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# MANAGING URBAN LAND: THE CASE FOR URBAN PARTNERSHIP ZONES

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## Abstract

Multiple ownership of land can act as a significant barrier to brownfield redevelopment. Despite renewed interest in compulsory purchase, it is unlikely to become the normal remedy for multiple ownership, owing to its cost and complexity. Drawing on international experience and recent research, this paper proposes the concept of an Urban Partnership Zone, in which existing landowners would be entitled to participate alongside the local authority and a chosen development partner in a joint-venture redevelopment company. Combined with greater planning certainty and other benefits, this innovation would enable the development process to operate more rapidly without immediate compulsory purchase.

## Keywords

Brownfield Land; Compulsory Purchase; Development Process; Multiple Land Ownership; Owner Participation; Urban Redevelopment

## 1. INTRODUCTION

Although property-led regeneration had dominated British urban policy in the late 1980s (HEALEY *et al.*, 1992), during the 1990s the UK Government adopted a more holistic approach to urban regeneration in which fresh importance was attached to community empowerment and later, social inclusion. Taking this more holistic view, the Deputy Prime Minister, in his preface to the report of the URBAN TASK FORCE (1999, p. 3) called for "co-ordinated action based on the joint principles of design excellence, economic strength, environmental responsibility, good governance and social well-being."

Although urban regeneration is no longer property-driven, the availability of suitable land and property remains an important facilitator of broader urban policy. It has long been recognised, for example, that the urban-rural shift in employment markets is accentuated by a shortage of readily available industrial land and premises within the main urban areas (FOTHERGILL and GUDGIN, 1982; FOTHERGILL *et al.*, 1987). More recently, TUROK (1999, pp. 910-911) has argued that "In many old industrial cities, the most important single mechanism for expanding labour demand and creating appropriate employment probably involves large-scale investment in land improvement, strategic sites and premises, and modern infrastructure to accommodate business growth and attract investment."

In retail planning, after the rapid growth in out-of-town developments in the late 1980s and early 1990s, the Government is instead determined to concentrate future provision within urban areas and,

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wherever possible, close to existing town and city centres. A sequential approach is now required to site selection, in which out-of-town locations are to be considered only after central and edge-of-centre sites have been sequentially investigated and ruled out (DEPARTMENT OF THE ENVIRONMENT 1996a). However, by their very nature, major retail developments are extensive users of land. This makes suitable locations hard to find within cities, especially as large urban sites normally have to be assembled from several ownerships, while those of the periphery can often be acquired from a single owner.

In housing land policy, the Government intends that at least 60% of new English homes should be constructed on brownfield sites within ten years (DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS, 1998). However, on a regional basis, preliminary analysis by the URBAN TASK FORCE (1999) suggests that this target will prove much harder to achieve in the pressured South East (outside London), South West and Eastern regions than in Yorkshire and Humberside, the North East and North West. Accordingly, unless more effective policies are introduced, the Urban Task Force considers that at most, only about 55% of additional dwellings are likely to be accommodated on recycled land between 1996 and 2021.

This paper concentrates on one important aspect of the current urban land debate, namely the increasing frustration caused by multiple urban land ownership at a time when the Government wishes, for both social and environmental reasons, to concentrate new development within existing towns and cities. In Section 2, we examine the practical impact and theoretical significance of multiple ownership as a development constraint. In Section 3, we explore how the traditional British remedy of compulsory purchase is likely to remain, at best, only partially effective as an antidote to multiple ownership.

We therefore seek to draw out lessons from the international experience of urban land readjustment in Section 4 and of owner participation in Hong Kong in Section 5 that may have relevance in a British context. From this experience and from our own recent research on British land ownership constraints to urban redevelopment (ADAMS *et al.*, 1999), we articulate, in Section 6, the concept of an Urban Partnership Zone as a valuable addition to British urban land policy. In the final section, we conclude by summarising its likely benefits for urban regeneration.

## **2. MULTIPLE OWNERSHIP OF URBAN LAND**

It has long been recognised that multiple or fragmented ownership of land renders co-ordinated development problematic and may even inhibit developer demand altogether (HOWES, 1989). Multiple ownership of even small redevelopment sites can be common in some inner urban areas (CIVIC TRUST, 1988). Without State intervention, development cannot proceed unless agreement is reached with each owner. In a private market, the last owner to settle is in the strongest position to drive a hard bargain with any developer who has already bought out all other owners.

