An Examination into the Effects of Land Value Taxation in the UK: An Update of the Whitstable Case Studies

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Lincoln Institute of Land Policy
Working Paper

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Lincoln Institute Product Code: WP04GM1

Abstract/Executive Summary

The aim of this study is to update the valuation exercises which were undertaken in 1963 and 1973 in order to assess the practicability of introducing a Land Value Tax in the UK. The original studies were based on the town of Whitstable, in southeast England and were undertaken by Hector Mark Wilks whose reports have formed the basis of both the methodologies to be undertaken and the issues to be investigated. This study differs from the original studies in two major respects. The first is the fact that the current methodology investigates the use of modern technologies and thus the research has become something of a test of the valuation and the technological methodologies involved in this valuation exercise. The second difference is the aim to test the robustness of the current UK planning situation to establish the extent to which the planning system needs to be reformed in order to support a Land Value Tax, although the second year of the study will focus on this aspect.

The report begins with a brief background to the current level of debate about Land Value Taxation in the UK which provides a context for this study, although there is no attempt to argue the case for or against the introduction of Land Value Taxation in the UK. Also within Part 1, the original methodology is outlined as is the report structure.

Part 2 provides an historical background to the Whitstable Studies, beginning with the introduction of Danegeld in the 9th century and examining the 19th and 20th century reports to government regarding Land Value Taxation, all of which saw moral support but practical and political difficulties in its introduction. Indeed, it was as a result of a call for a "comprehensive test valuation" that the original Whitstable Studies were undertaken. A level of confusion between Land Value Taxation and Betterment taxation is demonstrated within these documents. In addition, the origins and development of planning in the UK and their impact on the original Whitstable Studies is explained.

Part 3 provides details of the original Whitstable Studies, the aims, resources, and methodology adopted, the sources of data, the outcomes and the difficulties encountered are all discussed. Three fundamental assumptions were made in undertaking these original Studies: the compulsory and comprehensive registration of land titles; all transactions in land would be published and available for public scrutiny; and that the definition of 'value' adopted for any system of Land Value Taxation should be accompanied by sufficient explanatory information to avoid lengthy judicial clarification. Wilks' methodology, in so far as it is explained in his reports, is analysed as are the outcome of his valuations. These are discussed both in terms of property types and his overall aim of demonstrating the differences between the values of taxable property under the (then) orthodox system and his interpretation of Land Value Taxation.

Part 4 describes the methodology and the data issues involved in the update of the original Whitstable Studies. In addition, significant differences between circumstances now compared to when the original studies were undertaken are also highlighted. Details of the GIS database MasterMap® and the other electronic sources of data use are

discussed, as are the problems associated with their use. Strategies for dealing with the paucity of publicly available transaction data are also considered.

Part 5 discusses the effects of town planning on land value, and the issue of highest and best use is considered, together with the interpretation of the legal requirements of town planning. These form the backdrop for the planning methodology for Whitstable.

Part 6 discusses the traditional methods of valuation for landed property in the UK, comprising the rental method, profits method and the contractor's basis (all traditionally used to value for tax purposes) as well as the residual method of valuation (used to value land which is to be the subject of future development). These are previewed both in the context of their suitability for Land Value Taxation purposes and also for their reliability and robustness for assessing a land only tax base.

Part 7 concludes the report by identifying issues which remain to be resolved and by previewing the second year of this research.

About the research:

This research was undertaken by Greg McGill and Frances Plimmer of The College of Estate Management, at Reading, United Kingdom, during 2002 – 2003. The study reports on the first year of a valuation exercise appropriate to assess the practicability of introducing a Land Value Tax in the UK, based on an earlier methodology. The research was supported by the Lincoln Institute of Land Policy through a David C. Lincoln Fellowship in Land Value Taxation.

About the Authors

Greg McGill, who has a BSc (Hons) in Town and Country Planning and an MSc (with Distinction) in Property Development and Investment, is the Senior Tutor at the College of Estate Management, Reading, in England, specialising in planning and development. His career has primarily been in the field of land use planning where he has worked in senior positions in local government, the private sector and academia. Other areas of employment include working as a navigating officer in the British merchant marine, the Valuation Office and in the Office of Population Censuses and Surveys. He has also undertaken two small development projects.

Of particular relevance to this research is his writing, research, training and teaching whilst at the College. His writing has included study papers for the College on the environment, planning policy and practice; the publication of *Building on the Past,* which examines the interface between planning, archaeology and development; and articles relating to planning and land value taxation. His research has focused on the effect of the plan-led system in England and the effect of land value taxation on planning. The former led to the publication *Dwellings in Rural Areas: The effect of the plan-led system on rural housing* and the latter, following a study tour to Pennsylvania in 2001, to a chapter in *Lessons from the Smart Tax* published by the Progressive Forum two years ago.

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She is the editor of *Property Management* (a triple blind refereed academic journal), a member of the Editorial Advisory Board of the *Journal of Property Tax Assessment & Administration*. She is a member of the Advisory Board of the RICS's Research Foundation as well as being the RICS's delegate to Commission 2 (Professional Education) of the International Federation of Geometers (FIG)

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Acknowledgements

The authors are extremely grateful to The College of Estate Management and particularly to Dr. Tim Dixon and Andrew Marston for their guidance and support in this research. Colleagues at Reading University have provided the specific GIS support and we are grateful to Dr. Geoff Griffiths and Katrin Pengelley both from the Geography Department for their expertise.

The authors acknowledge with thanks the contributions made to the research by the Ordnance Survey which has supplied the research with data files and also to officers of Canterbury District Council who have also supplied data and allowed the research team access to their records.

The interest which this research has generated within professional circles has been hugely important, both in allowing the research team access to information and also enabling the research team to benefit from their advice and support. In particular, we are grateful to Anthony Vickers, Paul Sanderson of the Valuation Office Agency and William J. McCluskey of the University of Ulster for their valuable contribution to the debate.

The members of the Institute of Revenues Rating and Valuation (previously the Rating and Valuation Association) and the members of the Land Institute have also supported this research both by providing a forum for debate and also allowing the research team permission to reprint extracts from the original Whitstable Studies. Thanks are also due to Owen Connellan for his permission to reproduce a contribution by Frances Plimmer which will appear in his book published by the Lincoln Institute, *Land Value Taxation in Britain: Experience and Opportunities* (2004).

Finally, to family, friends and colleagues who have supported this research in ways they may not understand – many thanks.

“. . . any conception that the valuation of land is a simple and easy process is founded on pure illusion.” (Back, 1970: 54)

Authors’ Notes:

In the UK, Land Value Taxation is more usually referred to as Site Value Rating (SVR). This report refers to Land Value Taxation but references to historical documents and quotations from such sources use Site Value Rating. The terms are considered to be synonyms.

The College of Estate Management is an independent research institution. It is important to stress that any responsibility for the views expressed on Land Value Taxation and related issues in this report are those of the authors, and theirs alone.

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An Examination into the Effects of Land Value Taxation in the UK: An Update of the Whitstable Case Studies

Part 1 – Introduction

Background

This report presents research into the practicalities of undertaking the valuation process necessary to underpin the introduction of land value taxation (LVT) in the United Kingdom (UK). It does so by updating two earlier studies, the Whitstable Studies, and critically analyses both the process and the outcomes involved. The Whitstable Studies were undertaken in 1963 and again in 1973 and deal entirely and almost exclusively with the process necessary to value sites for LVT purposes in a specific location, and as such, they reflect a limited and focused aspect of LVT. This research is updating the process originally adopted, using modern technologies and expanding the research to include alternative methods of valuation and the robustness of the UK planning system to support the highest and best use on which taxable values are based for LVT purposes. This report also includes appropriate and relevant historical background to LVT in the UK[1].

In 1888 Henry George visited England, where his ideas for the taxation of unimproved land were welcomed by the Liberal Party. According to Hicks (1970: 13), "At that time, seeds were sown of a small but persistent unimproved value taxation 'interest'."

Despite several attempts to do so, there has been little success in introducing LVT into the UK as a major source of funding at either local or central government level (refer Part 2). Recently, however, British interest in land value taxation has grown with a number of organisations and individuals calling for more information on the use and effects of LVT. They include the Department of Environment, Transport and the Regions (DETR, 1998), Evans and Bate (2000), Lichfield and Connellan (1998), the Progressive Forum (2002), the Urban Task Force (1999), and Vickers (1999, 2002). Significantly the Office of the Deputy Prime Minister (ODPM) and the Royal Institution of Chartered Surveyors (RICS) recently instructed consultants to complete a study identifying the relationship between land use, land values and public transport (ATIS Real Weatherall *et al.,*, 2002), and Liverpool City Council and Oxfordshire County Council in 2003 lobbied the Government to allow them to raise a land tax as a pilot study (Vickers, 2003).

All this indicates a growing awareness by a number of commentators within Britain of the possibilities of adopting some form of LVT to fund public expenditure, but there is still a real need to obtain more information on what the process will involve and how it could affect taxpayers, communities, the economy and specific matters such as urban regeneration.

At present there is a distinct lack of information on LVT, specifically on the robustness and availability of necessary data and the valuation techniques appropriate to the UK. In

1963 (and again in 1973) two studies were undertaken to demonstrate the practicality of undertaking the valuation exercise necessary to underpin a Land Value Tax in the UK. These studies, which also compared the outcome of the then existing rating system with LVT and which were undertaken in Whitstable, Kent, by a well-known surveyor, Hector Mark Wilks, remain the only attempts to demonstrate a valuation methodology to underpin LVT in the UK.

Unfortunately, little progress was made to develop Wilks' work subsequently, despite the major debate and reform of the British system of landed property taxation in the 1980s and early 1990s. Since Wilks' studies, there have been substantial social, economic, environmental, cultural, technical and political changes both in the UK and worldwide. They indicate a need for more up-to-date information on how LVT could work in this new climate.

Eight reasons are put forward in support of this study:

1. The research investigates the availability and suitability of up-to-date market evidence of site values and the application of valuation methodologies for landed taxation purposes in the UK based on actual transactions. This is something that is currently lacking in the UK, and provides one of the existing grounds of controversy surrounding the LVT debate in the UK.

2. The research enables comparisons to be made with the studies undertaken in 1963 and 1973. It aims to show, for example, the extent and shift of tax liabilities based on land values and provide an indicator of the nature and extent of change over the intervening period.

3. Relating to the above, it enables the observed changes to be judged against the land use planning regimes in existence on both occasions and provide evidence against which to test the sustainable nature of LVT as well as facilitating a better understanding of the relationship between LVT, land use planning and sustainable development, something that is also lacking in the UK.

4. It demonstrates the feasibility of using Wilks' methodology and existing land transactions to produce a reliable and defendable tax base on which to levy a land value tax.

5. It enables an analysis to be made of the public perception of LVT. With the option of choosing between a total or partial transfer of property taxation from improvements to the land, the study allows for different tax liabilities of landowners of different property types and the level and amount of revenue that can be collected from property by the municipality to be assessed. Both of these matters are very important in trying to assess the impact and general acceptability of LVT in the UK at the present time.

6. It enables an assessment to be made of the wider effects of the current system of Uniform Business Rates (UBR) and Council Tax.

7. It will assist further studies to be made into the effects a shift in tax liability would have on the property market and other related matters.

8. Finally, it will provide a basis on which to develop further studies into different aspects of LVT in the UK.

With the above in mind, the objective of this research is to update the Whitstable Studies. It is, therefore, a valuation exercise to demonstrate the practicability of Land Value Taxation but (unlike the original Studies) it assesses the robustness of the current planning system to support a Land Value Tax system. It is not our aim to discuss the philosophical, moral or political arguments for or against the introduction of Land Value Taxation in the United Kingdom.

The project is divided into three stages proposed over three years. The first year aimed to produce an up-to-date survey of site and property values for all of the hereditaments (taxable units) in Whitstable, based on the methodology undertaken by Wilks in 1963 and 1973, adapted to reflect subsequent changes including technological advances. This report discussed the extent to which this aim has been achieved. It draws conclusions as to the appropriateness and reliability of the methodology adopted and the data sets available.

The second year will involve a series of comparative studies aimed at comparing the outcomes between the current and past studies, what landowners of different property types would pay in landed property tax if the total revenue levied by the local authority remained the same (which is current UK government policy) and what the yield would be if the landowners paid a similar amount in land-only taxes as under the current system. It is envisaged that different applications of LVT could be demonstrated in respect of the split between land and improvements as occurs in Pennsylvania, with the aim of establishing a more balanced and socially acceptable landed property tax.

