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Change in the Political Economy of Land Value Capture in England

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Abstract

Variations in the character, performance and impact of policies and practices to capture land value for the community are usually examined by analysing experience in different countries. Such international comparative research is cross-sectional and does not cover the evolving relations between systems of land value capture and the economies, politics and societies within which they are set. The paper examines the relations in England between the extant political economy and supporting ideologies, and the distinctive forms of land value capture that they produced. It traces the shift from a top-down, strategic approach in an era of corporatist government before 1979 to the subsequent extension and consolidation of bottom-up practice set within the context of neoliberalism. The analysis highlights the evolution of the idea of land value capture and the policies and practices associated with it, especially the contestation that informed such changes.

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Introduction

Land value capture (LVC) has been a subject of increasing interest in recent years. This is partly because the physically manifest, spatially fixed nature of real property is an attractive target for tax authorities in the face of rapidly accelerating global monetary flows. Assessments of the effectiveness of different approaches to land value capture focus on experience in different countries (e.g. Monk and Crook, 2016). Such international comparative research is cross-sectional. Consequently, it does not cover the *evolving relations* between systems of land value capture and the economies, politics and societies within which they are set. The paucity of longitudinal studies is unsurprising because there are very few countries where both the system and its context have exhibited substantive change. England is one such.

The first three major post-war attempts to address the ‘land problem’ – the Town & Country Planning Act 1947, the Land Commission Act 1967 and the Community Land Scheme 1975/76 – were pursued in an era of corporatist government (Cox, 1984). In contrast, the use of planning obligations (POs) – latterly in combination with the Community Infrastructure Levy (CIL) – has developed within the context of ‘roll-out’ neoliberalism (Peck and Tickell, 2002). Most histories of these systems have emphasised their fitness or otherwise for purpose (c.f. Lichfield and Darin-Drabkin, 1980). Little consideration has been given to the relations between these very different political economies and the distinctive forms of land value capture that they produced.

The paper addresses this lacuna by presenting a diachronic account of the evolution of ideas, policies and practices directed at land value capture, and interpreting it through the lens of discursive institutionalism. Our argument is that prevailing economic orthodoxies legitimise the efficacy of some policies and practices over others. There is, in short, a coevolution of approaches to LVC with paradigmatic ideologies of political economy. The centralised technocratic approach associated with corporatist post-war Britain ultimately gave way to a bottom-up, distributed system within neoliberalism. Our analysis hence explores the processes of adoption, adaptation, opposition and reform to which the idea of land value capture was subjected.

Explaining change in political economy using discursive institutionalism

In the examination of how and why political economy changes, the influence of ideas has tended to play a secondary role to interest-based explanations (Blyth, 2002, 7). However, recent theory has sought to integrate insights about the role of ideas with how these interact with institutional contexts (see Hay, 2006). This resulted in the establishment of discursive institutionalism as an important analytical approach in the fields of policy and European Union studies. Other variants of new institutionalist thought have been criticised for their inability to explain political change. In response, discursive institutionalism focuses explicitly on how policy settlements emerge from new ideational and discursive formations (cf. Ross, 2013; Carstensen and Schmidt, 2016; Koning, 2016; Widmaier, 2016; Grube and van Acker, 2017; Leipold and Winkel, 2017).

Discursive institutionalists are hence concerned with both the substantive content of ideas and the ways and the contexts in which they are used, that is, the discourse (Schmidt, 2008).

Crucially, just as institutions can be path dependent, ideas can also exert constraints on political action. Ideas and norms are seen as dynamic, inter-subjective constructs rather than static structures (Carstensen and Schmidt, 2016). Discursive institutionalists hence build upon the concept of policy paradigms (Hall, 1993): cognitive filters that pervade the world of politicians, bureaucrats, some epistemic communities and even the wider public. They specify not just the goals of policy but also the instruments that are deemed appropriate for deployment in attaining these goals. In short, they define the boundaries of what is understood to be politically and practically feasible at particular points in time. Hall (1993) argued that ideas and paradigms are articulated and evolve at three levels.

Third-order change occurs at the macro-level of overarching ideas and assumptions that inform the development of fundamental policy: for example, Keynesianism and neoliberalism and the differing emphases given to reciprocity, redistribution and exchange in socio-economic relations (Polyani, 1957). It may be engendered by the power of one set of actors to impose its paradigm on others (Hall, 1993) or by the accumulation of anomalies that the existing paradigm fails to address or by policy failures. Because these paradigms are less regularly debated than lower-level issues and only become politicised at moments of perceived crisis, they remain 'background ideas' (Schmidt, 2008). The meso-level is affected by second-order changes in the institutional arrangements and instruments used to achieve the objectives established by paradigmatic ideas. Finally, first-order change at the micro-level affects the precise settings of those instruments in detailed terms.

