning refusal.

Notes:

1. The objections to the proposal, on grounds of practicability, thus centre round the valuation difficulties in making the necessary adjustments where since the last purchase the owner has sold off part of the land in an improved state; and in adjusting the purchase price where part of a lease has expired.

2. As to the cost of this scheme, further investigation suggests that the figures of £80 to £100 million previously given is likely to be too low. There are no data on which to base anything but a very rough guess and there is wide difference of opinion on the question of the amount of float† in the selling price of land. It seems to be reasonably certain, however, that as compared with the earlier scheme there would be a saving of the order of £300 million and it may well be more: in other words according to the view that is taken on float the cost of the earlier scheme would be anything between £500 and £750 million and that of the new scheme anything between £200 and £450 million. The lower figure is probably nearer the mark, particularly with a limiting date of 1926.

* C.B. (45) 4, para. 7.

† Buyers of land at a price which reflects the chance of profit from future development, whether developers, investors or pure speculative, do not, as a class, lose money on the transaction, although there are, no doubt, cases of bad bargains. The fact that particular land has come into the market and has been bought by such persons often accelerates the development of that land, particularly if other land suitable for development is kept out of the market; the purchaser then gets a quick and remunerative return on his outlay. On the other hand, land is sometimes bought at a development value without any intention of developing, e.g., it may be bought for amenity purposes or sports grounds or because the purchaser prefers to continue the existing use and has no desire to reap the higher return that could be secured by developing. Other land will then command a higher value because the demand for land for development is unaffected. The total prices paid will thus include some duplication of development value. There are no data available, however, on which to estimate the extent of this duplication.
APPENDIX B.

THE "DISCOUNT" BASIS OF COMPENSATION.

1. General Formula.

The proposal is that there should be ascertained on a valuation basis, in respect of any interest in land for which a claim is submitted—

(a) the current market value of the interest unrestricted;
(b) the current market value restricted to existing use.

The amount so arrived at would then be discounted back, on a 5 per cent. basis, to the date on which the interest was last purchased in order to arrive at the amount of compensation payable. Claims based on a difference of less than £20 would be excluded.

2. Definition of Purchase.

A definition of purchase would be required for this scheme, to settle the discount period. Purchase would include any transaction for full consideration in money or money's worth, including exchanges, but would exclude gifts, transactions in consideration of marriage or natural love and affection and transactions for nominal or partial considerations. Where the purchase had been effected by more than one transaction—e.g., the purchase of a freehold reversion followed at a later date by the purchase of a lease; or the purchase of land subject to an easement or a restrictive covenant or possibly a mortgage followed by the buying out of the additional right, it would be necessary to find the total value in money or money's worth of the various transactions at a date when they occurred, adjust each notionally, so that in total they add up to the present development value, and then discount each so notionally adjusted back to the date of the transaction.

3. Improvements.

Where the unrestricted value included a value for improvements made in anticipation of development, e.g., roads and sewers—and carried out by the owner since he purchased, the value would have to be calculated without regard to those improvements and separate provision made for additional compensation at the full rate if work was rendered abortive by a refusal of planning consent.

4. Ceiling.

There could be no ceiling by reference to price actually paid without importing the same difficulties as under the refund basis. The initial calculation by reference to current values would provide a ceiling of 100 per cent. compensation (including "float").

5. Inheritance.

Similar provisions would be made as under the "refund" basis—see paragraph 2 of Appendix A.


A backward limit of 20 years would be imposed.

Notes:

(1) No problems arise under this scheme in regard to changes of unit or deterioration and apart from difficulties regarding improvements, all valuation work is based on current values.

(2) It would presumably be necessary to fix the discount period by reference to the last transaction for full monetary consideration. In some cases, therefore, the Valuation Office and the Arbitrator would have to be asked to decide whether or not a transaction was for full consideration.

(3) As a very rough guess, the cost is likely to be in the region of £450 to £500 million. Because the initial valuations will include the element of "floating value" the average owner may receive in compensation substantially more than his actual "out-of-pocket loss." Whether or not this scheme is more costly than the alternative will depend on which view as to the float in purchase prices proves to be correct. If such prices include the average amount of float there would be little to choose, but if, in fact, purchase prices normally contain little float, this scheme would be more costly than the refund scheme.
APPENDIX C.