Where the ownership of land is divided between two or more freehold owners, its development prospects cannot readily be explained by neoclassical economic theory. For "As urban economics has developed over the last 20 years or so the assumption has almost invariably been made that the land market works smoothly and efficiently to ensure that each parcel of land is used by the activity which can pay the highest rent. Any possible departures from this norm have usually been ignored in theoretical analysis. . ." (EVANS, 1985, p. 133). Neoclassical redevelopment theory, which requires the smooth transfer of land to its "highest and best use", thus assumes that once the price of land in a new use exceeds the price of land in its current use by the cost of demolition, rational owner behaviour readily accepts redevelopment (ROSENTHAL and HELSLEY, 1993).

If the bundle of ownership rights in development land is ever divided, neoclassical theory would expect market mechanisms to reassemble that bundle effectively, should this be justified by the strength of demand. Yet, recent research reveals the existence of significant ownership constraints (at least for brownfield sites) where development is unable to proceed because the required ownership rights cannot rapidly be acquired through normal market processes (ADAMS *et al.*, 1999). 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 real property is locationally specific and generally immovable, its distinct physical and legal characteristics can put sellers in a monopoly position relative to buyers (D'ARCY and KEOGH, 1999). In a perfectly competitive market, rapid changes in price would balance the quantity demanded with the quantity supplied and ensure equilibrium. However, within land and property markets, the conditions of perfect competition are well known to be extensively breached (ADAMS, 1994; BALCHIN *et al.*, 1995; HARVEY, 1996). More importantly in policy terms, market failure is also manifest in such markets, since their operation is distorted by external influences, apparent in externalities, loss of public goods and lost opportunities (ADAMS, 1994). Development that might otherwise take place but is frustrated by multiple ownership provides a good example of a lost opportunity in welfare economics.

In behavioural terms, certain landowners are known to pursue more active land management and development strategies than others. Active landowners are those who develop their own land, enter into joint venture development or make their land available for others to develop (ADAMS, 1994). Such owners may try to overcome site constraints to make land more marketable or suitable for development. Active landowners who obtain planning permission, tackle development constraints or market their land for sale, make a significant contribution to the development process.

In contrast, passive landowners take no particular steps to market or develop their land, even though they may intend to do so in the distant future. They may respond, or fail to respond, to offers from potential developers, but otherwise they retain land without development. They rarely attempt to overcome constraints in order to make land more marketable or suitable for development. Passive owners therefore contribute little to the development process, and nothing at all, if they refuse to sell land that has development potential. Nevertheless, passive owner behaviour should not be confused with irrational owner behaviour. Refusal to sell land with development potential may be perfectly rational for the individual owner, if, for example, it helps to minimise tax liabilities or maximise future choice.

HEALEY and BARRETT's work (1990) suggests that the institutional context for ownership behaviour can be helpfully explored in relation to the resources to which owners have access (such as private development finance and government grants) the rules which they consider govern their behaviour (such as property rights law and compulsory purchase procedures) and the ideas they draw upon in developing their strategies (such as the perceived boundary between private property rights and public intervention). This makes it necessary to look beyond the narrow range of development constraints acknowledged by neoclassical models (such as those attributable to planning restrictions, public sector monopoly ownership and the cost and availability of credit) through exploration of a broader range of potential influences on ownership strategies, including valuation methods and private tenure patterns (HEALEY, 1991).

In recent years, the detrimental impact of such constraints as multiple land ownership has attracted renewed attention as the Government has attempted to concentrate an ever greater proportion of new development, especially for housing, on brownfield sites. In a recent study of urban housing

capacity, BREHENY and ROSS (1998, p. 23), for example, reported that "Alongside issues of contamination and access, the difficulty of site assembly is seen as a major constraint on the development of urban sites. Sites that have the potential for development are often in multiple ownership. In many cases, ownership is difficult to determine. When it is determined, owners are often reluctant to sell land - usually because of an expectation of higher gains in the future."

