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Securing affordable homes on 'rural exception sites' through negotiated land deals or compulsory land purchase?

Nick Gallent , William Walton, Phoebe Stirling , Andrew Purves and Iqbal Hamiduddin 

Bartlett School of Planning, University College London, London, UK

ABSTRACT

Land cost is a major barrier to the delivery of affordable housing in rural England. In response, planning authorities can grant exceptional permission for homes on unallocated land. 'Rural exception sites' may come forward where local need is established, where a community supports development, and where a landowner appears willing to sell at a price that supports affordability. This review examines the negotiated land deals at the centre of exception schemes. Because landowners' price expectations frequently undermine project viability, a case is presented for using new powers for compulsorily purchasing land at near existing use value for small rural schemes.

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1. Introduction: land for housing in rural England

The purpose of this review is to briefly detail the challenges of providing affordable homes for local need in England's private land market and then to examine how those challenges may be overcome, either through the current practice of negotiated land deals on 'rural exception sites' or through compulsory purchase of land and the capture of its value for public purpose.

The rising cost of development land, inflated by a combination of emergent demand pressures on rural housing from the 1960s onward and planning constraint policies aiming to protect rural amenity (Gallent *et al.*, 2022), prompted a search in the 1980s for mechanisms to bring forward land for 'local needs housing' at a price that would support affordability (Williams *et al.*, 1991). That search led to the 'rural exception site' (RES) approach, first trialled in the New Forest and later incorporated into national planning policy (Barlow, 1992). Exceptions, of various kinds, have become commonplace in international planning practice, used to delivery against 'urgent building project needs' in constrained contexts (Claus *et al.*, 2024; see also Harris, 2021) but in rural England, their use constitutes a tactical means of limiting development to essential need in contexts where the value and therefore cost of land would otherwise be an insurmountable barrier to the delivery of affordable homes.

CONTACT Nick Gallent  n.gallent@ucl.ac.uk

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The value of land is determined by its best potential use, given quality and locational characteristics: where best use is restricted by a land-use planning regime, value is conveyed to land by a planning permission for a specified use, whether that is the best use (most profitable) or not. Land policy and planning unlock floating value, giving land agricultural value (where that is the only permissible use), commercial value (for light industrial uses, for example) or residential value for open-market housing. The value of land is generally highest when it is allocated for residential development in a local plan, although the precise value will be determined by the detail of the permission, including how many homes can be built (and at what density) and any obligations placed on the landowner and developer, via a planning condition, to contribute to the cost of enabling and servicing infrastructure. Land value is therefore a component of the gross development value of whatever is put on the land, less build costs, the developer's return and the cost of fulfilling attached conditions. Residential land values are high in many rural areas, but not all, because of the planning system's rationing of land for development and the increased connectivity of 'amenity' areas to sources of urban demand, for second homes, holiday lets, retirement homes and so on (Sheppard & Pemberton, 2023). Areas of amenity have particular place qualities that are attractive to adventitious buyers – desirable rural character or landscape and/or recreational amenity.

This means that small plots of land in 'amenity villages' often command a high price in the open market. That high price precludes the building of affordable homes by non-market housing providers, including community groups or housing associations (i.e. England's registered providers of social housing, often but not always comprising non-profits that are eligible for grant support from government). The rural exception site approach, which is more fully explained below, allows communities and their development partners to make a case for the 'exceptional' building of housing for local needs on land not allocated for development in a local plan. Unallocated land has a planning-restricted existing use value. If the existing use is pasture, then the land has an agricultural value, which is many times less than the value of land on which permission for housing has been granted.

The rural exception site approach is, in essence, a negotiated *land deal mechanism* for securing unallocated land at a price that supports the building of affordable homes. However, private landowners have aspirations and *hope* for their land – that hope translates into an expectation of future value. Local plans allocate a five-year land supply, and owners frequently nominate small rural sites for inclusion in those allocations. If they are approached to participate in a RES land deal, they may interpret this as a signal that local need is unmet and more land will be needed for development in the future. The hope for their land rises, which shapes their price expectation, or 'hope value'. In short, the prospect of allocation elevates even the value of unallocated sites. This presents communities and non-market housing providers with a critical land challenge: it can be difficult to persuade landowners to part with their land at a price that supports affordability, which is frequently around 15 times agricultural value, or £10,000 per plot. This is at least 10 times less than residential development value for open-market housing in southern England.

