

Planning Alert

October 2017

Development land value capture – is it back on the agenda?

The National Infrastructure Commission has recently published its first full (albeit interim) assessment “Congestion, Capacity, Carbon: Priorities for national infrastructure”. The assessment examines seven key areas, and sets out the vision and priorities for helping meet the country’s needs up to 2050. It has a number of things to say that will be of interest to those involved in housing development, which we look at below.

Even though housing does not strictly fall within its remit, the Commission acknowledges that housing provision is the greatest infrastructure challenge of all, and that a significant increase in the rate of homebuilding in the UK is a key imperative. It recognises that an important objective for the Commission is therefore to improve the planning of economic infrastructure so that it can boost housing growth in appropriate areas. In order to achieve improved economic infrastructure it puts forward the following points for consideration:

- It suggests that there should be “densification” in high demand areas which would both help meet housing need and enable people to live closer to where they would like to work. Controversially it suggests the possibility (in exceptional cases) of high density development around existing infrastructure hubs in the green belt, where doing so would allow for new housing in an optimal infrastructure location. Once again, it seems, a serious and thoughtful public body is suggesting the unthinkable – developing in the green belt.
- Of concern to landowners, however, will be what the Commission says about the need to explore reforming and developing new mechanisms to capture land value. In particular it says “land value capture is not a panacea to pay for all infrastructure needs. But it may be able to play a role in ensuring a fairer distribution of the costs of infrastructure between general tax payers and property owners who receive windfall gains”. It goes on to comment that this could help ensure that the infrastructure needs of London and the South East are less directly in competition for national funding with the needs of other parts of the country. The implication of this comment is that landowners in the South East should be expected to give up a greater portion of their land value to pay for any associated infrastructure, whereas landowners in other parts of the country can expect to receive Government funding for infrastructure.
- The Report confirms that for new developments there are two existing mechanisms for securing development contributions towards infrastructure. Section 106 of the Town and Country Planning Act 1990 provides a mechanism to mitigate site-specific issues, as part of obtaining development consent, such as infrastructure provision. The Community Infrastructure Levy is a charge based on new floorspace, set at the local level, but only where local authorities have chosen to introduce it. CIL charges vary by location, use, size and type of development.

Evidence submitted to the Commission highlighted a number of perceived shortcomings with this system, for example cashflow issues, when the costs of infrastructure need to be incurred before sales revenues are received; developers perceiving Section 106 agreements to be lacking in transparency; local authorities perceiving them as time-consuming and feasible only for larger sites; negotiations being costly for all involved, but constrained budgets, asymmetric information and bargaining power mean local authorities often find themselves out-resourced.

- The Report also notes that a recent review of the Community Infrastructure Levy suggests that it has failed to deliver the funds anticipated and, in many cases, to meet the demands of simplicity and efficiency it set out to achieve.
- With all this in mind the Report asks – and perhaps less controversially than its land value capture suggestion – how can the Section 106 and Community Infrastructure Levy regimes be improved to capture land and property value uplift efficiently and help fund infrastructure? Under what conditions are new mechanisms needed?

The interim assessment concludes by posing 28 questions on which the Commission is seeking further responses, which it has requested by 12 January 2018. The full report is available at:

<https://www.nic.org.uk/publications/congestion-capacity-carbon-priorities-for-national-infrastructure>

John Bosworth, Planning Partner, Maples Teesdale