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TACKLING HARDCORE VACANCY THROUGH COMPULSORY SALE ORDERS

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Abstract

Hardcore or semi-permanent vacancy has been defined as land which has been vacant or derelict for more than nine years. Over a quarter of all brownfield land in England is believed to be hardcore vacant, while in Scotland, over 40% of the almost 11,000 hectares of all vacant and derelict land officially recorded in 2014, had been in that same condition for at least 23 years. Such vacancy has become a semi-permanent feature of the urban landscape as much because of institutional barriers as economic or physical ones. Among the most problematic of these are unrealistic owner expectations of what the land is worth. To tackle hardcore vacancy, the chapter proposes the introduction of Compulsory Sale Orders (CSOs), under which any land idle for an undue length of time could be required to be sold by public auction. The chapter sets out how CSOs could be implemented, explores what they might achieve in practice, and considers some of the challenges likely to be involved in their introduction. It argues that CSOs offer an institutional solution to an institutional problem by reconstructing the rules of land and property markets to make them work more efficiently.

Keywords

Hardcore vacancy, land reform, property rights, urban regeneration, vacant and derelict land

INTRODUCTION

This chapter is about the semi-permanence of urban vacancy and the potential of institutional reform to tackle it. Its specific focus is on urban vacant and derelict land, and especially that found within or adjacent to towns and cities in Scotland. The argument within the chapter is that vacancy has become a semi-permanent feature of the urban landscape as much because of institutional barriers as economic or physical ones.

The chapter is thus located in an understanding of the significance of institutions as the ‘rules of the game’ through which urban development and redevelopment takes place. Such rules are themselves enlivened by relations between those people and organisations whose strategies, actions and interests are crucial to the way in which rules are interpreted and reinterpreted. The chapter proposes both an institutional explanation for land market failure, and a radical institutional solution, grounded in property rights reform.

The chapter now proceeds in five main sections. The first task is to establish what is meant by semi-permanent or ‘hardcore’ vacancy and to ascertain its scale. This task is accomplished in the next section which draws on official statistical sources in both England and Scotland. Greater attention is paid to the Scottish statistics, not simply because of the geographical focus of the chapter, but also because they are actually much better than the English ones. In the third section, an institutional explanation of hardcore vacancy is put forward to balance the economic and physical explanations that often dominate policy discourse. The section draws on an extensive literature, which goes back almost 40 years, on ownership and valuation constraints to urban redevelopment and explores what this has to say about the institutional failings of land markets.

The fourth section then proposes the introduction of Compulsory Sale Orders (CSOs) to require specified land (and potentially property) which has been vacant for an undue period of time to be sold by public auction, irrespective of whether it was held in public or private ownership. The section sets out and elaborates the main features of CSOs, as recently recommended to the Scottish Government by its Land Reform Review Group (2014). It argues that the power of CSOs to reform market practices and cultures would derive as much from their existence on the statute book as their deployment in practice. In other words, merely knowing that land might be subject to a CSO when it has been vacant beyond a set time would often be sufficient to change owner behaviour.

The justification for such a radical reform of property rights to address land market failings is explored in the fifth section. To reconcile the public and private interests, which semi-permanent urban vacancy might appear to place in dichotomous opposition, the chapter seeks to engender debate around the responsibilities of property as well as its rights, especially in relation to sustainable development and community empowerment. The potential of Compulsory Sale Orders to provide a radical institutional solution to an institutional problem is then summarised in the final section of the chapter.

HARDCORE VACANCY

Hardcore or semi-permanent vacancy has been defined as land which has been vacant or derelict for more than nine years (English Partnerships, 2003). In that report, it was estimated that some 16,523 hectares, or around a quarter of all vacant or derelict land recorded in England in 2001, could be classified as hardcore. The report argued that development tended to ‘circle around’ persistently unused sites, making little actual impact upon them. Geographically, hardcore vacancy was found to be concentrated in former heavy industrial regions such as the North West and Yorkshire & Humberside, which together accounted for around half of the overall total. In contrast, only 2% of land defined as hardcore vacant was located in Greater London.

These official figures came from research undertaken by Roger Tym and Partners (2001) which drew on the National Land Use Database (NLUD) of all vacant and derelict land (or ‘previously developed land’ as it became known) in England, produced that same year. No further figures for hardcore vacancy in England have ever been produced, even though NLUD itself was published annually from 2001 to 2009 by English Partnerships and its successor, the Homes and Communities Agency. Moreover, NLUD was not then updated until late 2014, when the 2010 statistics appeared, along with raw data for 2011 and 2012. Again, none of these most recent updates contain any information on length of vacancy. In the absence of official statistics, an independent assessment by CPRE (2014a), using data obtained directly from local planning authorities, calculated that by 2012, hardcore brownfield land in England had increased to 17,740 hectares, a 7% rise on the 2001 figure.

