British development taxes since 1945

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tcpa

UNIVERSITY OF CAMBRIDGE

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First published in Great Britain in 2025

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First edition

ISBN 978-1-0682984-0-0

Cover image: Marco Rosario Venturini Autieri/
istockphoto.com

Design and layout: McLellan Design
www.mclellandesign.co.uk

Table of Contents

Table of Abbreviations

Taxes

CGT	Capital Gains Tax
CIL	Community Infrastructure Levy
DGT	Development Gains Tax
DLT	Development Land Tax
OPC	Optional Planning Charge
PGS	Planning-gain Supplement

Public institutions

DCLG	Department for Communities and Local Government
DETR	Department of the Environment, Transport and the Regions
DLUHC	Department for Levelling Up, Housing and Communities
DTLR	Department of Transport, Local Government and the Regions
HC	House of Commons
HL	House of Lords
HMRC	His (Her) Majesty's Revenue and Customs
MHCLG	Ministry of Housing, Communities and Local Government
MHLG	Ministry of Housing and Local Government
MTCP	Ministry of Town and Country Planning
MLNR	Ministry of Land and Natural Resources
NAO	National Audit Office
ODPM	Office of the Deputy Prime Minister
ONS	Office for National Statistics

Preface

This study – and an accompanying policy recommendations paper – is the product of an 18 month-long research and policy impact project conducted at the Department of Land Economy within the University of Cambridge, and with the support and assistance of the Town and Country Planning Association (TCPA).

Professor Li Wan (Professor of Planning within the Department) has provided diligent, insightful and enthusiastic support and oversight for the original research and the subsequent research dissemination and policy impact process. Professors David Howarth, Pete Tyler, Dennis Grube and Shailaja Fennell, Dr Gemma Burgess, and Dr Justin Kadi (all at the University of Cambridge) kindly provided additional input.

Professor Dave Shaw (University of Liverpool) and Dr Nick Axford (formerly Head of Global Research, CBRE and Avison Young) kindly supported the original research application, while Dr Edward Shepherd (University of Cardiff) offered helpful comments on my research proposal, useful insight during my research, and was a regular interlocutor at later stages. Mr Kelvin Macdonald (University of Cambridge) and the late Professor Tony Crook CBE (University of Sheffield) kindly agreed to act as the examiners of the original thesis on which this publication is based.

The subsequent policy impact project was funded by the University of Cambridge's Social Science Impact Fund (Higher Education Innovation Funding grant number G130539) and its Centre for Science & Policy; by the Department of Land Economy; the TCPA; and by the Lady Margaret Paterson Osborn Trust. At the TCPA, my thanks go to Fiona Howie, Dr Hugh Ellis, Jeanette Aves, Georgina Griffiths and Sian Williams for their professional and astute advice, policy insight, and logistics. At the University of Cambridge the project benefited from the enthusiastic input and support of Dr Tina Basi and Nicola Buckley, with administrative support from Laura Cave.

I am also grateful for the regular support and encouragement of Dame Kate Barker CBE, and to Lord David Lipsey who kindly gave of his time to provide me with his recollections of the genesis of the Community Land Scheme.

The following scholars and researchers kindly offered incisive insight at a TCPA seminar held to discuss this research in March 2025: Mr Stuart Adam (Institute for Fiscal Studies), Professor Nick Gallent (University College London), Professor Alex Lord (University of Liverpool), Professor John Muellbauer (University of Oxford), Professor Michael Oxley (University of Cambridge), Professor Peter Roberts OBE (University of Leeds), Dr Edward Shepherd (University of Cardiff), Dr Michael Tichelar (University of the West of England), Professor Christine Whitehead OBE (London School of Economics), and Professor Pete Wyatt (University of Reading).

Professor Paul Cheshire CBE (London School of Economics) kindly provided the data which forms the basis of charts 4.1, 5.1 and 6.1.

The reader should be warned that I am not an entirely disinterested commentator on the events outlined in chapter 7. As a former civil servant, and later as an independent adviser, I was partially responsible for the design of most of the taxes and levies mentioned in that chapter. This has the advantage of first hand experience of the reasons for the decisions which were made. However, even when evidenced by published documents which I helped to write, recollections can be partial and subjective. When it is particularly important for the reader to be aware that I had an interest in the events described, this is noted in the text.

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Chapter 1

Introduction

1 Introduction

1.1 Scope and aim of study

Since 1945, four separate national taxes on the development value of land have been introduced in the United Kingdom. None lasted longer than nine years, and all of them are widely regarded as failures. They are thought to have been complex, unfair and unpopular, to have caused significant adverse land market effects, and to have raised little revenue.

These failures are often cited as a reason why any new proposal for development taxes or levies – of which there have been many since – should be treated with extreme caution.

The purpose of this study is to reassesses that verdict of failure, using two approaches. Firstly, it selects and consolidates the best evidence available from prior studies, supplementing this with new primary research. Secondly, it applies a new perspective drawn from the discipline of public policy analysis.

This study finds that many of the claims which have been made about the failure of previous taxes are very vulnerable to challenge. The theoretical arguments are often incomplete and empirical evidence is often poor. And using a different analytical framework turns out to deliver very different lessons from history for today's policy makers from those that are usually proposed.

The taxes which are the subject of study are as follows.

- the Development Charge (hereafter "the Charge");
- the Betterment Levy ("the Levy");
- the Development Gains Tax ("DGT"); and
- the Development Land Tax ("DLT").

Table 1.1 sets out the key features of each tax. Each tax differed in detail, but in all cases the uplift in land value arising from development was the target of taxation. The tax calculation was also similar, with tax levied at a nationally-determined percentage of the deemed increase in value. These taxes were typically accompanied by proposals for direct public intervention in the land market through compulsory purchase of land at the 'net of tax' price.

Following the abolition of DLT in 1985, there was a long period in which no specific development tax was in force; instead development value was captured using negotiated planning obligations. This period ended in 2010 with the introduction of the Community Infrastructure Levy (CIL), a local levy on development. For comparison, the main features of CIL are also set out in Table 1.1.

1.2 Findings of previous studies

The material for this publication was assembled from 130 previous studies, which each contain at least some critique of at least one of the taxes, however brief. This material has been supplemented by primary research.

The most useful recent studies covering all four taxes include those by Crook et al (2016), Jones et al (2018), Tichelar (2019) and Crook & Whitehead (2019). Weiler (2008,2013) has compiled two detailed studies of the Betterment Levy and DLT; Grant (1986) has also written extensively about DLT. Important earlier studies covering at least two of the taxes include Cullingworth (1975,1980), Prest (1981), Cox (1984) and Grant (1999).

Counting each critique of each tax separately, the present study is based on 233 such critiques within these 130 studies. Of the 233 critiques, there is coverage of the Development Charge in 84 studies; the Betterment Levy in 52 studies; DGT in 14 studies; and DLT in 37 studies. It is perhaps to be expected that earlier taxes would have been better studied. But the lack of curiosity which scholars have exhibited over DGT is perhaps surprising, not

Table 1.1: Key features of development taxes and levies, 1945-2025

	Development Charge	Betterment Levy	Development Gains Tax	Development Land Tax	Community Infrastructure Levy
White Paper	June 1944	September 1965	None	September 1974	October 2007
Proposing government	Labour (1945-1951)	Labour (1966-1970)	Conservative (1970-1974)	Labour (1974-1979)	Labour (2005-2010)
Implemented by	Town & Country Planning Act 1947 s69; similar provisions in Scotland	Land Commission Act 1967 s27; Finance Act 1967 s34	Finance Act 1974, Part III, s38	Development Land Tax Act 1976; Finance (No. 2) Act 1979	Planning Act 2008; Community Infrastructure Levy Regulations 2010
Territorial extent	Great Britain	Great Britain	UK	UK	England, Wales
Implemented on	1 Jul 1948	6 Apr 1967	18 Dec 1973	1 Aug 1976	6 Apr 2010
Repealed by	Town & Country Planning Act 1953 s1	Land Commission (Dissolution) Act 1971 s1; Finance Act 1971 s55	Development Land Tax Act 1976	Finance Act 1985, s93	Still in force
Repealed from	18 Nov 1952	22 Jul 1970	31 Jul 1976	19 Mar 1985	Still in force
Longevity	4 years 4½ months	3 years 3½ months	2 years 7½ months	8 years 9½ months	Still in force
Collected by	Central Land Board	Land Commission	Inland Revenue	Inland Revenue	Local authorities
Levied on	Development value	Development value	Development value	Development value	Net additional floorspace
Chargeable events	Commence development	Sale of interest in land Commence development	Sale of interest in land First letting of development	Sale of interest in land Commence development	Commence development
Peak annual revenue (£m, 2024 prices)*	400	1,770	-	326	1,295

**Assessed revenue where a figure is available or has been estimated; collected revenue otherwise. When the peak revenue year was a partial year, the revenue has been annualised to enable comparison.*

least because it was the only such tax to be introduced by the Conservatives, making it an interesting comparative case.

The remaining 46 critiques comprise comparisons between two or more of the taxes, thus illustrating that the majority of studies focus only on one tax. Earlier studies obviously include fewer comparisons. Such studies often aim to identify common failings across some or all of the national development taxes, and to identify lessons for future policy makers. A scholarly preoccupation with Labour's land policy packages means that DGT is not usually included in such comparisons, but otherwise it is very common for such studies to argue that the taxes being compared failed for similar reasons. These alleged failures include:

- *Repeated political failures* which are said to have arisen from sharply contrasting ideological preferences and objectives; this prevented cross-party consensus and produced strong political opposition.[1] Conflict occurred even when policies had been moderated beforehand by compromises within or between the parties concerned.[2] Some studies suggest that political controversy originated in practical problems.[3]

- *Repeated economic failures* are thought to have arisen from landowners deciding to delay sales of land, either because of high rates of tax reducing profits, or because of the prospect of lower tax rates in future following a change of government, or both.[4] Short-term economic problems are repeatedly blamed for poor tax performance.[5]

- *Repeated fiscal failures:* revenue is argued to have been either low, or lower than expected.[6] Funding for some aspect of the policy was always inadequate.[7]

- *Repeated administrative failures* included difficulties establishing and mobilising agencies; and high collection costs, often arising from complexity or valuation uncertainty.[8]

- *Repeated process failures* involved poor preparation; failure to learn lessons from previous attempts; a lack of consultation and debate; and a lack of economic expertise and analysis.[9]

- *Repeated legal failure* was caused by bad legislative drafting.[10]

However, these claims of repeated failure should be regarded with extreme caution. This is firstly because, as later chapters show, the evidence in relation to any given tax often disproves the theory that it suffered from a failing exhibited by the other taxes. Secondly, the rigour with which these conclusions are reached varies widely. Some widely-cited studies are polemical; many are completely unsourced; almost none contain accurate and systematic quantitative data. Thus, one of the purposes of the present publication is to consolidate and simplify this mass of material, enabling the reader to access all the available statistical data in one volume.

1.3 Organisation of this study

Chapter 2 introduces the main technical terms typically used by analysts to discuss the taxes. This includes the key concepts of economic rent, development value, and tax incidence. The chapter then explores key concepts which public policy theorists have found useful in conceptualising policy failure and success. It synthesises these ideas to create a new framework for categorising and organising the factors thought to have led to development tax failure, and the causal relationships between these factors. Finally, it proposes that the act of repeal may be treated as definitive proof of failure and that diagnosis of failure should confine itself to those factors which can be shown to have increased the likelihood of repeal.

Chapters 3 to 6 then explore and classify the reasons thought to have led to the repeal of each of the four taxes under study. Each chapter is similarly structured. The early sections outline the economic and political context prior to the introduction of the tax. The core features of the tax and core data relating to its collection, yield and longevity are presented. The central sections explore the key factors to which the literature attributes the failure of the tax. The taxes are thought to have shared many failings and this enables a broadly consistent presentation, which aids comparison between each tax, and makes gaps in analysis more apparent. However, many alleged failings are unique to a specific tax; these are inserted at the point which maximises the comprehensibility of the narrative. The final sections reviews the government's stated reasons for the repeal decision, the policy aftermath and the main conclusions.

Chapter 7 brings the narrative up to the present day with a review of policy developments since 1985, particularly focusing on planning obligations and CIL.

Chapter 8 offers overall conclusions and reflections, including conclusions on the main types and levels of failure observed in the foregoing account.

1.4 Conventions used in the text

Financial data (for example, tax revenue) is always stated in current prices. However, calculations have also been also undertaken to enable selected real-terms comparisons.

Except where otherwise stated, these calculations use the ONS annual GDP deflator series IHYS.[11] Where a figure is followed by the phrase "in today's prices" (or simply "today") it means that the source figure has been inflated to its value at the end of 2024. To avoid spurious precision, all inflated figures are rounded. They should be regarded as approximate and for comparison purposes only.

To distinguish the general concept of development taxes from the specific taxes under study, specific references are capitalised ("Betterment Levy") while more general references are not ("the idea of betterment levies"). Except where confusion could otherwise arise, specific references are also typically shortened ("the Charge" and "the Levy"). Although the taxes under study had different formal names, for simplicity and brevity they are collectively referred to in this study as taxes (but see section 2.3.1 for an important caveat about whether this label is an accurate description in every case).

The terms "Pre war" and "post war" always refer to World War II.

Chapter 2

The Key Concepts

2 The key concepts

2.1 Introduction

Development taxation is a technical area. It is widely accepted that there is, and has been, substantial confusion over the terminology involved.[1] To equip the reader adequately for later chapters, this chapter explores the main economic, fiscal and land use planning concepts.

Any discussion of policy failure requires us to consider how failure (and indeed success) should be defined. Thus, this chapter also explores whether and how previous studies have defined failure, and compares these definitions with the conceptual approach to policy failure offered by the discipline of public policy analysis.

2.2 Economics, valuation and planning

2.2.1 Unearned increment

The *unearned increment* is the name usually given to an increase in land values due to efforts other than those of the landowner. This concept draws on the work of many noteworthy classical economists including Smith, Spence, Ricardo, J S Mill, James Mill, and Marshall. These authors developed, and have sustained, the argument that landowners benefit from an *economic rent* for which they expend no effort.[2] Thus the unearned increment is often referred to as a *windfall gain.*

The core argument runs as follows. Since the supply of land is broadly fixed, at least in the short term, the price of land is determined almost exclusively by the demand for it. Demand is a function of economic growth, and therefore will generally rise, leading to rising prices which landowners do nothing to generate. The rent or price which landowners receive is "an income not for work done but for possessing a scarce resource."[3]

But there is a difference between the ways in which this increment arises and the right of the state to claim it. Typically J S Mill is credited with synthesising equity and efficiency arguments in proposing that the unearned increment could safely be (and should be) taxed, a notion subsequently popularised by American campaigner Henry George.[4] It has also been supported by conservative free market economists such as Friedrich von Hayek.[5]

The claim to taxation on equity grounds is that the increment is unearned and should be reclaimed.[6] The claim on efficiency grounds is that taxing it is non-distortionary because it has little or no impact on the supply of land for development.[7] Acceptance of this general principle is almost always accompanied by a range of important caveats, the most important of which is that such a tax must not entirely remove the incentive to landowners to sell land for development; in other words, it must not tax away the entire development value.[8] While tax rates on unearned windfalls can be high, they cannot be so high that the landowner would be better off keeping the land in its existing use.

2.2.2 Betterment

For most authors, *betterment* is synonymous with the unearned increment.[9]

Indeed, betterment is usually defined as an increase in land value which arises from efforts other than those of the landowner or occupier.[10] Sub-definitions of betterment proliferate, but it is typically subdivided into up to three types of value creation.[11] These are value arising from:

- *public investment on nearby land,* especially infrastructure;
- *public regulatory decisions,* especially decisions to grant planning permission; and
- *higher demand generated by general economic growth,* or indeed "all other factors."[12]

Thus some commentators – and politicians – have made the claim that betterment is created by the efforts of "the community", as later chapters will show. But the attribution of value creation to such a nebulous concept is regularly contested, not least because of the practical difficulty of establishing the relative contributions of public and private sector to increases in land value and the risk of obscuring or denying the role of the private sector in creating them. For example, it is not obvious what should be done about unearned gains which one private landowner receives because of the actions of another private sector neighbour. It is potentially challenging to legitimise a tax claim upon such value.[13]

2.2.3 Development

Development may be of two types: firstly the carrying out of building operations on land, and secondly a change in the use of land. Change of use need not involve any building operations. This definition originates in the 1947 Town and Country Planning Act and has survived broadly unchanged to the present day. It has also been the basis of the technical definition of development for most of the taxes under discussion here (but not DGT – see section 5.3).

2.2.4 Development rights

Development rights are rights to undertake the development of land.[14] The 1947 Act separated the right to use land for its existing use from the right to develop land, leaving the former right with the landowner while transferring the latter right to the state.[15] The Act introduced a requirement to apply for planning permission for development. The grant of planning permission thus returns the development right to the landowner (see also section 3.2.2).

2.2.5 Existing use value

Existing use value is the market value of the land in its present use, on the assumption that there is no expectation of any change to that use in the foreseeable future.[16] In other words, it assumes that there is no prospect of planning permission being granted. It thus also assumes that the existing use value is the value of whatever the planning system currently permits on the site, and nothing of the additional value (not even 'hope value') that the site would gain if planning permission were to be granted for some other use.

2.2.6 Development value and hope value

Development value is "the difference between the market value of a parcel [of land] in its existing use and that in a proposed new use" – in other words, the difference arising from development. Because development will normally require planning permission, development value is also defined as "the increase in land value arising from the development of a parcel of land including [from] planning consent."[17] It follows that the 1947 Act nationalised not just the development right but also the value of that right. Because planning permission is a state action which returns the development value to the landowner, the development value is usually thought of as unearned.

Development value may crystallise a mix of different types of betterment. But the distinction may be somewhat academic, as buyers and sellers will not "engage in an abstract exercise of distinguishing and weighing" the different origins of development value.[18] Nor indeed will the government: development taxes have thus tended to simply expropriate an "arbitrary proportion" of development value on the assumption that it is entirely created by one or other form of betterment.[19]

Hope value is that proportion of the development value which the market is willing to pay for the likelihood that planning permission will be granted. The hope value thus rises with that likelihood until it converges with the full development value conferred by the permission.[20]

Where planning consent determines the timing and size of the increase in development value, the term *planning gain* is sometimes used to refer to that development value. However, this same term is also used to refer to the act of development value capture through a tax or, more commonly, through the planning obligations system (see section 7.2).[21] To avoid this confusion, the term is avoided in this study, except when referring to Planning-gain Supplement (see section 7.5).

2.2.7 Development value capture

Development value capture is the use of any legislative instrument to expropriate some or all development value.[22] Development value capture need not occur via taxation – the other widely recognised route is to buy land at some sub-market price (often compulsorily), and then sell it at market value once planning permission has been given for development on that land.

Development value capture is a subset of *land value capture,* a term which is frequently used even when development value capture is really meant.[23] Land value capture is a wider term that also encompasses property taxes (whether recurrent or one-off) which capture some of the existing use value of land, rather than its development value.[24] The confusion usually arises because analysts are not clear which of the two types of value they think is being captured by the instruments under discussion.

2.2.8 Landowners and developers

Economists usually prefer to refer to actors in the market as buyers and sellers. However, it proves convenient when discussing development taxes to refer to sellers of land as *landowners*, and buyers of land as *developers*, and this is the convention adopted here. It arises from the conventional model of British housebuilding in which developers are trading businesses who buy land from landowners, build houses, and then sell the houses. For developers, land is simply a factor of production. This contrasts them with landowners and homeowners, who typically see their land as an investment.

But it should be borne in mind that in practice this may be a simplification: for example, a landowner might elect not to sell land to anyone else, but to develop the land themselves by simply hiring a builder. Development of non-residential investment property often proceeds in this way. Even where there is no sale along conventional lines, the distinction between developers and landowners helps to emphasise that actors in the land market may be acting in more than one capacity – and if they do, they will be subject to a combination of the opportunities and constraints facing each type of actor.

2.3 Taxation and spending

2.3.1 Tax

A tax is officially defined as a “compulsory and unrequited payment.” The requirement to pay tax arises when an activity amenable to taxation has been carried out – in this case, the development or sale of land. A compulsory payment that is requited in some way is usually formally described as a *fee, levy,* or *charge*.[25]

The names of the various taxes therefore given an important clue to the government’s conception of the rationale for such payments (especially the extent to which they were requited), and thus the social contract with taxpayers which they were attempting to construct. Hypothecation (see section 2.3.8) may increase the perception that the tax in question is requited – and indeed may prevent it from being labelled as a tax in the first place. However, as later chapters show, such fine distinctions may have been lost on the taxpayer.

This study treats a tax as always having the characteristic of being calculated on a formulaic and consistent basis, usually as a percentage rate of some quantity or value of development, and as always being paid in cash.

2.3.2 Land and property tax

Property taxes form an important part of the overall UK tax base. The main UK property taxes are business rates, council tax, and Stamp Duty Land Tax. Such taxes are worth around £80bn annually and over the last fifty years have contributed between 9% and 12% of the overall UK tax base. Other taxes, especially Capital Gains Tax, also have a substantial land and property component.[26]

Land taxes, such as Site Value Rating and Land Value Taxation, typically envisage an annual tax on the value of a plot of land on the assumption that it is in its most profitable feasible use, partly with the aim of incentivising the development of the land for that use. The target of taxation is the land itself, rather than the property upon the land. While no such tax exists in the UK, there is some international experience of operating land value taxes.[27]

Theories of tax incidence (see below) suggest that land and property taxes, like development taxes, are typically borne by landowners in the form of reduced land prices. It has therefore been argued that bespoke development taxes risk being duplicatory, and that land or property taxes can and should be used to tax increases in the value of land, not least because these more general taxes can capture value increases arising from events and actions other than development, whether earned or unearned.[28]

2.3.3 Development value tax

Development value taxes are formal taxes levied on development value, and are thus a subset of development value capture tools.[28A]

In this study, the shorthand term *development taxes* (or just "the taxes" where the context allows) collectively refers to the four taxes under study, irrespective of the legal title, and any theoretically requited component.

2.3.4 'Net of tax' land sale price

It was a principle of all of Labour's post-war land policies that landowners should not be entitled to the full development value when they sold their land. Development taxes were the mechanism by which development value was captured when landowners sold their land to a private buyer such as a developer.

However, when the land was compulsorily purchased by the state, a different mechanism was used to capture all or part of the development value. In such cases, the purchasing authority established how much tax the landowner would hypothetically have paid had they sold their land to a private buyer. But instead of asking the landowner to pay that amount of tax, the law allowed the state to deduct the tax from the price it paid when compulsorily buying the land. Thus the purchase price was described as a *net of tax* price. Instead of receiving a tax payment, the state received the equivalent value in the form of cheap land.

This mechanism had the important effect that landowners were no worse off if their land was compulsorily purchased than if it had been bought in the private market.

2.3.5 Assessed and collected tax

Assessed revenue is that which the tax collector decides is due; *collected* revenue is the amount of cash that was actually paid over.[29]

This distinction has been lost on many development tax analysts, with assessed and collected revenue data being intermixed without distinction. Typically the assessed revenue gives a better impression of the overall quality of tax design, because this represents earning power on the assumption that collection can be made effective.

However, in the early years of a new tax, collection will almost certainly lag assessment, often by a very significant amount if there are generous arrangements for paying by instalments, significant levels of dispute or unfamiliarity, or appeal processes. As the revenue data presented in later chapters shows, arguably none of the taxes included in this study ever matured sufficiently for the distinction between assessed and collected revenue to become of minor importance.

2.3.6 Tax incidence

Incidence is the term used to describe where the burden of a tax falls in economic terms, rather than in legal terms. Those upon whom the law formally imposes a tax may be able to pass the cost onwards to someone else.

The incidence depends on the relative bargaining power of buyer and seller. As noted above, the price which sellers are offered is primarily a function of demand – in other words, what buyers are willing to pay.

One of the factors informing the price which buyers are willing to pay for a newly-built development is the price of an equivalent building which already exists nearby. This means, for example, that the price of a newly-built home is constrained by the price of an existing home, at least in circumstances where there are plenty of existing homes (as there usually are in the UK housing market). Housebuilders cannot ask whatever price they like for a new home. Economists say that developers are thus 'price takers' rather than 'price makers'.

This means in turn that any additional cost borne by the housebuilder (for example, a tax) cannot easily be passed forward to the consumer. It can, however, be passed backward to the landowner from whom the land was bought. Landowners are also 'price takers'. This is because land supply is generally said to be insensitive to price, up to a point. Theory suggests that sellers of land will take whatever price they are offered provided it is above the price (or rent) they can get by keeping the land in its existing use (plus any transaction costs). In other words, if there is enough development value out of which to pay any costs (including taxes) which are passed back to them, landowners will still sell land for development.[30]

Thus, it is generally held that sellers (landowners) typically have no choice but to bear the incidence of taxes on development value, even if they are formally imposed on buyer (developers). The result is that sellers must accept lower prices for land than would have been the case had the tax not been in place. Taxes are thus said to 'capitalise' into land values, after a short period of adjustment. This effect has regularly been demonstrated empirically.[31]

If, on the other hand, sellers becomes sensitive to price (for example, because they think a tax on the development value component of the price is going to be repealed), and they have the option of not selling, then landowners are in a stronger position to resist the incidence of the tax, leaving it with the buyer, at least partially.[32]

Indeed, while landowners can thus resist incidence of a tax by simply deciding not to sell, developers treat land as stock-in-trade and therefore must buy land to stay in business.[33] This places developers in a weaker position in circumstances where the landowner is able to wait, meaning that developers might be forced to accept at least partial incidence of a tax, especially where developers are in severe competition for land.

2.3.7 Forestalling

Forestalling is the act of avoiding future tax liabilities by bringing forward the activity which would otherwise be subject to tax.[34] Accusations that development taxes were the cause of forestalling are quite rare, but are notable in the case of the Betterment Levy (see chapter 4).

2.3.8 Hypothecation

Hypothecation is the act of confining the spending of the revenues arising from a specific tax to certain specified purposes.[35] Hypothecation can be achieved administratively through budgeting mechanisms, or it can be legally required.

Hypothecation may have the effect of increasing public support for a tax – not because of the equity or efficiency of the tax itself, but because of the desirability of the spending. However, because of the rigidity that hypothecation introduces in allocating spending, and because there might be no logical relationship between the objectives of the tax and the objectives of the resulting spending, the Treasury has typically resisted hypothecation. Indeed, as later chapters show, hypothecation of development taxes is a remarkably recent phenomenon.

Hypothecation may be contrasted with *ringfencing*, which refers to the act of allocating funding for a specific purpose, and protecting this funding from being redeployed for other purposes. However, ringfencing typically carries no sense that the revenues of a specific tax are the origins of the funding.

2.4 Failure and success

2.4.1 Defining failure and success

What counts as a tax policy failure? Perhaps surprisingly, this question has not been the subject of much introspection among scholars examining the reasons for the failure of development taxes. Failure is much more likely to be seen as self-evident from the phenomena that are observed.

However, the phenomena that are observed depend partly on the analytical approach of the analyst who is doing the observing. Economists, for example, find failure in the presence of distorting land market effects, high tax rates and low revenue. Political scientists find failure in the apparent unpopularity of the taxes and an inability of politicians to communicate their policies persuasively while defending themselves against opponents' attacks. Town planners find failure in the apparent inability of taxation to contribute adequately to the delivery of desirable land use outcomes. There has been little discussion as to whether and how these disparate perspectives can be reconciled coherently.

To add to the confusion, critics of development taxes have often not been explicit about the criteria they are using to diagnose failure – for example whether failure is to be measured against some objective standard of efficiency and equity, or against the government's stated objectives, or both.[36] For example, should a tax be criticised for failing to raise any revenue even if revenue was not an objective, but instead the tax was imposed on certain activities with the intention of disincentivising them? On the other hand, to test policies against the government's own stated objectives risks excluding the possibility of judgments about whether those objectives were appropriate or coherent in the first place.

Nor have analysts necessarily been clear about the appropriate level of analysis at which to conduct an investigation of failure. An ostensible diagnosis of development tax failure often turns out in reality to be a more general diagnosis of failure at the level of the entire set of land policies, without much isolation of the contribution which tax policies made to that failure.

Despite a rather unclear conceptual approach to failure, analysts of development taxes have been slightly clearer about what might be regarded as success. Indeed, a classic dictionary definition of failure is simply 'lack of success', which may suggest that we should look to definitions of success to infer a definition of failure. However analysts' success criteria for development taxes also usually reflect their specific analytical perspective. Economists call for low rates, transitional provisions, cost-effective exemptions, credible enforcement, and flexible implementation. Planners argue that legitimacy may depend on there being a clear land policy objective which the tax (and the taxpayer) supports. Political scientists emphasise the importance of political consensus, coalition-building, and public consent – although are often rather less clear on how such a consensus can be brought about given the difficulty of establishing a common interest with the likely taxpayer.[37]

The incompleteness of analysts' recommendations for success is partly because of the absence of certain disciplines from the debate, which means that clearly identified failures do not necessarily engender clear recommendations for success. For example, despite the widespread claim that political acceptability and consensus are prerequisites for a successful development tax, analysts never make any recommendations which respond to the observed failure to do practical politics, such as running information campaigns, publicising successes, effectively handling 'hard cases', or undertaking crisis management and reform in the face of unexpected problems.

Furthermore, prescriptions for success often mix means and ends without distinction, and often without any articulation of the sequencing of means towards the desired end, which perhaps betrays a lack of clarity within the analyst's model of causation. And prescriptions for success suffer from the same confusion as diagnoses of failure about the level at which to conduct the analysis. For example, criteria which seek to secure the success of an entire land policy, or the land value capture component of that policy, may be of little help in the successful design of a development tax. Such prescriptions also often implicitly assume that the objectives of development taxes in the future will be the same as those in the past.

The result of these various difficulties is that, in the same way that failure is attributed to a variety of disparate actors, success also falls to different types of actors to secure (politicians, policy designers, technicians, or analysts) depending on the criteria for success which are articulated.

The difficulties which analysts have faced in this respect may be a reflection of the state of theorising about public policy failure at the time that they were writing. Earlier critiques of tax policy failure emerged in a milieu of post-war 'rationalist' perspectives which saw public policy development (and indeed land use planning) as a deterministic science; but these have been somewhat displaced by more sociological perspectives which consider how public policy is shaped by persuasive narratives, world views or even arbitrary 'policy paradigms' promoted by powerful interests – and not necessarily by rationalist empirical observation of the effects of such policies on 'the real world'.[38]

A very wide range of conceptual models have been proposed to attempt to characterise public policy development and change, accompanied by a similarly wide range of technical terms. Many of these ideas open up largely unexplored analytical vistas for scholars of development tax policy. For example, institutionalists and structuralists will be interested in the 'blind spots' created by the structure and operation of the key institutions involved in developing and implementing policy, such as the Treasury, the Conservative Party, the RICS and the RTPI. Incrementalists will test whether tax policymakers introduced radical policies without perceiving the very high cost of change which they implied, and the low cost to the repealing government of abandoning the tax.

One subset of this research field considers the important question of how and when a policy can be deemed to have failed, thus providing the opportunity for a new policy to supplant it. Is the argument won politically or technocratically, and how do these arenas interact? Certain existing theories in this area prove useful in constructing a tentative framework by which we can begin to disentangle the alleged failure of development taxes.[39]

2.4.2 Repeal as failure

When has a policy failed? Theorists have pointed out that policies which are initially deemed to be failures might turn out to be successes (or vice versa) if persuasive new evidence comes to light, or if the standards by which a policy is judged have changed.[40] For example, it is common for supporters of previous development taxes to claim that they were not failures and that they would have worked had they been given more time and minor adjustment. Both government officials and later analysts regularly suggested that the taxes were beginning to work precisely at the time they were repealed.[41] This argument might imply that the taxes were repealed because they were successful in taxing land values, rather than because they failed to do so. Or it may suggest that the government had only failed in the political arena to condition the public's expectations about how long it would take for the tax to deliver on its objectives, or the likely side effects, or the extent to which adaptation, adjustment and learning from experience might be necessary.

However, all development tax analysts, no matter what their perspective, can agree on one fact: all of the taxes were definitely repealed.

There might be specialised circumstances in which repeal is undertaken because the legislation has achieved all of its goals and has become redundant. Indeed some development taxes were designed to be temporary, as part of a wider scheme of progressive land nationalisation. However, none of the taxes were repealed because that objective had been met. In one case (DLT) the justification rested partly on the argument that the tax had become redundant (see section 6.10). But even if temporariness were a deliberate feature of previous development taxes, today's debates on the issue usually focus on the capacity of such taxes to raise long-term revenue, which suggests that repeal can now reasonably be regarded as fatal.

Thus, repeal seems to be a reasonable definition of, and the moment of, failure. Indeed, a tax is arguably not a failure *until* it is repealed. Prior to repeal, there is always the possibility that a willing government can undertake reforms to rescue a failing tax and turn it into a success. It follows that the focus of study should be the design and effects of the policy which prevail *at the moment of the repeal decision,* and not the original design of the policy, which may have changed radically since. It is the current policy settings to which the repeal decision necessarily addresses itself. As the example of DLT particularly shows, governments did make some adjustments to some of the taxes in order to increase their legitimacy, and therefore the chances of their survival and success (or perhaps simply their non-failure). But repeal will arise when no rescue is thought worthwhile or possible; and repeal is more likely if the government perceives the tax as unwanted rather than unworkable (and for political convenience, the latter claim may be used to disguise the former).

Equating repeal with failure leads the analyst to ask what set of conditions facilitated repeal. As this study shows, there was rarely a dispassionate scientific debate about policy effectiveness based on empirical evidence. Political forces and powerful interests seem likely to have come into play. The repealing government may well have had hidden reasons and ulterior motives.

But repeal did need to be legitimated in Parliament; legislators and the public needed to be convinced if the repealing government was not to suffer a backlash. It seems reasonable to assume the repealing government gave the most persuasive arguments it could think of, even if these arguments were not strictly justified or even relevant. Thus we can work back from the reasons given for the repeal decision, along the chain of alleged cause and effect, to establish what prior factors permitted the government to credibly offer these repeal reasons. As later chapters show, the factors which analysts have identified as the leading causes for failure did not necessarily match the reasons which legislators felt were most persuasive in the political realm.

It follows from this stance that all factors which led to development tax repeal may be regarded as contributory to failure even if those same factors examined from a different perspective would look benign, beneficial or popular. For example, Labour supporters might argue that development land nationalisation was a beneficial policy when seen from the perspective of problems in the land and housing market during the 1960s and 1970s. But the fact that such a policy was criticised and unpopular can be argued to have increased the risk of tax repeal. Thus, if the object of study is tax repeal, the decision to promote land nationalisation should be logically classified as a failure. To be clear, this is not in itself a moral or political judgment: it is an inevitable consequence of the analytical framework adopted in this study.

2.4.3 Types of failure

The following chapters draw on a distinction made by public policy theorists between programme failure and political failure.[42]

Programme failure is failure in the ‘real world’ – that is, in undesirable empirical outcomes. It can be further subdivided into two kinds of bad decisions which lead to such failure. These are *bad policy design*, and *bad implementation*.[43]

Bad design might come about because of inadequate or false theories of cause and effect in the real world (for example, bad economics) which means that the policy has adverse effects which cannot be dismissed as minor tolerable side effects. Or bad design may arise from conflicting policy objectives, or incoherent relationships with other policies.

But even if the policy exhibits a good design, it may still fail due to *bad implementation.* This type of failure might arise from inadequate resources, a lack of skill and expertise, an inability to secure compliance, or ‘agent problems’ in which those implementing the policy have different objectives from those who designed the policy. Policies which suffer from bad design (and, to a lesser extent, bad implementation) can be described as *unworkable* policies.[44]

Political failure, or *bad politics,* is a failure to secure popular support for a policy. Bad politics creates *unwanted* policies rather than unworkable policies – and therefore a political opportunity for those willing to promise the abolition of an unwanted policy. The crucial theoretical insight is that political failure can come about even if there is no programme failure. This is because political support relies on what people believe the effects of the policy are, rather than what they actually are. Quite apart from differences of view about what outcomes policy should aim at in the first place, the public will make decisions about which policies to support based on their assumptions about the workability of policy in delivering the outcomes they want, rather than ‘objective’ evidence about workability. This explains why unworkable policies may be wanted (‘good politics but bad policy’) and workable policies may be unwanted (‘good policy but bad politics’).[45]

Bad politics can arise from failing to persuade the public that the benefits of a policy are worth the costs, including a failure to deploy the available evidence of programme success, or to mount a persuasive narrative of cause and effect. Thus, notwithstanding the analytical distinction made above, political failure and programme failure are related through the phenomenon of credibility. If the public are receptive to evidence-based policy making, then evidence of workability, and thus of valid theories of cause and effect, ought to improve political support. In other words, 'good policy is good politics'.[46] Conversely it can also be argued that widespread political support increases the chances of policy success: the public is more likely to comply with a policy that it thinks is likely to be sustained.

The above three categories of design, implementation and politics form the basis of the analysis in this study. But theorists have also drawn attention to the concept of *bad luck.*[47] Theorists argue that there may be policy failures even if policymakers have made good design, implementation and political decisions. Factors which were neither anticipated nor controllable could drive a policy off course to such an extent that it fails; but in such circumstances it may be more difficult to blame policymaker decisions for this. That helps to explain why failure is contested: critics of a policy may argue that adverse effects should have been anticipated and could have been controlled, while supporters will argue that they could not have been.[48] Later chapters will show that previous development taxes suffered from a sufficient number of self-inflicted failures that instances of genuine bad luck appear to enter the analysis only very rarely, if at all. It could be argued that more benign wider conditions might have been helpful. But it turns out that many of these wider conditions were in the control of the government as a whole, if not in the control of tax policy makers, which makes the excuse of bad luck more difficult to accept.

2.4.4 Levels of failure

Theorists have suggested that failure can occur at different levels in the government hierarchy. For the purposes of studying development taxes, it is convenient to articulate three such levels.[49]

The top level is *government failure,* which can be defined as a major failure likely to result in the loss of office at a general election – or at the very least major political damage. Such failure might arise from a fundamental misunderstanding about the nature of the problems with which the government is faced, or from selecting a flawed or over-ambitious general policy stance with which to address those problems. For example, much of the blame for the failure of Labour's land policies has been attributed to its general conviction that nationalisation of key factors of production was the best way to solve Britain's problems.

Having selected a particular problem definition or set of objectives at the government level, and a general approach to problem-solving, governments then design and implement *policy packages* – a mix of policies aimed at achieving their general objectives.[50] For example, Labour's land policy usually comprised two distinct elements, namely the nationalisation of development land (carrying their overall orientation to nationalisation into the land policy sphere), and the development taxes. Failure can arise at the policy package level if the package is internally inconsistent, overly ambitious, or lacks important components.

Thus, we can describe the final and lowest level as the *instruments* and *settings* level.[51] Taxes are only one of a number of *instruments* which can be deployed within the policy package (others, for example, being regulation, public spending, procurement activity, or public exhortation). The *settings* which are given to individual instruments allow policy makers to adjust the details of policy depending on how effective it appears to be – the obvious example being the tax rate. It proves convenient in practice to combine discussion of the instrument with the settings attached to it.

2.4.5 Decisions as failure

It will be apparent from the above discussion that this conceptual framework defines failure as *bad decision making by government* – of a particular type, and at a particular level.

This framework has two useful consequences. Firstly, since it concerns itself with analysis of public policy failure, and with a view to improving policy making, the decisions made by other actors (such as landowners) should be viewed merely as the effects of policy decisions initiated by government, and not as failures in their own right. As later chapters show, in justifying repeal, the repealing governments did often cite government decisions as failures; but they also found failure in the effects of those decisions on others, without necessarily being clear about which decisions had caused those effects. Analysts have often similarly failed to make this distinction.

Secondly, it enables more precise identification of who the decision-makers were, and thus where blame and responsibility for policy learning should lie, and with more precision than is normally achieved. For example, the bad politics involved in promoting a policy package of comprehensive development land nationalisation can and should be blamed on a quite different set of decision makers from the bad implementation of tax collection by the Inland Revenue. Thus, today's policy makers of all types, and at all levels, can begin to understand what kinds of failure they should seek to avoid in their own decisions, and which they must leave to others.

Asking the question 'who failed?' rather than 'what failed?' also provides another way of thinking about bad luck. It may look like bad luck to tax technicians if a well-designed tax was brought down by flaws in the wider land policy package of which it is a part. But the ministry responsible for land policy (let alone the government as a whole) can hardly attribute such a failure to bad luck, because they were responsible for decisions made at that level. Since it is usually governments as a whole which attract support or opprobrium, it seems reasonable to suggest that the excuse of bad luck cannot be available unless no-one in the government could possibly have anticipated an effect which contributed to failure. As it turns out, it is rare for analysts to claim that the government could not reasonably have foreseen the political and economic effects that its land policy package decisions actually had, even if development tax policy makers could not have done so.

Chapter 3

The Development Charge

3 The Development Charge

3.1 Introduction

The Development Charge (1948-1952) was an integral component of the post-war Labour government's landmark introduction of land use regulation under the 1947 Town and Country Planning Act. The Act was a tightly integrated policy package which attempted to smooth the introduction of land use planning by financial means. Among other things, the Act nationalised all development value; the Charge aimed to prevent any of this development value from being returned to landowners when planning permission was granted. It achieved this aim by being imposed at a rate of 100% of the development value when development was commenced.

The Charge stands accused of being an economically illiterate policy which, in refusing to return any development value to landowners, entirely removed the incentive to sell land for development. Landowners are alleged to have reacted either by withdrawing their land from the market or by forcing land buyers (developers) to accept incidence of the Charge so that landowners retained some incentive to sell. This tipping of the balance of power in favour of landowners is said to have been exacerbated by an expectation that the Conservatives would have to repeal or reform the legislation upon return to power, and the fact that the compulsory purchase strategy designed to enforce payment of the Charge was ineffective and underfunded.

Although the 100% rate has been usually regarded as 'fixed', and thus entirely removing the incentive to sell land, further criticisms arise from the fact that legislation and practice actively facilitated negotiation over the valuation of development value to which the 100% rate applied. Government valuers are said to have had a poor understanding of the land market; valuations were manipulated by astute developers; and insufficient guidance was given. Complexity and delay were alleged, and cases of hardship and unfairness are said to have been prominent and common. In 1952, the returning Conservative government repealed the Charge.

3.2 Context

3.2.1 Development value capture before World War II

To fully understand the policy decisions which led to the Development Charge, it is helpful to delve into the history of pre-war taxation attempts. For centuries prior to the establishment of Britain's modern taxation and planning regimes, local charges had occasionally been levied on landowners to recover the cost of public works which had resulted in some betterment for those landowners. For example, there were charges to recover the cost of draining the Romney Marshes in the 1200s; for sea defence works in 1427; for sewers in 1531; and for the widening of London streets in 1662.[1]

Rapid urbanisation during the nineteenth century led again to the question of how to fund urban infrastructure, which was now coupled with arguments from influential economists, and campaigners such as Henry George and the Fabian Society, that infrastructure provision generated betterment which could legitimately be taxed (see sections 2.2.1-2.2.2).[2] In 1894, the House of Lords Select Committee on Town Improvements (Betterment) recommended that

> the principle that persons whose property had been clearly increased in market value by an improvement effected by local authorities should specially contribute to the cost of the improvement.[3]

In the years after this report, the London County Council was able secure the passage of a number of local Private Bills in Parliament between 1895 and 1902 to place a betterment levy on land to support the costs of bridge and road schemes. The betterment charge in these cases was levied at 3% per annum on half the increase in value attributable to the scheme. The yield from these measures was disappointing, but the principle that betterment could be legitimately recovered had been established.[4]

The 1909 Housing, Town Planning, Etc Act represented the first national attempt at permitting local authorities to capture betterment.[5] It enabled local authorities to make 'town planning schemes' for the first time; and to charge landowners 50% of any value uplift, or betterment, which they could show had arisen from the making of such a scheme. However, the Act also allowed landowners to claim compensation for any value destruction, or 'worsenment', that the very same scheme imposed upon them.

But the Act was very vague: it specified neither when the betterment should be collected, nor how it should be valued.[6] The difficulties of proving that betterment had in fact arisen, and the risk of having to pay out compensation, are thought to have discouraged local authorities from making town planning schemes at all. By 1913 only two schemes had been approved. Even by 1931 only 29 schemes had reached approval stage, covering less than 75,000 acres of Britain, which calculations show is just 0.2% of the total area of the country.[7]

The betterment provisions were updated by the 1932 Town and Country Planning Act, with a new upper limit of 75%, but again there were compensation provisions, and the landowner could defer payment until the gain was realised. The betterment charge would lapse completely if no gain was realised within fourteen years.[8] Although there is some ambiguity about precise outcomes, the legislation is generally thought to have been ineffective, with less than 4% of the country covered by a planning scheme, and only a handful of cases where a betterment levy was imposed.[9]

Meanwhile, national land value taxation had been separately legislated for in the Finance Act 1910. The Act required the general valuation of all land, and for developed land introduced an Increment Value Duty of 20% on the difference between the original valuation and the sale price. The cause of the increase in the site value was not relevant. The Act also required the establishment of the Valuation Office, as part of the Inland Revenue.[10]

Resistance from landowners led to a number of test cases which rendered the legislation unworkable. Repeal followed in the 1920 Finance Act, which even provided for refunds of the duties that had already been paid, upon application to the tax authorities.[11] In any case, little had been collected. By 1919, total receipts from the Finance Act 1910 levies amounted to £1,180,290, including £460,481 for the Increment Value Duty. Approximately half of the total (£612,787) had been raised prior to the outbreak of World War I. However, valuation, administration and collection of these taxes had an estimated cost of £5m, meaning that the scheme operated at a substantial loss.[12]

Labour Chancellor Philip Snowden made two further attempts at land taxation in 1924 and 1931. The latter attempt did lead to legislation being passed by Parliament in 1931. However it was swiftly suspended by the subsequent National Government in 1932, and was repealed in 1934.[13]

These failures show how difficult it was to make any kind of new land or development tax stick, but also how difficult it was going to be to introduce comprehensive land use planning if landowners continued to insist on compensation for the restriction of their rights to develop land.

3.2.2 Post war reconstruction and the 1947 Act

World War II ended with ambitious plans for comprehensive reconstruction of the UK's towns and cities and a desire for a substantial house building programme.[14] Pre-war concerns about the need for effective land use planning to control urban sprawl and protect the countryside were now exacerbated by new concerns about the cost of securing land for redevelopment after the war. Concerns continued to be aired about the fact that landowners were benefiting from an unearned increment in the value of their land arising from rapid urbanisation.[15]

During the war various expert committees were commissioned to propose solutions. In 1942, a committee on compensation and betterment, chaired by Lord Justice Uthwatt, recommended the introduction of a universal requirement for planning permission, which entailed the nationalisation of development rights and 'once and for all' compensation to landowners for the loss of these rights. An annual betterment levy of 75% was also proposed.[16]

Uthwatt's recommendations, and the rationale for them, have been extensively assessed elsewhere.[17] While the economics of Uthwatt's proposals might have awed town planners, they have since been heavily criticised as nonsensical.[18] Even so, officials continued to deploy Uthwatt's flawed economics in their consideration of adjustments when the policy which was eventually implemented seemed not to be working as expected.[19]

The wartime Coalition Government nevertheless accepted Uthwatt's core recommendations in a 1944 White Paper. Instead of the 75% annual levy it proposed an 80% one-off Development Charge on the development value arising from the grant of planning permission.[20]

Following Labour's landslide election victory in 1945, the White Paper proposals were implemented, with further adaptations, by the 1947 Town and Country Planning Act. It is widely recognised that a range of good design decisions have led to the remarkable resilience of this landmark Act.[21] As an integrated policy package, the 1947 scheme has been described as "most ingenious", "logical and equitable"; "most neatly worked out ... a very immaculate conception", "as near to perfection as could be achieved" and "so successful that most people now have probably never heard of it".[22] However, in practice the policy implemented by the Act turned out to be rather too logical for all of it to survive.

The Act introduced local development plans and a universal requirement for planning permission for development. Quite apart from the land use planning benefits, this requirement went a long way to solving the problem of what development value was being taxed, at least in theory: it was precisely the value of the development described by the planning permission. The 1947 Act thus gave post-war development taxes a fundamentally different character from failed pre-war attempts, and all such taxes (including CIL – see chapter 7) have relied on the concepts introduced by the Act.

The new requirement for planning permission was tantamount to a nationalisation of development rights, so the Act also established a landowner compensation fund of £300m (£12.2bn today), to be paid out five years later on 1 July 1953 once all claims against the fund had been assessed.[23]

Landowners whose land was immediately ready for development were promised 100% of the lost development value in compensation. Other landowners were required to wait for the level of compensation to be determined by how much money was left in the fund after those 100% claims had been paid. The delay involved meant that many landowners thought this commitment was worthless, but it was eventually announced in May 1952 that these other landowners would receive 80% of their claim.[24]

The £300m fund was criticised as insufficient and unfair, not least because it rewarded landowners who had no intention of developing their land.[25] But the Treasury argued that a now heavily-indebted nation could not afford an open-ended commitment to compensate for all lost development value, not least as there was substantial uncertainty about how much it was worth. The Treasury's position can hardly be challenged, but it meant that the £300m had to be presented as an *ex gratia* hardship fund and not as full compensation for the development value which landowners were surrendering.[26] However, the fact that the Conservatives were later able to reform the fund to improve its value for money (by only compensating landowners who had developed, and only when they did so) suggests that Labour's original compensation scheme involved some bad design, and indeed some bad politics because of the effect it had on landowner support for the Act as a whole.[27]

It followed from the logic of this scheme that when landowners applied for planning permission, they should pay a fee representing the value of the right which was thereby being returned to them. This fee, which was tantamount to repaying the promised compensation, became known as the Development Charge.