PART I.—REVISED GRANTS SCHEME UNDER THE TOWN AND COUNTRY PLANNING ACTS.

1. Whilst the provisions of the Town and Country Planning Act, 1944, relate to the development of areas of extensive war damage (i.e., blitz) and areas of bad lay-out and obsolete development (i.e., blight), the grant provisions apply to blitz areas only. The revised grants scheme outlined in this memorandum is applicable to the redevelopment of blitz and blight areas.

Assumptions.

2. The following assumptions are made:

   (a) Local authorities concerned would submit applications to the Minister to designate areas of extensive war damage under Section 1 of the 1944 Act or of comprehensive redevelopment under Sections 9 or 10 or under the Bill, and would also submit a broad estimate of the total capital expenditure and a statement showing a comparison between the estimated cost and return.

   (b) Only such land and property would be included as is necessary for the purpose of obtaining a fresh and sound lay-out, and schemes which could be carried out satisfactorily under other statutes would not be approved.

   (c) If the redevelopment of a designated area is expected to take more than five years to complete, a local authority would be asked to submit to the Minister separate compulsory purchase orders, each covering such a part of the designated area as could be redeveloped within a period of, say, five to seven years.

   (d) The purchase of land would remain in the hands of local authorities.

   (e) Local authorities would normally obtain loans from the Public Works Loans Commissioners, repayable over a period of sixty years.

"Clearing."

3. In Section 65 of the 1944 Act, "clearing" is defined as preparing the land to the prescribed extent for development, including the construction of any prescribed works in the course of so preparing it. This has hitherto been regarded as including the cost of preparing the site to the point when it is available for building and would include the cost of constructing estate roads and sewers. In future, all constructional work would be excluded from the reconstruction capital account and "clearing" would be defined as meaning in general the removal of debris or the filling up of holes.

Revised grants scheme.

4.—(a) All capital expenditure incurred by a local authority in respect of the acquisition of land, compensation for disturbance and compensation to statutory undertakers, together with the cost of clearing the land as defined in paragraph 3 above, would in the first place be charged to the reconstruction capital account. All land would be appropriated or transferred to other services or accounts of the local authority at the time and valuation to be determined on the lines indicated in paragraphs 8 and 10, leaving the capital loss on reconstruction in the reconstruction capital account.

Land with standing property would be transferred forthwith out of the reconstruction capital account, and would be brought back into that account as and when it was required for demolition as part of the scheme of redevelopment. Transfers would also be made out of reconstruction capital account of land to be developed for private enterprise building or for private development in general, e.g., industrial or commercial purposes.

   (b) Exchequer grant would be payable during the first ten years of redevelopment equivalent to a percentage of the annual loan charges on capital expenditure remaining in the reconstruction capital account. The scale of grant would provide for two stages during that period, viz., the first five years covering the main redevelopment period and the second five years being a period when the return from redevelopment would be steadily increasing.

   From the eleventh year onwards, the Exchequer grant would be based on the estimated capital loss resulting from the completed redevelopment. A statement would be obtained from the local authority showing for each C.P.O. area
the total capital expenditure, the total amount transferred (or still to be trans­ferred) to other services or accounts (see also paragraph 10 (f) of this Appendix) and the actual or estimated return resulting from the redevelopment. From that statement the estimated capital loss would be ascertained and grant would be payable on the basis of the loan charges related to the capital loss for the remainder of the 60 years period, subject to the review mentioned in paragraph 10 below.

(c) Grant would be payable on the basis of a percentage of the annual loan charges related to the capital expenditure or capital loss, ascertained on the lines indicated in sub-paragraph (b) above. The standard scale of percentage grants applicable to each compulsory purchase area might be as follows:—

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<tr>
<th>Years</th>
<th>Per cent.</th>
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<td>1 to 5</td>
<td>50</td>
</tr>
<tr>
<td>6 to 10</td>
<td>40</td>
</tr>
<tr>
<td>11 to 60</td>
<td>30</td>
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In order to meet the needs of a poor local authority or of a local authority which had suffered severely from war damage, and the burden on the local rates would be unduly heavy, the Minister would have discretion to increase the standard percentages up to maxima of, say, 70, 60 and 50 respectively on a basis to be agreed with the Treasury.