The third and final stage of the study will be to obtain and evaluate the views of stakeholders on the results obtained from stages one and two. This will involve the undertaking of a sample survey of property owners in the town, those involved in the implementation and assessment of site values and landed property taxes, other interested groups and local politicians. Any issues of or requests for confidentiality will be maintained.

It is a requirement of the Lincoln Institute of Land Policy that the study builds upon the advances in valuation, computer-assisted appraisal methods and geographic information systems (GIS) since that time. It is assumed that such advances would also be reflected in

the establishment of any Land Value Tax base which the Valuation Office Agency (VOA) would be required to produce in advance of the introduction of LVT in England.

This study has therefore become something of a test of the likely methodology which would be adopted by valuers should LVT to introduced in the UK, and the use of GIS, the availability of transactional data, and the testing of definitions have become a significant part of the study.

This submission reports on the results of stage one of the research i.e. the extent to which modern technologies have, to date, enabled the production of an up-to-date survey of site. It also reports of the data issues which have delayed the production of property values for all of the hereditaments (taxable units) in Whitstable. It discusses in some depth the background to the LVT debate in the UK, the original Whitstable studies, the limitations imposed by the economic, legal and social conditions, as well as by the current planning system and traditional valuation methodologies and draws conclusions as to the appropriateness and reliability of the outcome.

Methodology

At the start of this first year of the study the following steps were proposed:

1. A literature review, with particular reference to the two Whitstable Studies undertaken in 1963 and 1973 and informed debate surrounding them.

2. Definition of the study area, the preparation of survey material and the setting up of a computerised data base and spread sheet.

3. The collection and analysis of all landed property transactions in the study area for the study base period.

4. The establishment of the indicative planning uses regarding the development and use of land for the current and past studies.

5. The conversion of all property transactions to site values using the original methodology, as appropriate.

6. A survey of all landed property in the town and district of Whitstable to produce site values for all hereditaments.

7. Analysis of the above and the presentation of conclusions on the methodology and results.

In the light of the requirement imposed by the Lincoln Institute of Land Policy that the study builds upon the advances in valuation, computer-assisted appraisal methods and

geographic information systems (GIS) since that time, the methodology originally proposed has been changed. Part 4 discusses the methodology adopted in line with the seven stages outlined above.

Report Structure

Part 2 of the Report provides a background to the Whitstable Studies by considering the contents of reports to government on the issue of land value taxation and also the impact of UK legislation on land value taxation policy. Particular mention is made of the introduction of planning controls and the confusion which the taxation of betterment in the UK caused in attempts to introduce LVT into the UK, because of their impact on the Whitstable Studies.

Part 3 of the Report provides details of the two Whitstable Studies, their process and outcome.

Part 4 provides details of year one of the research to update the Whitstable Studies, including statements of valuation methodology, limitations to the survey and valuation exercises and further directions to be pursued.

Part 5 looks into the effects of town planning on land values with particular reference to highest and best use of land, the legal requirements of town planning and the basis for a planning methodology

Part 6 evaluates the suitability of traditional valuation methodology used in the UK for the valuation of landed property and its suitability for adaptation to a land value tax.

Part 7 provides conclusions to the report and previews year 2 of the research.

Part 2 - Background to the Whitstable Studies

Historical Context

The idea of taxing the unimproved value of land in England is not new. Wilks, in his first study of Whitstable in 1963 included an appendix (R&VA, 1964: 15) entitled 'The origin of land tax in this country' which made reference to the Danegeld (which was a land tax introduced following the colonisation of eastern and northern England in 860 and 870 [ibid.]) and the Domesday Book[2], "Originally, Danegeld was a form of protection money paid to ward off Viking attack and pillage" (ibid.).

Citing from Starcke (a member of the Danish Parliament) Wilks states (ibid.):

> The Danish colonisers divided the land . . . in a great amount of smallholdings, where the warriors of the Viking armies settled down as free, independent self-

> supporting peasants . . . They would not pay taxes, except one . . . the duty to pay taxes on their land.

Citing from Trevelyan, Wilks continues (ibid.: 16):

> The Danegeld holds indeed a great place in our social, financial, and administrative history. Direct taxation began in this ignominious form. Under the weak Ethelred it was the normal way to buy off the Danes. Under the strong Canute it became a war tax for the defence of the realm. Under William the Conqueror its levy was regarded as so important a source of revenue that the first great inquisition into landed property was made with this end in view. Domesday Book was originally drawn up for the purpose of teaching the State how to levy Danegeld.

Wilks concludes (ibid.) that this system of land tax remained the main basis for English finance until the beginning of the 18th Century.

Interesting as this may be, it is more recent thinking about land value taxation that is important to this study. Such ideas developed towards the end of the 19th Century when a number of events occurred which together explain the background to Wilks' first study in 1963.

It is important to review the UK experience of land value taxation prior to the 1963 study in order to:

1. Establish the nature and extent of the debate into land value taxation.
2. Develop an insight into the practicalities and valuation methodologies associated with land value taxation.
3. Identify the social, economic and political context in which Wilks' study was undertaken.

For the purposes of this research report, we have divided this background into three areas, namely:

1. Earlier reports to government relating to land value taxation.
2. Past attempts to legislate for land value taxation.
3. The planning situation.

Earlier Reports to Government Regarding Land Value Taxation

Although never introduced into UK legislation, interest in and reports on LVT as a device to raise revenue for government purposes have a long history. The following outlines the salient issues of a number of relevant reports which provide a background to this research.

Report of Royal Commission on the Housing of the Working Classes, 1885

The first report to refer to LVT (or site value rating) was that of the Royal Commission on the Housing of the Working Classes. In their analysis of how to improve housing provision and conditions, members concluded that the rating of land values would increase the supply of land available for housing in contrast to the existing rating system which was considered to be an impediment to the acquisition of land. They wrote:

> Such… land [suitable for residential development], though its capital value is very great, is probably producing a small yearly return until it is let for building. The owners of this land are rated, not in relation to the real value, but to the actual income. They can thus afford to keep their land out of the market, and to part with only small quantities so as to raise the price beyond the natural monopoly price which the land would command by its advantages of position. Meantime, the general expenditure of the town on improvements is increasing the value of their property. If this land were rated at, say, 4 per cent, on its selling value, the owners would have a more direct incentive to part with it to those who are desirous to build and a two-fold advantage would result to the community.
>
> First, all the valuable property would contribute to the rates, and thus the burden on the occupiers would be diminished by the increase in the rateable property. Secondly, the owners of the building land would be forced to offer their land for sale and thus their competition with one another would bring down the price of building land, and so diminish the tax in the shape of ground rent or price paid for land which is now levied on urban enterprise by the adjacent landowners – a tax, be it remembered, which is no recompense for any industry or expenditure on their part, but is the natural result of the industry and activity of the townspeople themselves. (HMSO, 1885: 42)

The Commission recommended that legislation to incorporate the above be introduced and that this proposal be referred to the Select Committee on Town Holdings (see below). Among the comments in support of LVT were those of the Right Honourable G. J. Goschen, MP, who argued, among other things, that the rating of vacant land was "…an extremely important point on which no evidence at all proportionate to the magnitude of the subject was placed before the Commission" (HMSO, 1885: 66).

Dwyer Grey, MP, stated:

> The evil never can be effectively abated, so long as owners of land in towns are permitted to levy a tax upon the whole community by way of an increase in rent proportionate to the increased value of that land, due not to any effort of theirs, but to the industry and consequent prosperity of the community as a whole. This, in reality, is a constantly increasing tribute by the whole community of the town,

> to the individuals who own the land. There is no finality in it, and therefore increased prosperity brings no relief. (ibid.: 67)

In his memorandum, H. Broadhurst, MP, stated, “One of the chief obstacles to the efforts of the working classes to become owners of their own houses is the very large cost attending the transfer of land” (ibid.: 73).

Select Committee on Town Holdings, 1892

This Committee considered the report mentioned above alongside other evidence and did not support the taxing of ground rents for four reasons:

1. Ground rents were already taxed as part of the rateable value of landed property and a fresh assessment on these ground rents would lead to anomalies and inequalities.
2. The incidence of local tax falls partly upon the owner and partly on the occupier and it would be difficult to determine how this should be apportioned.
3. Ground landlords derived little or no benefit from the current expenditure of local authorities.
4. The unforeseen increase in the value of property through the expansion of towns was matched by the unexpected burden of increased rates and that there was therefore no equitable argument for an additional impost. (HMSO, 1892: xxxvi)

Royal Commission on Local Taxation, 1901

In 1896 a Royal Commission was appointed to enquire into the local taxation system and report on whether real and personal property contributed equitably to such taxation and, if not, what alterations should be made to the law to secure this. Five years later, when the Royal Commission reported, three different views were expressed. The majority (nine members) were against changing the existing rating system, five (including the Chairman) favoured substituting a part of the rate with a tax on land values and one member favoured a total transfer of liability to land only.

The main reason why the majority were against changing the *status quo* was because they were primarily concerned about the practical difficulties of valuing sites separately from structures. They wrote:

> The valuation of every site upon the basis of the rent which might be obtained for it, if it were cleared, would be highly speculative where no means of comparison was ready at hand, and even where such means existed, many varying factors such as rights of light, and the existence of easements and other restrictive covenants would have to be allowed for and the circumstances of surrounding property closely investigated. As the period for which a lease was granted approached its termination, further difficulties would arise, especially where the capacity of the site might not be fully utilised by the buildings then standing. And

> when all these questions had been considered, the results would be so hypothetical in character that a large number of appeals and attendant expense would be inevitable. (HMSO, 1901: 43)

They also held the view that an additional tax on land values could not be justified on either of the traditional grounds of rating, namely, ability to pay or benefit received.

Among the evidence submitted to the Commission and in support of change were reports from the London County Council (LCC) and Fletcher (later Lord) Moulton. Both reports recommended that part of the rate revenue be raised from land values. As reported in the Simes Report, the surveyor for the LCC stated that:

> As expenditure of occupiers had contributed to the increase of site value, an additional source of revenue should be sought as a partial relief to them. It was submitted that this could best be accomplished by rating the owners of sites, more especially since much, if not all, of the improvement due to the increased expenditure accrued to the latters' benefit. (as reported in HMSO, 1952: 12)

'Owners' were defined by the Commission as, "All persons deriving revenue or use equivalent to revenue, from the value of the site" (ibid.), and *'site value'* as, "An annual rent which, at the time of valuation, might reasonably be obtained for the land as a cleared site if let for building by the owner in fee [freeholder], subject to equitable reduction in exceptional cases in which the full site value, thus defined, is not being enjoyed or obtained by any person or persons" (ibid.).

The LCC later introduced the Site Value (London) Rating Bill to Parliament in 1901, although the proposals contained in it differed in several respects from the evidence previously submitted to the Commission. The Bill was not approved.

With regard to the evidence submitted by him to the Royal Commission on Land Taxation, Moulton argued:

> That increases in the value of land were basically due to the expansion of population but required heavy and continuous expenditure by public authorities to sustain them. The landowner was the main beneficiary of this expenditure; further his property was more durable than that of the owner of buildings, and required no expenditure on his part for maintenance. Hence it was unjust to rate sites and buildings equally. (ibid.)

In support of this argument he proposed a different rate in favour of buildings with a ratio of 3:2 respectively for sites and buildings. He also proposed that the value of the site be shared by the "ground landlord and the lessees nearest to him in proportion to the permanency of their interests." (ibid.)

Report of Departmental Committee on Local Taxation 1914

A Departmental Committee was set up in 1910 to enquire into the changes that had taken place in the relations between national and local taxation since the Royal Commission Report in 1901 and to examine the different proposals made in the Report. The Committee, referred to as the Kempe Committee (under the Chairmanship of Sir John Kempe), had before it not only the 1901 Report but also a number of private members Bills introduced between 1902 and 1905, the land value taxation proposals of the 1910 Finance Act and the proposals of a group of MPs who called themselves The Land Value Group.

The majority of the committee in their submission argued, in respect of the traditional canons of rating (ability to pay and benefit received), that the existing rating system more closely conformed to the principle of 'ability to pay' than the proposal of the Land Value Group, stating that, "Landowners did not derive such benefit from the general activity of expenditure of the community as to justify charging upon them the whole cost of local government" (as reported in HMSO, 1952: 18).