This review details some of the challenges of providing affordable homes for local need through this negotiated land deal mechanism before conjecting on the possibility of moving to a compulsory purchase approach in support of RES. Specifically, it

briefly examines opportunities arising from the Levelling Up and Regeneration Act 2023 and a forthcoming Planning and Infrastructure Bill. Recent and forthcoming legislation seeks to suppress the 'hope value' component in compensation claims where there is a clear public interest in securing land for key infrastructure. The question guiding this review is whether such a public interest exists in the development of small rural exception sites and whether a shift from the negotiated land deal approach to compulsory acquisition of small sites could help address the challenge of rural housing unaffordability in England.

The review is organised into six parts. The next part (2) frames the review in a brief detailing of the 'land question'. This is followed by a consideration of the RES approach in its broader planning context (3) alongside a presentation of research exploring land barriers to affordable housing delivery on exception sites. Reflections on how the negotiated approach has been operating (4) then lead to a discussion of the prospects for compulsory acquisition (5), and whether this might be an effective means of recovering land value for community benefit, and of alleviating the rural housing crisis (6).

2. The land question

The land question has two parts: firstly, how value in land is generated and, secondly, who has a legitimate claim to that value. Land is one of three factors in capitalist production, the others being labour and capital. Through productive processes, value is generated, which resolves to land as rent, labour as wage and capital as profit. These three factors in production share the value that an economy generates. The return to capital is a reward for ingenuity and risk; the return to labour for exertion, mental or physical; but the return to land is a passive consequence of enclosure and monopoly ownership. Land receives a share of generated value because all economic activity occurs on land: even modern virtual activities are underpinned by land-hungry data centres in which the hardware of production is housed.

In the political economy of Adam Smith (1776 [1827]) and David Ricardo (1817 [1973]), the enclosure of land and its private ownership, as opposed to its common use, is a natural state and the rent generated on land quite obviously belongs to the private owner. Ricardo famously argued that rent is only generated on *more productive land*, where the identical amount of labour and capital investment delivers a surplus relative to what is produced on the least-productive land, or *marginal site*. That surplus is then collected as rent and is not manifest in the marginal site, which remains rent-free. The capture of rent is therefore the passive acceptance of a surplus afforded by the special quality of a particular piece of land.

This benign view of landowners, and the passive nature of rent, was challenged by Henry George (1879). George argued that 'speculative rents' are pursued by landowners through the withholding of land from production. Writing in California in the 1870s, he observed the growth of San Francisco and noted the tendency of owners to keep plots vacant while demand grew, therefore driving up rents. Land was then either sold at its highest price, or the withholding of that land was a mechanism to achieve higher rents on other land in the possession of the same owner. George argued that rather than being the passive recipients of a natural surplus, landowners can be bad actors with monopoly over a value that they have not created.

George sought to re-open the land question that his predecessors, Smith and Ricardo, had tried to close down. Land, for George, was the 'bounty of God', with its value generated from agglomeration effects and conferred on parcels of land that happened to be in the right location at the right time. His allegorical *A Savannah Story*, contained in *Progress and Poverty* (George, 1879), narrated the settlement of a virgin territory comprising land plots of identical quality and attributes. Because every plot was as good as the next, the first settler randomly selected a location to build his homestead. The second settler, however, recognised the benefit of living next to the first, to gain the labour benefit of association (i.e. mutual support). The second, third, fourth and so on made the same choice. In time, a town was created, and then a city, shaping a pattern of rent underpinned by the benefits of association and hence agglomeration. Later, arrivals to the city needed to set up homes on peripheral sites, where the benefits of association were less and rents were therefore lower.

Association and agglomeration therefore confer or transmit value to land, by virtue of its location and the level of benefit it gains from the agglomeration effect. This is George's 'community-created' argument (Pullen, 2004, p. 118). As a city grows and investments are made in infrastructure, at a cost shouldered by society at large, value is transmitted to more peripheral sites. 'The land monopolist' observed Churchill (1909) 'has only to sit still and watch complacently his property multiplying in value, sometimes manifold, without either effort or contribution on his part'. This transmission of value happens also in rural locations, through enhanced connectivity (brought about by society's investment in new roads) and society's rationing of developable land.