While the URBAN TASK FORCE (1999) also drew attention to the fragmented and complex land ownership patterns in many inner urban areas, ADAIR *et al.* (1998) argued forcibly that disjointed land ownerships and multiplicity of tenurial rights act as a serious deterrent to private investment in urban regeneration projects. Moreover, as the DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS (1999) has itself recognised "If all the (local) authority can do is to point the developer to semi-derelict land in multiple ownership and suggest that they negotiate as best they can (assuming they can identify all the owners) development may simply not take place" (Ibid para 7.4). In the next section, we therefore examine the potential contribution of compulsory purchase to overcoming multiple land ownership before turning our attention to more innovative approaches to achieving the same purpose.

### **3. COMPULSORY PURCHASE**

In theory, where development is impeded by multiple ownership or similar constraints, British local planning authorities are well empowered to assemble land by compulsory purchase and sell to whichever developer, willing to implement planning policies, makes the highest offer. In the 1950s and 1960s, compulsory purchase orders (CPOs) were used by many local authorities to assemble substantial central area sites for comprehensive commercial redevelopment. However, during the 1980s, although such powers were retained on the statute book, they fell into disuse with the emergence of more market-orientated styles of planning. For administrative, financial and political reasons, most local authorities came to regard compulsory purchase for planning use as a last resort (ADAMS, 1994).

A survey of 294 local planning authorities undertaken in the early 1990s thus showed that 243 authorities had not initiated a single compulsory purchase order under planning legislation between mid-1992 and mid-1994. Between them, the remaining 51 authorities had made exactly 100 Planning CPOs during this period, of which 60 were initiated either to overcome the problems of a final stubborn seller or to amalgamate land in multiple ownership (ADAMS 1996). Although comparative figures over a longer period are hard to obtain, anecdotal evidence suggests that Urban Development Corporations, with their enhanced powers and resources, were significantly more likely to make use of CPOs to assemble land than the typical local authority. ADAMS (1996), for example, reported that one UDC had instigated 35 compulsory purchase orders in the three years to mid-1992, all of which had been confirmed by the Secretary of State.

A subsequent investigation of 80 local authorities undertaken in 1998 suggested a renewal of more general interest in compulsory purchase, especially where linked to urban regeneration. Four out of every five of these authorities indicated that regeneration or redevelopment schemes had been prejudiced or held up by problems of land assembly. For 87% of these authorities, town centres were seen as an important focus for regeneration activity. The survey found that almost 120 CPOs were then in the pipeline, in contrast to 100 made by the same authorities in the previous three years (RAGGETT, 1998).

Unlike Urban Development Corporations, English Partnerships, which was established in 1993 as the urban regeneration agency for England has not yet used its compulsory purchase powers (ILEY and DAVIS, 2000), relying instead on local authorities to promote CPOs where necessary for regeneration

purposes. However, as ILEY and DAVIS (2000) argue, since Regional Development Agencies (RDAs) in England have recently been established with the same wide CPO powers for regeneration and economic development purposes as those enjoyed by English Partnerships, the new Labour Government is likely to expect RDAs to use compulsory purchase in appropriate circumstances.

Moreover, soon after its election in 1997, the new Government expressed support for the renewed use of compulsory purchase as a regeneration tool, especially in town centres (JOHNSTON, 1997). A series of policy reviews and research projects were initiated to ensure more effective use of compulsory purchase in urban regeneration. The difficulties inherent in the compulsory purchase process were considered by the URBAN TASK FORCE (1999) which made several relevant recommendations in its final report.

The Urban Task Force identified five main obstacles to the successful use of compulsory purchase in the assembly of land for urban regeneration. First, specific resources are not available to assist local authorities with the cost of compulsory purchase. As a result, many authorities are prepared to contemplate compulsory purchase only where they have previously entered into a "back-to-back" deal with a prospective developer who contracts to cover an authority's CPO costs in full.

Secondly, the Urban Task Force highlighted the bureaucratic nature of, and protracted timescale inherent within compulsory purchase procedure. As an earlier research study for the DEPARTMENT OF THE ENVIRONMENT (1996b) demonstrated, the average time taken from the preliminary stage to the payment of compensation was 8 years for Highways CPOs, 6 years for Planning CPOs and 4 years for Housing CPOs. In summary, compulsory purchase is a "complex, time-consuming and bureaucratic process, leading to higher costs" (DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS, 1999).

Thirdly, the Urban Task Force called for simplification of compulsory purchase law and practice, arguing that the multitude of legislation, policy guidance and case law on compulsory purchase causes confusion to practitioners and is prone to restrictive interpretation by lawyers. Associated with this, the fourth identified weakness concerned the loss of necessary skills and experience at the local level, owing to the infrequent use of compulsory purchase in the previous two decades.