In contrast, the Land Value Group, in their minority submission, argued that the liability for local taxation should be based on the benefits received from the activity of the community and that rates should be assessed in accordance with the relative value the members of the community enjoyed (ibid.: 17). They considered that, "Annual rental value did not provide a gauge of ability to pay and that the existing system was merely one established by law and practice and not a good exemplification of any general principle, either of ability to pay or of benefits received" (ibid.: 18).

In particular they added that, "Taking the size of the house occupied by a family as the measure of ability to pay was unfair to persons with large families, although their financial responsibilities were taken into account when fixing the rates of income tax" (ibid.).

The question of whether land value taxation should be assessed on annual or capital value gave rise to additional disagreement. The majority contended:

> That capital value (e.g., the selling value of a bare site) suggested by the minority would be unjust, since it would include an element of potential value which the owner might never have a chance of enjoying. The minority opposed this, since without the inclusion of at least as much potential value as would be included in a market price the pressure on landowners to sell or develop would be greatly reduced. (ibid.)

The dissenting minority members of the Committee, however, put forward important indications for any future consideration of land value in respect of a definition of site value as:

> The price which a willing seller might reasonably expect to obtain in the open market for the land, excluding all value due to buildings, structures, fixed or attached machinery, trees, hedges, growing crops and agricultural improvements upon it. (ibid.)

A statement of appropriate procedure issues was also made:

> Valuations were to be carried out by the Inland Revenue Department, making use of the machinery established under the Act of 1910. Collection was to be from the occupier (or from the owner in the case of unoccupied property), yearly tenants deducting the rates from their rent at the end of the financial year, tenants on longer leases recovering only on the expiry of the lease; existing contracts were to be respected. There would be a differential site rate for agricultural land (one quarter of the site value) and for land which, having a higher value than for agricultural purposes, was not ripe for building and not permanently appropriated to some use other than building or agriculture (one half of the site value). (ibid.: 18-19)

Shortly after the publication of the report, the First World War broke out, and all consideration of land value taxation came to an abrupt end.

The Expert Committee on Compensation and Betterment, 1942 (The Uthwatt Report)

In January 1941 the Expert Committee chaired by the Hon. Mr Justice Uthwatt was set up with the remit:

> To make an objective analysis of the subject of the payment of compensation and recovery of betterment in respect of public control of the use of land;
>
> To advise, as a matter of urgency, what steps should be taken now or before the end of the war to prevent the work of reconstruction thereafter being prejudiced. In this connection the Committee are asked
>
> To consider (a) possible means of stabilising the value of land required for development or redevelopment, and (b) any extension or modification of powers to enable such land to be acquired by the public on an equitable basis;
>
> To examine the merits and demerits of the methods considered; and to advise what alterations of the existing law would be necessary to enable them to be adopted. (HMSO, 1942a: para. 1)

With so much urban destruction in the early part of the Second World War, the Committee recognised that there would have to be a considerable amount of

reconstruction to replace war-damaged property. Vast displacements of industry, commerce and population had occurred through evacuation and destruction. Bomb damage ranged from the destruction of isolated houses to large tracts of urban land where it was recognised that extensive renewal work would have to be done by public authorities and that this would need careful planning:

> The planning must form part of a long-term policy for the whole of the town or city concerned, in which the plans for the devastated areas can be coordinated with plans for the adjoining parts. Moreover, quite apart from any question of war damage, there are innumerable areas in many towns and cities which urgently need modernising to meet present-day requirements and the reconstruction of which is, in many cases, recognised to be long overdue. (HMSO 1942a: 6)

The Committee also recognised, however, that this aspect of post-war reconstruction was only part of the answer:

> The requirements of agriculture, the location and re-establishment of industry for peace-time production, the de-congestion of built-up areas, the building of adequate housing accommodation, the provision of open spaces, green belts and other amenities, the development and concentration of public utility services, the overhaul of our transport and communications system, the requirements of a post-war development in civil aviation and the relation of these matters to the demands of future defence – all these are problems which will have to be considered when plans for the post-war period are being formulated. (HMSO 1942a:7)

In this context public control over the use and development of land was inevitable but this raised questions about the level of compensation to be paid to landowners on compulsory acquisition. This also raised questions about where new development would take place and how best to deal with the speculation that would occur.

> The hoped-for building may take place on the particular piece of land in question, or it may take place elsewhere; it may come within five years, or it may be twenty-five years or more before the turn of the particular piece of land to be built upon arrives. The present value at any time of the potential value of a piece of land is obtained by estimating whether and when development is likely to take place, including an estimate of the risk that other competing land may secure prior turn. If we assume a town gradually spreading outwards, where the fringe land on the north, south, east and west is all equally available for development, each of the owners of such fringe land to the north, south, east and west will claim equally that the next development will 'settle' on his land. Yet the average annual rate of development demand of the past years may show that the *quantum* of demand is only enough to absorb the area of one side within such a period of the future as commands a present value. (HMSO, 1942a: 14)

Potential value, therefore, was necessarily a ‘floating value’ which could attach itself to many pieces of undeveloped land irrespective of the total demand for land for development. The Committee indicated that the ‘float’ could not settle on each and every unit of land but only on a proportion of the whole area around a town. In other words:

> The public control of the use of land, whether it is operated by means of the existing planning legislation or by other means, necessarily has the effect of shifting land values: in other words, it increases the value of some land and decreases the value of other land, but does not destroy land values. (ibid.: 15)

There is therefore the recognition that value can ‘drift’ because of planning controls but that they do not destroy it. By implication, therefore, planning controls do not create value but simply release latent value where development is permitted to take place. The Committee, however, instead of looking at how increases in land value within an area as a whole could be captured, focussed on the increase in value where development would take place and, in addition, on where development might otherwise reasonably be expected to occur were it not for planning intervention.

This indicates a shift away from increases in value created by the community as a whole to increases in value arising from new development supported by central or local government intervention. The idea was that the government or local authority should be entitled to participate in such increases in value (generally called ‘betterment’) in order to recover all or part of this increase to help pay for improvements undertaken at public expense.

One outcome from this was the problem of determining the extent to which any particular public works contributed to the increase in value. As the Committee reported:

> Even where there may be good ground for supposing that a property has been beneficially affected by a particular planning provision or work, it will be very difficult to prove the extent to which any increase in value can properly be attributed to the provision or work as distinct from what is due to other circumstances, such as expenditure by the owner, natural growth of the population in the locality, improved transport facilities, etc: - and that difficulty will become greater the longer the claim has to be deferred. (HMSO 1942a: 123-124)

A related concern of the Committee was that in order to determine the amount of betterment, there needed to be a basic value from which any increase could be calculated. It was recognised that proposals for renewal and urban expansion would be known long before the coming into effect of the development, and that the value of the land would have risen in expectation of the proposal. It would therefore be impracticable to ascribe the betterment solely to the intervention of public controls through the planning system (HMSO, 1942a: 124). A new approach was required which led to the proposals subsequently enacted in the Town and Country Planning Act 1947. These focussed on the

increase in value at development sites where a development charge would apply to the increase in value calculated as the difference between gross development value and existing use value. The charge, therefore, was primarily on the capital component of value rather than the land component.

The Rating of Site Values (The Simes Report), 1952

In November 1947, a Committee of Enquiry was established to consider and report on, "The practicability and desirability of meeting part of local expenditure by an additional rate on site values, having regard to the provisions of the Town and Country Planning Acts and other factors" (HMSO, 1952: 4).

In interpretation of these terms of reference, it was agreed (ibid.: 4) that:

1. The words 'additional rate on site values' meant a rate levied upon a separate assessment of site values.
2. The expression 'site values' included site values of agricultural land.

The report examined the background to site value rating, the problems of valuation, the product of a site value rate and the effects of site value rating. A majority report (signed by six members) and a minority report (signed by three) were published. In the former, members thought that the desirability of a site value rate could be judged only after consideration of the probable effects of the provisions of the Town and Country Planning Act, 1947 (refer below) had been taken into account. They concluded:

> Our terms of reference require us to have regard to the provisions of the Town and Country Planning Act, 1947, and other relevant factors. In our review of the background, we have drawn attention to the effects of that Act upon the ownership of interests in land. That part of the value of land and buildings that could formerly have been realised by development has been taken away from owners except in so far as values may increase within the narrow confines of the 'restricted use' exempted from development charge…. Under these circumstances, any site value rate payable by an owner or occupier should be based upon the restricted value. (HMSO, 1952: 73)

And:

> While any site value rate on owners or occupiers would be based upon the restricted value, we consider that to adopt such a value as the basis would produce assessments which would lack that uniformity which has always been an essential principle of rating…. A formula [based on section 80 of the Local Government Act 1948] would not provide a method of assessment which would be easy to work and it would also provide endless opportunities for controversy…. We were accordingly forced to conclude that the only basis for a site value rate left for

> examination in circumstances set by existing legislation would be existing use value in its literal meaning. (HMSO, 1952: 74).

In the minority report, after a restatement of many of the arguments in support of land value taxation, three members of the Committee concluded (ibid, p. 97) that:

> (1) The rating of site values is both practicable and desirable. The arguments in favour of it stand unimpaired.
>
> (2) The only event since 1939 having a material bearing upon the matter is the Town and Country Planning Act, 1947. This involves some changes in the method of application but does not affect the principle.

Most significantly for the Whitstable Studies, the Simes Report stated (ibid.: 75) that:

> Any assessment of the product of a site value rate or of the redistribution in rate liability which might occur can be made only in the light of a comprehensive test valuation and we emphasise our conviction that it would be essential to carry out such a test before any decision to introduce a site value rate were made.

"The main and most cogent reason" (Wilks: 1973: 249) the Simes Report rejected LVT was that it was incompatible with the development value acquisition scheme then enacted (under Part 6 of the Town and Country Planning Act 1947[3]) and Wilks recognised (ibid.) that the interaction of the two would be immensely complicated and could well produce double taxation of the same value.

The Future Shape of Local Government Finance 1971

This document was published to explore ways "to preserve and strengthen the financial responsibility of local government" (HMSO, 1971: 1) in the light of the proposed reform of local government in Britain. While acknowledging that:

> The main arguments put forward in favour of site value rating are that the economic rent is created not by the owner but by the community . . . [and] that the rating of site values would encourage owners of land to bring it forward for development more speedily; and that, unlike the present system, site value rating would not tax – and hence discourage – improvements. (ibid. :27)

The Report went on to itemise the following objections to LVT (ibid: 27 – 8):

1. It would not tax the taxpayer's current income or resources, and therefore fail to relate to the taxpayer's ability to pay.

2. It would tax land values before they were realised and often when it would be impracticable to realise them e.g. when there were several interests in the land and none of the individual owners could redevelop because of an inability to acquire the other interests.
3. A site could be taxed for several years on a high development value that might then be lost through a change in planning proposals, or for some other reason, before the ratepayer had realised any part of it.
4. Taxing owners of land would weaken the link between local taxation and local representation[4].
5. In the light of the Simes Report, site value rating is inconsistent with the system of planning control, under which planning permission for development can be refused without payment for compensation and, in consequence, the market value of land depends very largely on the precise details of the planning permissions which may be granted.

The Report makes reference to Wilks' 1963 report, thus:

> There would also be practical difficulties. First, a pilot study carried out in Whitstable in 1963 . . . indicated that site value rating could price amenities out of existence. Under the rules adopted for that study, rates on the local golf course, for example, would have increased seventy-fold. Secondly, there seems little doubt that the problems of valuation, and therefore the scope of grievance and litigation, would be greater and more extensive than with the present basis of a free market rental, because of the scarcity of evidence of site values and because it would be more difficult to reconcile differences of opinion about values in the absence of a corpus of decisions from the Courts. Third, owners of land are less easily identified than occupiers, and collection and recovery would be more difficult. Finally, there would have to be frequent changes in valuations to keep up with changes in the planning situation. (ibid.: 28)

The early pages within the 1973 Whitstable Study are devoted to a response to this criticism by the Land Institute which commissioned the second study.

The Layfield Report 1976

Land Value Taxation was again rejected by the Layfield Report into Local Government Finance. The 1976 Report provides a review of the evidence submitted on LVT by the Department of the Environment (HMSO, 1976, Appendix 9: 85), the Rating and Valuation Association (now the Institute of Revenues, Rating and Valuation) (ibid.: 242-5) and The Royal Institution of Chartered Surveyors (ibid.: 289-290). In recognising that LVT is usually considered as a supplement to rather than as a replacement for rates, the Layfield Report concluded (HMSO, 1976: 170) that:

> It presents major difficulties in overcoming the restrictions on owners created by long leases and other encumbrances. It would require land registration to be completed for the whole country. It would also require the precise identification of the permitted development of every plot of land; such identification has become more difficult in recent years with the replacement of detailed development plans by structure plans indicating only the broad policy for development and local plans which fall short of providing comprehensive coverage. The passing of the Community Land Act providing for development values to be realised by local authorities has now effectively removed site value rating from consideration.