In contrast to England, the Scottish Vacant and Derelict Land Survey (SVDLS) has been published on an annual basis since 1993, with preliminary surveys having been undertaken in 1988 and 1990. The source presents a wealth of detailed information on the land itself along with the socio-economic characteristics of the areas within which it is located. Alongside each year's headline figures, it is possible to track the annual flows into and out of vacancy and dereliction and to see what proportion of the total has been vacant or derelict over time.

The latest survey (Scottish Government, 2015) records 2,366 hectares of vacant urban land and 8,509 hectares of derelict land in Scotland for 2014, making a total of 10,875 hectares. As Figure 14.1 shows, this total has hardly changed since the late 1990s. Over the same period, Scotland's towns and cities have continued to spread outwards, with intense development pressure often experienced at the urban fringe. Yet, almost 65% of the vacant and derelict land recorded in Scotland in 2014 is evidently developable within ten years, and around half of this is considered developable within five years (Scottish Government, 2015). Although these figures are based on judgements made by individual local authorities and cannot be cross-checked independently, they suggest that lack of development potential is not the most plausible explanation for continued high levels of vacancy and dereliction in Scotland.

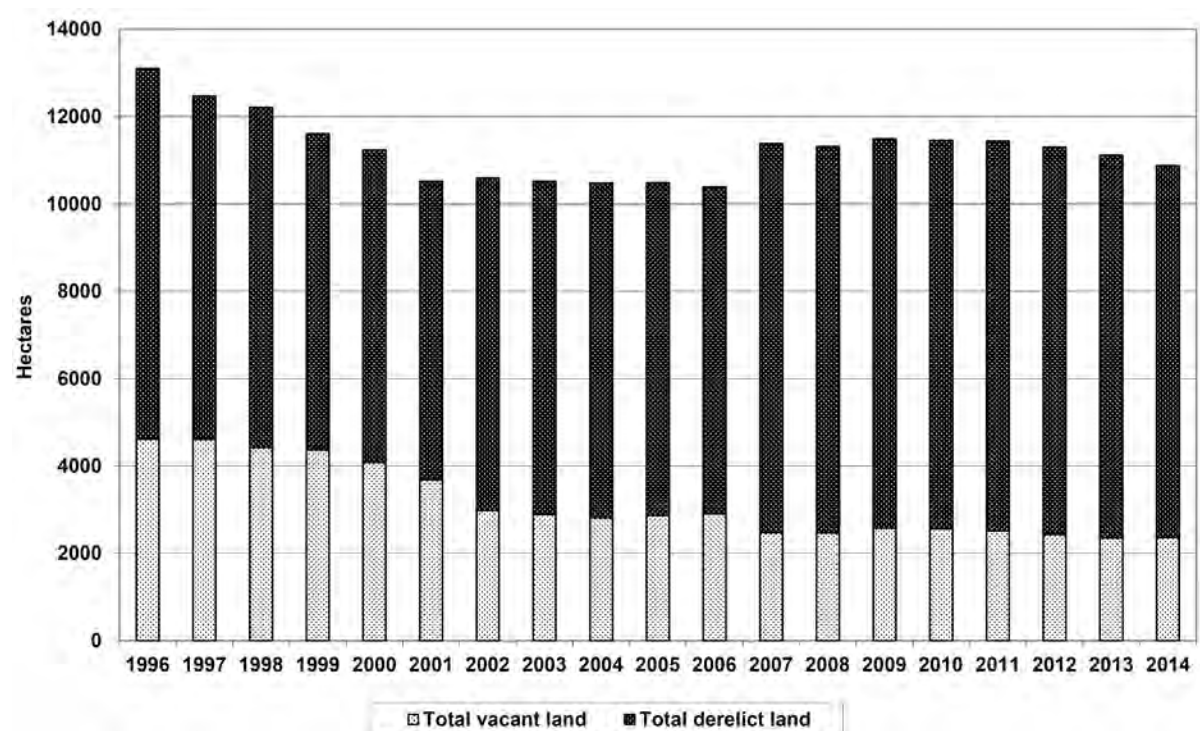


Figure 14.1: Total vacant and derelict land in Scotland, 1996–2014 (Source SVDLS Annual Reports 1996-2014)

Since Figure 14.1 presents only 'overall stock' figures, it disguises limited annual 'inflows' of new vacancy and dereliction and 'outflows' of vacant and derelict land reused or reclaimed. Between 2003 and 2006, for example, annual inflows (including 'unexplained changes') averaged just below 720 hectares per annum, and outflows just above 770 hectares per annum, so reducing the total stock from 10,596 hectares at the end of 2002 to 10,386 hectares at the end of 2006. As this suggests, whatever success has been achieved in re-using vacant and derelict land in Scotland has largely been matched by a steady stream of new vacancy and dereliction.