Finally, the Urban Task Force highlighted the widespread perception that compensation for the compulsory purchase of commercial property is inadequate, since it does not take account of the forced nature of the transaction. This, it believed, was reflected in added owner hostility to the process, which served only to further delay the outcome. Research has also shown that the manner in which compulsory purchase is implemented can be insensitive and highly disruptive to existing businesses and others in current occupation within proposed redevelopment areas (IMRIE and THOMAS, 1997). As CASTORINA and PRATT (1998, p. 75) thus argue "It may be advantageous to have a premium payable on compensation to reflect the fact that the acquisition was compulsory and hence to encourage landowners not to object to compulsory purchase orders". This would reflect the principle established by the introduction of additional home-loss payments in 1973 which are intended "as a mark of recognition of the personal upset, discomfort and inconvenience of compulsory displacement from a home, over and above compensation for the actual costs involved" (DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS, 2000a, p. 34).

The work of the Urban Task Force as a whole has been evaluated by the HOUSE OF COMMONS SELECT COMMITTEE ON ENVIRONMENT, TRANSPORT AND REGIONAL AFFAIRS (2000a) which, in its eleventh report, sought to identify which of the Task Force's many recommendations should be carried forward to the Urban White Paper, promised by the Government

for late 2000. Almost in passing, the Committee, reflecting widely-held views, encouraged the Government to introduce an improved CPO procedure to facilitate land assembly. Yet, some of the difficulties of compulsory purchase identified by the Urban Task Force are easier to resolve than others. For example, compulsory purchase law and procedures may soon be clarified and simplified, with an official guide issued to disseminate best practice (DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS, 2000a). Statutory compensation could be enhanced, while the skills base could be renewed through appropriate training. Nevertheless, taking account of the UK's incorporation of the European Convention of Human Rights within its domestic law, limits clearly exist to the speed with which compulsory purchase can proceed since "any attempt to shift the balance of rights in one direction or the other must therefore be highly sensitive to the coercive nature of the procedure" (URBAN TASK FORCE, 1999, p. 228).

In the end, bearing in mind the public's demand for improved health and education services, it is unlikely that Governments will ever commit sufficient financial resources to make State acquisition the normal course of action rather than the last resort in overcoming multiple ownership of brownfield sites. Unless an improved compulsory purchase system is generously funded and able to deliver sites rapidly into the development pipeline, it will be necessary to consider alternative land assembly mechanisms. In this context, valuable lessons can be learnt from the international experience of urban land readjustment and owner participation.

#### **4. URBAN LAND READJUSTMENT**

Urban land readjustment has been defined as the consolidation of adjoining plots "by a government agency for their unified planning, servicing and subdivision with the sale of some of the new plots for cost recovery and the redistribution of other plots to the landowners" (ARCHER, 1989, p. 307). Most commonly used at the urban fringe, such a system of land pooling and replotting has been adopted in Australia, Germany, Japan and Korea (DOEBELE, 1982) Indonesia and Nepal (ARCHER, 1989) Thailand (ARCHER, 1992) and elsewhere. This system enables fragmented and irregularly shaped plots to be consolidated for the creation of serviced and usable parcels. Land is then redistributed to the original landowners, with public infrastructure costs borne collectively by the increase in development value, on a pro-rata basis.

As CHOU and SHEN (1982) note, land re-adjustment thus allows planning authorities to prepare serviced development sites without the need to purchase land or fund infrastructure. Authorities need secure only "bridging funds" until the sites are marketed and the infrastructure costs paid. However, for such an approach to be viable, development value must be significantly higher than existing use value (DOEBELE, 1982). This makes the process far more suitable to land conversion at the urban fringe than to urban land recycling.

MASSER (1987) suggests that land readjustment has three main attractions. First, it mobilises existing resources and facilitates development rather than restricts it. Secondly, it enables the efficient provision of infrastructure by public authorities at a relatively low cost. Thirdly, it acts as a type of betterment levy to recoup some of the capital gains made from comprehensive development. Critically, however, significant national variations occur in the extent of landowner support that is necessary before re-adjustment. In Germany, for example, re-adjustment programmes can be implemented with little or no consent from the existing owners, with the result that they are usually completed within 2-3 years. On the other hand, the Japanese system requires almost complete owner support thus extending the process over a decade or more.