As in the Simes Report, one of the arguments used in the Layfield Report to reject LVT was the fact that there already existed (at the time) a betterment tax in the UK and that LVT would effectively be taxing the same value.

Past Attempts to Legislate for Land Value Taxation

There have been a number of attempts to introduce legislation for Land Value Taxation into Britain (refer Lichfield and Connellan, 1997: 11 – 18). Only one is cited here because of its significance to this particular study.

The London County Council Bill 1939

This was a Private Bill introduced into Parliament in 1939 by the London County Council to levy rates based on a land value. However, the House of Commons decided that it was not a matter for a Private Bill and, although it was reintroduced as a Public Bill, it was defeated on a first reading (Wilks, 1973: 249). It is significant to this study because Wilks' 1963 study uses the definition of annual site value contained in the original Bill.

Betterment Taxation

The UK has had three forms of betterment taxation[5] introduced and repealed during the twentieth century. They are:

1. The effective nationalisation of development value introduced by the Town and Country Planning Act, 1947 (refer earlier) which was repealed in 1953.
2. The betterment levy introduced by the Land Commission Act, 1967 and repealed (effectively) in 1970.
3. The Development Land Tax, 1976 (which was to prepare the way for the Community Land Act) and which was abolished with effect from 1985.

In all cases, these provisions (effectively) taxed the development value attached to land as at one single point in time, normally on the occurrence of an event e.g. the realisation of

the grant of planning permission or the disposal of land at a price which reflects development value.

They can thus be clearly distinguished from land value taxation, which is an annual impost on the open market value of unimproved land, assuming the highest and best use to which that land could be put in accordance with current planning policies.

What is significant, however, is the extent to which betterment taxation (as experienced by the UK) has been confused with or seen to over lap a land value tax, such that they may be seen as synonymous. A number of reports (e.g. Simes Report and the Layfield Report) appear to equate LVT with betterment taxation.

According to the Simes Report:

> We consider the impact of the Town and Country Planning Act, 1947, has altered the position by enforcing the claims of the community to the fruits of development of land as far as they can be foreseen. We do not deny the possibility of the rating of site values but we have been impressed with . . . the relatively small revenue likely to be obtained and can find no significant advantages in its introduction. (HMSO, 1952: 76)

The Layfield Report was more specific:

> The passing of the Community Land Act providing for development values to be realised by local authorities has now effectively removed site value rating from consideration. (HMSO, 1976: 170)

The extent to which then existing taxes on development value duplicate the effect of LVT are of historical or academic interest only, since no such tax now exists in the UK (although there remains a Capital Gains Tax and an Inheritance Tax which both include the development value of any land which falls within their remit). Thus, unlike in 1963, when the first Whitstable Study was undertaken, there is no other tax currently in operation in the UK which is likely to be seen to duplicate or overlap LVT.

The Planning Situation

Planning legislation, while it has not nationalised land, has nationalised the right to develop land. As Heap aptly expressed in respect of land, “The owner has no *right* to develop [land], that is to say, he has no *right* to build upon it and no *right* even to change its use” (Heap, 1996, (his italics).

The Town and Country Planning Acts state that planning permission is required from a public authority to undertake “development”, defined as ‘building, engineering, mining

or other operations in, on, over or under land or the making of a material change in the use of any building or other land'. Such definition also includes demolition.

As the value of land is, in part, dependent on what can be built upon it or how it may be used, it follows that planning control in the UK plays a major role in determining the value of land. It also follows that in a 'democratic and free' society, the importance of the removal of the right to develop land should not be underestimated. Particularly important for this research, as Wilks demonstrated in 1963, planning control can also affect the way land values are calculated. It is, therefore, important to examine the development of planning thought and the idea of betterment in order better to understand the impact of planning on land values. This is relevant not only for the circumstances when Wilks undertook his two studies but also because it affects this study.

The Origins of Town Planning in the UK

During the 19th century the population of England and Wales grew from 8.9 million people to 32.5 million with many migrating from the rural areas to the rapidly expanding industrial towns (Rydin, 1993: 17). With inadequate State controls, the result was, among other things, poor housing conditions and poor health, caused by overcrowding, inadequate water and sewerage systems, with consequential high mortality rates and epidemics, such as cholera.

In response to these adverse conditions two broad approaches to improvement can be identified: one stemmed from government action and the other from philanthropic employers. In respect of the government, a Royal Commission on the State of Large Towns was set up in 1845, followed over the next three decades by a number of Acts of Parliament. These sought to improve sanitary and housing conditions and reduce the level of pollution. Significant among these acts was the Public Health Act 1875, which consolidated earlier enactments and enabled local authorities to make bylaws regulating new streets, new buildings and sanitary conditions. It may be regarded as the start of modern town planning legislation in the UK.

A key point about the 1875 Act was that it related to future works and not to improving existing buildings. In effect, it set the scene for modern town planning which has continued to adopt the same approach to improving the environment: that is, by being primarily concerned with regulating new buildings and new uses of land rather than requiring changes to existing buildings and uses. This is important because it was to influence later government thinking about land values, betterment and how to recover it.

Much later and separate from this was the recognition by government that public works could enhance certain land values (Rydin, 1993, 21). For example, The Tower Bridge Southern Approach Act, 1895 sought to reclaim the increase in value resulting from road improvements. Later, in 1909, the Housing, Town Planning, etc., Act (the first Act in the UK to deal specifically with the subject of town planning) similarly included betterment

provisions to deal with resultant changes in land values although, as Rydin (1993: 21) points out, this Act was repealed after the First World War.

The second approach to environmental improvement was achieved by a number of philanthropic employers, one of whom was to raise questions about how increases in land value might be used to support new development. During the 19th century, a few employers saw benefits from improved living conditions for their workers and build 'model towns' which promoted clean, sanitary and healthy living. Examples were Saltaire (now subsumed within Bradford) by Titus Salt; Port Sunlight (on the Mersey south of Birkenhead) by (later) Lord Lever, Bourneville; (Birmingham) by George Cadbury; and New Eastwick (York) by Joseph Rowntree. The philosophy behind the building of these towns was that improved living conditions would produce more contented workers which would improve productivity (Rydin, 1993: 20).

The 1890s however, witnessed an important departure from this thinking which, if it had succeeded, might have clarified understanding about land value taxation and how it could have been used in conjunction with town planning. The departure in question was the thoughts and actions which stemmed from the work of Ebenezer Howard who put forward and developed the idea of 'garden cities' as a means of creating better communities. In his book *Tomorrow: a peaceful path to reform* published in 1898 (and renamed *Garden Cities of Tomorrow in 1902)* he envisaged the creation of garden cities containing 30,000 people around a larger central city joined together by a modern public transport system. Having visited America and become aware of the ideas of Henry George, he devised a radical plan for financing new 'garden cities' from the economic rent of land, that is, through a charge on the increased land values created by the demand for living in the new garden cities.

He stated (Howard, 1902: 29):

> The presence of a considerable population thus giving a greatly additional value to the soil, it is obvious that a migration of population on any considerable scale to any particular area will be certainly attended with a corresponding rise in the value of the land so settled upon, and it is also obvious that such increment of value may, with some foresight and pre-arrangement, become the property of the migrating people.

Adding:

> Such foresight and pre-arrangement, never before exercised in an effective manner, are displayed conspicuously in the case of Garden City, where the land… is vested in trustees, who hold it in trust . . . for the whole community, so that the entire increment of value gradually created becomes the property of the municipality, with the effect that though rents may rise, and even rise

> considerably, such rise in rent will not become the property of private individuals, but will be seen to give Garden City much of its magnetic power. (ibid.)

The legislation necessary to achieve this, however, did not materialise so that finding and raising the capital for the construction of the two garden cities that were built (Letchworth and Welwyn Garden City located to the north of London) proved to be difficult. The finance was not based on the increase in land value as originally intended.

The Development of Planning Thought

In the 1920s and 1930s, little progress was made in respect of town planning. Several Acts emerged (see, Lichfield and Connellan, 1997) which sought to regulate planning schemes made by local authorities and to allow the making of Interim Development Orders. These were designed to encourage the building of 'Homes fit for Heroes' after the First World War and to encourage development during the years of the Great Depression.

These schemes and orders, in fact, proved to be successful because 2,700,000 homes were built between 1930 and 1940 (Greed, 1993: 106) out of a total of around 4 million between the two world wars (Cherry, 1974: 81). However, as Greed (ibid.: 106) also points out, much of this development occurred as urban sprawl and regional disparities were emerging. Much of the new development was taking place in the relatively prosperous South and Midlands of England, whereas the older industrial areas in the north were experiencing high unemployment and relatively little development (ibid.).

By the late 1930s, government concerns had focussed on:

1. Regional disparities in terms of economic activity and growth.
2. A need to overcome these disparities with greater control over the location of development.
3. The need to regulate the development and use of land in a more coherent and comprehensive manner.

World War Two gave added impetus to this thinking - so much so, that a number of major reports emerged together with the setting up of the Ministry of Town and Country Planning in 1943. Significant among the reports were the Barlow Report (HMSO,1940) into the distribution of the industrial population, the Scott Report (HMSO, 1942b) into the utilisation of rural land, the Uthwatt Report (HMSO, 1942a) into compensation and betterment and the Reith Report (HMSO, 1946) into new towns. In 1944 the Ministry produced a White Paper, *The Control of Land Use* which set out the agenda for future planning control, which led to the Town and Country Planning Act 1974.

The Town and Country Planning Act 1947

The Town and Country Planning Act 1947 (TCPA, 1947) (refer above) introduced a wholly new approach to town planning in the UK. It repealed all previous town planning legislation in England and Wales (Scotland had a similar but separate Planning Act shortly afterwards) and replaced it with new controls through a system of development plans prepared by local planning authorities (LPA). It prohibited (with exceptions) the carrying out of any kind of development without the consent of the authority.

The development plan, which was defined as a plan indicating the manner in which a local planning authority proposes that land in their area should be used (s. 5(i) 1947 Act), consisted of a 'report of survey', which provided background information to the plan; a written statement, which provided a summary of the main proposals but no explanatory notes to support them, and a series of maps. These were a County Map, a Town Map and a Programme Map. Within urban areas, such as Whitstable, the Town Map generally zoned all land for a primary use (e.g. residential, retail, industrial, – and the map was colour-coded accordingly). The Programme Map indicated, *inter alia*, where the local authority intended to undertake development (e.g. comprehensive redevelopment areas following war damage) using compulsory purchase powers.

Other areas, and particularly large tracts of undeveloped land in the counties were not zoned for any purpose and, as a result, were not coloured on the maps. These areas thus became known as 'white land' where the existing use was intended to remain.

An important departure from the pre-war schemes was that the development plan did not of itself imply that permission would be granted for development because an application for planning consent appeared to be in conformity with the plan. The legal requirement, which remains today, was that local planning authorities, when determining planning applications, simply had to have regard to the provisions of the plan, in so far as it was material to an application and to any other material consideration (s.14 (1) TCPA, 1947). The plan, therefore, was not absolutely binding.

Alongside the development plan and the requirement to apply for planning permission for development, the 1947 Act also introduced the development charge. This required that where permission was granted for development, any resultant increase in value, based on the difference between the 'unrestricted' value (with planning permission) and the 'restricted' value (existing use only) was to be subject to a charge. The charge was set at 100% of this increase in value and did not relate to nor take account of any matter, other than the grant of planning permission.

A number of defects about the charge have been reported (Blundell, 1993:5). Significant among them was that development was discouraged. As Blundell states:

> Development was discouraged, since there was more profit to be made by improving property up to the limit of the change or use than improving or building beyond that level, when it would attract Development charge. The same applied to empty sites, which were used as car parks or for similar purposes. Idle land as such attracted no charge, and so site owners were encouraged to keep it idle, in the hope that – with a change of government – the financial provisions of the Act would be repealed. (Blundell, 1993:5)

This, in fact, is precisely what happened. A Conservative government was elected in 1951 and, in 1953 the Town and Country Planning Act of that year was passed with the purpose of abolishing the development charge provisions of the 1947 Act. The effect was substantial. Whereas development had been stifled in the 1940s and early 1950s, the opposite was true from 1953 onwards. Development activity increased substantially and so too did land values. The development charge, being primarily a charge on development and the use of land and not on the land itself, had in fact encouraged this. Much of the community-created increases in land values were therefore lost to the community.

