



UCD Geary Institute for Public Policy  
*Research, Analysis, Evidence*



An Ghníomhaireacht  
Tithíochta  
The Housing Agency



# TALKING ABOUT LAND

## Session 5

### Land Value Capture

**January 17th 2023 @ 12pm**

To register and for more information visit  
[housingagency.ie/news-and-events](https://housingagency.ie/news-and-events)

## Speakers

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# Land Value Capture via Planning Obligations in England and Scotland

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Former Pro Vice Chancellor, The University of Sheffield

*Virtual Presentation to*

An Ghníomhaireacht Tithíochta, The Housing Agency

Dublin, 17<sup>th</sup> January 2023

# Objectives and content of presentation

- Objectives: to update the Agency on land value capture in UK (specifically England and Scotland)
- Background: both nations proposing changes to developer contributions:
  - Policies are mainly **devolved**
  - There are **similarities and dissimilarities** in current systems and suggested changes;
  - Currently **both address on-site/local remediation and affordable housing well** but much less for wider infrastructure - where funding gaps are wide;
  - Negotiations and local discretion mean (a key feature of UK planning) mean there is **inconsistent coverage**;
  - Both are **cost based while some think they should evolve as land value taxes**;
  - Some believe **more funds could be raised by the changes**.
- In this presentation I:
  - Explain how planning obligations are a **de facto means of capturing land value**
  - **Examine our work on incidence/value/delivery** of each system including land value captured (for DCLG etc., Scottish Government, and Scottish Land Commission);
  - **Compare the two nations** and the problems of 'running' each system;
  - **Look at the changes** each nation proposes to make;
  - **Suggest there are alternatives**, including some learning from each other

# Land Values

- A residual concept i.e. the difference between the income that can be earned from land and the cost of earning that income
- Values increase because of demand and supply
  - Increased prosperity; changing macro economic circumstances
  - New infrastructure creates new dev't possibilities and increases accessibility of all dev't
  - New development raising the residual value e.g. from farmland to housing
  - Tight planning constraints
- Arguments for 'capturing' increases
  - Promotes efficiency i.e. developers faced with costs of externalities by paying for infrastructure
  - Fosters equity by capturing 'unearned increment' e.g. by developers providing new affordable housing in high value areas with tight planning constraints
  - Raises funds for public expenditure on infrastructure and new affordable homes

# Land Value Capture in England and in Scotland

- No formal system of explicit land value capture
- But some land value captured when planning permission granted
  - i.e. the increase in value (betterment) created by planning consent (which can also capture the benefit of new infrastructure but only on sites with planning permission)
  - in past this has involved formal national taxation
  - but this proved ineffective
- Currently betterment captured *de facto* through the system of planning obligations i.e. because developers pay for some infrastructure and affordable housing they pay less for land as their dev't costs are higher
- In addition, property values are also captured by transactions taxes including stamp duty, capital gains tax and inheritance tax but most increases remain untaxed (e.g. sales of primary homes, local council tax based on very out of date valuations)

# Incidence/value/delivery of each system in England and Scotland

- Developer obligations (S106 in England; S75 in Scotland) designed to secure contributions to infrastructure and new affordable homes:
  - **And become *de facto* means of capturing land value**, raising far more than national development land/betterment taxes ever did;
- Legal and policy framework in each nation are broadly similar
  - **A cost-based approach** of negotiated contributions framed by local plan policies designed to make developments acceptable in planning terms (**rational nexus** critical)
  - **Agreements are contractual** obligations
  - **Implementation is discretionary** matter for local planning authorities
    - And relies on **discretionary nature of planning** decision making within our common law framework making negotiations a key feature of all UK planning systems
  - **England also has a Community Infrastructure Levy (CIL)** including Mayoral CIL to secure funding for sub regional infrastructure i.e. moves away from rational nexus requirement for obligations but delinks payment from obligation to provide the infrastructure

# Incidence/value/delivery: key findings

	ENGLAND 2018-19	SCOTLAND 2019-20
Planning permissions granted (all types)	358k	26k
S106/CIL./Mayoral (England) and S75 (Scotland) funds agreed (including in kind in England)	£7bn	£480m (excluding in kind infrastructure)
of which affordable homes percent of new homes that were social rent	£4.7bn 12%	£300m 70%
Percent in England southern regions/in five LAs in Scotland central belt	64%	45%
Percent of increased land value on greenfield sites with planning permission captured by obligations	30%	32% (in the five authorities with the largest value of obligations)
Percent captured by other taxes	20%	