In the British context, a statutory framework to facilitate land re-adjustment may be a useful addition to existing land policies, especially as a means to co-ordinate development and secure necessary

infrastructure during outward urban expansion. However, in urban redevelopment, complex commercial and residential projects are more likely to be driven forward by a single development organisation which will usually require prime control over land rights. This does not eliminate the benefits of some form of owner-participation in urban land assembly but suggests that the most relevant aspects of urban land re-adjustment need to be carefully identified in a British context. In this respect, the recent experience of owner participation in Hong Kong emphasises the need for a clear statutory framework if such an alternative method of land assembly is to operate rapidly and effectively.

## **5. OWNER PARTICIPATION IN URBAN REDEVELOPMENT IN HONG KONG.**

In Hong Kong, the concept of owner participation in urban redevelopment was originally raised during debates in the mid-1980s on the proposed establishment of the Land Development Corporation as an independent statutory body with responsibilities for urban renewal (ADAMS, 1991). Three main reasons why owner participation might accelerate urban redevelopment were subsequently identified by the HONG KONG GOVERNMENT (1995). First, participation would lessen the need to acquire property through compulsory purchase or "resumption", as it is known in Hong Kong. Secondly, by enabling owners to share in development profits, it might reduce opposition to redevelopment. Thirdly, it could help spread the financial burden and risk of redevelopment.

However, it was concluded that, unless carefully implemented, any advantages of owner participation could easily be outweighed by four potential disadvantages. First, it may be hard to persuade large numbers of individual owners to agree on the form of redevelopment and the distribution of development profit. Secondly owners must be willing to accept a proportionate share in development risk as well as development profit. For, as the LAND DEVELOPMENT CORPORATION (1993, p. 8) itself commented: ". . . owners participation is, in the end, a business venture with all the usual business risks. The choice is thus very individual." Thirdly, since individual participating owners would become only minority shareholders, they may have little influence over how redevelopment actually proceeds. Finally, unless a significant number of proportion of owners agreed to participate, any potential advantages of participation would be lost.

Since it was apparent that the concept of owner participation in urban redevelopment would need to be implemented with considerable care, the Land Development Corporation commissioned the consultants Coopers and Lybrand to examine how it could best be made to work in practice. Their report favoured the establishment of subsidiary development companies in which existing owners would be offered shares in accordance with the relative value of their property. This would have the disadvantage that such companies normally pay tax before profits are distributed to shareholders. As an alternative form of participation, a series of separate agreements could be contracted with every participant, who would each take responsibility for their own tax arrangements. Although such legal arrangements would be more complicated, they would still create transferable certificates marketable at a price.

Three sites for owner participation were subsequently included by the Land Development Corporation in its Phase 2 redevelopment programme (ADAMS and HASTINGS, 2000). At two of these sites, participation was invited on both a cost-sharing and a non cost-sharing basis. The former was meant for larger owners such as development companies who have already started to acquire properties within the redevelopment area. Such owners were required to contribute to development costs (including land acquisition, land premium and construction) in return for a greater share of



development profit. In contrast, under the non-cost basis, the only contribution expected from owners was the land itself, the value of which determined the owner's share of development profit.

At the third site, owner participation was offered only on a non-cost basis and it is thought that this restriction accounted for the lack of interest shown by the owners, many of whom were development companies. Redevelopment of the other two sites, while progressing, has taken much longer to come to fruition than expected, owing to the absence of a clear statutory framework for owner participation backed up, where necessary, by reserve compulsory purchase action and speedy planning procedures.

In the UK, urban land assembly is wholly dependent on either the successful operation of the private land market or compulsory acquisition by the State. Although there are many examples where the private land transactions or compulsory purchase, operating alone or in combination, have facilitated urban redevelopment, much-needed regeneration can be lost because of either the failure to secure agreement from every last private owner or the reluctance of the State to take compulsory purchase action. Even where agreement is finally reached with every last private owner or compulsory purchase eventually approved, by the time the land is at last assembled, the initial redevelopment opportunity may already have expired. In the next section, we therefore draw on some of the international experience outlined above and the findings of recent research on land ownership constraints to urban redevelopment in the four British cities of Aberdeen, Dundee, Nottingham and Stoke-on-Trent (ADAMS *et al.*, 1999) to suggest an alternative mechanism to promote brownfield land assembly and development which we call an Urban Partnership Zone.