A further problem centred on the development plan. By simply indicating the manner in which land should be used, the effect of the development plan was, according to the Planning Advisory Group (PAG):

> To serve essentially as land-use allocation maps providing the basis for development control. The original intention was that the allocations should be drawn in with a 'broad brush' and that the rigidity of detailed zonings . . . should be avoided. But the statutory definition and the notational techniques adopted have resulted in a constant tendency towards greater detail and precision. The plans have thus acquired the appearance of certainty and stability which is misleading since the primary use zonings may themselves permit a wide variety of use within a particular allocation, and it is impossible to forecast every land requirement over many years ahead. (PAG, 1965:5)

Cullingworth and Nadin (2002:93) reported on the inflexibility of the development plan to cope with the changed circumstances and Rydin (1993: 37) states that there was concern over the extent to which actual urban and rural development was running ahead of the rather inflexible development plans. Perhaps most damning of all were the comments of the Planning Advisory Group that the plans had become more and more out of touch with emergent planning problems and in many cases had become no more than land use maps. (PAG, 1965: 6)

In respect of applications for new development, therefore, it was not always clear, in advance, what the planning outcome would be. This was the situation at the time of the first Whitstable study in 1963.

Changes in Planning Practice Between the Two Whitstable Studies

The situation outlined above had become untenable and prompted change. In addition, the matter of betterment was also to reappear. In respect of the problems with the development plan, the statutory requirements imposed under the 1947 Act had proved inadequate, so much so, that the Planning Advisory Group, referred to above, was set up in May 1964 to review the development plan system. The Group saw a need for development plans to:

1. Guide the urban development and renewal which is certain to take place.
2. Promote efficiency and quality in the re-planning of towns.
3. Encourage better organisation and co-ordination of professional skills so that town and country are planned as a whole.
4. Simulate more purposeful planning of rural and recreational areas. (PAG, 1965: 8-9).

They concluded:

> We do not believe that the present development plans can, even if streamlined, serve the purpose. While a good deal may be done in the short term to improve the general running of the control machinery, the basic need is for better plans leading to better quality results. We would stress the function of plans not primarily as a control mechanism but as providing a positive brief for developers, public and private, and setting the standards and objectives for future development and redevelopment. The crux of the matter is that the methods of control are effective, and can be made efficient, but control is based on plans that are out of date and technically inadequate. We have aimed to develop the system in a way which assimilates modern concepts and techniques and is adapted to the full range of planning functions. (PAG, 1965: 9)

The new framework the PAG proposed was a two-tier development plan system comprising county and urban plans which set out broad strategies for development, and local plans which set out detailed planning policy and which would serve as a guide for determining planning applications for development. These proposals were subsequently enacted in the Town and Country Planning Act 1968. The county and urban plans became ‘structure plans’ and the local plans retained their name, although together (the structure plan and the local plan) were to form the ‘development plans’.

The structure plans were to indicate the scale of future development, the broad location of major growth areas, preferred locations for specific types of major development and broad areas of restraint. These plans did not include a map but made use of a key diagram only. This was deliberate so that individual sites could not be identified.

The local plan provided detailed planning guidance in a written statement and a proposals map. The former set out the policies for the control of development and made reference to specific sites for specific purposes. The proposals map, which was required to be based on Ordnance Survey maps so that precise and identifiable boundaries could be shown, identified the locations where different uses would be allowed and where development was to be restricted. The latter might include certain areas of high quality landscape, such as an area of outstanding natural beauty (AONB.

Another designation to emerge between the two Whitstable studies was the conservation area. Given statutory recognition by the Civic Amenities Act 1967, LPAs were empowered to determine which parts of their area should be designated as a conservation area, being 'an area of special architectural or historic interest'. The Act also imposed a duty on LPAs to seek to preserve or enhance the character of the area. This meant that development would still be permitted but that it should only be permitted if it maintained or improved the character of the area, including the physical character or use of buildings. As reported in Part 5, this could affect land values.

The other matter to reappear was betterment. In 1967, the then Labour government introduced legislation aimed at recovering betterment from new development. The Land Commission 1967 was passed with the purpose of establishing a Land Commission with powers to acquire, manage and dispose of land and, among other things, to impose a betterment levy when land was sold, leased or 'realised' for development.

The levy was based on the 'net development value' expected to be gained by developing land calculated by deducting a 'basic value' (essentially current use value) from market value. Initially, the levy was set at 40%, with the intention of increasing the proportion in stages later, although this did not happen.

Blundell (1993: 9) reports on the outcome:

> There followed uncertainty in the land market, which was reflected in the reluctance of landowners to part with their land. They might wait for a change in government and the abolition of the Betterment Levy. For owners of developable land, waiting was often no problem. Land, they observed, always increases in value in the long run. They had nothing to lose. Instead of more building land becoming available for development, there was less. The decline in supply tended to raise the price of what land was available. It was reasoned that since in many cases the retention of 60 percent of development value was not sufficient to make their land available, they would be still less likely to do so when the levy increased as planned.

The Act proved to be counter-productive, because liability for the betterment levy depended largely on the actions of landowners whose interests were frequently better served by taking no action. Land became less rather than more available with the

consequence that land values rose (ibid.). The situation, however, changed in 1970 following a change of government. In that year, the Land Commission and the betterment levy were abolished.

By the time of the second Whitstable study, therefore, planning legislation had introduced new procedures and arguably removed some of the uncertainty that existed at the time of the earlier study. It also, of course, introduced and maintained the notion of recapturing increases in value from development and not land.

Conclusions

Part 2 provides a contextual background to both the UK's evolving interest in land value taxation and to the nature of planning controls on which the value of land for LVT purposes should be based. It provides an important context in which to present the original Whitstable Studies and also the current research.

Primarily, it has shown that LVT has been and continues to be a controversial subject. From the late 19th century up to the time of the Whitstable Studies (and, indeed, up to the present day), the arguments have focussed around its potential benefits and problems. Supporters have tended to argue that the overall benefits for society outweigh the disadvantages; whilst others have taken the view that it presents intractable problems. Significantly, it is clear from the above, that the majority of those appointed to investigate it have supported the latter view, concluding that the practical difficulties outweigh the case for its introduction.

Among the difficulties identified were that landlords would gain little from the resultant local authorities' expenditure, that a new assessment would lead to anomalies and, importantly for this study, that the problem of valuing sites separately from improvements and structures on the land would be insurmountable.

Practical difficulties of another kind, however, required more immediate attention. The sheer scale of destruction during World War II required government intervention on a massive scale. With hindsight, it was perhaps inevitable that nationwide governmental controls over urban renewal and town expansion would be introduced and that a means for financing this work should be found quickly. The former led to the post-war system of town planning embodied in the Town and Country Planning Act 1947: the latter to compulsory purchase and compensation provisions, within the same Act.

Associated with this was the notion of betterment, this essentially being a tax on the increase in value released by the grant of planning permission for development. Thus, the idea of capturing community-created increases in land value became associated with new development, rather than on the land itself. Furthermore, it was seen as a one-off, up-front payment when development occurred.

In later years, investigations by the Simes Committee and others into the taxation of land values and the wider issue of local government finance, focussed on the difficulties of incorporating LVT into the existing planning and compensation regimes. At the time when betterment taxes were in force in the UK, the conclusions were that the only basis for LVT within the existing legislation was to work from existing use value rather than site value (Simes Report, 1952) and that existing betterment legislation rendered an LVT superfluous (Layfield Report, 1976). Notwithstanding that both of these imposts (the development charge and the betterment levy) were subsequently abolished, no thought was given to amending the planning legislation so that it might support a system of LVT.

Thus, at the time Wilks undertook the two Whitstable Studies, there was virtually no support for LVT. The level of debate and interest that was evident before the First World War no longer existed.

Part 3 - The Two Whitstable Studies[6]

Introduction

The first of the two Whitstable Studies was initiated in order to contribute to the then on-going debate about the advantages and disadvantages of the rating system and in the light of the statement from the Simes Report (HMSO, 1952: 75) that:

> Any assessment of the product of a site value rate or of the redistribution in rate liability which might occur can be made only in the light of a comprehensive test valuation and we emphasise our conviction that it would be essential to carry out such a test before any decision to introduce a site value rate were made.

It was commissioned by the Rating and Valuation Association (R&VA, now the Institute of Revenues, Rating and Valuation (IRRV)), and undertaken in 1963. The process and the outcomes which are described in their report (R&VA, 1964) are discussed in more detail below. The second Whitstable Study was commissioned by the Land Institute ten years later. Again, the process and outcomes are described in detail (Land Institute, 1974) below. As stated in his report, it was largely in response to a perceived need to test the valuation methodology that, in 1963, Hector Mark Wilks undertook his first study of Whitstable, with his second study occurring in 1973.

Interestingly little comment is made on the theory of land value taxation: only in the 1973 report, is there discussion of the theory of land value taxation (Land Institute, 1974: 2- 7) and this is presented as a response to the 1971 government publication *The Future Shape of Local Government Finance* (HMSO, 1971). This discussion is clearly the views of the Land Institute, the body which commissioned the second report, with report of “The Institute’s valuer” following after (Land Institute, 1974: 8 – 21). It is unclear from the document the extent to which the view of the Land Institute reflected Wilks’ own opinions.

Neither reports consider the ability of the planning system to underpin a land value tax system nor any potential reform of the planning system to meet the implicit "highest and best use" which underpins the principles of land value taxation.

The relevant aspects of both reports are considered under the appropriate headings within this Part of our Report.

On 1 April 1963 and again on 1 April 1973, new valuation lists took effect in the UK. These were produced by the Valuation Office (of the Department of Inland Revenue, now the Valuation Office Agency (VOA)) based on the annual rental value of each hereditament (taxable unit) comprising taxable property[7] in the UK.

A stated aim of the research was to create a valuation list based on land values which could be compared with the official valuation list, produced by the Valuation Officer of the Board of Inland Revenue (now the Valuation Office Agency). These valuation lists provided gross and rateable values[8] correct as at that date, came into force, and the sense of urgency underlying the 1963 Whitstable study was driven by the need to produce values based on site values before the original official valuation list was altered to reflect subsequent changes in either property type or shifts in value[9].

However, the main aim of the studies was to test the process of valuing land for the purposes of a land tax system. The conclusions of the studies relate largely, therefore, to the practical outcomes of the surveys and specifically to the comparison between the values produced in the orthodox lists and the Whitstable studies, and the practicalities of actually undertaking the exercise (staffing, availability of data, valuation methodology etc.).

In both cases the valuer who undertook the work was Hector Mark Wilks and on both occasions the location for the study was the town of Whitstable.

Hector Mark Wilks, BSc Est Man, FRICS Spec. Dip (Rating), FRVA, FCIArb., was a well-known and well-respected rating surveyor and author who was based in London, but who lived in Whitstable. Within the Introductory Notes to the report of the first Whitstable study (R&VA, 1964: vii), "He was left completely free to prepare his plan of campaign, to value quite objectively and to submit his report." The instructions given to Wilks in 1963 were that he act, "As a professional valuer [doing] a job of valuation and the appreciation of the work involved, the settlement of queries, the assumptions to be made, were in the ultimate to be [his] and [his] alone" (ibid., 2).

This is important because Wilks was producing his valuations within something of a vacuum – there was no experience of any form of LVT in the UK on which he could draw. Additionally, there were no statutory definitions of value, no court decisions to amplify and clarify the issues he faced and no guidance as to appropriate valuation

methodologies. Later within this section, we discuss the issues which caused Wilks concerns and outline how he dealt with them.

Wilks (1973:249) places his study within an historical context, thus:

> Apart from a very minor scheme carried out privately by Sir Herbert Trustram Eve in or around 1921 on a small parish in Bedfordshire, the Whitstable study is the first practical job of site value rating carried out in this country since the ancient medieval systems. For all practical purposes we can say it was the first scheme undertaken.

He further describes his study (ibid.) as, "unsophisticated . . . we were thinking as we went along."

Both studies were undertaken within limits of time and money. For the first study, the entire period of the study was from April to December 1963 and had a budget of £10,000 out of which the volunteer workforce was housed and fed and publication costs paid (R&VA, 1964: 3).