# How do the two systems work?

- **Negotiated contributions taking account of site circumstances have worked better than national taxes**
- **Well understood**, especially where policies in place, for site related infrastructure and affordable homes; **contractual nature** important to all parties; **funds raised and spent locally**;
- **Works best in vibrant markets**; less well in downturns and more fragile markets
- **Significant local authority variations** in policy/practice even in same market contexts
- **Dependent on complex and time-consuming negotiations**, especially problematic for SME developers
  - in England renegotiations in downturns often leads to loss of affordable homes
- **Lots of exemptions e.g. permitted development; small sites etc.**
- **Do not work well in dealing with sub regional infrastructure** nor cumulative impact of small scale development
- **Delivers social rented homes in Scotland** because matched with grants (but impact on land prices)
- **Delivers mainly 'affordable' rent and shared ownership in England** (and mixed communities)
- **Scotland uses Grampian planning conditions** as well as obligations to secure infrastructure



# Changes proposed by each nation

- **Scotland: introducing an infrastructure levy (on top of S75) to deal with sub regional infrastructure:**
  - no details yet (enabling sunset clause in 2019 Planning Act expires in 2026);
  - NB advice to Ministers by Scottish Land Commission on land value capture
- **England: a mandatory Infrastructure Levy (or sales tax) to partially replace S106 and CIL**
  - **creates a mandatory value-based system** intended to be simpler than the negotiated cost based S106
    - breaks contractual links; moves towards an explicit land value tax; risks borne by LAs more than developers;
  - **charged and spent by local authorities; paid as a percentage of GDV above threshold on completion**
    - modelling of White Paper proposal showed a national levy rate would not work
  - **Levelling Up and Regeneration Bill (now at third reading stage in Commons) but details to be clarified:**
    - rates and thresholds set by local authorities and subject to confirmatory inquiry
    - S106 (and conditions) retained for integral infrastructure on all sites and all provision on large and complex sites
    - local authorities to require in kind affordable homes provision and borrow against projected levy receipts
    - will be a phased 'roll out'

# Learning from experience i.e. in the UK

- Are **contributions to costs better than value taxes** at making development acceptable in planning terms?
  - And how can systems cope with new demands e.g. bio diversity net gain; nutrient neutrality; 'creep' in demands to fund more infrastructure from S106 and S75
- Perhaps (in Britain) we need a **multi-pronged approach** related to the specifics of each site?
  - **standard charges for small sites** for infrastructure/affordable homes
  - **negotiated contributions for all large long build out sites**
  - **partnership approaches to major developments** (NB Master Plan Consent Areas in Scotland)
- Learning from each other?
  - **Scotland: learn from England's challenges with CIL** before introducing the Infrastructure Levy;
  - **England: think about using planning conditions and some matching grants** to secure more social rented homes (but beware land value impact)
- In both nations there are **limits to what can be taken re viability consequences**
  - **MOREOVER proposed changes do nothing to more equitably and efficiently tax the major beneficiaries of planning** and what S106 and S75 funds i.e. owners of existing homes and of other real estate

# Some references

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**An Chomhairle Náisiúnta Eacnamaíoch agus Shóisialta**  
**National Economic & Social Council**

## **Locational Value for Public Good**

Housing Agency: 'Talking about Land Series'

17/01/23

# NESC

- Provide advice to the Taoiseach & Government on strategic policy issues relating to sustainable economic, social and environmental development in Ireland
- Research, Dialogue and Advice
- Government Departments; Social Partners (Trade unions; employers; farmers; C&V; environmental pillar) & independent experts
- Shared understanding and societal consensus

# Locational Value for Public Good

- ▶ Value of land can be greatly enhanced by public decisions in relation to land use (housing) and/or public investment in infrastructure
- ▶ Land Value Capture premised on view that it is 'equitable' that public should share in the rise in value of land/property associated with public action
- ▶ Locational Value for Public Good
  - ▶ Broader range of policy mechanisms
  - ▶ **Public Good**
- ▶ **Contribute to the costs of servicing land and infrastructure and support the supply of more affordable housing and sustainable urban development**
- ▶ International experience indicates that public institutions can actively engaged in **co-creating locational value**
  - ▶ Hafen City (Hamburg)
  - ▶ Freiburg
  - ▶ Hammarby (Stockholm)