Schmidt (2008; 2010) adds two more dimensions: cognitive and normative ideas. Cognitive ideas link individual policies (first-order) with wider problem definition and associated sets of appropriate policy interventions (second-order), and how these "mesh with the deeper core of (third-order) principles and norms of relevant scientific disciplines or technical practices." (Schmidt, 2008, 307) Normative ideas similarly span the three levels but do so to persuade others of the efficacy and desirability of action (Schmidt, 2008; 2010). Ideational power is hence the "capacity of actors (whether individual or collective) to influence other actors' normative and cognitive beliefs through the use of ideational elements." (Carstensen and Schmidt, 2016, 302) Such power is particularly effective when linked with substantive economic interests (Campbell, 1998).

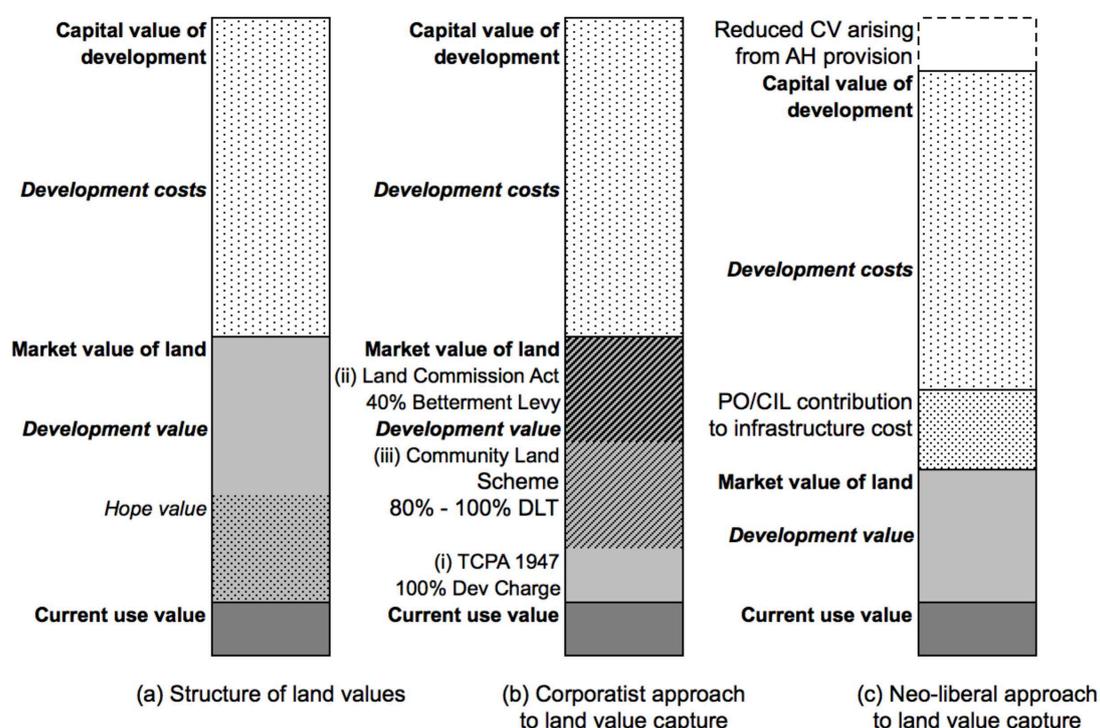
We employ the discursive institutional approach because it offers a set of tools to understand how ideas-as-discourse permeate politics and economics and affect/effect policy change. Here we use it as a framework for a necessarily synoptic exploration of the evolution of the political economy of LVC from a corporatist to a neoliberal approach. The interaction of ideas with material institutional constraints is a key feature of the analysis we present below.

Corporatist attempts to capture land development value

The basic case

Prior to 1947 a planning system existed but the right to develop land belonged to the landowner. The implications for the interaction of the planning system and the property market can best be understood through illustrative examples. If an owner of agricultural land obtained planning permission for residential development s/he would be able to sell the land for full market value to a private housebuilder. If a similar landowner were prevented from exercising her/his right to develop the land by the refusal of planning permission then compensation equivalent to the loss of development value would be required. If a third landowner sold his/her site to a public developer (for 'council housing', for example), then the transaction would be at full market value.