<u>Whitstable</u>

Whitstable (now within Canterbury District Council) is located on the south east coast of England, in the county of Kent (refer Appendix B), on the south side of the Thames estuary. It is served by a direct rail link to central London, which makes it attractive for commuting to London. It is six miles from the M2 motorway, which links London with the English Channel ports. At the time of the first Whitstable study, it was described (R&VA, 1964: 21-23) as covering, "In all 7,640 acres [approximately 3,090 hectares] (exclusive of foreshore), and in the [then] current valuation list comprises 9,356 rateable properties. In terms of area, the greater part of the district is undeveloped land, agricultural land, and woodland."

Whitstable was, according to the 1963 study, chosen by agreement between Wilks and the Rating & Valuation Association, in part because it had a "suitably mixed development – domestic, commercial and industrial – and with scope for future development" (R&VA, 1964: vii). In addition, it had the characteristics of an expanding economy; it was a self-contained town, which was not a London suburb (which would have been largely comprised of residential properties,) and therefore it was considered suitable for the study.

However, the location was particularly convenient to Wilks - it was Wilks' home town - and his role as a member of the local authority contributed to the willingness of the local authority to co-operate with the study. The report shows clearly that his familiarity with the location and also the local and professional reputation of Wilks himself contributed

hugely to his ability to gather transactional data which otherwise would have been denied to the research[10]:

> I have lived [in Whitstable] for some 12 years and I am, therefore, in a position to know something of the values involved and something of the differences in value from district to district. I also have local contacts within the locality which enabled me to get the factual information which must, of necessity, form the basis of the valuation. (R&VA, 1964: 3)

The study area is described in some detail in the 1963 study (R&VA, 1964: 3) as follows:

> Whitstable has a population of almost exactly 20,000 persons. It is a town of very ancient foundation and, in recent years, it has shown signs of vigorous expansion. It consists of industries both old, such as oyster fishing, and new, such as electronic assembly and nylon carpet manufacturing. It is served by good road and rail connections. It is a coastal town, having something of the character of a seaside resort. It is a small harbour authority. It is sufficiently close to London to house a commuting population, but it is sufficiently far away, over 50 miles, to have an entity of its own. It is clearly highly desirable, indeed probably essential, to choose a town where the local council and its officers would co-operate with those doing the exercise.

By 1973, Whitstable had a population of around 25,000 and comprised nearly 13,000 hereditaments (rateable properties). (Land Institute, 1974: 11)

There was no apparent attempt either to establish the extent to which Whitstable was typical of English local authority areas, nor does this seem to have been an issue for the study. The town had a range of property uses (including residential, commercial, industrial, residential, public sector) and therefore provided a range of properties on which the methodology which Wilks used could be tested.

Definitions of Land Value

In the absence of any previous UK experience of LVT, Wilks was faced with the choice of tax bases – capital value or annual rental value. He chose annual rental for the land, partly, it must be suspected, because the tradition in the UK was that the value of hereditaments taxed under the then rating system was an annual rental value (rateable value). In his report (R&VA, 1964:6) he states:

> There are economic arguments arising from the fundamental concept of the tax which lead to the conclusion that the value to be assessed should be a yearly one.

For the first study, he was in fact provided with a definition of "annual site value" by the commissioning body and this was a definition contained in the London County Council's Bill of 1938/9 as follows:

> The annual site value of a land unit shall be the annual rent which the land comprising the land unit might be expected to realise if demised with vacant possession at the valuation date in the open market by a willing lessor upon a perpetually renewable tenure upon the assumptions that at that date –
> (a) there were not upon or in that land unit –
> (i) any buildings erections or works except roads; and
> (ii) anything growing except grass heather gorse sedge or other natural growth;
> (b) the annual rent had been computed without taking into account the value of any tillages or manures or any improvements for which any sum would by law or custom be payable to an outgoing tenant of a holding;
> (c) the land unit were free from any incumbrances except such of the following incumbrances as would be binding upon a purchaser -
> easements; rights of common; customary rights; public rights; liability to repair highways by reason of tenure; liability to repair the chancel of any church; liability in respect of the repair or maintenance of embankments or sea or river walls; liability to pay any drainage rate under any statute; restrictions upon user which have become operative imposed by or in pursuance of any Act or by agreement not being a lease.
>
> For the purposes of this section:
> 'works' does not include any works of excavation or filling done for the purpose of bringing the configuration of the soil to its actual configuration;
> 'road' does not include any road which the occupier alone of the land concerned is entitled to use. (R&VA, 1964:5)

This definition caused Wilks some difficulty, because it had not been previously considered by British valuers in general or by any courts of land. He was thus hampered by a lack of experience and authority in the interpretation of such a definition.

For example, in relation to determining how best to convert capital values to rental values in the 1963 report, Wilks (R&VA, 1964: 10) stated:

> To me, it is not clear whether the rental value envisaged in the definition is to be a secured ground rent or an unsecured ground rent[11]. Clearly the conversion factors would be different in either case and for different classes of user. This problem gave me a lot of food for thought. I invoked the advice and counsel of several persons, amongst them eminent valuers, to whom I gave the definition without explanation and asked for opinion as to whether I was to regard the assessed rental value as secured or unsecured. In the result I got almost an identical number

> of replies in favour of each alternative. Each reply was supported by a perfectly logical argument.

In the event, Wilks' decision was to adopt a single rate of 4% throughout.

For the 1973 study, he used 6%, with a revised definition of "annual site value", based on the experience of the 1963 study and in the light of ". . . discussions with a range of professional people", as follows:

> The annual site value of a land unit shall be the annual rent which the land comprising that land unit might be expected to realise if demised with vacant possession at 1st April 1973 in the open market by a willing seller on a perpetually renewable tenure upon the assumption that on the 1st April 1973
> (i) there were no buildings, erections or works on or under the land unit except existing roads adopted by a public authority and existing public utility services;
> (ii) there were no incumbrances on the land save those registered under the Land Registration Act 1968[12];
> (iii) all planning considerations relevant to the development value to be reflected in the annual site value have been taken into account;
> (iv) subject to (v) below there were not upon or in that land unit anything growing except grass, heather gorse, sedge or other natural growth;
> (v) in the case of agricultural land, the land was unimproved and in a state and condition such that, under the provision of the Agricultural Acts, neither claim nor counterclaim would arise upon a change of occupancy[13]. (Land Institute, 1974: 12)

Thus, some of the assumptions used in the assessment of land value were altered from the 1963 Study.

Survey Process

The Whitstable Studies document the survey methods adopted by Wilks (R&VA, 1964: 17-22; Land Institute, 1974:10-11).

For the first study, the survey process was almost entirely manual involving a large volunteer work force which:

> Changed week by week. This created its own difficulties. It meant that a new party had to be briefed every Monday morning. Volunteers had to be told precisely what to do and how to do it. They had to be told of the difficulties they would meet and how possibly they could be overcome. We were all, however, feeling our way and much would depend on the initiative of the volunteers themselves. By the end of the week the volunteers had really learnt their job and got into the swing of it, and were producing magnificent results. At this point,

> however, they went home and another team would start on Monday. (R&VA, 1964:2)

This process, of course, "was wholly uneconomic and indeed in many ways frustrating for both the volunteers and for those carrying out the exercise" (Wilks, 1973:251). It also caused some delay and the need for additional checking of information.

The 1963 (R&VA, 1964: 4) study describes the original survey process as follows:

> The field workers were required to take measurements of sites on the ground. These were to be checked off against a 1:1250 ordnance sheet. In cases of difficulty, for example with particularly irregular shaped sites, sketch maps were drawn to provide sufficient annotated dimensions to enable the areas to be calculated. The manuscripts of the field workers and their ordnance sheets were then passed to the office staff who checked the dimensions given against the ordnance sheets, calculated the areas of sites involved, and kept master copies of the ordnance sheets showing day to day what sites had been referenced.
>
> These first master copy plans were then used as the basis for briefing of further volunteers, so that as time went on entire ordnance sheets were covered in symbols or hatching indicating the coverage which the field workers had achieved.
>
> Plot by plot, road by road, details were then extracted from the field proformas to manuscript valuation sheets and, concurrently with this, master copies of the ordnance sheets prepared, marking out the plot as it was entered on to the valuation sheets. As each ordnance sheet was completed a check was taken to see that nothing had been missed. This could be done quite easily because each plot when entered on the valuation list sheets was cross-hatched in colour. Any areas of land left uncoloured had, therefore, not been dealt with and referencers had to go back to those areas to take the necessary particulars. (R&VA, 1964: 4)

In undertaking the second site value rating exercise in 1973, Wilks undertook the survey process in a similar way. He had a team of referencers and, on this occasion, there were no problems with changes in personnel. Another difference between the 1973 and the 1963 study was the availability of two electronic calculators to the team. Wilks, however, acknowledged the relatively uncomplicated land pattern in Whitstable; the intimate knowledge which he and his staff had of the town; and the availability of the1963 data (Land Institute, 1974: 10-11). Despite this, "Everyone, and certainly all directly concerned, were amazed at the speed with which the work was done" (Land Institute, 1974: 10).

The staff he used in 1973 were small in number, and there was continuity of field workers, which meant that there was none of the familiarisation problems associated with

the previous field exercise. However, Wilks identifies "two bottlenecks"; the draughtsman who was required to recreate the land maps for this second study; and the typist who undertook "normal office routines" while also typing all of the valuation pages. Temporary typing support was recruited, but the problems encountered by the draughtsman were unresolved (ibid.: 11)

Despite these problems and the size of the task (13,000 rateable hereditaments in 1973), Wilks commented:

> We remeasured virtually the entire town in 210 man days, having kept no records of the changes between 1963 and 1973. This means we referenced 10 years of changes in 210 man days or, on average, 21 man days per year. Assuming that same rate of working and a 235 day working year, two men working as a team centrally based and mobile, could adequately cope with 22 towns the size of Whitstable . . . Similarly, a team of two calculators could keep pace with this amount of field work. (ibid.: 11)

Limitations to the Study

Wilks recognised the need for certain pre-requisites to a valuation of land parcels and, because these were not available to him, he discussed them in the report.

Registration of Land Title

In order to implement land value taxation in the UK, Wilks was required to assume that "universal and compulsory registration of property interests, which identified the owner of every parcel of land in the UK, had been implemented; and all transactions in land would be published and available for public scrutiny." For the 1973 Study, Wilks incorporated within the definitional of annual site value the requirement that all interests in land be compulsorily registered (Land Institute, 1974: 12).

In fact, registration of title to land was already in progress in 1973. Wilks commented (Wilks, 1973:251) that the reality of the "rather tedious method of land registration [which] is wholly confidential… would have to be strengthened and made available to the public."

The main purpose of the Land Registry is to register title to land in England and Wales and to record dealings (for example, sales and mortgages) with registered land. Their principal aims are:

1. To maintain and develop a stable and effective land registration system throughout England and Wales as the cornerstone for the creation and free movement of interests in land.

2. Oon behalf of the Crown, to guarantee title to registered estates and interests in land for the whole of England and Wales.
3. To provide ready access to up-to-date and guaranteed land information so enabling confident dealings in property and security of title.
4. To achieve progressively improving performance targets set by the Lord Chancellor, so that high quality services are delivered promptly and at lower cost to users. (Land Registry, 2004)

According to its Annual Report (Land Registry, 2003: 41):

> The Land Register currently comprised almost 19 million registered titles and [it estimates] that there are potentially a further 3 – 4 million titles that are not yet registered. [Their] current policy is to encourage voluntary registration and [they] are continuing to work with large landowners who wish to register their land terriers…. As soon as the Index Map vectorisation has been completed in 2004 [they] will be in a position to identify what land in England and Wales remains to be registered. [They] will then draw up a more targeted strategy for completion of the register.

It seems, therefore, that 'universal and compulsory' registration of interests in land is close to completion, and it clearly remains one of the objectives of the Land Registry. However, it is one of the "assumptions" made by Wilks as a prerequisite for an effective and efficient LVT and to date remains incomplete.

Transactional Data

In order to produce the valuations, it was necessary for Wilks to gather information on open market transactions of comparable properties. Then, as now, there is no public database of transactions of landed property in England.

Obviously, the parties to a sale of landed property and their agents are aware of the details, but the only comprehensive source which is used to provide the taxable values in the UK is the database of the Valuation Office Agency (VOA), which as part of the UK Inland Revenue, is provided with details of all landed transactions. Such information held by the VOA is strictly confidential and covered by the UK Official Secrets Act. Parties to a disposal (and their agents) may agree to publicise the details of a transaction and such information is now increasingly available within the professional press, although details may be limited (and therefore *caveats* must be attached to the analysis of such transactions).