3.3 Core features of the tax

The Development Charge ('the Charge') came into force on 1 July 1948 and was charged on the development value arising from any development which required planning permission.[28] The Charge was imposed on changes of use, even if these did not amount to a building operation. The Charge was to be paid by developers, rather than landowners.

The amount of the Charge had to be both assessed and (often) paid in full before development could start.[29] The repeal decision deemed this policy decision to be problematic (see section 3.11), although it has been claimed that in order not to delay development, taxpayers were able to enter into a covenant to pay the Charge once it had finally been determined.[30] Furthermore, taxpayers who had made a claim for compensation were permitted to deduct the Charge liability from their compensation claim, which meant that they paid nothing up front.

The Charge was collected by a new Central Land Board ("the Board"), established by the 1947 Act. The Board reported to, and was capable of being directed by, the Ministry of Town and Country Planning. Its first chairman was Malcolm Trustram Eve, a barrister by training. The Board shared its staff and offices with the pre-existing War Damages Commission, of which Eve was already chairman. The Valuation Office of the Inland Revenue provided the Board with the necessary land valuations. The Board passed all Charge revenues to HM Treasury.[31] This decision shows that a local authority plea to Uthwatt to allow local retention of tax revenue ("you must not take money from Hertfordshire and spend it in Cornwall") had fallen on deaf ears.[32]

There were a range of exemptions, some of which arose automatically from dispensations from the general requirement to apply for planning permission. Some of these dispensations were extremely generous, not least by allowing an increase in the volume of any building by up to 10%. These ensured that a substantial amount of development did not pay the Charge, which in turn seems likely to have distorted the type of development being undertaken, if not the amount, and may have led to some abuse of the rules.[33]

This may seem like bad design, but it was logical for the Charge to only be charged where there was a requirement for explicit permission, given that the Charge was in theory a payment for the value of that permission. However, this does not mean it was necessary to impose the Charge on absolutely every permission, which is what the government appears to have done. There were no *de minimis* thresholds below which Charge liability could be disregarded.

Public sector development on land purchased before 1 July 1948 was also exempt, but not land purchased after that date. This meant that local authorities were often liable to pay the Charge.[34]

There were also transitional exemptions. Land immediately ready for development was permanently exempted (and thus could not claim compensation), while land owned by builders and owner occupiers prior to the publication date of the 1947 Bill (7 January 1947) was exempt for five years.[35]

3.4 Revenue and collection

3.4.1 Forecast and actual revenue

The Cabinet had been told in late 1946 that the Charge was expected to raise £660m over the course of 30 years, but also that – as a fiscal device aimed mainly at securing that land changed hands at existing use value – Charge revenues were expected to decline over time, eventually to zero.[36] It is not clear how this figure was calculated and it seems not to have been published. Indeed, the published memorandum accompanying the 1947 Act argued that "no long term estimate [of revenue] is practicable" – and none was provided. Even so, it has been claimed that the Charge was expected to raise £34m (£1.4bn today) annually for the first ten years.[37]

The amount of Charge collected, and the number of assessments which gave rise to a Charge, is shown in Table 3.1. At least 86% of assessed revenue was eventually collected. The proportion of Charge revenue set off against compensation claims (rather than being paid in cash) was as high as 45% in 1949-50.[38]

The £7.5m of assessed revenue in the final year of the Charge (1952-53) represents only that part of the year for which the Charge was operating. It may therefore be extrapolated to an estimated annualised assessed revenue of £11.8m (£400m

Table 3.1: Development Charge revenue and assessments, 1948-59

Financial Year	Assessed (£m)	Collected (£m)	Assessments leading to tax (no.)	Average tax per assessment (£)
1948-49	2.4	1.3	9,886	134
1949-50	6.1	3.8	24,404	157
1950-51	4.8	4.5	18,847	236
1951-52	6.3	5.4	22,727	238
1952-53	7.5	6.7	24,142	277
1952-53**	*(11.8)*	*(10.7)*	*(38,627)*	*(277)*
1953-54	2.0	2.3	4,229	540
1954-55	1.7	1.7	1,719	1,015
1955-56*	0.2	0.4	241	1,468
1956-57*	-	0.3	159	1,888
1957-58*	-	0.3	337	761
1958-59*	-	0.1	-	-
Total	31.0	26.8	106,691	250

*Source: Central Land Board and Inland Revenue annual reports for the years shown, author's calculations. '-' indicates missing data. Totals exclude extrapolated figures for 1952-1953 and those years for which no data is available. *Figures for collected revenue in these years relate to cash receipts only; figures for previous years include amounts of Charge set off against compensation claims. **Figures bracketed in italics are author's estimates for the full financial year had the Charge not been repealed during the year.*

today). This compares with the £8m figure which the government published and which has been cited by analysts since.[39]

The figures in Table 3.1 include the number of assessments against which payments were collected in the year in question. But only around a quarter of assessments actually resulted in a Charge, as Table 3.2 shows, and efficiency did not improve much in later years. Clearly there was some bad design and bad implementation here. Not only were the rules arguably too widely drawn, but better communication of the rules might have reduced the number of exempt or premature applications which were sent to the Board in the first place.

Table 3.2: Applications for assessment of Development Charge, 1948-53 (no. of cases)

Financial Year	Exempt from Charge	Nil assessment	Withdrawn or premature	Charges assessed*	Total	Charges assessed as % of total
1948-49	21,162	11,789	15,134	14,845	62,930	23.6%
1949-50	28,119	31,554	22,830	26,332	108,835	24.2%
1950-51	15,808	21,005	21,489	19,890	78,192	25.4%
1951-52	28,718		17,494	23,063	69,275	33.3%
1952-53	21,571		11,234	24,865	57,670	43.1%

*Source: Central Land Board annual reports for the years shown. *Figures for Charges assessed shown here do not match those shown in Table 3.1 because assessed Charges were not necessarily collected in the year of assessment.*

Developers were obliged to wait for an assessment before they could commence development. This seems likely to have been the source of much dissatisfaction, not least because the separate building licences which developers also required to undertake building work were allegedly time-limited (see Box 3.1). There is no evidence on how long it normally took the Board to do an assessment, but the Board clearly was worried about the political attack which could be mounted by developers being timed out by assessment delays and disputes, especially if it turned out that they had no Charge to pay.[40]

The average Charge was very low by today's standards. A typical charge *per development* of £134 in 1948-49 would cost £5,300 in today's money, and £277 in 1952-53 would cost £9,200. Thus in today's prices the Development Charge *per development* is a fraction of the estimated £39,000 development value which is being extracted *per house* in recent times.[41] Even if £134 were the average charge per house, it would have added only 10% to the £1,321 cost of constructing a 3-bedroom house in 1949.[42] The Development Charge thus seems very unlikely to have been remotely close to 100% of the development value per house.

These apparently low Charges have important explanatory power. The government observed, to its irritation, that landowners were being paid much more than existing use value for their land. But this may simply have been because Charges were in practice much lower than the real development value, despite the government's intentions (sections 3.6.2 and 3.7 explore why this might have been the case).

On the other hand, the Board did record one very large Charge liability of £100,000 (£2.7m today) which was paid in 1957-58, five years after the Charge had been repealed. Presumably the figure had been the subject of a deeply protracted dispute.[43]

The majority of revenue came from housebuilding. For example, in 1948-49, around 74% of revenue came from this source, although in later years the proportion was somewhat lower. Most of the remaining revenue came from factories, offices and shops; but (as its logic dictated) the Charge was also levied on the whole range of development requiring planning permission, including churches, hospitals, schools, 'sheds and huts', and recreation grounds.[44]

The dominance of housebuilding within the revenue mix is important because, as Table 3.5 shows, over 80% of housebuilding was undertaken by local authorities, who were liable for the Charge in much the same way as private housebuilders (see section 3.3). Although the proportion of revenue contributed by the public sector has never been established, local authorities were responsible for about one quarter of Charge revenue at the time of repeal.[45] On the other hand, Table 3.3 shows that local authorities were responsible for 81% of assessment applications in the years after repeal.

Table 3.3: Applications for assessment of Development Charge, 1955-59, by type of applicant (no. of cases)

Financial year	Local authorities	Others
1955-56	185	41
1956-57	113	30
1957-58	22	5
1958-59	22	4
Total	342	80

Source: Author's calculations based on Central Land Board reports for the years shown. Data for prior years is not contained in the Board's reports.

3.4.2 Low revenue

The Charge is usually thought to have raised very little money (see Table 3.1). This judgment is often presented without any assessment as to what would have been a respectable amount, or indeed any comparator at all.[46] Occasionally it is suggested that the government's own forecasts were not achieved, but as noted above, no forecast for the early years of the Charge has ever been located.[47]

Table 1.1 shows that the Charge was, in today's prices, definitely not as effective in raising revenue as the Betterment Levy, but broadly on a par with Development Land Tax. It has also been shown that all such taxes raised little revenue compared to the value of planning obligations today.[48]

However, these comparisons may not be very useful or even valid. Local authorities may have been significant taxpayers given that they did most of the housebuilding while the Charge was in force (Tables 3.3 and 3.5). So comparisons with later taxes, which were imposed when private housebuilding was a much bigger contributor to overall supply, should be approached with caution.

Furthermore, both the cap on development output arising from building licencing, and the deductibility of the scarcity value of those licences, would have affected revenue in ways that later taxes did not suffer from (see Box 3.1). The absence of any statutory formula for calculating liability, and the apparently wide negotiability of the Charge, are also relevant to any comparison. Revenue may have been low because Charges per development were low, rather than because development levels were low.

More fundamentally – assuming the evaluation is being conducted with reference to the objectives that the government had – it is not obvious that revenue was actually an objective of the Charge (compare the discussion on DLT, section 6.4.2). Although the public may have perceived the Charge as a tax, the government's objectives were arguably to make land trade at existing use value and constrain landowner compensation upon the introduction of land use planning regulation. As Malcolm Grant explains:

> The objectives of land policy are not necessarily compatible with a betterment recoupment scheme designed along conventional taxation lines. Conversely, a system designed wholly for land policy reasons may produce no revenue, but instead aim to reduce land prices overall.[49]

Grant also argues that it should not have been expected, and was not expected, that the Charge would raise "any serious revenue" because it almost entirely removed the incentive for the activity being taxed to take place.[50] Indeed, the only known forecast (see section 3.4.1) assumed that Charge revenue would eventually shrink to zero.

Nevertheless, at the point of abolition, the Treasury fought to keep the Charge, partly on advice from the Board that the "steady rise" in revenue was "remarkable" given expectations of repeal (see section 3.8).[51] While later commentators may have argued that revenue was low, revenue is the only reason ever cited for the Treasury's defence of the Charge.[52]

The evidence suggests that the Charge probably did not raise as much as it should have done, if the aim was to retain as much development value in the state's hands as possible. As noted in section 3.4.1, liabilities seem remarkably low by today's standards, probably for the reasons discussed in section 3.7.

However, the accusation of low revenue proves difficult to link to repeal. Revenue appears not to have been an objective of the scheme, nor did its absence feature as a criticism of the Charge in the repealing government's justification for repeal. Indeed, the 1952 White Paper announcing the repeal gives the impression that the Conservatives accepted that the Charge was primarily a land policy device; certainly they never argued that the Charge was ineffective taxation and that revenue should have been higher (see section 3.11).

Thus it seems implausible to claim that low revenue in itself was a meaningful reason for the failure of the Charge. This does not mean, of course, that the Charge would not have been repealed had revenue been substantially higher. In such circumstances, the Treasury might have had a stronger argument for retention, but it would appear from the official account that the argument about revenue was ignored, and that the decisive argument for the Cabinet was the impact of the Charge on land supply for housing development.[53] That argument would perhaps also have been stronger had the Charge been more effective at raising revenue.

3.4.3 Collection costs

Despite the common accusation that previous development taxes were costly to collect, no information about Charge collection costs has ever been located. Even the Board's own annual reports contain no information about its administration costs. However Table 3.4 presents the Board's administration budgets and staffing levels, gleaned from Parliamentary papers. These figures represent the Board's budgets, rather than out-turns, and

Table 3.4: Central Land Board (and related Inland Revenue) administration budgets, 1948-53

Financial Year	Central Land Board (£)	Central Land Board (no. of staff)	Inland Revenue (£)
1948-49	210,000	59	580,000
1949-50	379,000	84	1,060,000
1950-51	386,000	86	1,381,830
1951-52	444,500	81	1,500,000
1952-53	505,000	86	1,241,500

Source: Author's calculations based on Civil Estimates (Class V) for the years shown, House Of Commons (1949:116-117, 1950:113-114, 1951:131-132, 1952:125-126). Inland Revenue costs include Valuation Office costs.

includes all of the Board's functions, not just collection of the Charge. They therefore represent an absolute maximum collection cost.

Taken together with the revenue figures in Table 3.1, these figures imply that the collection cost of the Charge in its peak revenue year (1952-53) cannot have been more than 16% of collected revenue, and was probably much less.

The Board's integration into the War Damages Commission provided economies of scale in staffing and office accommodation. Indeed, the Board itself only employed around 80 staff (Table 3.4); the remaining 85% of its salary budget paid for staff which it shared with the Commission. A further 500 staff were added to the Inland Revenue to provide valuation services, half of whom were valuers.[54] Notwithstanding the inefficiency implied by frequent nil assessments, there is no obvious justification here for occasional claims of bad implementation, nor did the repealing government allege it as part of its justification for repeal.[55]

3.5 Origins of the '100%' rate

Although the 1944 White Paper suggested a tax rate of 80%, it was eventually decided that the rate should (at least in theory) be 100%. This policy change is worthy of a discussion because of the way it illuminates the principles underlying the Act, and the tightly integrated policy package which resulted.

It followed logically from the principle that development rights (and therefore all development value) had been nationalised that landowners should now sell development land at existing use value, since that was the only value left to them. And indeed the Act gave local authorities and the Board compulsory purchase powers to buy land for public purposes at existing use value.[56]

However, this presented the Government with a problem. If the Charge had been set at the 80% rate proposed in the White Paper, then 20% of the development value would have returned to the landowner. Thus compulsory purchase at existing use value would have unfairly left landowners worse off if it were compulsorily purchased than if their land was purchased by a private buyer.

There were in theory two solutions to this problem. The compulsory purchase regime could have been changed to permit the landowner to retain 20% of the development value, bringing that regime into line with the proposed 80% Charge. It is not at all clear whether this option was ever considered. Instead the government adopted the opposite solution, which was to increase the Charge to 100% so that land which was sold in the private market also traded at existing use value – effectively the 'net of tax' price (see section 2.3.4).

This solution, while logical within the overall 1947 scheme, was arguably very bad design. In theory, entirely removing the development value from the landowner risked entirely removing the landowner's incentive to sell land, thus collapsing the private market. Indeed Alison Ravetz suggests that the 100% rate "might just as well have been an act of deliberate sabotage".[57] At the very least the decision to adopt a nominal 100% rate required good (arguably perfect) implementation of other instruments within the policy package, especially the compulsory purchase element (see section 3.9).

There appears to have been some acceptance within the government that the Board's ability to negotiate over valuations would cushion the theoretically very damaging effects of a 100% rate (see section 3.7). But such measures arguably would not have been necessary at all if the rate had been set more pragmatically to avoid the various instruments in the policy package from becoming overly interdependent – and to avoid the bad politics of appearing to confiscate landowner incentives completely.

There is some uncertainty over how the change from 80% to 100% came about.[58] One school of thought is convinced that Treasury civil servants were responsible and that the 100% rate had "nothing to do" with Labour's inclination towards land nationalisation and was more about preventing the Central Land Board from becoming a tax collection agency.[59]

Certainly the Treasury claimed that the threat of compulsory purchase would be effective and therefore that no incentive was needed for the private landowner to sell land at existing use value, and that if any were given the developer would be the beneficiary.[60] Indeed, Ministers and officials resorted at an early stage to the use of language aimed at dramatically reducing landowner expectations, by asserting that existing use value was now a "fair" and "reasonable" market price for land.[61] Commentators have found such bad politics laughably naive.[62]

However, blame has also been attributed to Malcolm Trustram Eve. It has been claimed that he was so determined to secure the 100% rate, and the principle of equal treatment that went with it, that he threatened the Cabinet with his resignation if they did not agree to it (they did), something for which the Minister of Town and Country Planning (Lewis Silkin) is said never to have forgiven him.[63]

Officials (including Eve) also claimed that any lower rate than 100% would enable the landowners' retained portion of development value to 'seep back' into existing use value, causing existing use values to rise and eventually converge with development values. Some incredulity has subsequently been expressed over this inexplicable argument, which seems likely to have led to some bad design decisions.[64]

However, all of these arguments might simply have been designed to disguise a political position behind a technical obfuscation: namely that the government did not really care whether the private land market had any incentive to operate, because the public sector was expected to deliver the vast majority of new development during post-war reconstruction, and whatever land the state needed to do so could be purchased compulsorily.[65] This clear design choice – arguably a government-level decision – may well look appropriate to left-wingers. But at the very least it was bad politics, and a contributor to the overall failure of the Charge, to the extent that it misjudged the British public's readiness to agree that private land development had no future. Certainly the Conservatives felt there was political support for the contrary proposition.

Anxieties about the effects of the Charge prompted several reviews of the tax rate after it had come into operation. In 1949 officials inexplicably concluded that the rate would have to be reduced to 50% before landowners would have any incentive to sell despite the fact that an 80% rate had been originally thought tolerable by all parties.[66] It was also argued that, since the shortage of labour and materials was the overriding constraint on the amount of development being undertaken, there was no need to reduce the Charge (see section 3.6.3).[67]

Perhaps most importantly, officials appear to have felt trapped in a structure of their own making whenever they considered reducing the 100% rate. The problem with the 1947 Act was that it was 'too logical'.[68] By 1950 officials had realised that it was so "closely integrated" that to change the tax rate risked unravelling the entire structure.[69] As officials put it in late 1949, the criticism that the Act:

> has taken the profit out of the development of land [is a] ... criticism of the basic principles of the Act. The limits within which [it] could be

> met without wrecking the structure of the Act are very narrow indeed.[70]

This inflexibility was arguably bad policy design. The 1947 Act policy package comprised a number of tightly integrated and interdependent policy instruments, the failure of any one of which could have fatal consequences for the others. Even with fresh political eyes under the Conservatives, the difficulty of identifying a principled reform eluded the Charge's supporters within government, who had to resort to arbitrary proposals for a rate cut in order to fend off the threat of abolition (see section 3.11). As we will see, the repeal decision exploited the weakness of this position.

3.6 Land market effects

3.6.1 Land market effects: land withholding

Two main land market effects of the Charge are alleged. Firstly, it is thought to have caused some or all landowners to attempt to pass the Charge onwards to the buyer (the developer). Secondly, where the developer refused to accept incidence of the Charge, it is thought to have caused some or all landowners to withhold their land from the market entirely.

Discussion of these alleged effects must be prefaced by a variety of warnings. Firstly, landowner decisions must in theory have been determined by a wide range of different economic and political factors well beyond the two factors (namely the 100% rate and the potential for repeal) which are normally thought to be sufficient explanation. For example, it is claimed that landowners held out for at least some of the development value partly because they believed the promise of associated compensation was worthless; and partly because compulsory purchase at existing use value was an empty threat. Therefore some analysts argue that the Charge only generated adverse land market effects in combination with bad design or bad implementation of these other aspects of the policy package. For example, it has been suggested that a more credible compulsory purchase strategy would have forced landowners to sell, and at the price the government wanted (see section 3.9). Similarly, it has been claimed that the Charge became more accepted once the 80% minimum rate of compensation was announced in May 1952.[71]

Secondly, even if analysis is confined to the combined land market effect of the 100% rate and the likelihood of repeal or substantial reform, doubts have been expressed about the quality of the evidence underpinning judgments about those effects. Earlier commentaries frequently regarded these judgments as controversial and largely evidence-free.[72] For example, the extent to which land did or did not trade at existing use value was explicitly described as "a matter of controversy" in every edition of Barry Cullingworth's classic textbook for over 30 years.[73] Many later authors appear simply to have disregarded such caveats.

Thirdly, there is also controversy over the extent to which the government understood what it was doing, and whether its design decisions anticipated the land market effects that are alleged. Many argue that they did not, not least because of a poor understanding of land economics.[74] It may not have helped that neither the Treasury nor the Cabinet Office had sufficient capable economists to do so. John Maynard Keynes thought the Treasury "utterly incapable and incompetent", and economic policy-making was very fragmented at the time the 1947 Act was being drafted.[75]

However, other scholars argue that the government did foresee many of the key land market issues, including the risk of land withholding and the use of compulsory purchase to combat it.[76] As noted below, Eve even claimed that he had personally intended to precipitate it.

With this background in mind, the substantive effects of the Charge on the land market can now be considered. It is almost universally claimed that the response of landowners to the Charge was to withhold land from the market. Unsurprisingly given the lack of evidence, this claim has been expressed in wildly varying qualitative terms. Many analysts have felt it safest to assert either that land withholding occurred without specifying to what extent, or simply that other studies claimed it happened.[77]

These claims almost always refer to a reduction in land supply and not an increase in land prices.

Indeed, it has been argued that land withholding is unlikely to have had much of an effect on land prices, at least in the short term, because the price of land is determined mainly by demand.[78] Perhaps as a result of the strength of this argument, almost no studies argue that land withholding itself increased prices, and the repealing government did not allege it in announcing repeal – rather, the argument was based on the fact that developers were bearing incidence of the Charge (see section 3.6.2).[79]

When the claim of land withholding is evidenced, such evidence usually rests solely on the government's view, either in its official reports or in archival material.[80] The core (and often sole) exhibit from the archives in such analysis is the following memorandum from Malcolm Trustram Eve to Board staff, written in October 1948, and in military terms befitting his experience in the Welsh Guards.[81]

> We have already declared war on existing principles of land sale and, by taking the initiative, we have, *so far,* driven the 'enemy' onto the defensive. They have ... withdrawn a lot of their land from sale. We *must* keep up the initiative and continue the attack ... our *strategy* must be based throughout on making existing use value as effective as possible and our main *method* to achieve this must be to prevent sales of land...[82]

Eve went on to predict the likely tactics of landowners in response to the 1947 Act: a combination of political lobbying and public campaigning focused on the way the Act prevented ordinary people who had secured a building licence (see Box 3.1) from using it to build a single house on an individual plot. Eve continued:

> We have already (and I personally meant to do this) temporarily driven land off the market. *We must not be too ready to let it on the market again,* except on our terms. Time is on our side and very much against our opponents. [Building] licences are few and far between and building land is a common feature of every town and village. Much of present development is on plots bought before 1 July 1948 and [thus] unaffected by the problem.[83]

We may never know whether Eve really meant to do it, or whether landowners had called his bluff and he was simply changing his story. Either way, officials continued to express private concerns in late 1948 and mid-1949 that the market had "tended to become frozen", that "the sale of bare land had dwindled to negligible proportions" and that landowners had decided to "sit tight" or "sit back".[84]

These assertions have been accepted entirely uncritically by scholars, who have been caught in the precise trap identified by E P Thompson of assuming that history unfolded precisely in the way Cabinet minutes and similar "top level sources" report.[85] In the present case, this problem has been exacerbated by scholars' heavy reliance on the monumental official history of the post-war planning system produced by Barry Cullingworth.[86] For example, Andrew Cox, whose landmark study has also been heavily cited by later scholars, relies on Cullingworth's quotation of Eve's statement above as his solitary piece of evidence that land withholding "is in fact what happened".[87]

But how the government – and indeed landowners – knew what was happening in the land market is never explored and never questioned. Nor is it clear what benchmark was being used for the 'normal' flow of land onto the market against which a drop in land supply could have been measured in the highly regulated circumstances of the immediate post-war period. The Board's annual reports cite not one statistic on the matter, and no unpublished data has ever been recovered from their archives either. Indeed, it would appear that no land market data was available to the government, nor any statisticians to compile it, nor any economists to analyse it.[88]

Analysts are thereby forced to resort to claims that there was at least anecdotal evidence of adverse land market effects. But these anecdotes are either never actually supplied, or they are unsourced, rendering them impossible to verify.[89]

There has also arguably been some misinterpretation of the official record. It has been claimed that by the end of 1949 officials were in "no doubt that the Act had removed the financial incentive" for landowners to sell, and that in 1951 there was a public and "official admission" that there was "a drying up" of development land. But neither of these assertions about official positions is quite accurate; in fact, officials said that there was no doubt that landowners were refusing to sell *at existing use value,* which is not the same thing at all.[90] And some landowners were definitely selling – just not at the price that the government wanted (see section 3.6.2). This must mean that incentives were in fact often preserved, conferred upon landowners by developers who had ample ability to do so (for the reasons set out in section 3.7).

Thus, even if officials had "no doubt" about the removal of financial incentives, that does not mean they were right. For example, by November 1949 the Board had been asked to intervene in 1,100 cases where the landowner was refusing to sell. But there had also been 44,000 non-zero Charge assessments, suggesting that forty times as many developments were proceeding as had stalled.[91] Barry Cullingworth repeatedly argued that "it is unlikely that the development charge … seriously affected the supply of land".[92]

It has also been shown that Ministers and officials sometimes acknowledged internally, both implicitly and explicitly, that there was a lack of evidence in both their own arguments and those of their Whitehall opponents. The government seems to have had doubts about whether the adverse land market effects of the Charge were significant enough to be worth acting on. In October 1948 the Chancellor (Stafford Cripps) did not yet think a "seller's strike" had yet developed, even if that is what Eve thought. In December 1948 the Board appeared to still be waiting for "definite evidence" of one; and in July 1949, the Treasury appeared not to be convinced that there was a strong enough case of a "hold up to development" which would warrant changes to the scheme.[92A]

This evidence helps to explain why some commentators argue that land was in fact not being withheld, and that the reason for low sales was that there was only limited private demand for land (see section 3.6.3). Or perhaps post-war farming policies led to more land being retained in agricultural use than was normally the case.

We are thus left with a difficulty in explaining not only who told the Board that land withholding was occurring at a large scale, but also whether they were telling the truth. Possibilities multiply. For example, it is entirely compatible with the available evidence to pose the counter-hypothesis that Eve – and officials more widely – were informed entirely by the self-interested opinion of a small number of influential landowners and their agents, who vastly exaggerated the land market effects out of shock at the dramatic change in their fortunes imposed by the 1947 Act (and indeed, the war). Evidence is arguably suspicious by its absence.

For the reasons set out in subsequent sections, the Charge may not have actually been much of a substantive burden on the economics of development. But even if it was, it proves very difficult to conclude with confidence that land withholding was the result. This means in turn that we cannot confidently identify bad design in any of the policy instruments and settings (most notably the tax rate) alleged to have led to withholding. However, there was clearly some bad implementation in the failure to transparently and systematically monitor and report on the land market.

This failure may in turn have led to a political failure. The allegation that there had been land withholding formed a key part of the government's case for repeal in 1952 (see section 3.11), so clearly the repealing government thought that the argument had sufficient credibility. Without any data to disprove the point, the Labour opposition seems to have been unable to counteract it. It cannot have helped that their grasp of the underlying economics appears to have been rather weak. Indeed, the narrative of land withholding was arguably sufficiently powerful that they appear to have believed it too.

3.6.2 Land market effects: developer incidence

Developers bore the formal legal incidence of the Charge, but the government – and indeed most subsequent commentators – believed that developers also bore some or all of the economic incidence as well, against the government's expectation that the Charge would capitalise into land prices in accordance with longstanding economic theory.

Developer incidence is sometimes represented as an increase in land prices, or (rather more vaguely) as "inflationary."[93] However, this language needs to be treated with some caution; apparent land price increases could at least partly have reflected an increase in existing use values, or the theoretically dramatic effect on supply (and therefore price) of the introduction of the new planning system itself.[94]

The claim of land price inflation arising from developer incidence has also occasionally been conflated with the government's self-inflicted anxiety over its failure to achieve its objective of securing the sale of land at existing use value. The legislation did not in any way make this practice unlawful, but officials almost seemed to believe that it was, "as if a crime were being committed."[95] But the fact that land sale prices were higher than existing use value does not mean that land prices were higher than they would have been without the Charge. In fact, the government's concern was simply that the Charge was not *fully* capitalising into land values and thus that landowners were able to retain at least some of their ill-gotten windfall gains. This does not mean that landowners bore no incidence of the tax at all – and to the extent that they did, land prices received by sellers must have fallen.

However, most analysts (and the repeal decision) claim that there was some developer incidence, for example that the Charge amounted to a "permanent tax on sales" of land paid by the developer.[96]

In theoretical terms, the additional cost was therefore not an increase in the price of land received by sellers; it was an increase in the cost of land paid by buyers.[97] Developers are said to have been 'paying twice', because they were paying some of the development value to the landowner as an inducement to sell, and then that same value again to the Board.[98]

Two arguments are usually offered for why developers *had* to accept some incidence of the Charge. Firstly, the ability of landowners to withhold land and keep it in its existing use meant that developers needed to offer landowners some incentive to sell. Thus developers had to pay more than existing use value, much to the government's frustration.[99] Secondly, they were trading

Box 3.1: Building licences

The building licences regime was administered by the Ministry of Works. Licensing was in force for the whole lifetime of the Charge; a licence was required for any building work costing over £100 (£4,100 today).[103] The overwhelming majority of chargeable development would therefore have required a licence. Licences are also alleged to have been time-limited, although this claim has never been verified.[104]

Sections 7-8 of the 1945 Building Materials and Housing Act made it illegal to sell or let a building for a price or rent higher than specified in the building licence.

There is no evidence that officials took account of licensing in designing the Charge, or that they were even aware of it until after the Charge came into force. The Board regularly complained that the Charge had not been designed to work in the regulatory environment (of licensing) prevailing at the time.[105] This implies a lack of cross-government coordination between the Ministry of Works and the Ministry of Town and Country Planning.

Unfortunately even the main studies of the system are not precise enough to pin down the real scale and effectiveness of licencing. However, there is some evidence that the licensing regime was "chaotic" and "completely inadequate". Regular changes in the licensing rules were problematic, leading to wild swings in the availability of building materials.[106] Late in 1947, in response to the economic crisis of that year, capital investment in construction, and the number of building licences available, were dramatically cut back, a six-month ban on new factory building was announced, and work on certain factories which had already commenced construction was also stopped.[107]

The timing of this tightening may have given the impression that the Charge was responsible for adverse effects on development that were actually due to licencing; and the regime's ineffectiveness beforehand may explain why the architects of the 1947 Act took no account of it.[108]

businesses and needed land as an input to production simply in order to stay in business.[100]

Some commentators have argued that, to meet this cost, developers had the option to increase the price they charged the end purchaser of the development, including homebuyers.[101] However, theorists usually argue against this position because of the power of consumers to set prices (see sections 2.2.1 and 2.3.6) and it also seems doubtful given the extensive rent and price controls prevalent in the immediate post-war period.[102] This may explain why the repealing government did not attempt to deploy this argument (see section 3.11), thus rendering it irrelevant to an analysis of failure which focuses on how the repealing government justified its position in the political realm.

The average Charge was not in practice particularly significant in the context of other development metrics (see section 3.4.1). So it may be that the whole argument has been unduly exaggerated. However, it is worth briefly reviewing the main flexibilities by which it is thought that developers were *able* to absorb the Charge.

The main flexibility appears to have arisen from the peculiar circumstances created by post-war rationing of labour and materials under the building licences regime (see Box 3.1).

Licenses were apparently scarce, making them a valuable commodity.[109] Two crucial and regularly-cited passages indicate the effect that officials believed this scarcity had. In December 1949 the Board reflected that:

> The developer who has obtained a building licence and thereby surmounted his main hurdle is often only too glad to pay twice over for his land ... Even if he pays twice over, his total expenses, in view of the controlled cost of house building, are still considerably less than the cost of an existing house with vacant possession.[110]

Without revealing any of the "evidence" on which they were basing their opinion, the Board expanded in public on this same point in September 1950:

> The evidence available to the Board of prices paid for land for development suggests that sales at or near existing use value are more the exception than the rule. Building licences are difficult to get and the developer who has been fortunate enough to obtain one is often willing to pay a much inflated price for a piece of land upon which to build. In other words a 'scarcity value' attaches at present to the possession of a licence. The theory that the development charge would leave the developer unwilling or unable to pay more than existing use value for his land is not at present working out in practice, especially since a would-be house-owner who pays building value to the seller of the land, as well as a development charge to the Board, is still paying less in the total cost of his house than he would have to pay for an existing house with vacant possession.[111]

Indeed, officials thought that this scarcity value was sufficiently high that it offset not just the Charge but the entire value of the land.[112]

The ability of developers to accept incidence of the Charge because of the scarcity value of a building licence is clearly pivotal to the entire debate about the land market effects of the Charge – if developers were "only too glad" to pay it, it is no wonder that landowners were still selling.

None of this argument about scarcity, nor the basic facts underlying it, has ever been checked. Indeed, the main studies on the licensing regime have never even been consulted (see Box 3.1). Even if licences were indeed scarce, the alleged scarcity value of building licences is regarded as self-explanatory and never defined technically (even though it must have been at the time – see below). It must logically have been part of the development value which developers were willing to pay. Economists have never investigated the argument that scarcity value was relevant to questions of incidence. Nor did officials do so at the time, so it is not clear whether it was developers or consumers who valued this scarcity of development. It seems unlikely that consumers would have been able or willing to do so given the 'price taking' nature of the market, rent and house price controls, and high competition for land. It seems more likely that developers were so desperate to stay in business that they generated the scarcity value themselves, offsetting the cost of the Charge through reductions in other costs or profit margins, or by paying the development value to the landowner in the form of a ground rent, thus spreading the cost.[113]

Crucially, however, the Board's valuation guidance (see section 3.7.2) made it known from the outset that scarcity value would itself be an allowable deduction from the Charge.[114] But if the scarcity value was indeed higher than the Charge, as officials believed (see above), this would have meant zero liability for the Charge in any case where there was a scarcity value, provided the developer was alert enough to claim the deduction. But this is tantamount to saying that the Charge had no effect on the transaction at all.

Since the Charge made at least some revenue, scarcity value in aggregate cannot have been enough to offset Charge liability in aggregate (it seems very unlikely that Charge revenue came only from development types which did not require a licence, such as changes of use not involving any building works). But the deductibility of the scarcity value presents a serious challenge to the idea that the Charge added much to the cost of development at all. This additional cost may in fact have frequently been nullified by the Board's own rules.

If so, it is not surprising that developers were relaxed about paying development value to landowners. The transaction could have proceeded entirely normally, with the development value accruing to the landowner, and no adjustment to the developer's costs or profits. This may explain why so many assessments resulted in zero liability, and why non-zero liabilities seem so low (see Tables 3.1 and 3.2). Neither Whitehall officials at the time, nor any analysts since, seem to have considered this possibility.

Even if the scarcity value of licences had not existed, there were other flexibilities within the assessment of the Charge which enabled developers to offer the landowner more than existing use value without necessarily incurring any additional cost themselves. They arise mainly from the complex and arguably naive way in which the Charge – and the development value upon which it was based – were calculated. Economists have argued that it is obvious and unsurprising that developers would have been able to accept incidence given such rules.[115] As section 3.7 shows, developers were able to self-assess liability and then negotiate it down with the Board's valuers. Davis suggests that:

> Purchasers were guessing that the charge, irksome as it was, would not be heavy enough to absorb the likely profits from development at a time of housing shortage.[116]

There was one final flexibility available: landowners were able to assign (sell) their compensation claim to the developer, thus transferring the risk of inadequate compensation (see section 3.2.2). Believing that their claims were worthless, landowners sold claims to developers for a fraction of their real value. For example, it has been claimed that in January 1951 a compensation claim worth £4,193 was bought for just £220 (5%) while others were bought at 2s. 6d. in the pound (12½%).[117] It is not known how widespread claim assignment was, or what level of discounting usually prevailed. But any developer who bought a claim was allowed to set the cost of the Charge off against it, rather than paying the Charge in cash. In other words, this practice allowed developers to avoid paying the Charge, at the cost of buying the claim.[118]

Overall, therefore, it remains very unclear how painful the Charge was to the developers upon whom landowners were able to foist it. Nor indeed is it clear whether landowners were able to do this to any great extent, or even whether the amounts involved were worth arguing over. Developers were formally responsible for paying the Charge, which would have made it more visible to them. Developers with little grasp of the concept of economic incidence might have believed they were therefore bearing the Charge themselves rather than being left unharmed by it; and such beliefs may have made them more inclined to 'haggle'. But equally, landowners might not have noticed if developers offered a price from which they had subtracted a relatively small Charge, as the theory suggests they would. In such an unusual market it is not at all obvious how landowners could have known what price they might have got in the absence of the Charge and thus how they could have been sure that they were evading incidence, except when they had refused to sell at all. Even if landowners were in a stronger position because they felt able to withhold land in the hope of repeal, not even the government thought that full development value was always being secured by the landowner.[119]

The only available assessment of actual land sale data from the period found that after the war recorded prices of residential building plots sold at auction did not increase to any great extent until after the Charge had been abolished.[120]

As with land withholding, therefore, it is difficult to establish the existence of bad design or bad implementation decisions which led to developer incidence. Policy makers cannot be accused of bad substantive decisions when bad substantive effects are not proven. And this section has shown that there are also some powerful counter-indications (including overlooked details of the tax settings) which suggest such effects may never have occurred.

However, as with land withholding, the claim that developers bore incidence was definitely given as a reason for repeal (see section 3.11), suggesting that the government must have indulged in some bad politics in allowing the belief to take root. The Conservatives clearly felt that the argument had sufficient credibility that they could run it, and Labour seem to have done little to counteract it. Good politics does not necessarily rely on good evidence, but on a good narrative likely to command public support.

3.6.3 Land market effects: development output

The actual levels of housebuilding while the Charge was in force, and immediately beforehand, are shown in Table 3.5. Typically over 85% of the output was in public sector housebuilding while the Charge was in force.

Although it is often argued that the cost of land increased, and that developers bore much of that cost, it is usually thought that the overall volume of development was largely unaffected and that other constraints were the limiting factor. It has been argued that these factors do not get the attention they deserve in analysis of the Charge's effects.[121] Officials deployed at least some of these reasons when it became necessary to defend the Charge against the argument that it had not worked as intended.[122]

Firstly, the *construction industry* is said to have been working at full capacity and could not have accommodated any more development than it was already doing.[123]

Secondly, officials argued that a large amount of development land was initially *exempt from the Charge,* including most land held by the local authorities who, as Table 3.5 shows, ended up doing most of the development; and so development was able to proceed even if the land market was sluggish. In late 1949, officials had argued that "there is far more land that is free of

Table 3.5: Permanent dwellings, starts and completions, Great Britain, 1946-1952

Year	Local authority starts	Local authority completions	Private completions	Ratio (%) Local authority:private completions
1946	163,518	25,013	*31,297	44:56
1947	155,779	97,340	40,980	70:30
1948	139,457	190,368	32,751	85:15
1949	162,248	165,946	25,790	87:13
1950	169,217	163,670	27,358	86:14
1951	170,857	162,584	22,551	87:13
1952	219,183	186,920	-	-

*Source: Merrett 1979:239,320. '-' indicates missing data in this source.*Includes completions in 1945.*

charge than can possibly be developed for many years to come."[124]

Thus in April 1951 the government felt able to claim:

> Development is, in fact, proceeding within the limits of our available resources. The limiting factor ... [is not] development charge but shortage of building labour and materials ... this situation will continue for a number of years ... Moreover, a great deal of land – estimated to be enough for 100,000 houses – has been made available for development without payment of development charge.[125]

As Table 3.5 shows, 100,000 homes in fact represented only about six months' worth of overall supply.

Furthermore, *post-war economic conditions* were rather extraordinary. For example, there was an outright prohibition on non-essential construction work.[126] In such circumstances the state could perhaps be forgiven for failing to fully deliver on its very ambitious plans for reconstruction.[127]

Capital controls may have limited investment, although it has been argued that the capital controls regime was easy to circumvent and was unlikely to have formed any real constraint.[128]

Housing rents were frozen at 1939 levels throughout the life of the Charge. This is thought to have reduced appetite for development of private rented housing.[129] Consumer demand was also suppressed and may not have returned until the 1950s.[130]

The *building licences regime* may have been a supervening constraint on the amount of development that could come forward, not least because it was dramatically tightened around six months before the Charge came into force, which may have made it look like the Charge was inhibiting development (see Box 3.1). Some commentators doubt that the constraints imposed by the licensing regime can be a complete explanation for the low levels of development experienced.[131] And in any case, it has been suggested that once the building licence regime was relaxed – and then abolished – during the 1950s, the Charge would have become a more meaningful constraint on development output.[132]

No doubt as a result of the government's belief that it fell to the public sector to deliver post-war reconstruction, it was a deliberate policy of the government to allocate at least 80% of licences to local authority construction until the end of 1951, when the figure fell to 50%.[133] The actual ratio of housing delivered by each sector is shown in Table 3.5. The underweight performance of the private sector against the policy ratio might perhaps imply that the licensing regime was rather more liberal with local authority licences than it should have been. Or it may mean that not all of the licences available to private developers were used, and thus that other difficulties such as the Charge did suppress development.[134]

One method of assessing the impact of the Charge on the development industry is to compare it to overall levels of investment. Public and private gross fixed investment in new buildings, including housing, stood at £791m in 1952.[135] This figure may be compared to estimated total Charge revenue collected of £10.7m in 1952-53 (see Table 3.1). The Charge thus represented a tax of 1.4% on that investment. This is likely to be a slight underestimate given that housebuilding represented 70% of Charge revenue but only 50% of investment.

Whatever the mix of influences upon development output, there can be no doubt that low levels of private sector activity presented a political opportunity, especially when compared with the pre-war private sector contribution. The government's famous 'bonfire of controls' in 1948 aimed to show that Labour was conscious of the need to progressively reduce oppressive post-war regulation, which in turn appeared to concede that the private sector did have some role to play. But the Conservatives were nevertheless able to publicly attribute blame for low levels of private housebuilding to the policies it liked least, whether or not these were the real reason for low output.[136]

Even if the total volume of construction work could not have been much higher in such extraordinary circumstances, the type of development undertaken may well have been distorted.[137] As we have seen, development of any size needed a licence, but not all of it was subject to a Charge – permitted development was excluded, and some permitted development rights were both generous and lucrative, to the point of being abused.[138] This type of development seems likely to have been preferred.

Unlike the land withholding and developer incidence arguments, the claim that the Charge had reduced development output did not feature in the repeal decision. Since failures are defined in this study as the decisions (and consequent effects) which facilitated repeal, the argument that the Charge failed because it had the effect of reducing development output can arguably be discounted.

This is not primarily because there is little evidence that the Charge made a bad situation even worse, but because the repealing government did not even attempt to mount the argument that it had. Perhaps Macmillan did not think it would be credible to make such an argument, given all of the other regulatory and practical constraints on building at that time. Another prominent Conservative MP had publicly conceded as much at the time.[139] Instead, Macmillan's focus was firmly on land supply effects.[140]

3.7 Valuation policy and practice

3.7.1 The legislative basis for Charge valuations

The 1947 Act offered the Board's valuers (the Valuation Office) substantial flexibility in determining liability for the Charge.[141]

It has often been claimed that the Act specified the 100% rate of tax. But it did not; indeed the government itself stated that Act contained "no statutory formula for assessing the Charge".[142] Indeed, to a modern tax lawyer, the Act's provisions about Charge calculation would surely look extremely vague. The Act merely required the Board to "have regard" to the development value in deciding how much to collect, the only limitation being that in determining Charges the Board should not give one taxpayer "undue or unreasonable preference or advantage" to another (see section 70(2) of the 1947 Act).

Although it had originally been envisaged that the Charge would be levied at a fixed 80% rate, this loose formulation in the Act was arrived at on the assumption that the Charge had the character of a negotiable payment for the right to develop, and that this negotiation should leave some portion of development value to the landowner, retaining the incentive to sell land for development.[143]

This "unlimited discretion" was later the subject of scathing criticism.[144] It was also anathema to the Treasury, which was concerned to avoid arbitrary differential treatment of taxpayers. This led to the decision to use the powers in the Act to make regulations setting out more detail about how the Board should determine the Charge. The Board, and Eve in particular, initially resisted regulations on the grounds that to have them would lead to more litigation and dispute. Eve was apparently supported in this at the time by the RICS and the Valuation Office, which is perhaps not surprising given that these were the parties whose wings would otherwise be clipped.[145]

The Regulations were drafted by the Board, perhaps by Eve himself.[146] Eve's resistance to having them at all may explain why they are very short. They did not express the tax calculation as a mathematical formula any more than the Act did. Instead, they required three main principles to be observed.

- a 'governing' principle that the Charge should be "determined so as to secure, so far as is practicable, that land can be freely and readily bought and sold … in the open market at … its value for its existing use."
- that the Charge should not exceed the development value (that is, not be more than 100% of it) as "measured by normal processes of valuation"; and
- that the Charge "shall not be less than [the development value] unless in the opinion of the Board the Charge ought properly to be less" in order to comply with the governing principle above.[147]

Thus, the Regulations capped the Charge at 100%, and most studies simply state that this was the 'fixed' rate of tax. Unfortunately no lawyer has ever opined on what the Regulations actually meant in practice, but they appear to have held out the possibility that the Charge could be reduced, if it was felt "proper", to facilitate an "open market" that operated "freely and readily", albeit one in which land was supposed to trade without any development value. This rather curious conception of a market without any landowner profits and no incentive to sell has been identified as the fatal contradiction in the design of the 1947 Act.[148]

However, the wording of the Regulations suggests that Ministers did not intend the Charge to push so much development into unviability that it froze the market. The wording gives the impression that sales at existing use value was a general objective at which valuers should aim, rather than something that had to be achieved slavishly in every case. Thus, it seemed to be accepted that valuers would have to aim on the low side in their Charge assessments to keep the market moving.[149] Ministers said as much in the House of Lords during the formal debate on the Regulations in June 1948:

> The development charge would be fixed by the Board. If [the developer] said 'I think that is too high' … they would be able to discuss it, and if the … developer were able to adduce reasons convincing to the Board that they had been unreasonable … they would be able to reduce the charge.[150]

The Minister went on to give a revealing example:

> Suppose the Board had suggested that the figure was £500, that would theoretically be the 100% charge. After discussing it with [the developer] … and having been persuaded that it was unreasonable, they might then reduce it to an agreed figure of £400 … In this case the £400 would not be regarded as 80% of the original figure; it would be the 100% development charge. It simply means that the constant figure under the normal processes of valuation would be 100%, but the actual amount which the 100% represents would be the figure agreed as the development charge … quite definitely … there is flexibility under the ordinary processes of valuation to secure that the charge is not excessive. If the Board put their charges too high, they discourage development; and if they discourage development, the development charge is not made.[151]

The Minister appeared to be saying that the charge was simply 100% of whatever development value valuers could agree under "normal processes of valuation".[152] In other words, the Charge was to be decided by applying the usual professional standards without any further guidance from statute.[153]

Valuation was ostensibly a technocratic job, but the Regulations arguably gave it a great deal of political content, because valuers were thereby forced into the position of judging the pace at which the market should be nudged – or coerced – towards ever wider acceptance of the principle that land should trade at existing use value. The Treasury, which had demanded the Regulations in the first place, appeared to accept – within limits – that this flexibility was appropriate.[154] Indeed, it seems to have been the only flexibility left, given the way the policy package had been constructed. But commentators found it "scarcely … reassuring for the prospect of preserving a free society" because it placed into the hands of the Board the discretionary power to decide which developments proceeded and which did not.[155] And indeed, Eve seemed fully prepared to use that power through his tactic of deliberately and temporarily freezing up the market (see section 3.6.1). Perhaps he thought this was this was the quickest way to deliver the intent of the Regulations; but whether it was strictly legal to do so is a different matter.

On the other hand, it has been suggested that this flexibility ought to have been seen as a benefit, not a problem, and even the main mechanism by which the long-term workability of the Charge could have been secured had it not been repealed.[156] Perhaps convention, experience and practice would indeed have delivered that result in time.

However, it seems reasonable to argue that the Regulations represent bad design compared to the more straightforward alternative of a lower fixed rate such as the 80% originally envisaged, which would have given more room for manoeuvre. The Charge had been introduced in an unusual market in which development value was genuinely uncertain and likely to be disputed. Arguably the Regulations were an awkward compromise aimed at pragmatically re-introducing landowner incentives into a system which had been constructed on the principle that such incentives were neither necessary nor desirable (see section 3.5). And it cannot have helped that they were only approved by Parliament in June 1948, just a few weeks before the Charge was due to come into force.