Whereas Ricardo celebrated the private accumulation achieved through land enclosure, arguing that it would eventually 'trickle down' and bring wider social benefit, George saw great injustice in private landownership and sought a means to socialize rent for public benefit. His 'single tax' on land value was a mechanism for recovering the value expropriated through private enclosure. But whatever the means of recovery, for example through planning mechanisms or through the compulsory purchase of land at a price that reflects existing use, it needs to be recognised that value in land (its rent) arises from association and is therefore societally produced. Private landowners' legitimate claim on land is therefore limited to its use rather than its economic rent, in perpetuity or capitalised. Rent belongs to society: this clearest of answers to the land question provides the essential framing to all discussions around land value capture.

3. Rural exception sites

In England, the Valuation Office Agency (VOA) estimates land values for policy appraisal. These are typical land values in specified areas for sites that, where relevant, have edge connectivity to infrastructure. For residential land, the estimates assume a likely density of 35 dwellings per hectare outside London. Different densities are used for valuations in inner and outer London boroughs: 400 units per hectare in Kensington & Chelsea for example (giving an estimated per hectare land value of £161.5 million in 2019) and 150 units in Haringey (£24.3 million) (Valuation Office Agency, 2020).

Residential land in South Cambridgeshire was valued at £5.4 million in 2019, which equates to just over £150,000 per dwelling plot (ignoring land taken up with roads,

pavements, etc.). This compares to £25,000 per hectare for farmland, or just over £700 for a farm plot of equivalent size to a residential plot.

The allocation of land in a local plan, and then the granting of planning permission at a typical density, allows the transmission of value to that land, a ‘manifold’ increase in the case of South Cambridgeshire that is more than 200 times agricultural value. The allocation of sites for housing use in England happens through a local planning process. National planning policy, now set out in the December 2024 version of the National Planning Policy Framework, requires local authorities to produce a development plan and maintain a rolling five-year supply of housing land (Ministry of Housing, Communities and Local Government, 2024a). As part of the plan-making process, local authorities will issue a call for sites, before sifting through nominated sites and testing their development potential – whether they are somehow constrained or have development potential and can contribute towards the required five-year supply.

Recognising the potential rewards of allocation, landowners will compete vigorously for the inclusion of their sites within the local plan. For some small landowners, who have limited experience of the planning process and whose ambitions for their sites are speculative rather than being informed by long-term business planning, the allocation of just one of their sites in the local plan is akin to winning the lottery. Its value will immediately rise, irrespective of the detail of any future planning permission. If they choose to sell to a developer, they are likely to achieve a price well above existing use and edging towards residential value for open-market housing. That price will reflect the developer’s assessment of site potential and likely planning costs. The landowner will pay capital gains tax on land disposals, but with a variety of reliefs. If, on the other hand, the landowner engages a developer but retains ownership, they will share in the profits accruing from the materialisation of land value and the sale of whatever is built on the site, less any contributions that are required towards enabling and servicing infrastructure – fixed within a planning condition. On very small rural sites, however, the requirement to contribute to infrastructure may be absent. This is the case for schemes of fewer than 10 homes, or 5 homes in ‘designated’ rural areas (see later note on the designation of rural areas via the Housing Act 1985).

Either way, rent – capitalised on sale – is retained in significant part by the landowner, who will be the private beneficiary of the manifold increase in land value, with that value having been brought to the site along roads connecting the village to nearby towns and further-afield cities. The connectivity of rural land and housing markets to urban sources of demand means that relative to in-area earnings (wages in rural economies, especially farming and tourism, tend to be low), housing is typically less affordable in villages than in urban areas in the same region (DEFRA, 2022). This connectivity, coupled with planning constraints (including strategic constraint policy in the form of green belt in some rural locations), means that land allocated for housing, or on which an incidental private permission is granted (for example, on a private garden), will be unaffordable to community groups or housing associations.

As noted in the introduction, the rural exception site approach seeks to keep land out of the allocation process, preventing the materialisation of floating residential value. Following experimentation in the New Forest, Department of the Environment Circular 7/91¹ greenlit the granting of planning permission for affordable homes on unallocated rural exception sites (DoE, 1991). This can happen

where a requirement for local needs housing is identified (usually by a rural housing enabler, see Gallent *et al.*, 2024, working with the lowest-tier Parish Council) and a housing association agrees, in principle, to develop the site. Crucially, RES rely on the participation of a willing landowner who will enter into a negotiation to sell a site at a price that supports the building of affordable housing.