## **6. URBAN PARTNERSHIP ZONES**

The concept of an Urban Partnership Zone (UPZ) is intended primarily to channel brownfield sites rapidly to active participants in the development process through overcoming multiple land ownership. By combining an innovative approach to land assembly with greater planning certainty, a UPZ would bring together current disparate components of the redevelopment process and link them, where appropriate, to taxation and other financial benefits.

In practical terms, an Urban Partnership Zone would be an area specially designated for redevelopment by the local planning authority, where a development partner is also selected by the authority through open competition. At that stage, neither the local authority and nor its development partner need own any land within the proposed UPZ but nonetheless, a joint-venture development company would be formed between them, in which the local authority would be entitled to at least a minimum share irrespective of any land owned, in order both to reflect its own commitment and to ensure local democratic accountability<sup>1</sup>.

Suitable partners for local authorities might include English Partnerships and regional development agencies in England, Scottish Enterprise and local enterprise companies in Scotland, housing associations, community development trusts and of course, private sector developers. In some circumstances, partners who already hold an ownership stake in a suitable UPZ might invite the local planning authority to enter into partnership rather than vice-versa. It would be for the local authority to decide how best to respond to such an approach.

However, to justify the time and effort involved and to encourage the redevelopment of larger sites than normally created by the market, the mechanism of UPZs would generally be limited to significant redevelopment opportunities defined by a minimum redevelopment floorspace in town and city centres (perhaps of 5,000m<sup>2</sup>) or a minimum land area elsewhere (perhaps of 2 hectares). In the four British cities studied, we found that 88 potential redevelopment sites meeting these suggested minimum criteria were undeveloped at the end of 1995. These we reduced to 80 for detailed

investigation, of which 20 were found to be constrained by multiple land ownership and a further 6 by ransom strips<sup>2</sup>.

The number of UPZs to be declared by each local planning authority would be a matter for its own discretion. Although reserve powers to declare and manage UPZs might be vested in the Secretary of State, they would be exercised only if a local planning authority manifestly failed to take steps to promote brownfield redevelopment in its locality.

Whether or not they own any land within the proposed Urban Partnership Zone, once the joint-venture development company is formed, the UPZ would be formally declared. Crucially, in contrast to compulsory purchase, the subsequent process of land assembly would be designed to promote co-operation not confrontation between the joint-venture development company and existing landowners. This reflects the desire of most owners of vacant urban land and obsolete urban property to encourage its redevelopment. In the recent research, just over half of 155 owners of vacant urban land or obsolete urban property studied across the four cities encouraged or significantly encouraged redevelopment between 1991 and 1995. About another third had a neutral impact on redevelopment while less than one fifth discouraged or significantly discouraged redevelopment (ADAMS *et al.*, 1999). Although a single obstructive owner is capable of holding up the redevelopment of land in multiple ownership, such behaviour is not necessarily representative of brownfield owners as a whole.

Once an Urban Partnership Zone is declared, existing landowners would therefore acquire the statutory right on either to join the development partnership or to sell out to it. This would provide a welcome means by which those already owning land and property within the Zone could benefit from the proposed redevelopment, either financially or by taking reserved space in the new scheme. Such owner participation could be offered on either a cost-sharing or non cost-sharing basis, reflecting previously reported experience in Hong Kong. In our research, development was either central to, or an important ancillary part of, the business of two-thirds of the 155 owners studied (ADAMS *et al.*, 1999). Such larger landowners would be more likely to participate in redevelopment than smaller owners to whom development may be only an occasional part of their business.

To prevent further fragmentation of ownership within a declared UPZ, declarations would be entered as land charges and would entitle the local planning authority to pre-emption rights to any land and property in the area. Almost half of the research sites in multiple ownership had been allowed to fragment, often over many years, from what had originally been a single ownership interest. Through the Register of Sasines, it was possible, for example, to trace how a nineteenth-century dyeworks in Dundee, which closed in 1985, gradually split into at least 24 different ownerships. Such fragmentation can cause valuable urban redevelopment opportunities to be lost and would be prevented by a UPZ declaration.