The fact that the Charge was to be settled by negotiation also led to the rather disingenuous conclusion that there was no need for an appeal mechanism – and thus none was provided.[157] This might have been good design, but was arguably bad politics, providing a political opportunity for the Conservatives to call for an appeal mechanism at both the 1950 and 1951 general elections.[158]

3.7.2 Charge valuations in practice

This bad design appears to have been worsened by some bad implementation. Indeed, it has been argued that the administrative issues surrounding assessment of the Charge were its "main defect."[159]

For example, there was initially no guidance, which meant that valuers "do not know what they are doing … they are feeling their way."[160] There were a variety of technical challenges to be overcome. The actual values being used were, or would increasingly become, outdated, and the conservatism of valuers is thought to have resulted in estimates of development value also being conservative.[161] The lack of any appeal mechanism is also said to have led valuers to err on the low side.[162] Thin market conditions, and the distortions introduced by the Charge itself, offered few 'comparables' for valuers, a problem which had been foreseen.[163] And even in the best of circumstances, valuation always has a subjective component, for which the Board could only apologise in advance.[164]

The valuation policy is also said to have completely misunderstood how the market actually valued land. On some occasions this meant that developers were able to afford the Charge in more circumstances than theory would suggest.[165] On other occasions it meant that existing use value was inexplicably deemed to be negligible (£1), which had the effect of dramatically increasing the apparent development value.[166]

Perhaps because of these uncertainties, developers were actively invited to 'self-assess' the level of Charge they felt they could live with.[167] And it has been claimed that the Board took a pragmatic view over valuations.[168]

But this pragmatism has mostly been perceived as "haggling".[169] The results have been variously described as arbitrary, inconsistent, and sufficiently capricious that it undermined public confidence.[170] The Board has also been criticised for intransigence and rigidity.[171] There was "considerable room for argument" which developers took full advantage of – for example, by maximising the value of those parts of the development which were exempt from the calculation of development value.[172] It has also been implied that negotiations involved some deliberate obstruction and dispute on the part of an organised land market determined to ensure that the system failed.[173]

Unfortunately there are few concrete examples of just how much room for argument there was. But it proves difficult to conclude that there was a widespread problem as there are few documented cases. In March 1949 the press reported that, when challenged, the Board had reduced an (admittedly large) £11,000 liability to zero; and a £600 liability to £20.[174] However, as early as December 1948, Eve told Ministers that development charges were being agreed surprisingly easily.[175] Indeed, a year later the Board reported to Ministers that only 5% of the 44,000 assessments undertaken by then had been challenged.[176]

This statistic suggests that the degree of controversy has probably been overstated, and may have been politically inspired.[177] But it seems never to have been put into the public realm as part of the government's defence. Even so, this statistic implies that there were around 2,200 disputed assessments in the space of just 18 months. This scale of disagreement may well have had some effect on the public consciousness – and it has been pointed out that some developers might simply have been put off at the start.[178]

By September 1950 the Board did feel it necessary to defend itself in public, no doubt partly because allegations of "bargaining" had appeared in the

Conservative election manifesto earlier that year (see section 3.8). The Board countered that:

> The process is not so much one of bargaining, as has been suggested, but rather of investigating merits in the light of all available information, as has always been done in valuations for the purpose of compulsory purchase, estate duty, and the like.[179]

It has also been argued that the Board worked to improve implementation through its procedures and guidance. On the date the Charge came into force, the Board appears to have published only a short explanatory pamphlet ('D1A') explaining in-principle liability, and a pamphlet ('House 1') which attempted to explain how the Charge should be paid "without being unfair to the buyer."[180]

But it was not until March 1949 that the Board published Practice Notes to increase consistency, not least because the Charge was so widely applied (see sections 3.3 and 3.4) that it threw up genuinely new problems of valuation. 14,000 copies were sold in the first three weeks.[181]

However, the tightly integrated design of the Act, and the political philosophy that underlay it, appears to have prevented Ministers from making more substantive reforms to reduce the amount of dispute (see section 3.5). The design of the Act placed an immense amount of reliance on consistent valuation, without giving it any help to achieve that goal. It was perhaps inevitable that bad implementation would follow.

3.8 Expectations of repeal or reform

It is commonly claimed that landowners' refusal to accept incidence of the Charge, and their decision to withhold land from the market, was exacerbated by their expectation that the Charge would be repealed or substantially reformed at some point in the future.[182]

No doubt all taxpayers hope that their taxes will be reduced in future. But it proves surprisingly difficult to discern whether or not landowners really had a sufficiently firm expectation of reform that it affected their behaviour at any scale, not least because there is no land market data by which to judge (see section 3.6). No other systematic evidence (for example, surveys) about how landowners actually weighed up the wide range of factors affecting the prospect of reform has ever been offered.

Landowners' views of Conservative ideology – and in particular the expectation Conservatives would always act to protect their interests – are often also taken for granted. The Conservatives had, after all, eventually seen off all serious pre-war attempts at land taxes (see section 3.2.1). However, after the war the Conservatives also needed to draw support from a new breed of property developers and a widening class of aspirant home-owners, whose interests were not necessarily the same as landowners. So it was no longer axiomatic that landowners could count on Conservative support even if recovery from the war had not been the overriding political priority.[183]

Even so, it seems foolish to suggest that there were no hopes of change at all. Local authority enthusiasm for refusing planning permission under the 1947 Act now that they did not have to pay any compensation, the planning system more generally, post-war rent and price controls, and new compulsory purchase powers mean that landowner expectations and rights had been dramatically altered compared with the pre-war position, even without the notion that 100% of the development value was to be expropriated.[184] It cannot have been at all obvious in the 1940s that the 1947 Act would survive, even if politicians from all parties had good reason to support it. As one insightful commentator put it:

> In the early days of the Act people were waiting to see how it would work; later they waited to see how it would be altered.[185]

Arguably the Conservative Party were among those waiting to see how the Charge would work before committing themselves. Their position evolved much more gradually than is usually claimed, and it could be argued that the Conservatives were initially very cautious in criticising the 1947 Act, developing their opposition to it only as practical problems emerged, rather than out of in-principle objection to it.

To understand the expectations that landowners might have been given by the Conservative position, it is worth reviewing its evolution.

After a dramatic confrontation that nearly ended the wartime coalition, the Conservatives had eventually signed up to the 1944 White Paper which outlined the core components of the post-war planning system.[186]

Opinions are mixed on just how much the White Paper really committed the Conservatives, and on whether or not the Conservatives would have implemented the White Paper had they remaining in power after 1945.[187] On the one hand, the White Paper is thought to have been "not a serious blueprint [but] a half-empty compromise" which contained only "pious generalities" because of the profound difficulty there had been in agreeing it.[188] On the other hand, the White Paper did propose a specific 80% betterment levy, which is hardly a generality.[189] It has been argued that when the proposals were debated in Parliament in 1944

> nobody … seriously disputed the equity of [the] charge; any differences were on the percentage of the charge and other … small matters.[190]

Analysts also exhibit some confusion about the Conservative position on the financial provisions of the Act. Some argue that Conservative involvement in the White Paper, and indeed the pressing need for post-war reconstruction on a reasonably bi-partisan basis, prevented them from mounting any kind of serious attack on the 1947 Act. Others suggest that Conservative support for the Act during its passage through Parliament in 1946 did *not* extend to its financial provisions.[191]

By 1952, however, Conservative Ministers were privately conceding that the Act had been "based on principles acceptable to all parties" and that the support the Conservatives had given it made it politically risky to abolish the Charge.[192] And the 1952 White Paper announcing repeal of the Charge publicly accepted the Conservatives' joint authorship of the 1944 White Paper and noted that the financial provisions of the 1947 Act were similar to those to which the Conservatives had signed up. The problem, they argued, was the practical difficulty of implementing the Act.[193]

Nothing appears to be known about the formal Conservative leadership position from the date of the Act came into force until the 1950 election. So it is not easy to conclude that the land withholding which the Board claims to have observed in late 1948 (see section 3.6.1) was in any way influenced by what the Conservatives had said. However, it was normal for post-war annual Conservative party conferences to pass generic resolutions promoting private development and home-ownership.[194] And the October 1948 conference had specifically resolved:

> that the Development Charge ... will inflict such hardship that land development will be gravely hampered and the housing of the people seriously delayed, and accordingly calls on the Party to institute an inquiry into the full working of the Act, with a view to the drafting of a suitable amending Bill to avert the paralysing effect now threatening.[195]

There is no evidence that the party leadership took any notice of this request, or held the proposed inquiry, or shifted its formal position. The October 1949 party conference went further, calling on the leadership to include in its manifesto:

> a specific pledge to repeal the Town and Country Planning Act 1947, and, when elected, to introduce an entirely new Bill which, while preserving the good features of the present Act, will be understandable and workable and not injurious to national recovery ... [196]

The Conservative manifesto for the February 1950 election finally spelt out the leadership's position:

> We shall drastically change the 1947 Act. It has been shown ... to have all the defects forecast by Conservatives in debate in Parliament. The present machinery is too cumbersome, too rigid and too slow. Bad planning and wrong use of land must, of course, be avoided. But ... the high level of development charge and the uncertainty of its application hamper development. The amount of the charge seems to be often decided by bargaining and not on principle. The incidence of the charge must be reviewed. Any such levy must be fair to all and should be at such a rate that suitable development is not

> discouraged. We shall also provide an appeal against assessments.[197]

This statement appears to be the first time that an explicit and reliable Conservative commitment to change was made, nearly two years after the Charge had been introduced. It does not, therefore, seem to be credible to suggest that land withholding followed a promise of repeal by the Conservatives, as is sometimes suggested.

Alison Ravetz has claimed that, this commitment having been made, "it was an open secret" that the Conservatives would repeal the Charge upon returning to power.[198] This seems implausible; it is inconsistent with both the actual manifesto texts and the record of the internal battle within the Conservative government which eventually led to repeal (see section 3.11). Nevertheless, during 1950, pressure for reform from representatives of landowning and professional interests mounted, leading to a defence of the system – but no promise of action – being published by the government in April 1951. This progress report rejected the claim that the Charge was acting as a "severe brake on development." [199]

However, the Conservatives' October 1951 election manifesto again stated that "The whole system of town planning and development charges needs drastic overhaul."[200] The accompanying policy paper, *Britain Strong and Free,* implicitly conceded that in fact the 'whole system' was not at risk, and promised only minor improvements to processes. But it did say:

> The sale of land for the building of houses and for development of all kinds has been hampered by the Socialist Town and Country Planning Act. This has brought the planning of land use into disrepute ... The development charge has worked unfairly and has also impeded good development. The present system for compensation gives inadequate sums to many who suffer genuine loss, but at the same time hands out taxpayers' money to others who would lose nothing. This must be drastically altered ... For certain classes of property there should be no development charge and no compensation. For others there should be full compensation and a corresponding charge.
>
> There must be a right of appeal against assessments.[201]

This obviously did not sound like full repeal. Indeed it may have left landowners wondering which "classes of property" the Conservatives had in mind, and whether it meant that the Conservatives continued to support the underlying principle of securing land at existing use value.

It was reported that Lord Woolton (a prominent Conservative) downplayed the likelihood of drastic change at the time. Even after their election victory, the Conservatives are said to have remained tight-lipped. Their May 1952 compensation announcement offered more compensation than many landowners expected (see section 3.2.2). It has been argued that this announcement caused some advocates of reform, including Conservatives, to change their minds. But when asked about the Charge, the Conservatives simply "repeatedly said that the question of amending the Act was under serious consideration."[202]

Indeed, it appears that the first time that the Conservatives firmly promised abolition of the Charge was on the day it took effect (see section 3.11).

This exposition shows that the Conservatives reacted ever more firmly to the alleged effects of the Charge in practice, rather than objecting to the Charge in principle. But even when the Conservative leadership began to distance itself from the Charge, the Labour government seem not to have been alert to the possible consequences. There is also no evidence that at any stage the Labour government reflected on the land market effects of a repeal or reform commitment by their political opponents. Perhaps the political consensus (at least in public) on the principles underlying the 1947 Act led Labour Ministers to believe that the risk was sufficiently small not to be worth considering.

It seems likely that the Conservatives' increasingly firm position, and the political opportunity it represented, was facilitated by the failure of the Labour government to make any significant changes to the Charge once a narrative of adverse effects became clear. As noted in section 3.5, the lack of reform is explained by the fact that Ministers felt paralysed by the technical inflexibility of the policy package. The lack of evidence that anything was definitely going awry may also have influenced decisions.

Either way, there seems not to have been any senior political will to overrule the technocratic arguments in order to keep the Charge alive. The Treasury and the Prime Minister are noticeably absent from the internal debate within the Labour government after late 1949, and even by July 1951, with the government now holding a precarious Parliamentary majority, even the Chancellor (Hugh Gaitskell) adopted the rather feeble stance of being "inclined to wonder whether some further small easements were possible."[203]

Thus a combination of bad politics at the instrumental level, and bad design at the policy package level, seem to have been the fundamental facilitators of the Conservative position. Even so, the lack of data on the landowner response calls into question the impact that this position actually had on the land market, no matter how loudly landowner and professional interests complained about it.

3.9 The compulsory purchase strategy

The government intended that where private landowners refused to sell land at existing value, it would be compulsorily purchased at that price. But the inadequate design and implementation of this strategy is almost universally thought to have contributed to the Charge's failure.[204]

There seems to have been an immediate and persistent resignation to low administrative capacity to undertake purchases, and little attempt to build it.[205] The Board even argued that exercise of the compulsory purchase powers, especially if undertaken at scale, sat awkwardly with the Board's other functions, despite the fact that the Board had been given the powers precisely to support those functions.[206]

The government had told Parliament during the passage of the 1947 Act that it intended to make only limited use of the powers, which may have led landowners to believe they were unlikely to be affected.[207]

Negligible amounts of money were allocated to the Board for land purchases. As shown in Table 3.6, the maximum annual budget was £150,000 (£5.9m today). Even worse, Silkin and Eve inexplicably decided to draw attention to the fact that only £100,000 had been allocated in the first year, within a public exchange of letters intended to make it clear to landowners that the government was prepared to use the powers.[208] However, this was arguably a major implementation blunder which could, in theory, have fatally undermined the credibility of the government's strategy by revealing to landowners just how little money had been allocated, and therefore that they could withhold land with impunity.

Table 3.6: Central Land Board budget allocation for land acquisition (£)

Year	Amount
1948-49	100,000
1949-50	150,000
1950-51	100,000
1951-52	25,000
1952-53	10,000

Source: Civil Estimates (Class V) for the years shown, House Of Commons (1949:116,1950:113, 1951:131,1952:125; compare Cox 1984:97-98; Hennessy 1992:181).

The Treasury has arbitrarily been blamed for the small amount of money allocated. But, despite its earlier view that compulsory purchase would be the means by which landowners would be coerced into selling at existing use value, its commitment to compulsory purchase in practice does seem to have been decidedly ambivalent. The Chancellor (Cripps) did not feel able to go further than committing himself "provisionally" to this course of action in late 1948.[209]

There were also doubts about the legality of using the compulsory purchase powers to force sales at existing use value, and thus Eve was very reluctant to use them.[210] To be eligible for compulsory purchase, the land in question had to be ready for development and it needed to be shown that the landowner had sought a price higher than existing use value. Such tests were easily evaded in 'under the counter' deals.[211] There was also repeated concern that landowners would simply withdraw their land from the market if there was a serious risk of compulsory purchase.[212]

A subsequent court case showed that Eve's concerns were unfounded (indeed it is difficult to understand why he had them in the first place), but the court judgment only arrived in February 1952 once the Conservatives had returned to office.[213]

There were yet further problems. In some cases, attempts to use compulsory purchase had proved counterproductive, and landowners engaged in delaying tactics. Large estate landowners simply did not care if single plots were subject to compulsory purchase. And the rapidly approaching 1950 election increased the government's wariness about using the powers. This might have been good politics, but it reduced the visibility of the threat.[214]

By November 1949 only 11 compulsory purchases had been made, although another 170 sales were concluded by agreement under the threat of compulsory purchase. This latter figure represented 16% of the 1,100 cases in which the Board had been asked to intervene. The Board found it "difficult to gauge" what effect these orders had actually had on the market overall.[215] This is perhaps not surprising given that the government seems not to have been monitoring the market in any systematic way. Only 35 compulsory purchase orders were made during the lifetime of the Charge.[216]

In 1948 officials – no doubt proud of their elegant policy package – predicted that bad implementation of the policy was much more likely to be the cause of its downfall than bad design.[217] And indeed it is difficult to avoid the verdict of bad implementation in relation to the compulsory purchase strategy. Indeed some analysts suggest this failure deserves more of the blame in producing the alleged adverse land market effects than the ostensible 100% rate. It has been argued that the rate itself would not have been the problem if the compulsory purchase powers had been properly funded and used vigorously, thus forcing landowners to sell nearer to existing use value than they actually did. However, it is an open question as to how much more vigorous implementation would have needed to be in order to be credible, and indeed how vigorous it could have been given genuine constraints on money and capacity.[218]

But there also appear to have been more basic design problems based on invalid theories of behavioural economics. For example, Ministers appear to have complacently believed that the Charge would itself be sufficient to deliver the policy objective of land trading at existing use value, which appears to have overlooked the possibility that landowners might notice that it was more profitable to keep land in its existing use than to incur the Charge by selling it, or that they might dispute the level of the Charge.[219] Even among those who recognised this possibility, there seems to have been a belief that the mere existence of the compulsory purchase powers was enough to pressurise landowners to sell.[220] Neither proposition survives the argument that threats need to be credible and enforcible for them to change behaviour. But these beliefs may have meant that the government did not take enough time to ensure that the compulsory purchase powers were adequate.

Of course, it can be argued that the compulsory purchase instrument would not have been so critical if Ministers had not so aggressively targeted sales at existing use value and if, for example, the Charge had been levied at the 80% rate originally planned. The need to have an extra instrument in the policy package in order to counter the adverse side effects of the other instruments in that package rather begs the question as to whether the package was as well designed as its supporters claim.

3.10 Small developers, public understanding and hardship

Overall, the Charge is thought to have been "unpopular" or even "hated generally" among the general public.[221]

It has been claimed that this was a basic problem of communication and public understanding. Drawing on a similar argument made over two years earlier by the RICS, the White Paper announcing repeal of the Charge argued that it was "too difficult" for developers to understand the separation of development value which the 1947 Act had delivered, and that it was now necessary to pay the Board, and not the landowner, for that value. The public allegedly did not understand that the Charge was supposed to be requited (see section 2.3.1). This in turn gave the impression that the Board was not "an owner with something to sell, but ... a tax collector whose demands are a burden on their enterprise."[222]

This claim has been very widely repeated since, but entirely uncritically.[223] There is no evidence that developers really did think this; all we know is that this was the view taken of the public by the Charge's critics, who probably did not want to understand its subtleties either.

Critics may have been emboldened in presenting the Charge as an unrequited tax by allegedly "lamentable" efforts by the Labour government to explain it.[224] In July 1948 the government spent £4,000 (£159,000 today) on a public information campaign in "selected press" on behalf of the Ministry of Town and Country Planning; this was followed up with a further £2,000 specifically on behalf of the Board in February 1949.[225]

At most, the evidence of a problem amounts to a small number of cases where a small developer or householder – usually attempting to build one or two houses or undertaking a simple change of use – had been caught out by not being aware of the change in the law.

The design decision to impose the Charge on minor development appears to have been a particular source of controversy (see below). It has been argued that the decision to include minor development was a principled and logical consequence of the idea that nationalisation of development rights could not be partial.[226] But complaints could still have arisen from the incongruity of imposing a Charge on minor development (especially changes of use) which did require planning permission, while not imposing a Charge on quite sizeable developments which did not require planning permission (see section 3.3).

It is argued that some high profile cases of hardship were the result. A debate in the House of Lords on 16 November 1949 raised nineteen separate cases of hardship relating to the calculation of the Charge.[227] But some alleged hardship cases are thought to have been deliberately distorted or taken out of context by critics, and few have been properly documented. Further examples include the Charge allegedly imposed on the erection of two football goal posts; on a change of use from air raid shelter to tool shed; and on a "poor widow" in Macclesfield who was assessed £350 (later reduced) for a change of use of an unused mill into a snack bar.[228]

Even when no Charge was actually due, delays by the Board in undertaking assessments (including any "haggling" over the valuation) may have contributed to adverse perceptions. As we have seen, many applications for assessment resulted in no Charge being levied, but the rules required that development could not start until this had been decided (see section 3.3).

It also seems likely that smaller developers were less aware of the possibility of making a compensation claim against which Charge liability could be offset, and less able to exploit flaws in the valuation policy (see sections 3.6.2 and 3.7).

Notwithstanding the position the Conservatives adopted in their election manifestos, it is not known how the Conservatives exploited unpopularity of the Charge for tactical political advantage. But the Conservatives certainly did mount a campaign focused on Labour's sluggishness in dismantling oppressive post-war controls as a whole.[229]

It is also difficult to establish how much of this alleged harshness and unpopularity was due to the Charge, rather than to the 1947 Act as a whole.[230] For example, much of the hardship seems to have actually arisen from the compulsory purchase aspects of the policy, about which Ministers were definitely being "inundated" with letters from MPs by late 1948.[231] Even these cases were about local authority compulsory purchases which could well have occurred even if the Charge (or the Board) had never existed. And the infamous 1954 Pilgrim suicide case has been wrongly attributed to the Charge when it was actually caused by Mr Pilgrim's lack of awareness of the compulsory purchase rules – the Charge had been abolished two years previously.[232]

Little is known about what the Labour government did to counteract the alleged unpopularity of the Charge. One official thought his colleagues were at a loss to know what to do. The Government repeatedly considered and rejected the idea of reducing the rate more generally (see section 3.5). 100% compensation was widened somewhat in 1949, and other minor changes were made in 1950.[233] But there seems to have been no inclination to offer significant exemptions for smaller developments until 1952, when the Charge's very existence was under threat, and thus the Treasury proposed them.[234]

The lack of evidence for widespread substantive or political effects makes it difficult to be sure that there really were bad decisions in respect of small developers. Perhaps bad implementation can be claimed for the government's lack of skill in communicating its policy in simple terms, which enabled the Conservatives to argue that it was badly understood (and, by implication, illegitimate).

However, more convincingly, it was arguably bad politics for the Labour government to have insisted that individual homeowners undertaking small developments should pay the Charge, which must have increased its political visibility to some extent. A more pragmatic design decision about tax settings might have avoided this problem.

3.11 The repeal decision

The subsequent 1951-1955 Conservative government used the 1953 Town and Country Planning Act to repeal the Charge retrospectively with effect from 18 November 1952.[235] The Charge was thus in force for 4 years 4½ months. The Central Land Board continued in existence until 1 April 1959 to collect any remaining Charges for development which had started before the abolition date, and to distribute compensation. Its functions were then transferred to the Ministry of Housing and Local Government. It was possible to make claims against the compensation fund until at least 1971.[236]

A detailed account of the decision to repeal the Charge is given by Barry Cullingworth.[237] Suggestions that the decision was purely ideological are not borne out by this account, which reveals a year-long battle between the Housing Minister (Harold Macmillan) and the Chancellor ('Rab' Butler).

Macmillan argued that the Charge was unpopular, and was not capitalising into land prices as had been hoped – indeed he argued that it never would, thus hampering development.[238] He agreed it was "hardly proper" that betterment should avoid taxation, but he felt that the normal routes of taxation should be used (whatever that meant). He argued that if the Charge were not fully abolished but merely reduced, it would be easy for "a socialist government" to increase it again, but that such a government would hesitate to re-introduce it afresh.[239]

Macmillan accepted the risk that abolishing the Charge might leave the Conservatives open to accusations of stoking land price speculation, but felt this was a risk they just had to take. He pointed out that the 1947 Act had not achieved its aim of stamping it out either, as landowners were still benefiting from at least some development value. Finally, Macmillan argued that the land market had "almost disappeared."[240]

The Chancellor argued in favour of retaining the Charge, supported by arguments from the Board and the Treasury that the Charge was now working and that criticism was overstated.[241] In particular, the Charge was now raising reasonable revenue. The Board thought it helpful that the House of Lords had finally resolved legal doubts over compulsory purchase in the government's favour (see section 3.9), and that the May 1952 compensation announcement had clarified the level of compensation which the government was going to pay out (see section 3.3).[242]

In the hands of the Board such arguments were arguably mere attempts at self-preservation, and there is little independent evidence that there was now wider public acceptance of the Charge. More widely, supporters of the Charge were bedevilled by the problem that "facts were hard to come by" and the Treasury's frustration with Macmillan's evidence-free argument is very clear.[243]

Butler reminded the Cabinet that the 1951 manifesto had proposed amending the Charge, not abolishing it. He was in any case more moderate in his approach to the underlying issues, which Macmillan acknowledged. The Treasury instead proposed lowering rates of Charge to 75-80% or even 60% in an attempt to preserve it in principle.[244]

The Prime Minister (Churchill) initially refused to take sides or allow the matter to become a dispute at Cabinet, and there appear to have been intensive but private machinations, including a moment where Macmillan's senior officials privately advised him to surrender to the Treasury.[245] Thus, in a challenge to the notion that the decision was an ideological inevitability, it has been argued that the decision could easily have gone the other way.[246] That would have led the Charge to be reformed, rather than repealed, which might have led to its eventual success (see section 2.4.2).

However, the matter was eventually resolved in Macmillan's favour, not least due to his deployment of some impressive Whitehall tactics aimed at outmanoeuvring the Treasury.[247] More substantively, the emphasis Macmillan placed on the private sector element of the Conservative housing programme seems to have been decisive. Although it seems to be accepted that the Charge did not have much immediate impact on development output, it has also been argued that the Charge would have become a bigger problem for developers and landowners if it had outlived other supervening constraints, most notably the building licences regime (see section 3.6.3). Perhaps Macmillan had this in mind.

Ministers were also under some political pressure from the Party. The Solicitor-General (Sir Reginald Manningham-Buller) wrote to Macmillan:

> I am certain that the whole of the Tory party would welcome the abolition of the development charge and that the mere reduction of it, coupled with the refusal to pay the £300m, would irritate our supporters and would be likely to diminish their subscriptions to the party.[248]

A White Paper, published on 18 November 1952, announced the abolition and set out the arguments.[249] The main reasons given for the repeal of the Charge related to its effects in practice, and were not criticisms of the Labour government's own bad decisions, or even of its objectives. This is perhaps suggestive of political caution about criticising those objectives.

Perhaps in recognition of the supervening constraints affecting development volumes during the lifetime of the Charge, the repeal decision did not allege that the Charge had been responsible for low development output. This is an example of a claim later being made about adverse effects which in fact made no clear contribution to the repeal decision.

The two key criticisms related to the alleged land withholding and developer incidence effects:

> To the extent ... that the existing use value basis is effective it has tended to keep land off the market; and to the extent that it has been ignored the cost of development has risen ... Private developers, whose activities the Government desire to encourage, have been severely hampered through being unable to obtain land for development at prices which take sufficient account of their liability to development charge.[250]

It was also argued that the underlying theory of the Charge was not understood and it was perceived as a tax (see sections 2.3.1 and 3.10).

Two design decisions were also criticised. Firstly, it was argued that the particular requirement for judgment – and therefore negotiation – in the establishment of the development value "destroys confidence in its validity". Secondly, it was argued that unpopularity had arisen from the decision to require that the Charge had to be paid up front whereas the offsetting compensation was deferred.[251] This is a direct criticism of bad design at the policy package level.

The White Paper ought to have been easy for Labour to attack, for a variety of reasons. It contained not a single statistic to evidence any of the alleged effects, although this has not prevented subsequent studies from giving the impression that they are settled facts.[252] It is also very difficult to follow the logic of many of the arguments which the White Paper makes, some of which appear to be based on flawed understanding of economics.

For example, the main reason given for not simply reducing the rate of Charge was Macmillan's argument that landowners would never bear the incidence and thus that the Charge would permanently increase the cost of land to the buyer:

> Vendors of land, like vendors of any other commodity, will always get the best price that they can, and the development charge, however small, would in effect be passed on, in whole or in part, to the ultimate user of the land ... Development charge even at a reduced rate would act as a deterrent, and would add to development costs.[253]

It was also argued that the selection of an arbitrary lower rate of taxation would somehow tempt further reductions, as if governments are never in a position to raise tax rates from one arbitrary percentage to another.

Furthermore, some obvious options which would have rendered the White Paper's arguments invalid are conspicuous by their absence. For example, an exemption for private housing was discounted because it was thought to require a similar exemption for public housing, which would in turn have a heavy impact on revenue.[254] But revenue was not an obvious purpose of the policy package (see section 3.4.2), and local authority tax relief would have delivered a precisely offsetting saving in local authority spending, making it fiscally neutral. The argument also suffers from the obvious flaw that an exemption solely for *single* private houses would have resolved the main political difficulty. Finally, the Conservatives could easily have relaxed the requirement to pay in advance of development.

3.12 The aftermath

Despite the weakness of the Conservative arguments, Labour's response to the White Paper and the repealing Act is thought to have been rather feeble.[255] It cannot have helped that Hugh Dalton, who was now the Labour spokesman on the repeal Bill, did not much like the Charge in the first place.[256] He told Parliament:

> The development charge was open to much criticism and much misunderstanding and was not perhaps one of the happiest interventions of the legal mind in our time.[257]

This may have been a sideswipe at Malcolm Trustram Eve's legal background; or Dalton may have been recalling his own earlier complaint about the Act not having been lucidly drafted, and the legal dispute over compulsory purchase which had followed.[258] Dalton later added, rather vaguely:

> ...there may be something to be said for some levy or impost which should fall somewhere upon some elements in land values or increases in land values. But we cannot attempt to insert any such proposal here ... there will be more [attempts] in future ... I should be the last to claim that the development charge was the last word in technical wisdom on this matter ... We may be able to do better later on."[259]

Nevertheless, Labour opposed the Bill at second reading on the grounds that there was "no means for the recovery by the community of socially-created land values".[260] But no meaningful public backlash against the repeal has ever been documented.

There is also no evidence of any attempt by Labour to reflect on the failure of Charge in the immediate aftermath of its repeal. Scholarly legal, economic and planning studies about the Charge began to appear in the mid 1950s.[261] These early studies contained no quantitative assessment, but did formulate a narrative of failure, which drew heavily on the White Paper's arguments, and which appears to have remained fundamentally unaltered since. Even Labour's 1974 White Paper (see chapter 6) broadly accepted this narrative.

The political environment appears to have shifted so decisively that new land policies did not reappear in Labour's manifesto until the 1964 election.[262]

3.13 Conclusions

The Charge is thought to have been a failure. Its difficulties are alleged to have originated in an ambitious policy package, which attempted to solve, at a stroke, all of the problems of introducing comprehensive planning control after the war. The ingenuity of the policy has been praised, but its rigid structure caused many of its problems.

The policy implied a 100% tax rate, although there is no evidence that this rate was as rigidly enforced as is usually claimed – indeed, the valuation process appears to have contained substantial flexibility and was legally required to keep the market moving overall. Even so, the government thought that the ostensible 100% rate was sufficiently likely to adversely affect landowner incentives to sell land that a compulsory purchase strategy was devised to enforce it. A failure to implement this strategy with sufficient vigour is thought to have increased landowners' propensity to withhold land or otherwise resist incidence of the Charge. It is widely thought that landowners believed that the Conservatives would reform the Charge, but it appears that the Conservatives were initially cautious about promising radical change and only formally promised it in 1950. Repeal was not pledged in advance.

It proves difficult to establish how landowners actually interpreted the political and policy circumstances. There is little concrete evidence that landowners did withhold land, even though some parts of the government believed this to be the case. Theoretical claims that landowners would have been incentivised to withhold land ignore other factors which suggest they may in fact usually have continued with sale. Indeed it is clear that many landowners did sell, and may have believed that they were passing incidence of the Charge onto developers. This meant land was not trading at existing use value as the government wanted.

Even if the Charge was indeed passed onwards, the scarcity value of a building licence is thought to have enabled developers to absorb it. But the charges which developers were absorbing appears to have been theoretically and empirically very low – or even zero when it was possible to deduct scarcity value from the Charge assessment. And there was a right to set a Charge payment against a compensation claim, so that there was no upfront cost. Furthermore, much Charge revenue came from local authority housebuilding programmes and not private developers.

All of these factors make it difficult to believe that the Charge was a major or even frequent blockage on land supply or development. And indeed, Charge revenue does appear to have been low. So the biggest impact of the Charge may in fact have been not that it interfered in the usual allocation of development value between landowner and developer; but rather that it had to be haggled over on even minor development before work could start.

On the other hand, it has been claimed that the Charge was beginning to work by 1952, and it does seem likely that the impact of the Charge would have grown as its administration improved (particularly more accuracy and consistency in assessments of development value) and as other constraints on development fell away. Indeed, it could be argued that this prospect, and not the effect of the Charge during its lifetime, was the real reason for its repeal.

We can now attempt to draw some conclusions about the main types and levels of failure which may be observed, and which assisted the repealing government to justify repeal.

Firstly, it can be argued that decisions at every level of policy making contributed to failure. At the *government* level, the government aimed to protect the country from post-war inflation, at nationalising key components of the British economy, and at giving the public sector the dominant role in reconstruction.

These decisions may well have benign in their own right. But they can be seen to have powerfully influenced the design of the tightly integrated 1947 Act. The *policy package* within the Act can also be seen as a positive or even necessary and inevitable set of decisions, with few obvious alternatives. Indeed it has been argued that it was extremely well designed. But each of the instruments within the policy package suffered from some flaws, and the tight interdependence of the instruments meant that a flaw in one had knock-on effects in the others. Arguably the Charge was the part of the policy package which had the most connection to other parts – the compulsory purchase regime, the compensation arrangements, and the planning controls.

Policy package definition should arguably be extended further to include the building licences regime, and rent and price controls on housing, both of which probably had some bearing on the incidence and scale of the Charge. These elements of the package (some of which were under the control of different Ministries) seem not to have been taken into account in the design and implementation of the Charge, suggesting at the very least coordination failures within government leading to bad design.

One reason often cited for these various aspects of bad design is that policy is thought to have been made mainly by "specialists and enthusiasts" in an insular Whitehall bubble without adequate consultation, expertise or senior political oversight, and with remarkable disregard for the risks.[263]

Even if the policy package had been more loosely constructed, this does not mean the Charge would have been successful. There were additional poor decisions at the *instrument and settings* level which were entirely the fault of the tax designers. Examples include the bad economics of the 'seepage' argument (see section 3.5) which contributed to the government's apparent paralysis over reducing the rate of Charge; and the decision to prevent development from commencing until the Charge assessment had been issued (and, in many cases, paid).

Secondly, it is clear that the Charge suffered from failures of all types. *Bad design* (at all levels) appears to be particularly prominent. Bad design at the policy package level may be seen in the ambiguity of the compulsory purchase legislation and the low credibility of the compensation provisions. At the instrumental level problems included the decision to require landowners and developers to fight for a portion of the development value through 'haggling' within the valuation process, rather than just giving it to them through a reduced tax rate; and the decision to impose the Charge on even small changes of use.

This does not necessarily mean that failure was built into the Charge from the start. It is more accurate to say that its inflexible design placed a premium on good implementation. Some implementation decisions at the policy package level seem to have been conducive to success, such as the integration of the Board with the pre-existing War Damages Commission. But there was *bad implementation* too: for example, the decision not to give the Board adequate funds for compulsory purchase (and, even worse, to make this apparent publicly); the failure to have guidance for valuers ready at the outset; and the apparent failure to implement any form of systematic monitoring of the land market to guide adjustment and tactical political statements.

It is perhaps a surprise that there are fewer examples of *bad politics.* Bad design decisions at government level, in particular the government's ambivalence towards the private sector, might be perceived as the consequence of bad politics which misunderstood the public's appetite for socialist nationalisation. But this may not be so; it has been claimed that there was reasonable public support for land nationalisation in the final years of the war.[264] The Conservatives appear to initially have been reluctant to criticise the 1947 Act, suggesting that Labour's government-level and policy package design decisions were not necessarily politically naïve at the outset. The political failures, such as they were, were to misjudge what the public were likely to tolerate in practice (which led to bad design of exemptions); not to communicate effectively about the purpose, benefits and workings of the Charge (though this could be seen as bad implementation); and not to respond visibly and substantively to deepening criticism, including from an increasingly vocal Conservative Party.[265] However, the scale and even the existence of such failings have arguably been under-researched; indeed they often need to be inferred from the arguments that the Conservatives felt able to promote.

Overall, it seems likely that the repeal of the Charge was facilitated by a failure to challenge, counteract and anticipate the power of unevidenced assertions and poor argumentation in the political arena, and to deal effectively and sympathetically with prominent complaints about its operation. There is some evidence that the *substantive* effects of the Development Charge were very minor, and little evidence that they were extensive. But a range of bad design and implementation decisions, in particular the heavy reliance of each part of the policy package on the other parts, appears to have generated sufficiently large *political* effects to enable the Conservatives to secure repeal anyway.

Chapter 4

The Betterment Levy

4 The Betterment Levy

4.1 Introduction

Labour's second attempt at a national development tax – the Betterment Levy (1967-1970) – was arguably a significant improvement on the Development Charge. The design of the Levy was assisted by the 1947 Act having already resolved the profound problem of how to compensate landowners for the loss of their development rights in order to facilitate the introduction of the new planning system. That solution had, by the 1960s, become widely accepted, so that the only task facing the Levy was to extract the 'unearned increment'.

Despite this apparent progress, Labour exposed the Levy to difficulty by integrating it with a wider plan aimed at gradually nationalising the development land market. That plan was to be carried out by a new body created specially for the purpose: the Land Commission. It was decided that the Commission would collect the Levy, which would be charged at just 40% of the development value.

However, the Commission – and the wider principle of effectively ending the private market in development land which it represented – was anathema to the Conservatives, who threatened its abolition before it had even been established. It did not help that Labour decided to give the Commission draconian compulsory purchase powers. Nor did it help that the Land Commission did not perform well in its land purchasing role, and had few friends even within the government. It was quickly wound down by the Conservatives in 1970, and since the Levy was collected by the Commission, the Levy was abolished with it.

The key criticisms which had been levelled at the Development Charge were also levelled at the Levy, especially that landowners withheld land or passed the Levy on to developers, raising prices; and that the Levy was complex and unfair. As with the Charge, it is alleged that Conservative promises of repeal made landowners behave differently than they would have done otherwise.

The Levy was introduced just two years after Capital Gains Tax (CGT). It was argued, with some justification, that this was duplicatory given that CGT was charged at 30%. It has also been claimed that the Levy raised little revenue and was expensive to collect.

4.2 Context

Continuing concern about the availability of land for development, and perceptions of speculative gains to landowners during the economic recovery of the 1950s, led to a revival of interest in development value capture within the Labour party during its years in opposition.[1]

This led in 1961 to a Labour proposal for a national land trading agency – the Land Commission – which would have powers to buy land at a discounted price, but not so low a price that landowners had no incentive to sell.[2] A Labour Study Group was established in 1962 to develop the proposal. Lewis Silkin, the Minister responsible for the 1947 Act, was a member.[3] Among other things, this group was tasked with working out what proportion of the development value the state should seek to capture. After taking account of Silkin's view that the Development Charge might have worked if the rate of tax had been 75%, the Study Group proposed 70%.[4]

The Land Commission policy was included in the 1964 Labour manifesto, which presented it as a solution to "soaring land prices" and a "competitive scramble for land"; at this stage there was no specific mention of a tax instrument.[5] Land issues were prominent in the general election, which Labour won.[6]

Once Labour was back in power, it was quickly realised that a Betterment Levy would be necessary in order to equitably achieve the objective of land sale at a discounted price.

An officials' report on "economic and financial considerations" was prepared about the Levy in early 1965. It covered the anticipated effect of the Levy on land supply, land prices, developer costs and levels of building activity, and financial effects. The report did discuss the effect of "expectations" on land withholding, and of land withholding on land prices, in terms that would be familiar to modern economists. However, it is clear that officials did not think the Levy would fully capitalise into prices, and were again concerned about the possibility of developers 'paying twice' (see section 3.6.2). The paper also foresaw that any reduction in supply might increase prices, a concern which some Ministers also expressed at the time.[7]

Despite this apparent forethought, it has been claimed that Labour's proposals for the Land Commission suffered from a lack of preparation. There were only 46 economists in the entire UK government in 1964, which calls into question the amount of expertise actually deployed in preparing the officials' report.[8] It has also been variously claimed there was a lack of costings, a lack of understanding of the land market, and no recorded doubts about the practicality of the plan.[9] This is despite the fact that the Study Group expressed "serious reservations" about the Land Commission as a whole, which it has been claimed accurately predicted the difficulties which arose. But it seems that the Group's advice was simply not heeded.[10]

Good policy design cannot have been assisted by the fact that after the 1964 election, the Prime Minister had established a separate Ministry of Land and Natural Resources (MLNR), which was charged with establishing the Commission. This Ministry was led by Fred Willey. However, responsibility for housing and planning remained with the Ministry of Housing and Local Government (MHLG), led by Richard Crossman. Thus in the critical period of policy development and legislation, the two Ministers were obliged to agree the policy with each other, resulting in some awkward compromises (see section 4.5).[11] The MLNR was short-lived; its functions were transferred back to MHLG in February 1967, shortly before the Commission began to operate.

The government had introduced a 30% Capital Gains Tax (CGT) in April 1965, making the design of the Levy more complex (see section 4.9).[12]

A White Paper setting out the Government's proposals eventually emerged on 23 September 1965.[13] Although a tax component to the policy package had not originally been envisaged, the radicalism of the Land Commission idea alarmed moderates in the party (including Crossman) who were successful in ensuring that the White Paper did propose a Betterment Levy, not least to ensure that there was again equal treatment of landowners no matter who they sold their land to, as had been the case under the Development Charge.[14] On the tax rate, the White Paper stated:

> The rate of levy can ... be determined independently in the light of the requirements of land for development and the need to recover betterment for the community. It will be prescribed by order at an initial rate of 40 per cent which in the Government's view is a modest rate leaving ample incentive to owners to offer their land for development. But it is the Government's intention to increase the rate progressively to 45 per cent and then to 50 per cent at reasonably short intervals. The question of increasing the rate further will be examined as acquisitions by the Commission, and thus their ability to provide land for development, increase.[15]

Meanwhile, even as Conservatives attacked the overreaching interventionism of the Land Commission proposal (see section 4.7), moderates within the Conservative party were arguing in favour of development taxes, and the issue appears to have been repeatedly considered both by the party in Opposition and within the 1959-1964 Conservative government. Political positions were pragmatic, responding to the economic conditions of the day more than the demands of pressure groups.[16]

Indeed some analysts argue that there was a substantial consensus on development taxation in the first half of the 1960s and that had the Conservatives stayed in power in 1964 they probably would have introduced a levy themselves.[17] They had already introduced a short term gains tax in 1962 which was especially targeted on gains in land.[18] And in early 1965, just as Labour's new UK Capital Gains Tax was about to come into force, a young Nigel Lawson wrote:

> Ask any Conservative candidate on which issue he felt most vulnerable during the last General Election, and the odds are he will answer 'land' ... The Conservative Party manifesto ... took up an intellectually honest but politically disastrous posture of agnosticism on the ... sensitive issue of land profits ... A special capital gains tax on land transactions ... would provide the Conservative Party with the policy it so manifestly lacked during the ... campaign. (Lawson 1965:13-15)

Labour won the subsequent 1966 election with an increased majority, enabling them to pass the Land Commission Act 1967.

The Act empowered the Land Commission to buy land compulsorily.[19] The Commission was only able to buy land which was allocated in a development plan or which had planning permission, and only for the purposes of facilitating development.[20]

Even so, the process for compulsory purchase was regarded as contentious because it required neither representations from the owner to be considered, nor a public inquiry to be held.[21] Apparently to placate Labour ministers who argued for more radical nationalisation of development land, the Cabinet also agreed that the Act should include a second phase of reform in which the Commission could buy development land for any purpose at all, effectively making it a monopoly purchaser.[22] This phase was never implemented, but the fact that it had even been provided for aroused particularly strong suspicions and objections. Indeed, it has been argued that the mere threat of this second stage was fatal for the Act.[23]

The Act also created the Levy.

4.3 Core features of the tax

The Levy came into force on 6 April 1967 at a rate of 40% of the development value. Despite the proposals to do so in the White Paper, the rate was never increased.[24] Once again the rate was not stated on the face of the Act; instead it was determined by Ministerial Order, a bad design decision which arguably unnecessarily irritated the Conservatives (see section 4.7).[25] The taxation of gains on the existing use value, rather than the development value, would continue to be achieved via Capital Gains Tax.[26]

In contrast to the Development Charge, the Levy was to be paid by landowners at the time of sale, not the developer buying the land; it seems plausible that this was a naive attempt to ensure that tax incidence remained with the seller. The decision to impose the Levy on land sales also appears to have arisen from the view that imposing it upon commencement of development had proved "unworkable" under the Development Charge.[27]

The Levy was payable at six different taxable events or 'cases'.[28] The two main 'cases' were commencement of development and the sale of land containing development value, whether or not development had actually taken place. The imposition of the Levy on some of these events is said to have been regarded as unfair (see sections 4.8 and 4.10). The calculation allowed landowners to increase the existing use value by 10%, thus providing a further margin to protect development viability on top of the low rate.[29]

The Act controversially gave responsibility for collecting the Levy to the Land Commission, apparently on the grounds that it would not be appropriate to give the Inland Revenue compulsory purchase powers.[30] Analysts have never found this argument persuasive and it looks like bad design of the policy package in hindsight. At the very least it facilitated the unhelpful impression among landowners that the compulsory purchase powers only existed as a means of forcing landowners to pay the Levy (see section 4.5). This impression was perhaps reinforced by the fact that the Commission's enforcement powers did not include the usual power given to tax authorities to impose a land charge enabling recovery of tax from land sale proceeds.[31]

Valuations were conducted by the Valuation Office of the Inland Revenue.[32] In contrast to the Development Charge, there was now a right of appeal on assessments, to the Lands Tribunal.[33]

Any land which the Commission bought was purchased at a price exclusive of the Levy, thus reintroducing the principle of equal treatment of landowners no matter who they sold their land to.[34]

Revenue from the Levy on private transactions was passed to the Treasury.[35] This was also contentious. The 1965 White Paper had rather vaguely promised that local authorities would "benefit financially from the operations of the Commission ... in one way or the other" but ruled out a direct allocation of levy proceeds to local authorities "since the benefit could vary between local authorities in an arbitrary fashion."[36]

There were generous transitional exemptions which meant that an estimated 73,600 acres of land would pay no (or negligible) Levy (Table 4.1). The government estimated that this represented about two years' worth of supply of development land, which was corroborated by at least one independent prediction.[37] In theory some land could have been exempted until September 1970 because planning permissions issued in 1965 were valid for five years. It is not known how accurate these estimates turned out to be.

In 1969, a further permanent exemption was granted from 6 April 1969 for any assessment with a market value under £1,500 (£27,900 today), and owner-occupiers were also effectively removed from liability. Prior to this date there had been no exemption for smaller developers. This concession took 53% of all taxpayers out of the Levy's remit at a cost of only 8.5% (£1.5m) of the revenue, thus reducing collection costs.[38]

The government undertook a lengthy review of the Levy during 1968 which appears to have resulted in no changes other than, possibly, the new exemption mentioned above.[39] Options including raising the rate, adding tiered rates, reintegrating the Levy with CGT, or transferring Levy collection to the Inland Revenue were all considered and rejected or deferred. The option of simply removing taxation on the most controversial of the six taxable events, which raised little revenue, seems not to have been considered (see Table 4.3 and sections 4.8 and 4.10).

4.4 Revenue and collection

4.4.1 Forecast and actual revenue

Upon publication of the Land Commission Bill, the government estimated the gross yield at £80m (£1,650m today) "in a full year" on the basis of a 40 per cent rate. This figure included the 'net of tax' benefit of the Commission's own acquisitions, and was derived from estimates of the total value of land needed for development in any one year and the amount of development value included in the purchase price. The number of likely assessments was estimated as approximately 300,000 annually – which was a very significant overestimate (see Table 4.2). The government stated that it was not expected that the figure of £80m would be reached for "four or five years" (Land Commission 1968:33). Documents supporting the repeal legislation later revised this forecast down to £65m.[40]

Actual revenue is shown in Table 4.2. Revenue fell far short of the forecast in the first three full years.

Table 4.1: Estimated extent of Betterment Levy transitional exemptions

Type of exemption	Extent of exemption (acres)
Development commenced before Levy comes into force (6 April 1967)	50,000
Development of a single family home on land already owned on date of White Paper (23 September 1965)	100
Development of other land already owned and with planning permission on date of White Paper (23 September 1965)	16,000
Development of land bought between 1 August 1966 and 5 April 1967, provided development commenced by 6 October 1967	2,500
Development land sales under compulsory purchase agreed before 6 April 1967	5,000
Total	**73,600**

Source: Land Commission 1968:12-13.