Vacant and derelict land in Scotland is geographically concentrated, with 64% of the total found in the six worst affected local planning authority areas. With one exception, all these areas are located in the former heavily industrialised Central Belt of Scotland. The exception is the Highland area, which accounts for almost 13% of all vacant and derelict land in Scotland. However, half the total amount of vacant and derelict land recorded in Highland is attributed to just two redundant military airfields, with a further 19% due to one large redundant port. Once these exceptional sites are acknowledged, the focus of attention shifts to the five areas in the Central Belt where vacancy and dereliction is concentrated. These are North Ayrshire and North Lanarkshire (each roughly 12% of Scotland's total), Glasgow (just under 11% of total), Renfrewshire (just under 9% of total) and Fife (just under 8% of total).

The most recent SVDLS provides information for all but 6% of the land included in the survey on the time period over which it has been vacant or derelict. The results are shown in Figure 14.2 both for Scotland as a whole and for the five areas, apart from Highland, most affected by vacancy and dereliction. Some 4,300 hectares of land in Scotland has been vacant or derelict since at least 1991, equating to 42% of all such land for which such information is available. If hardcore vacancy is interpreted as land that became vacant or derelict before 2006, this amounts to around 83% of the Scottish total, reaching 86% in North Ayrshire and 89% in Fife.

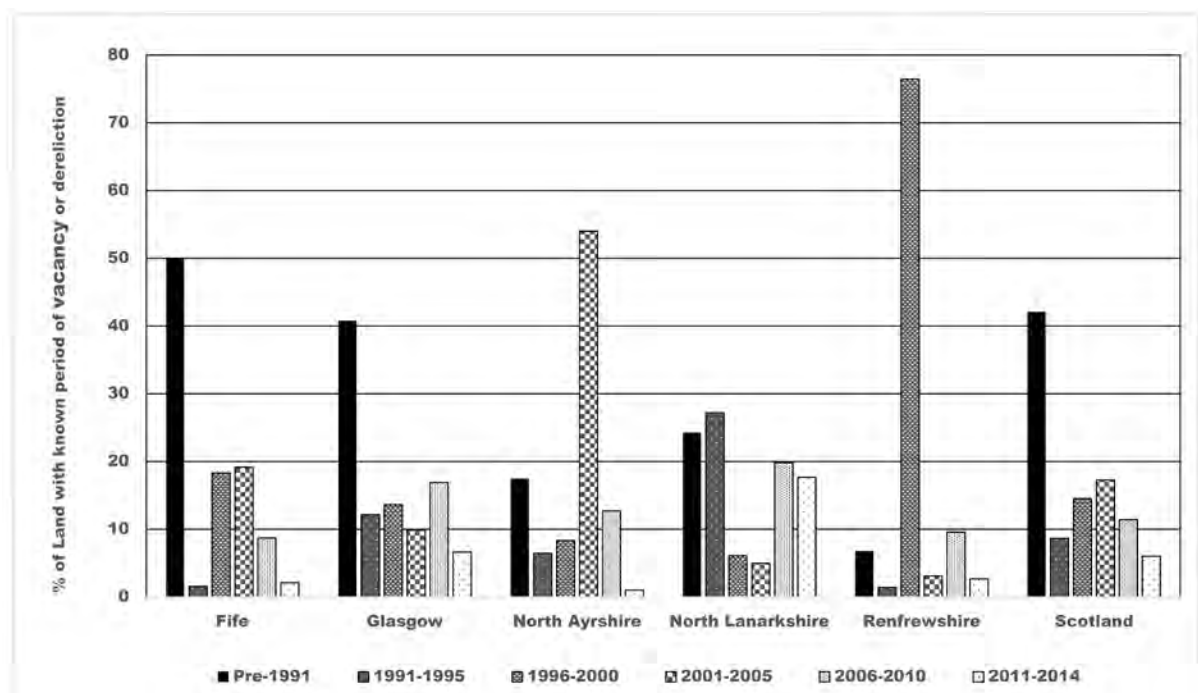


Figure 14.2: Length of vacancy and dereliction in Scotland (Source Scottish Government 2015)

Failure to confront hardcore vacancy disproportionately affects some of the most deprived communities in Scotland. Almost 29% of Scotland's population live within 500 metres of a derelict site, and 54% live within 1,000 metres. Moreover, as Figure 14.3 illustrates, the more deprived datazones become, the more their people are forced to experience derelict land. Significantly, this concentration has become even worse in recent years, possibly because land that has been reclaimed tends to be located in the more prosperous parts of settlements.