To provide vision, direction and planning certainty, UPZ declarations would be accompanied by an overall masterplan or development brief to ensure quality design and development. This would grant outline permission for the uses specified, so creating early planning certainty and enabling valuation disputes to be resolved more quickly. By so linking strategic development intentions at an early stage to a planning approval in principle, development risk would be reduced and valuation disputes between owners minimised. Moreover, in time, suitable UPZs could be first identified through statutory development plans or other regeneration strategies. This would allow their merits to be tested and challenged in advance in the normal way.

Despite the statutory right to owner participation, it is likely that certain owners would wish neither to enter the development partnership nor to sell out to it at open market prices. In such circumstances, compulsory purchase powers would have to be deployed to complete the assembly of land within the

UPZ. However, if owner participation proved popular, it would be necessary to invoke compulsory purchase only against a minority of the original owners. This would make such action easier to accomplish and politically more acceptable.

To concentrate the minds of all parties, UPZ declarations would be accompanied by a fast-track timetable for land acquisition. This would allow an initial period of perhaps six months for owners to take up their statutory rights to participation or register formal objections. If no objections were received, declarations would be automatically confirmed at the end of this period. Any objections registered and not withdrawn would be considered at a public hearing (the date and place of which would have been published in advance in the original timetable), after which the matter would be determined by the Secretary of State. In such circumstances, unless the Urban Partnership Zone were confirmed by the Secretary of State within two years of declaration, it would be deemed to have lapsed.

On confirmation, all remaining ownership rights in the UPZ would immediately vest in the redevelopment partnership by means of a General Vesting Declaration, subject to the entitlement of all those in legitimate occupation to a one-year non-renewable tenancy from the date of confirmation. Dispossessed owners would be entitled to compensation under compulsory purchase rules on the value of their dispossessed interest, the cost of which would be met by the development partnership and not the local authority. Although no account would be taken in assessing such compensation of any increase in land value created by the proposed redevelopment scheme, owners who were dispossessed would still be entitled to exchange their compensation for shares in the partnership, thus providing a final opportunity to benefit from subsequent development profits.

This transfer of all land within the UPZ directly to the joint-venture development company would provide a powerful link that at present is too often missing, between vision and implementation in urban planning and development. Indeed, by securing and reinforcing this link, local planning authorities would be encouraged to promote imaginative regeneration, since the necessary time and effort would not be threatened by ownership constraints.

Although the local authority's development partner would be responsible for raising development finance from the markets or elsewhere, taxation incentives could be offered to stimulate demand for new development in UPZs. For example, where Treasury approval of a UPZ was sought and gained, capital investment could benefit from similar taxation advantages to those previously enjoyed in Enterprise Zones, including enhanced capital allowances, capital gains tax relief on eventual sale and limited rate-free periods. As BERRY and MCGREAL (1993) demonstrated in Dublin's case, such fiscal mechanisms, if well targeted, can be highly effectively in stimulating inner city development.

However, in our research, the development prospects of 21 of the 80 sites we examined hinged on the availability of more specific development grants or subsidies or "gap funding" as it is commonly known (ADAMS *et al.*, 1999). Unfortunately, in December 1999, the European Commission declared the then main form of gap funding in the UK, namely the Partnership Investment Programme maintained by English Partnerships, to be unlawful on the basis that it broke Commission rules on State aid to the private sector.

The serious implications of this decision have been investigated by the House of Commons Select Committee on Environment, Transport and Regional Affairs which described the Commission's decision as both perverse and bizarre and likely to have disastrous implications for urban regeneration. The Committee called for a new framework to replace the Partnership Investment Programme which would seek to replicate its best aspects by measures that would "transfer risk to the private sector, use private sector management resources, and operate in partnership with RDAs and local authorities.

The potential of joint ventures should be fully explored" (HOUSE OF COMMONS SELECT COMMITTEE ON ENVIRONMENT, TRANSPORT AND REGIONAL AFFAIRS, 2000b, para. 41). Our proposal for Urban Partnership Zones could contribute successfully to such an approach.

Although some aspects of UPZs thus draw on already successful regeneration practices, including public-private development partnerships, masterplans and Enterprise Zone fiscal incentives, several other aspects would be quite new in a British context. These include the status of outline planning permission accorded to masterplans/development briefs, the grant of pre-emption rights to the local authority, the vesting of compulsorily acquired land directly in a joint-venture development company and especially, the proposed statutory rights and processes to encourage owner participation.