Table 4.2: Betterment Levy revenue and assessments 1967-81

Financial year	Assessed (£m)	Collected (£m)	Net of tax benefit to Commission (£m)	Assessments (no.)	Average tax per assessment (£)
1967-68	1.6	0.5	-	3,449	493
1968-69	14.9	8.1	0.6	15,390	994
1969-70	30.9	21.1	1.2	18,178	1,749
1970-71	32.0	24.5	0.1	11,935	2,681
1970-71*	*(104.0)*	*(79.8)*	*(0.3)*	*(38,895)*	*(2,681)*
1971-78	-	-	-	-	-
1978-79	-	0.2	-	-	-
1979-80	-	0.2	-	-	-
1980-81	-	0.1	-	-	-

*Source: Land Commission annual reports for the years shown; for 1978-79 onwards, HC Debates 21 Nov 1979 vol 974 col 211; HC Debates 14 April 1981 vol 3 col 131; author's calculations. '-' indicates missing data. *Figures bracketed in italics are author's estimates extrapolated to a full year had the Levy not been repealed on 22 July that year.*

Table 4.3: Betterment Levy assessed revenue by taxable event

Financial year	Case A Sales of land	Case B Creation of tenancies	Case C Commencement of development	Cases D,E,F Others
£000s nominal				
1967-68	1,455	13	175	2
1968-69	13,584	144	1,201	10
1969-70	28,054	715	2,116	36
1970-71	28,911	936	2,123	30
Total	72,004	1,808	5,615	78
% of annual revenue				
1967-68	88.4%	0.8%	10.6%	0.1%
1968-69	90.9%	1.0%	8.0%	0.1%
1969-70	90.7%	2.3%	6.8%	0.1%
1970-71	90.3%	2.9%	6.6%	0.1%
Total	90.6%	2.3%	7.1%	0.1%

Source: Land Commission annual reports for the years shown; author's calculations.

However, more revenue was assessed in the first four months of the fourth year (£32m) than had been assessed in the whole of the preceding year (£31m). This dramatic improvement is usually attributed to the progressive expiry of the transitional exemptions.[41] Extrapolating that £32m figure to the whole of the fourth year suggests that annual assessments would have reached £104m (£1,770m today), higher than the £80m forecast, had the Levy not been repealed during that year.

The average Levy liability across these four years can be calculated as £1,651 (£30,700 today) *per development.* Thus on average, and in today's prices, the Levy was a much greater imposition on landowners than the Development Charge had ever been, but still less than is typically extracted *per house* today via planning obligations.[42]

Small amounts of Levy due were still being collected as late as 1980-81, a decade after repeal.

Over 90% of revenue was collected under 'Case A', which related to disposals of land (Table 4.3). Only £78,000 (£1.4m today) was collected in total under cases D,E and F.

4.4.2 Low revenue

Unlike the Development Charge, the Levy was "intended to generate revenues" despite the Land Commission's overall objective of nationalising development land.[43] However, most analysts argue that revenue did not live up to forecasts.[44]

As Table 4.2 shows, this is superficially true, but it is usually never conceded that there were a number of good reasons for this outcome. Firstly, revenues may never have fully matured because of the lengthy transitional arrangements, which may have been unavoidable (see section 4.6.4). Secondly, revenue from new taxes takes time to build up because of lags between assessment and collection. Thirdly, it was allegedly efficient to delay payment of the Levy because the government charged a lower interest rate on debts than banks did.[45]

Furthermore, by 1970, the Commission was thought to have been getting into its stride and was raising reasonable amounts.[46] Annualised estimates of the Levy's revenue show that it was meeting the forecast in the year it was abolished (see section 4.4.1).

Indeed, this establishment of a credible annualised revenue figure has significant narrative consequences. It means that previous comparisons of the Levy with other development taxes have dramatically understated its relative revenue-raising power.[47] At the moment it was abolished, Levy revenue was also substantially higher in real terms than that of CIL in 2018-19 (see section 7.6).

A comparison of Levy yield with that of Capital Gains Tax in its early years also undermines the argument that the Levy raised less than it reasonably could have done. As Table 4.4 shows, the Levy performed better than CGT. This is perhaps accounted for by the fact that the Levy taxed unrealised gains and gains prior to ownership, whereas CGT only taxed realised gains arising after 1965.

Table 4.4: Betterment Levy and Capital Gains Tax collected, first four years of operation of each tax (£m)

	Capital Gains Tax (1965-66 to 1968-69)	Betterment Levy (1967-68 to 1970-71)
Year 1	0	1
Year 2	7	8
Year 3	15	21
Year 4	47	**(80)*

*Source: Table 4.2 above; Butler & Butler (1994:391).*Extrapolated to a full year*

Whatever the claims made about apparently low Levy revenue by later critics, there is no record of the Conservatives ever having cited low revenue as a reason for repeal. Thus, within an analytical framework which prioritises those failings which increased the risk of repeal, low revenue does not seem as relevant as critics usually claim. The absence of the criticism of low revenue may partly be explained by indications that revenue was not really low at all. This does not mean that nothing could have been done to ensure that revenue was increased; but any failure to do so seems not to have mattered.

4.4.3 Collection costs

The Commission's accounts were rather convoluted, but the net cost of collecting the Levy is shown in Table 4.5. During its lifetime the Commission had between 1,000 and 1,400 staff. The majority of the staff are said to have been involved in collecting the Levy, even though in theory this was supposed to be the Commission's secondary task.[48] Collection costs were undoubtedly inflated by the fact that the Commission's valuers had to check over one

Table 4.5: Betterment Levy collection costs and staff numbers

Financial year	Levy collected (£m)	Collection cost (£m)	Collection cost (% of collected Levy)	Staff (number, end of financial year)
1967-68	0.5	2.4	480%	1,404
1968-69	8.1	2.0	25%	1,193
1969-70	21.1	2.6	12.3%	1,068
1970-71	24.5	2.8	11.4%	100

Source: Cox (1984:152), author's calculations. Collection costs include services provided by other government departments to the Land Commission.

million land transactions each year, over 95% of which did not give rise to any Levy liability. This is an even greater processing inefficiency than that suffered by the Development Charge (see section 3.4.1).[49]

4.5 The Land Commission's role and performance

Attacks on the Land Commission appear to have been of a more fundamental nature than those upon the Central Land Board. There were a wide range of reputational, economic and administrative difficulties, giving the impression that it was a costly, "disheartening … and politically embarrassing failure". Such was the level of criticism that Labour Ministers even considered abolition of the Commission just one year into its life, but concluded this was a "political impossibility."[50]

The unpopularity of the Commission's objectives, and the difficulty it had in meeting those objectives, are usually thought to have been the reason for its repeal.[51] However it has been recognised that analysts often do not distinguish between criticisms of the Commission as a whole (that is, the policy package), and criticisms of the two policy instruments it deployed – the land trading operations, and the Levy.[52] This can make it difficult to disentangle the type and level of the failures identified, although usually discussion focuses on the failures of the land trading operations rather than the Levy.

It is almost universally thought that the Commission proposal, and then the Commission in reality, appears to have alienated almost all the stakeholders whose support it needed.[53]

Local authorities saw the Commission as usurping their role as development facilitators and refused to cooperate with it.[54] They were not given Levy receipts. Nor did they have the same right as the Commission to buy land 'net of Levy', putting local authorities at a disadvantage – at least in theory.[55]

The Commission's rather independently-minded chairman Sir Henry Wells, seemed determined to attack local authorities.[56] Wells blithely explained to *The Economist* that

> there might be a slight difference between the way I am administering the Act and the way it was put over in Parliament ... if you get planners working entirely on their own, without continually being reminded that they are using national resources, they sometimes go absolutely haywire.[57]

The Commission also lacked support in *central government*. The Ministry of Housing and Local Government (under Richard Crossman) naturally sought to protect local authorities, and during 1965 it largely won a Whitehall battle with the Ministry of Land and Natural Resources (under Fred Willey) aimed at watering down the original Land Commission proposals. The compromise that the two departments worked out – including the two-stage approach to implementation – appeared to please no-one.[58] The Treasury thought the Commission "an expensive irrelevance" and stamped on the Commission's attempts to build up a slush fund from land sale proceeds.[59] It is argued that – partly because of compromises and disputes within Whitehall about the Commission's role – it had an unclear and all-encompassing remit so that it became a millstone for Labour.[60]

Finally, some *landowners and developers,* especially smaller builders, are thought to have been initially sympathetic to the Commission because of its potential to increase supply and development.[61] However others saw it as unhelpful competition and, along with the Conservative Party, were hostile to the possibility of the Commission becoming the monopoly purchaser of land in the second phase of reform. The *Estates Gazette* labelled it "a political body [which] could not be objective."[62]

The Commission's land trading programme had a troubled life. To avoid the problems which had beset the Central Land Board, the Commission was given allegedly controversial and sweeping compulsory purchase powers.[63] Whether they were really that sweeping in practice is a matter for debate, because local authority planning decisions dictated when they could be used, thus tying the Commission's hands somewhat (see section 4.2). There were also legal doubts about the legality of using compulsory purchase purely to suppress land prices, as had been the case for the Development Charge (see section 3.9).[64]

The Commission's land buying programme proceeded painfully slowly compared with forecasts, and suffered from an inadequate £45m budget. It only bought only 3,272 acres of land in total compared with an apparent forecast of 50,000 acres annually. Commentators have concluded that the Commission's operations were too limited to have any effect on the wider land market, which made it look expensive for the benefits it provided.[65]

On the other hand, it is claimed that the Commission pushed up prices in the land market through its activities. But the scale of this effect has never been evidenced and the claim is difficult to reconcile with the argument that the Commission bought hardly any land. It has also been claimed that the Commission risked giving the impression of favouritism and bias in deciding which developers it wished to help – but again no specific evidence has ever been cited illustrating this effect.[66]

As an entirely new agency, the Commission struggled to mobilise itself, taking "years to assemble."[67] The threat of repeal made it difficult to recruit and retain technical staff. Local authorities thought that the Commission was unhelpfully competing with them for such staff.[68] Indeed, it is said that the Commission consumed so much valuation resource that the 1968 rates revaluation had to be cancelled.[69]

The Commission's other role of collecting the Levy does not escape criticism either. It is thought this role meant that landowners and developers interested in trading with the Commission treated it warily. This caution is somewhat understandable given that the majority of Commission staff were in practice focused on collecting the Levy, which is said to have given the impression that the compulsory purchase powers were mainly a Levy enforcement tool rather than a land assembly tool.[70] The Commission also struggled to handle the complexity of the Levy and the volume of land sale notifications it had to filter (see section 4.4.3).[71]

Failures of almost all types and levels may be seen in this account of the Commission's difficulties, even before any consideration of any failures specifically caused by the Levy. At the government level, the Prime Minister's decision to create a separate Ministry of Land and Natural Resources increased the risks of compromises and bad design within the policy package, which meant it was more difficult to present the policy coherently in the political arena. The policy package rejected every existing available instrument for securing the government's overall objectives, leading to the accusation of duplication, and to a suspicion among stakeholders that the government wanted the Land Commission to supplant their role – whether landowners, local authorities, or the Treasury. Whatever the substantive achievements of the Land Commission, it was bad politics to have engendered such widespread lack of support. This lack of support was arguably worsened by the bad design decision to include the nationalising second stage of reform in the Act, even if this was good politics with respect to the left wing of the Labour Party. Whatever Willey might have believed, it was the Conservative Party, and not the left wing of the Labour Party, whose support was critical to the policy's success.

The design of the land trading instrument itself also left much to be desired, not least because the compulsory purchase powers were legally uncertain, and constrained by local authority planning decisions. It was arguably too much to expect that the Commission could ever have had more than a local impact on rising land prices.

There was bad implementation, mainly arising from the fact that the Commission had to be established from scratch, and was underfunded, immediately exposing it to the accusation that it had not met the confident (arguably unrealistic) expectations which had been build up for it.

4.6 Land market effects

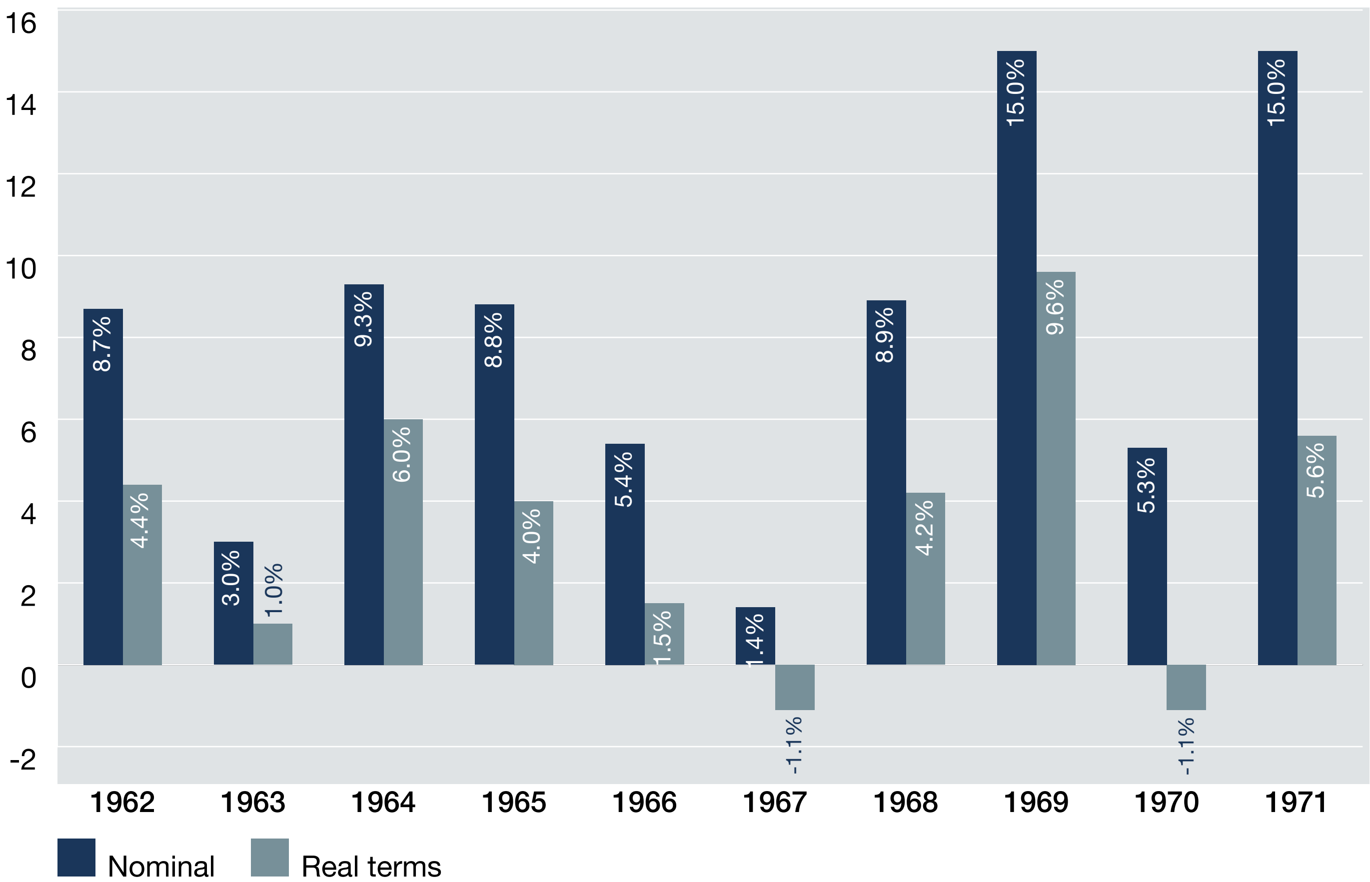
4.6.1 Land market effects: land prices

Discussion about the alleged land market effects of the Commission, and of the Levy, must be prefaced with a caveat that analysts have repeatedly complained about the lack of data with which to investigate such effects.[72] The Land Commission itself confessed it was reliant on *Estates Gazette* reports for information about the land market.[73] Like those of the Central Land Board before it, the Commission's annual reports contained not a single statistic about land market trends during its lifetime. From the mid 1960s onwards, the government made concerted efforts to collect and publish more systematic land market data than had been available previously, but this data has only rarely been used.[74]

It is known, however, that land prices rose sharply during the Commission's lifetime (Chart 4.1). The price of an acre of residential land in London more than doubled between 1967 and 1970. House prices also increased. The Commission was blamed, not least because it had been given the arguably unrealistic objective of restraining both.[75]

But the extent to which the Commission's activities worsened land price increases (if at all) remains uncertain, and it is also often unclear which of the

Chart 4.1: Change in residential land prices, England and Wales, nominal and real basis, 1962-1971 (%)



Source: Adapted from data set reported in Cheshire (2009). Values for 1962-69 are based on some data relating only to England. Real terms values are calculated using the Retail Prices Index.

Commission's two functions is being blamed.[76] Of those critics who focus specifically on the Levy, Donald Denman appears to be isolated in claiming there was "a considerable amount of evidence that [the Levy] stimulated the rapidly rising land prices," especially since he cites none.[77]

Analysts have more usually simply noted that the argument was put; or that on theoretical grounds no price inflation should have been expected. The only credible econometric study ever conducted in the development tax field found that the Levy had not been responsible for the observed increases in land prices.[78] It has also been shown that site value as a percentage of the total cost of a new house did not increase at all between 1968 and 1970, staying at roughly 21%.[79]

The Levy was one among a vast range of factors which might have stimulated prices. Examples of other factors cited (though rarely evidenced) include the November 1967 currency devaluation, Selective Employment Tax, leasehold enfranchisement, a mortgage credit squeeze, regulatory restrictions on office development, construction industry pay claims, and even the June 1967 'six day war' in the Middle East.[80] In its attempts to defend the Commission, the government offered two explanations for rising prices. Firstly, that developer competition for land was particularly intense; and secondly that local authorities were failing to designate enough land for development – in other words, that local authorities, and not landowners, were restricting supply.[81]

Whatever the truth of the matter, it appears that the war of words conducted over the Commission's effects was won by the Conservatives, who in justifying repeal felt able to argue that the Commission had put up prices (see section 4.11). If nothing else, this represents bad politics on Labour's part, which arguably originates partly in the bad implementation arising from failing to undertake, let alone publish, adequate monitoring and analysis of the market.

4.6.2 Land market effects: land withholding

Land withholding is alleged in response to the Levy. But the precise cause is a matter of some confusion. It has occasionally been suggested that the 40% rate was sufficient disincentive to have this effect, but the fact that this rate left 60% of the development value to the landowner makes the argument more difficult to accept, certainly compared with the higher rates prevailing under other development taxes. Thus it is more common for repeal expectations to be blamed. However, it seems likely that even repeal would not have left landowners much better off (see section 4.7).[82]

The extent of land withholding in response to Levy is also unclear, and contested, and very little data has been deployed in the argument. John Ratcliffe, an academic, claimed to have undertaken an "extensive survey at the time" which found that "very few" landowners withheld land in response to the Levy. Unfortunately it has not been possible to locate this survey.[83] The claims of most other analysts that there was, or was not, withholding are variously unevidenced, unsourced, or extremely circumspect.[84] Certainly there has never been any suggestion that the market 'froze' or 'dried up', which was the alleged effect of the Development Charge. There is a clear implication of a continuing – if potentially subdued – private market in land.[85]

Only one econometric study has ever been conducted to examine changes in land transactions under development tax conditions; this relates to the Betterment Levy. Using regression analysis on a half-yearly data series from 1963 to 1973, including a dummy variable for the period during which the Levy was in force (mid-1967 to mid-1970), this study finds that the Levy was associated with a 30% fall in the number of housing land plots sold during that period.[86]

This result is suggestive. But it should be treated with some caution not just because of the risk of confusing correlation with cause, but also because the dummy variable is arguably also capturing the Commission's land trading functions and indeed its reputation, not simply the effects of the Levy. The methodology is also not entirely transparent, and contradicted by other evidence relating to forestalling (see section 4.6.4).

As is the case for the Charge, analysis has typically overlooked some specific circumstances which means withholding could have been a false economy and thus not necessarily indicated in theory, let alone in practice.

Firstly, upon repeal, the tax rate on development gains for most landowners would not have been nil, as was the case after repeal of the Development Charge, but 30%, because of the introduction of Capital Gains Tax (CGT) in 1965 (see section 4.9). Thus the benefit of withholding land in expectation of repeal would have been substantially lower than had been the case under the Development Charge, and lower still if landowners thought that the Conservatives might end up cutting the Levy rate rather than repealing it.

The existence of CGT is usually ignored by analysts, but even among those who refer to it, it has always been assumed that landowners preferred exposure to CGT at 30% rather than the Levy at 40%. But at the time, the burden of CGT was argued to be "much heavier" than the Levy because of differences in the calculation formula.[87] One possible explanation is that the 10% addition permitted in the calculation of the existing use value under the Levy (see section 4.3) was worth more to landowners than the lower CGT rate, in circumstances where the existing use value was very high relative to the development value.

Secondly, repeal was hardly certain. The Conservatives had rather ominously not promised it, and their re-election did not look likely. Labour had significantly increased their Parliamentary majority in the 1966 election and the Conservative victory in 1970 was not expected.[88]

Thirdly, and partly because it looked like Labour might form the next government after 1970, it was arguably just as likely that the Levy rate would go up to 50%, as the White Paper had threatened (see section 4.2), rather than being abolished. In these circumstances it is not at all obvious that landowners would have been prepared to wait for a further general election. Indeed, it has been claimed that the White Paper had signalled increases in the rate precisely to "encourage early sales of land" and discourage withholding.[89]

Some commentators have alleged that land withholding was partly responsible for land price rises, but few offer any supporting evidence for this contention, and no quantification of the effect has ever been offered.[92] In any case, as we have seen, the only detailed study found no such effect, whatever the cause.

Box 4.1: Did the Land Commission's land trading activities offset land withholding?

It was the whole purpose of the Commission to increase land supply and pressurise landowners into releasing more land, so it may not have mattered in the medium term if some landowners decided to withhold their land. However, it has been suggested that the amount of land withdrawn from sale because of the Levy was probably not offset by the Land Commission's land buying activities.[90]

A rough calculation shows this judgment to be plausible, but only because the Commission was abolished so soon after it had been set up. If it is assumed that the 30% figure is reliable (see main text), then the 8,786 acres of housing development land sold in 1969 would represent a 30% drop on the expected volume of sales. This means around 3,765 acres of land would have been withdrawn. This figure compares with the 1,261 acres of land that the Commission itself bought in 1969-70 and which it would in due course have returned to the market for development. This is a clear net loss of land in the market.[91]

However, although the Commission was very sluggish in buying land initially, it had bought 2,207 acres, and a further 9,273 acres had been approved for purchase, by the end of 1969-70. The total of 11,480 acres would, if spread across the three years of the Commission's life, roughly match the 30% of land which may have been withdrawn. In other words, had the Commission survived for even slightly longer, its activities overall would have been neutral for market volumes.

It is thus difficult to conclude that land withholding did in fact take place to any serious extent. As noted above, there is only one credible study which claims that it did; the Commission's own activities may have been able to counteract it (see Box 4.1); and the finding that there was withholding is difficult to reconcile with the evidence on forestalling (see section 4.6.4).

Perhaps as a result of such difficulties, and in contrast to the accusations levelled at the

Development Charge in 1952, the incoming Conservative government did not allege that the Levy had led to land withholding in its repeal statements in 1970. Instead, it confined itself to very general arguments that the Commission had not increased land supply and that the Levy had put up prices. Thus, within the context of a framework that seeks to explain the factors which legitimated repeal, accusations of land withholding may not be relevant, except rather indirectly as a contributor to the argument that land supply did not increase. It follows that expectations of repeal may not be relevant either, as it is these expectations which are usually cited as the prior cause of withholding.

If significant land withholding did not occur, it proves necessary to turn to bad politics, rather than bad policy, to explain why it has formed part of the narrative of the Levy's failure ever since. Indeed, the best explanation seems to be that Labour had been overambitious in their public statements about the beneficial effects of the Land Commission on land supply, despite having been warned about the danger of doing so by their own Study Group (see section 4.2). It would not be surprising if critics opted to allege that the Commission had actually had the opposite effect. That approach had the benefit of attacking the workability of the government's policies, rather than the validity of its objectives.

4.6.3 Land market effects: developer incidence

It is often suggested that, as with the Development Charge, developers ended up paying at least some part of the Levy, thus increasing the effective cost of land. But it has been argued that these claims are not theoretically credible, especially the implicit claim that the demand-determined nature of land prices suddenly ceased to apply.[93] Furthermore, the Levy (or at least the Commission) appears not to offer any no statistically significant explanation for the land price rises which were observed (see section 4.6.1). [94]

This has not prevented analysts from claiming, usually on the basis of no evidence, that developers nevertheless did bear incidence.[95] Even Peter Hall's respected 1973 study turns out to rely rather too heavily on Patricia Ellman's MSc thesis in claiming that it "provides many examples" of developer incidence.[96] In fact Ellman's review of 43 reports in *Estates Gazette* in 1967 and 1968 found them "irritatingly vague". There was "no comprehensive data, only an uncoordinated collection of hysterical cries about record price increases" from developers; indeed the tone of this study is generally sceptical of the claims that were made about the adverse impact of the Levy. Hall et al faithfully reproduce Ellman's view that landowners "definitely expected" to be able to pass the Levy on, but omit to include her caveat that they were "not being entirely successful". Ellman implies that the levy was capitalising into land prices even if landowners imagined otherwise, and that landowners decided to wait, and withhold land, precisely because developers were refusing to accept incidence.[97]

It has also been alleged that developers passed the cost of the Levy onto consumers.[98] The repeal decision certainly asserted that the Land Commission had increased land *and* house prices. Officials had also thought this effect "likely" in 1965, but its likelihood has been challenged on theoretical grounds given that prices are usually set by demand rather than by supply; and no persuasive evidence of it has ever been cited.[99]

Thus, as with the analysis of withholding above, it again proves difficult to identify bad design within the policy. Bad politics again seems to be to blame, not helped by the bad implementation indicated by Labour politicians not having counter-evidence to hand with which to make their case. The problem was that land and house prices were unquestionably rising, and politicians seem not to have been able to show with sufficient speed that their policies were the solution rather than the problem – if, indeed, it was ever theoretically credible to expect the Commission to achieve a meaningful reduction in prices at all.

4.6.4 Land market effects: forestalling

A number of studies argue that forestalling contributed to the failure of the Levy. Usually this is because of the volatility that it is said to have introduced into the land market, and its impact on revenue.

Two separate forestalling effects may be discerned: the early purchase of land and the early development of land.

There were exemptions from the Levy for land bought before certain dates (see section 4.3). It has been widely argued that builders duly did so, and that the market immediately after the Levy came into force was therefore subdued.[100]

There is reasonable evidence for this contention. Table 4.6 shows that a surge in residential land auctions in 1966 was followed by a quiet 1967, both in absolute terms and relative to a calculated 5-year average. This auction data should be interpreted with some caution because it represents less than a fifth of all transactions in the market.[101]

Table 4.6: Number of residential land auction sales, 1965-1969

	Sales (no.)	Compared with 5-year average
1965	275	-10%
1966	362	+20%
1967	229	-25%
1968	320	+5%
1969*	336*	+10%*

*Source: McAuslan (1969:225); author's calculations. Five year average sales = 304. *Estimate for 1969 is extrapolated from McAuslan's data for the first seven months of that year.*

This data is difficult to reconcile with the related finding of a 30% drop in residential land sales during the Commission's lifetime (see section 4.6.2). Table 4.6 indicates volatility rather than depressed volumes overall, with land sales that would otherwise have taken place in 1967 simply being shifted into 1966 (to avoid the Levy) or into 1968 (once the market had stabilised), rather than being withheld until after repeal in 1970, as is usually claimed. It has thus been suggested that the 30% drop observed may well have been due to forestalling rather than withholding.[102] Even developers seem to have understood that forestalling would give the "illusion" of a withholding market which was actually merely quiet because immediate demand had been met.[103]

It is even more commonly argued that developers commenced development early to avoid tax, eroding revenue. The implication is usually that these were superficial 'starts' which amounted to little more than digging holes. The government estimated that the exemption for 'starts' before the Levy came into force caused about 50,000 acres worth of development land supply to be exempt (see section 4.3). But no credible quantification of the actual effect has ever been offered; indeed, even anecdotal evidence is difficult to locate.[104] The only data available does show a spike in 'starts' in March and April 1967, but this data is not persuasive because it includes neither seasonal adjustment nor year-on-year comparison.[105]

It is usually claimed that forestalling was unintended. But in fact the government gave it careful thought and decided, on balance, that transitional exemptions should err on the generous side.[106]

It is also usually claimed that forestalling was an adverse effect, and contributory to failure. But the pre-advertised rate increases (see section 4.2) were intended to incentivise early sales of land and deter immediate withholding. It does not therefore seem logical to deem that forestalling – which would have had precisely that effect – was undesirable or unintended. For developers, the purpose and effect of forestalling was to smooth development output in a volatile and uncertain land market. Table 4.6 shows that the market had normalised by 1968, and there is no evidence that forestalling produced longer term adverse effects.[107]

Thus, forestalling was arguably a tolerable and relatively minor temporary shock. This may explain why it did not figure in the Conservatives' arguments for repealing the Levy. Perhaps it was understood that the alternative would have been worse. Without the transitional exemptions, the market would have experienced a more abrupt (and thus more contentious) shock. Indeed, the Labour government may not have been able to get the legislation through Parliament at all.

Naturally the Conservatives would not have wanted to give the Labour government credit for making the right decision, even if it sacrificed revenue in the short term. But to claim that forestalling was contributory to the repeal of the Levy, or was even a failure in its own terms, seems to miss the point. Better design might have created less volatility than is actually observed, and might have increased revenue. But the transitional arrangements caused no obvious long-term problems, substantially eased the introduction of the Levy, and arguably reduced the risk of repeal compared to other potential tax settings. Along with the low rate, the transitional exemptions can be viewed as an example of good design.

4.7 Expectations of repeal or reform

It has been argued that because the 40% rate left a significant incentive for landowners to sell land, repeal expectations bear the main burden of explaining any land withholding in response to the Levy.[108]

Although moderate Conservatives supported the taxation of development gains in principle in the first half of the 1960s, it has been argued that the radicalism of the Land Commission idea caused the Conservatives to adopt a more adversarial position thereafter, and especially following the March 1966 general election when new Conservative opposition spokespersons were appointed, including Margaret Thatcher. When the Bill was brought before Parliament in 1966, the Conservatives immediately pledged to abolish the Land Commission when returned to office.[109]

It is often claimed that this commitment to abolish the Commission gave landowners reason to expect that the Levy would also be repealed, and even that the Conservatives gave an explicit commitment to do so.[110] It could also be argued that the 1952 Conservative decision to abolish the Development Charge was clear evidence of their willingness and ability to abolish the Levy (see section 3.11).

But in fact the Conservatives only specifically committed to abolishing the Levy shortly before the 1970 general election, when the commitment appeared in their election manifesto:

> Labour's betterment levy has increased bureaucracy and put up the price of land and houses. We will do away with it and collect any tax due on a sale of land through the capital gains tax, with exemption for owner-occupiers.[111]

Prior to that point, a specific clarificatory commitment that the pledge to abolish the Commission encompassed abolition of the Levy would have been easy to make. But no such commitment has ever been located. Indeed it is conspicuous by its absence. In early 1969, the Minister (Willey) himself pointed out in Parliament that the Conservatives had

> made quite clear that, in spite of a lot of blather from the Opposition about abolishing the Land Commission, they will not abolish the levy.[112]

Landowner representatives must surely have noticed this, especially when paired with observations in industry journals at that time that at least some parts of the Conservative party remained open to some kind of development taxation.[113] Indeed, in debates on the Bill, the Conservatives only opposed "*separate* betterment charges" (emphasis added).[114] Meanwhile the Conservative leader (Edward Heath) noted that "we do not say that there should be no levy."[115]

The Conservatives' studied ambiguity appears to have led commentators at the time to speculate that the Levy might survive, for example by transferring it to the Inland Revenue, a possibility which had indeed been privately considered by the government.[116] For others, the Commission was simply "too big to kill" – and even if it was abolished, something else was "certain" to be substituted for it.[117]

On the other hand, the Conservatives had been similarly coy about abolition of the Development Charge throughout its entire lifetime, so the absence of any specific commitment to repeal of the Levy might perhaps have been discounted by landowners as understandable practical politics. And Conservative support for the principle of a development levy was conditional on it being levied at a reasonable rate, administered by the Inland Revenue, and at a rate which was stated on the face of the legislation. The Levy met only one of these conditions (a 40% rate was arguably reasonable). Thus it was "supported in principle; opposed in detail."[118]

The rather uncertain Conservative position on the Levy calls into question the idea that landowners decided to rely on repeal. The argument that they did is only supported in practice by the rather thin evidence of land withholding. Repeal may in any case not have left landowners much better off (see section 4.6.2).

Nevertheless, it is possible to identify some bad decisions on the Labour government's part in counteracting the risk of Levy repeal. If the Inland Revenue had been given the Levy collection function, the Conservatives would have been more likely to support it, and the Levy would have been more insulated from the Conservative in-principle attack on the Commission's land trading operation. From the perspective of the Levy, it looks like a bad design decision to have entwined the fate of the two policy instruments.

A judgment about the quality of political handling is more finely balanced. The Conservatives' apparent reluctance to explicitly promise abolition of the Levy until 1970 is perhaps evidence of good politics on the government's part. However, the Conservatives did eventually do so, which suggests that in the final analysis the government's political skills were not adequate. It remains unclear why the Conservatives suddenly felt they had the political room for manoeuvre to pledge repeal.

4.8 Complexity

The Levy is said to have been extremely complex. However, the precise targets of this criticism are difficult to pin down. Many such criticisms are unsourced or impossible to assess, because of their vague application to the Act as a whole (rather than to the Levy) or because of the lack of any context.

For example, criticisms of the 189-page Land Commission Act are almost never accompanied with any comparisons of the Levy provisions to other tax legislation. And such comparisons as there are tend to be with failed previous legislation that was so brief as to be unworkable.[119] And the claim that low Levy revenue prompted the introduction of ever more complex provisions has only ever been supported by one very minor example.[120]

The main allegation of complexity specifically relating to the Levy relates to the complex formulae used to calculate liability under each of the six taxable events (see sections 4.3 and 4.4.1).[121] It is thought that cases took up to seven months to determine, plus up to another five months in Scotland.[122] This no doubt had an impact on revenue in the early years of the Levy's life. On the other hand, by early 1969 officials were arguing that the provisions, while complex, were workable, even before the significant simplification created by the introduction of the April 1969 *de minimis* exemption (see sections 4.3 and 4.10).[123]

In any case, such allegations are one-sided. They fail to balance the alleged complexity with the fairness which the Commission claimed the Levy legislation aimed to achieve.[124] For example it has been argued that complexity contributed to forestalling.[125] But forestalling was not necessarily a problem of such magnitude that it is really relevant to the repeal of the Levy, which is the threshold for failure being applied here (see section 4.6.4). The complexity of the transitional provisions which generated forestalling was designed to prevent unfairness arising from the sudden imposition of the Levy on landowners who had had no time to plan for it. Had that additional complexity not been introduced, an alternative accusation of profound unfairness seems very likely to have arisen.

Admittedly 'fairness' may have been the government's preferred euphemism for extracting every type of gain possible on the grounds that all gains were equally unearned and it was unfair for landowners to retain them. The Levy legislation would unquestionably have been less complex, and shorter, if it had been less wide-reaching, and the inevitable comparison with the more limited reach of Capital Gains Tax did not cast the Levy in a good light (see sections 4.3 and 4.9).

Thus the charge of complexity is at least partly an accusation that the inevitable trade-off between simplicity and fairness had been struck in the wrong place. This would be an accusation of bad design were it to be true – and bad politics if it caused a loss of support for the Levy through either complexity or unfairness. The case against transitional exemptions in this respect seems weak; but the case against an unfairly wide and complex scope seems stronger, not least because of the difficulty that smaller non-professional landowners and homeowners would have had in understanding it.

4.9 Relationship with Capital Gains Tax

The Levy was introduced just two years after Capital Gains Tax (CGT). CGT did not tax unrealised gains, gains arising to the land prior to ownership, and gains on the sale of private residences, and was imposed at a relatively low 30% rate. Ministers responsible for land policy perceived these design features to be unacceptable in-principle disadvantages of CGT in specifically taxing the windfall gains associated with development, suggesting that the Levy could not be charged as part of CGT. A further argument for a separate Levy was the desire to couple Levy collection powers with compulsory purchase powers – a policy package design decision which was later much criticised (see sections 4.3 and 4.5).

After much internal debate, which involved the Prime Minister (Harold Wilson), the government took the design decision to carve development gains out of CGT so that a range of wider gains could be taxed via the Levy, and at a separate higher rate, which the White Paper had promised would be "determined independently" on the basis of land policy considerations (see section 4.2).[126]

This decision created a crucial dividing line with the Conservatives, who argued that CGT would have eventually taxed most development value anyway. As Table 4.3 shows, around 90% of Levy cases were disposals, which already attracted CGT on increases in the existing use value. Furthermore, the CGT rate was only slightly lower, and taxation through CGT did not require the distracting and costly bureaucracy of the Land Commission. Thus it was easy to argue that the Levy was duplicatory and superfluous.[127] This argument conveniently forgot that the differential between CGT and Levy rates was intended to widen over time (see section 4.2).

Within a framework which analyses policy decisions from the perspective of development tax repeal, the introduction of CGT looks like *bad design* at the government level, because CGT substantially reduced the legitimacy of the Levy – at least politically if not technically – and therefore increased the risk of repeal. Indeed, it could be argued that CGT alone doomed the Levy to failure, and that there was some *bad politics* involved in failing to see how the political argument about the legitimacy of the Levy might play out, or indeed in failing to make the case for the specific additional taxation which the Levy implied.

This argument does not necessarily mean that the government was wrong to introduce CGT. Rather, it simply shows how any given analytical perspective informs the types of failures which are identified. An analyst focused on the government level, rather than at the instrumental level, may conclude that failure at the instrumental level was an inevitable consequence of success at the government level. Indeed, when viewed from the government level CGT may have looked like a very good idea indeed, because of its wider scope and long-term revenue-raising power (CGT raised £14.5bn in 2023-24).[128] From that perspective, it makes little sense to argue that the government should have abandoned the implementation of CGT purely to secure the legitimacy of the Levy. The best conclusion may be that, however well-designed the Levy was, it was introduced prematurely before political support for further specific taxation on top of CGT had been created.

There is one important caveat to this argument, which is that the Conservatives did not mention CGT in their justification of the Levy's repeal; they concentrated instead on its land market effects. However, they had previously expressed concern about the duplication in Parliament, and their 1970 manifesto commitment to abolish the Levy claimed that it had "increased bureaucracy" (see section 4.11) and made it clear that CGT was the preferred route of taxation. In analysis published alongside the repeal Bill, the Conservative government claimed that, in the long run, the Levy would raise only £11m more per year than other taxes would do in its absence. That does make the Levy look somewhat vulnerable to the charge of duplication. However, in the light of the actual revenue and collection costs data (see section 4.4) this analysis seems very likely to have significantly understated the Levy's earning power.[129]

4.10 Small developers, public understanding, and hardship

Like the Development Charge, the Levy was initially imposed on all smaller land transactions. This decision appears to have been motivated by a belief that development gains should be surrendered no matter how humble the beneficiary and that the Levy (like the Charge before it) was an instrument of land policy which did not create the same obligations to exempt minor development as a tax would have done. This position has been described as "doctrinaire" and "doubletalk."[130]

However, it has been argued that this design decision led to substantial complaints and hardship from smaller developers, some of whom did not realise the extent of the liability they were incurring.[131]

Accusations of unfairness are said to have arisen particularly from the rules imposing the Levy on unrealised gains, when there was no cashflow with which to pay it, including on the creation of a new tenancy ('Case B'). This appears to have been an in-principle objection, as there is little evidence that it was a problem in practice. In 1969-70 there were only 224 (1.2%) such cases out of 18,178 assessments, which represented £0.7m (2.2%) of the total £30.9m assessed that year (Table 4.3).[132]

The Levy also taxed gains which had arisen prior to the ownership of the liable landowner. For example, if a house sold by an owner-occupier had any development potential – such as a large garden – it was liable for the Levy. In some cases, these liabilities were effectively a tax on 'hope value' even when no development had occurred or was likely to occur. Neither rule applied to CGT, and it was unpersuasive politically to claim that buyers of houses with large gardens should been aware of such liabilities and taken them into account in the price they paid.[133]

Analysts have struggled to establish the actual scale of dispute over unfairness and hardship. Only twelve specific cases have been located, many of which were handled by the Parliamentary Ombudsman (who usually rejected them). It has been claimed that only 1% of assessments were challenged. It is certainly true that only a handful of cases reached the Lands Tribunal as formal appeals; but as Table 4.7 shows, several thousand challenges to assessments ('counter-notices') were launched each year. These were settled by the Commission without reaching the Tribunal.[134]

The political impact of this 'unfairness' is also unclear. There is some evidence of occasional coverage of Levy disputes in the right-wing press, but it is not obvious that this amounts to a concerted campaign as some have claimed, and indeed it has simultaneously been claimed that hardly anyone had heard of the Levy initially, presumably because of the generosity of the transitional exemptions.[135]

Although the backbench Conservative MP Airey Neave was responsible for referring some cases to the Ombudsman (see above), it remains unclear whether hardship cases shaped the attitudes of the Conservatives to the Levy more generally, or pushed them towards the specific repeal commitment they eventually made. All of the evidence cited by analysts relates only to claims made after the repeal announcement. For example, in December 1970, the Conservative junior minister (Michael Heseltine) cited two hardship

Table 4.7: Betterment Levy counter-notices and Lands Tribunal appeals

Financial year	Total number of Levy assessments	Counter-notices served during the year	Cases outstanding at Lands Tribunal at end of financial year
1967-68	3,449	579	0
1968-69	15,390	3,213	14
1969-70	18,178	4,342	50
1970-71	11,935	2,822	75

Source: Land Commission Annual Reports 1967-68 to 1970-71.

cases but claimed that "at one time" MPs had been receiving 70 letters a week complaining about the Commission.[136]

It has been argued that the introduction of the *de minimis* concessions in 1969 (see section 4.3) was a response to public pressure. This is suggestive of some restlessness in the political realm – and indeed of some astuteness in the government's response. But it has also been claimed that, coming two years into the Levy's life, this concession came too late to dampen down criticism and simply handed ammunition to the Conservatives. None of these claims are evidenced.[137]

Overall, therefore, in this context it proves difficult to identify a specific type of failure arising from the design of the Levy instrument. Not enough is known about whether unfairness in specific cases, or evidence of widespread hardship, led the Conservatives to conclude that there was a political opportunity in repealing the Levy which outweighed the cost of keeping it. The repeal decision was focused on the macroeconomic effects of the Levy and the Commission, and not its impact on smaller developers.

4.11 The repeal decision

The Conservatives returned to power on 18 June 1970. The Queen's Speech on 2 July 1970 promised a Bill "to abolish the Land Commission", and the abolition of the Levy was announced on 22 July 1970 with immediate effect.[138] Thus the Levy was in force for 3 years, 3½ months. The Land Commission's residual functions, including collection of outstanding Levy, were absorbed into the newly-created Department of the Environment.[139]

Citing no evidence, the Minister (Peter Walker) said:

> The Land Commission has failed either to stabilise land prices or to make a worthwhile contribution to the release of land in the areas of acute land ... We believe that the betterment levy has added to the cost of land. Certainly land prices have risen very considerably during the period of the Land Commission. We think that the correct way of dealing with the matter is through the present framework of taxation, which will have the added attraction of being much more simple for people to comprehend and for the Government to administer ... the complications of the Land Commission were such that the removal of the betterment levy will also help to reduce pressure on the staff of the Inland Revenue.[140]

The Whitehall process that led to this decision has never been researched, so it remains unclear how controversial the decision was within the government. A draft internal report on how to implement the repeal was ready by 7 July 1970, suggesting little internal resistance from officials in the face of an unambiguous manifesto commitment.[141]

Given how well the Levy appears to have performed in revenue terms (see section 4.4.2), and the energy which the Treasury had previously put into arguing for the retention of the much less lucrative Development Charge (see section 3.11), it is surprising that the Treasury's attitude to repeal of the Levy remains entirely unknown. Perhaps the Treasury did not understand how rapidly Levy revenue was accelerating. Or perhaps they did understand, but did not care, given their institutional dislike of the Land Commission overall, and the priority they gave to Capital Gains Tax (CGT, section 4.9).[142] Although the Levy rate had been intended to rise, the fact that it had not done so by the time of the repeal decision perhaps helps explain the Treasury's indifference, because of the small differential with CGT. For the same reason, the Treasury may have felt that it would be pointless to retain the Levy but cut the rate, as they had suggested for the Development Charge (see section 3.11).

Despite their aggressive opposition to the Commission from the outset, the Conservative repeal decision appears to have focused on the workability and effects of the policy, rather than attempting to challenge its objectives. This was likely good politics at a time of continuing public concern over rising land prices. But the adverse effects cited were mainly – and rather vaguely – attributed to the Commission as whole, with less discussion given to the precise effects of the Levy. Indeed the Minister seemed reluctant to go further than saying that "we believe" that the Levy had increased land prices, and the available theoretical and empirical evidence suggests he was wrong to do so. Nor was it any real argument that prices had risen during the life of the Commission – there could have been any number of reasons for that (see section 4.6.1).

The rather vague reason for repeal (stated in the manifesto, rather than the Minister's repeal announcement) that the Levy had "increased bureaucracy" requires a subjective judgment about which specific problems the Conservatives were referring to. The Minister's statement seems to imply that it refers to the design decisions to create a separate Levy with a similar rate to CGT; to have it collected by a new agency; and to the wide scope of the Levy, which would have increased valuation and collection costs.

Later, in December 1973, when announcing DGT (see chapter 5) the Chancellor (Anthony Barber) attacked the Levy on design grounds rather than because of its effect on land supply or prices:

> The truth is that the betterment levy was a bad tax, and that was why it failed. It was not graduated according to a taxpayer's ability to pay. It was charged on individuals when there was no disposal, so that those individuals often had to realise other savings to pay it. It sometimes imposed a burden on the ordinary owner-occupier and on others who were in no way involved in land development or land speculation. Also, perhaps most important of all, the levy fell upon a huge number of totally insignificant transactions which involved a mammoth bureaucracy and a vast interference with thousands of perfectly inoffensive small transactions in land, far removed from the kind of large windfall gains which have been the principal source of disquiet in recent years.[143]

4.12 The aftermath

It has been argued that the repeal decision replaced the fragile cross-party consensus in favour of development taxation with a more adversarial and polarised politics. Certainly the Land Commission experience appears to have placed Labour firmly on the defensive, so much so that they had nothing to say about the Commission in their own 1970 election manifesto.[144]

The lack of research and monitoring of the effects of Labour policies meant they had no systematic basis on which to assess success.[145] But arguably some lessons had been learned, not least the importance of a low rate, effective transitional arrangements, and an exemption for minor development; but also that (as theory predicted) substantial revenue could be secured without obvious adverse effects on the land market. Indeed, Labour later said:

> The 1967 Act did not have as significant an effect on the land market as the 1947 Act system. There were transitional provisions in the Act which helped to avoid major disruption while the system was being introduced. But the betterment levy scheme did not make adequate provision for exemption of small cases or for flexibility in operation.[146]

Furthermore, there is clear evidence that in the second half of the 1960s, the Labour government made attempts to improve land market data collection, and indeed it commissioned Barry Cullingworth's authoritative history of the decisions which had led to the evolution of the Development Charge and the Levy, perhaps with a view to understanding previous failures better.[147]

Left-wing analysis of failure at the time seems to have argued that the Land Commission Act was far from being too overambitious or interventionist; rather it was "not radical enough." This judgment (by David Lipsey) was based on the argument that the Commission had attempted to grease the wheels of an uncooperative market and had been too focused on collecting betterment rather than buying, allocating and developing land. And it had not been able to overcome local authority resistance to allocating more land. Something more "radical ... even revolutionary" was therefore required.[148]

However, the regional land corporations which Lipsey suggested bore a substantial resemblance to the original radical proposals for the Land Commission which moderate Labour politicians like Crossman had been successful in watering down. The left wing of the Labour party seems not to have been concerned about repeating the risky political experiment which they had just conducted. In proposing DLT (see chapter 6), the next Labour Government argued that the Commission had simply not had time to achieve its goals.[149]

4.13 Conclusions

The Betterment Levy is often regarded as a failure, although this conclusion is less confidently articulated and less widely held than for the Development Charge, with most criticism directed in rather general terms towards the Land Commission. In fact, it seems more likely that the Levy was proving a success at the moment of its abolition, and that this success would have been confirmed if it had survived for only slightly longer.[150]

There is some evidence of land withholding, but some (or maybe all) of this withholding may actually have been forestalling, which was arguably harmless overall, and the Commission's own land buying activities would also have offset some of this fall.

Expectations of repeal must have been more important in prompting any land withholding than the Levy's relatively mild disincentive effects, both absolutely and when compared with Capital Gains Tax. But such expectations are barely in evidence. The Conservatives made an unambiguous and early commitment to abolish the Commission, but a specific Conservative commitment to abolish the Levy only surfaced towards the end of its life, in the 1970 election campaign. Prior to that point some commentators thought it might survive.

There is little credible evidence that landowners resisted the incidence of the tax falling upon them and instead passed it forward.

The Levy is also said to have suffered from low revenue, high collection costs, some unfairness, and it was imposed on even the smallest developments until 1969. The government is thought to have addressed these criticisms too late, if at all. Even so, is not obvious that any of these criticisms had a decisive influence on the repeal decision. In any case, they rest on little evidence, and the claim of low revenue ignores the fact that, after adjusting for inflation, at the moment of its abolition the Levy was raising more money in real terms than any other similar instrument before or since (Table 1.1).