Figure 1: Land Value Structure and Approaches to Land Value Capture



In such a policy regime individual landowners are treated equitably: they all receive the same price for their land whatever the circumstances. In addition, the supply of land for development is forthcoming because development values are sufficiently high to persuade landowners to sell (see Figure 1a). However, it is extremely difficult to achieve effective planning because local planning authorities can rarely afford to compensate landowners for loss of development value and, therefore, rarely refuse planning permission. In addition, public bodies must pay market value for land for infrastructure and services that, in turn, increase land values. These circumstances offend against a moral argument of land reformers articulated, for example, by the Liberal Party in the early twentieth century.

The growth in value, more especially of urban sites, is due to no expenditure of capital or thought on the part of the ground owner, but entirely owing to the energy and enterprise of the community ... It is undoubtedly one of the worst evils of our present system of land tenure that instead of reaping the benefit of the common endeavour of its citizens a community has always to pay a heavy penalty to its ground landlords for putting up the value of their land. (Rt Hon David Lloyd George – Official Report, 29th April 1909, Vol IV, Col 532; cited in the HMG, 1974, 1)

The above argument related to the Housing, Town Planning, Etc. Act 1909 that contained a betterment levy of 100 per cent, subsequently reduced to 50 per cent by the House of Lords. Later, the 1932 Planning Act provided for a 75 per cent levy (Lichfield and Darin-Drabkin, 1980, 130; see also Sutcliffe, 1988; Booth and Huxley, 2012). Both these acts, as with others during the inter-war period, lacked a comprehensive planning system to support efforts to direct development. Indeed, the Barlow Commission (1937-1940) into the distribution of the industrial population recognised that the issue of compensation and betterment hampered the development of planning (Lichfield and Darin-Drabkin, 1980).

The planning system and development values

In the interwar years the potential for land-use planning was recognised by all political parties, although ideas differed about how such a system might work in practice. The Labour Party's 1918 constitution committed it to the idea of wholesale nationalisation of land in the UK, but it backed away from this commitment whenever it was in power (see Tichelar, 1997; 2003; 2008; Manton, 2006; Weiler, 2008; 2013; Fitzpatrick, 2016). Circumstances pertaining to the immediate post-war period had a profound influence on the reform of the UK system of land use planning and taxation. Prest (1981) argues that in the longer view, such actions were a way of addressing the extreme inequalities that had been generated by the industrial revolution and subsequent continuing industrial restructuring. In addition, the great depression had severely undermined faith in the operation of private market economies, in contrast to the success of *dirigiste* state planning and action during the Second World War.

The argument for public intervention was strengthened by the challenge of post-war reconstruction and the need to prevent the generation of speculative profits from such activities (Prest, 1981). In the 1945 election, all three main political parties were committed to using the state to achieve these ends (Cherry, 1996). "An enthusiasm for economic and social planning in national affairs swept town planning along, its technical prowess accepted as expert guidance, and its claim to represent 'higher interests' as yet unsullied." (Cherry, 1996, 213) In essence, corporatist approaches to the capture of land value by the state from private landowners eschewed the use of the market for the exchange of land and the setting of its price. Instead, they emphasised the redistribution of value from individuals to the community in the form of the state.

The land value provisions of the Town and Country Planning Act 1947 were introduced in an attempt to establish an effective planning system and to achieve

financial equity between society and landowners. In place of full-scale land nationalisation, the key change introduced by the 1947 Act was the nationalisation of development rights. One signifier of this was the £300m fund that was established to meet claims for compensation from owners of land that had development value when the Act took effect (see Clawson and Hall, 1973).

Such an approach followed that proposed by the Uthwatt Committee (1941) and had fundamental implications for the operation of the land market. A landowner who sells land to a private developer, receives a price (market value) the bulk of which is attributable to the exercise of the right to develop (the development value). This right is now owned by the state. Consequently, a development charge was levied on the landowner to recoup 100 per cent of development value (Figure 1b(i)). Because the refusal of planning permission no longer prevents a landowner from exercising any of his/her rights over land, no compensation was payable. The public developer purchasing land for development acquired it at current use value (that is, net of the development charge). In essence, while the state did not nationalise land, it sought to take control of the land market and reconstruct it in ways which ended unearned windfalls gains and channelled the proceeds from increasing land values back to communities (Fitzpatrick, 2016).

These arrangements created an effective planning system because the refusal of planning permission had no direct financial consequences for the local planning authority. Individual landowners were treated equally: all received the same price for their land, whatever the circumstances. However, setting the price at current use value removed any financial incentive for landowners to sell land for development. The Uthwatt Committee (1941) had foreseen this eventuality and had recommended that general powers of compulsory purchase, appropriately funded, be granted to local planning authorities (Cullingworth, 1975). In effect, state acquisition would replace the market to ensure that an adequate supply of land was forthcoming for development to meet the needs of society. Under the 1947 Act, local authorities were given compulsory purchase powers but limits were placed on their funding such that they could only be exercised in a limited way. In the face of mass withholding of land from the market by landowners, these powers proved totally inadequate. The land market ground to a halt.