Roughly 150 rural planning authorities in England have RES policies within their local plans, and 3,500 affordable homes were delivered on exception sites between 2017 and 2022 (Gallent *et al.*, 2024). Some of those authorities are national parks, which may not allocate sites for housing and therefore rely solely on RES as the source of land on which to deliver affordable housing for local need. Exception sites tend to be small, typically between 0.2 and 0.4 hectares – sufficient for between 4 and 10 homes. Larger sites are possible. Between 1991 and 2012, RES were exclusively for affordable housing, often let at a social rent. The development of such housing was only viable where sites could be secured at low cost. In 2012, the Conservative-led Coalition Government, which came to power in 2010, committed to reducing reliance on grant funding for new affordable housing (which is generally available to England's 'Registered Providers of Social Housing', i.e. housing associations) and handed local authorities the discretion to permit market housing on RES as a source of cross-subsidy (DCLG, 2012). The prospect of hybrid development impacted landowners' perceptions of what might be possible on these sites, inflating hope value (see above).

It is important to underscore the contrasting private and public motivations of landowners and of many rural communities. Where there is a prospect of RES being developed, these sites often have a longer planning history. Owners may have nominated them, unsuccessfully, for local plan allocation or sought a one-off private permission for a 'retirement bungalow' or similar. The sites do not comprise isolated farmland but are often located next to a road, so have potential edge connectivity. They may sit outside a settlement envelope, but will always be close to existing buildings. Sometimes they will be inside the envelope, perhaps comprising incidental vacant land on which the planning authority has been resistant to granting a private permission for high-end housing. Because of past planning failures, the private owner eventually comes to view an exceptional permission as a means of unlocking value. Their aspiration had been for residential value, perhaps £100,000 or more in southern England. Other local residents, however, oppose private market housing, arguing that it will serve a private want and not a local need. But they will accept the building of affordable homes for families and individuals who are from the village but unable to secure housing in the open market. Working with an enabler and a housing association, it becomes clear that if land can be acquired for £10,000 per plot, then the housing association will be able to build homes at a rent level that local people can afford. For a hectare of land, that price extrapolates to £350,000 – well over ten times agriculture, or existing use, value. But the site is small, and the owner is not selling a hectare. There is a big difference between £10,000 and £100,000. Negotiation therefore ensues around the price that a housing association could afford to pay and still deliver affordable housing, potentially with grant support, an element of borrowing, or by drawing on reserves. This negotiation is the critical phase for a RES: the land deal will make or break the project.

4. Hope value and the land deal

The authors of this review conducted two studies in 2023 and 2024 on RES delivery, one with English Rural Housing Association and another for the Rural Housing Network. These projects involved interviews with 50 local stakeholders (parish councils, housing associations, planning and housing officers, and rural enablers) and national bodies, including landowner representatives. The interviews provided a basis for 14 local case studies focused on planning support for RES and local project delivery, including impediments to schemes, how these led to failure or how they were overcome. These cases are presented in Stirling *et al.* (2023, 2024) and Gallent *et al.* (2024).

There are numerous ways in which RES can fail: a lack of corporate support or policy clarity; inadequate evidence of need; community opposition; and site constraints, resulting in a failure to meet planning requirements. The focus here is on land price expectation: hope value and the deliverability of the land deal.

The expectations and hopes of the landowner (i.e. the price they hope to achieve for their land at a future point of sale) are shaped by several factors. First is the owners' perception of a *natural right* to achieve 'full' rental value. Ignoring the fact that floating value materialises in land only when planning permission is granted, this perception is evidenced in the common belief among landowners that planning disturbs a natural right to attain 'full value' and that selling land for a RES is an act of philanthropy. The landowning lobby confirms this view, presenting participation in affordable housing projects as a charitable undertaking, with landowners depicted as servants (or 'heroes' – see below) of the public interest.

Second is the belief that policy evolves, ultimately, to support 'market processes' and the natural private right to rent. Looking back over the evolution of RES, landowners point to the 2012 cross-subsidy mechanism as a shift towards marketization and the achievement of higher value for their land (although some local authorities have resisted this, setting ceilings for land prices in local plans). They view the creation of 'first homes' (i.e. starter homes for sale at a price at least 20% less than equivalent open market housing) exceptions in 2021 as a similar evolution of the policy, allowing landowners and development partners to lead on exception schemes (although not in rural areas designated under Section 157 of the Housing Act 1985²) without community buy-in. The mood music, they believe, is towards a better deal for landowners. Guidance on the calculation of development viability (HM Government, 2014) references 'benchmark land values' that are a composite of existing use value 'plus a premium' that will be acceptable to a 'reasonable landowner'. The acceptability of a premium and the reasonableness of a landowner are determined by how land rights, and claims on land rent, are understood and by local factors, including planning policies, which appear to present those owners with a potential range of development options, either now or in a future plan period.