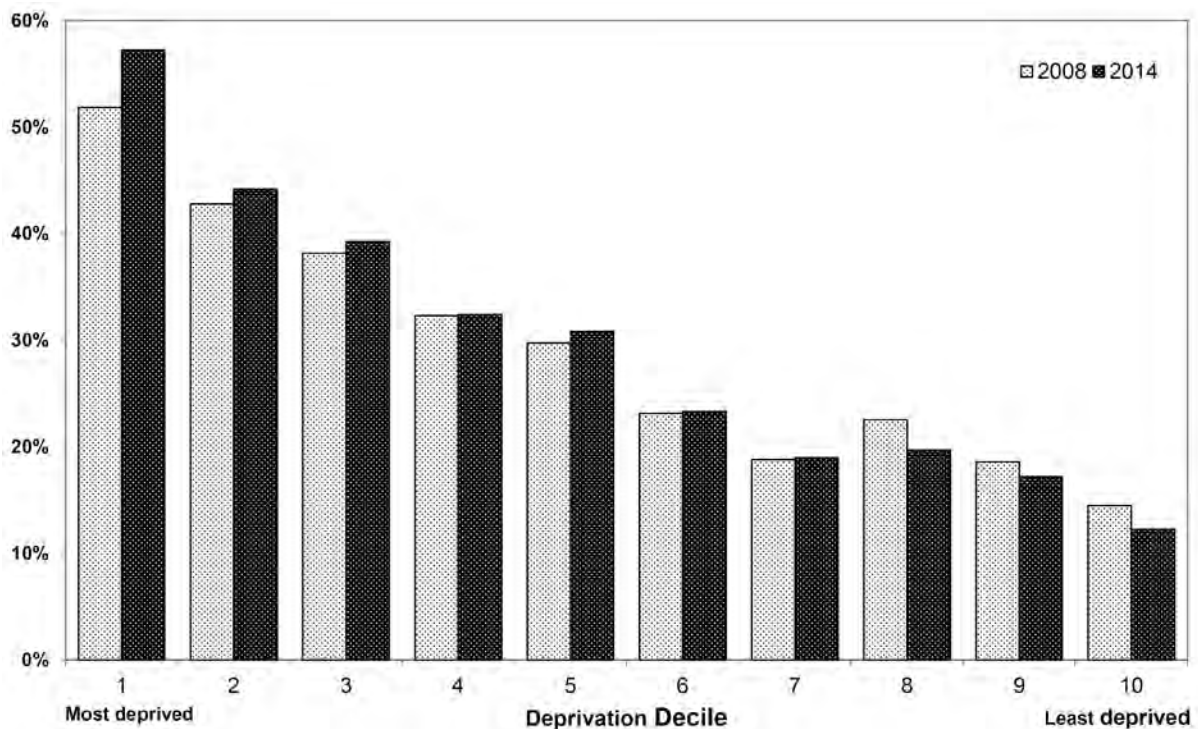


Figure 14.3: Percentage of Scotland's population living within 500 m of derelict land by deprivation decile, 2008 and 2014 (Source Scottish Government 2015)

According to the Scottish Government (2015) some 305 hectares of derelict and vacant land was reclaimed or returned to active use between 2005 and 2013 as a result of annual expenditure of around £8-10 million under the Vacant and Derelict Land Fund. Much as any such government action is welcome, the limited scale of what has been achieved under this fund, and indeed by other means through which land has been reclaimed or brought back into use, suggests that without a radical change in direction, urban Scotland can look forward to a future in which very high levels of urban vacancy and dereliction are likely to persist for several decades to come.

AN INSTITUTIONAL EXPLANATION OF HARDCORE VACANCY

Critical success and failure factors

Although there is now a wealth of literature on 'brownfield' land in general, remarkably little is focused on hardcore sites. A notable exception is the work of Dixon *et al.* (2011) who tried to pinpoint 'critical success factors' enabling long-term barriers to redevelopment to be overcome through a comparison of the development history of 10 hardcore sites in Manchester (England) and Osaka (Japan). To do so, they adopted an agency approach, seeking to link economic and property market change to the strategies of key stakeholders. Although they identified no 'universal model' of urban regeneration easily transferable from one context to another, they did suggest that success in tackling hardcore vacancy depends principally on "the presence of strong markets; seeing the recession as an opportunity; long-term vision; strong brand; strong partnerships; large-scale developments; and prioritising infrastructure" Dixon *et al.* (2011: 975).

According to Dixon *et al.* (2011), continued disuse of hardcore brownfield sites can threaten the economic competitiveness of cities, impair the tax base, impede job creation, damage the quality of life and undermine efforts to tackle contamination. Alongside success factors, they therefore provide clues to what might be described as 'critical failure factors' accounting for persistent

vacancy. In Manchester, for example, earlier low demand was matched by a downward spiral in economic and social conditions, poor infrastructure and lack of expertise in exploiting tax relief. But “unrealistic values and expectations, often based on high densities” also played their part (Dixon *et al.* 2011: 973). In Osaka, contamination was seen as less significant than “fragmented ownerships and development control as well as lack of agreement with landowners” (Dixon *et al.* 2011: 972). This highlights the need to interpret economic and physical constraints within an institutional context.

Yet, it still remains tempting to see hardcore vacancy as essentially a physical or economic problem caused by the presence of contamination or other physical constraints, and by the lack of enough ‘end value’ to pay for their remediation or treatment. The weakness of this explanation is that it largely disregards the important role of development actors in mediating physical or economic problems, sometimes making the unexpected happen and sometimes thwarting the expected. Land markets provide a critical setting through which this process of mediation takes place since the path from redundancy to re-use usually involves and often requires a change of ownership, and can be frustrated when owners hold land off the market (Adams *et al.*, 1988). For example, Adams *et al.* (1995) found that the transaction rate for industrial sites in the Cheshire-Wirral corridor was almost twice that for those which had been developed compared to those which remained vacant. As this suggest, setting in place measures to encourage and indeed accelerate the transfer of vacant land from passive to active ownership should be an important focus for urban land reform.