Under the 1944 Act, a grant equivalent to 100 per cent. of the loan charges is payable for the first two years after each borrowing in respect of the redevelopment of blitz areas. When the revised scheme is discussed with the local authority associations, it may be found necessary to agree, in the case of blitz areas only, to the payment of grant on a scale which will give to local authorities during the first ten years the broad equivalent of what they might expect to get under the 1944 Act.

(d) The payment of grants would be conditional upon the Minister being satisfied that the local authority was carrying out the scheme of redevelopment in a reasonably expeditious and efficient manner, and that the disposal of land was effected on lines approved by the Minister.

Land Acquired as Overspill.

5. Expenditure incurred in the acquisition and clearing of land in an over­spill area would be charged to the reconstruction capital account, and grant would be payable on the same basis as that shown in paragraph 4 as applicable to a reconstruction area, until the land was transferred out of the reconstruction capital account.

Roads.

6.—(a) Capital expenditure incurred in respect of the acquisition of land required for roads in reconstruction or overspill areas would attract grant under the system outlined in paragraph 4, until such land is appropriated to the highways account under the terms of paragraph 10.

(b) The only contribution made by a local planning authority to a local highway authority which would attract grant under the revised grants scheme is that relating to expenditure incurred by a local highway authority in the acquisition and clearing of land outside a reconstruction or overspill area, either for the purpose of securing a satisfactory layout in the reconstruction area or for the purpose of providing proper means of access to the land in an overspill area.

(c) In a major scheme of road construction or improvement in which planning considerations are subordinate to highway requirements, it may be advisable, as an alternative, to provide that the highway authority should bear all the relevant costs, including the cost of land incorporated in the highway, which it would normally have borne if the road scheme had been carried out entirely under highway powers, account being taken of any financial advantage the highway authority could reasonably have obtained by applying the provisions of Section 83 of the Public Health Act, 1925 (which provides that a local authority may purchase premises for the improvement and development of frontages to any street). Such expenditure would be excluded from the grants scheme outlined in this memorandum but would be eligible for the appropriate grants from the Road Fund.
Repeal of 1944 Act Grants Scheme.

7. The scheme of grants payable on the lines set out in paragraphs 4 to 6 would replace the scheme of grants payable under Sections 5 and 6 (3) of the 1944 Act. It is also proposed that Section 8 of that Act, relating to a Quinquennial review of the financial effect of redevelopment, should be repealed and that the definition of "clearing" in Section 65 should be amended.

Temporary Shops and Buildings.

8. Owing to the impossibility of constructing permanent buildings on a large scale at present, it is probable that temporary shops or buildings will be constructed. The ground rent or rents receivable would generally be lower than those obtainable when permanent premises are constructed. The land would be transferred out of the reconstruction capital account before the temporary shops and buildings are erected, but the valuations would have regard to the rents estimated to be received during a period of about ten years, subject to the possibility of a review as explained in paragraph 10 (f).

Public Open Spaces.

9. The cost of acquiring land for public open spaces in the designated or overspill areas would be included in the cost of redevelopment and would attract grant on the terms indicated in paragraph 4, until transferred out of the reconstruction capital account on the basis proposed in paragraph 10.

Appropriation out of Reconstruction Capital Account.

10.—(a) Local authorities will appropriate or transfer land out of the reconstruction capital account to any other service or account for which the land is required.

(b) The date of appropriation out to other local authority services or accounts would be the date on which any constructional work is commenced, or five years from the date of purchase, whichever is the earlier.

(c) The value at which land would be appropriated out would be that certified by the District Valuer on the following basis:

(i) Housing or educational purposes—at the value of the land for residential purposes.

(ii) Highways—the excess, if any, of the acreage of roads following redevelopment over the pre-redevelopment acreage at the average cost of the land for the C.P.O. area.

(iii) Public open spaces—at one quarter of the value of land for residential purposes.

(iv) Municipal offices—at the value of land for a comparable commercial use.

(v) Public buildings, e.g., library, museum—at the value of land for prevailing use in the neighbourhood.

(vi) Land with standing property—at the actual cost.