The arrival of CGT in 1965 appears to have been much more decisive than is usually claimed. It clearly influenced the debate, enabling the Conservatives to argue that no more was required. The Labour government's reasons for a separate Levy lacked clarity and rigour.

However, the dominant reason for the repeal of the Levy appears to be simply that it was collected by the Land Commission, which laboured under heavy criticism – and a death sentence – for the whole of its short life. Its design and role over-reached the prevailing political consensus, generating in-principle opposition from the Conservatives and alienating stakeholders. There were also a range of implementation problems.

We can now attempt to draw some conclusions about the main types and levels of failure which may be observed, and which assisted the repealing government to justify repeal.

The failure of the Levy involved factors at all levels. Three *bad design* decisions at the *government* level – all involving the Prime Minister – were crucial. For example, the decision to introduce CGT enabled the Conservatives to claim that nothing more was required. The decision to carve the Levy out of CGT was also taken at this level. And the Prime Minister's decision to create a separate Ministry of Land and Natural Resources caused additional tensions and compromises in the design and implementation of the policy package.

At the *policy package* level, the Land Commission was charged with delivering the whole policy package, which it struggled to do, not least because of its ambitious objectives. The cost of the Commission appeared to outweigh the benefits, providing an argument for repeal.

It could be argued that the Levy simply suffered from the *bad luck* of being collected by the Commission. But claiming bad luck is only tenable if one ignores the *bad design* at the policy package level of asking the Commission to collect it, for which some part of government was definitely responsible (see sections 4.3 and 4.9). This decision increased the risk of Levy repeal if the Commission failed in its other functions, and it was not strictly necessary in technical terms for the Commission to be the collecting body. There appears to have been an optimistic disregard for the idea that failure in one part of the policy package might bring down the rest of it.

There was also some *bad implementation* in the Commission's mishandling of its stakeholders, which was of course a product of the bad design decision to set up a separate agency in the first place, from which other predictable teething problems flowed.

None of this is to claim that the Levy *instrument* was perfect, or its settings optimal, even if some settings (such as the transitional exemptions) look reasonable in hindsight. Notwithstanding the complexity superimposed from the government level in the form of CGT, the Levy arguably suffered less than the Development Charge from interdependencies with other parts of the policy package. The Levy bore none of the same responsibilities as the Charge in facilitating a revolution in land use planning (see section 3.2.2), the 1947 settlement having become widely accepted by 1967. The settings of the Levy could now be determined more flexibly.

This does not mean that those settings were always sensible, although the 40% rate was arguably entirely reasonable. Some *bad design* can certainly be alleged. For example, the Levy's all-encompassing scope might have been viewed as 'fair', but it is said to have come at the expense of technical workability and political support. The small amounts of Levy collected under most of the six taxable 'cases' were probably not worth the hardship, unfairness and political noise which allegedly resulted.

Andrew Cox draws the conclusion that the Commission was not a technical failure, but that it was a political failure – in other words, that *bad politics* are the main explanation for repeal.[151] It was clear early on that the Labour government would not be able to secure bipartisan support for the Commission, even if they were able to secure support for its objectives of suppressing land price inflation and increasing land supply. But they went ahead anyway, perhaps emboldened in their beliefs about public support by their increased election majority in 1966.

In particular, support was damaged by the *bad design* decision of including the whole policy package (especially the controversial second stage of reform) in the Land Commission Act. The fact that the second stage of reform was never implemented means that it cannot have had any substantive effects. But it certainly had political effects. However sympathetic the Conservatives may have been towards the Levy in private, their calculation appears to have been that the Land Commission was so dangerous that they could not afford to allow any part of its operations to survive.

Chapter 5

Development Gains Tax

5 Development Gains Tax

5.1 Introduction

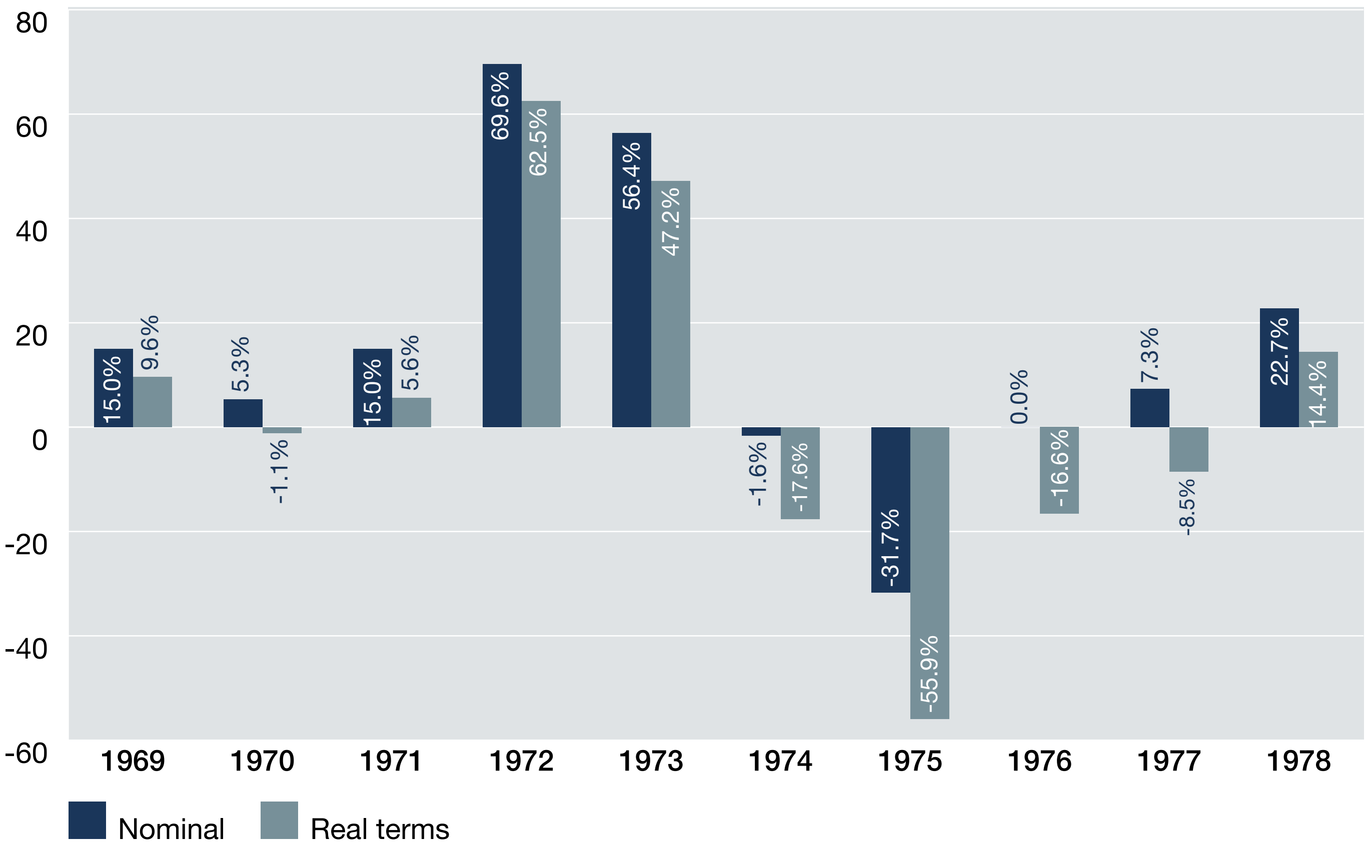
Development Gains Tax (DGT) (1973-1976) was the Conservatives' first, and so far only, national development tax.

DGT has been criticised as a largely symbolic and somewhat desperate measure, but its design did conform to all of the design principles for an acceptable development tax which Conservatives had outlined during the 1960s in debates on the Betterment Levy. In particular, DGT was integrated with the existing tax system, and it did not charge tax on unrealised gains. DGT was charged at the taxpayer's marginal rate of Income Tax or Corporation Tax, so it was also arguably more progressive than previous taxes.

Despite having some interesting characteristics, DGT is much less studied than other post-war development taxes. However, within the handful of studies which have examined DGT, it is usually claimed that it contributed to, and possibly even precipitated, the collapse of the early 1970s property boom. It is also said to have raised negligible revenue.

Although it fell to Labour to implement DGT after the Conservatives lost power in early 1974, it has been argued that Labour felt DGT was an inadequate solution to the problem of taxing development gains. This swiftly led them to repeal DGT in favour of their own more radical proposal (see chapter 6).

Chart 5.1: Change in residential land prices, England and Wales, nominal and real basis, 1969-1978 (%)



Source: Adapted from data set reported in Cheshire (2009). Values for 1969 are based on some data relating only to England. Real terms values are calculated using the Retail Prices Index.

5.2 Context

The return of the Conservatives to power in 1970 led to a deregulatory policy programme. The Betterment Levy was abolished, and the government introduced substantial new freedoms and tax breaks for financial services with the aim of increasing the money supply and reflating the economy.[1]

Strong consumer demand in the wake of inflationary wage settlements led in turn to competition for land and property as an investment, not least as a perceived hedge against inflation. Property prices spiked due to supply-side constraints, including the failure of local authorities to allocate enough land; the increasing costs of local authority land purchase; land hoarding by developers; and the continuation of some specific controls over office development.[2]

Precise estimates of the land price surge vary, but there is little doubt about the overall scale. Chart 5.1 shows Paul Cheshire's estimates, while Peter Weiler finds a 29% annual average increase in building land prices between 1969 and 1971, and 41% per between 1971 and 1973; prices of new homes increased annually by 15% and 21% on average over the same periods; property and land prices were increasing at 3-4 times the general rate of inflation.[3] Valuation practice allowed the book values of rented property to reflect anticipated future rental increases, which had resulted in high-profile 'scandals' such as the Centre Point office block in London, left empty for nearly a decade since its completion in 1964 but nevertheless rising rapidly in value.[4]

Price rises were sufficiently prominent that, in his March 1973 budget statement, the Chancellor (Barber) felt it necessary to defend the government's position that no special taxation of development gains was required:

> The recent increase in the price of land has been due to the failure of supply to catch up with demand ... there is no point in taking any step which would either lead people to withhold from the market land which would otherwise have been made available or which would lead to an even steeper increase in prices, or both. I have no doubt that—however superficially attractive to deal with an emotive situation—an increase in the capital gains tax on land transactions would do just that. It would put up the price of land, just as the now defunct betterment levy put up the price of land. The hard fact is that additional taxation would simply aggravate the situation. I should mention, incidentally—it is sometimes overlooked—that all gains from speculative land transactions by individuals are already taxed at the full income tax rates ... or in the case of companies are subject to corporation tax.[5]

This statement is an interesting expression of the government's position at the time, but in fact it was a mere preamble to the Chancellor's announcement of a proposal for a new land hoarding charge on land with planning permission which was not built out sufficiently rapidly. The subsequent White Paper setting out the details of this charge also included vague proposals aimed at making developers pay for the local services necessitated by their developments. In the end, neither proposal was implemented.[6]

A freeze on business rents was introduced in November 1972 but then relaxed in October 1973 in response to the damage it had done to the value of often dubious speculative property investments held by secondary banks (no doubt because of the valuation practices mentioned above). This damage forced the Bank of England to intervene to rescue some of these banks.[7] This already fragile situation was worsened by the October 1973 oil crisis, and industrial disputes, leading to the '3-day week' announced in December 1973.[8]

It was into this volatile mix that the Conservative government introduced Development Gains Tax (DGT), alongside a wider package of measures.[9] The Chancellor now told Parliament:

> What differentiates land from other assets liable to capital gains tax is the fact that with land an owner can quite fortuitously make huge windfall gains simply as a result of decisions made by planning authorities acting on behalf of the community as a whole. It is the huge gains due to this development value—or even to potential development value—which people find offensive. It is this element in the gain on a

> disposal—the development gain—which should be liable to taxation at a rate higher than 30 per cent. This was, of course, the concept that underlay the betterment levy established by the previous Government's Land Commission Act.[10]

But the new tax, it was argued, would have none of the downsides of Labour's Betterment Levy.[11]

There has never been any investigation into how the Conservatives arrived at the decision to introduce DGT. There are some hints that it was a hasty and largely symbolic measure, introduced by a government which had a poor grip on the reasons for the property boom its deregulatory policies had created.[12] On the other hand, DGT's design was entirely consistent with the position that the Conservatives had taken in opposition to the Betterment Levy.

Following the February 1974 election it fell to the new Labour government to implement DGT in the 1974 Finance Act. The new Chancellor (Denis Healey) said:

> [On] the taxation of land and property development, where, I think the whole House agrees, action is long overdue ... I propose to continue with the [DGT] proposal ... I hope that I can count on co-operation in its passage from all parties in the Opposition.[13]

5.3 Core features of the tax

DGT came into effect from the day it had been announced, 18 December 1973. DGT was technically a separate charge within CGT. It broadly followed CGT rules, and was only charged when CGT would otherwise have been charged. This meant, for example, that DGT was charged annually on total gains, alongside CGT, and thus that development losses could be offset against development gains; and also that individual home owners were exempt.[14]

Despite the claim that DGT would be categorically different from the Levy, it had many similarities in practice. It was charged on the development value upon the sale of development, although the definition of development for DGT purposes was entirely freestanding and made no formal reference to planning legislation – and for no obviously good reason, thus introducing additional complexity. There was a *de minimis* exemption for sales worth £10,000 or less for individuals (£115,000 today) and £1,000 for companies. Despite the Conservatives' previous opposition to the taxation of unrealised gains, DGT was accompanied by 'first lettings tax' on unrealised gains created by new non-residential tenancies.[15]

The key difference was that DGT was charged not at the 30% CGT rate but at the taxpayer's marginal Income Tax or Corporation Tax rate (Jones et al 2018:15). The minimum and maximum rates are shown in Table 5.1. The Corporation Tax rate was 52% from 1974-75 onwards.

Table 5.1: Income Tax rates prevailing under DGT (%)

	Lowest rate	Highest rate
1973-74	30	75
1974-75	33	83
1975-76	35	83
1976-77	35	83

Source: HMRC, Table TA.2 – Rates of Income Tax: 1973-74 to 1989-90

5.4 Revenue and collection

DGT was collected by the Inland Revenue and revenue remained with HM Treasury.[16]

Rather ironically, the Conservative government's initial revenue forecast of £80m per year (£1,070m today) was the same as for the Betterment Levy. It was immediately claimed that just two developments in the City of London alone might generate over half of this figure. But by July 1974, Labour Ministers revealed a much-reduced forecast of negligible revenue for 1974-75, and £10m for 1975-76.[17]

The revenue which DGT actually raised remains unknown to this day. However, it has been claimed that revenue from DGT would have been negligible because it was introduced at precisely the moment that the property market suffered a dramatic slump.[18]

Nor are collection costs known. However, some indication may be gleaned from the fact that a year after coming into effect, the full-time equivalent of 25 staff in the Inland Revenue were working on DGT, at a cost of £160,000 per year (£1.8m today).[19] This very low figure suggests that DGT may have been as little a burden on taxpayers as it was on the Inland Revenue.

5.5 Land market effects

The effect of DGT on the land market appears never to have been documented in any systematic way; no quantitative study has ever been conducted and little other evidence has been cited. This has not prevented a wide range of claims about its effects from being offered. These claims are often further undermined by a failure to distinguish the particular effect that DGT had from the effect of the Chancellor's December 1973 policy package as a whole (and, indeed, from government level announcements at that time, including the introduction of the 'three day week').

Indeed, DGT is usually seen as one among many factors that contributed to a sharp economic and property market downturn in 1974. For example, a drop in property company share prices is said to have been precipitated not just (or not even) by DGT but by wider economic conditions and other policy proposals, not least Labour's latest manifesto commitment to nationalise development land.[20] Some analysts argue that DGT had no effect on the market because underlying economic conditions rendered it irrelevant.[21]

But other observers have been more critical about DGT's own role. DGT was described by a leading planning lawyer as a "stinging" tax in 1975, and by 1977 it had been claimed – albeit on the basis of alleged anecdotes that have never been supplied – that DGT deterred land sales and stalled most commercial development. It has even been claimed that DGT alone forced the Bank of England to mount a rescue of secondary banks who had over-lent to property.[22] Perhaps some theoretical support for these arguments is offered by the fact that DGT was introduced with immediate effect, which denied landowners and developers any opportunity to forestall tax liability, in contrast to the transitional exemptions offered under previous taxes. The harshness of this design feature perhaps undermines the notion that DGT was a purely symbolic measure.

On the other hand, Labour's plans for DGT's replacement (namely DLT) were known at a very early stage in DGT's life (see section 5.6). Thus it seems unlikely that DGT caused landowners to withhold land.

5.6 Expectations of repeal or reform

DGT is thought by some to have cemented a new political consensus over the need for special taxes on development value.[23] DGT may have been a rather hasty political gesture, rather than a conversion to the cause of development taxation. But in any case, Labour very quickly rejected whatever consensus DGT represented.

This was not because DGT had adverse land market effects of the sort that the Charge and the Levy are alleged to have had: as noted above, there is no concrete evidence of any such effects. Rather, it was because Labour's 1973 policy statement *Labour's Programme for Britain* made a renewed commitment to the gradual nationalisation of development land before DGT had even been announced, let alone tested in operation.[24]

An intention to progress these proposals was confirmed in the Queen's Speech as soon as Labour returned to power in February 1974. And even as the new Chancellor (Healey) confirmed that the government would implement DGT, he added:

> I made it clear after the December [DGT] proposals were announced that I did not regard them as adequately dealing with the gains made from property development ... I have not changed my view ... [25]

Expectations of DGT's repeal were thus formed in the very moment it was created. A September 1974 White Paper confirmed DGT's "interim" status, and outlined its proposed replacement (Development Land Tax, or DLT – see chapter 6).[26] But the following month there was a further general election, which returned Labour with such a small majority that it could hardly be said to have cemented their grip on power. So while the intention of the Labour government to eventually replace DGT had always been clear, there was no guarantee over the timing.

Despite the fact that DGT was in place for almost as long as the Betterment Levy, there has never been any analysis of how the market behaved in response to the prospect of its repeal. In this case, it was clear that repeal of DGT would not be followed by a reversion to CGT, as had been the case for the Levy. The question was whether DGT was better or worse than DLT, which the White Paper had stated would be imposed at a rate of 80%.

In most cases DLT seems likely to have been more burdensome than DGT, not least because of the difference in tax rates. And there is some evidence that landowners decided not to wait for DGT to be repealed because of the prospect that DLT would be worse (see section 6.5.3). It follows that land withholding during DGT's lifetime is unlikely to be observed, were anyone to look.

However, there may have been cases where DLT was *less* burdensome than DGT.[27] This might have been because some landowners were exposed to higher rates of income tax under DGT than the tax rates prevailing under DLT (see chapter 6). In theory this ought to have increased the likelihood of landowners deciding to wait for DGT's repeal.

5.7 The repeal decision

DGT was repealed by the Development Land Tax Act 1976 with effect from 31 July 1976, meaning that it was in effect for 2 years 7½ months, just 9 months less than the Betterment Levy. DLT came into effect the following day (see next chapter). The 'first lettings tax' was abolished slightly earlier, in May 1976.[28]

In an echo of the 1965 decision to create a separate levy rather than tax development value through CGT, the decision to repeal DGT rested on the argument that it was not broad enough or interventionist enough. Whatever the intrinsic merits of DGT, Labour wanted a more comprehensive land policy.[29]

DGT was deemed unsatisfactory for a variety of technical reasons. The variable Income Tax rate was thought to be inappropriate for the taxation of windfall gains; the Corporation Tax rate was too low; non-residents and traders in land (such as housebuilders) were exempt; technical definitions were too narrow; the requirement for DGT to follow CGT rules meant that losses could be offset against gains; and local authorities could not buy land 'net of tax'.[30]

Some of these arguments seem specious in hindsight. For example, the variable rate could have been replaced with a fixed rate. And DGT revenue could have been allocated to local authorities by formula, which would have been equivalent to introducing net of tax arrangements.

Labour's plans for replacing DGT did meet with some resistance from external interests, and from civil servants concerned about the cost and complexity of DLT, and of introducing it in fragile economic circumstances.[31] However, the option of retaining or reforming DGT seems never to have been considered. And the extent to which the Conservatives argued in favour of the retention of DGT during debates on DLT has never been assessed.

5.8 The aftermath

DGT has never explicitly been described as either a success or a failure. However, the design of DGT (or variants on it) has attracted notable support in hindsight, mainly because of its centrist credentials, but also because of its free-standing character and administrative practicality.[32] No government or political party evaluation or learning exercise on DGT has been documented.

5.9 Conclusion

DGT is thought to have been a response to concerns about land speculation during the early 1970s property boom, albeit a potentially superficial one. It was implemented quickly, and is thought by some to have precipitated a subsequent slump in the property market, although it is not clear how this effect has been isolated from the wider package of measures introduced at the same time.

DGT's design was consistent with the Conservatives' previously expressed views on development taxation – a special (higher) rate of tax, but integrated into existing mechanisms, with no additional interventions or dependencies, and mostly using well-understood rules.

Whatever the technical merits of DGT, the sole driver for its repeal appears to have been Labour's more ambitious land policy objectives. Labour had set out those objectives before DGT had even been announced. While they accepted it as a temporary measure, there appears to have been no attempt to see how DGT performed before deciding to replace it. DGT was unwanted rather than unworkable.

DGT's failure thus seems to arise from a failure to command a sufficiently wide consensus that it could survive a change of government, driven by a lack of agreement that it was the right answer to the problem at hand. Like the Development Charge and Betterment Levy before it, it was not given time to work, nor did the repealing government want it to work. But unlike previous taxes, there has been no claim that DGT was technically deficient, publicly unpopular, controversial, or bureaucratic. Indeed, its technical design has found some support.

There is no evidence that either side in the debate deployed any evidence or data in support of their position, holding out the possibility that the debate over the merits and effects of DGT was conducted at an entirely theoretical level.

DGT is the least studied of the four taxes, perhaps because it does not sit within the wider land policy packages which appear to intrigue interventionist-minded planners, or historians of the Labour Party. But the lack of interest is curious: DGT was implemented by Labour, it was specifically designed to tax betterment, it lasted almost as long as the Betterment Levy, and many commentators suggest that it held out the prospect of a sustainable consensus. Proponents of development taxes may feel that Conservative repeals of Labour taxes look ideological, reckless and short-sighted. But the circumstances which prompted Labour to reject the 'gift horse' of a Conservative development tax seem worthy of equal inspection. Indeed, this was not the last occasion on which Labour did so, as the discussion on the Infrastructure Levy shows (chapter 7).

We can now attempt to draw some conclusions about the main types and levels of failure which may be observed, and which assisted the repealing government to justify repeal.

DGT's failure seems substantially simpler to explain than that of other taxes. Repeal arose mainly because DGT's design did not meet Labour's objectives. Thus it seems possible to conclude that the *bad politics* at the *government* level of the Conservatives losing power in 1974 is arguably crucial, irrespective of DGT's intrinsic merits, simply because of the change in objectives which the election permitted.

Indeed, allegations that DGT caused or hastened the property market slump, or that it was a rushed attempt at shoring up popularity, seem irrelevant: it was DGT's *bad design*, and not its political motivation or its effects, which was objectionable.

There were arguably two aspects of bad design. Firstly, at the *instrumental* level, Labour viewed the decision to base DGT on CGT as bad design, as this immediately limited the types of gain which could be taxed – and which they later argued should be taxed. Secondly, there was bad design at the *policy package* level. But whereas in previous cases, the policy package caused problems for the design of the tax, in this case, it is the *lack* of a wider policy package which appears to have led the repealing government to conclude that DGT should be repealed, precisely because it was not integrated with anything more substantial.

Chapter 6

Development Land Tax

6 Development Land Tax

6.1 Introduction

Labour seized on, and implemented, the Conservatives' DGT. But it was never adequate to meet their more ambitious land policy goals. Almost as soon as DGT had become law, the new 1974-1979 Labour government embarked on replacing it.

DLT (1976-1985) was initially imposed at rates of 66⅔% and 80%. It was an integral part of the new Community Land Scheme, Labour's second attempt to nationalise the private development land market. The overall logic of the Scheme was similar to that of the Land Commission Act, but with the land purchase role given to local authorities.

Even so, it has been argued that the Scheme was just as controversial and just as ineffective as the Land Commission. The Conservatives immediately pledged to repeal it, and did so upon returning to government in 1979.

However, DLT was retained for a further six years, at a 60% rate, before being summarily abolished in 1985 by Nigel Lawson. Analysts usually argue that DLT had the same types of adverse effects on the land markets as previous taxes, not least because of landowner expectations of repeal or reform. It is also claimed that DLT generated very little revenue, partly because of wide exemptions, and that it was extremely complex, easy to avoid, and administratively burdensome. Lawson accepted this argument, but also argued that DLT was superfluous in the world of low inflation that his government claimed to have brought about, and that it was difficult to justify the differential between the 60% rate of DLT and declining Corporation Tax rates.

6.2 Context

In the light of the dramatic property boom of the early 1970s, a further Labour Study Group was convened to consider Labour's policy response while in opposition. Labour MP John Silkin, a lawyer like his father Lewis, was in the chair. In a re-run of the debates between left-wingers and moderates seen in the mid-1960s, there is said to have been "considerable dispute" within the group, mainly focused on how interventionist its policy package should be, with the proposals of leading left-wing thinker David Lipsey representing the more interventionist end of the spectrum.[1] Lipsey later recalled that the Study Group was more a creature of the Party than of the shadow Cabinet.[2] Although some aspects of Lipsey's proposals were not taken up, Labour's February 1974 manifesto nevertheless proposed a highly interventionist policy:

> Land required for development will be taken into public ownership, so that land is freely and cheaply available for new houses, schools, hospitals and other purposes. Public ownership of land will stop land profiteering. It will emphatically *not* apply to owner-occupiers.[3]

Following their election victory, Labour's White Paper of 12 September 1974 outlined their proposed policy package, to be known as the Community Land Scheme. Labour's manifesto for the October 1974 general election repeated this policy, and the election gave Labour a small Parliamentary majority with which to implement it.[4]

Development of policy within government after that point has not been well-documented, but there is evidence of dispute between Labour Ministers and officials over the practicality, cost and market effects of the policy, including the rate of DLT.[5] A government-commissioned study of the reasons for high land prices had been completed in 1974, but it is not clear how much influence this had. Indeed, its publication was delayed until 1976, perhaps because of its politically inconvenient conclusion that the Betterment Levy may have caused a 30% drop in land supply (see section 4.6.2). There was an official advisory group on commercial development, but its representations, along with those other professional bodies, appear to have been either ineffective or ignored.[6]

The Scheme was implemented by means of two separate but related pieces of legislation, the Community Land Act 1975 and the Development Land Tax Act 1976 ("the DLT Act"). It is not clear why there were two separate pieces of legislation, but the fact that HM Treasury decided to publish a draft of the DLT Bill for consultation in August 1975 suggests that its complexity may have prevented its integration into the Community Land Act.[7] Whatever the reason, the decision to legislate separately for the two instruments in the policy package later received some credit; and it may have helped DLT survive the eventual repeal of the Community Land Act.[8]

The Scheme was structurally very similar to the Land Commission Act, except that the role of land buying was now to be undertaken by local authorities. The argument for this change was that the Land Commission Act did not

> ... allow public authorities, other than the Commission, to acquire land more cheaply ... a central agency is too far removed from people and from those responsible for planning decisions.[9]

The Community Land Act required every local authority to establish a land account, out of which they were empowered to buy land 'net of tax', as the Land Commission had done.[10] Of the surpluses generated by land trading activity, 40% (later 30%) had to be surrendered to the Treasury, but local authorities were allowed to retain the rest, either individually or collectively. Giving the land trading function to local authorities is generally viewed as a good design decision which avoided some of the difficulties and resentment experienced by the Land Commission (see section 4.5).[11]

The reform was conceived in two stages, similar to those contemplated by the earlier Land Commission Act. Initially local authorities would have the *option* to buy development land to deliver on their local planning objectives; in the second stage they would be under a *duty* to do so, and at existing use value. Purchases at existing use value would be achieved by notionally raising the DLT tax rate to 100%, which meant that under the 'net of tax' arrangements no development value would be left to the landowner. This design fully replicated the intention behind the Development Charge (see section 3.5). However, because all development land would thenceforth be bought by the state, DLT would in practice be rendered redundant.[12] Many commentators predicted (correctly, as it turned out) that the second stage would never arrive.[13]

Controversial compulsory purchase powers were again proposed. A significant amount of development land – including small plots – was exempted from the reach of the Scheme from the outset. This decision was intended to protect the scheme from political criticism that it would in due course nationalise homes and small businesses.[14]

Introducing the Community Land Bill to Parliament in April 1975, the Minister (John Silkin) was unapologetic and uncompromising:

> The Bill that I am moving today is one based upon a deeper philosophy than the politics of consensus. So far from denying its radical principles, I take pride in them.[15]

Given the consensus over the principle of development taxation that was actually in place (see sections 5.2 and 6.6.1), and Labour's fragile Parliamentary majority, Silkin's defiant position was arguably bad politics, even if it pleased the left wing of the Labour party. Indeed, it has been suggested that Tony Crosland, who was Silkin's senior minister, tolerated this political positioning partly because it boosted Crosland's own leadership credentials with the left of the party.[15A]

Even though Labour had been careful to exclude homeowners from the reach of the Scheme, it should have been no surprise to Silkin or Crosland that the Conservative attack on the Bill was immediate and ferocious:

> [this] "Communist Land Bill" ... seeks to confiscate or steal from the individuals who make up our community what is theirs. It would take away from the individual, without any real right of appeal or protest, that upon which his independence and ultimately his freedom depends. It would give the State a complete monopoly in the basic wealth of this land, to be administered by faceless bureaucrats, and give the most terrifying powers to politicians. It is a denial of basic human rights ... As a party, we

> abhor this Bill and we shall not co-operate in its implementation. As a Government, we shall see that it is repealed.[16]

Partly as a result of this repeal commitment, the Community Land Act is widely thought to have failed. Local authorities did little with their new powers, and very little land was bought.[17]

The Act was later deemed "a lamentable regression" and "grandiose". It appears to have been driven almost solely by Silkin, a man described as "far more doctrinaire and less practical than his father" and as "a man of quite exceptional ego even for a politician ... [whose] ideas appeared mostly to occur to him in his bath."[18]

Silkin later claimed to have written the 1974 White Paper himself out of frustration with the officials who were charged with knocking his policy into shape.[19] This may explain why momentum was immediately lost when Silkin was reshuffled to another post, and out of the Cabinet, in 1976, after which the Act is thought to have had no champion.[20]

Economically, the implementation of the Act suffered from difficult circumstances following the UK's International Monetary Fund (IMF) crisis in 1976, which resulted in public spending cuts, including to the land buying budgets of local authorities. Even the official evaluation concluded that the Scheme had thereby been rendered "marginal and optional" and "a non-event" at best, and "killed stone dead" at worst.[21] It has been argued that a subdued development industry did not help, and although some landowners saw a potential opportunity within the scheme, others were sufficiently alarmed or confused by the Scheme that they are said to have withheld land.[22]

Administratively, the bureaucracy associated with the Community Land Act is thought to have been complex, confusing, disproportionately onerous and heavy handed, and local authorities lacked the skills and capacity necessary despite the fact that the Scheme had been constructed in two phases precisely to manage this problem.[23] Local authorities also complained about not being permitted to retain a greater proportion of surpluses arising from land sales.[24]

Ultimately, however, it appears that the bad design and implementation of the Community Land Act were hardly the real reason for its downfall. The Conservatives were entirely hostile to it from the start, which threw its future into doubt and may have hampered implementation. A Conservative Study Group was instituted on land policy in the late 1970s, which may have formed the basis for the decisions taken in 1979 upon their return to power.[25] Either way, the Conservatives acted swiftly. The Community Land Act was immediately suspended using administrative means and repeal legislation followed in 1980. Only that part of the Act which operated in Wales was retained.[26] But DLT was also retained, and survived for another six years. As the following account will show, this time gap means that the failure of the Community Land Act offers little or no explanation for the failure of DLT.

6.3 Core features of the tax

DLT was brought into force across the UK on 1 August 1976 by the DLT Act. Its design bore significant similarities with both the Betterment Levy and DGT, but there were a number of technical improvements which may have contributed to its longevity. Like the Levy, DLT was charged on the development value arising from both sales of land and on commencement of development. Unrealised gains were in scope and treated as 'deemed disposals'. To soften the impact of taxing unrealised gains, the tax could sometimes be deferred until the gain was realised, or paid in instalments. Unlike DGT, DLT was an event-based tax levied at the point of sale (or commencement), and thus losses could not be offset against gains. CGT remained the mechanism for taxing increases in the existing use value.[27]

From 1976 to 1979 the main DLT tax rate was 80%. The rate of tax was stated on the face of the legislation. Although the 1974 White Paper had only mentioned this 80% rate, a lower rate of 66⅔% was added for the first £150,000 of gains (£1.2m today) following a Cabinet discussion in February 1976 which revealed concerns about the effect of an 80% rate on the market, including from the Inland Revenue, the Chancellor (Denis Healey) and the Prime Minister's own advisors. Although the 66⅔% rate was originally intended to expire on

31 March 1979, it was later extended for one further year, no doubt to avoid it expiring immediately before the 1979 general election.[28]

Inspection of DLT revenue statistics shows that, under the Labour government from 1976-77 to 1978-79, most developments must have been charged DLT at the 66⅔% rate, and not the 80% rate as is usually assumed. The total tax base of £67m across that period resulted in assessed DLT charges of £47m, which implies an average tax rate of 70%.[29]

For some, these higher rates are symbolic of a more general backward step in the realism of Labour's land policy when compared with the 40% rate of Betterment Levy.[30] However, they were clearly logical in the context of the aspiration to raise DLT to 100% in the second phase of the Scheme. In other words, high rates were a consequence of the policy package design, not intrinsic to the tax instrument.

The permanent exemptions from DLT were substantially more generous than from the Levy. The main exemptions related to development which did not need express planning permission, development relating to the main residence of the taxpayer (provided the plot was no more than one acre in extent), development begun within three years of acquisition of the land in question, and development by local authorities. Even for development outwith those categories there was an annual tax-free allowance for the first £10,000 of such gains per person (£79,000 today). In real terms, this allowance, which matched the allowance available to individuals within DGT, was therefore roughly three times as generous as the equivalent Betterment Levy exemption which the government had grudgingly conceded in April 1969 (see sections 4.3 and 4.10).

A transitional exemption from DLT was granted for land which already had planning permission and which was owned by the developer on the date of publication of the White Paper.

There were other concessions built into the formula for calculating the existing use value. For example, the formula permitted the land acquisition price to be substituted for the existing use value. This provision meant that recently-bought land had little DLT to pay even if it had substantial development value. In practice this meant that gains prior to the current owner's ownership of the land were excluded, in contrast to their inclusion within the Betterment Levy. Where this option was not advantageous, the taxpayer was still permitted to add a 10% tolerance (later 15%) to the calculation of existing use value, as had been the case for the Betterment Levy.

There was a right of appeal against assessments.[31]

On 12 June 1979, the incoming Conservative government reduced DLT to a single unified rate of 60%, and the tax-free allowance was increased to £50,000 (£272,000 today).[32] Announcing these changes the new Conservative Chancellor (Geoffrey Howe), told the House of Commons that DLT

> has combined with the Community Land Act to prevent much worthwhile development and to increase unemployment in the construction industries ... In place of the present rates of 66⅔% and 80%, which the previous Government intended should rise to 100% ... development land tax will in future be charged at a single rate of 60% ... I do not propose to make any further reductions in rate, and the generous increase in the exempt slice should mean that it will not need early revision. Owners of development land will, therefore, have no reason for holding back in the hope of further tax reductions. What I have said today should remove the major uncertainties which have been hanging over the market.[33]

It has been claimed that, at the time, the government indicated that the rate would not be reduced further during the lifetime of the Parliament, but there is no evidence that the government ever gave such a commitment.[34] The reasons for the selection of a 60% rate have not been documented, but presumably the Chancellor felt the rate had to fall within the 50-60% range indicated by previous Conservative statements (see section 6.6.1). His selection of the top end of the range perhaps indicates some caution about the political risk of cutting the rate further.

The rate was not cut again. But after 1979 there were a number of further increases to allowances and exemptions which are said to have made DLT more efficient. They are also said to have increased the generosity of exemptions, but this may not be so. For example, the 1984 Finance Act increased the £50,000 exemption to £75,000. This would be worth £250,000 in today's prices. In other words, this increase did not restore the allowance to the real value it had had in 1979 (£272,000, see above).[35]

6.4 Revenue and collection

6.4.1 Forecast and actual revenue

There appears never to have been an official revenue forecast for DLT before it came into force. The explanatory memorandum to the Community Land Bill predicted that in the second stage of the Scheme, 'net of tax' benefits to local authorities (at the implicit DLT rate of 100%) would run to £350m per year. The loss of other non-DLT tax revenue which would arise from the fact that development gains were henceforth to accrue to local authorities was put at £150-200m per year. The government also forecast that £500m per year of surpluses would arise from local authority land trading arrangements under the Community Land Act.[36]

The basis for the government's calculations, and even how the above figures relate to each other, proves impossible to understand, and they have been described as "implausible". They appear to double-count the 'net of tax' benefit. In any case they relate to a 100% rate of DLT which never prevailed. No disaggregation of the DLT revenue arising from private sector transactions was provided, and none has ever been located since; indeed it has been claimed that as late as 1981 the Treasury had no data with which to forecast DLT revenue, and that it refused to do so. Perhaps they did not care. However, Malcolm Grant retrospectively estimated that the DLT should in theory have been capable of raising £600m per year.[37]

DLT was collected by the Inland Revenue and retained entirely by the Treasury, except in the case where local authorities bought land 'net of tax', which was tantamount to transferring the equivalent amount of revenue to the local authority.[38]

Table 6.1: DLT revenue and assessments

Financial year	Assessed (£m)	Collected (£m)	Net of tax benefit to local authorities (£m)*	Assessments (no.)	Average tax per assessment (£)
1976-77	0.6	1.1	3.9	37	14,838
1977-78	17.5	6.8	6.9	882	19,887
1978-79	36.5	13.1	7.7	1,789	20,408
1979-80	54.7	26.3	13.4	2,604	21,015
1980-81	65.1	26.9	9.5	2,010	32,369
1981-82	70.6	38.3	2.8	1,292	54,610
1982-83	75.2	65.0	1.8	1,065	70,638
1983-84	97.2	68.3	1.2	1,306	74,400
1984-85	90.1	80.7	0.9	1,369	65,804
1985-86	76.4	61.9	-	1,270	60,157
1986-87	-	55.6	-	-	-
1987-88	-	28.2	-	-	-

*Source: Commissioners of the Inland Revenue (1988:54); Inland Revenue Statistics (1985:73; 1986:71); author's calculations. '-' indicates missing data.*Abolished August 1980.*

Table 6.1 provides the key revenue figures. This table also shows the value of the 'net of tax' benefit to local authorities. This benefit was ended by the repeal of the Community Land Act in 1980, but local authorities continued to benefit for a number of years afterwards, presumably due to delays in completing transactions begun before the abolition of the Act. Peak assessed revenue was £97.2m in 1983-84 (£326m today). The substantial difference between assessed and collected revenue is indicative of the influence of DLT's generous deferral and instalment provisions.

In 1985, Nigel Lawson gave a figure of £50m (£159m today) as the cost of abolition of DLT in a full year (see section 6.10). This figure should not be conflated with the amount of DLT being collected at the time, which was estimated at £75m. The difference is accounted for by the fact that £15m of foregone DLT would be recouped through Corporation Tax, and £10m through Capital Gains Tax.[39] This ability of other taxes to capture development value in due course was a favourite Conservative theme, but this detail shows that in fact the abolition of DLT relieved landowners of about two-thirds of the overall tax burden which they had previously faced. The theory of how development taxes reduce land prices (see section 2.3.6) is well placed to explain why this particular tax cut was immediately followed by a surge in land prices (Chart 6.1).

6.4.2 Low revenue

DLT revenue was undoubtedly low.[40] Previous studies have suggested that (restated in today's prices) DLT raised substantially less than any previous instrument – but such comparisons are invalid because they compare DLT revenue *collected* with Betterment Levy revenue *assessed*. As Table 6.1 shows, assessed revenue is almost always higher.[41] Table 1.1 corrects for this problem by using estimates of assessed revenue. This shows that in today's prices DLT raised slightly less than the Development Charge, but much less than the Betterment Levy. However, it does not change a previous finding that DLT revenue was substantially lower than that arising from the system of planning obligations prevailing today.[41A]

There were a number of reasons for low DLT revenue. These included the introduction of ever-wider exemptions, the potential for avoidance (see section 6.8), and long lead times for recovery of payments. Lead times were extended partly because there was a right to defer some payments for up to eight years, or pay by instalments. Even by the time of repeal, the number of cases in which deferred tax had actually been paid was still in single figures.[42]

It follows from these design features that DLT revenue would have taken eight years to mature. This might mean that revenue in the final year would be a reasonable indication of DLT's long-term earning power. But landowners also thought – possibly erroneously – that it was worth taking advantage of the right to appeal, which is said to have resulted in delays to the collection of a large proportion of assessed tax. And, while the assessments were usually issued in the financial year following disposal, some assessments had not been issued even five years later.[43] And the way existing use value was calculated meant that assessed development value would have been small initially and would have taken time to build up (see section 6.3).[44]

It has been argued that, once the Community Land Act was abolished, DLT was stripped of its rationale and was left to be judged on the basis of its effectiveness purely as a tax – and therefore implicitly on the efficiency with which it raised revenue – and that this rendered DLT more vulnerable to repeal than would otherwise have been the case.[45]

In fact, as section 6.10 shows, it is not accurate to claim that DLT had no land policy rationale after 1979. But even if it did not, there is no evidence that DLT's low revenue was a source of public criticism or Treasury concern. It did however implicitly figure in Lawson's reasons for DLT's repeal, not least in the accusation that it cost a lot to collect (see section 6.10). Low revenue almost certainly made the repeal decision easier for him. If so, bad design at the instrumental level, in the form of exemptions, complexity and consequent tax avoidance, all of which contributed to low revenue, are important underlying explanations for repeal. Even so, it is not obvious that low revenue was a sufficient condition for repeal in itself, nor that higher levels of revenue would have made any difference.

6.4.3 Collection costs

DLT's collection costs under the Conservatives stood at around £5m, or 7% of revenue, by the end of its life. It is widely thought that DLT had high collection costs, both for the Inland Revenue and the taxpayer. At the time of repeal Ministers gave one example of a £1,800 DLT liability which had cost the taxpayer concerned £10,000 to deal with.[46]

Because collection costs for the Development Charge and DGT are not available, it is not possible to make a full comparative assessment. Notwithstanding some ambiguity about how much Betterment Levy might have cost to collect in its final year had it lasted for the whole of that year, (see Table 4.5), it seems likely that DLT was cheaper to collect than the Betterment Levy. This is probably because DLT offered much wider exemptions and thus many fewer taxpayers, each of whom was paying substantially more per development than had been the case for the Betterment Levy (compare Tables 4.2 and 6.1).

However, DLT was definitely more expensive to collect than other capital taxes prevailing at the same time, including CGT. This is thought to have been due to the complexity of the valuations required (especially valuations of unrealised gains) which were alleged to have constituted 80% of DLT's costs.[47]

The repeal decision did allege that DLT was expensive to collect (see section 6.10). Some of this accusation must logically be due to low revenue, where a verdict of bad design and bad implementation has already been declared (see section 6.4.2). That verdict must therefore also apply here.

6.5 Land market effects

6.5.1 Land market effects: land withholding

Despite the extensive allegations of land withholding levelled previous taxes, similar consternation at the effects of DLT is less apparent, even though DLT was ostensibly charged at double the rate of the Betterment Levy, and even though DLT's effects on land supply were explicit concerns of the government in both 1979 and 1985. Indeed, the repeal decision (see section 6.10) alleged that DLT was having a disincentivising effect on land supply, and that this effect was likely to grow as the tax rates of DLT and Corporation Tax diverged. And when repeal was announced, many representatives of landowner and developer interests argued that DLT's repeal would increase the supply of land.[48]

Unfortunately, analysis of land withholding effects is overwhelmingly focused on the Community Land Scheme as a whole or the effects of the Community Land Act. Aspects of the Act clearly were likely to cause landowners to withhold land, not least because applications for planning permission after the Act came into force triggered a requirement for the local authority to consider whether or not it wanted to buy the land in question at the 'net of tax' price.[49] However, such discussion is arguably irrelevant to an explanation of why DLT was repealed in 1985, because the Community Land Act had been abolished six years earlier.

Theory suggests that the high rate of DLT, combined with expectations of repeal, could have induced landowners to withhold land (see section 2.3.6). However, any discussion of this effect needs to take into account three separate considerations, all of which are usually overlooked.

Firstly, the grounds for credible expectations of repeal or significant reform were rather weak, and got weaker after 1979 (see section 6.6).[50] This ought to have led to landowners now selling, and accepting incidence of DLT, even if they had resisted it beforehand.

Secondly, the claim of land withholding is also undermined in theoretical terms by the fact that DLT was relatively easy to avoid, to the extent that it has been described as a voluntary tax. So landowners and developers may have been to proceed with transactions as normal, albeit at some administrative cost. Even the avoidance tactics that were used may not have involved much land market distortion: it has been argued, for example, that the avoidance achieved by site fragmentation was not likely to have significantly reduced supply (see also section 6.8).[51]

Thirdly, it has also been suggested that any withholding may simply have been due to landowners waiting for land prices to recover after the property market crash of 1973-74.[52]

Even so, a land withholding effect in response to DLT has been alleged by some analysts.[53] But none of these claims are supported with any economic or financial data of any description. In fact, the only concrete evidence available appears to be a survey of 137 landowners in Leicester conducted in 1978. This found that only 24% of landowners felt that the timing of their decision to sell development land had been affected (for land already sold), or was likely to be affected (for land on the market or under option) by DLT. At that time most landowners with any opinion on the matter believed that the rate would be reduced in future; 25% of them said they were unlikely to offer their sites for sale while the 66⅔% and 80% rates were in force.[54] This is an interesting finding, which perhaps bears comparison with the 30% drop in land transactions thought to have been caused by the Betterment Levy (see section 4.6.2). But its relevance to the repeal decision seven years later is as doubtful as any other findings about land market effects before 1979.

The absence of analysis may be explained by the fact that no systematic monitoring of DLT appears to have been undertaken while it was in operation, by the Treasury or anyone else. Certainly the official evaluation which the Government commissioned to monitor the Scheme in real time, and which contains a damning verdict of it, offers no analysis of DLT; indeed, DLT appears to have been outside the researchers' remit.[55] No further data has been contributed since. This suggests that claims of land withholding – including those made within the repeal decision – are largely speculative.

It thus proves difficult to trace a line in empirical terms from allegations of land withholding to repeal. Analysts have conceded that DLT must have had some effect on the land market.[56] But its specific effects are so unclear that it seems risky to identify any particular item of bad design.

6.5.2 Land market effects: developer incidence

During the Parliamentary debate on the repeal of DLT, surveyor John Heddle MP claimed that "an impost of 60% has the effect of increasing the cost of land by 60%", a statement which implied that the incidence of DLT was being borne entirely by developers.[57] However, no independent analyst has ever confirmed this claim, or indeed repeated the allegation, and it seems more likely that developers did not in fact bear incidence under DLT. The arguments made in section 6.5.1 also apply here: if repeal expectations were quite weak, then landowners were as unable to pass incidence to developers as they would have been unwise to withhold land completely.

In any case, the repeal decision did not attempt to allege that developer incidence was occurring; nor did it allege that DLT raised land prices – the allegation was of a deterrent effect on supply. Thus the analytical framework being deployed here must find no failure, even if these effects did actually occur, because they made little or no contribution to legitimating repeal.

6.5.3 Land market effects: forestalling

Discussion of attempts to forestall DLT is also rare, certainly in comparison with the extensive discussion of forestalling of the Betterment Levy. This might be explained by the fact that DGT would probably have been paid instead. It seems likely that most landowners would have been better off paying DGT rather than DLT, but a complex and uncertain comparison would have been needed to establish this (see sections 5.5 and 5.6). In any case, any criticism that DLT had induced forestalling prior to its introduction in 1976 was a matter of only historic interest by the time of the repeal decision in 1985, which did not mention it.

Only one piece of concrete evidence of forestalling has ever been found: in 1976, four estate agents in Cambridge identified a surge in land on the local market immediately prior to DLT coming into force.[58] It seems that forestalling can safely be discounted as having any relevance to DLT's failure.

6.5.4 Land market effects: development output

The impact of DLT on development output, as opposed to development land supply, is also rather unclear; it is noticeable that the repeal decision confined itself to attacking DLT's role in restricting land supply. One RICS member survey in 1978 found that DLT's 80% rate was "strongly criticised as a deterrent to development," but estate agents and surveyors were hardly impartial on the matter, and the argument that DLT was any disincentive to development in its early years has been challenged. It has also been argued that difficult economic conditions have been underplayed, and tax effects overplayed, as explanations for why development output was subdued while DLT was in operation.[59]

Unfortunately no data in support of either argument has ever been cited, and the available analysis confines itself almost entirely to the effect of economic conditions on the early operation of the Scheme in the late 1970s, especially the impact of public spending cuts on the Community Land Act in the aftermath of the 1976 IMF and devaluation crisis (see section 6.2). But the relevance of such considerations is doubtful; little attention has been given to the economic, fiscal and property market context underpinning the decision to retain DLT in 1979, and repeal it in 1985. These decisions have largely been treated as taking place in a vacuum. The key features of the 1980s development market – including the recessionary conditions of 1980-81, and the Thatcher government's dramatically different approach to economic, monetary and land use policy – are entirely overlooked as any kind of influence on DLT at all. It proves difficult to conclude that any particular policy decision relating to DLT (of any type or level) had an adverse effect on development output, and thus raised the risk of repeal.