The incoming Conservative government of 1951 had the choice either of increasing funding for compulsory purchase or of restoring the financial incentive for landowners to sell, and, hence for the land market to operate. They chose the latter. However, the right to develop land remained nationalised. This underpinned the continuing effectiveness of the planning system because no compensation was paid for refusal of planning permission. But equality of treatment was effectively abandoned. Community generated development values were retained by landowners who received planning permission but were denied to those who did not¹. Fitzpatrick's (2016, 66) claim that "a socialised,

¹ And a reduced form of this unequal treatment – related to the proportion of the land development value that accrued to landowners following the grant of planning permission – was incorporated into the Land Commission Act, 1967 and (minimally and temporarily) into the Community Land Scheme.

redistributive measure like the betterment levy never took hold” is accurate in that the particular (micro-level) policy instrument changed with changes in national government. However, the normative idea of governmental land control (cutting across meso and macro levels) was firmly established and was to endure.

On returning to power in the 1960s, Labour made another attempt at land value capture which followed similar principles to the 1947 regime, although it differed in its detailed design. The Land Commission Act, 1967 introduced a compromise approach to the taxation of development value (Cullingworth, 1980). A betterment levy initially set at 40 per cent of development value was introduced (Figure 1b(ii)). Acquisitions by public bodies would occur net of this levy. Such an approach, it was suggested, would recoup for the community some of the development value it created and leave sufficient with the landowner to enable the land market to continue functioning. In parallel with this, the Land Commission was established. This was a central government body equipped with powers of land acquisition, management and disposal that it could use to assemble and release land for development where such action was needed. The provisions of the Land Commission Act, 1967 did not work largely because the Conservatives promised to repeal the Act if they were returned to power. Landowners withheld land from the market on a large scale in anticipation of receiving 100 per cent of development value rather than 60 per cent.

Labour was not deterred by these failures. As Weiler (2013) perceptively observes, while the party became bitterly divided on a range of policy issues, the desire to control land and the profits that would result won broad party support, not least because it was linked to the issue of the delivery of housing. Labour’s next attempt to capture land values occurred under the Community Land Scheme (CLS). The provisions of the Community Land Act 1975 effectively followed the principles set out by the Uthwatt Report. Ultimately, all land required for what was termed ‘relevant development’² would be acquired at current use value by local planning authorities and, where not needed for public purposes, would be sold on to private developers at full market value. The development values thus obtained would be used to fund subsequent land purchases. In other words, the CLS proposed the replacement of the private market in land by state action.

To cover the period between the introduction of CLS and the time when local authorities would have the competence, experience and resources necessary to engage in wholesale land trading, a Development Land Tax was introduced. The initial rate was set at 80 per cent of development value, rising to 100 per cent at the date when the private market in land was wholly replaced (Figure 1b(iii)). The CLS failed because of political opposition – landowners withheld land from the market in anticipation of the return of a Conservative government and the removal of Development Land Tax – and because the compulsory acquisition powers granted to local authorities were inadequately funded - as with the Town

² ‘Relevant development’ was development above a size threshold that excluded minor schemes to avoid administrative sclerosis.

and Country Planning Act 1947 they proved wholly inadequate in the face of intransigent landowners.

Normative ideas and economic rationality

In this brief history, we can see the entwining of both the normative and cognitive elements of discourse. The Attlee government faced a basic dilemma in its attempts to capture land values that would continue throughout the corporatist era. The Uthwatt Committee advised that, in a society underpinned by the principle of individualistic ownership, land nationalisation was politically unacceptable (Cullingworth, 1975). Yet, as we have seen, an un-reformed private market in land would prevent the planning system from securing "... a proper balance between the competing demands for land, so that all the land of the country is used in the best interests of the whole people." (Hansard (Commons) 1946/47, volume 432, column 947; cited in Prest, 1981, 90). The nationalisation of development rights provided an operationally practicable solution to this dilemma.

Great play has been made of the fact that, at the time, "... elementary economic price theory played no part whatever in their reasoning; it was a pariah ... What mattered was national and rational planning of land." (Uthwatt Committee, Final Report, p. 23; cited in Prest, 1981, 79). This was a call to defy economic rationality in order to legitimise land reform normatively. The argument was an ethical rather than an economic one. It rested on the long-held and frequently expressed claim that LVC was an expression of "... the right of the community to a share in what has been created by the community ..." (Hansard (Commons) 1931, Vol. 251, Col. 1411; cited in Prest, 1981, 117). Here again can be seen an attempt to tie together cognitive and the normative elements: not only is it morally right to prevent unearned windfalls, returning these to the community, but it also makes the planning process more efficient and effective.

