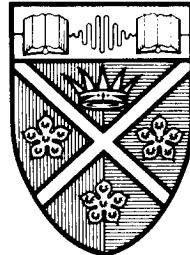


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*DEFINING AND DEFENDING THE
NATIONAL INTEREST IN LAND USE*

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Introduction

That there is a national interest in land and its use is probably widely regarded as self-evident. Yet curiously there has been little said or written in the consideration of land policy over the last decades about the nature of that national interest. Political issues concerning land tend to be particular and local. The broader pattern and purpose is little documented or debated. On the other hand, actions are taken on land use issues for which the justification must seemingly be the pursuit of a national interest. It seems therefore worthwhile to attempt to distinguish and define the national interest and consider how it is pursued in practice. And, as a preliminary to both, to consider the nature of the public interest in land.

(1)

An earlier version of this paper was first presented to the Department of Politics, University of Strathclyde.

What is the public interest in land?

Land is many things to many people, whose perspectives and motives vary. Oliver Goldsmith as a poet, William Turner as a painter, Ricardo as an economist, Henry George as a social reformer and Joe Levy as a property developer have all had something to say on the subject. But in the context of land policy, there are three particular perspectives to keep in mind: land as property, land as environment, and land as a resource.

Land is owned as property and mostly privately owned. In terms of ownership the last century has seen (2)

- a. the decline of the great estates, both rural and urban;
- b. a shift from tenancy to owner-occupation, especially in agriculture and housing;
- c. an increase in ownership by state agencies;
- d. the recent entry of financial institutions into direct land ownership.

Historically there has been a strong association between land ownership and personal wealth. The above changes have probably diminished that to some degree. But the decline of the private estate as a source of personal wealth has been paralleled by the

expansion of the more widely distributed ownership of private houses. Thereby a new, politically important association of property and wealth has arisen. Policy must recognise that land is a commodity which is owned and traded.

But land is not only valued by its owners. It is the basis of the man-made and natural environments, the quality of which is of immense public concern. In literature and art as well as in social thought, English society has had a long love affair with the rural landscape, while it has been rather ambivalent about the urban landscape. (3) In a continuation of this tradition, political pressures to conserve the environment have grown enormously in the last few decades. Policies for land and land use mesh with policies for the environment.

Land is also a factor of production - a resource for exploitation of its mineral wealth, its agricultural potential or as development sites. Historically the economic importance of land as a factor of production has diminished with the structural shift within the economy between primary, secondary and tertiary sectors. But, despite this historical trend, land remains not unimportant to national economic development.

For all these reasons - that land has a financial,

environmental and economic value to society - there is a public interest in land. That interest can justify government intervention in the land markets that transfer land from one use to another and from one owner to another. But it is essentially the use of land, and more particularly changes in its use, that underlie the financial, environmental and economic gains and losses. Land ownership is though important to their distribution.

Defining the national interest

This public interest in land can be pursued by government either nationally or locally. Land use change is invariably very localised in nature: the majority of changes are small in scale and raise only local issues. These are the concern primarily of local authorities, which are politically accountable to local electorates. It is therefore understandable that they can be insensitive to interests that transcend their boundaries. Central government is the only other political authority to represent these supra-local interests - termed here the national interest in land use. It is this interest, and the rationale it offers for central government involvement in land use questions, that is to be examined.

Land use has been a fairly lively national political issue

in the last few decades. Much of the debate has concerned the fiscal and regulatory instruments that bear on land use. Much of it has also focused on particular cases which have been hotly disputed. Central government has obvious duties to devise procedures and to adjudicate on particular cases. But it must also act to secure the national interest. There has though been no explicit statement of what that interest might be.

The nearest approach to such a statement was a provision in the historic 1947 Town and Country Planning Act that imposed a duty on the Minister to secure "consistency and continuity in the framing and execution of a national policy with respect to the use and development of land....". (4) But that duty was omitted when the 1971 Town and Country Planning Act consolidated planning legislation. In other respects the legislation is unrevealing - in approving or rejecting local planning authorities' structure plans the Secretary of State for the Environment must take into account "any matter which he considers relevant" (5); in deciding appeals and call-ins he is required (like the local planning authority) to have regard to the development plan and "any other material consideration". (6) The legislation is no help in defining the nature of the national interest that inter alia the Secretary of State might be expected to pursue through these means.

But there are three other sources which provide some clues. All are non-statutory documents from the Department of the Environment. They are DOE Circular 22/80s wide ranging statement on the practices and objectives of development control (7); the criteria for the recovery of jurisdiction over planning appeals published in 1982 and to be operated experimentally (8); and the draft revision of the Memorandum on Structure and Local Plans issued on consultation also in 1982. (9) Taking these sources together it is possible to infer a list of substantive land use issues which are of concern to central government today. That list includes

- conserving natural habitats and attractive countryside
- conserving historic areas and buildings
- restraining development in Green Belts around the major cities
- protecting better quality agricultural land
- enabling mineral working
- providing suitable sites for major industrial and infrastructure projects
- facilitating housebuilding
- facilitating industrial and commercial development (including small businesses)
- sustaining existing settlements

- maintaining the condition of the housing stock
- securing the re-use of vacant and derelict land
- maximising development within the limits of existing settlements.