# Locational Value for Public Good

- ▶ Actively explore the use of locational value creation and sharing instruments to support Ireland's ambition for enhanced infrastructure and sustainable urban development, including the provision of affordable housing at scale
  - ▶ Content and context
- ▶ Part V: make it more effective by increasing the proportion which must be 'affordable' but tailored on a county by county basis following housing need/demand analysis
- ▶ Site Value Tax (work to identify and address barriers)

# Current Policy Context

- ▶ Development Contributions (Section 48 & 49)
- ▶ Affordable Housing Act 2021
  - ▶ New housing developments – 20% part V requirement
  - ▶ Min 50% of Part V provision for social housing support ; Affordable (purchase and/or cost rental)
- ▶ Land Value Sharing and Urban Development Zones 2021
  - ▶ Communities share in land value uplift –current use and market value
  - ▶ Hope value and Land speculation
  - ▶ UDZ; Bespoke Development Framework; Enhanced land assembly and acquisition powers
- ▶ Residential Zoned Land Tax
- ▶ Sharing/Capturing Value of public action/investment now part of the policy mix



# Realising the Potential of Locational Value

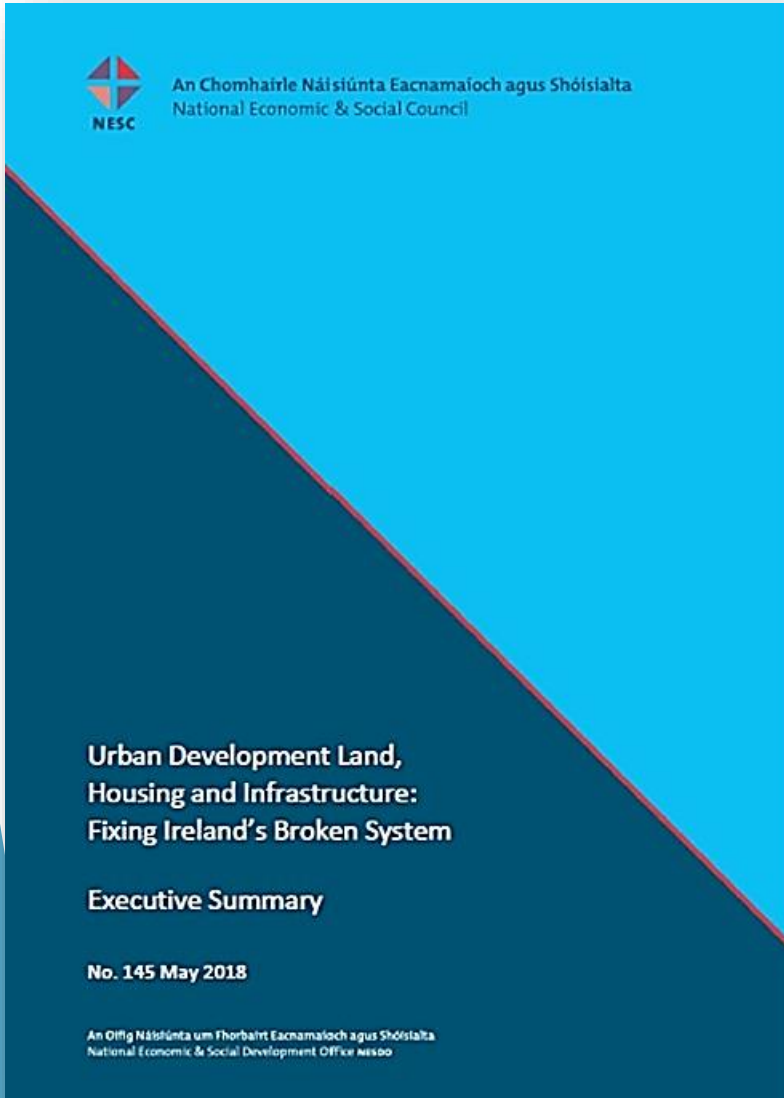
- ▶ Institutional capacity and culture
- ▶ Authoritative public actors
  - ▶ Increasing supply
  - ▶ Building in affordability
- ▶ Sustainable Urban Development
- ▶ Suite of 'LV measures'; content and context
- ▶ Active land management and coordinated set of policy tools
- ▶ Political Support
- ▶ Long-term mutually beneficial partnerships – public and private actors
- ▶ Societal engagement –build shared understanding
- ▶ Monitoring and learning – revise based on experience/knowledge
- ▶ Takes time –demonstrate progress