The third factor shaping expectation is the belief that landowners' attainment of a 'fair share' of productive value, or private accumulation through rent, delivers wider economic benefit. Where the landowner is operating a local business, profits from land sales support investment in that business and therefore contribute to economic growth and job-creation. Allied to this belief is the suspicion that someone always extracts full value: if a landowner forgoes her share of productive value, through an act of charity (see

above), who is to say that a future occupier of the land will not expropriate that value after a future policy change permits the discounted sale of housing association homes to a sitting tenant? In other words, landowners see the uncertainty of government policy as a risk, potentially undoing their 'philanthropy' through a future extension of the 'right to buy' to housing association tenants.

For RES, the reality is often that the presented land deal is not good enough. Hope in the future potential of the land is, at best, a cause of reticence on the part of the landowner and, at worst, an absolute deal breaker. Housing associations are obliged to either pay more for the land, falling back on grant, borrowing and reserves to maintain project viability, or a more complex land deal is needed: one in which the cash consideration for the land is supplemented with a range of incentives.

Landowners will sell land for RES where a local authority permissions plots for market housing and the housing association services those plots, sometimes for open-sale self-build. Alternatively, they will participate on the understanding that further planning permissions will be forthcoming, often on land made accessible by works that opened up the exception site. This may involve the creation of an access road that runs through the RES and leads onto an adjacent field. The strategy here is that the new access, satisfying Highways Authority requirements, will mean that the field now has the potential of being allocated for residential development in the next plan period. More immediately, an extended land deal can see the housing association building a home for the landowners' family, perhaps demolishing and replacing one that already existed or adding one to the RES that can be occupied by a family member. Such deals can start with the transfer of land at nil cost, but the landowner then recoups the equivalent of 'lost rent' through this type of in-kind payment. These types of deal undermine the ability of a housing association to deliver genuinely affordable homes without grant support, either from national government or from the recycling of a local authority's capital receipts.

There have also been calls from the landowners' lobby for more structural incentives (Roberts, 2023). Landowners, the 'unsung heroes of rural communities' (*ibid.*), are themselves farmers or other business owners. Their own workers need affordable homes, although their needs may not be as acute as those of other residents. Nevertheless, they may only sell land at a price that supports affordability in return for nomination rights to the homes that are eventually built (Stirling *et al.*, 2023). For the housing association, and for the community supporting the RES, this may mean that the most pressing local needs go unmet. For the landowner, putting their own workers in new affordable homes can, sometimes, free up other estate properties that can then be sold on the open market or transferred to lucrative holiday letting. This strategy therefore compensates for (perceived) rent forgone through 'discounted' sale. It is also the case that many landowners prefer to build homes on RES themselves, pledging to offer them on affordable rents in perpetuity. The landowners' lobby has argued that these 'affordable homes' (often for their own workers) should attract a conditional inheritance tax on the owner's estate for as long as they remain let at an affordable rent (Country Land and Business Association, 2020).

In different ways, either through land deal strategies or through structural incentives, private landowners seek to extract full land value, or get as close as they possibly can to open market residential value, from RES participation. They seek to privatisate the value in land, asserting their claim on land rent through a variety of strategies.

5. Beyond the negotiated land deal – compulsory acquisition of land

Thirty years ago, RES looked like an answer to the land question, curbing the private right to rent by building homes on land not allocated to that purpose. But the expectation of landowners was ever-present, and could not be contained by local planning whilst neo-liberal governments, in the background, gave clear priority to landowning interests. In its land deal form, RES has been a useful means of delivering affordable housing in rural areas, but its capacity to provide genuinely affordable homes has been gradually eroded by the culture and the context of a private land market and which legitimate claims to rent are ascribed to private owners. In 2023, just 17% of rural planning authorities were able to deliver homes on RES (Gallent *et al.*, 2024). The expectation of private accumulation via rent to land is strong in the UK and especially in England with its particular leaning towards conservatism. Henry George observed that conservatism exists to ‘petrify’ the basic distribution of value to land, capital and labour – to maintain the status quo of the current political economy. Saunders (1984) has argued that this pattern of distribution, and rights over land, is central to the structuration of social class, to class advantage and broader social inequality.