The Labour government was not ignorant of the economic issues raised by the compensation and betterment provisions of the Town and Country Planning Act 1947. It was advised that "The State leaves the actual ownership of the land in private hands but takes away the profit motive, the main spring of private enterprise, by nationalising the development value." Chester (1945) Minute to the Lord President on C.B. (45) 6. 27 October 1945, Treasury File L.B. 171/46/03, Part A; cited in Cullingworth, 1975, 259) Consequently, departmental officials stressed that "... probably in the early days of the new land procedure it would be necessary to acquire compulsorily in a large proportion of cases." (Cullingworth, 1975, 247) In short, it was expected that state intervention would diminish or even supplant the role of the private market as the means of providing land for development. The position of the Labour Party in this regard changed little between 1947 and 1976, and was expressed in the clearest terms in the *Land White Paper* of 1974. Under the CLS

... it is the Government's intention to lay a duty on local authorities to acquire all land required for private development. From the date that the duty is brought in, no development will be allowed to begin save

on land owned by a public authority, or made available by them for this purpose. (HMG, 1974, 5)

Prior to 1979, the Labour Party consistently explicated the cognitive dimensions of the need for land-use planning, while simultaneously attempting to make the normative case for LVC. Meanwhile, the Conservatives had adopted a position that made it appear as though it simply represented the interests of the landowners who successfully fought a rear-guard action against LVC policy³. The debate about LVC during this era ebbed and flowed. The overall right of the state to plan development and the nationalisation of land development rights were secured. However, LVC was highly politicized and the establishment of a policy equilibrium proved to be very difficult to achieve

The evolution of a neo-liberal approach to land value capture

As a field of practice, planning and land value capture should have been at the forefront of the neoliberal project. Yet Evans (2003a, 197-198) argued that "... in planning, the plan is an end in itself: its achievement is an aim and its economic consequences are largely irrelevant." That he could say this over 20 years after the onset of the neoliberal project in the UK is a reflection of the uneven nature of neoliberalisation, its distinct periodisation and the capacity of the planning to mediate macro-level policy ideas as they cascade down to the local, operational level. The planning system was sufficiently flexible and robust to reconcile changing political ends and means and to deal with and mask any resulting tensions (Allmendinger and Tewdwr-Jones, 2000).

Consequently, until the Millennium, it was possible to conclude that planning had taken little or no account of price or other economic indicators. The quantum of land to be allocated to any given use was decided by the planning system. The market then distributed that land between competing bidders (Cheshire and Sheppard, 2004). "The view would seem to be, and is sometimes stated as such, that it is for planners to plan and the economy to adjust to the plan." (Evans, 2003b, 528) However, continuing contextual changes made this position less and less tenable.

Before 1979, developers generally funded on-site infrastructure and paid for connections to off-site infrastructure. The latter was provided at no immediate direct cost to the developer by public utilities funded through a combination of user charges and government transfers. Those services such as education that were used by the occupiers of new developments were financed by general taxation. However, the make-up and distribution of development costs and values were transformed by the introduction of a low-tax environment and the privatisation of the utilities. Landowners and developers no longer assume that, apart from on-site provision and local connections, land will be serviced at no direct cost by privately operated utilities or by public providers. Instead, the immediate financial burden of such provision has been shifted more to building

³ The position of the Conservatives was more nuanced than this. By 1972 the Conservatives had become concerned that the party might become linked with land speculation. In response they proposed significantly to increase the tax rate on land value gains (Weiler, 2013).

producers and consumers. Landowners must now absorb a greater proportion of the cost of off-site infrastructure by reducing land prices. This is a pre-requisite for making their land developable.

The vehicle for achieving this transfer of resources was the evolving system of planning obligations. Planning obligations (POs) are defined in planning agreements that were first given statutory recognition in the Town & Country Planning Act 1932 (Amodu, 2006). They were originally detailed procedural devices that were used to address particular problems raised by developments that could not be solved through the use of planning conditions; for example, to provide adequate site access by correcting deficiencies in off-site transport infrastructure or services. Through their use, POs might allow development to proceed where otherwise it would not. During the 1980s and 1990s, as the financial environment of local authorities became increasingly austere, there was a broadening in the scope and an expansion in the use of POs from this quite specific base. For example, POs began to require the provision of affordable housing, of social and community facilities or of public open space (Campbell et al, 2000). This trend was encouraged by government, at least partly because there were no suitable alternative mechanisms available for redistributing and recovering the costs and benefits of development.