The importance of ownership strategies and constraints

An ownership constraint can be said to exist where development is unable to proceed because the required ownership rights cannot rapidly be acquired through normal market processes (Adams *et al.*, 2001). Such constraints derive from the distinctiveness of land as a commodity, the imperfect nature of the land market, the behavioural characteristics of landowners and the institutional context for land ownership, exchange and development. As Table 14.1 shows, there are five main types of ownership constraint, each of which can be further subdivided into more precise categories.

Table 14.1. Typology of Ownership Constraints to Urban Redevelopment

Ownership unknown or unclear	• Title deeds incomplete or missing
	• Ownership in dispute
Ownership rights divided	• Land held in trust
	• Land subject to leases or licences
	• Land subject to mortgages/other legal charges
	• Land subject to restrictive covenants
	• Land subject to easements
	• Land subject to options or conditional contracts
Ownership assembly required	• Ransom Strips
	• Multiple ownership
Owner willing to sell but not on terms acceptable to potential purchasers	• Restrictive terms or conditions of sale
	• Unrealistic expectations of price
Owner unwilling to sell	• Retention for continued current use for occupation
	• Retention for continued current use for investment
	• Retention for continued current use for making available to others on non-profit basis

	• Retention for control or protection
	• Retention for subsequent own development
	• Retention for subsequent sale: Indecision
	• Retention for subsequent sale: Postponement
	• Retention for subsequent sale: Uncertainty
	• Retention for subsequent sale: Speculation
	• Retention for no specified purpose: inertia

Source: Adams *et al.* (2001) where further explanation of each category can be found.

How significant are such constraints? In a detailed investigation of 80 large redevelopment sites in four British cities (Aberdeen, Dundee, Nottingham and Stoke-on-Trent), Adams *et al.* (2001) discovered 146 separate ownership constraints which disrupted plans to use, market, develop or purchase 64 of the 80 sites at some point between 1991 and 1995. As Figure 14.4 shows, two important types of ownership constraint concern owners unwilling to sell and those apparently willing to sell but not on terms acceptable to potential purchasers.