Returning to the land question detailed earlier in this review, it is clear that the effectiveness of the RES policy is undermined by landowner expectation and by speculative rent-seeking behaviours. Land is not released *now*, when it is needed, because owners bet on a more neo-liberal *future*. It is important to understand how value in land is created and therefore the pattern of legitimate claim on that value. If negotiated land deals cannot provide rural communities with the affordable homes they need, what is the alternative?

The short and obvious answer is the compulsory purchase of land for RES at a price that reflects existing use value, plus a premium to the landowner, but disregards hope value. If this answer is so obvious, why has it not happened in the past and why is it not currently a source of land for rural affordable housing? To answer this question, we need to go back to the late 1950s and the decision of the newly elected Macmillan-led Conservative Government to allow landowners served with compulsory purchase orders to claim compensation based on existing use value and, where appropriate, the prospect of securing enhanced value through development in the future (i.e. ‘hope value’). This principle, which departed radically from the state-centrist approach of the nationalization of land use values embedded within the Attlee Labour Government’s Town and Country Planning Act 1947,³ was given effect through the Town and Country Planning Act 1959⁴ and the Land Compensation Act 1961.⁵

Specifically, the 1961 Act allowed a landowner to claim development value for acquired land not only in instances where it was designated as such in an adopted development plan (s.16(1)) but also when ‘planning permission might reasonably have been expected to be granted’, even though it is not within the current plan. Landowners wanting to establish a higher compensation value could apply for what was known as a Certificate of Appropriate Alternative Development (CAAD) (s.17), an exercise that was akin to submitting what amounted to a hypothetical retrospective planning application for a development that could not, in practice, be implemented. Where the prospects for securing planning permission are less certain, the level of compensation payable could be reduced (*Transport for London (London Underground Ltd) v Spirerose Ltd*

[2009]). But even where an application for a CAAD is refused, and a site is outside of the village settlement boundary, the Lands Tribunal might still award hope value to the owner (see *Corrin (Trustees of Northampton Church Charities) v Northampton Borough Council [1980]*).

The result of these provisions was to drive up land values to levels discussed earlier in this review and so make the use of compulsory purchase for the delivery of affordable housing in rural areas to all intent and purposes unfeasible. Unsurprisingly, the rules governing compensation have loomed large on the radar of those advocating reform to land markets. The Lyons Housing Review (Lyons, 2014), Shelter (2019), Civitas (2018), New Economics Foundation (2024) and the Labour Party (2017) have all proposed amendments to the 1961 Act to withdraw or amend the right to hope value. To avoid the risk of the repetition of the land shortages that plagued the 1947 system and a resultant dysfunctional market, Wei Yang & Partners and Wei Yang and Partners and Freeman (2014) have advocated a system of 'tapered premiums' whereby owners would still receive an uplift of three or four-fold (i.e. what might be referred to as Existing Use Value +; see also Aubrey, 2024).

The decision of the Conservative Government, led by Boris Johnson, to introduce a wide-ranging bill on levelling-up, planning and regeneration⁶ provided the opportunity to address the issue of hope value. Nevertheless, the Bill as introduced into Parliament on 11 May 2022 made no reference to the issue. An amendment moved by the Life Conservative Peer, Baroness Scott of Bybrook, proposed giving the power to councils to direct that the prospects of planning permission be ignored when valuing land acquired for certain 'public interest' purposes. This amendment, which became s.190 of the Levelling Up and Regeneration Act 2023, and retrospectively amending s.14 of the Land Compensation Act 1961, fundamentally alters the basis on which land is acquired and brought forward for development. What might amount to a 'public purpose' is not yet entirely clear, but it is likely to include schools, hospitals and housing projects containing a large affordable component. It is questionable whether this would make it eligible to be used for small-scale housing schemes as per the RES policy. At this stage, we suspect that it would not, meaning that the negotiated land deals that are central to RES will remain an important mechanism for the delivery of affordable homes in and around villages.

This, however, is not the end of the legislative story. The Labour Government that came to power in July 2024 has published a consultation paper on compulsory purchase reform (Ministry of Housing, Communities and Local Government, 2024b). This includes proposals to expand the list of CPO power identified in Schedule 2 of the Acquisition of Land Act 1981.⁷ Where land is acquired for public interest, owners would be entitled to receive 'fair' rather than 'elevated' value as compensation. That seems to imply that there would be some premium – perhaps along the lines suggested by Wei Yang & Partners and Freeman – which might help ensure some degree of support from the farming and landowning community. There is also a proposal within the consultation paper that the determination of draft CPOs would be transferred from the Minister to local councils in order to speed up the process, with objectors having the right to an informal hearing rather than a public inquiry. The details will become clearer with the publication of a Planning and Infrastructure Bill,⁸ currently scheduled to be put before Parliament in early 2025.

