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CABINET

TOWN AND COUNTRY PLANNING ACT, 1947: AMENDMENT OF FINANCIAL PROVISIONS

MEMORANDUM BY THE MINISTER OF HOUSING AND LOCAL GOVERNMENT

We have got to decide what we are going to do about the financial provisions of the Town and Country Planning Act, 1947; and we have got to decide this very quickly. It seems clear that some amendment is necessary. Our problem is to decide what line the amendment should take.

2. The reasons why some amendment is considered necessary, the possible alternatives, and my proposals (which I call a Limited Compensation Scheme), are set out in my memorandum H.A. (52) 79, which has been considered both by the Committee on Development Charges and by the Home Affairs Committee (H.A. (52) 15th, 16th and 17th Meetings). I have now been invited by the former Committee to put forward my proposals to the Cabinet, indicating the difficulties which have been discussed.

3. My scheme very briefly is—

(i) to retain the limited compensation settlement effected by the 1947 Act and to pay the compensation only as and when damage is inflicted;
(ii) to exclude compensation altogether in some cases;
(iii) to abolish development charge;
(iv) to retain the basis of payment for land compulsorily acquired at existing use value, with the addition of the full claim for loss of development value which has already been assessed under the Act of 1947.

4. Following the discussions in the two Committees I still think that this scheme is the best we can do, and that it would indeed both save money and be generally acceptable.

The £300 million

5. The Act fixed a sum of £300 million to be paid out, before 1st July next, to all owners of development value as it existed in 1947. It is generally agreed that to pay out so vast a sum during the next twelve months would be undesirable for both political and financial reasons. Many of the claims need never be paid at all (where development will eventually be allowed, or where there is no intention of developing); many more need not be paid yet. This means that we must legislate to make compensation payable only when permission to develop is refused or the land is acquired by a public authority.

But on what basis is compensation to be paid when the time comes? If compensation were to be paid on the basis of the full development value of the land at the time when that value matures and is, therefore, at its peak, the State would be faced with an enormous and unending liability. Planning continually shifts values—if you prevent building in one place the building value moves to another. To compensate every landlord at the peak of his value, would be an unending drain on public funds and would expose us to savage and justified attack. It would become impossible to prevent building over agricultural land, the continued sprawl of towns over the countryside, and the general waste of our natural resources. We

must, therefore, stick to the principle underlying the present system, that compensation shall be limited to development values created in the past, and that there shall be no compensation for development values which accrue in the future. That is my reason for limiting the compensation payable on any piece of land to the 1947 Act claim; but it would be the full amount of the claim as assessed, not the expected 80 per cent. (Assessment of claims is now virtually completed.) I am confident that landowners in general would accept this.

6. Of course, if we limit compensation in this way to the owner who is not allowed to develop his land, while allowing the owner who is given permission to reap the full value (which will be the effect of the further proposal to abolish development charge), some owners will fare better than others. I am not perturbed at this prospect. It happens now, it always has happened, and anyway we want to encourage development, provided that it is in the right place. Some of my colleagues fear, I think, that the jealousy felt by those owners who are not allowed to develop, for their more fortunate neighbours who are, would become unmanageable. I can only say that this has never been suggested in the talks which my officials have had with representatives of landowners.

Development Charge

7. The crucial question is what we are going to do about development charge—a concept for which, we must remember, the Conservative Party are partly responsible (see the Coalition Government White Paper of 1944, Cmd. 6537). In principle there is a lot to be said for it as a means of securing betterment for the State, and of holding the balance between those who are allowed to develop their land and those who are not: but in practice it does not work. The charge, in theory, is part of the price of the land; the owner should get only the existing use value, the charge is the balance due to development value. But in practice, the charge is regarded as a tax—a penal tax on development. This feeling would remain even if land for development were generally available at existing use value. As it is, the landowner either takes his land off the market or continues to get the best price that he can; and the charge, coming on top of the cost of the land, is in very many cases a real addition to the cost of development. This is particularly serious where private house-building is concerned.

8. It is sometimes suggested that the remedy lies in a reduction of the rate of development charge. But to make much difference either to the land market or to developers the reduction would have to be so substantial as to undermine the whole system. In any event, people hate charge; and they will continue to hate it whatever its level. In my view there is no satisfactory alternative to complete abolition of development charge.

9. There would be considerable advantage in such a course, and it is widely expected that we will at least abolish charge for private houses. But it is not possible to abolish charge on housing and keep it for other forms of development. Housing accounts for 70 per cent. of all charge.

10. If, however, we do abolish charge, and abandon the theory that development value in land is vested in the State, we shall be faced with the old cry about " unearned increment " and attacked for enabling private persons to make a profit out of land values which may in part be due to the efforts of the community. We have to consider what our answer is going to be. Public improvements—a new road or railway perhaps—may cause a steep rise in values, though in such cases we might consider securing the profit for the community by enabling local and other public authorities to buy the land concerned. Our main defence would be to point to the fact that development charge is not an efficient instrument for this purpose and that, like so many imposts, it is borne in the end by the final consumer —the man who wants to build himself a house. We can also point out that taxation and death duties at present rates do reap much of the harvest for the Exchequer. And, if we adopt the Limited Compensation Scheme we shall be able to point to the fact that no landowner will receive in compensation more than the 1947 development value of his land, and that some planning restrictions—*e.g.*, those imposed on " good-neighbour " grounds—will attract no compensation at all.