However, during the 1960s and 1970s, when Wilks was undertaking his studies, such publicity of deals was very unusual, and even now, such details are selective and scant in detail.

However, Wilks was a resident of Whitstable, and, it seems, well known within local professional circles. He was therefore able to obtain details of local transactions, although neither report contains those details. In his report, he comments on this issue, as follows:

> Hand in hand with [undertaking the survey] we were collecting local evidence of transactions in land and buildings. The sources of the evidence we obtained have been granted absolute anonymity. Under this guarantee we were able to get a substantial body of evidence together and a "facts book" of evidence soon began to build up. (R&VA, 1964: 4)

Although his sources of transaction information were unofficial, that in no way discredits the quality of such information. Wilks was, however, more concerned with the reliability of the valuation methodology than the comparable data used, "Whether or not the [transaction] evidence was wholly reliable was a matter of theory only; for, as from the practical point of view, I had no other evidence, so I had to use it" (R&VA, 1964: 6).

While the quality of any land value tax relies on reliable transactional data, a rigorous valuation methodology, and an appreciation of the effects of planning on value, it is axiomatic that taxable values must be based on market evidence. If land value taxation is officially introduced into England, then the responsibility for producing the new tax base will almost inevitably be given to the VOA. They will have all the available data and the issue for them will be the definitions and the valuation methodology which they use to establish a land-only tax base. Given the fact that access to a complete data set for transactions is not possible, either for Wilks and for the purposes of this study, the critical focus is, therefore, the methodology used to establish a land-only tax base. In this respect, an analysis of Wilks' methodology in his two studies becomes most important.

<u>Definitions of Value</u>

The issue of definitions is important because Wilks was producing his valuations within something of a vacuum – there was no experience in the UK of calculating land values or of land value taxation from which he could draw. Additionally, there was, no statutory definition of "value" for land value purposes, there had been no court decisions to amplify and clarify the definitions he used for the two studies and no specific guidance as to methodology to support the resulting valuations. He therefore relied on his own understanding of the principles of the tax, his experience in property taxation and the advice of his professional colleagues in developing his interpretation of what was required.

The definition of value used by Wilks has been discussed above. However, this definition caused Wilks some difficulty, because it had not been previously considered by British valuers in general or by any courts of land. He was thus hampered by a lack of experience and authority in the interpretation of such a definition.

He also identified the following problems (R&VA, 1964: 6-7) which resulted from the definition:

1. The appropriate method of converting of capital values to rental values (discussed later).
2. Valuing the "site" of certain parts of the service utilities e.g. an underground sewer and gas mains.
3. Potential double counting, because of the need to value the site of the service utilities and also the assumption that other cleared sites were served by all existing services.
4. Assuming that any particular site is valued on the basis of that it is available for redevelopment, assuming "the most financially advantageous, development possible." (ibid.: 6).

He continued (ibid.):

> Against the background of the Town and Country Planning Act, 1947, this creates an anomalous position, unless the type of development to be used as the basis of valuation is one permitted by the town map for the area. It would produce an untenable position if a man's land were to be taxed on the basis of a development which he would not, in fact, be permitted to carry out.

1. The concept of "…the most financially advantageous development possible" under the town plan, caused Wilks to assume, for the 1963 study, that public (and private) open spaces which were so shown on the town plan should have a value based on "…the alternative user certificate which might, in other circumstances, be obtained under sections 16 and 17 of the Land Compensation Act, 1961.[14]"

In doing so, Wilks valued all sites which overlooked open spaces at the values which they would achieve in the open market, regardless of the assumptions he made for the open spaces. This he recognised as an anomaly "…which I decided to accept." (ibid.)

2. In the areas of the town plan where uses were not indicated (so-called "white" land) and which were not used for agricultural purposes, Wilks assumed that the actual use was the permitted use.

Valuation Theory

In the 1963 study, Wilks' study (R&VA, 1964: 7) recognised that the value of a site depends on supply and demand for land of that type, and that the "critical characteristics" are:

1. The locality – the precise location of each plot within the district.
2. Optimum permitted use – which depends on the development plan; and

size and shape of the plot itself, the point being made that the larger the site the more valuable it is.
3. Shape – which is recognised as a factor which can affect the ability to develop a site to full advantage, which does not lend itself to mathematical analysis, and therefore each case must be taken on its merits.
4. Position – again position may militate against a site being developed in the same profitable way as other neighbouring sites, with the example given relating to the backland behind a shopping area with restricted access.

Specifically, Wilks' solutions to optimum permitted use and plot size and shape required further explanation.

Optimum Permitted Use

Two important requirements were imposed on the exercise. One was that each site be valued as if cleared of buildings but still served by all existing services. Thus a site served by gas, water, electricity and a public sewer would be valued so as to reflect the existence of those services but without existing buildings on it. The other was that Wilks had to place a value on everything with no area of land to be treated as exempt (R & VA, 1964: 6). This required him, for example, to "put a valuation upon space, the foreshore, sites of churches, and of the agricultural land. Nothing has been treated as exempt" (R & VA, 1964:6).

By definition, this meant that the valuation had to be made on the basis that any particular site would be available for redevelopment or, more specifically, for the most financially advantageous development possible. The optimum permitted use for development of a site, however, depends on both the provisions of town planning and demand for the land for that use.

Wilks recognised that this presented a problem by stating:

> Against the background of the Town and Country Planning Act, 1947, this creates an anomalous position, unless the type of development to be used as the basis of valuation is one permitted by the town map for the area. It would produce an untenable position if a man's land were to be taxed on the basis of a development which he would not, in fact, be permitted to carry out. I have, therefore, valued all the property available keeping an eye on the town map for the area, and I have not considered possible redevelopment other than that permitted by the town map as it stands. (R&VA, 1964: 6-7)

Three variations arose from this. The first was in connection with 'white land', (i.e. land on the Town Map which is not allocated for development and which is expected to remain in its existing use), and the fact that the development plan was difficult to keep up to date and poor at depicting land use changes. This was revealed, in the 1950s, following

the abolition of the development charge. LPAs were unable to keep their plans up to date with the surge in the development and redevelopment of land.

This meant that it was not always possible for Wilks to ascertain the potential use of a site. In such cases Wilks adopted the following approach:

> There are a number of occupations in the 'white areas' of the town map which are other than agricultural. There are small isolated blocks of houses…. There is the odd country 'pub', the 'roadhouse', the petrol filling station and so on. Some of these would, I feel, be permitted under planning control today. Some undoubtedly would not. In the valuation of all these sites in the 'white area', I have assumed the 'existing use' right, and have valued accordingly, i.e., I have taken the actual use as a permitted use if that produces a higher assessment. (ibid.: 7)

The second variation was in respect of open space, both public and private. For the former Wilks reported:

> If a public open space is shown on the town map as public open space it is inconceivable that planning permission would be given for any other development and therefore the valuation of the site would have to be a nominal value only. (ibid.).

This appears straightforward but Wilks then proceeded in a different direction:

> A particular site may have a particular value because it overlooks a public open space. If, however, the public open space is valued on its development value presumably one would have to assume that the owner would be free so to develop that public open space. Were he, in fact, permitted to do this then the value of the site overlooking what was public open space would be depreciated. For this exercise I have valued public open space on the basis of the alternative user certificate which might, in other circumstances, be obtained under sections 16 and 17 of the Land Compensation Act, 1961[15], and I have valued sites overlooking public open space at the values which I, in fact, find in the open market for those sites. This clearly is something of an anomaly which I decided to accept. (ibid.)

In this situation Heap (1996) refers to Ministerial advice contained in Ministry of Housing and Local Government Circular 48/59 (later cancelled in 1979), thus:

> The Minister remarked that 'a certificate is not a planning permission but a statement to be used in ascertaining the fair market value of land', its purpose being to state what, if any, other forms of development would have been allowed under town planning control had the land not been compulsorily acquired. In this connection the Minister commented that he 'would expect the local planning authority to determine this question in the light of the character of the

> development in the surrounding area and the general policy of the development plan' and he quoted, by way of example, the case where the land being compulsorily acquired is surrounded almost entirely by residential development and observed that, in such an instance, a certificate of residential use would normally be appropriate. (Heap, 1996: 337)

The approach adopted by Wilks is understandable. Part of the thinking regarding the allocation of land for public open space is that it is required to serve the development of land for residential purposes and that the public open space could have fallen anywhere within the overall residential zoning. As such, it would be unreasonable to restrict the value of one part of that land for public open space purposes at the expense of the remainder of the land being valued for residential purposes. The argument was that the open space allocation could equally apply to another part of the development land and that it would be wrong to penalise one landowner at the expense of another.

This situation applies, of course, in respect of compensation for compulsory acquisition, not land taxation. Whereas, it would be reasonable to compensate landowners for the loss of land, it would be unreasonable to tax a landowner for development he would not be allowed to undertake. This indicates that a different approach ought to have been adopted.

The third variation related to churches. When commenting on the need to value agricultural land, Wilks reported (R&VA, 1964: 6) that one of his objectives was to show the effect of granting exemptions. If agricultural land, or churches for that matter, were shown separately in the valuation list, the effect of exempting such uses and the degree to which the burden would be transferred to other ratepayers could be ascertained[16]. Accordingly, "The site of a church has been valued as if it were in the commercial open market, as a bare site without a church built thereon, and without the effect of the act of consecration" (R&VA, 1964:6).

In other words the optimum permitted use was not necessarily related to existing use and not necessarily related to the development plan: it may or may not have been allocated for another use.

Plot Size and Shape

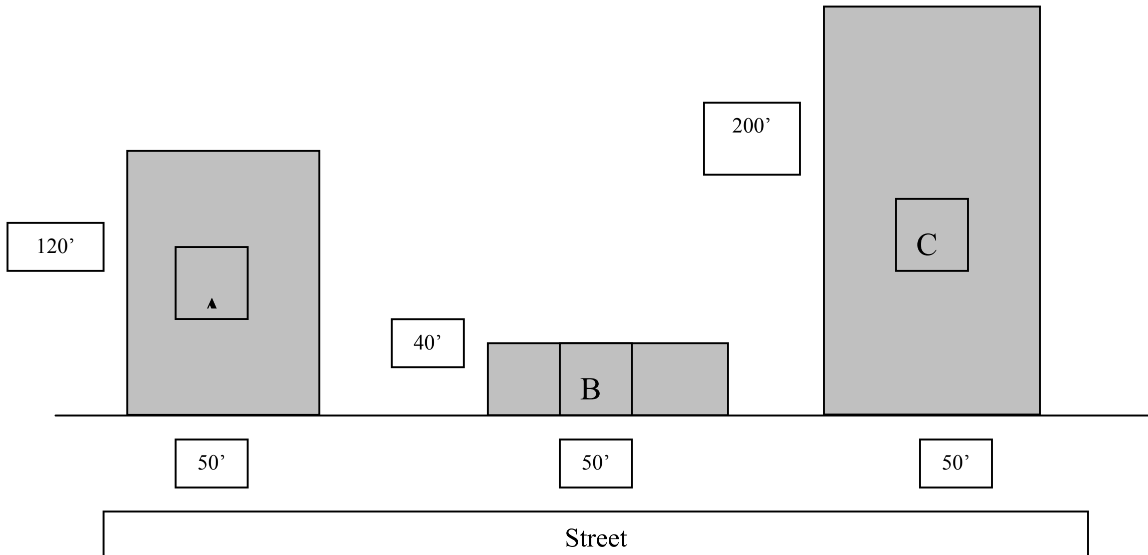
Wherever practicable, all sites were measured to a standard unit of 100 square feet (9.29 sq. m.), and, in recognising that the length of both frontage and depth were significant, Wilks sought to identify a standard depth for each particular district. He comments that, in England, land is normally transacted by reference to its frontage, not its area, with allowance (addition or subtraction) being made for an unusually shallow plot, concluding that "there seems to be no common rule of variation at all." (R&VA, 1964: 7-8)

The process adopted by Wilks is, as follows:

With an area of like conditions, it is most convenient to adapt the method by multiplying the normal by a percentage figure representing the gain, or loss, in value per 100 sq. ft. [30.48 m.] for the valuation areas from the standard depth. This percentage factor is called the "value/depth factor.