6.6 Expectations of repeal or reform

6.6.1 Expectations of repeal before 1979

It has been argued that the Conservatives' firm commitment to the abolition of the Community Land Act also implied the abolition of DLT. Indeed, previous studies sometimes give the impression that there was only one set of combined expectations.[60] Alternatively, some analysts argue that DLT's repeal was expected because it was "tainted with the community land ideology of land value nationalisation."[61] Such assertions are difficult to understand given that the Conservatives not only failed to give a commitment to the repeal of DLT, but actively ruled it out.[62]

The Conservatives remained supportive of development taxation in principle throughout the second half of the 1970s. During the passage of the Community Land Bill in 1975, the Conservative spokesman (Hugh Rossi) stuck to the consensual narrative which Chancellor Anthony Barber had adopted in announcing DGT in 1973 (see section 5.2):

> We have no quarrel with the proposition that there should be a return to the community of wealth created by the community. If the granting of planning permission adds exorbitantly to the value of land, it is quite right that much of that value should be enjoyed by the community as a whole. This is particularly so where the increase in that value—the creation of a development value—results in expense to the community in the provision of services, roads, sewerage systems, schools and recreation facilities.[63]

Indeed, this consensus also extended to the British Property Federation and (in principle) RICS members.[64] In 1975 journalist Simon Jenkins was able to write:

> It is a remarkable feature of British politics in the Seventies that Labour Party plans for nationalisation of urban development land should have been regarded as relatively non-controversial, so much so that they were safely elevated from the status of a campaign slogan to that of actual legislation ... Private development has become so profoundly suspect that hardly a

> voice is raised in protest at its being run politically out of town.[65]

This may explain why the Conservative position confined itself to complaints about the high rate of DLT. In February 1976, Rossi argued (for no clear reason) that the rate of DLT should be set at 52%, to match Corporation Tax.[66] And in November 1977, he told the development industry:

> There is no commitment to repeal [of DLT] ... public opinion is disturbed by the prospect of unconscionable gains in land values consequential upon the grant of planning permission. Therefore ... it is necessary to retain a tax on 'windfall' gains resulting from the grant of planning permission which increases the capital value of the land. This tax should be no higher than 60% (and preferably nearer 50%) of the windfall gain and should be payable on actual, not deemed disposals ... [and] not to the Exchequer but to the local planning authorities, to offset the infrastructure costs they will inevitably occur as a consequence of the grant of planning permission. This in itself might serve to remove a major inhibition against giving such permission ... [67]

Rossi's proposed upper limit of 60% was unambiguously lower than the 66⅔% rate to which most development was actually exposed at the time (see section 6.3) – but only just. This suggests continued political caution. The lower end of the range may be explained by the fact that the industry itself is thought to have called for a 50% rate.[68] Rossi's statement is noteworthy partly for its explicit reference to local allocation of revenues, but mainly because of the specificity of the rate cut commitment, which was far more specific than anything the Conservatives had pledged in advance in relation to any previous taxes. So it must have established far clearer expectations.

And yet, despite this specificity, commentators have struggled to understand the actual Conservative decision taken in 1979 to reduce the rate to 60% (see section 6.3). This decision is regarded variously as a "surprise", an "enigma", "unexpected" and "curious".[69] These epithets appear to rest at least partly on the entirely unjustified assumption that "one might have expected, given the rhetoric" that the Conservatives under Margaret Thatcher would be as *laissez-faire* in 1979 as they had been in 1970, and would repeal DLT at the first opportunity.[70] Academics might have been misled by the rhetoric, but there is no evidence that the industry was, especially in the face of Rossi's very specific guidance. In fact, the decision continued a tradition of pragmatic sensitivity to the actual political circumstances.[71]

It seems very likely that the decision to retain DLT rested on continuing Conservative anxieties about being seen to promote land speculation. After all, they now represented not just landowners but a wider constituency of developers, construction firms, and aspirant home owners, all of whom had reason to support land price restraint. A balance had to be struck between the various interests within the Conservative Party, just as they did in the Labour Party.[72]

6.6.2 Expectations of repeal after 1979

After the dismantling of the Community Land Act, any expectations of repeal logically needed a different basis than simply Conservative Party opposition to land nationalisation – and they were arguably low from that point onwards. The Chancellor (Howe) had ruled out further cuts in making his 1979 statement, and no further cuts were ever made (see section 6.3). Indeed the Chancellor's statement did not even rule out the possibility that tax rates could rise again if fiscal conditions demanded it – as they sometimes do.

Admittedly there was some continued agitation for repeal. A week before the 1980 Budget statement, John Heddle MP introduced a Private Member's Bill calling for the repeal of the imposition of DLT upon the commencement of development, because it taxed as-yet unrealised gains.[73] At the same time, Donald Denman, a prominent Cambridge academic and ferocious critic of the Betterment Levy, also called for the repeal of DLT on the grounds that special taxation of development value was unjustified.[74]

However, there is little evidence that senior Conservatives – or even the industry – were paying much attention. For the remainder of its life, most commentators argued that DLT was now expected to be permanent, and that the 1985 repeal decision was therefore a surprise.[75]

Thus the Conservative position never offered much sustenance to expectations of repeal or substantial reform of DLT. This is not to say that there were no such expectations, but they were likely to have been ill-founded, and the evidence that landowners and developers even had them, and behaved accordingly, is almost non-existent, especially after 1979.

We can therefore discount expectations of repeal or reform as having any serious impact on the land market, and thus on the repeal decision. This does not mean that DLT did not induce land withholding or attempts to pass incidence to developers. But the weakness of the repeal expectations explanation implies that any such effects must have arisen from the high rate – and there is not much evidence of that either, as section 6.5 shows.

Arguably, therefore, we can identify some *good politics* on Labour's part in controlling the public narrative and constraining Conservative room for manoeuvre, which meant the Conservatives never felt able to promote expectations of DLT's repeal, or even leave their position open, as they had done for the Development Charge and the Betterment Levy. Indeed, until the day Lawson announced repeal, all the available Conservative policy statements about DLT appear to have comprehensively adopted the Labour narrative and vocabulary of returning "windfall gains" to the "community", even while right-wing thinkers argued such concepts were invalid.

6.7 Complexity

While it is often difficult to separate out criticisms of the complexity of the Community Land Act from criticisms of the complexity of DLT, the tax has certainly been described as "cumbersome"; and its complexity was cited as a core reason for its repeal (see section 6.10). Indeed, Malcolm Grant has argued that DLT was so "heavy handed" that it was "doomed from the start" – which is tantamount to saying that the complexity of DLT itself was sufficient reason for repeal.[76]

The DLT Act suffered from a barrage of blunt criticism in both absolute and relative terms, mostly from the lawyers who had to deal with it. One lawyer complained that the DLT Act had

> a complexity rare even for fiscal legislation ... a person must be all of a tax lawyer, planning lawyer, accountant, valuer and surveyor to be able to both understand and apply the provisions of the Act in any given situation.[77]

Although it was inevitable that a development value tax might require lawyers to understand something about development and value, others suggested that the DLT Act was:

> one of the most remarkable and complex pieces of legislation ever produced by Parliament. When the Minister ... introduced DLT to Parliament, he said: "The reason the tax is complicated is that we have decided to operate within the areas of property law which go back to feudal times." Whatever the Minister may have thought he was doing, the fact is that the draftsman of the Act constructed a new system of property law which is often at variance with the general law ....virtually every page of the legislation is a minefield.[78]

Whereas DGT unnecessarily reinvented the definition of development (see section 5.3), DLT unnecessarily reinvented property law. A convoluted definition of what counted as development, the extensive provisions for exemptions, and the valuation formulae were also thought to be particularly to blame, especially the formula for calculating existing use value, which required the taxpayer to undertake three separate calculations in order to establish which definition of existing use value was most advantageous.[79]

It is not clear why the legislation needed to be so complicated; the inevitable trade-off between complexity and fairness is one (rarely acknowledged) explanation. But whatever the theoretical complexity of the Act, there has been little research on what impact it actually had – for example in terms of valuation workload or collection cost. It has been suggested that complexity created loopholes which made DLT easier to avoid, so some revenue may have been foregone (see section 6.4.2).[80] It has also been argued that the provisions for valuing 'deemed disposals' took up a disproportionate amount of valuer time (see section 6.4.3), and even that support for DLT among professional surveyors was precisely because of the profitable advisory workload it generated.[81] On the other hand, it may well have suited professionals to deploy accusations of complexity as a convenient way of attacking a tax which their clients simply did not want to pay.

By the early 1980s, there were some who felt that despite these problems, DLT could be made to work, and it has also been suggested that Conservative amendments to the legislation made it more efficient and practical to operate (albeit usually through simply widening exemptions).[82] While these improvements were clearly not enough to save DLT from repeal in the end, they may have lengthened its life by reversing some bad design decisions made earlier in the instrument's life. Rather like the exemption introduced into the Betterment Levy in 1969 (see section 4.3), these attempts to reduce the complexity of DLT are an example of efforts to turn a failing policy into a success, and thus of the difficulty in declaring that a tax has been a failure until and unless it is finally repealed (see section 2.4.1).

6.8 Exemptions, avoidance and abuse

The generous exemptions available within DLT (see section 6.3) were a marked contrast to the all-encompassing scope of the Development Charge and Betterment Levy, especially relating to smaller developments. There were both technical and political reasons for this different approach under DLT. The Labour government now understood the need to avoid land withholding, and to reduce administrative costs associated with small liabilities. But a concern about potential political controversy appears to have been the primary reason for the exemptions, especially given rising home ownership. Both Labour manifestos of 1974 made clear that owner-occupiers would not be affected by the Community Land Scheme.[83]

The influence of the exemptions within the Community Land Act upon the exemptions within DLT has never been explicitly investigated. But there must have been some connection because of the intention to eventually converge the two components of the Scheme. If small parcels of development land were not to be nationalized, then neither were they to be taxed. On the other hand, the fact that DLT was intended to be temporary may have meant that the government did not mind if substantial amounts of development value escaped taxation to begin with; and the Cabinet decided upon wider DLT exemptions even after the Community Land Act had become law (see section 6.3). Furthermore, the Conservative government repeatedly enlarged exemptions after 1979. So it is unlikely that the Community Land Act was the major influence on the extent of exemptions at the point of repeal.

In practice the breadth of the exemptions is alleged to have had four effects: it eroded revenue; it increased complexity; it facilitated avoidance, and it distorted the market. One example of distortion which the Conservatives gave was that (re)development on land owned by the occupier typically enjoyed an indefinite deferral of DLT until the land was sold, which discouraged relocation.[84]

There were also substantial opportunities for tax planning and avoidance, many of which exploited the fact that the tax-free allowance was both annual and personal. One company is said to have saved over £2m of DLT by allocating development land out to 200 separate companies each of which benefited from its own annual exemption.[85]

Developers were also allowed to offset the costs of planning agreements (see section 7.2) against DLT. Given the choice between paying DLT and making a contribution to local infrastructure, developers were very likely to choose the latter, because of its proximity to their own development. This provision meant that the cost of agreements was in fact borne by the Treasury in foregone DLT, which helps to explain why revenue was low.[86] Development value was still being captured, but not in the way that the government expected. So DLT arguably precipitated the rapid (and, for some, improper) rise in the use of planning agreements which was noted at the time.[87]

Either way, it has been claimed that the combined effect of these design decisions was to make DLT effectively a voluntary tax, at least for those who were able to hire professional advisers on how to avoid it; and that this led to accusations of unfairness.[88]

Andrew Cox has suggested that "in bending over backwards to assuage its political opponents", the exemptions available within the Scheme contributed to its failure.[89] Although this judgment is about the Scheme, rather than DLT specifically, it does seem likely that the sheer breadth of the DLT exemptions was a major cause of low revenue, which in turn made it easier to repeal DLT. Arguably this was therefore bad design.

On the other hand, Labour had only a fragile majority in Parliament, and the exemptions were decided at the very highest level of government (see section 6.3). The revenue consequences of the exemptions may make it look as if the Cabinet was too cautious politically; had they been bolder, perhaps DLT revenue would have been high enough for Lawson to feel that he could not afford to abolish it. However, perhaps a verdict of good politics can be declared on the basis that DLT's adverse effect on homeowners was never part of the political attack, as had been the case for Labour's previous taxes, and that DLT therefore survived for much longer than those previous attempts.

6.9 Small developers, public understanding and hardship

It follows from the discussion of exemptions above that the question of DLT's impact on smaller developers and the general public can be dealt with very briefly. Although DLT has been the target of some criticism for its unfairness and high compliance costs, there is little evidence that this unfairness affected small developers. It has been claimed that the ability of larger landowners to avoid the tax meant that smaller developers with fewer resources paid it disproportionately.[90] However, less than half of DLT taxpayers were individuals, which is to be expected given the breadth of the exemptions and allowances.[91] Thus it seems more likely that medium-size developers were most affected.

It has been suggested that imposition of DLT on unrealized gains was onerous, but it was sometimes possible in such circumstances to defer some tax or pay by instalments over eight years.[92] Hardship arising from DLT is never alleged; indeed, in debating repeal even the Conservatives felt it appropriate to claim that the generosity of these provisions was the problem, because of the administrative complexity they created.[93]

The relatively limited unfairness within DLT may perhaps be judged from the fact that there appears never to have been popular dissent or a media campaign against DLT, in contrast to the alleged mass unpopularity of the Development Charge or the Betterment Levy. It can even be argued that DLT was the first popular development tax, in the sense that if it had been unpopular in 1979, the Conservative government was hardly likely to have retained it given how little revenue it was raising at the time. It thus proves difficult to declare a finding of bad design or bad politics in this respect, and indeed the repeal decision did not allege unpopularity or unjust impositions on smaller developers.

6.10 The repeal decision

DLT was repealed with effect from 19 March 1985 using the Finance Act 1985.[94] DLT thus had a lifetime of 8 years 9½ months, most of it under a Conservative government. Thus DLT is the longest-lasting national development tax. Ironically, therefore, the Conservatives have presided over a national development tax for longer than any Labour government (and as chapter 7 shows, the same is currently true of local development taxes).

As the 1980s progressed, DLT may have brought itself to the Chancellor's attention: transitional exemptions were falling away and the Inland Revenue was taking more effective anti-avoidance action. This seems likely to have increased DLT's hitherto low profile. Housebuilders lobbied the Chancellor (Lawson) about its adverse effects in early 1985.[95]

The Chancellor's March 1985 Budget announced the abolition of DLT with immediate effect. Lawson argued that DLT was

> a particularly complex tax, which was introduced in response to the problem of soaring land values at a time of high inflation. Its chief practical effect is to discourage the bringing forward of land for development. This

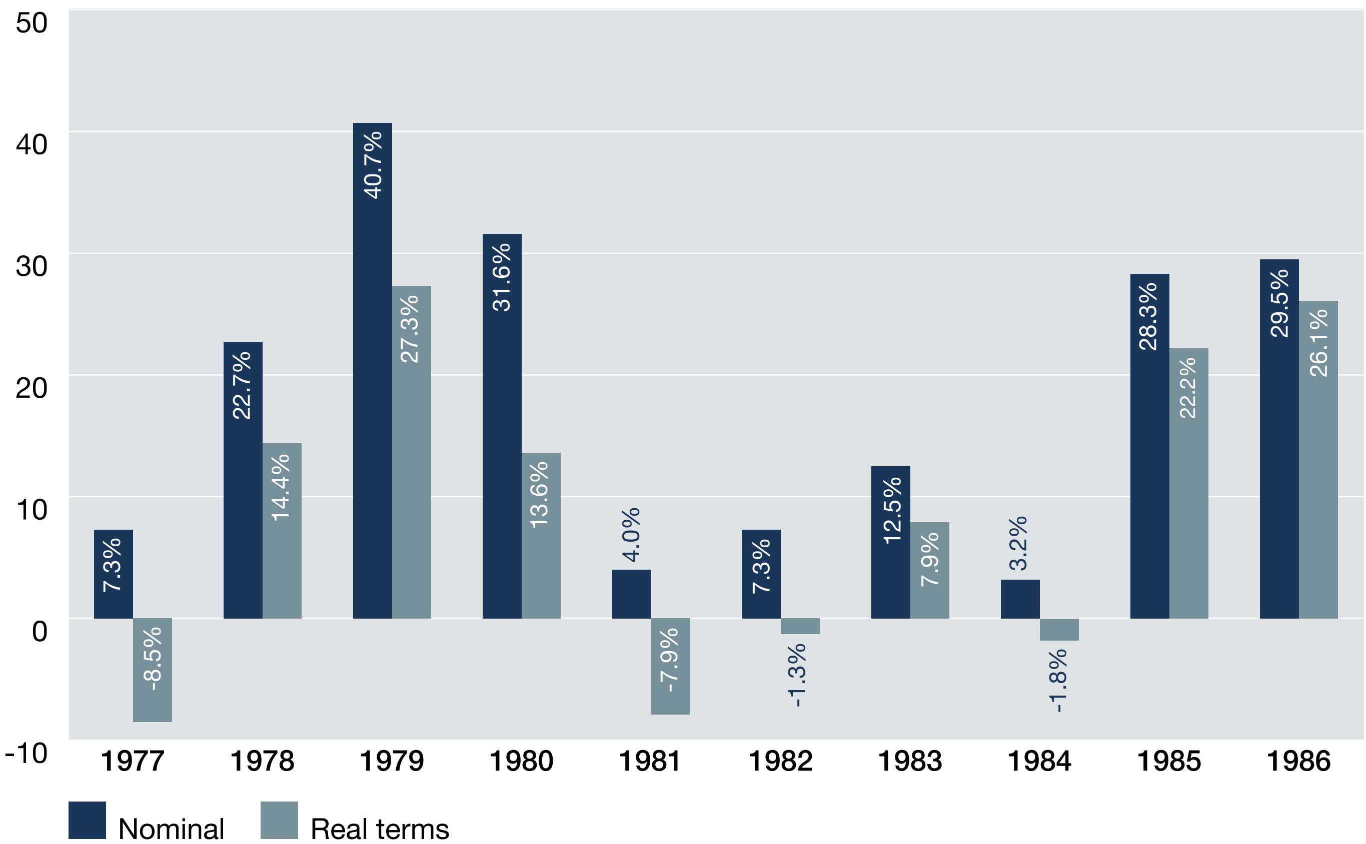
> disincentive effect will grow as the gap widens between the 60% rate of development land tax and a corporation tax rate which is on the way down to 35% ... The net cost will be some £20 million in 1985–86 and £50m in a full year. That compares, incidentally, with a collection cost of some £5m a year. Development gains will, of course, continue to be subject to income tax, corporation tax and capital gains tax, in the same way as any other income or capital gains.[96]

Although this announcement is said to have come as a surprise (see section 6.6.2), it was widely welcomed by the industry. But most of Lawson's arguments seem to have been accepted rather uncritically by analysts since.[97] Partly as a result of the argument that, after 1979, DLT had lost its rationale as a land policy measure (see section 6.4.2; compare section 3.4.2), it has been argued that repeal was not a land policy decision, but a fiscal decision to abolish a badly designed and complex tax which raised little money.[98]

This is probably the correct conclusion. But it is clear that Ministers thought it important (at least politically) to add two further arguments, neither of which appear to have been aired in public before repeal was announced. The fact that new arguments were now being put may explain why the announcement surprised the market; and indeed an inability or reluctance to run these arguments previously may explain why DLT had survived up to this point. These arguments were also of an entirely different character to any criticism ever levelled previously at a development tax. Instead of being criticisms of any adverse effect that DLT had already had, one argument was a claim of policy redundancy, while the other was a prediction of the adverse effect that DLT was likely to have in future.

The first new argument was that DLT did have an implicit land policy objective, and the reason for repeal was that this objective had been achieved (though not necessarily by DLT itself). In contrast to the usual argument that repeal is the

Chart 6.1: Change in residential land prices, England and Wales, nominal and real basis, 1977-1986 (%)



Source: Adapted from data set reported in Cheshire (2009). Real terms values are calculated using the Retail Prices Index.

consequence of failure, Lawson was uniquely arguing that DLT could be repealed because it was no longer required. This formulation came quite close to suggesting that DLT had been a success. It had lost its rationale, but not because it had become detached from the Community Land Act, as analysts usually argue (see section 6.4.2). Instead, Ministers argued that

> there was a case in principle for the taxation of such gains in the circumstances of the 1970s, with high prospects of inflation and substantial speculative gains at that time. However ... there no case for such a tax today because inflation is now much reduced – the inflationary conditions that encouraged speculation no longer apply, and so long as the Government have anything to do with it, they will not return... [99]

Analysts have never explored why the Conservatives suddenly felt able to run this argument when they had not before. Perhaps Lawson simply brought a fresh political perspective. Chart 6.1 shows that, after a strong recovery in land prices from 1978 to 1980, recessionary conditions in the early 1980s were indeed associated with subdued land price inflation. It had been a major government-level objective to get inflation under control, and so it is not surprising that this objective had an influence on policy package and tax instrument decisions.[100] Ironically, Chart 6.1 also shows that land price inflation was about to make an emphatic return, just as it had in the early 1970s after the abolition of the Betterment Levy. The abolition of DLT may even have been partly responsible.

The second new argument was based on divergence of DLT from Corporation Tax rates. Lawson's 1984 Budget had announced successive cuts to Corporation Tax from a main rate of 50% in 1983 to 35% by 1986; the gap with DLT at 60% that this created has been described as "unfair and discriminatory."[101] Ministers argued that in future:

> the gap between the rate of corporation tax and the rate of development land tax will be so wide that there will be a significant difference to the taxpayer according to which he is assessed. Therefore, the exact valuation of how much profit or gain should fall on development land tax and how much on corporation tax will be a more significant factor that taxpayers will have to take into account. That will increase the burden both to the taxpayer and the Revenue and to the problems of valuation, adjustment and so on.[102]

It is not clear why Lawson now thought it relevant in principle to compare the rate of a tax on earned corporate profits with the rate of tax on unearned windfall gains. In the 1970s the Conservatives had accepted the argument that development gains ought to be taxed at a higher rate than other capital gains, and the even bigger gap between the DLT rate (at 60%) and the CGT rate (at 30%) had not troubled the Treasury before.

The new difficulty alleged was the increased incentive to allocate profits to Corporation Tax, rather than DLT, and the likely dispute arising from developers attempting to do so. However, this rather technical argument could arguably have been dealt with by cutting the DLT rate to match the new lower rates of Corporation Tax, and in any case it did not matter much in practice if DLT was charged at a higher rate since it was reasonably easy to avoid (see section 6.8). So Lawson's argument looks more like a cover for the fact that the political narrative on windfall gains had moved on. Such gains were now profits to be dealt with in the usual way, and not as windfall gains generated by "the community" to which landowners had no right.

Lawson's decision becomes more explicable when it is placed into the context of his overall fiscal policy. Lawson is said to have pursued a wider simplification policy targeting low-yielding taxes, and even an ambition to abolish one tax every year.[103] It may, therefore, be appropriate to view the repeal of DLT from the perspective of a policy package which comprised the entire capital tax regime, rather than as a free-standing instrument relieved of any role in land policy. From this perspective, DLT failed because it was out of step with the government's aspirations for low and simple taxes generally.

6.11 The aftermath

During the debates on repeal, Labour attempted to remind the public of the commitment towards special taxation of development gains that the Conservatives appeared to be abandoning. Lawson seems to have perceived that such arguments were no longer persuasive in 1980s Britain. National development taxation stayed off the agenda for two decades thereafter, supplanted by *de facto* development value capture through planning agreements (see section 7.2).

Sympathetic commentators briefly bemoaned DLT's repeal, but with little admission of the difficulties that it had experienced.[104] The Labour Party appears not to have reflected in any systematic way on the lessons to be learned from it. Indeed, the whole subject is heavily overshadowed by criticisms that the Community Land Scheme as a whole was a backward step which learned nothing from previous experience.[105]

But there surely were some lessons. DLT appears to have become grudgingly tolerated, despite its apparent complexity (see section 6.7). The reasons for this tolerance have not been adequately explored, and DLT's relative longevity has only rarely been noted. It appears to be based on bipartisan political acceptance of the case for taxation of development value.

It proves difficult to establish whether DLT's instrumental design benefited from expertise gleaned from previous tax failures. However, it seems likely that the government over-reacted to experience with the Betterment Levy when deciding where to draw the line between exemption and liability (compare sections 4.10 and 6.3)

DLT appears not to have been discussed at all in policy circles until the publication of the Barker review on housing supply nearly two decades later (see section 7.5).

6.12 Conclusions

DLT is regarded as a failure. It collected little revenue compared with the Betterment Levy, an outcome which is mainly attributed to broad exemptions and avoidance activities, which are thought to have turned DLT into largely a voluntary tax. In real terms DLT was just as unsuccessful as the Development Charge in raising money, although this conclusion should be qualified by the caveat that this was not necessarily the objective of either instrument.

Economic conditions and wide exemptions seem likely to have been responsible for low revenue, and also for DLT's apparent political invisibility. DLT was a complex tax and there may have been unfairness associated with the provisions for taxing unrealised gains. Collection costs were demonstrably high for a capital tax, but lower than for previous development taxes.

The economic theory associated with the disincentive effects of a high rate has led analysts to the conclusion that there must have been distorting effects on the market. This is not an unreasonable conclusion in theoretical terms, but the precise nature of these effects is just as unclear for DLT as it is for previous taxes, and analysis is usually conducted with the 80% rate in mind, which is much less relevant to an analysis of failure than the 60% rate which had prevailed for nearly six years by the time of repeal. In any case, no price or quantity data of any description relating to the land market effects of DLT has ever been cited. Similarly, claims that landowners withheld land in expectation of repeal or substantial reform are vulnerable to challenge given that the Conservatives undermined such expectations, especially after 1979.

We can now attempt to draw some conclusions about the main types and levels of failure which may be observed, and which assisted the repealing government to justify repeal.

At the outset it is important to exclude certain decisions. Given that the Community Land Act was ended six years before DLT was repealed, it is clear that almost none of the design, implementation and political failures associated with the Community Land Act are relevant to a discussion of why DLT was repealed. The 66⅔% and 80% rates can similarly be excluded, as these were not the rates with which Lawson had to deal.

The *government* level failure involved in simply losing power (as Labour did in 1951 and 1970, and the Conservatives did in 1974) can also arguably be excluded, as this failure would not explain why DLT survived for longer under the Conservatives than it had done under Labour. Something intrinsic within DLT seems to have protected it.

At the *policy package* level, there appear to be two main factors which facilitated repeal. Surprisingly, neither of these have been the focus of previous analysis.

Firstly, the broad exemptions within the Community Land Act appear to have influenced the breadth of the DLT exemptions, which in turn increased complexity and reduced revenue (see sections 6.4.2 and 6.8). Had DLT been an entirely free-standing tax in the first place, it is an open question as to whether the exemptions would have been quite so broad.

Secondly, there were two influences from the other overlapping policy package of which DLT was a part – namely, the government's tax policy. Lawson's decision to make big cuts in Corporation Tax, and his overarching desire for tax simplification, both seem to have been crucial in the justification of the repeal decision.

Whatever the higher-level influences, DLT clearly suffered from some failures at the *instrumental* level for which no-one but the tax designers needs to be held responsible. DLT's legislative complexity and its widespread exemptions (including those added after 1979) reduced revenue and exposed DLT to a Chancellor specifically focused on tax simplification.

Thus, in terms of types of failure, *bad design* is again prominent. But DLT appears not to have suffered from particularly *bad implementation* or *bad politics* during its lifetime. For example, the Inland Revenue receives no criticism (unlike the Land Commission), nor is there any indication of public outcry or a backlash against Howe's 1979 rate cut from disgruntled landowners expecting repeal. It is easy to suggest in hindsight that the Cabinet's original 1976 decision to widen DLT exemptions was too cautious and thus bad politics, but this relies on the assumption that the widespread cross-party support for special taxation of development gains at that time was representative of what ordinary voters really thought – and overconfidence on this point may have caught Labour out before (see section 3.10).

It might seem plausible to argue that DLT suffered from some bad politics: after all, there is not much evidence that Labour attempted to protect DLT by anticipating the possible lines of attack against it, including those that Lawson eventually pursued. However, such an argument is a misapplication of the analytical framework set out in chapter 2, which focuses on government decisions, and not those of the opposition. The framework assumes that in 1979, responsibility for the success or failure of DLT transferred to the Conservatives, who thenceforth had the opportunity to reform DLT in order to sustain it. It was the bad design of the instrument as it stood in 1985, and not as it stood in 1979, that is relevant to the repeal decision. The problem was that the design lacked sufficient intrinsic merit for the Treasury to want to keep it.

Chapter 7

Policy after 1985

7 Policy after 1985

7.1 Introduction

Soaring land prices after 1985 perhaps gave the lie to Nigel Lawson's implicit claim that land price inflation had been conquered. But well into the 1990s there appears to have been no appetite on the part of government or the opposition to return to any form of development tax.[1]

Attention turned instead to local planning agreements (known as planning obligations after 1991). Planning obligations are now the most significant specific instrument capturing development value in the UK, albeit indirectly. However, from around 2000, dissatisfaction with planning obligations led to a series of proposals for its replacement, which eventually culminated in Labour introducing the Community Infrastructure Levy (CIL) in 2010, in England and Wales. In contrast to previous national development taxes, CIL is set, collected and spent by local authorities.

CIL has survived three formal attempts to repeal it in 2010, 2015 and 2020. The third of these attempts was initiated by the Conservative government (2019-2024), which proposed to replace CIL with a new value-based levy in 2020. This proposal was abandoned by the new Labour government shortly after returning to power in July 2024.

This chapter briefly reviews the evolution of these alternative instruments. Such instruments present some startling political and technical contrasts to the national development taxes described in previous chapters.

7.2 Planning Obligations

7.2.1 The key principles

Since 1932 there has been a parallel system of impositions upon developers known as planning obligations (originally 'planning agreements'). Planning obligations are formalised in statutory contracts negotiated between developers and local planning authorities. Where there is no other available mechanism that can be used (such as a planning condition), planning authorities can ask developers to commit to obligations to undertake works, or pay money, to mitigate the impact of development proposals. Thus, such obligations can be legally material to land use planning decisions. They allow development proposals to be granted permission which would otherwise have to be refused. Common obligations involve the provision of transport links, affordable housing, green space or community facilities.[2]

Although not originally designed for the purpose of capturing development value, such agreements can be very costly, and have thus grown to become the major *de facto* mechanism by which value capture is achieved. Economic theory suggests that, like development taxes, the cost of obligations is likely to be paid for out of the development value (see sections 2.2.1 and 2.3.6). Where taxes and planning obligations are operated in parallel, there will be a trade-off between the amount of development value captured by each instrument.

Indeed, specific provisions within the DLT legislation may have given planning agreements a major boost between 1976 and 1985 (see section 6.8). This phenomenon provides an interesting illustration of how the conclusion that is reached about the failure or success of any given instrument will depend on the analytical perspective that is adopted. *From the perspective of DLT,* the ability to offset planning agreements against DLT probably contributed to its failure by reducing DLT revenue. Even so, *from the perspective of planning agreements,* the framework being deployed in this study would treat DLT as a factor contributory to their success. Indeed, the foothold that DLT gave planning agreements in the early 1980s may have been decisive in reducing appetite for a further national development tax thereafter.

7.2.2 The history of planning obligations

Planning obligations have a very long history, predating the establishment of the modern planning system itself. The seed of today's system may be found in section 34 of the Town and Country Planning Act 1932 ("agreements *restricting* the use of land"), which introduced the concept of planning agreements for the first time. Landowners could agree with the local authority to be bound by "conditions … *restricting* the planning, development or use" of land (emphasis added).

Section 25 of the Town and Country Planning Act 1947 ("agreements regulating development or use of land") replaced and expanded upon the 1932 planning agreement provisions. Agreements could now be "for the purpose of restricting *or regulating* the development or use of the land" (emphasis added) and now required the approval of the Minister; previously there was no such requirement. Provisions in agreements could now be (incidentally and consequentially, at least) "of a financial character". These provisions were re-enacted by Section 37 of the Town and Country Planning Act 1962.

The requirement for Ministerial approval of a planning agreement was repealed by the Town and Country Planning Act 1968.[3] Section 52 of the Town & Country Planning Act 1971 ("agreements regulating development or use of land") again replicated the provisions of previous legislation relating to planning agreements.

This section was replicated almost unchanged as section 106 of the Town and Country Planning Act 1990 (hence the common term 'section 106 agreement' is used interchangeably with the term 'planning obligations'). The following year, however, the Government completely reworked this component of the 1990 Act. Section 12 of the 1991 Planning and Compensation Act supplemented the existing concept of 'restrictions' with 'requirements', including requirements to pay money. It also introduced the concept of unilateral undertakings, which enabled the developer to offer contributions towards infrastructure and development mitigation at the planning appeal stage without the relevant local authority having to consent (thus necessitating a change of terminology from 'agreements' to 'obligations'). The same legislation provided for modification and discharge of planning obligations. This broad framework remains in place today.

All of the above enactments relate to England and Wales, but similar provisions were enacted in Scotland.

7.2.3 Scale and application

The provision of infrastructure and 'affordable housing' through such agreements was estimated to have a value of around £1bn in 2003-04, but £6bn per year in 2018-19.[4] Even after adjusting for inflation, this figure is significantly higher than the revenue of any previous national development taxes which have been introduced (Table 1.1).[5] Thus planning obligations have been an important comparator policy in weighing up the merits of development taxes.

Requirements to provide or secure affordable housing through planning obligations are easily the biggest single use of the system, accounting for £5bn of the £6bn figure mentioned above. Indeed, planning obligations are heavily relied on as a mechanism for delivering affordable housing, with between 38% (12,500 homes) and 51% (30,075 homes) of all affordable housing provision in England having been delivered by this route between 2015 and 2024 (see Table 7.1).[6]

7.2.4 Criticism and policy-based reform

The negotiated and flexible nature of planning obligations, capable of being adapted to the circumstances of the development in question, is thought to have contributed to their relative success.

However, from the early 1980s, and perhaps as a result of rapid growth in their use at that time inspired by DLT, planning obligations have been the subject of persistent criticism, including from the government.[7] Accusations of inappropriate requests from local authorities have been layered on top of concerns about high legal costs, delay, lack of transparency and an uneven balance of power between local authorities and developers, and indeed that planning permission was simply being bought and sold in return for irrelevant benefits delivered through agreements.

It has also been suggested the increasingly detailed guidance on how to negotiate obligations simply offers a technocratic disguise for the fundamentally political question of how much development value landowners are entitled to.[8] This discussion has echoes of the discussion on the rules of

Table 7.1: Number of affordable homes provided through section 106 agreements

Financial year	Section 106	Grant-funded	Other	Total	Section 106 as % of total
2004-05	18,175	19,295		37,470	48.5%
2005-06	23,869	22,114		45,983	51.9%
2006-07	25,838	18,461		44,299	58.3%
2007-08	27,273	25,903		53,176	51.3%
2008-09	32,286	23,436		55,722	57.9%
2009-10	29,065	29,223		58,288	49.9%
2010-11	28,972	32,117		61,089	47.4%
2011-12	16,963	41,364		58,327	29.1%
2012-13	15,645	27,473		43,118	36.3%
2013-14	11,572	28,528	3,024	43,124	26.8%
2014-15	15,137	45,290	5,532	65,959	22.9%
2015-16	12,508	8,891	11,215	32,614	38.4%
2016-17	18,254	12,679	11,273	42,206	43.2%
2017-18	22,612	18,549	6,227	47,388	47.7%
2018-19	27,748	18,773	10,705	57,226	48.5%
2019-20	30,075	17,973	10,916	58,964	51.0%
2020-21	24,584	18,436	9,052	52,072	47.2%
2021-22	26,124	24,287	8,759	59,170	44.2%
2022-23	30,165	24,935	8,722	63,822	47.3%
2023-24	27,658	25,874	8,757	62,289	44.4%
Average	**23,226**	**28,889**		**52,115**	**44.6%**

Source: Stephens (2019:12) for years up to 2012-13; NAO (2025:31) for years from 2013-14; author's calculations. 'Other' includes all other sources of funding such as local authorities. See sources for further notes.

engagement surrounding the negotiability of the Development Charge (see section 3.7).

There must also be some doubt over the policy of asking landowners selling their land for housing to surrender some development value so that it can be used as subsidy to convert that housing to a social housing tenure. This doubt rests partly on the argument that the tenure of housing is not a relevant land use consideration, and therefore is an illegitimate use of planning obligations; but also on the intensity of *de facto* taxation which results, since only landowners selling their land for major housing development thus subsidise affordable housing, rather than all landowners. On the other hand, it is argued that the need to secure access to the land in question, with the aim of creating 'mixed communities' or 'mixed tenure housing', justifies the hypothecation of development value to this particular public good.

In 1981, the Secretary of State (Michael Heseltine) was sufficiently concerned about irrelevant benefits being sought or offered via planning agreements that he asked the official Property Advisory Group what should be done about the matter. The Group argued that the practice of bargaining over agreements was unacceptable.[9] As a result, his department issued a Circular indicating that agreements should only be sought where they were reasonably necessary to grant permission.[10]

However such policy action did not ever really solve the problem. Although the legislation was recast in 1991, a House of Lords legal case in 1995 (involving the Tesco supermarket chain) established the principle that basically anything could be asked for through a planning obligation provided it had at least a *de minimis* connection to the proposed development – 'necessity' was thus not a legally enforceable requirement.[11] And in 1997 the Committee on Standards in Public Life, chaired by Lord Nolan, argued that criticisms relating to the relevance of planning obligations were valid and that the Government ought to consider tightening up legislation to "prevent planning permissions being bought and sold."[12]

That same year, in an attempt to counteract concerns about the effect of the Tesco judgement, the outgoing Conservative Government issued a new Circular which set out a series of policy tests which planning obligations should meet. However, neither this Circular nor its 2005 successor were any more effective in constraining the use of obligations than the 1983 original, because they were not capable of overriding the legal position set out by the Tesco case no matter how strongly they were expressed.[13]

Thus the position stood at the moment the new Labour government took power. The Urban Task Force, commissioned by new Secretary of State John Prescott and chaired by architect Richard Rogers, made recommendations relating to planning obligations and planning gain. But, apart from efficiency-based recommendations, these paradoxically aimed at a loosening of policy to bring policy closer to the law, rather than the other way around, including to achieve "cross subsidy" and "permit revenue expenditure."[14]

7.3 The mandatory tariff

By 2000, concerns about the delay and cost associated with the planning system were again a driver of policy within government, especially at the Treasury, which had become concerned about its implications for productivity growth. Planning obligations were again in the spotlight. The Government's response to the Urban Task Force accepted the Task Force's recommendations that the scope of planning obligations should be widened. In particular, it proposed the option of "introducing impact fees which might reflect more of the cost of development in terms of its environmental consequences." A consultation on reform of planning obligations was promised.[15]

A year later, at the Treasury's request, the Secretary of State (Stephen Byers) published a Green Paper promising root and branch reform.[16] The Green Paper was accompanied by a consultation paper proposing that the planning obligations system should be entirely replaced by a new mandatory tariff charged on development.[17]

The idea went down very badly, possibly because it was before its time. In practice, the consultation document proposals were similar in many respects to the later Community Infrastructure Levy (CIL, see below), but the concepts it contained were unfamiliar to most commentators at the time, and the accompanying abolition of planning obligations appeared to many to be throwing the baby out with the bathwater. Most developers accepted that planning obligations did perform a useful purpose in principle. As a result, all other subsequent proposals were designed to sit alongside planning obligations rather than entirely replace them. The adverse reaction to the mandatory tariff consultation caused the returning Secretary of State (John Prescott) to scrap it in a July 2002 statement in favour of improvements to policy and guidance.[18]

7.4 The Optional Planning Charge

However, a Planning Bill was needed to implement other aspects of the Green Paper, and there was continuing pressure from the industry to reform planning obligations. This caused the government to change its mind again. In November 2003 it published a further consultation document proposing an Optional Planning Charge (OPC).[19]

OPC shared some similarities with the earlier mandatory tariff proposal, but was designed to get over one of the main objections to the tariff: its non-negotiability. OPC proposed that all local authorities would be required to set a flat charge which developers could opt to pay – or they could choose to negotiate. If they chose to negotiate, 'all bets were off' and the developer might end up paying more than the standard charge. During the consultation (in which the author was involved), this turned out to be the most contentious aspect of the proposals, with developers arguing that the flat charge should in fact be treated as a ceiling. Local authorities disliked the idea that they were to be forced to set a charge which, in practice, all developers might elect to negotiate over, making the system no better than planning obligations.

While the consultation on OPC was still proceeding, the Government amended the Planning Bill to include outline OPC provisions. However, the idea was overtaken by proposals for a Planning-gain Supplement. The OPC powers (within the Planning and Compulsory Purchase Act 2004) were repealed by the 2008 Planning Act without being used.

7.5 Planning-gain Supplement

In March 2004, Kate Barker's government-commissioned report on increasing housing supply formally proposed a new Planning-gain Supplement (PGS).[20] Barker wrote:

> Government should use tax measures to extract some of the windfall gain that accrues to landowners from the sale of their land for residential development. Government should impose a Planning-gain Supplement on the granting of planning permission so that landowner development gains form a larger part of the benefits of development.[21]

While both the mandatory tariff and the OPC were presented as planning tools, PGS was intended to be a national development tax on the increase in land value arising from the grant of planning permission. Barker proposed that PGS should be accompanied by a scaling-back of planning obligations so that they focused more tightly on mitigation of the site-specific impacts of the development, rather than more diffuse community benefits.

Over the next three years, the Treasury progressed the PGS proposal, issuing four consultation documents and gradually refining the proposition. Key features included collection across the whole of the UK by HMRC; a "modest" rate (which was never specified); and self-assessment of tax liability. The majority of proceeds would be returned to local authorities for spending on local infrastructure, but a 30% 'topslice' of the funds would be retained for spending at the regional level. Barker's proposed scale-back of planning obligations was retained throughout the development of PGS, although it proved difficult for the government to articulate precisely how this would work.[22]

There was substantial resistance to the PGS proposal almost from its birth, both from those who thought it too interventionist and those who thought it not interventionist enough (BPF 2005; Wetzel 2006). Previous failures in development tax design were regularly cited. The development industry were concerned about the technical difficulty of valuing, on a development-by-development basis, the theoretical increase in land arising from the grant of permission.

Developers were also initially concerned about the lack of a hard commitment to spend PGS funds on infrastructure, a theme to which they were to return in debates on CIL. The Treasury's well-known resistance to hypothecated taxation probably explains why they were reluctant to make this commitment, though they eventually did. Local authorities were supportive in principle but were very strongly opposed to the regional topslice.

Meanwhile, in 2005, ODPM issued a new edition of its policy on planning obligations.[23] This edition was explicitly described as interim pending a decision on PGS, but it also sanctioned the use of planning obligations legislation to construct formulaic tariffs or so-called 'roof taxes', even though the legislation had hardly been designed for that purpose. A number of authorities had already developed such tariffs, including Milton Keynes.[24] As a result, some developers argued that planning obligations-based tariffs were a convincing alternative to PGS. The Treasury, by contrast, argued that tariffs based on planning obligations could never be fair (because they could always be negotiated) or fast (because each obligation required a separate legal agreement) or transparent (because there were no provisions in the legislation requiring publication of income or expenditure).

By 2007, the Opposition had joined the criticism of PGS. The Treasury secured Parliamentary approval for the 3-clause Planning-gain Supplement (Preparations) Act 2007 which gave HMRC, DCLG and local authorities the power to spend money to make preparations for PGS (but not the power to introduce the tax, which would require a substantive Bill). In debates on the legislation, the Conservatives said:

> The planning gain supplement would add complexity to our planning system and would not carry local communities with it ... [It] is a bad idea that has failed five times before and would be likely to fail again.[25]

In response to the opposition to PGS, the Government decided to consult again, on a wider range of options. A Housing Green Paper in July 2007 reaffirmed the Government's commitment to introducing a new charge on developers, but now set out four options as to how that might be achieved.[26] Two options were based on PGS, the only difference between the two being that one option included a scale back of planning obligations and the other did not. The third option was to permit local authorities to continue with planning obligations-based tariffs; and the fourth option was a new planning charge to be placed on a fresh statutory basis.

The Green Paper set out criteria by which the final decision would be made, including workability and revenue-raising potential. The Green Paper gave the impression of being an ultimatum to the development industry – to come up with a convincing alternative to PGS; and if they could not, then PGS would be introduced.

7.6 The Community Infrastructure Levy

In the Autumn of 2007, the Comprehensive Spending Review announced the Government's decision: PGS would be "deferred" (in other words, not strictly abandoned) in favour of a new statutory charge of the sort described in the Green Paper.[27] At least in principle, this was broadly what the development industry had said they would accept, even if they thought a new statutory basis was unnecessary. The charge was to be called the Community Infrastructure Levy (CIL).

This time, the government stuck to its policy: legislation to implement CIL came into force on 6 April 2010 and remains in force today.[28] CIL only operates in England and Wales (the author was heavily involved in its design).

CIL is not, however, a national development tax. The key design features of CIL as originally proposed were similar to previous tariff-style proposals, and these features remain in place today.[29] Local authorities have been given the choice of whether or not to adopt it; and are responsible for setting rates and collecting liabilities. CIL can only be levied on development which requires planning permission. Rates are set with reference to an amount per square metre of additional floorspace. Thus although there can be little doubt that CIL is a levy on development value, it achieves that effect without direct formulaic reference to the value involved.

Rates automatically rise annually in line with a measure of inflation in construction costs. There are exemptions for small-scale development, and for charities and affordable housing providers. Where there is no increase in floorspace, such as a change of use, no CIL can be charged. Developers pay CIL at the point of commencement, although the facility to pay by instalments is often made available.

CIL can cover the whole or part of the local authority area, and different rates can be set for different parts of the authority (and for different land uses) provided this can be justified with reference to the land market evidence. In London, the Mayor has the power to charge a CIL as well as the London boroughs. A public examination into CIL rates assesses whether development values locally can bear the rates proposed. This process drew on the existing principles used for testing the quality of local development plans. After being brought into force in a published charging schedule, CIL rates are not negotiable.

Proceeds are retained locally rather than being passed to the Treasury. The funding raised must be spent on infrastructure, which from the development industry's perspective means that it is not wholly unrequited, even if the relationship between CIL payments and spending is looser than would be the case under a section 106 agreement. In order to avoid 'double charging' for the same piece of infrastructure, the legislation required that local authorities distinguish between the purposes to which CIL and planning obligations would respectively be put.

The government also took the opportunity to finally resolve the problems caused by the Tesco case (see section 7.2.4). Indeed, a key benefit of legislating afresh for CIL, rather than relying on tariffs based on planning obligations legislation, was that planning obligations were (even despite the freedom conferred by the Tesco case) a risky way of extracting contributions to deal with the cumulative effects of minor development. This was because under a formulaic tariff system implemented via planning obligations legislation, the connection between the tariff and the supposed impact of development might be so small that it would be difficult and time-consuming to show that the tariff payment passed the *de minimis* test. Accordingly, legislation was needed to ensure that CIL payments would not be bound by that test. This allowed contributions to be sought from very small developments without fear of legal dispute, thus widening the tax base substantially and relieving the unfairness uncovered by research which showed that a small proportion of major developments were bearing the brunt of contributions. But it also meant CIL could be an effective way of pooling contributions to fund larger items of infrastructure. This in turn enabled the Government to draw a clear distinction between the purposes of CIL (for general spending on area-wide infrastructure) and the purposes of planning obligations (for site-specific mitigation – in other words, much less than the Tesco case permitted).[30]

This package overcame many of the objections to PGS. For developers, CIL was technically easier to calculate, did not require site-by-site valuations, and it was requited (as was implied by the 'levy' moniker), in that it legally committed the revenue to infrastructure, which the industry saw as a useful purpose. The requirement for a local inquiry into CIL rates provided a means for landowners and developers to argue rates down before they were fixed. Crucially for the local government community, local authorities were permitted to decide whether they wanted to implement CIL at all; and if they did, they were in charge of setting rates, and were finally to be given all of the proceeds. These were dramatic differences from the design of all previous national development taxes – and from PGS.

At least compared with previous development taxes, the passage of the primary legislation was relatively trouble free because the Opposition stated early in its passage that they supported CIL in principle – probably because both the development industry and the local government community said they supported it. In late 2007 the British Property Federation wrote to MPs saying they welcomed CIL as a "sensible mechanism" while the Confederation of British Industry told MPs that CIL would offer "greater certainty for businesses". The RICS, RTPI, and Local Government Association were also supportive.[31] This was a level of support for new formal levies on development value last seen in the 1970s.