# Conclusion

- ▶ Ireland must bring about a fundamental change in its system of urban development, land management and housing provision.”
- ▶ Systemic Change = challenging the status quo:
- ▶ More actively and collaboratively managing land, capturing locational value for public good, and effectively engineering-in permanent affordability



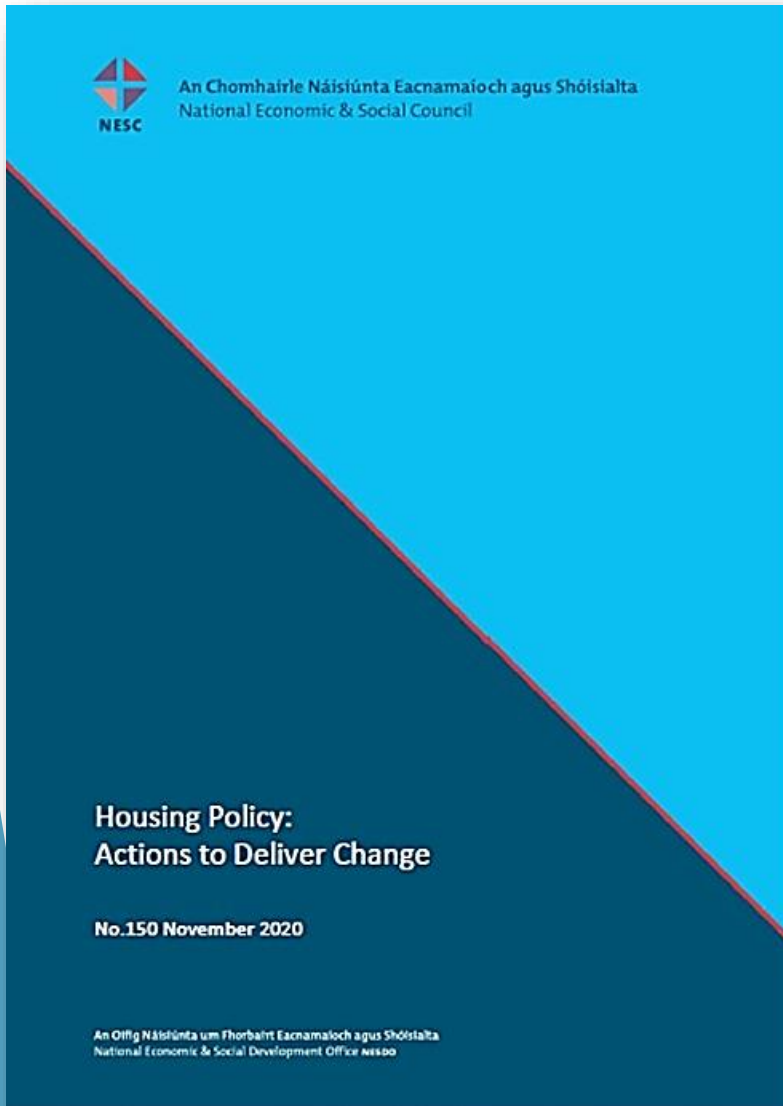
# Fixing Ireland's Broken Housing System - 2018



- ▶ **The system is dysfunctional**
- ▶ **Systemic approach - suite of institutional & policy actions are required to fix it**
- ▶ **System change is complex and takes time**
- ▶ **From speculative, cyclical -> permanently affordable, sustainable & equitable**
- ▶ **Accept the need for direct public policy action**



# Affordable, Sustainable & Equitable System



1. **Bridging the supply gap**
2. **Bridging the affordability gap**
3. **Outlined Range of Actions**
  - ▶ **Institutional change**
  - ▶ **More effective use of existing measures**
  - ▶ **Devise new solutions/actions**

Thank you

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# Council's Long Record of Analysis