In the latter context, by drawing on international experience, the blunt instrument of compulsory purchase would be usefully supplemented with processes to encourage those who already hold ownership rights in an area to participate in any redevelopment. UPZs would thus provide a practical means to exploit the desire of many owners of vacant urban land and obsolete urban property to encourage its redevelopment while challenging those whose actions discourage its redevelopment. By providing a more flexible means to tackle ownership constraints to urban redevelopment, Urban Partnership Zones could thus make a significant contribution towards securing the much greater emphasis on brownfield development that the current Government and many other interested parties would wish to achieve

## **7. CONCLUSIONS**

When, in the past, the market has failed to assemble urban land with redevelopment potential, unless the State has been prepared to intervene through compulsory purchase, opportunities have been lost for new investment within British cities. Yet, despite some recent high-profile CPOs, such State intervention in the land market remains relatively rare mainly because the complex and often lengthy nature of compulsory purchase renders its transaction costs high. These occur both directly in relation to the overall costs of compensation, disturbance and associated professional work and indirectly as a result of the uncertainty and delay inherent in the time-consuming process of forced dispossession.

The introduction of Urban Partnership Zones would offer the opportunity to tackle market failure not only, as present, through State expropriation of existing interests in the proposed redevelopment site but additionally, where appropriate, through the provision of an institutional framework designed first to encourage negotiation and compromise between intending developers and existing landowners. Where multiple land ownership causes market failure, the declaration of an Urban Partnership Zone would thus provide a statutory mechanism to enable the development process itself to operate more rapidly and effectively without the need for immediate compulsory purchase.

As a result, UPZs would have the potential to reduce the transaction costs of urban redevelopment, particularly those attributable to the institutional delays and disputes frequently experienced during the redevelopment process, by creating clear and well-understood procedures within almost a code of good practice (backed up by the threat of State intervention in the last resort) for the consensual and speedy resolution of multiple land ownership. By connecting the faster and more certain assembly of land to a clear planning regime, UPZs would thus create clarity in public policy and build confidence in urban regeneration. Indeed, the very act of reducing risk and uncertainty would make brownfield development itself more viable and help stimulate the flow of private finance into urban regeneration.

In pressured regions such as the South East, UPZs could be used with flexibility and imagination both to create much-needed urban redevelopment spaces and to accelerate their flow through the development process. In less pressured regions such as the North West, they would not only act as a necessary supply mechanism but, where appropriate, would also provide a focus for stimulating investment within regeneration areas.

If significant brownfield redevelopment is indeed to be successfully achieved over the next decade, current urban land and planning policies will need to be supplemented by more flexible forms of intervention in land ownership arrangements to correct market failure. Whether or not they own prominent brownfield sites, the most pro-active local authorities already search for suitable developers with access to the resources necessary to carry out redevelopment. The introduction of Urban Partnership Zones would encourage and enable local authorities not simply to advocate redevelopment but to initiate it and see it through to completion.

Such innovative approaches to urban land policy, which draw on relevant international experience, are likely to be crucial if future development activity is, as the UK Government intends, to be directed towards existing towns and cities. Without such policy innovation, whatever the brownfield targets set by today's politicians, they may eventually come to be regarded as merely the best of intentions rather than the basis for practical action.

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## Footnotes

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<sup>1.</sup> Such joint-venture development companies are not intended to replicate the Urban Regeneration Companies (URCs) envisaged by the Urban Task Force and established in pilot form in Liverpool, Manchester and Sheffield. For as the DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS (2000b, para 2.10) acknowledges "Despite their legal status, URCs are essentially political agreements between their respective partners." Although the private and voluntary sectors are represented on the three pilot URC Boards, the URCs are in fact partnerships only between the relevant local authority, Regional Development Agency and English Partnerships. They also cover a much wider area and have a broader ambit than we would envisage for Urban Partnership Zones.

Only about 12 URC are likely to be established nationally if the recommendations made to the DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS (2000b) are accepted. In such locations, it may be appropriate for URCs to take over the lead role of local authorities in promoting Urban Partnership Zones in specific parts of their area.

<sup>2.</sup> A typical ransom strip is small piece of land incapable of use or development on its own but essential to the successful development of land adjacent. This is usually because it controls the only acceptable access from a potential development site to the public highway.