During Parliamentary debates, some concern was expressed about the fact that the CIL legislation was framed as enabling powers, with the detail to be set out in Regulations; however, in retrospect this legislative approach has proved to be a useful flexibility, and other stakeholders, such as the Home Builders Federation, welcomed it.[32]

Ongoing support for CIL from the Conservatives was briefly placed in doubt just as it was coming into force. In a policy paper issued before the 2010 general election, the Conservatives acknowledged that the scope of planning obligations had become too wide, and proposed:

> returning planning obligations to their original function by limiting their use to ... site-specific remediation and adaptation ... We will scrap CIL and introduce a single unified local tariff applicable to all development (even a single dwelling) ... each local planning authority will set its own local tariff rates ... this will give developers much greater certainty about how much a proposed development will cost.[33]

Despite the unambiguous repeal commitment, the replacement proposal did not sound much different in practice from CIL itself. The main objection seemed to be that CIL was "unnecessarily complicated."[34] This may explain why the return of the Conservatives to power as part of the 2010-2015 Coalition Government did not prove fatal to CIL. History curiously failed to repeat itself.

Instead, the new government confined itself to making some relatively minor changes using the 2011 Localism Act. The key changes included a power to force local authorities to give a proportion of CIL to parish councils, a widening of the definition of 'infrastructure', and a dilution of the powers of the independent inspector to over-rule the local authority's proposals on CIL rates. No major changes to CIL legislation have been implemented since.

There had been a commitment to review CIL after five years, and the government duly announced in November 2015 that industry figure Liz Peace would chair an independent group to conduct a review. The group uncovered complaints about the complexity of the way CIL is calculated and collected, and about the overlap with planning obligations, even though these had been 'scaled back' by statutory means as CIL was introduced.

The group's final report contained a core recommendation to replace CIL with a combination of a Local Infrastructure Tariff (LIT) and planning obligations. Different arrangements would apply to larger developments.[35] However, the Treasury's 2017 Autumn Budget rejected the LIT concept in favour of retaining and reforming CIL.[36] A detailed consultation document was promised, and further minor changes to CIL have been made since.

Thus CIL has survived for significantly longer than any previous development tax. Ironically it is the Conservatives, and not Labour, who have nurtured CIL for most of its life – rather as they did DLT.

By 2018-19 it was reported that CIL was raising around £1,030m per year (£1,295m today), very close to the £1,022m which had been forecast for 2016-17 a decade earlier. In November 2024 there were 162 local authorities charging CIL, a figure representing around 52% of the total.[37] This is slightly lower than the 58% take-up which had originally been forecast under the scenario which delivered the maximum revenue. But when combined with the above revenue data, this 52% figure must mean that those local authorities which have introduced CIL each made more revenue from it than the government originally predicted.[38]

Even so, CIL raises less after fifteen years of operation than the Betterment Levy did after four years. As shown in section 4.4.1 and Table 1.1, the Betterment Levy appears to have been raising the equivalent of £1,770m annually (in today's money) at the point it was abolished. However, such a comparison is arguably misleading because the Betterment Levy was charged across the whole of Great Britain on a mandatory basis, whereas CIL is only charged in around half of local authorities in England and Wales. Furthermore, the presence of significant value capture through planning obligations limits the amount of development value which CIL can reasonably capture where both are applied to the same site, whereas the Betterment Levy seems very unlikely to have been similarly constrained.

Only around 3% of Betterment Levy revenue was raised in Scotland, so an adjustment to exclude Scotland from the comparison would be simple.[39] However, differences in land values across the country make it difficult to construct a like-for-like estimate of what CIL would theoretically raise if every local authority in England and Wales were to charge it. It seems plausible that universal CIL coverage would substantially narrow the notional £475m gap (in today's prices) between annual CIL revenue and Betterment Levy revenue. For now, however, it is reasonable to conclude that (in revenue terms at least) the 1967-1970 Betterment Levy is still the most effective formulaic instrument for specific capture of development land value yet created.

7.7 The Infrastructure Levy

CIL has survived one further attempt to repeal it. In 2020, the Conservative Secretary of State (Robert Jenrick) appointed a Planning Task Force of five external advisers (including the author) to propose new reforms. The resulting Government proposals were published in a consultative White Paper in August 2020. They included a proposal to abolish CIL and replace it with a new Infrastructure Levy. The explanation for this proposal returned to many previous complaints:

> Planning obligations are ... uncertain and opaque, as they are subject to negotiation and renegotiation based in part on the developer's assessment of viability ... this brings cost, delay and inconsistency into the process [and] ... acts as a barrier to entry to the market, and major developers are better placed to devote the legal and valuation resource needed to negotiate successfully. This unevenness is a problem too for local authorities, with significant variation in skill and negotiation in negotiating viability across authorities.[40]

It was accepted that CIL addressed many of these problems. But CIL was seen as "inflexible in the face of changing market conditions" and the fact that it was payable at the point of commencement was unhelpful for developers, while not necessarily ensuring that infrastructure was delivered in a timely way.

The Infrastructure Levy proposal re-used many of the concepts which had been established by CIL, including local rate-setting, collection and spending. The main change was that the Infrastructure Levy would be based on development value, rather than floorspace. This meant that a wider range of development types, including change of use, could be exposed to tax, but also that tax liability would be more closely related to the development value actually arising on individual developments, rather than mediated via the floorspace proxy deployed within CIL. These arguments found some support among analysts.[41]

Significant associated reforms of planning obligations were also proposed, most notably that affordable housing provision would now be paid for out of Levy proceeds, rather than planning obligations.[42]

This latter proposal proved to be particularly controversial, and in anticipation of that controversy the government included a proviso that as much affordable housing should be provided under the new system as under the old one. But this intended protection for affordable housing resulted in a tight and arguably very risky policy interdependency. It meant that tax rates would now be influenced at least partly by the fact that a certain amount of money needed to be found from Infrastructure Levy proceeds to cover hypothetical levels of future affordable housing contributions. This in turn meant a significant increase in the technical demands upon local authorities in order to work out what rate of tax (if any) would deliver this hypothetical level of spending.

The Levelling-Up And Regeneration Act 2023 contains the legislative framework necessary to introduce the new Infrastructure Levy. Reflecting the extent to which the Levy builds on the design of CIL, the legislative provisions are very similar to those contained in the Planning Act 2008 relating to CIL.

A technical consultation paper was published in March 2023, but the proposal had not been progressed further by the time the Conservative government lost power in July 2024, thus leaving CIL in place.

The new Labour government lost no time in distancing itself from the Infrastructure Levy, announcing that same month that the proposal would not be taken forward.[43] No explanation was given. Instead, the government proposed to focus on reforms to planning obligations and CIL. This decision implies that CIL may shortly become not only the longest-lasting development tax, but longer lasting than all previous taxes put together.

The Infrastructure Levy proposal added a new dimension to the claim that the Conservatives will always oppose more effective taxation of development. It must be admitted that the emergence of the proposal may have owed more to the individual personalities involved than in-principle Conservative beliefs about development taxation. But that same admission shows that in-principle beliefs can often be overruled either by other conflicting in-principle beliefs, or by pragmatic considerations. This explains why the Conservatives have often accepted the in-principle case for development taxation both privately and publicly, even if some parts of the party – and landowners – would rather that they did not.

7.8 Conclusions

The history of policy since 1985 is one of gradual evolution. Planning obligations have become a substantial and integral part of the planning system, and also have become a key mechanism for delivering affordable housing. Various attempts have been made to ensure that planning obligations remain focused on local development mitigation and not on securing wider community benefits and infrastructure which are more appropriately delivered using funds collected by formal taxation. In recognition of that wider requirement, successive governments have made five separate attempts in the last 25 years to introduce more formulaic tariffs and levies on development. CIL is the only one to have been implemented, and in a very different way from previous development taxes.

The advantages of CIL look obvious in retrospect. It solves many, but not all, of the political and technical difficulties which were faced by previous development taxes. But this apparent success has caused some analysts to retrospectively apply the lessons learnt from CIL to diagnosis of failure of the national development taxes. For example, the lack of hypothecation and the lack of local allocation within previous taxes are now sometimes argued to be reasons for their failure. The complexity of valuations also becomes more prominent as a reason for failure when contrasted with the more straightforward floorspace-based approach adopted by CIL.

However, caution is required in adopting this approach. It is arguably a post-rationalisation to claim that previous development taxes failed because they did not look enough like CIL. The reasons given for repeal of previous taxes usually related to the actual design and effects of each tax, and not hypothetical alternative designs. For example, the notion that local authorities, and not central government, should charge and collect development taxes was never mentioned. The idea that funds should be hypothecated to infrastructure was also rather rare (but see section 6.6.1).

It follows from this argument that CIL is not proof that national development taxes are unworkable. This study also throws doubt on that conclusion even if CIL had never existed. But CIL does show that legitimacy and support for change can be secured more easily by exploiting support for the status quo and by re-using and evolving familiar existing concepts wherever possible. The mandatory tariff, PGS and the Infrastructure Levy all proved to be too distant from existing policy norms to secure adequate support. CIL has now joined planning obligations in possessing a sufficient foothold that the political and substantive costs of change to another other instrument could be substantial.

Of course, this does not mean that CIL and planning obligations are now invulnerable and cannot fail in the terms articulated by this study. They are both regularly criticised. In the future, critics may be able to construct a sufficiently powerful narrative of failure that repeal looks attractive to a future government, and is carried out. For now, however, there is no need to inquire into the types and levels of failure underlying their repeal.

Chapter 8

Conclusions

8 Conclusions

8.1 Introduction

This concluding chapter reflects on the main themes emerging from analysis in previous chapters. It considers the range of evidence gaps which have emerged, which are partly a result of methodological gaps and a limited range of analytical perspectives. But it also considers how this lack of evidence may have been partly responsible for a remarkably homogenous and persistent narrative of development tax failure. In particular, evidence gaps may explain the findings of analysts that a lack of political consensus and a lack of policy learning are to blame for failure. And they help to explain why the topic is regarded as so complex.

This chapter also returns to the generalisations about the failure of the taxes taken as a whole which were presented in chapter 1. The evidence presented in foregoing chapters is summarised to show that many of these generalisations are unlikely to be accurate, and that the specific circumstances of each tax are much more critical to an adequate explanation of why they were repealed than is usually acknowledged.

In place of these over-generalisations a new type of generalisations can be offered. Using the analytical framework set out in chapter 2, this chapter attempts to summarise the main types and levels of failure which led to repeal. Bad design appears to be a common culprit, and in particular bad design at the policy package level.

The chapter concludes with some final reflections.

8.2 The evidence gap

It will be apparent from preceding chapters that the traditional narrative of development tax failure outlined in Chapter 1 is rather vulnerable to challenge. Some longstanding conclusions seem unsupportable in the face of negligible or contradictory evidence, and a wide range of questions remain unanswered. For example, in considering the land market effects of the national development taxes, scholars are forced to rely on just one econometric study (on the Betterment Levy) and two systematic assessments of industry opinion or expectations.[1] Although the land market data needed to replicate and extend this type of research exists, it has never been used for that purpose.[2]

Economic analysis is therefore forced to rely on theoretical prediction; but the theories used are often simplistic. They assume that high headline rates and a firm expectation of repeal (or reform) definitely had the adverse land market effects that theory would predict, irrespective of the extent to which those rates were applied, and irrespective of whether those expectations actually existed. They also often assume that high rates and repeal expectations were the only factors that any rational landowner would take into account, irrespective of the prevailing market and regulatory conditions and the alternative taxation environment which the landowner would face if repeal were to occur. Gaps in the evidence base relating to the specific characteristics and circumstances of each tax are particularly to blame for these assumptions (see section 8.4).

There also remain gaps in the account of the evolution of political positions; for example, there has been no systematic assessment of public opinion, nor of party activist and backbench MP opinion (for example, as expressed through party conference resolutions or backbench commentary on repeal). Archival material which would throw light on the real (as opposed to published) reasons for the repeal of the Levy, DGT and DLT has never been uncovered. The present study has attempted to fill some of these gaps with new analysis, but many remain to be addressed by future research.

There are also methodological gaps. Firstly, analyses of failure often fail to consider what alternatives were available to decision makers.[3] Most analyses of development tax failure point to the adverse effects of certain design features of the taxes without considering what else the government could or should have done to avoid them. Diagnosis of failure usually assumes that the government had a free hand and made reckless or ideological-informed choices, rather than that it made conscious and thoughtful decisions to adopt the 'least worst' trade-off from a range of equally unattractive options. But there are plenty of examples where the government arguably found itself in this unenviable position. These include the decision to allow forestalling of the Betterment Levy so that a worse form of transitional disruption could be avoided; the decision to equalise the rate of Development Charge with that of the compulsory purchase regime at existing use value so that the allegation of inequitable treatment could be avoided; the decision to introduce DGT with immediate effect so that accusations of enabling land speculation could be avoided; and the trade-off between 'fairness' and legislative complexity. Of course, it could be argued that the government should never have got itself into the position of having to make such trade-offs in the first place; but if so, a meaningful investigation of failure needs to focus further back in the chain of causation.

Secondly, and although a great deal of attention has been paid to the mutually destructive effects of the instruments within each policy package, usually such analysis fails to consider whether one part of the package was able to mitigate the adverse effects of another part, or whether the failure of one part of the policy package was tolerable in order to secure the success of the remaining parts. But, as the case of the Land Commission's land buying activities showed, there may be a case that overall the land market effect of the policy package was neutral (see Box 4.1) and it could perhaps even be argued that the repeal of the Development Charge was a worthwhile sacrifice if it secured the future of the entire British planning system. These examples show once again how the level of analysis influences the diagnosis of failure or success, and how decision-makers can make trade-offs in order to secure priority policy aims.

As noted in section 2.4.1, it seems likely that these evidence gaps can be attributed to the fact that only certain analytical perspectives have been brought to bear to explain development tax failure. The explanations provided from each perspective seem equally valid in their own terms, but different disciplines find failures of different types which are not easily commensurable.

Arguably the best analyses are therefore multi-disciplinary and multi-level. When attempting to trace, as this study does, chains of causation leading back from the repeal decision, it quickly becomes apparent that the links in this chain are extremely diverse, alternately displaying political, economic, sociological and fiscal characteristics. A more complete analysis of failure must have the analytical breadth necessary to take this into account.

Further richness could particularly be added to the narrative by the discipline of public policy analysis (see section 2.4). For example, the insight above about the need to consider the alternative choices which were realistically available to policy makers, and indeed the definition of failure deployed in this study, are drawn from that field.

Similarly, previous studies have been very reluctant to pin the blame for failure on irrational or biased decisions by specific individuals, or to attribute objectives to them which politicians are ordinarily thought to seek such as status, advancement, legacy, reputation or popularity. Political biography has offered some assistance.[4] But there has been no structured inquiry into the contribution to failure made by the personalities and relationships involved, or problems such as 'groupthink'.[5] Rather, failures are typically seen as institutional or structural and are mainly explained in economic rather than sociological terms.

And yet, there are a wealth of intriguing individuals whose subjective motivations and modes of decision-making deserve study, not least because they may have been decisive in precipitating failure.[6] Examples include the origins of Uthwatt's authoritatively bad economics (see section 3.2.2); Eve's unbowing determination with securing land sales at existing use value and his threat to resign if the rate of Charge were not 100%, and his claim that he had personally intended to force land withholding (see sections 3.5 and 3.6.1); Macmillan's skills in outmanoeuvring the much more senior Butler (see section 3.11); Wells' claim that he wanted to run the Commission in a different way to that which Parliament had imagined (see section 4.5); John Silkin's 'ego', his 'doctrinaire' views and his individual championing of the Community Land Scheme (see section 6.2); and the differing political instincts of Howe in

1979 and Lawson in 1985 (see sections 6.3 and 6.10) – all are suggestive of the importance of individual agency.

Further perspectives still can be imagined, including communications and media studies, tax law and accounting, and property valuation practice. But of course, the advantage of studies undertaken from a single analytical perspective is that they are coherent at the risk of being incomplete. The risk of seeking a more complete explanation of failure, involving a wide range of analytical perspectives, is that the analytical framework becomes incoherent. The test of any broader analytical framework is arguably its practical utility in guiding tax policy makers today.

8.3 The consequences of the evidence gap

In the meantime, analysts can console themselves with the conclusion that the existence of analytical gaps itself has some explanatory power.

Firstly, it seems to explain why the debate over development taxes is thought to have been conducted in such non-consensual and adversarial terms. Scholars have regularly expressed surprise at the amount of "heat" generated over what they see as a "miniscule" or "relatively narrow" field of disagreement.[7] But this heat comes as no surprise when there is no light: the absence of any evidence with which to settle the matter one way or the other made it inevitable that policy would be settled in the political realm using incompatible normative statements about objectives, and competing interpretations of economic theory. Evidence gaps made it easy for each political party to both performatively and substantively distance itself from its opponents.

Secondly, it explains why the narrative of failure has been so remarkably consistent over time: no alternative has been available to disrupt it. Later scholars have been enabled to repeat largely unchanged the assertions first made by the repealing government of which there has rarely been any independent assessment. For example, there are few substantive differences between the narrative offered today about the Development Charge and that presented by early scholars such as Peter Self (1957) or Barry Cullingworth (1964), both of whom demonstrably drew heavily upon Macmillan's 1952 White Paper.

Thirdly, it explains why the topic is regarded as complex. In a fact-free environment it is a simple matter to construct a plausible hypothesis that one factor could theoretically have had an impact on another; and this is what previous studies have done, from an increasing variety of theoretical perspectives. Without any progress in falsifying any hypotheses through the application of empirical evidence, the number of factors plausibly involved has simply multiplied, creating the complexity that the literature observes. The objective of parsimonious theories with high explanatory power, which are likely to be useful to policy makers, is thus frustrated.

Fourthly, it could explain why some analysts consider that the same mistakes were made repeatedly.[8] Expertise was clearly brought to bear on policy development through formal Study Groups and active debate within and beyond government. And some analysts argue that a process of policy learning and improvement did thereby occur – for example (for Labour) in the adoption of the 40% rate of Betterment Levy, or the decision to give the land purchase role to local authorities under the Community Land Scheme; and (for the Conservatives) in the astute decision to retain DLT in 1979 rather than re-inflict the political damage they had suffered in 1973.[9]

But it is not obvious that these decisions were informed by much evidence; they appear to have been rather risky policy design decisions which relied mainly on the individual perceptions and experience of the key actors mentioned above, and which were conditioned by a world-view into which the available evidence did not necessarily conveniently fit. It has also been argued that Labour had a "vast amount of experience", but that they failed to apply it, "switching to a new concept" each time.[10]

A further school of thought argues that each land policy package was fundamentally well-designed but simply not given time to work.[11] It appears to follow from this line of argument that repeal occurred because each tax was unwanted, and not because it was unworkable. This optimistic attitude may have meant that no evidence of real-world workability (or otherwise) was sought.

8.4 Generalisations and particularities

Finally, a lack of evidence has arguably facilitated over-generalisation (usually excluding DGT). No doubt because of a preference for parsimonious explanations, analysts have preferred to highlight apparently similar failings among the taxes, rather than the differences of design and circumstance. Without exploration of these particular circumstances, or evidence to show that an alleged common failing did not in fact arise in any given case, it proves easy to claim that it did.

The foregoing chapters present new evidence to show that many such generalisations about common failings are misleading or unlikely to be true. This presents the risk that policy makers may be being misled into believing that the presence of one allegedly common factor must be avoided at all costs. It is therefore worth summarising whether the main generalisations which have been offered (see section 1.2) survive the range of evidence that this study provides.

The case of DLT likely disproves the argument that repeal or substantial reform was always expected and that landowners withheld land accordingly – because, as we have seen, Howe was at pains to rule this out; similarly no commitment to repeal of the Development Charge was ever made.[12] And the fact that DLT appears to have been largely tolerated after Howe's announcement seems to present the contrary case to the argument that the taxes all failed for lack of credibility or due to unpopularity, political opposition or political instability.[13]

The argument that land withholding occurred in relation to all three Labour taxes is particularly susceptible to a thin evidence base. However, it is also contra-indicated theoretically by the claim that landowners did sell but that developers bore the incidence; and by the finding that land withholding under the Betterment Levy (if it occurred at all) may have been offset by the much more benign phenomenon of forestalling. Further difficulties for this theory arise from findings that tax rates were low enough in theory, and tax liabilities low enough in practice, to maintain landowner incentives.[14]

Indeed, this study has also shown that high headline tax rates may not have been relevant as is often claimed, and certainly not across all the taxes without exception. The allegation that high tax rates were always fatal cannot easily account for the fact that DLT at (at least) 60% survived for twice as long as the Levy at 40%. And 'high' rates are almost never placed in the context of the wider taxation environment to which landowners would otherwise have been exposed, including Corporation Tax rates of 52% and Income Tax rates of up to 83%. Even the claim that the 100% rate of tax under the Charge entirely undermined incentives seems to be thrown in doubt by the allowances enabling more than the cost of the Charge to be deducted from the tax bill (see section 3.6.2). Furthermore, actual liabilities under some taxes were surprisingly low both in absolute terms and relative to modern comparators, and sometimes exposed to complete avoidance.[15]

The argument that revenue was always low, or lower than forecast, also seems to be disproved. This is partly because no DGT revenue figures, and no annual revenue forecasts for the Charge and DLT were ever published, by the Government or anyone else; and partly because the accusation is frequently not accompanied by any comparator, or any consideration of whether all of the taxes had a revenue-raising objective in the first place. Arguably the Charge and DLT did not, at least initially.[16] It must be admitted that the Charge and DLT performed much less well than the Levy, and none of these instruments looks impressive in capturing value compared with planning obligations; but on the other hand, on an inflation-adjusted basis the Levy was producing a higher annualised revenue at the moment it was abolished than CIL does today (see sections 4.4.1, 7.2.3 and 7.6).

A range of other generalisations look suspect. These include assertions that all of the taxes failed because funds always accrued to HM Treasury; that none of the Labour policies were tried for long enough; that implementation was always too hasty and always suffered from a poor understanding of land economics, and that unfortunate macro-economic conditions always prevailed.[17] It does not seem credible to conclude that in 1985 DLT was suffering from any of these problems, apart from the arguably post-rationalised failure that the Treasury was not giving DLT receipts to local authorities; but that was hardly a good reason for its repeal.

This wide range of examples shows that conclusions about the failure of the taxes regularly overlook the specific circumstances prevailing in each case, some of which – however arbitrary – seem likely to have been much more important. Even if the reasons given for repeal were always the same (which they were not), this does not mean that those reasons arose from identical decision-making failures. Kate Barker appears to be almost alone in warning that at least some reasons for failure were "specific to the particular circumstances of the time."[18]

Some examples of such circumstances are worth citing, not least as they are usually missing from economic analysis. These include the scarcity value of building licences; the apparently wide scope to negotiate valuations or undertake avoidance; the transitional arrangements and options for forestalling; the relative attractiveness of the alternative taxation environment (including CGT) which repeal would precipitate; the options open to developers to cut costs when facing incidence; legal constraints on the ability of developers to pass price increases on to consumers (such as rent controls); and the proportion of development carried out by the public and private sectors.

Repeal decisions also sometimes cited some factors which were specific to the tax concerned (compare sections 3.11, 4.11 and 6.10). Indeed, this study shows that a substantial number of detailed factors thought to have been influential to the demise of one tax have rarely, if ever, been cited as failings of two or more of them, suggesting that particularities were important. Such factors include: the interdependency of the taxes with other related policies (for example, compulsory purchase powers, compensation provisions, building licences, and other taxes); the developer incidence of the tax; the specific character of exemptions; the quality of political and official communications and levels of public understanding; the effect of antagonistic media campaigns; and challenges to the in-principle validity of a valuation-based tax.

This focus on particular circumstances is important, but it is not to say that no general conclusions at all can be reached. The preference of this study is not to attempt to identify common decisions or effects (such as 'high rates' or 'land withholding') but to identify common types and levels of decision-making failure. This analytical approach serves to alert today's policy makers of those types, and operating at those levels, that their predecessors made bad decisions. It is to these generalisations that we can now finally turn.

8.5 Types of failure

The repeal decisions themselves almost always alleged an intermixture of *bad design* decisions, and adverse effects which followed from those decisions. And the analysis in previous chapters leads to the conclusion that bad design was overwhelmingly the main cause of failure, though not necessarily bad design within the taxes themselves. Bad design of the policy package, influenced by more general policy design decisions taken at the government level, appears to frequently have had adverse consequences for the taxes. Objectives were inconsistent and subject to awkward compromises; risky or inflexible design was common; dependencies on other policies or institutions were often high; and the logic for the way policy packages were assembled is sometimes weak or obscure (for example, the argument relating to the need for the Commission to collect the Betterment Levy because the Inland Revenue could not be given compulsory purchase powers).

This is not to say that tax designers themselves always produced good design. In fact, there is clear evidence that legislation was unnecessarily complex; that the scope of taxation was unnecessarily (even perversely) wide; and that collection processes were burdensome. Bad economics created some absurd tax design constraints, such as the wrong-headed notion under the Development Charge that any rate of tax less than 100% would cause existing use value to rise, and the erroneous view that taxes would never capitalise into land prices.

Bad design increased the risk of bad implementation and bad politics. Indeed it has been suggested that political controversy was rooted in practical unworkability: bad policy is bad politics.[19] But it appears that better design progressively reduced the risk of these other types of failure. For example, design decisions to adopt lower (less risky) rates; increase exemptions, and adapt existing institutions rather than create new ones, appear to have made it easier for the Conservatives to adopt DLT rather than immediately repeal it.

Bad implementation sometimes had a role to play, but appears to have made only a relatively small contribution to adverse effects, and it usually simply exacerbated (and was perhaps caused by) bad design. For example, the absence of adequate guidance and information to taxpayers was bad implementation, but such guidance would have been rendered unnecessary by better design. An apparent failure to monitor economic effects also made bad politics more likely.

But bad implementation appears never to have been cited as a cause for repeal in its own right. Indeed, repealing governments were often at pains to spare civil servants the blame by praising the diligent implementation of a bad design.[20] In any case it would have made no political sense to attack the taxes on the grounds that the design was good but that the implementation was bad, as this risked conceding the fundamental soundness of their opponents' approach.

Bad politics appears to have been rather less important, after discounting the government-level bad politics which led to the government losing power in the first place, thus providing their opponents with the opportunity to enact repeal. But bad politics is occasionally observed. For example the Land Commission, if not the Betterment Levy, suffered immediately from a lack of political support; and in the case of DGT the political problem was an insufficiently comprehensive response. It may well have been bad politics to propose the Community Land Scheme, but as argued in chapter 6, this failing is not relevant to the repeal of DLT.

In earlier schemes it was bad politics not to exempt the mass of smaller (but voting) developers and landowners from development taxes, although the severity of this effect is very difficult to judge from the evidence available. And a failure to expound the benefits of the taxes (such as they were) may have opened up political opportunities for the government's opponents, especially as the costs of the taxes to individuals became clear.[21]

What accounts for this bad politics? It seems likely that compromises and tensions between the various interest groups within each political party may have made it more difficult to articulate a clear, persuasive and sustained political position with which to constrain and frustrate their opponents. Moderate, pragmatic or centrist positions did not always prevail over more extreme positions in design decisions, which may have automatically limited the likely scale of public support.[22]

On the other hand, bad politics seems not to have induced *other* types of failure; it is more often the case that bad design decisions were then worsened by bad political handling, and that bad politics created undesirable 'real world' effects. For example, it may have increased expectations of repeal, which might in turn have affected the land market.

The conclusion that bad design, and not bad politics, is fundamentally to blame for failure comes with the caveat that some of the original bad design decisions at the government level were arguably caused by bad politics. Design decisions appear to have been based on ill-informed assumptions about what the public should support, rather than on what they actually did support; or indeed on the assumption that success did not depend on what the public would support.

For example, as discussed in chapter 3, the design decision to prefer a public sector solution to almost every problem after the war (including housebuilding) could plausibly be argued to have been a political error, because it ignored the entrepreneurial part of the voting public which wanted to undertake minor development or to build homes for itself. And the post-war decision to overlay existing strict controls on construction and rents with further controls on land use, however much these were good policy, were arguably bad politics in dealing with a weary nation which had been looking forward to benefiting from the freedom it had been defending – and the Conservatives took full advantage of this. Similarly, bad politics were arguably at the root of the ease with which the Conservatives could conjure up the spectre of land nationalisation in response to the Land Commission, and the Community Land Scheme (even though the latter emphatically exempted homeowners from its reach). On the Conservative side, misjudgments about how much inflation the public were prepared to tolerate arguably forced their hand into a series of bad design proposals during 1973, the last of which (DGT) Labour felt able to repeal with ease.

So the argument that bad design decisions fundamentally originate in bad politics has some force. However, it is beyond the scope of this study to empirically assess the wisdom of the macro-political judgments which each government made about the popularity of both its general policy stance and the land policy package which it proposed. It proves necessary to limit ourselves to the conclusion that, from the perspective of the taxes, these more general policy positions were bad design irrespective of whether they were good or bad politics, because they prompted more detailed bad design decisions, and adverse effects, which were later cited as reasons for tax repeal.

Finally, it would appear that *bad luck* is very rare – and arguably completely absent. It must be admitted that development taxes have often been studied without adequate reference to the full range of external conditions which are likely to have affected their prospects, and so future analysis may find genuinely external factors which the government could not have anticipated or controlled. But inspection of the available evidence on development taxes shows that there were few external events, constraints or effects which were not a result of government decisions.

It could perhaps be argued that government since 1945 has been an increasingly ambitious and therefore complex affair, and thus that those in charge of designing the land policy package can be forgiven for not having complete knowledge of policies being pursued elsewhere in government which might conceivably affect them.[23]

However, the framework being deployed in this study argues that this forgives too much, and that the blame for development tax failures must inevitably be aimed at the government level (see sections 2.4.4 and 2.4.5).

Some examples serve to underline this point. Firstly, the Central Land Board complained about the Development Charge not having been designed to function alongside building licences (Box 3.1). This lack of cross-government coordination seems very difficult to excuse as bad luck. Secondly, the failure of local government to grant enough planning permissions (alleged to have been a factor in the failure of the Land Commission) could be argued to be bad luck, because local authority control over planning decisions was a longstanding policy possessing the character of a structural constraint over which the government had no control. But this is too generous to the government, which had the power to change the way the planning system worked if it wanted to; and it was argued after the abolition of the Commission that the government's failure to do so had in fact been the real problem.[24] Finally, it also seems overly generous to suggest that the 1976 IMF economic crisis – which has explicitly been labelled as bad luck which brought down the Community Land Scheme – was not, to some extent, the responsibility of the government of the day.[25] But even if the government was not responsible, chapter 6 shows that the resulting public spending cuts are simply not relevant to the decision to repeal DLT many years later.

Thus, for the time being, it appears necessary to conclude that development tax failure has almost always been self-inflicted.

Of course, with the benefit of hindsight, today's analyst is able to perceive causal relationships and interdependencies that may not have been at all obvious to policy makers at the time. Something that we now view as bad design may have been treated as bad luck at the time because of a misunderstanding of the underlying causes and relationships. This conclusion again points to the importance of prior analysis and a valid model of cause and effect.

8.6 Levels of failure

Failure at all levels is evident in the foregoing account. However, the main conclusion to be drawn is that bad decisions at the instrumental (tax) level were often caused by bad decisions at a higher level – within the policy package, or government policy as a whole. Such difficulties are particularly evident in the case of the Development Charge and the Betterment Levy, which were part of tightly integrated policy packages whose characteristics were in turn strongly influenced by the government's overall policy stance.

This cascade of influences may seem logical and indeed inevitable. And it could be argued that tightly integrated policy packages are more difficult for opponents to unpick, as Macmillan discovered in 1952. But the fact that failure almost always followed from such influences seems to validate the advice of theorists that success is more likely if interdependencies can be minimised – both within and beyond the policy package.[26] This advice seems not to assist in explaining the repeal of DGT; but it could be argued that the largely free-standing nature of DLT and CIL is relevant to their longevity.

Given this general conclusion, it is ironic that the dependency of the taxes upon other aspects of the policy package has probably been blamed on the wrong aspects, or on a misidentification of the relevant policy package in the first place. For example, chapter 6 shows that the failure of DLT is not easily blamed on the failure of the Community Land Act; the implication that it did is due to imprecise analysis. And while other related taxes (such as CGT or Corporation Tax) have often been seen as relevant to analysis, they are often not treated as part of the policy package under scrutiny, let alone seen as crucial in the repeal decision. Once again, the focus of the analyst dictates the causes of failure observed.

From the perspective of tax designers, the adverse influence of the policy package may look like bad luck, or as an inevitable and regrettable side effect of otherwise virtuous policies. But as pointed out above, the political element of failure means that the perspective of tax designers is not a sensible perspective from which to allocate ultimate blame.

In any case, problems originating at the policy package level cannot excuse bad decisions made by the instrumental level, especially design choices (see previous section). The repealing government certainly perceived bad design (and consequent adverse effects) in the taxes themselves. This suggests that the taxes would have been vulnerable even if they had not been surrounded by an ambitious and risky wider policy package.

This might imply that policy packages are best built 'bottom up' from individual instruments. But instrumental design cannot be a technocratic exercise undertaken in a vacuum. Isolated instrumental design risks incoherence and failure at the policy package level even if individual instruments appear to be well-designed in isolation. In any case, design choices cannot be separated from the values and objectives of the government of the day. That is why politicians make them. The key task appears to be to ensure that their world view is implemented at each level of policy with sufficient humility that policies are able to adapt if and when that world view turns out to be flawed.

8.7 Final reflections

Some final reflections are in order. Firstly, it should be noted that repealing governments' arguments have not always been coherent. Some repeal decisions cite reasons for repeal which appear not to have been prompted by any real world effect at all. For example, the 1952 White Paper arguments rested partly on the accusation that the Development Charge was illegitimate because it required a valuation of development value, while DGT was rejected on the grounds that it did not adequately tax development in principle, irrespective of whether it might have done so in practice. Analysts have been at a loss to test the veracity of such arguments, which appear to be based on a retrospective redefinition of the policy problem in such a way as to make the criticism relevant.

Secondly, the analysis makes apparent the presence of a number of theoretically plausible (if not actually evidenced) feedback loops, which usually involve an oscillation between mutually antagonistic political, economic or administrative factors. Such 'self fulfilling prophecies' have been noted by previous studies.[27] For example, the Conservative promise to abolish the Land Commission made it more difficult for the Commission to attract enough staff, which in turn hampered the ability of the Commission to deliver its objectives, which in turn made the Commission more of a target for the Conservatives. And initial land withholding in response to the Development Charge would have worsened land supply, attracting the attention of the Conservatives, causing them to strengthen their opposition to the Charge, which would have tempted more landowners to withhold land.

Thirdly, diagnosis of the causes of failure risks being an infinite quest. To preserve comprehensibility, the present analysis focuses on the factors most proximate to repeal, and on a framework likely to be of use to policymakers today. However (as noted in the discussion above about whether a diagnosis of bad design conceals a real problem of bad politics) a focus on proximate causes does risk more distant ‘root causes’ or ‘initial conditions’ being pruned out. For example, Andrew Cox asserts that “the real problem” with the Development Charge was the internal inconsistency of its attitude to the private land market.[28] This begs the question as to how this incoherent attitude came about. The answer could be that it was conditioned by Conservative involvement in the 1944 White Paper, or by internal compromises within the Labour party over land nationalisation, which in turn begs the question of who mediated the conclusion which was reached, and by what means. Thus the chain of causation reaches further back into the past, and further away from the reach of traditional analytical tools. However, analysis does need to draw a line at the point that it begins to identify influences which are so arbitrary or circumstantial that they provide no guidance to policy makers today.

Finally, this study presents a striking contrast between an influential and persistent narrative of failure on the one hand and a weak evidence base for that narrative on the other. This contrast is so striking, indeed so suspicious, that it ought to become an object of study in its own right. On closer inspection some aspects of this narrative are demonstrably false or over-simplified. Other aspects are simply speculation or very vulnerable to challenge. Perhaps further evidence will be uncovered to confirm the more speculative claims which have been made. But even those aspects of the narrative which it is possible to confirm sometimes have doubtful relevance to the decision to proceed to tax repeal. Those aspects which remain are often quite different in character from those to which our attention is usually directed. In at least some cases, it is difficult to avoid the conclusion that accusations of failure were levelled at a previous development tax because it was unwanted, rather than because it was unworkable; and because it was about to be successful, rather than because it would always be a failure.

The stability of planning obligations and CIL suggests that a way can be found to capture modest amounts of development value without a formal development tax. The requited nature of these instruments seems likely to be critical to the support they have been given. But that does not mean that other types of development taxes cannot work if they are well designed, well implemented, and politically astute. There are plenty of mistakes to learn from.

Endnotes

Endnotes

Notes to Chapter 1

1 Roberts 1976;244; Grant 1992:75,1999:67; Plimmer & McGill 2003:7; Oxley 2006:104; Ashworth & Demetrius 2008:16; Weiler 2008:342; Dobson 2012:117; Jones et al 2018:ii

2 Goodchild 1978:41; Hallett & Williams 1988:122-123; Lowe 1999:243-244.

3 Corfield et al 1978:5; Thomas 2004:8.

4 Plimmer & McGill 2003:7; Barker 2003:118; Barker 2004:77-78; Allmendinger 2011:132; Mirrlees 2011:372; Cheshire et al 2014:134; Cullingworth et al 2015:31; Crook et al 2016:60; Crook et al 2016:270,278; Ellis 2018:673; Crook & Whitehead 2019:368; Jones & Stephens 2020:634; Lord et al 2023:20.

5 Lowe 1999:243-244; Tichelar 2019:206; Jones & Stephens 2020:634.

6 Grant 1992:76; Barker 2003:118; Crook et al 2016:46; Oxley 2006:104; Crook et al 2016:278; Stephens 2019:13.

7 Crook et al 2016:60.

8 Grant 1979:362; Cullingworth 1980:415-417; Grant 1992:75,1999:67; Barker 2003:118,2004:77-78; Plimmer & McGill 2003:7; Oxley 2006:104; Cheshire et al 2014:134; Cullingworth et al 2015:31; Whitehead 2016:32; Fitzpatrick 2016:77-78; Crook et al 2016:270; Wyatt 2017:154-155; Crook & Whitehead 2019:368; Tichelar 2019:206.

9 Heap 1975:10; Hallett 1977:153; Prest 1981:145; Hallett & Williams 1988:122-123; Blundell 1994:157; Weiler 2008:342; Fitzpatrick 2016:77-78.

10 Dobson 2012:117; Hallett & Williams 1988:122-123; Cullingworth 1980:417.

11 ONS, 2024. This methodology follows that adopted by Crook et al 2016:46 and Crook & Whitehead 2019.

Notes to Chapter 2

1 Parker 1965:65; Grant 1999: 66; Alterman 2012:762-763; Crook et al 2016:15,39. Crook et al (2016:16) offers a useful definitions of selected key terms.

2 For overviews of the evolution of the concept, see Prest 1981 8-21,108-109; Clarke 1965:77-78; Booth 2012:76-77; Lichfield & Connellan 1997:61-64.

3 Balchin et al 1988:274-276; see also Whitehead 2016:21-22,29; Day 1965:98-100; Needham 2000:244-247.

4 Clarke 1965:77; Balchin et al 1988:279; Grant 1992:68; Booth 2012:77; Oxley 2012:336; Lichfield & Connellan 1997:9-10.

5 Hayek 1952:623.

6 Fainstein 2012:21-23; see also Walters 2012:187

7 Whitehead 2016:22-23; Lichfield & Connellan 1997:8; Oxley 2012:338

8 Needham 2000:246-247; Pennance 1967:42; Whitehead 2016:23-29; Crook & Whitehead 2019:363

9 Clarke 1965:75, Grant 1992:71,1999:66; Hendricks et al 2017:258, but see Alterman 2012:762 for a different interpretation.

10 Grant 1992:67-68; Plimmer & McGill 2003:2-3

11 Clarke 1965:74-75; Corfield et al 1978:5; Hall 1965:x-xi; Hallett 1977:119; Leung 1979:7-8; Grant 1992: 67-68; Walters 2012:187; Crook et al 2016:16,39,41; Crook & Whitehead 2019:361; OECD 2022:14; for other definitions see Walters 2012:191; Hendricks et al 2017:258; Alterman 2012:765-766; Day 1965:97-98

12 Grant 1992:67

13 For discussion, see Corfield et al 1978:5; Grant 1992:71-75, 1999:67; Crook et al 2016:40-43,48; Hallett 1977:115; Denman 1971:31; Denman 1980:17-20; Davies 1984:276; Prest 1981:126-127; Gummer 2004:78-81; Oxley 2012:337

14 For discussion of the pre-war evolution of these rights see Parker 1965:56-57; Corfield et al 1978:1-4; Leung 1979:6-7

15 Leung 1979:27-28

16 RICS 2019:10

17 Crook et al 2016:16,39

18 Grant 1999:67; Hallett 1977:124; Whitehead 2017:31; Crook et al 2016:5,280; Crook & Whitehead 2019:361-362.

19 Hall 1965:xii

20 RICS 2019:5

21 Crook et al 2016:15-16,39

22 Crook & Whitehead 2019:365-366

23 See for example Catney & Henneberry 2019:339-340,347-352; Dunning et al 2020:9-10; Shepherd 2023:94; Lord et al 2023:32-33

24 For examples of land value capture taxonomies see Hall 1965:xii-xviii; Ratcliffe 1976:47-58; Cox 1984:54-58; Alterman 2012:762-766; Walters 2012:188-193; Clarke 1965:74-76; Hagman & Miscynski 1978:xxxv-xxxix; OECD 2022:16-17

25 Beckett, 2019

26 Prest 1981:95; Gibson 2021:4

27 Blundell 1993:13-14; Tideman 1994:103-140; Maxwell & Vigor 2005:2-8; Dye & England 2009:4-5; Wetzel 2006:324-325; Mirlees 2011:373-378; Jones et al 2018:52; OECD 2022; Gregory et al 2023:153

28 Lichfield & Connellan 2000:21; Jones et al 2018:iii; Crook et al 2016:280; Crook & Whitehead 2019:360,376; Plimmer & McGill 2003:4; McAllister et al 2018:316

28A Crook & Whitehead 2019:366

29 Soares 2024:1

30 For a discussion of incidence see Smith 2015:31-40; Crook & Whitehead 2019:365; Hagman & Miscynski 1978:112-115; Needham 2000:249; Oxley 2012:338
31 HM Treasury 2007a:30; Mirlees 2011:371-373; Regeneris for BPF 2015; Gibson & Smith 2017:6-8; CBI & Avison Young 2020:32; Gibson 2021:15; for an internationally-oriented study see Hilber 2015:304,308
32 Hagman & Miscynski 1978:127
33 Hall et al 1973b:219-220
34 Matthews 2016:2
35 Daunton 2002:6
36 For a discussion, see Bovens & t'Hart 1996:39-43
37 For examples of land policy or development value capture success criteria, see Hall 1965:xix; Lichfield 1965:111-112, Ratcliffe 1976:46-47; Grant 1992:77; Lichfield & Connellan 2000:17,37; Day 2005:225;Walters 2013:7-9,19; Crook et al 2016:288-289; Jones et al 2018:50-52; Crook & Whitehead 2019:362-365
38 Cairney 2012:228-232; Hall 1993:279-280
39 For discussions of these concepts, on which the following analysis draws, see Hogwood & Gunn 1984; Bovens & t'Hart 1996; McConnell 2010; Marsh & McConnell 2010; McConnell 2015,2016; for recent UK case studies see King & Crewe 2013
40 Bovens & t'Hart 1996:22
41 Brown 1952:394; Pennance 1967:27; Hagman & Miscynski 1978:449; Cullingworth 1980:114,393; Ratcliffe 1981:363-363; Cox 1984:141,153; Thomas 2004:8
42 Bovens & t'Hart 1996:35-37; Marsh & McConnell 2010:568-570
43 Hogwood & Gunn 1984:197. For clarity in the present study, these authors' use of the term *bad execution* is rephrased as *bad implementation,* while their use of the term *bad policy,* which arguably risks ambiguity, is rephrased as *bad design.* Marsh & McConnell (2010) identify a third category, of *process failure,* which is roughly synonymous with bad design, while their *programme failure* is roughly synonymous with bad implementation.
44 Hogwood & Gunn 1984:197-206; Sabatier 1986:23-25; Cairney 2012:35
45 For discussion of this point, see Marsh & McConnell 2010; McConnell 2010a, 2010b, 2015, 2016
46 For an example of the usage, see McTernan 2024:1
47 Hogwood & Gunn 1984:197
48 Bovens & t'Hart 1996:74-90
49 This framework adapts concepts proposed by Hall 1993; Howlett 2017; Peters et al 2018
50 Howlett 2017:2-7
51 Hall 1993:278; Howlett 2017:2-7. Howlett's term *instruments* is here preferred to Hall's term *techniques,* which encompasses both the policy package and instrumental level; and Hall's term *settings* is merged with Howlett's instrumental level.