During the New Labour years, consideration was increasingly given to the ‘... scope for improving the efficiency of the planning system through the use of economic instruments in planning policy ...’ (DETR, 1998, 8) such as POs. One constraint on their use was a necessity test that limited the scope of obligations that might be imposed on developers. This significantly reduced the opportunity to use POs to support local service provision, resulting in pressure for additional public expenditure to mitigate the effects of development (DETR, 2001, 17). In contrast, if more widely used and defined, POs would act as “... a mechanism to ensure that development provides social, economic and environmental benefits to the community as a whole.” (DETR, 2001, 3) This sharing of the benefits of development with the community was subsequently confirmed as a fundamental aspect of the PO system (ODPM, 2003, para.18a).

Now, by omission, planning obligations have become a vehicle through which development-related infrastructure and service provision may be funded [...] Yet their use as economic instruments has occurred in a piecemeal way. (Campbell et al, 2000, 760)

Such changes reflected the broader shift in the British state away from direct provision of services and towards complex regulatory approaches using state power to renegotiate market relations (Moran, 2003; Levi-Faur, 2005). However, the increasing importance of developments as a source of finance for the mitigation of development impact and the provision of development infrastructure posed two significant problems for policymakers.

The first was the fear that “... authorities risk asking for too much, thereby threatening the viability of development.” (DETR, 2001, 13). On the one hand, POs should benefit society and contribute to economic growth but, on the other

hand, they should not be so onerous as to deter development (ODPM, 2003, para. 18). However, while this was the first time that development viability had been explicitly linked to PO policy, consideration of the “... issue of whether or not a development proposal is capable of bearing the burden of mitigating all its own costs ...” (ODPM, 2004, 9) was taken little further. The Government’s formal position on this point was ‘open’ (see ODPM, 2005, 10-11, para. B10). This encapsulates the essential elements and highlights the internal tensions of roll-out neoliberalism. The centrality of market forces in guiding development was advanced but the state remained a powerful actor in shaping the economic domain.

The second problem related to the implications that the continued expansion of the use of POs had for planning. In order to increase the transparency and consistency of relevant decisions, policies relating to POs were incorporated in most development plans by 2000 (Campbell et al, 2000; Campbell and Henneberry, 2005). This rendered PO policies a material consideration in determining planning applications (ODPM, 2003, para. 37). Decisions were based not only on a proposal’s functional appropriateness but also on its ability to meet the costs of mitigating its likely impact. This, in turn, is determined by the development’s value and profitability. The result is that “... essentially financial matters ... [became] ... material to many planning decisions ...” (Campbell et al, 2000, 773, square bracket added) resulting in the “... marketization of the planning process ...”(Campbell et al, 2000, 774).

Economists agreed. Corkindale (2004, 57) suggested that “...the most obvious way in which such voluntary trading takes place in British land use planning is through the device known as ‘planning gain’ or ‘planning obligations’.” Indeed, “Planners [will] have to adjust to a world in which the economic as well as the planning logic of what they do is not just analysed but central to their concerns.” (Cheshire and Sheppard, 2004, 2, square bracket added). Such third-order ideas now challenged the forces previously mediating their effects at the meso and micro levels of planning practice.

The vehicle for this incorporation of economic logic into planning is the concept of viability. Its application is informed by financial information, the provision of which was first formally mentioned in Circular 05/2005 (ODPM, 2005) in relation to the determination of levels of affordable housing to be included in residential developments (McAllister et al, 2013, 496). Subsequently, the evidence base of core strategies and other development plan documents was required to cover viability (DCLG, 2008). Next, PPS3: *Housing* (DCLG, 2010) made it necessary to assess the economic viability of affordable housing targets (Coleman et al, 2013). This drive to establish the significance of financial considerations in planning was reinforced by the *National Planning Policy Framework* (DCLG, 2012).

Pursuing sustainable development requires careful attention to viability and costs ... [developments] should not be subject to such a scale of obligations and policy burdens that their ability to be

developed viably is threatened. (DCLG, 2012, 41, square brackets added)

Thus, over the last 15 years development viability has become an important aspect of the UK planning system (Crosby et al, 2013). It informs policy relating POs and the Community Infrastructure Levy (CIL), affordable housing and land allocations. It underpins negotiations between local planning authorities and developers over specific sites. However, there has been considerable debate over the definition and application of the concept of viability. The RICS (2012) issued guidance on financial viability for planning purposes that defined it as follows.