(vii) Land for private enterprise, building or private development in general, e.g., for industrial and commercial purposes—at the value of land for that use.

(viii) Land for statutory undertakers—at the value of land for industrial or commercial use in the locality.

(d) When standing property is to be demolished, the land would be transferred back into the reconstruction capital account at the value at which it was previously transferred out of that account and would attract grant from the appropriate point in the scale of grants, i.e., if brought back into the reconstruction capital account in the fourth year it would attract grant on the percentages appropriate to that year and succeeding years. After clearing, the land would again be transferred out of the reconstruction capital account at a value to be determined on the lines of sub-paragraph (c) above.

(e) The expenditure remaining in the reconstruction capital account at any time will be the total capital cost of land not appropriated or transferred to other local authority services or accounts, plus the balance of cost of land appropriated out to local authority services or accounts (i.e., where the total cost of such land is greater than the value at which the land was appropriated out). The capital cost would include compensation for disturbance and compensation paid to statutory undertakers.
(f) The valuation at which land is appropriated or transferred to other local authority services, viz., those covered by items (i) to (v) and (viii) of sub-paragraph (c) above will be final. The valuation of land transferred out of the reconstruction capital account for industrial and commercial purposes (item vii) must of necessity be made on a provisional basis in many cases, as it will not be possible to make a reliable estimate of the rents to be received. It is, therefore, proposed that these valuations should be reviewed at a date in the tenth year when a more reliable valuation will be possible. It is not proposed that there should be any retrospective adjustment of grant paid on the provisional basis, but grant payable subsequently would be adjusted in accordance with the revised valuations. Item (vi) is covered by sub-paragraph (d) above.

Appropriations into the Reconstruction Capital Account.

11. Land and property belonging to a local authority would be appropriated into the reconstruction capital account only when it was actually required for redevelopment. The appropriation would be at the 1939 value until such time as the 1939 standard may be abandoned.

Compensation and Betterment.

12. Local authorities will henceforward purchase at existing use value and, where compensation for the general restriction has been attracted, it will have been paid or credited to the previous owner. The basis of appropriations out is designed to include any betterment which might otherwise be payable, since it is related, directly or indirectly, to future use. There may be a case, however, for levying the equivalent of a betterment charge upon the local authority if, at the end of the tenth year, when the question of a grant for the remainder of the loan period is settled, an examination of the position showed that there was no deficit on the reconstruction capital account (and therefore no need for further grant), but, instead, a surplus. In such a case, the local authority might be required to pay to the Exchequer an annual payment for 50 years of a sum equal to, say, 50 per cent. of the estimated surplus, or such higher percentage not exceeding 50 per cent. determined on a formula to which reference is made in paragraph 4 (c). It is, however, open to doubt whether such a complication is worth while, since surpluses will be very rare.

PART II.—RENTAL SYSTEM UNDER CENTRAL PURCHASE.

Reconstruction Areas.

13. The scheme of grants set out above could be readily adapted for a scheme of rents in reconstruction areas if land purchase is centralised.

14. The basis of rents set out in Appendix I of the Third Report of the Official Sub-Committee* needs to be amended only in respect of item 5 (municipal housing and schools), where, for the basis suggested in the Appendix, there should be substituted the value of the land for residential purposes, as in paragraph 10 (c) above.

15. For each compulsory purchase area in a reconstruction area there would be one lease to the local authority and one global rent would be charged calculated as follows:—

(a) A notional "economic rent" would be fixed, based upon the Land Commission's relative loan charges and apportioned administrative charges.

(b) Land instead of being appropriated out by the local authority would be sub-leased at rents fixed as in paragraph 14.

(c) The aggregate of the sub-lease rents would be compared with the notional rent at (a) above and any notional deficiency ascertained.

(d) From the deficiency there would be subtracted the percentage appropriate to the year and to the authority as in paragraph 4 (c), and the resulting sum would be added to the aggregate rents at (c) above.

(e) The final figure so obtained would be the rent chargeable to the local authority. It would be subject to the same reviews as under a system of grants and the financial balance between the local authority and the Exchequer would be the same.