In part, the list quite obviously reflects the wider political concerns of a particular administration. On the other hand, many of the issues have been perennial concerns of central government for the last two or three decades.

Taking this list as a starting point it appears that, in summary, national land use objectives consist of

- a conservation objective to protect certain lands;
- a development objective to make adequate provision for certain categories of development or certain specific developments
- an economy objective to get more effective use of already developed land and buildings.

But what makes these specifically national objectives? Or, putting it another way, why cannot these matters be left to local consideration and decision? Three underlying rationales might be postulated. First, nationally scarce kinds of land need

protection from loss or damage through changes made in pursuit of purely local objectives - this applies equally to land as a resource and to land as environment. The latter increasingly takes on an international dimension with our national obligations under, for example, the Ramsar Convention on Wetlands (10) and the EC Birds Directive. (11) Secondly, central government will not want its own economic, social or environmental policies put at risk through local political control of land where land as property or land as a resource is an important factor in achieving those policies. Thirdly and finally, central government will be concerned that disparities between localities in the use and development of land should not become too extreme, particularly as evidenced in the state of property and of the environment. For all three reasons, central governments of any political persuasion are likely to be drawn inevitably into the defence of a national interest in the use of land.

Defending the national interest

What means exist to defend this national interest? Given the powers of landowners, developers and local authorities over land use change, central government's authority largely rests on means to influence or direct them. Most of the classic instruments of policy (12) apply

- a. guidance in circulars, advice notes, speeches;
- b. designation of priority areas in which centrally defined policies apply;
- c. financial and fiscal incentives to particular kinds of land use change;
- d. requirement for approval, with or without modifications, of local authorities' plans and programmes for land use and development;
- e. intervention on specific proposals for land use change to take decisions out of local hands;
- f. direct action through central government agencies to effect particular changes.

These alternative instruments have their strength and weaknesses which make them more or less appropriate means to particular ends. Each can be examined for the extent to which it has been used, and with what effect, in defence of the national interest in land use.

By and large, White Papers and departmental circulars on land use issues cover particular policy initiatives, rather than provide general instruction. There is no comprehensive, explicit statement on national objectives for land use in this form, though (as noted above) some circulars can be interpreted

to this end. Recently there has been a commitment by central government to reduce the amount of such guidance. In the past there were also attempts to provide regional contexts for local land use decisions in regional plans or strategies (13), but these too are now held in disfavour. It is worth noting that Scottish practice diverges here, most markedly through the existence of the Scottish national planning guidelines (updated 1981) which provide a coherent statement of national land use objectives and the Secretary of State's position regarding changes that affect them.

Designation is a device historically associated with the conservation objective. Geographically defined areas have been designated nationally and in them defined policies apply - the National Parks, Areas of Outstanding Natural Beauty (AONBs), Green Belts, Sites of Special Scientific Interest (SSSIs) are all examples. (14) The mapping of agricultural land quality by the Ministry of Agriculture, Fisheries and Food has a similar effect. Between them these designations now cover significant areas of land: in England and Wales National Parks 10%, AONBs 10%, Green Belts 10%, top grades of agricultural land 15%. Curiously the national uniqueness of land for development is not recognised in this way: there is no national action to reserve areas for transport routes, energy production, industrial development (though again Scottish practice differs).

Land use and development require finance, the provision of which is in turn subject to the current fiscal regime. Income tax, corporation tax (especially capital allowances) and rates are important general influences. More specifically capital grants for industry and agriculture shape land use change, as do the main public expenditure programmes for housing, transport, energy or regional assistance. Development land tax also reduces any windfall gain from development. But generally little use is made of fiscal and financial instruments to achieve specific national land use objectives. Though some exceptions are worth a mention. Derelict Land Grant is paid to assist reclamation of otherwise unusable land (for example, coal tips, abandoned mineral workings, contaminated land) and is available to private and public sector alike. Rates holidays in Enterprise Zones are intended to stimulate development. And the new Urban Development Grant is designed to induce joint private sector/local authority investment in inner city development. Finally the Wildlife and Countryside Act provides for compensation payments for restrictions on agricultural land use in SSSIs. The last three of those four exceptions are recently established and perhaps indicative of a new interest in fiscal or financial instruments.

In the exercise of central oversight of local authority land use policies the key document is the structure plan which defines a land use strategy for its area and requires the approval of the Secretary of State for the Environment. (15) He can modify a submitted plan before approval, having regard *inter alia* to the compatibility of a plan's policies with national and regional policies. In practice plans are quite very heavily modified, though more for technical reasons of non-compliance with procedural rules than for policy reasons. Among policy reasons inconsistency with national and regional policies does not feature particularly strongly. (16) Thus, it appears that most local authority land use policies are acceptable, as submitted, in national policy terms, which is possibly evidence of the force of national land use policies.