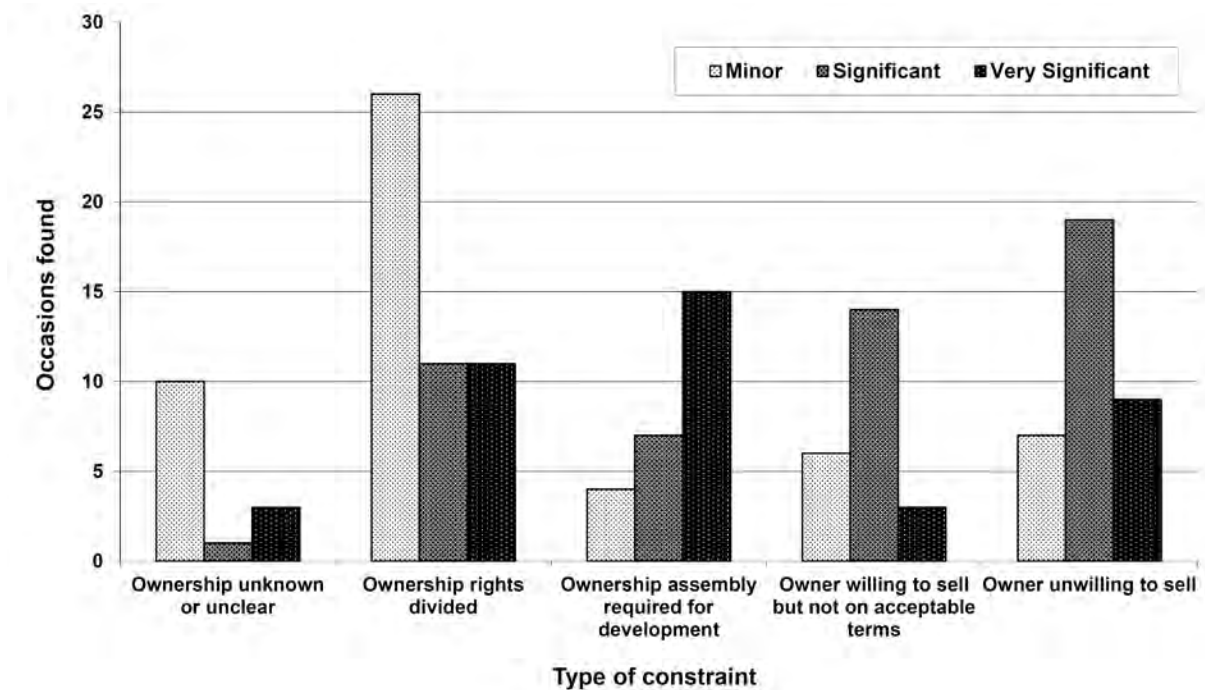


Figure 14.4: Extent of disruption caused by ownership constraints

Owners apparently willing to sell but not on acceptable terms proved disruptive on 21 of the 80 sites, with 23 individual cases of disruption recorded in total. Four of these cases were attributed to restrictive terms or conditions of sale. For example, one building company advertised plots for sale on an industrial estate in Stoke-on-Trent but required any potential purchaser to commission it to design and build any development. More importantly, some 19 separate cases were discovered where vendors set unrealistically high asking prices or held unrealistically high expectations of land value, below which they were not prepared even to consider offers. In 16 of these cases, the owners' unrealistic prices or expectations significantly or very significantly disrupted another party's plans to use, market, develop or purchase the site.

The impact of this was most acute in the fragile markets of Dundee and Stoke-on-Trent. A classic example concerned a former marl pit of 8.5 hectares in Stoke-on-Trent, half of which had redevelopment potential. It was on the market in 1997 for £860,000. At interview, it transpired that the owner, a local developer, believed its open market value to be £600,000, but would accept £500,000 if offered immediate payment. This sum was calculated on the basis that it would cover the original purchase price of £220,000 paid in 1987, the £220,000 spent in interest charges over ten years and approximately £60,000 of other expenditure. However, the owner admitted that a professional valuation of the land undertaken for his bank suggested that it was worth only £260,000. Crucially, as subsequently argued, a best professional valuation of £260,000 does not necessarily mean that the land would have reached this estimate, if actually sold on that date.

The four cities research also showed that some owners were simply unwilling even to consider offers from potential purchasers, whatever the price offered. The research identified 35 individual cases among the 80 potential redevelopment sites, where owners chose to retain land in their ownership, even though they had no immediate development plans themselves. These 35 cases were accounted for by owners who wanted to keep the land for later sale (12 occasions), for their own current (under) use (10 occasions), for their own later development (8 occasions), or for no specific purpose whatsoever (5 occasions). Such owner reluctance to sell land with redevelopment potential affected 29 of the 80 sites, and caused significant or very significant disruption to another party's plans to use, market, develop or purchase the site in 80% of the instances where it occurred.

The research confirmed what many other commentators had long suspected or argued, and indeed continue to do so. Almost 40 years ago, for example, Edwards (1977: 206) asked "Why if there is a widespread exodus of capital, with manufacturers and statutory undertakers locating their investments elsewhere, do land values in the inner cities remain so high that the re-use of obsolete land and buildings is impeded?" A decade later, Gloster and Smith (1989: 3) suggested that in the recession of the early 1980s "companies were reluctant to sell at sensible prices, if such prices were below historic cost or book value." Around the same time, Howes (1989) also argued that owners might be unwilling to sell at prices below those which matched book valuations or recouped historic acquisition costs financed through loans.

Later contributions have come to remarkably similar conclusions. The Urban Task Force, 1999: 223) considered that "landowners often have unrealistic expectations of what their site is worth or feel unable to release sites because of the inflated values that are recorded in their accounting books", although, strangely, it seemed to believe that the problem was largely confined to public-sector landowners such as the National Health Service and Ministry of Defence. The Brownfield Guide published for practitioners by English Partnerships (2006: 29) noted that "Unrealistic price aspirations of land owners can make the site assembly process time consuming and costly." From his own practical experience, Syms (2010) thought it common for landowners to hold unrealistic expectations of both land value and actual prices likely to be offered by potential developers. Most recently, CPRE (2014b: 12) argued that "Brownfield site owners are hesitant to sell their land because they speculate that the value may increase in future and as a result brownfield sites within urban areas may remain vacant for a significant amount of time."

The significance of valuation constraints

Since keeping land vacant incurs no taxation and relatively few holding costs, many landowners are under no pressure to sell, and are quite prepared to wait until that tempting offer finally arrives, even if it never does. Crucially, however, owners' unrealistic expectations of what their land might be worth can be reinforced by the culture and practice of professional valuation, so creating

specific valuation constraints to urban redevelopment. Although these are conceptually a subset of ownership constraints, valuation constraints deserve special mention. They occur when estimates of value diverge materially from prices actually achieved in open market transactions. Significantly they reinforce owners' unrealistic expectations of price as well as owners' decisions to keep land off the market

In the regeneration context, valuation constraints arise because of the inherent difficulties involved in estimating how much vacant urban land and property is actually worth. Professional valuation works best when there is plenty of recent comparable evidence to draw upon. Yet, actual transactions in vacant urban land are relatively few in number, with the prices paid per hectare varying substantially. Moreover "Since the size, location and particularly the physical condition of each vacant site endow every transaction with individual characteristics, it becomes extremely difficult for the valuer to generalise a particular level of prices from a recent set of transactions" (Adams *et al.*, 1985: 172). This is compounded by structural economic change, which usually requires some write-down of former patterns of value to stimulate new activity. If the comparative method of valuation reinforces the reluctance of owners to acknowledge the extent of structural change, urban land markets can grind to a halt.