An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project. (RICS, 2012, 4)

It noted that ‘The residual appraisal methodology for financial viability testing is normally used ...’ (RICS, 2012, 14). Thus the RICS was claiming the objectivity of the results of a residual valuation as a justification for using the techniques as the means of determining the viability of a scheme. This was despite the long-held view that

... it is a feature of the residual valuation that comparatively minor adjustments to the constituent figures can have a major effect on results ... [and that] ... once valuers are let loose on residual valuations, however honest the valuers and however reasoned their argument they can prove almost anything. (*First Garden City Ltd v Letchworth Garden City Corporation* (1966) 200 EG 123, 460).

It was also in the face of recent robust technical criticism of the residual method and mounting evidence of its proneness to gaming by developers to reduce levels of POs (Crosby and Wyatt, 2016; McAllister, 2017).

Following research sponsored by a group of London Boroughs (Sayce et al, 2017) and a recent landmark judgement of the High Court on the matter (see Crosby, this issue), policy guidance on DVA has been changed. Gone is the imperative in the NPPF 2012 to ensure that POs do not threaten viability. Instead, the NPPF 2018 states that ‘Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable.’ (MHCLG, 2018, 16) This position is emphasized by the latest guidance on viability that stresses that evidence used to assess land values should be ‘... based on developments which are compliant with policies, including for affordable housing ...’ (HMG, 2018, paragraph 14) Thus a reappraisal of the detailed operation of the extant LVC system is currently underway (see Crosby, this issue, for a detailed discussion). However, the principles that underpin the system are not in question.

The effect of the shift to a neo-liberal approach to LVC

As we have seen, corporatist approaches to LVC were intended both to reinforce the effectiveness of the land use planning system and to obtain for the community (at least a significant share of) the increase in land value arising from its efforts. They had no effect on development costs or capital values. Rather, they were focused on taxing land development values. Consequently, their primary effect was on the behaviour of landowners and the operation of the land market. Tax rates were the same for all types of development in all locations. The tax monies were recycled through the Exchequer and it was not obvious that they would be used in ways that would benefit landowners (such as by paying for the provision of off-site infrastructure to enable development to occur).

Practice relating to POs/CIL is markedly different. Their subject is the developer not the landowner. They affect both the capital value of a development (which is reduced by the inclusion of affordable housing) and a scheme's development costs (that now include a contribution to the provision of infrastructure), thereby reducing land development value (Figure 1c). Effectively, this is the equivalent of an indirect tax on development value but it is structured quite differently. Any obligations or levies must be directly related to development and must be of a scale and nature necessary to mitigate its impact. The proceeds of POs/CIL are hypothecated. Landowners and developers can see that they are used for purposes, primarily the provision of off-site infrastructure, which allow land to be developed.

As the use of POs grew rapidly after 2000, there was debate about whether they might be augmented or replaced by a tax on development value, either directly through Planning Gain Supplement (House of Commons, 2006) or through community land auctions, a form of municipal land trading (Leunig, 2011). In the event, POs were paired with CIL and the system continued to be cost-base. Tax and charge regimes have different advantages and disadvantages (Henneberry and Goodchild, 1996). A tax on some element of land or property values goes with the financial structure of the market. If tax rates are uniform, the relative impact on different parts of the property/land market is the same. "... only if all land is taxed at the same flat rate ... will there be no distortion in land use." (Whitehead, 2016, 23)

In contrast, the pattern of charges based on development impact differs from that of market strength. Economic factors determine property values. Physical factors such as the scale and nature of development determine development impact. Property values display marked regional, sectoral and temporal variation. The costs of the physical works necessary to mitigate development impact vary relatively little. Consequently, weak markets are faced with much greater adjustment problems than strong markets. Charges raise development costs in London and the South East by a much lower proportion than in other regions. In this sense, charging systems are regressive in their effects. This is evident from the outcomes of the negotiations over planning obligations. POs accompany a much higher proportion of planning permissions granted by authorities in the South than in the North and the average value of the obligations is significantly

higher in the South than the North (Campbell et al, 2000; Crook et al, 2006, 2008, 2010; Henneberry, 2016).

Conclusions

Discursive institutionalism provides a framework within which to consider the ways that fundamental changes in political economy play themselves out. While it has been criticised for its limited ability to make strong causative claims for the power of ideas, its elasticity as a concept makes it useful for coping with the heterogeneity of real-world processes. Neoliberalism's rise to dominance has, in practice, been messy (Harvey, 2005; Peck 2010). The macro-level shift in the climate of ideas after 1979, while clear, was far from a 'clean break'. Analysts of the Thatcherite project who focus on macro-level (third-order) ideational change (e.g. Jessop et al., 1988) tend to stress discontinuities. In contrast, those focusing analysis on meso and micro levels (second- and first-orders) tend, instead, to emphasise the unevenness of policy change, including policy continuities (Hay and Farrall, 2011). Such differences in analytical focus are not logically incompatible. Gaps between radical macro-ideational change and more incremental change at meso and micro levels might arise from implementation failures or intentional, strategic in/action (Hay and Farrall, 2011).