As well as plans, many specific land use decisions come to the desks of central government, very often to Ministers, even Cabinet if they are contentious. They are taken out of local hands by various procedures: as appeals against a local planning authority's decision, because they are statutory undertakers' development, because the Minister specifically intervenes to 'call in' a planning application or because only the Secretary of State can confirm a statutory order conferring particular protection on some site, as under the Wildlife and Countryside Act 1981, for example. Such decisions are taken on the evidence

of the case, as politically interpreted. But while the motive for intervention may be the defence of a national interest, there are no explicit rules for the treatment of such cases in those terms. Such Ministerial interventions have a double significance for national land use objectives, both as major decisions in themselves and important precedents for lesser cases decided elsewhere.

Finally, national public agencies - nationalised industries, government departments, development agencies - are potent forces in land use change. But for the most part they act in pursuit of their own functional objectives, particularly when increasingly expected to adopt more commercial stance. They are therefore little more likely than other private interests to bend their efforts to national land use objectives, though perhaps the Welsh and Scottish Development Agencies and the Merseyside and London Docklands Development Corporations are, to some degree, different.

How well then do these six instruments serve national land use objectives? Setting them alongside the threefold objectives it emerges that

- a. conservation relies heavily on designation backed by intervention on cases;

- b. provision for development is pressed strongly through plan approval within a framework of guidance, and again backed up by intervention;
- c. the economic use of land is pursued by an eclectic mix of instruments, though fiscal/financial instruments have emerged strongly in recent years.

There is probably not a very neat match of administrative means and political ends here. The present pattern is as much explicable by two factors. The first is that different conventions about appropriate instruments tend to prevail in different policy fields. For example, urban and rural land use change have been subject to quite different approaches. The second is a historical process by which particular instruments come in and out of favour and are applied to the issues of the day. Thus many conservation designations are traceable to the post-war period of faith in master plans; structure plans came to hand in the early 1970s as battles between developers and local communities hotted up; and the concern with the more economical use of land grew stronger at a time when working through the market was the favoured mode.

Conclusion

There clearly is a national interest in land use change. But equally clearly it is not defined very explicitly and it is pursued in a very discretionary way. It is chiefly given expression through the political decisions of Secretaries of State of the day, though in practice there is much continuity of both ends and means between administrations. But why this lack of precision? Partly no doubt it is the influence of British administrative traditions which tend to eschew formality. Partly also it is a reflection of the decentralised system of land use regulation through powerful local planning authorities. It may, though, also reflect some humility in purporting to prescribe detailed land use change nationally, where so much is hard to predict and precise dispositions can so easily be made to look silly by events.

NOTES

1. Detailed references in the paper are to policy and practice in England. But the general argument probably holds elsewhere in Great Britain.
2. Doreen Massey and Alejandrina Catalano, *Capital and Land: Land Ownership by Capital in Great Britain*, Edward Arnold, London, 1978.
3. Raymond Williams, *The Country and the City*, Chatto and Windus, London, 1973 explores the literary tradition.
4. Town and Country Planning Act 1947, S. 1.
5. Town and Country Planning Act 1971, S. 9 (2)
6. Town and Country Planning Act 1971, S.35 (4) and S. 36 (5).
7. Department of the Environment, Circular 22/80, Development Control - Policy and Practice, HMSO, London, 1980.
8. Department of the Environment, letter dated 21 May 1982 to House Builders Federation and others on criteria for the recovery of jurisdiction under Town and Country Planning Act 1971, Schedule 9, para. 3.
9. Department of the Environment, *Draft Memorandum on Structure Plans and Local Plans*, Department of the Environment, London 1982.
10. The International Convention on the Conservation of Wetlands and Waterfowl, drawn up in 1971, ratified by UK in 1976.
11. European Community Directive on the Conservation of Wild Birds, 1979.
12. Renate Mayntz, *The Conditions of Effective Public Policy, Policy and Politics*, Vol.11, no. 2, 1983 provides a useful summary.
13. William Solesbury, *Strategic Planning: Metaphor or Method?*, *Policy and Politics*, Vol. 9, no. 4, 1981 gives an account of their experience.

14. Timothy O'Riordan, *Putting Trust in the Countryside*, World Conservation Strategy, Nature Conservancy Council, London, 1983 reviews the present pattern of such areas.
15. William Solesbury, *Structure Plans: Underlying Intentions and Overriding Influences*, ed. D. T. Cross and M. R. Bristow, English Structure Planning, Pion, London, 1983 provides an up-to-date account.
16. Unpublished assessment of structure plan modifications, Department of the Environment, London, 1982.