Compulsory purchase is not really much help here, even if were widely implemented by local authorities, precisely because the valuation assumptions inherent within compulsory purchase law and practice encourage undue reliance on past evidence. Ironically, owners willing to sell vacant urban land may do better out of compensation from compulsory purchase than if their land were sold at public auction. While the former is based on a valuation or estimate of price, with all the difficulties that involves, the latter involves an actual market transaction which automatically reflects the extent of structural change within the area. The chapter therefore now turns to the concept of Compulsory Sale Orders (CSOs), which would require land which has been vacant or derelict for an undue period of time to be put up for sale by public auction.

COMPULSORY SALE ORDERS

It can be argued that the most effective way to achieve a fair and realistic price for real estate that is hard to value such as vacant and derelict land is to put it to public auction. Auctions enable sellers to fulfil any responsibilities they may have to achieve the best possible price and help resolve the inherent difficulties involved in the valuation of abnormal assets. Auctions are a well-established and widely used means of sale within land and property markets. A brief glance through the weekly pages of Estates Gazette, for example, will soon reveal several notices of forthcoming public auctions, mostly involving numerous sales at the same auction, and often including plots of vacant land. Compulsory Sale Orders seek to take advantage of this experience and expertise by ensuring far more vacant land is sold by public auction.

Although the auction process has been extensively used to handle the sale of vacant urban land, relatively few owners appear willing to entrust such land to auction. Such reluctance is likely to arise if owners believe that auction prices would be lower than what they think might eventually be achieved by waiting indefinitely for a purchaser. But, from a public policy perspective, this is precisely the point. Significantly, auctions can play an important role in the process of 'price discovery' by which information is conveyed from one submarket to another. For example, in Hong Kong, where auctions are widely used to ensure that public land is sold in an accountable and transparent manner, Chau *et al.* (2010: 480) found that "lower than expected land auction prices have a significant negative market-wide and local impact on real estate prices while higher than expected land auction prices have little or no impact." The immediate and very public sense of market realism engendered by auctions could thus provide an important stimulus to urban

regeneration by ensuring that vacant urban land is made readily available at reasonable prices to whoever can put it to best use.

The concept of Compulsory Sale Orders was originally proposed as ‘Community Rights of Sale’ by the current author (Adams, 2013), and subsequently recommended to the Scottish Government by its Land Reform Review Group (LRRG, 2014). CSOs would enable local authorities (and possibly other public agencies and even community groups) to require that land which has been vacant or derelict for an undue period of time be put to public auction. This would require a new statutory register of vacant and derelict land to be introduced, as an enhanced version of the existing Scottish Vacant and Derelict Land Survey. After a period of three years on the register (commensurate with the validity of most planning permissions), any site could be subject to a CSO, irrespective of whether it was in public or private ownership. Owners served with a CSO by the local authority would be required to offer the land for sale by public auction within a six- to eight-month period, with local authorities having reserve powers to act if owners failed to comply or to comply satisfactorily.

There may be circumstances in which the owners would wish to object to the inclusion of land within the register. Alternatively, other bodies such as community groups may consider land has been omitted. A formal procedure would therefore be needed to require local planning authorities to consider and respond to such proposed changes. Such requests would be decided on the purely factual basis of whether the particular sites did or did not meet the required definition. However, there might be some limited right of appeal against the local planning authority’s decision, either to the Directorate for Planning and Environmental Appeals or the courts.

The LRRG also recommended that the notice served on the owner requiring the land to be sold by public auction would be accompanied by a planning statement prepared by the local authority, explaining what types of development may or may not be allowed in future. This would set out any existing planning permissions and relevant development plan allocations and policies. The statement, which would be published online by the local authority, would be expected to be included in the sale particulars.

Although anyone could participate in the auction, it would be important to discourage speculative purchases by parties who then continued to keep the land vacant. To avoid this, all purchases under a CSO would be subject in law to the implied grant by the new owner to the local authority of the right to purchase the land three years thereafter at a valuation set at that date by the District Valuer if development had not commenced by then. Alongside the planning statement, this would help ensure that bids made at the auction were based on realistic, not speculative, proposals.

If the land remained unsold at auction, a period of time, possibly three years, would have to elapse before another CSO could be served. Such an unproductive outcome would probably be exceptional since, in most circumstances, a community organisation or local authority might be expected to make at least a nominal bid for the land, especially as no reserve price would be allowed. The intended notice period of six to eight months for the auction would also help to generate interest and proposals for the future use of the site.

The impact of CSOs is likely to be far wider than the actual numbers served, since the possibility that land which has lain vacant for an undue period of time could be put to public auction is likely to have a profound impact both on owner psychology and valuation practice. Transaction evidence from any auctions that take place will provide an important future benchmark. By curtailing the power of owners to hold out indefinitely for what they perceive to be an appropriate land value, CSOs will facilitate more effective market operations by creating a better balance between

development and land ownership interests, making development more viable, especially at the margin.