11. None the less the attack would be most damaging if the private owner were able to make public authorities pay for values that the community had helped to create. That is one reason why I think it most important that compulsory purchase should continue to be on the basis of its existing use value at the date of

the acquisition plus the claim for the 1947 development value. (The claim in these cases would be paid by the acquiring authority.) This is not just political expediency: it is essential in order to avoid an unjustifiable increase in the cost of land for public development, *e.g.*, housing, caused by the plan or by public improvements. By tying the price to be paid to existing use value plus the claim we avoid these difficulties. Inevitably, of course, the owner whose land is compulsorily acquired will sometimes get a lower price, perhaps a much lower price, than if he sold privately, but this happens under the present system. Under my scheme, the man who is bought out will get as much as or more than he paid for the land (unless he is a speculator or was badly advised), as much as or more than he has expected to get since 1947. All he will lose will be the chance of making a profit. The power of compulsory purchase could also be used to prevent necessary private development from being held up by land-owners holding out for extortionate prices.

12. The abolition of charge would leave the Exchequer to meet the burden of compensation without any off-setting contribution. There are various points here: —

(i) The cost to the Exchequer. Charge is coming in at the rate of £7 to £8 million a year. Though this is expected to increase, it will be decades before this comes anywhere near balancing an immediate pay-out of £300 million; and indeed it was never intended to. My scheme will cost a great deal less than £300 million, since nothing will be paid to owners allowed to develop, or whose claims for compensation will be excluded, and much of what does have to be paid will be deferred. I believe that, even in the long run, this scheme may cost less than the present Act under which successive Governments will always be exposed to demands for abolition or reduction of charge. It will certainly cost a great deal less in the next few years.

It may be argued that the cheapest thing of all would be to defer payment of claims as I propose, but still to keep charge or a proportion of charge. But I maintain that charge in any degree is obnoxious.

(ii) The notion that there ought to be a self-balancing scheme. As I have explained the present Act is not self-balancing, and there is no reason why the owners of land which is developed should meet the compensation for the owners of land which is not—even if they could be made to, which I do not think they could. The whole community benefits, *e.g.*, from the preservation of agricultural land.

(iii) The old " unearned increment " argument which I have dealt with above.

(iv) Planning is a local authority service, and my scheme entails payment by the Treasury on decisions by local authorities. I propose to provide some check on this; but the real safeguard of the Treasury will be the limitation of payments to the claims already settled.

The Balance of Advantage

13. Weighing up the political advantages and disadvantages of the Limited Compensation Scheme, the balance seems to me decisively in its favour. The Opposition are unlikely to attack the decision not to pay out the £300 million; and if they decide to attack the decision to abolish development charge (which I am not at all sure that they will) we should have a pretty complete answer. Even the cry of " unearned increment " will not find us without an answer. A Bill on these lines would be presented not as overthrowing the whole structure of the 1947 Act, but as keeping the essential provisions while easing the difficulties which have been found in practice. In introducing it we would emphasise that we stand by the central feature of the Act—the control of land use—and that we are determined that effective use shall continue to be made of the powers which it contains to conserve the nation's land resources, and generally to improve the environment in which people live.

14. If my colleagues agree that we should amend on the lines of the Limited Compensation Scheme I would propose that a White Paper be published setting out the Government's intentions in general terms, and I would submit a draft to the Cabinet as soon as possible. This would form the basis of consultation with the local authority associations and other interested bodies on the many points of detail which have yet to be worked out.

Time-table

15. I would have liked to make an announcement and to lay a White Paper before the summer recess. I am being pressed daily for a statement of the Government's intentions; and some people will not start building themselves houses until they know. But I do not think it is now possible to settle the White Paper, and have a debate on it, before Parliament rises.

16. In any event, it will be necessary that the gap between announcement that we propose to abolish charge, and abolition, should be short. Once it is known that charge is to go, nobody will start building until they are clear of the liability to pay. Under the Act I can, with the consent of the Treasury, make regulations exempting development of any kind from charge; and it may be that the Law Officers will hold that this power is wide enough to exempt all development by Regulation. But it seems quite wrong virtually to suspend a whole Part of an Act by Regulation; and I think that we must wait till we can legislate.

17. But we cannot wait longer than the autumn. The expectation of an early announcement which will give at any rate some relief is now general. The effect is that some prospective developers are waiting for it; while it is becoming increasingly difficult for the Central Land Board to collect charge. I propose that I should publish the White Paper as soon as Parliament reassembles in October (or possibly two or three weeks before, if that is thought appropriate); and should at the same time introduce a very short Bill—two clauses at most—which will defer the date for paying claims under Part VI and will suspend the operation of Part VII (development charges). It is in any event necessary to legislate for the deferment of payments before 1st July next, so that we have got to have a short stand-still Bill whatever we do. Indeed, even if we kept the Act intact we should have to have an autumn Bill to regulate the payments, and to defer the date of pay-out, since we could not now get it all done before 1st July.

18. The debate on the White Paper and the Second Reading of the Bill could be taken together. I do not think that the whole business should take more than two days in the House of Commons. Committee and Report stages should be very brief. I do not believe that there would be acute controversy on the stand-still measure; it is even possible that there will be very little controversy on this—although there would no doubt be a long debate on the White Paper. Many members of the Opposition will be glad to see development charge go.

19. I would then propose that the main measure should be ready for introduction in the early Spring. That would allow time for discussion of the detailed scheme, after the broad principles had been approved.

H. M.

Ministry of Housing and
Local Government, S.W. 1,
17th July, 1952.