* C.B. (46) 2.
16. Betterment might be charged as in paragraph 12—if it is thought to be worth while—in any case where at the end of the tenth year the aggregate rents at 15 (c) exceeded the notional rent at 15 (a).

Other Areas.

17. Where a local authority needs land for any of the purposes set out in Appendix I of C.B. (O) (46) 13 in an area other than a reconstruction area, the rents basis given in paragraphs 1 to 8 of that Appendix would apply. If it is considered necessary to differentiate between poor and wealthy authorities and the rent so calculated falls short of the notional rent for the land calculated as in paragraph 15 (a) above, it would be a simple matter to make a percentage addition from the first year, calculated in the same way as in paragraph 15 (d).

18. It is to be noted that, if this is done, local authorities will receive a measure of assistance which they will not get under a grant aid system as in Part I without central purchase. The alternative would be to charge a rent fixed by reference to cost of purchase, plus an addition, where appropriate for betterment. But it can be argued that this is one of the advantages of central purchase since it does not distort good planning by discouraging authorities from redeveloping dear land. It would be possible, if in general this is too favourable to local authorities, to counteract it by some adjustment of the percentages in paragraph 4 (e) since practically every local authority will in future have one or more schemes to which those percentages will apply. It may be added that this arrangement avoids a difficulty which is inevitable under a grant scheme confined to reconstruction areas, viz. that local authorities may, in effect, be paying different prices for similar land acquired for similar purposes according to whether or not the land has been bought as part of a reconstruction area.

APPENDIX D.

Planning Authorities.

1. The Minister of Town and Country Planning and the Minister of Health were asked by the Compensation and Betterment Sub-Committee* to examine whether the councils of county districts and the Common Council of the City of London should not be deprived of their planning functions and those transferred to the County Council.

2. The Local Authorities for the preparation of planning schemes are in London, the Common Council of the City of London and the London County Council, and elsewhere the councils of county boroughs and county districts. In fact, however, planning schemes are in most cases being prepared by joint planning committees set up under provisions of the Planning Acts either by voluntary combination of the Local Authorities or by order of the Minister of Town and Country Planning. These same Authorities are the local planning authority for the purposes of blitz and blight redevelopment schemes under the 1944 Act, and Joint Committees may be set up for the designation of blitzed areas for redevelopment, but not for carrying out the redevelopment.

3. Although, however, by means of joint planning committees planning is carried out over wide areas, there are 1,441 Planning Authorities retaining independent powers. The number of Authorities who do not form their own voluntary combinations is large, and the task for the Ministry of Town and Country Planning in securing effective combinations is heavy; and even when the combination has been secured it is within the power of any constituent Local Authority to withdraw from the committee. From this point of view there would be a manifest and substantial advantage to the Minister of Town and Country Planning in having a much smaller number of Authorities to deal with. Moreover, if the county council were the Planning Authority and progress in planning was insufficient, the blame would rest unequivocally on the county council. If a joint committee makes insufficient progress it may be extremely difficult to determine as between the constituent members where the blame lies. Further, if the county council were the Planning Authority, and accordingly appointed all planning staff within the county, a saving in the total number of technical staff required might be expected and probably an overall improvement in the quality of the planning.

* C.B. (46) 1st Meeting, para. 2, conclusion (2).
technical service since the staff could be pooled for the whole county. At present, in general, each joint committee has a separate technical staff. In some cases, even within the present system, the county council do in fact provide all the staff for joint committees, but this arrangement is not universal.

4. On the other hand the immediate effect of a transfer of the planning functions of the county district councils to county councils would be to disrupt the existing joint planning committees, many of whom have made substantial progress with the planning of their areas, and to divorce the planning of county areas from county borough areas.

5. Further, it is to be remembered: (1) that the planning functions of county district councils are not limited to the actual preparation of planning schemes, but extend to the control of development to secure conformity with the provisions or proposed provisions of a scheme. The latter function is of concern to a vast number of private developers who would find great difficulty in dealing with a body at a remote centre, as would often be the case if the responsibility for control of development rested with the county council. It would accordingly in any case be impracticable to transfer these latter functions to the county councils; (2) that although county councils are not primarily planning authorities, they have, and have had since 1929, very substantial powers in regard to planning. As already indicated, they may be, and invariably are, constituent members of joint planning committees; county district councils may relinquish their powers of preparing schemes to county councils, and have in some cases done so; and the county councils are responsible for the execution of schemes in matters in which the general statutory responsibility is with them, e.g., highways. The county councils have in fact come to play a predominant part in planning. At the outbreak of war, in 30 out of 62 counties the main direction of planning work was in the hands of the county council, and that number has since increased to 37. In a few counties planning powers have been relinquished to the county council, but it is noteworthy that where at initial conferences the two alternatives, joint committees or relinquishment, have been discussed, few county councils have pressed for relinquishment.