BALANCING PROPERTY RIGHTS AND RESPONSIBILITIES

Rights in land, unlike the land itself, are socially constructed and re-constructed over generations. They have developed and evolved as statute and case law have reshaped relationships between holders of different property rights over many centuries. This process has involved increasing recognition that property rights are matched by property responsibilities. So, for example, under the Occupiers Liability (Scotland) Act 1960, property occupiers have a duty of reasonable care to see that no-one suffers injury or damage by virtue of some danger on the premises. Over time, both the nature of, and balance between, property rights and responsibilities evolves. This process of evolution can happen gradually as case law develops and more formally as new legislation is passed. In this context, the increasing importance of sustainable development and community empowerment in the economic and social regeneration of Scotland suggest that there must come a time when it is no longer acceptable to the public interest for an owner to retain land or property indefinitely without use or sale. As the LRRG argued (2014: 122-123) “Keeping urban land and property vacant when someone else could put it to beneficial use impedes the chances of achieving sustainable and resilient settlements.” The introduction of CSOs thus reflects the view that landowners have important public responsibilities as well as private ones.

Bringing vacant and derelict land back into use can be of particular benefit to deprived communities, especially where it facilitates community-led regeneration. Over the past decade, rural land reform in Scotland has encouraged a flowering of community enterprise by enabling local communities to access land from which they were previously excluded by extensive private estates (Satsangi, 2009; Scottish Government, 2012; Skerratt, 2013). Communities in urban Scotland who may wish to create allotments, open space and small-scale housing or employment schemes can draw on this experience, provided they can access unused land at realistic prices.

In this context, the Community Empowerment (Scotland) Act 2015 provides for abandoned or neglected land in Scotland to be purchased by appropriate community bodies for the purposes of sustainable development, even if there is no willing seller. Lengthy and demanding procedures need to be fulfilled, including Ministerial approval, before this power can be exercised. Nevertheless, the Act establishes the principle in Scotland that neglect or abandonment of land can be a cause to deprive owners of their land. When questioned on whether this provision would be compatible with the European Convention on Human Rights, the Minister assured the Scottish Parliament that “The Scottish Government is content that section 48 concerning a right to buy neglected and abandoned land is compatible with Article 1 of Protocol 1 of the European Convention on Human Rights (ECHR)” (Scottish Government 2014). Conceptually CSOs would be an extension of the existing community right to buy neglected and abandoned land, rather than an entirely new proposal.

CONCLUSIONS

In the post-industrial era, the potential for cities to re-invent themselves demands the ability to take land and buildings left vacant by economic change and transform them into sites of future opportunity. Owner attitudes and strategies are crucial in enabling this to happen. Cities without the desire or capacity to regenerate will spread outwards as they grow, leaving the doughnut effect so evident in many parts of North America. In the UK and Europe, where sustainable urban development has long been associated with the idea of keeping cities compact, constraints on

outward expansion have been reinforced by regeneration policies intended to meet development needs through the re-use of redundant urban land.

Much new activity has been generated on reused land in Scotland over the past 35 years, despite its often pepper-potted nature. In Glasgow alone, former docks and shipyards are now home to the Braehead Shopping Centre, the up-market Glasgow Harbour development, the Scottish Exhibition Centre, the BBC, STV and Science Centre, for example. Such success stories show what can be achieved through the creative re-use of urban land, but they are not necessarily typical of Scotland's urban landscape. Indeed, beyond such limited nodes of prosperity lie thousands of hectares of vacant and derelict land, much of which has remained unaltered for many years.

Many people look to the planning system to bring such vacant urban land back into use. While the planning system has immense power in preventing unwanted development, its ability to generate desirable development, at least on its own, is really quite limited. So we need to link the planning system to other policy tools if we want to see significant regeneration take place. Traditionally this has involved developer subsidies and compulsory purchase. Both are potentially expensive (and therefore less likely at a time of austerity) and both address symptoms of the problem, rather than the problem itself.

This chapter has instead argued that where holders of property rights so neglect their responsibilities that sustainable development and community regeneration is impeded, the case for reform is strong. The prime example of this in urban areas is that of keeping land and property idle, when its transfer to another owner, be that a local community, an entrepreneur or a public authority, would help bring that asset back into use and so create new employment, new housing and so on. The chapter has proposed the introduction of Compulsory Sale Orders, not as a mechanism for greater Government intervention in land markets but, in fact, quite the reverse. In principle CSOs offer an institutional solution to an institutional problem. Indeed, they would reconstruct the 'rules of the game' within land and property markets to make those markets work more efficiently on their own account, with minimal government intervention. If, by so changing market practices and cultures, CSOs were able significantly to reduce the stock of vacant and derelict land in Scotland, and relieve the blight experienced on a daily basis by its most deprived communities, they must surely be welcomed.

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