These tendencies are evident in the area of LVC. The country has a long history of debate and policy experimentation relating to the issue. Using discursive institutionalism, we have shown how third-order changes in political economy affect the land market and how these interact with policy and practice at meso and micro levels of planning (summarised in Table 1). The impact of ideas is not immediate and can be heavily mediated or even resisted. As the corporatist era demonstrated, economic (landowning) interests were able to prevent the implementation of betterment schemes. This was achieved because such action was supported by the Conservative Party that reversed various Labour policies for LVC. However, such reversals were not complete: the planning system inaugurated by the 1947 Act remained largely intact and the normative claim that the community should have the right to a share of development values has endured, albeit evolving significantly over time.

Table 1: Applying Discursive Institutionalism to Land Value Capture

Level/order of change	Subject of change	Corporatism	Neo-liberalism
Macro-level Third-order change	Overarching ideas and the fundamental policies they inform	Mixed economy with major state role in decisions; weight given to both exchange and redistribution	Market economy with an enabling state; private decisions and exchange predominant
Meso-level Second-order change	Institutional arrangements and instruments used to achieve paradigmatic objectives	Nationalisation of development rights Taxation of betterment Compulsory purchase to ensure land supply	Partial privatisation of development rights/values to ensure land supply Development to meet cost of its impact
Micro-level First-order change	Detailed policies and practices implementing specific approaches	Specific tax rates and CPO powers Distribution of budgets and responsibilities between organisations/levels	Planning obligations and CIL Requirement to maintain development viability

Similarly, the increasing influence of neoliberalism on the form of LVC policy was uneven and incremental, only taking effect from the Millennium. Until then, the planning system had been able to ameliorate the effects of neoliberalism. However, the increasing deployment of economic instruments had a significant impact in three ways. First, planners were confronted with the need to incorporate market viability as a material consideration in reaching decisions. Neoliberalism has advanced economic rationality and economic rationality has advanced neoliberal reasoning in planning practice. Planners have to engage with market actors on different terms from the corporatist era as a consequence and find themselves contesting the form of such economic concepts as development viability. Second, and relatedly, planning is increasingly embedded in the practices of the regulatory state (Moran, 2003) that emerged from neoliberalisation in the UK. Third, the land market itself has been affected by economic instruments as is demonstrated by the regionally regressive effects of the PO/CIL regime.

What are the implications of this analysis for planning practice? At present, planners are faced with a conflict between cognitive and normative ideas about how they should respond to a more market orientated planning system. On the one hand, market-driven practice challenges the institutional ethic of a planning profession rooted in the institutionalisation of the welfare state. On the other hand, in an era of ever-increasing constraints on local government funding, the benefits of obtaining additional resources through effective PO/CIL policy and practice are clear. Thus far, this conflict has been managed by planners' focus on improving site-level approaches (c.f. the debate over project viability and the gaming of land valuation). However, in order to maximise the benefits from POs/CIL, it is necessary to pursue market sensitive and economically aware approaches in relation not just to individual projects but also to longer-term development plan policies and their application. For example, there may be an area of high demand where, for some reason, development has been restricted. Allowing schemes to go ahead may garner substantial developer contributions that result in the construction of major new infrastructure. In turn, this may remove constraints on the development of less valuable land elsewhere in the plan area. Other policy objectives are then achieved, to the overall benefit of the locale. There is no evidence that planners have adopted such approaches and, through them, faced up to the wider strategic implications of their position.

Discursive institutionalism can make important analytical contributions to planning studies beyond LVC. While regard is already paid to both macro and micro-level ideological shifts, planning studies could fruitfully develop more nuanced analyses of policy change by using discursive institutionalism to examine how such changes in policy are set in train and how they are justified, while also recognising the inherent messiness of such transitions. The flexibility of the concept means that it may be applied widely. However, as our paper has shown, its use is most effective when the subject policy is underpinned by an essential aspect of political economy that exhibits significant change. A suitable candidate for study would be the extension of permitted development rights that has occurred since 1979 and particularly in the last 10 years (see Bibby et al,

2018). This may be seen as an embodiment of the de-regulatory urge within neoliberalism. It offers considerable analytical potential.

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