6. Two points are of particular importance in considering the question of Authorities for the preparation of planning schemes:—

(1) Planning is intimately concerned with some matters which are the function of county borough or county district councils, and not of county councils, e.g., housing, sewering, water supply. It is accordingly essential that the county district councils should have an effective part in the preparation of planning schemes.

(2) The transfer of the planning powers of county district councils to the county councils, while it would automatically secure that planning was carried out over wide areas, would not in itself secure, as is necessary, and as the present system of joint planning committees secures in most cases, that the planning of county borough areas is carried out integrally with the planning of county areas. Some stress may, moreover, be laid on the consideration that the participation of the smaller authorities in planning affords a valuable field for the development of local government experience.

7. The Minister of Town and Country Planning has substantial powers of control over county district councils as planning authorities. As already mentioned he can secure that they become members of joint planning committees; he can himself prepare a scheme in default of the Authority, or in the case of rural districts of the smaller urban district councils, can transfer their powers to the county council. As regards the control of development, he can direct the reference of applications or particular classes of applications to himself for decision; he can revoke decisions given by the interim development authority; and, if necessary, he can transfer their powers of control of interim development either to a joint planning committee or to the county council.

8. The Minister’s powers of control would be strengthened by the proposed provisions of the Town and Country Planning (Development Rights) Bill:—

(1) It is proposed to empower the Minister, after due consultation with the Authority concerned, to transfer any of the functions of the county district council under the Bill (including the duty of preparing outline plans) to the county council.
(2) It is proposed, as regards the control of development, to empower the Minister to give directions restricting the grant of permission by the development authority.

9. A county council cannot be authorised to undertake a redevelopment scheme for a blitz or blight area under the 1944 Act. The question of transferring these duties was not, however, in mind and the matter is not dealt with in detail in this memorandum. It will probably be agreed that, in general, there would be great difficulties in the way of the county council carrying out redevelopment schemes in the area of a large borough or urban district. It is proposed, however, that there should be power to transfer redevelopment powers to the county council in those few exceptional cases in which this course may be found desirable.

10. So far as the present position is unsatisfactory it is so because in some cases the joint planning committees which have been set up are inactive. It does not, however, follow that in such cases—which are the exception and not the rule—the trouble would be cured by the transfer of the planning powers to the county council. It is probable that where this trouble arises it is largely due to a lack of appreciation of the need for planning on the part of the county council no less than of the minor authorities. A remedy can be found in the education of the authorities concerned to a sense of their responsibilities, and this process will be much assisted by the greater opportunities of obtaining qualified technical staff which should soon present themselves. But in any event this very limited difficulty is an altogether insufficient reason for a general transfer of powers to county councils. It is proposed, however, to take power to transfer planning functions from a joint planning committee to the county council in any case in which the joint committee is not working satisfactorily and the Minister of Town and Country Planning is satisfied that the county council would do better. The mere existence of such a power in the background would, it is thought, provide a spur to lethargic joint committees.

11. To summarise, it is a question of balancing the substantial advantage on the one hand, in concentrating the responsibility for planning in the hands of many fewer authorities against, on the other hand, the disadvantage in the slowing down of planning which would be the immediate and inescapable result of the transfer of powers to the county councils and the separation of the planning of county and county boroughs which would be likely to be the permanent result. It is thought that the balance of advantage is against any general redistribution of planning functions and that, so far as the object is to obviate inefficiency in planning, an adequate remedy is to be found in strengthening the powers of control of the Minister of Town and Country Planning on the lines proposed in this Appendix.

12. The Ministry of Health are in general agreement with the views expressed in this Appendix.

24th July, 1946.