In short, a potential alternative to negotiated land deals is emerging, suggesting the possibility of a future recovery of land value for those communities which, over successive generations, have been responsible for its creation. The substituting of uncertain land deals with systematized CPO could provide non-profits and communities with the land they need to deliver the rural affordable homes that are needed in many lower-tier rural settlements.

6. Conclusions

Access to affordable land, on which it is possible to build genuinely affordable homes, is a prerequisite to securing mixed and diverse rural communities and economies. The inaccessible private land market, occasionally circumvented by negotiated land deals, remains a significant barrier to the work of non-profit housing associations and other groups, including community land trusts, trying to advance solutions to England's rural housing crisis. Many landowners are not averse to working with communities on local housing projects, but their inclination is to view land value as their own and to see participation in schemes as either a commercial proposition or an act of charity. The expectations of landowners, in aggregate, are preventing or at least slowing the supply of a crucial public good. The compensation payable where land is compulsorily brought into public ownership is being dialed down: England's Levelling Up and Regeneration Act 2023 made significant changes to the regime that has emerged, largely through the testing of precedents in the courts, since 1961. Further changes in forthcoming legislation seem likely, and may extend the scope of the 'public purpose' for CPO and redress the issue of 'fair' compensation. Returning to our earlier discussion of the 'land question' and how value in land is created (see again George, 1879; Pullen, 2004), any assessment of fair compensation must recognise the differing roles played by landowners and by wider society in the generation of value, through on-site improvements and through those cross-generational investments, underpinning productivity, that raise land rents. Fair compensation to the landowner is a composite of existing use value plus an allowance for loss of exclusive use right. Higher levels of compensation permit landowners to expropriate value that they have not created. It is not yet clear how recent and forthcoming legislative changes may affect the acquisition of land specifically for rural exception sites or if local authorities will deem that there is sufficient public interest in moving away from negotiated land deals.

What is clear, however, is that the current approach is slow, cumbersome and uncertain. Only a small proportion of rural authorities in England pursue the delivery, or achieve success in the delivery, of homes on RES. Compulsory purchase has the potential to address a big part of the land question in rural areas. Whether or not recent or ongoing legislative changes enable authorities to take a different approach to the acquisition of small rural sites, the argument for rebalancing public and private interest in land is strong. Landowners' claims over unimproved land value are tenuous in comparison with wider society's role in generating that value. The justice, therefore, of a more muscular approach to value *recovery*, in support of essential public goods including affordable homes, is clear.

Notes

1. At that time, the ministry responsible for planning would issue occasional circulars to planning authorities on interpretation of planning law and the exercise of planning duties. Although a comprehensive set of guidance notes was rolled out from 1988 onwards, government continued to issue circulars, sometimes ahead of more comprehensive updated notes. Circular 7/91 was rolled into a revised Planning Policy Guidance note on Housing in 1992.
2. This section of the Housing Act 1985 (see <https://www.legislation.gov.uk/ukpga/1985/68/contents>) designated rural areas where protections would apply in relation to, for example, the onward sale of homes bought under government's right to buy policy. It is now referenced in relation to non-traditional exception site schemes, led by landowners and private developers. These are barred in designated rural areas.
3. <https://www.legislation.gov.uk/ukpga/1947/51/enacted>
4. <https://www.legislation.gov.uk/ukpga/Eliz2/7-8/53/contents>
5. <https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/contents>
6. For the latest version, now the Levelling Up and Regeneration Act 2023 (c.55), see <https://bills.parliament.uk/bills/3155>
7. <https://www.legislation.gov.uk/ukpga/1981/67/contents>
8. The imminent arrival of this Bill was announced in the Government's Plan for Change - <https://www.gov.uk/government/publications/plan-for-change>

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ORCID

Nick Gallent  <http://orcid.org/0000-0002-6238-7875>
 Phoebe Stirling  <http://orcid.org/0000-0002-3619-4236>
 Iqbal Hamiduddin  <http://orcid.org/0000-0002-9374-9533>

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