Notes to Chapter 3

1 Prest, 1981:70; Cox 1984:27; Corfield et al, 1978:4; Seligman 1913:434-436
2 Prest 1981:13-14,65-66
3 Parker 1965:58-59
4 Turvey 1957: 103-122; Parker 1965:58-59; Seligman 1913:446-448
5 The origins of the Act are explored by Sutcliffe 1988
6 Booth, 2012:77
7 Ashworth 1954:192,212; Ratcliffe 1976:41; Sutcliffe 1988:301
8 Parker 1965:60-62
9 Heap 1975:5; Lichfield & Darin-Drabkin 1980:130, Tichelar 2019:57, Clarke 1965:76, Davies 1984:257
10 Cox-Sinclair & Hynes, 1910:31-35; Ratcliffe 1976:41; Prest 1981:72-73
11 Clarke, 1965:78 Prest 1981:73
12 Hagman & Misczynski 1978:441; Cox 1984:30; Lund 2016:37; Tichelar 2019:76
13 Prest 1981:75-76; Douglas 1976:208; Tichelar 2019:75-76
14 Hennessy 1992:197-208
15 Cullingworth 1972:31; Prest 1981:85-86; Catney & Henneberry 2019:343; Tichelar 2019:88-90
16 Ministry of Works and Planning 1942:136-137
17 Cullingworth 1964:110-115, 1975:185-189; Corfield et al, 1978:6-7; Prest 1981: 79-80, 132; Cox 1984:36-42; Manton 2006:259-268; Crook et al 2016:43-46
18 Hayek 1952:622; Hallett 1977:132; Prest 1981:79
19 Cullingworth 1980:57
20 MTCP 1944:8
21 For a range of commentary on the evolution, purposes, requirements and effects of the 1947 Act see Hall et al 1973b; Cherry 1996; Cullingworth 1975; Manton 2006; Cullingworth et al 2015
22 Respectively by Turvey 1953:314, Hall & Tewdwr-Jones, 2020:79, Heap 1975:10; Thomas 1960:476; and King & Crewe 2013:Ch 2
23 MTCP 1947:9
24 Cullingworth 1980:103; Brown 1952:394; Turvey 1953:309
25 Self 1957:151; Parker 1959:12
26 Cullingworth 1975:211-211; Prest 1981:90; Cox 1984:97-98
27 For the Conservative reforms, see MHLG 1952:6-13; Cullingworth 1980:139 et seq
28 Cullingworth, 1980:14
29 Parker 1965:65; Hayek 1952:624
30 Turvey 1953:309
31 Central Land Board 1949:3-5; Cullingworth 1980:14-20
32 Tichelar 2019:113
33 Marriott 1967:4,49,170-173; Balchin et al 1988:288
34 Central Land Board 1950:7; Cullingworth 1980:478; Davis 2008:134
35 Cullingworth 1980:16; Turvey 1953:313

36 CP (46) 432, *Town and Country Planning Bill – Memorandum by Minister of Town and Country Planning,* 25 November 1946:11
37 MTCP 1947:11; Prest 1981:146
38 Central Land Board 1950:17
39 MHLG 1952:12; Cullingworth 1980:122; Crook et al 2016:47
40 Cullingworth 1980:28
41 Crook & Whitehead 2019:368
42 MHLG 1955:13
43 Central Land Board 1958:7
44 Central Land Board 1949:15
45 HC Debates 11 November 1952 vol 507 col 30W
46 Douglas 1976:214; Grant 1992:76; compare Dobson 2012:120
47 Prest 1981:146; Barker 2003:118,2004:78
48 For similar comparisons, albeit on the basis of outdated figures, see Crook et al 2016:49; Stephens 2019:13; Crook & Whitehead 2019:368.
49 Grant 1992:70
50 Grant 1999:64
51 Cullingworth 1980:122
52 Sharp 1969:143; Cox 1984:109; Cullingworth 1980:100-126
53 Cullingworth 1980:100-126
54 House of Commons 1952:127, Central Land Board 1949:5
55 Compare Cullingworth 1980:416-417
56 Cullingworth 1980:61-62
57 Ravetz 1980:67
58 Cullingworth 1975:245
59 Cox 1984:90-91,97; Lowe 1999:243-244
60 Cullingworth 1975:247-248; 1980:24
61 Cullingworth 1980:15,24,26
62 Heap 1975:12-14; Prest 1981:145
63 Thomas 2004:10, compare Heap 1975:11; Cullingworth 1980:20-25
64 Cullingworth 1975:246,1980:20-21,46; Dobson 2012:120; Prest 1981:90-91
65 Hall et al 1973a:111-112; Leung 1979:53; Ravetz 1980:65-66; Cullingworth & Nadin 2006:24; Crook et al 2016:49; Ellis 2018:673; Tichelar 2019:136; on Ministerial disdain for the private sector see Foot 1973:72-74; Chenier 1984:296
66 Cullingworth, 1980:41
67 Cullingworth 1980:45
68 Bryant 1972:321; Lichfield & Darin-Drabkin 1980:141
69 Cullingworth, 1980:55
70 Cullingworth 1980:44
71 Brown 1952:394; Cullingworth 1980:410; compare Turvey 1953:313
72 Hall 1965:ix; Lichfield 1965:114; Prest 1981:9; Lichfield & Darin-Drabkin 1980:142
73 Cullingworth 1964:120, 1972:149, 1988:161-162; this statement was removed from the 1997 edition
74 Turvey 1953:314; Tichelar 2019:206; Leung 1979:72; Prest 1981:78; Douglas 1976:214
75 Hennessy 1992:191-193,323, see also Hennessy 1989:121
76 Booth 2012:79; Cullingworth 1975:212,1980:15,24,31; Prest 1981:125; Leung 1979:77; Catney & Henneberry 2019:346-347
77 For a range of opinions, none of which offer any land market data, see Hall 1965:xiii; Lichfield 1965:115; Marriott 1967:4; McAuslan 1969:223; Hall et al 1973b:225; Prest 1981:57; Healey 1983:30; Cox 1984:93; Grant 1999:64; Barker 2004:77-78; Weiler 2008:321; Booth 2012:79; Crook et al 2016:49; Catney & Henneberry 2019:344; Crook & Whitehead 2019:368; Jones et al 2018:7; Jones & Stephens 2020:635; Shepherd 2023:93
78 Pennance 1967:42-44
79 But see the brief and unsourced assertions made by Amos 1987:13; Whitby & Willis 1978:146, and compare Vallis 1972:1604
80 See for example Cox 1980:94; Weiler 2008:320-321; Crook et al 2016:49
81 On which military experience, see Trustram Eve 1976
82 Cullingworth 1980:27-28
83 Cullingworth 1980:28; Weiler 2008:321
84 Cullingworth 1980:30-32,41
85 Thompson 1985:239-244
86 Cullingworth 1975,1980
87 Cox 1984:94; see also Weiler 2008:320-321
88 Vallis 1972:1015; Crossman 1975:31; O'Hara 2012:147
89 Lichfield & Darin Drabkin 1980:142; Balchin et al 1988:288; Goodchild & Munton 1985:62 and Dobson 2012:120
90 Cullingworth 1980:45; Prest 1981:125; Prest's source is MTCP 1951:12-13
91 Cullingworth 1980:47,68-69
92 Cullingworth 1964:121; 1972:150; 1988:162
92A Cullingworth 1980:30,33,42,114
93 Darin-Drabkin 1977:254; Hall & Tewdwr-Jones 2020:79
94 Prest 1981:91; Hall et al 1973b:222-224
95 Prest 1981:91; see also Lichfield & Darin-Drabkin 1980:141; Booth 2012:79
96 Compare MTCP 1952:4 with later language used by Cullingworth 1972:150; Corfield et al 1978:11; McKay & Cox 1979:80; Ravetz 1980:66-67
97 Leung 1979:53; Amos 1987:13; Parker 1959:12; Parker 1965:65
98 Ellman 1969:22; Bryant 1972:321-322; McKay & Cox 1979:80. See also the slightly different but unsourced argument made by Blundell (1994:162), relating to circumstances where the existing use value was nominal.
99 Leung 1979:53; Parker 1959:12-13; Cullingworth 1980:45
100 Cullingworth 1980:45; Hall et al 1973b:219-220
101 Leung 1979:63; Cox 1984:95
102 Wendt 1949:430; Wendt 1950:398; Smyth 1985:123; Balchin et al 1988:236-237; Weiler 2008:321. Leung's

(1979:62) claim that the 1947 Act contained no such controls is correct, but hardly exhaustive.
103 Dow 1964:150; Merrett 1979:240
104 Cullingworth 1980:33; Prest 1981:91; compare Parker 1959:12-13
105 Cullingworth 1980:58,70
106 Rosenberg 1960:102,133,139-140,146; Chenier 1984:5,10,337
107 Rosenberg 1960:68,72-73,97,100,136
108 Rosenberg 1960:69-77,97-100,136-138; Dow 1964:151, Chenier 1984:275; Smyth 1985:110-118; see also Kohan 1952; Potts 2009
109 Turvey 1957:139; Cullingworth 1972:149, 1980:16; Lichfield & Darin-Drabkin 1980:141; Prest 1981:91; Rose 1985:181; Jones et al 2018:7; Hall & Tewdwr-Jones 2020:79; Dobson 2012:120
110 Cullingworth 1980:70
111 Central Land Board 1950:10
112 Cullingworth 1980:45
113 Leung 1979:62-63, Cullingworth 1980:70
114 Turvey 1953:307-308; Lichfield & Darin Drabkin 1980:141; MHLG 1959:10
115 Parker 1951:214; Leung 1979:77; Turvey 1953:307-309
116 Davis 2008:133
117 Turvey 1953:313
118 Rose 1985:185
119 Cullingworth 1980:45
120 Vallis 1972:1604; for a critique of this work see Hallett 1977:99-104
121 Black 1951:41; Parker 1959:12-13; Cullingworth 1972:150; Ratcliffe 1976:33,43,89; Ravetz 1980:66-67; Rose 1985:181; Jones et al 2018:8-9; Jones & Stephens 2020:624
122 Cullingworth 1980:58
123 Balchin & Kieve 1985:130-131
124 Cullingworth 1980:45
125 MTCP 1951:13
126 Rosenberg 1960:135
127 Bryant 1972:321-322; Cullingworth 1972:149; Leung 1979:75-76; Lichfield & Darin-Drabkin 142; Booth 2012:79
128 Jones & Stephens 2020:628; compare Smyth 1985:133; Rozen 1963:190
129 Smyth 1985:132; Balchin et al 1988:236-237; Weiler 2008:321; see also Wendt 1950:398
130 Smyth 1985:110,114
131 Compare Parker 1959:12-13; Jones et al 2018:8-9,48 with Heap 1950:7
132 Turvey 1957:141; Cullingworth 1972:150; see also Walker-Smith 1951:393
133 Lowe 1999:248; Wendt 1949:30; Tichelar 2019:136; Glennerster 1995:76; compare MTCP 1951:85 and MHLG 1955:12
134 Dow 1964:151; Smyth 1985:112; Rosenberg 1960:136-137; Cullingworth 1980:77
135 Nurske 1956:128-129; note that Nurske's investment estimates are stated in 1948 prices; if stated in nominal terms the figure cited would be slightly lower
136 Irving 2014:90-94; Davis 2008:129-132
137 Turvey 1957:141; Balchin & Kieve 1985:130-131
138 Marriott 1967:4,49,170-173
139 Walker-Smith 1951:393
140 MHLG 1952:5-6
141 Cullingworth 1980:8
142 MTCP 1947:9; compare Healey 1983:24; Cox 1984:92; Tichelar 2019:139
143 Cullingworth 1975:244
144 Hayek 1952:621,624-625
145 Cullingworth 1980:21-23
146 Cullingworth 1980:24
147 Town and Country Planning (Development Charge) Regulations 1948
148 Cox 1984:101
149 Lichfield & Darin-Drabkin 1980:141
150 HL Debates 3 June 1948 vol 156 cols 240-241
151 HL Debates 3 June 1948 vol 156 cols 240-241
152 Compare Cullingworth 1980:18-19; Leung 1979:25
153 Blundell 1994:162; Dobson 2012:120; Turvey 1953:306
154 Leung 1979:24-25; Cullingworth 1975:248, 1980:26-27
155 Hayek 1952:625
156 Parker 1959:13; Pennance 1967:27
157 Cullingworth 1980:47-48; Blundell's (1993:6) claim that "valuers backtracked ... when challenged on appeal" is thus not accurate.
158 Cullingworth 1980:85,564
159 Munby 1954:95
160 Wendt 1949:431
161 Self 1957:152, Turvey 1957:140; Parker 1959:13; Wendt 1950:339. Compare the similar point about valuations under the Betterment Levy made by Ellman 1969:68
162 Turvey 1953:309; compare Lichfield & Darin-Drabkin 1980:141
163 Plimmer & McGill 2003:7; McAuslan 1969:223; Cullingworth 1975:25
164 Black 1951:41; Hayek 1952:625; Leung 1979:57; Turvey 1953:308-309; Cullingworth 1980:43
165 Turvey 1953:307-309; Leung 1979:62, 77-78
166 Blundell 1994:162; Cullingworth 1980:31
167 Hayek 1952:625; Wendt 1949:431
168 Lichfield & Darin-Drabkin 1980:141; McAuslan 1969:223
169 Cullingworth 1980:43,564; Black 1951:41; Ravetz 1980:66; Balchin et al 1988:288; Parker 1965:65
170 Blundell 1994:161, Self 1957:152; Davis 2008:131
171 Grant 1979:359; Heap 1950:7, 1975:10
172 Turvey 1953:307-309,1957:138
173 Munby 1954:95
174 Wendt 1949:431
175 Cullingworth 1980:32
176 Cullingworth 1980:47; compare Black 1951:40
177 Blundell 1993:5

178 Turvey 1953:309
179 Central Land Board 1950:6; compare the language used in the 1950 Conservative Party manifesto (see section 3.8).
180 Central Land Board 1949:11. For the Board, being fair to the buyer meant the seller agreeing to sell land at existing use value.
181 Central Land Board 1949:13; see also Self 1957:152; Black 1951:40; Cullingworth 1980:43; Booth 2012:79; Jones et al 2018:6
182 Bryant 1972:321-322; Grant 1982:23,1999:64; Jones et al 2018:7
183 Cox 1984:105; Perkin 2002:383; Thompson 2010:268; Tichelar 2019:11-17
184 Heap 1950:5-8
185 Turvey 1953:313
186 MTCP 1944; on the confrontation within the government over the White Paper, see Murphy 1970:418; Prest 1981:84, Cox 1984:48; Cullingworth 1975:257; Hennessy 1992:180; Tichelar 2019:136; Jefferys 1991:176-179
187 Compare for example Cox 1984:41-48; Cullingworth 1975:254
188 Hennessy 1992:180; Tichelar 2019:136
189 MTCP 1944:8
190 Lichfield & Darin-Drabkin 1980:143-144
191 Compare Thomas 2004:16; Jefferys 1991:178,212; Douglas 1976:214; Tichelar 2019:136; Bryant 1972:321-322
192 Cullingworth 1980:112,118
193 MHLG 1952:1
194 Craig 1982:64
195 Craig 1982:52,466
196 Craig 1982:52,466; see also Brown 1952:393; Davis 2008:132; Lund 2016:38; Tichelar 2019:138
197 Cullingworth 1980:564
198 Ravetz 1980:67; see also Dobson 2012:120; Tichelar 2019:142-143
199 MTCP 1951:12; Cullingworth 1980:51-56
200 Cullingworth 1980:85,564; see also Day 1965:100-101
201 Cullingworth 1980:85
202 Brown 1952:393-394
203 Cullingworth 1980:58
204 Cullingworth 1972:149, 1975:213,255-256; Hall et al 1973b:225; Cox 1984:77-78, 100; Dobson 2012:120; Booth 2012:79; Crook et al 2016:49; Jones et al 2018:7
205 Cullingworth 1980:30,75,79; Leung 1979:78
206 Cullingworth 1980:71
207 Cullingworth 1980:61,63
208 Cullingworth 1980:66-67
209 Cox 1984:97-98; Cullingworth 1980:30,41-42
210 Cullingworth 1980:64-65; Cox 1984:100
211 Sharp 1969:143, Cullingworth 1980:68
212 Cullingworth 1980:34,75
213 *Earl Fitzwilliam's Wentworth Estate Co Ltd v MHLG* (1952) AC362; see Cullingworth 1980:73; Grant 1999:64,284
214 Cullingworth 1980:71-72,76; McAuslan 1969:223-224
215 Cullingworth 1980:68-69
216 McAuslan 1969:223; Crook et al 2016:49
217 Tichelar 2019:140
218 Cullingworth 1980:256; Cox 1984:97; Healey 1983:30; Prest 1981:91; for the dissenting view see Self 1957:153
219 Cullingworth 1980:61
220 Cullingworth 1980:26
221 Self 1957:152; Sharp 1969:143; Corfield et al 1978:9; Cullingworth 1988:162; Davis 2008:131; Tichelar 2019:140-142; Heap 1955:515
222 Wendt 1950:400; MHLG 1952:3-4
223 Self 1957:152; Hart 1964:12; Corfield et al 1978:11; Weiler 2008:321; Cullingworth 1980:89; Rose 1985:185; Thomas 2004:11; Day 1965:100; Sharp 1969:143
224 Bryant 1972:321-322
225 Central Office of Information 1949:12; see also Central Land Board 1949:12-13
226 Jones & Stephens 2020:628
227 Dobson 2012:120; Cox 1984:96; Jones et al 2018:9; Cullingworth 1980:42; HL Debates vol 165 cols 713-766
228 Blundell 1993:4; Blundell 1994:159-160; Black 1951:40
229 Corfield et al 1978:9; Davis 2008:129-130; Irving 2014:93-95
230 See for example the absence of any distinction in Weiler 2008:321; Booth 2012:79
231 Cullingworth 1980:31
232 Grant 1982:24; compare the full account of the case provided by Davis 2008.
233 Cullingworth 1980:31,37-39,48-51
234 Cullingworth 1980:114
235 MHLG 1952:6-7; Goodchild & Munton 1985:28
236 MHLG 1959:1; Dobry et al 1975:5
237 Cullingworth 1980:85-135; summarised by Cox 1984:109
238 Cullingworth 1980:89,112-113;123; Lund 2016:38
239 Cullingworth 1980:108,112-113
240 Cullingworth 1908:97-98,106,111-112; see also the unsourced allegations of Blundell, cited in Jones et al 2018, that 'speculation' resulted from the Charge.
241 Cullingworth 1980:86,93,114-118,121-122; Cox 1984:109; Thomas 2004:16; Dobson 2012:120
242 Cullingworth 1980:116,410
243 Cullingworth 1980:114,409
244 Cullingworth 1980:112-121; on Butler's approach see Tichelar 2019:145
245 Cullingworth 1980:118,121
246 Cullingworth 1980:415
247 Cullingworth 1980:121-123,126
248 Cullingworth 1980:120; the reference to the £300m relates to Conservative proposals to limit compensation

payments to those who had actually undertaken development.
249 MHLG 1952:3-8
250 MHLG 1952:3-4
251 MHLG 1952:3-5
252 See for example Cullingworth 1988:162-163, where parts of the White Paper text are paraphrased without quotation marks in Cullingworth's text.
253 MHLG 1952:6
254 MHLG 1952:5-6
255 Douglas 1976:214; Fitzpatrick 2016:72
256 Cullingworth 1980:52
257 HC Debates, 16 December 1952, Standing Committee A, col 25
258 Cullingworth 1980:75
259 HC Debates, 26 February 1953, vol 511, col 2414
260 Cullingworth 1980:137
261 Turvey 1953,1957; Munby 1954; Heap 1955; Self 1957; Thomas 1960
262 Cullingworth 1980:563-565
263 Cullingworth 1975:253-255; Prest 1981:78; Weiler 2008:342
264 Tichelar 2019:127
265 Cullingworth 1980:415-416

Notes to Chapter 4

1 Cullingworth 1964:130-131
2 Cox 1984:130
3 Cullingworth 1980:279-282; Weiler 2008:332-333
4 Cullingworth 1980:278-282;287; Crook et al 2016:38; Tichelar 2019:161
5 Cullingworth 1980:278,305,564
6 Lawson 1965:13-18; O'Hara 2012:140
7 Cullingworth 1980:305-308; O'Hara 2012:142
8 O'Hara 2012:127; O'Hara also claims that the Ministry lacked housing and planning economists (2012:146-147), but this appears to be a misreading of his sources.
9 Weiler 2008:333,342; Cullingworth 1980:357; Jones et al 2018:14; Fitzpatrick 2016:77-78
10 Cox 1984:131; Tichelar 2019:151,161-162
11 Cullingworth 1980:572
12 Cullingworth 1980:300-301,311-317; Prest 1981:93-94
13 MLNR 1965; see Cox 1984:130; Cullingworth 1980:320
14 Cullingworth 1980:300-304,310-311
15 MLNR 1965:9; see also Cullingworth 1980:316,393; Grant 1999:72. Crook (2016:52) makes an unevidenced assertion that the rate was intended to "rise to 60 or even to 80%"
16 McKay & Cox 1979:84,93-94; Cox 1984:121-124,156; O'Hara 2012:138-142; Cullingworth 1980:259-277,412; Tichelar 2019:149,163-164
17 Hall 1965:xix; Cullingworth 1980:45,283; Weiler 2008:343
18 Cullingworth 1980:312; O'Hara 2012:139; for technical details see Dobry et al 1975:5
19 Cullingworth 1980:293,300-301
20 Hall et al 1973b:226-227; Cullingworth 1980:413,555; Ellman 1969:37
21 Cullingworth 1980:346-347
22 Cox 1984:129,137
23 Cullingworth 1980:347; Denman 1971:42-43; Cox 1984:157; Tichelar 2019:166-167
24 Leung 1979:64; Cullingworth 1980:390
25 Cullingworth 1980:353
26 MLNR 1965:9
27 Cullingworth 1980:305
28 Hall et al 1973b:229; Grant 1982:25
29 Crook et al 2016:51
30 Cullingworth 1980:350; Ilersic 1968:417; Pennance 1967:26 FN1
31 Hall et al 1973b: 226-227; Roberts 1976:245-247; Pennance 1967:26,41,61; on the enforcement powers see Garner 1967:308; Hagman & Miscynski 1978:448
32 Land Commission 1968:33
33 Dobry et al 1975:11
34 Cox 1984:139; Crook et al 2016:52; Corfield et al 1978:20
35 Hall et al 1973b:226,243; Cox 1984:145
36 MLNR 1965:10; for discussion of this decision see Hall et al 1973b:226,243; Cullingworth 1980:323-325; Cox 1984:137-138,145; O'Hara 2012:142-143
37 Land Commission 1968:12-13; see also Cullingworth 1980:392-393,413, Ellman 1969:64; Pennance 1967:45; Chetwynd 1968:151
38 MHLG 1969:1-2; Land Commission 1969:8; see also HC Debates 15 April 1969 vol 781 col 1015-1016
39 Cullingworth 1980:393-397
40 House of Commons 1970:1
41 Cullingworth 1980:393; Cox 1984:153
42 Crook & Whitehead 2019:368
43 Grant 1999:65, Cullingworth 1980:303,393,558
44 Denman 1971:40; see also Hagman & Miscynski 1978:446, Cox 1984:151, Lichfield & Connellan 1997:43, Barker 2004:78; Crook et al 2016:52; Prest 1981:94
45 Cox 1984:153; Cullingworth 1980:396
46 Cox 1984:141; Balchin et al 1988:291; Hagman & Miscynski, 1976:446; Cullingworth & Nadin 2006:199
47 Crook et al's (2016:47) estimates of Levy revenue in today's prices are based on the penultimate year, whereas the figures given for the Charge in today's prices are based on an extrapolation of the Charge's partial final year; arguably both should be extrapolated consistently.
48 Cox 1984:153; compare Cullingworth 1980:286; Balchin et al 1988:290; Grant 1992:76
49 Cullingworth 1980:391
50 Cullingworth 1980:393,413
51 For a range of overall conclusions about the failure of the Commission, see for example Hall et al 1973b:241,243; Hagman & Miscynski 1978:484; Cherry 1996:151; Balchin et al 1985:291

52 Hagman & Miscynski 1978; for examples of this conflation see Balchin et al 1988:290-291; Cox 1984:145-147; Booth 2012:80
53 Andrew et al 2007:277; Healey 1983:31
54 Prest 1981:99; Short 1982:76; Healey 1983:31; Cox 1984:137-138; Balchin et al 1988:291; Lowe 1999:244; McAuslan 1984:78-79; Weiler 2008:340-341
55 Ellman 1969:67,88; Cox 1984:137
56 Cullingworth 1980:360-361, 366-367
57 Hallett 1977:133
58 Grant 1979:359; Cullingworth 1980:284,290; Cox 1984:131-135; Tichelar 2019:161
59 Cullingworth 1980:356,360-365,395,413,417; McAuslan 1984:81; Thomas 2004:12
60 Cullingworth 1980:413,416-417; Weiler 2008:339; Hall et al 1973b:241; Thomas 2004:16
61 Hall et al 1973b:241, unsourced
62 Hall et al 1973b:235, see also Cox 1984:140-141,154; O'Hara 2012:146
63 McAuslan 1969:224; Denman 1971:43-44; Cullingworth 1980:345-347,417
64 Cullingworth 1980:385-387
65 Hall et al 1973b:237; Short 1982:76; Healey 1983:31; Cox 1984:148,151; O'Hara 2012:144; Denman 1971:33; Jones et al 2018:11; but compare Thomas 2004:13,16
66 Hall et al 1973b:240; Denman 1971:32,42; McAuslan 1969:224
67 O'Hara 2012:143; see also Grant 1982:25-26
68 Land Commission 1968:19; Thomas 2004:12; O'Hara 2012:144-145; Ilersic 1968:420; Ellman 1969:7,34,89,101
69 Ilersic 1968:420; see also Cullingworth 1980:285-286,295; Jones et al 2018:11
70 Pennance 1967:26; Hall et al 1973b:243; Roberts 1976:245; Hallett & Williams 1988:120; Ratcliffe 1976:44,1981:362
71 Balchin et al 1988:290; Jones & Stephens 2020:629; Weiler 2008:339
72 See for example Ellman 1969:55; Hall et al 1973b:233,235
73 Ellman 1969:59; compare O'Hara 2012:147
74 For the data, see Vallis 1972; Evans 1974; for an example usage, see Cheshire 2009.
75 Denman 1971:37-38; Hall et al 1973b:223,241; Grant 1982:26; Grant 1999:65
76 Hagman & Miscynski 1978:448
77 Denman 1971:38
78 Neuburger & Nichol 1976:56
79 Hallett 1977: Table 29
80 Pennance 1967:62; Ellman 1969:57; Hall et al 1973b:219,235; Cox 1984:141; Balchin et al 1988:290; Corfield et al 1978:20; Crook et al 2016:52; Jones et al 2018:13
81 Ellman 1969:68; Cullingworth 1980:366,413-414; Weiler 2008:340-341, Hall et al 1973b:225; Healey 1983:31; Cox 1984:142; O'Hara 2012:148; Jones et al 2018:14
82 Compare Neutze 1975:233; Balchin et al 1988:290; Grant 1982:86; Short 1982:76; Blundell 1994:165; O'Hara 2012:140; Crook et al 2016:53; and Catney & Henneberry 2019:345
83 Ratcliffe 1976:44; 1981:363-363
84 See for example Cullingworth 1980:396,413; Cox 1984:141,144; Crook et al 2016:52 citing Hall et al 1973b:219,232; Corfield et al 1978:20; McAuslan 1969:225. Catney & Henneberry's (2019:345) unevidenced suggestion that repeal expectations caused land withholding "on a large scale" is an outlier.
85 See for example Ellman 1969:58,64,97
86 Neuburger & Nichol 1976:55-56; for the most accurate review of this study see Prest 1981:125-126, and for other commentary see Hagman & Miscynski 1978:130-131; Balchin et al 1988:291. The data used in this study appears to be that described by Evans (1974:xiv-xv)
87 Sophian 1970:288
88 Thomas 2004:13
89 Lichfield & Connellan 1997:33, Corfield et al 1978:20; Balchin et al 1988:291
90 Balchin et al 1988:291
91 The figures in this calculation may be found in Evans (1974:xv) and Cox (1984:148). 1969 is the earliest year for which Evans supplies figures; the data excludes sites of less than four houses.
92 Short 1982:76, Balchin et al 1988:290-291, Blundell 1994:165; and O'Hara 2012:141-142; Hall et al 1973b:232-234; compare the survey cited by Hall et al 1973b:165-168
93 Compare Balchin et al 1988:290 with Denman 1971:38
94 Neuburger & Nichol 1976:61
95 Denman 1971:38; Hall & Tewdwr-Jones 2020:80. Others such as Crook et al 2016:52; Ellman 1969:68; and Corfield et al 1978:20 have been more circumspect and note only that the effect was claimed.
96 Hall et al 1973b:232-233
97 Ellman 1969:56-60,70-71,74,80-81,96-97; see also Pennance 1967:49-50; Hagman & Miscynski 1978:126-128
98 Denman 1971:35
99 Pennance 1967:42-50; for officials' 1965 predictions see Cullingworth 1980:308
100 McAuslan 1969:225; Hall et al 1973b:233,237; Cox 1984:153; Jones et al 2018:13; Prest 1981:126; Neuburger & Nichol 1976:56; Hagman & Miscynski 1978:130-131
101 Compare the data for almost the whole market from 1969 onwards offered by Evans 1974:xv; and see the defence of auction data offered by Vallis (1972)
102 Prest 1981:126; Hagman & Miscynski 1978:130-131
103 Ellman 1969:63,80
104 Jones et al 2018:13,48; Cox 1984:144; Blundell 1994: 164; Crook et al 2016:52; Barker 2004:78; for anecdotes see Ellman 1969:79
105 McAuslan 1969:225
106 Cullingworth 1980:326-329

107 McAuslan 1969:225; Hall et al 1973:235; Ellman 1969:58,64,97 see also Pennance 1967:62
108 Neutze 1975:233
109 Weiler 2008:343; Cullingworth 1980:283; Cox 1984:122-124;156-157; Moore 2013:180-181; O'Hara 2012:141,147-148; for a later reiteration of the commitment see HC Debates 6 February 1969 vol 777 col 609
110 Hall et al 1973b:233; Corfield et al 1978:21, Grant 1999:65; Catney & Henneberry 2019:345; Cullingworth 1980:401 – all of these claims are undated or unsourced, or both
111 Cullingworth 1980:566
112 HC Debates 6 February 1969 vol 777 col 642
113 McAuslan 1969:227
114 O'Hara 2012:141
115 Tichelar 2019:166
116 McAuslan 1969:227; Ellman 1969:64-65; Cullingworth 1980:394
117 Ricketts 1968:232
118 Hagman & Miscynski 1978:445,484,683; compare the doubtful claim that the Conservatives were "openly hostile to the whole idea of land taxation" offered by O'Hara 2012:146
119 Hallett & Williams 1988:120; Blundell 1994:163,165; O'Hara 2012:147; Denman 1971:34; Lipsey 1973:6; Ilersic 1968:418; for an arguably invalid comparison to the 1909 betterment provisions see Hagman & Miscynski 1978:447; for a discussion of the legitimacy of criticisms of length see Heaton 2013
120 Leung 1979:68; Cullingworth 1980:415; for the example, see Hallett & Williams 1977:132
121 Corfield et al 1978:19; see also Jones & Stephens 2020:629
122 Cox 1984:153; Ellman 1969:79
123 Cullingworth 1980:396
124 Chetwynd 1968:150
125 Barker 2004:78
126 Cullingworth 1980:311-317,394; Prest 1981:93-94; Jones et al 2018:19:20; Dobry et al 1975:11
127 Cox 1984:156-157; Hagman & Miscynski 1978:449 in reliance on Denman 1971:37,40; Bryant 1972:344; Prest 1981:94; Davies 1984:275
128 House of Commons Library 2024:6; compare Prest 1981:95 FN33
129 House of Commons 1970:1; see also Denman 1971:37. Hagman & Miscynski's (1978:449) assertion that this was an independent analysis is not accurate.
130 Denman 1971:36; Hagman & Miscynski 1978:449; Prest 1982:148
131 Cullingworth 1980:392, repeated in Jones et al 2018:11; see also Leung 1979:67; O'Hara 2012:144-145; Hallett & Williams 1988:120; Jones & Stephens 2020:629
132 See also Cox 1984:157; Hagman & Miscynski 1978:446-450; Denman 1971:36; Prest 1981:93
133 Hagman & Miscynski 1978:447; Corfield et al 1978:20-21; Ellman 1969:61-62; Cullingworth 1980:394; Prest 1981:93
134 Parliamentary Commissioner for Administration 1969:5-6; see also O'Hara 2012:144-145; Hallett 1977:132; Hagman & Miscynski 1978:448; Cullingworth 1980:393,413; the 1% figure is in Ellman 1969:90, but is unsourced. It seems likely to refer only to Lands Tribunal cases.
135 Compare O'Hara 2012:144; Lipsey 1973:6 with Denman 1971:33,34; Hallett 1977:132
136 Hagman & Miscynski 1978:448,639, citing HL Debates 18 March 1971 vol 316 cols 572-578, 586-607;HC Debates 22 July 1970 vol 804 col 548; 16 December 1970 vol 808 col 1383; 9 March 1971 vol 813 col 327
137 Dobry et al 1975:11; Wilkinson 1976:315; Cox 1984:150; Cox's claim is not supported by his source (Cullingworth 1980:392).
138 Cullingworth 1980:405-406
139 Land Commission 1971:7
140 HC Debates, 22 July 1970, vol 804 col 548-549; see also Cullingworth 1980:405; Hagman & Miscynski 1978:447; Cox 1984:150,157; Crook et al 2016:52
141 O'Hara 2012:148; compare McKay & Cox 1979:100
142 Cullingworth 1980:356-365,395,413
143 HC Debates 17 December 1973 vol 866 col 956-7
144 Weiler 2008:341; see also Cox 1984:157; Grant 1999:65
145 McKay & Cox 1979:103
146 Department of the Environment 1974:3
147 Evans 1974:xiv-xv; Cullingworth 1975;1980
148 Lipsey 1973:6,19
149 Jones et al 2018:14
150 Leung 1979:64; Cox 1984:141,153-154; Hagman & Miscyznski 1978:449; Ratcliffe 1981:362-363; Thomas 2004:8; but compare Cullingworth 1980:416
151 Cox 1984:154

Notes to Chapter 5

1 Cox 1984:163; Hallett 1977:134; Jones et al 2018:15; Tichelar 2019:167
2 Hallett 1977:134-135; Grant 1982:27; Cox 1984:159-160,169; Rose 1985:188-189,233; Lowe 1999:244; Tichelar 2019:168
3 Cheshire 2009:4; Weiler 2013:392. For a full run of housing land price data in the period, see Holmans 1987:143. For the officially-commissioned econometric investigation into land and house prices at this time see Neuburger & Nichol 1976.
4 Marriott 1967:110-116; Cox 1984:164; Weiler 2013:394
5 HC Debates 06 March 1973 vol 852 cols 267-8
6 Department of the Environment 1973:6-9; see Hallett 1977:135-136; McKay & Cox 1979:87,95; Prest 1981:95; Cox 1984:169; Weiler 2013:393
7 Lowe 1999:245; Cox 1984:170,173; Rose 1985:164-167,233,238-241; Rose also reports that the freeze was not finally removed until March 1975.
8 Jones et al 2018:15; Tichelar 2019:168
9 Cox 1984:173-174
10 HC Debates 17 December 1973 vol 866 cols 956-7

11 Hagman & Miscynski 1978:450; see also Prest 1981:96; Cox 1984:169,173-174; Cullingworth & Nadin 2006:200
12 Hallett 1977:135; McKay & Cox 1979:95; Cullingworth & Nadin 2006:200
13 HC Debates 26 March 1974 vol 871 cols 314-5; see also Hallett 1977:137; Crook et al 2016:54
14 Dobry et al 1975:20-21, Goodchild & Munton 1985:28,31; Prest 1981:96; Rose 1985:202-203; Lichfield & Connellan 2000:17; Jones et al 2018:15
15 Dobry et al 1975:14,19-23; Lichfield and Connellan 2000:18; Jones et al 2018:15; Crook et al 2016:53; Cox 1984:173
16 Dobry et al 1975:23
17 HC Debates 17 December 1973 vol 866 col 960; HL Debates 20 December 1973 vol 348 col 461; HC Debates 31 July 1974 vol 878 col 237W
18 Hallett 1977:136; Cullingworth & Nadin 2006:200; Corfield et al 1978:21; Jones et al 2018:16
19 HC Debates 9 December 1974 vol 883 col 43
20 Heap 1975:86; Hagman & Miscynski 1978:451; Cox 1984:173-179; Jones et al 2018:16
21 Barker 2004:78; Jones et al 2018:16
22 Heap 1975:86; Hallett 1977:136-137; Cox 1984:180; Cullingworth & Nadin 2006:200
23 Grant 1982:27; see also Grant 1986:7; Healey 1983:30
24 Cox 1984:178-179; see also McKay & Cox 1979:86; Weiler 2013:398
25 HC Debates 26 March 1974 vol 871 cols 314-5. See also Hallett 1977:137; Crook et al 2016:54
26 Department of the Environment 1974:8
27 Grant 1986:7; compare Cox 1984:179
28 Hallett 1977:137
29 Grant 1982:27; Leung 1979:68
30 HC Debates 25 February 1976 vol 906 cols 515-517, paraphrased by Goy 1976:2; see also Leung 1979:68; Tichelar 2019:172; compare the arguments in favour of DGT offered by the Conservatives in Hagman & Miscynski 1978:450
31 Weiler 2013:399
32 Prest 1981:176-177; Cox 1984:175; Hagman & Miscynski 1978:484-485; Lichfield & Connellan 2000:16-18

Notes to Chapter 6

1 Lipsey 1973; McKay & Cox 1979:86; Cox 1984:178,185,233
2 Lipsey 2024
3 Labour Party 1974
4 Department of the Environment 1974. For overviews of the Community Land Scheme see Hallett 1977; Grant 1982,1986,1992,1999; Emms 1980; Cox 1984; Thomas 2004; Weiler 2013; Crook et al 2016; Jones et al 2018; Tichelar 2019
5 Weiler 2013:400-402
6 McKay & Cox 1979:94-95; Hallett 1977:137,140; compare McAuslan 1980:142
7 HM Treasury 1975
8 Ratcliffe 1981:365
9 Department of the Environment 1974:3
10 Ratcliffe 1976:365; Emms 1980:79. For a detailed description of how this system worked, see Corfield et al 1978:97-105
11 Grant 1979:362; Prest 1981:99; Crook et al 2016:60; Tichelar 2019:172,174
12 Grant 1999:62
13 Grant 1986:8; Cox 1984:184; Barrett et al 1979:13
14 Wilkinson 1976:312; Crook et al 2016:55; Tichelar 2019:171-174
15 HC Debates 29 April 1975, vol 891 col 245; see also Wilkinson 1976:317; Prest 1981:97; Weiler 2013:402; Grant 1999:66
15A Lipsey 2024
16 HC Debates 29 April 1975, vol 891 cols 245-258
17 For the official evaluation see Barrett et al 1979 and Barrett & Whitting 1981,1983; for other analysis see Cox 1984; Weiler 2013; Balchin et al 1988:294; Prest 1981:99; Crook et al 2016:57; Catney & Henneberry 2019:346; for the defence, see Silkin 1987:17; Hall 1985:186
18 Thomas 2004:14; Lipsey 2012:Ch 4
19 Silkin 1987:17
20 Grant 1979:360-361
21 Barrett et al 1979:12-14,52; see also Cullingworth & Nadin 2006:200; Prest 1981:99; Grant 1982:29; Cox 1984:190-191; Crook et al 2016:57; Weiler 2013:404
22 Grant 1979:360-361: Barrett et al 1979:85,111; Prest 1981:99; Emms 1980:84-85; McAuslan 1980:123,142; Goodchild 1979:172-173; Goodchild & Munton 1985:15
23 Barrett et al 1979:14; Grant 1982:29; 1999:66; Crook et al 2016:55; McAuslan 1980:119; McAuslan 1984:79; Cox 1984:182,188-189
24 Emms 1980:79; Alterman 2012:769; Weiler 2013:404
25 McKay & Cox 1979:88
26 Grant 1982:29-30; Barrett & Whitting 1981:55,70;1983:41; Grant 1986:8
27 Grant 1982:28,31-32; Grant 1986:12-14,92; Prest 1981-97-99
28 Development Land Tax Act 1976 section 1(3),13; Goy 1976:3-4; Goodchild 1979:iv; Grant 1982:28; Grant 1986:13; Weiler 2013:403
29 Author's calculations based on Goodchild & Munton 1985:33
30 Thomas 2004:14
31 Development Land Tax Act 1976 sections 11,13-16,18; Barrett et al 1979:111; Goodchild 1979:314; Prest 1981:98; Grant 1986:13-14; Grant 1992:76; Tichelar 2019:171-174
32 Prest 1981:99
33 HC Debates 12 June 1979 vol 968 col 256
34 Prest 1981:99-100, see also Jones et al 2018:20
35 Author's calculations; Bagnall & Brummer 1982:520; Grant 1986:14; Grant 1982:32
36 House of Commons 1975:vi-vii

37 Grant 1986:8-11;1992:76; Crook's assertion (Crook et al 2016:58) that £600m "had been expected" is thus inaccurate. For commentary on the government's forecasts see Hallett 1977:137-138; Prest 1981:99; Crook et al 2016:56,58
38 Prest 1981:98
39 HM Treasury 1985:34; compare Jones et al 2018:19,47; Jones & Stephens 2020:631; HC Debates 6 December 1984 vol 69 col 247
40 Grant 1986:12; compare Prest 1981:126, Jones et al 2018:19
41 Crook et al 2016:47; Stephens 2019:13
41A Crook & Whitehead 2019:368
42 Prest 1981:98; Grant 1982:32; Grant 1986:93; HC Debates 8 May 1985 vol 78 col 840
43 Emms 1980:84-85; Goodchild & Munton 1985:32; see also Grant 1986:93
44 Grant 1992:76-77
45 Grant 1992:76-77; see also Grant 1986:4,105-106;1999:66; compare Hall 1985:186
46 Grant 1986:94; Harvey & Jowsey 2004:412; Andrew et al 2007:278, Thomas 2004:15; Jones et al 2018:19; Jones & Stephens 2020:631; For the example given, see HC Debates 8 May 1985 vol 78 col 840
47 Grant 1986:94
48 HC Debates 8 May 1985 vol 78 cols 838-839
49 Emms 1980:80,84; Goodchild 1979:172-173; McAuslan 1980:123
50 Grant 1982:32
51 Grant 1986:98
52 Barrett et al 1979:111
53 Grant 1986:97,105; Emms 1980:80,84; Harvey & Jowsey 2004:412; Catney & Henneberry 2019:346; Jones et al 2018:48
54 Goodchild & Munton 1985:112;123-125, which summarises Goodchild 1979
55 Barrett et al 1979,1981,1983; see also Grant 1982:32, Grant 1986:97; Goodchild & Munton 1985:62
56 Grant 1986:7
57 HC Debates 8 May 1985 vol 78 col 830
58 Goodchild 1979:410; see also Prest 1981:99
59 Weiler 2013:405; Balchin & Kieve 1985:138; Jones & Stephens 2020:631
60 Emms 1980:80; Rydin 2003:39; Ellis 2018:673; Cullingworth & Nadin 2006:28,200; O'Hara 2012:149
61 Grant 1986:6,8, Oxley 2006:104-105; Catney & Henneberry 2019:346
62 Maas 1982,i,1; Cox 1984:195; Goodchild & Munton 1985:32
63 HC Debates 29 April 1975 vol 891 cols 247; see also Weiler 2013:403; Hoyes 1983:153; compare Rossi's comments at HC Debates 25 February 1976 vol 906 col 521-525
64 Duerksen 1976:61-62,71; Weiler 2013:404-405,407; Tichelar 2019:189
65 Jenkins 1975:272-273
66 HC Debates 25 February 1976 vol 906 col 525
67 *Estates Gazette,* 19 November 1977; compare the similar text cited by Tichelar 2019:188-189; see also Barrett et al 1979:55; Goodchild 1979:164; Goodchild & Munton 1985:32; Jones et al 2018:19-20
68 Cox 1984:191-192
69 Thomas 2004:14, Cox 1984:195-196, Andrew et al 2007:278; Booth 2012:80
70 Cox 1984:195
71 Cullingworth 1980:414-415
72 Healey 1983:33; Cox 1984:196; Perkin 2002:383-384; Thompson 2010:268; Tichelar 2019:11-12,15-17,188-189
73 HC Debates 18 March 1980 vol 981 col 221
74 Denman 1980:36; see also Denman 1971; compare Gummer 2004
75 Prest 1981:105,170-171; Maas 1979:i, 1982:i,2; Darlow 1982:235; Grant 1982:29,1986:4,7,103; Hallett & Williams 1988:122; Thomas 2004:15; Andrew et al 2007:278
76 Prest 1981:170; Grant 1986:105; Grant 1999:66; Rydin 2003:89; Crook et al 2016:57; Jones et al 2018:19; Jones & Stephens 2020:631
77 Goy 1976:2; Margaret Thatcher had made an almost identical criticism about the Land Commission Act – see Moore 2013:181
78 Bagnall & Brummer 1982:520-522
79 Oxley 2006:104-105; Blundell 1994:167; for the details of the existing use value calculation see Corfield et al 1978:98
80 Barker 2004:78
81 Prest 1981:170-171; compare Hallett 1977:138-139 on RICS concerns about DLT and McAuslan 1980:142 on professional groups' work to make DLT more tolerable.
82 Prest 1981:170-171; Bagnall & Brummer 1982:520,526
83 Goodchild & Munton 1985:31-32; Weiler 2013:403-404; Cox 1984:186-187; Tichelar 2019:171-174
84 Grant 1982:32, 1986:14,92, 1992:76; Blundell 1994:167; Rydin 2003:39; Crook et al 2016:58; for examples of the disincentive to relocate see HC Debates 8 May 1985 vol 78 col 839
85 Grant 1986:16-19,92-93; Emms 1980:80; Lund 2016:40. Given that £2m divided by 200 equates to £10,000, it seems likely that this case predates the 1979 increase in the tax free allowance to £50,000.
86 Grant 1986:99-102
87 Crook et al 2016:69-70
88 Grant 1986:15,1992:76; Alterman 2012:769; Barker 2004:78
89 Cox 1984:187
90 Ratcliffe 1981:365; Barker 2004:78
91 HC Debates 8 May 1985 vol 78 col 838
92 Grant 1982:32, 1986:92-93; see also Prest 1981:98
93 HC Debates 8 May 1985 vol 78 col 840
94 HC Debates 19 March 1985 vol 75 col 792; HC Debates 8 May 1985 vol 78 cols 837-841
95 Maas 1982:i, Grant 1986:14-15,98 FN 2

96 HC Debates 19 March 1985 vol 75 col 792; see section 6.4.1 for an explanation of the difference between net cost and DLT yield
97 See for example Grant 1986:4; Crook et al 2016:58; Jones et al 2018:19-20; Tichelar 2019:189
98 Grant 1992:77; Tichelar 2019:189; compare Hall 1985:186
99 HC Debates 8 May 1985 vol 78 cols 837-841
100 Hall 1993:283-287
101 Grant 1986:4; for the Corporation Tax announcement see HM Treasury 1984:28
102 HC Debates 8 May 1985 vol 78 cols 837-841
103 Evans 2004:95; Bootle 2023:1
104 Hall 1985; Silkin 1987
105 Thomas 2004:14; Hallett 1977:141; Weiler 2013:406

Notes to Chapter 7

1 Foye 2022; Catney & Henneberry 2019
2 For overviews of the subject see Andrew et al 2007; Crook et al 2016; Jones et al 2018; this chapter relies particularly on Crook et al's authoritative treatment.
3 See Schedule 11 of the 1968 Act, repealing the relevant words in the 1962 Act
4 Lord et al 2020:44
5 Crook and Whitehead 2019:368
6 NAO 2025:31; for earlier data see Stephens 2019:13
7 See for example Heap & Ward 1980; Property Advisory Group 1981; Crow 1998; DTLR 2001a,2001b; DCLG 2008a,2008b; Allmendinger 2011:132; Lord et al 2023:23-24
8 McAllister 2017; Catney & Henneberry 2019;Foye 2022
9 Property Advisory Group 1981
10 Department of the Environment 1983
11 *Tesco Stores Ltd vs Secretary of State for the Environment* (1995) 2 All ER 636 HL
12 Committee on Standards in Public Life 1997:80
13 Department of the Environment 1997; ODPM 2005
14 Urban Task Force 1999: part 3 chapter 8
15 DETR 2000
16 HM Treasury 2001:3.85; DTLR 2001a
17 DTLR 2001b
18 ODPM 2002
19 ODPM 2003
20 For discussion of PGS see for example Andrew et al 2007; Allmendinger 2011; Dobson 2012
21 Barker 2004:87
22 HM Treasury 2005, 2006:69-71
23 ODPM 2005
24 DCLG 2008a:8-9
25 HC Debates 15 January 2007 vol 455 cols 562-579
26 DCLG 2007:54-56
27 HM Treasury 2007b:59,103
28 Planning Act 2008; Community Infrastructure Levy Regulations 2010
29 DCLG 2008a, 2008b
30 DCLG 2008a:6,18
31 BPF 2005; DCLG 2008a:10
32 DCLG 2008a:10
33 Conservative Party 2010:12-13
34 ibid
35 CIL Review Team 2016
36 HM Treasury 2017:paragraph 5.14
37 NAO 2025:6
38 Lord et al 2020:44; DCLG 2009:15 (a later impact assessment (DCLG 2010:17) was slightly gloomier); DLUHC 2023:Executive Summary.
39 Author's calculation based on Land Commission 1971:19
40 MHCLG 2020:60
41 Lord et al 2023:30
42 MHCLG 2020:62-67
43 MHCLG 2024:6.3

Notes to Chapter 8

1 Neuburger & Nichol 1976; Hall et al 1973b; Goodchild 1979. Ratcliffe (1976) and Prest's (1981) ostensible surveys are discounted here for lack of transparency.
2 See Cheshire 2009 for an example of usage.
3 For a discussion of this point see Bovens & t'Hart 1996:43
4 For example Crossman 1975; Foot 1973
5 Compare the approach of King & Crewe (2013) in analysing more recent tax policy blunders such as the 'poll tax'.
6 Cullingworth 1975:252-254;1980:xiii
7 Hallett 1977:122-123; Hagman & Miscynski 1978:449; Cullingworth 1980:414
8 Hallett 1977:153; Prest 1981:145; Fitzpatrick 2016:77-78
9 McKay & Cox 1979:86; Crook et al 2016:38; Cox 1984:196
10 Lichfield & Connellan 1997:42-43
11 Thomas 2004:8,15
12 Compare Plimmer & McGill 2003:7; Cheshire et al 2014:134; Grant 1992:75; Crook & Whitehead 2019:368
13 Compare Grant 1999:67; Dobson 2012:117; Foye 2022:276; Barker 2004:74-78: Jones et al 2018:ii
14 Compare Ashworth & Demetrius 2008:20; Crook & Whitehead 2019:368; Crook et al 2016:60, and Crook et al 2016:14,270. Wetzel 2006:325 and Cullingworth et al 2015:31 take the claim that land withholding always arose from Blundell 1994:169, who cites no sources or evidence for it.
15 For examples of generalisations relating to the tax rate, see Barker 2004:77-88; Crook et al 2016:270
16 Compare Barker 2004:77-78, Prest 1981:145-146; Crook et al 2016:46; Oxley 2006:109; Grant 1992:76
17 Respectively Whitehead 2016:32; Thomas 2004:15 and Lichfield & Connellan 1997:42-43; Hallett & Williams 1988:122-123; Blundell 1994:157-158; Crook et al

2016:48, citing Prest 1981:145; Lowe 1999:243-244, and Jones & Stephens 2020:634
18 Barker 2003:118
19 Corfield et al 1978:5; Thomas 2004:8
20 Land Commission 1971:1
21 Cullingworth 1980:416
22 Lowe 1999:243-244
23 See O'Hara 2012 for case studies of this relationship between ambition and complexity.
24 Lipsey 1973:11-12
25 Weiler 2013:404
26 Hogwood & Gunn 1984:202; Cairney 2012:35
27 See for example Grant 1982:23
28 Cox 1984:101

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British development taxes since 1945

Since World War II, the British government has implemented four separate national taxes on the development value of land: the Development Charge, the Betterment Levy, the Development Gains Tax, and the Development Land Tax. Each attempt lasted only a few years before being repealed.

This landmark new study revisits the reasons for this repeated failure from a policymaker's perspective.

Policy expert Miles Gibson forensically dissects the entire body of previous studies on the subject, which exhibit a broad consensus that failure arose from punitively high tax rates, dysfunctional land markets, political controversy, low revenue, legal complexity and public unpopularity.

And yet there are alarming gaps and inconsistencies in this largely received wisdom. The evidence for it is thin; claims have frequently been speculative, simplistic or misinformed. Gibson therefore recasts our understanding of failure by selecting from the mass of accusations only those failings which provided the justification for the repeal of each tax in the political realm. He points the finger at specific evidenced instances of bad design, bad implementation and bad politics at all levels of government from lowly tax technicians to the Prime Minister.

As a source of funding to renew local infrastructure and mitigate the impact of controversial development proposals, development taxes and levies remain an extremely potent idea today. This research provides a new and invigorating basis on which to talk about previous experience. It acts as a primer for scholars, practitioners, policy makers and politicians on what not to believe, and what not to do.

The study includes a chapter on recent policy developments, including the Community Infrastructure Levy.

ISBN 978-1-0682984-0-0

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