With standard depth of 120 ft. [36.576 m.] and, based on the assumed evidence set out below, the value/depth factors for two plots can be illustrated as follows:

"Explanation of Value/Depth factors[17]



Street

	A	B	C
Area	6,000 sq. ft.	2,000 sq. ft.	10,000 sq. ft.
Site Rental Value	£400 or £6.667 per 100 sq. ft.	£200 or £10 rental value per sq. ft. £10 is £6.667 + 50 per cent of £6.667 so that a unit depth/value factor here is 150 per cent compared with the standard depth of 120 feet.	£480 or £4.8 rental value per 100 sq. ft. £4.8 is £6.667 – 28 per cent of £6.667 so that a unit depth/value factor here is 72 per cent compared with the standard depth of 120 feet
Value/depth factor	100 per cent	150 per cent	72 per cent
	Standard depth	Less than standard depth	Greater than standard depth

Unit value is £6.667 per 100 sq. ft. for 120 ft. standard depth

	Area (sq. ft.)		Unit Value				Area * Unit Value		Value/depth factor %	Site Rental Value
A	6,000	*	£6.667	/	100	=	400	@	100	400
B	2,000	*	£6.667	/	100	=	133	@	150	200
C	10,000	*	£6.667	/	100	=	667	@	72	480

> These results are, of course, self-evident – the calculations are shown to illustrate the principles. (R&VA, 1964: 8-9)

Wilks sought to follow the local evidence of each street or group of streets in deciding on value/depth factors and standard depths and, in the absence of local evidence, to interpolate between the nearest areas where the factor was known.

As a final comment, Wilks states:

> I have had more regard to the end product of each valuation than to a slavish regard to the mathematics. Some of the parcels of land have had to be valued directly to a price per acre. This applied particularly to new building estates in course of development, and areas scheduled for residential development where building has not been started. (R&VA, 1964: 10)

Valuation Practice

As indicated earlier, because of the confidential nature of property transactions in England, access to records of property owners held by the then Valuation Office was not available to Wilks, and it must be assumed that it is clear that he relied on his local contacts within the profession to provide him with the evidence he used. Thus, unofficial and anonymous sources provided Wilks with sale prices for cleared sites, under-developed and fully-developed land and open market rental evidence (described as "rack rent") of under-developed and fully-developed land. Ground rent information was available only for those properties where the local authority is the landlord. It must also be assumed that town planning will not have affected the value of sites in any appreciable way because the use of the vast majority of urban sites coincided with the zoning in the Town Map.

Wilks found very little evidence of ground rents and, while he was able to convert capital sales prices into rental values using a single rate per cent, he states that he ". . . would prefer a site value list based on capital values . . . [which would] avoid the conversion of capital values to rental values." (R&VA, 1964: 13) Nevertheless, his terms of reference required an annual value to be produced and it is clear from the reports that Wilks used a combination of methodology to achieve this goal.

Initially, he relied on market transactional evidence of comparable properties in the locality. For certain property types (e.g. industrial and agricultural land), he sought transactional data outside the boundaries of the local authority study area (this is recognised practice in valuing uncommon property types, and the transactional evidence evaluated accordingly). For other property types, it appears that he used a cost-based method of analysis based on the contractors' method of valuation (refer Part 6).

Criticisms of the contractor's method of valuation are well documented (refer, for example, Emeny & Wilks, 1984: 172-3) and its use in UK rating, whilst acceptable in certain cases in treated by the court with caution[18] and there are several instances in which the courts have adopted a somewhat unorthodox approach which is based on market evidence than rely on the outcome of a contractor's test (refer, for example: *Barclays Bank plc v. Gerdes (VO)* 1987)

However, the 1974 study describes the method of converting capital values into land values for the improved property with reference to dwelling houses which does seem to equate cost with value: thus,

> The value of the bricks and mortar was 'stripped off' from the total sale price [and the building "cubed" by] applying a current price per foot-cube to arrive at a cost of construction, rebate the result by a percentage for age and obsolescence and then to subtract that reduced capital value from the total sale price. (Land Institute, 1974: 8)
>
> Given enough of these, and we had hundreds, major errors could be avoided and a remarkable consistency of result obtained, consistent with the relatively fewer transactions involving bare land. (ibid.)

Repeating the argument contained in the 1964 report and recognising that interest rates had increased since, Wilks adopted a flat rate of 6%, commenting that this

> Ties in with general commercial practice in March 1973; is capable of being reconciled with ground rents charged on shop and office redevelopments; is well above the limits found on analysing rents for housing land and land available for flats and above all is acceptable within the decision, and the judgements, in *Williams (V.O.) v. Cardiff City Council* at the Lands Tribunal in 1971 and, with the parties reversed, at the Court of Appeal, 1973. (Land Institute, 1974: 9)

The 1973 study repeated much of the methodology used in the earlier report but with important variations, which are outlined below. Wilks continued to calculate the annual rental value of sites, although with a greater mix of valuation methods and, in respect of town planning, some of the assumptions used in the assessment of land value were altered. Other aspects of the methodology such as unit of measurement, standard depth, the value/depth factor and square footage remained the same.

Similarly, there is no evidence of any transactional data or how it was analysed. Nor is there any indication of which of the methods of valuation which Wilks discusses in his reports (and which are outlined above) he used in the case of any particular property type. There is, for example, no indication of the scale of deductions applied to reflect the allowance for the age and obsolescence within a cost-based approach (refer above). This makes the task of replicating his methodology extremely difficult.

Wilks' comments on the outcome of his studies in relation to each property type are included below, as are the overall summaries which he provides in his reports.

Residential Property

According to the 1963 study:

> There was a welter of evidence of selling prices of vacant plots of land in the residential areas and this evidence of course was in terms of capital value and not rental value. There was also a wealth of evidence of capital values in the built up areas. (R&VA, 1964: 10)

Wilks found that "There was abundant evidence" of the sale prices of building land, but that "a little dexterity was required in finding the variations in value for depth" (R&VA, 1964: 12), although once again it is unfortunate that no further information is given of his "dexterity" in resolving the issue.

Wilks identified a problem, particularly with the rateable values placed on residential properties by the Valuation Office and which came into force on 1 April 1973. He outlined the problem (Wilks, 1973: 251) thus:

> The very process of preparing a valuation list, typing it and then presenting it for public inspection in December, 1972, meant that the Inland Revenue must have drawn the line on values somewhere around 1971. They, after all, are doing an exercise over the whole country whereas I have been doing one only in Whitstable. I was able to concentrate on values up to but not later than April 1, 1973: my values are therefore something like 18 months more up to date than the values in the Inland Revenue list. Those 18 months are critical in that values of land, particularly residential land, rose very steeply indeed in that period, whereas the values of commercial properties and industrial properties did not rise anything like so steeply. There is, therefore, something of an imbalance between my valuation list and the orthodox one. As far as residential values are concerned it is probably fair to say that my values are 25 per cent higher than those of the Inland Revenue.

Also in his 1974 study, Wilks commented that there was ample market evidence of sales of residential properties and a number of sales of large gardens sold off for development. Interestingly, Wilks commented that:

> Strange to say the difference between sites on made up as opposed to unmade, unadopted roads was very much less than the estimated cost of making up those roads to Private Street Works Acts standards. (Land Institute, 1974: 9)

This comment provides another indication of the absence of any relationship between cost and value – in this case, between the cost of external works which affect the value of dwellings.

Commercial – Offices and Shops

There was, however, a dearth of transactional evidence in the town centre, with evidence of only one transaction of a cleared commercial site. Other town centre evidence came from residential sites which had been acquired by compulsory acquisition (eminent domain) presumably for commercial use, which while not an open market transaction, does provide what could be regarded as a proxy capital value[19].

Where market evidence did exist, Wilks' dilemma was how to convert those capital values into rental values and this problem is referred to earlier.

However, he also developed the following methodologies (R&VA, 1964: 11) for converting capital value to rental value for retail properties:

1. Find a shop where the living accommodation over is let at an unfettered rack rent separately from the shop below.
2. By the ordinary process of valuation, estimate the equivalent residential rental value of the area provided on the ground floor (by direct comparison with the known residential rent on the floor above).
3. Deduct the estimated residential rent of the ground floor from the actual rack rent of the ground floor shop.
4. The difference reflects the increase in site value of a shop over a residence.
5. Find the site values of residential property in the immediate locality behind the specimen shop in the High Street.
6. Add the rental value in (5) to the increase found in (4).

This will give, as secondary evidence only, an idea of the site rental value for shop use.

This methodology has the undeniable advantage of relying on market evidence for both the rental value of the combined shop with living accommodation and the living accommodation let separately. However, it could be argued that these two property types (first floor (and above) living accommodation let separately from ground floor retail premises and living accommodation alone) are not comparable property types, because they might attract different rental bids from different kinds of owners. This concern is not discussed in either of the reports, and indeed, Wilks recognises that this provides "secondary evidence only" (ibid.) but it is an interesting theory which deserves further investigation.

Wilks also described (ibid.) an alternative method, also as secondary evidence, which can be adopted. The steps are as follows:

> 1. In an area of known site values, find a plot (plot A) with a building (building A) on it roughly similar in age and type to one of the shops (building B) in the main street. Both properties must be ones where the capital (or rental) value of the entirety is known.
> 2. Deduct the site value of plot A from the total value of A and arrive at the building value of building A.
> 3. Analyse the value of building A – as so much a square foot or cube foot.
> 4. Apply the analysis in (3) to building B, thus finding a value of building B.
> 5. Deduct the value of building B (in (4)) from the total value of B, and thus arrive at the site value of plot B. (R&VA, 1964: 11)

This too relies on market transactional data rather than a cost-based approach and so again, both outcome and method have more credibility than the outcome of a contractor's test. Although the evidence is not provided in the report to justify his conclusions, Wilks was clear that as a result of using these "rough and ready" methods:

> A recognisable pattern emerged along the main street, showing the site values falling away from the peak in a fairly regular curve, but [it] also tied in with those "assessments" [he] could make from the more direct evidence of the one or two shops that have been converted or reconstructed. (R&VA, 1964: 12)

Wilks found no evidence "of real weight" which supported the additional value of a return frontage[20] for a retail plot and therefore made no allowance at all for such a feature. He estimated that only a half-dozen shops were affected by this decision, and that the effect would not be significant on the overall result.

Once again, for the 1973 study, there was no primary evidence of site value for shops and the same method of devaluing the transactions was used as in 1963, again producing "some remarkably consistent values for the sites." (Land Institute, 1974: 9). Reasons given by Wilks (Land Institute, 1974: 9) for the relatively low level of value increases (when compared with residential property) since the earlier study, were related to car parking charges in the central car parks, the introduction of parking restrictions (double yellow lines) and the damaging effect on trade of a substantial drainage scheme which resulted in many shoppers using other centres and not returning to Whitstable.

<u>Industrial Land</u>

Similarly, industrial land provided no valuation problem, although for the 1973 study, Wilks states that there was little new local evidence and therefore he relied on transactions from elsewhere along the East Kent coast.

Development Land

Building estates in the course of erection and building land ripe for development were treated as units of assessment and prices calculated in acres.

However, in contrast to the 1963 study, Wilks did not value any land which had not been indicated on the development plan as being ready for development in the 1973 study. In 1973, comparatively little land was scheduled for development and left undeveloped. Thus, some land was valued in 1963 as available for building which was valued for the 1974 report as agricultural fringe. Wilks comments that the outcome of the 1973 study was "less extravagant values on undeveloped land where there was only hope value. It seemed to me that hope without planning permission was of no value within the [1973] definition" (Wilks, 1973: 251).

In recognising that the town map was out of date at the time of the later study, Wilks stated that the plan had been amended from time to time by the Minister on appeal and "has been regarded more as guidance than cast-iron doctrine" (Land Institute, 1974: 9).

The Harbour

The harbour was described as "a substantial area of adjoining land", but as Wilks could find "no logical argument which would make [him] value the 'water area' of the harbour – nor a method by which, in any event, [he] could do it" he ignored any value attached to such property in 1963 (R&VA, 1964: 12).

In the second study, the warehouses and industrial buildings and rentable land were valued "on the best evidence available" (Land Institute, 1974: 9), but once again, no value was placed on the harbour water area.

Caravan Camps

For the 1973 study, there was some evidence of recent ground rents and these were assessed assuming 25 caravans per acre (approximately 62 caravans per hectare) (no justification is given for this number), and that the standard form of site licence (which also is not explained further) is issued and enforced.

Public Utilities and Railways

These were treated in the same way for both studies i.e. assuming "that the values on the urban areas are the result of the installation of the public utility services, amongst other things, and that therefore there will be double valuation if one valued them as well" (Land Institute, 1974: 9).

Public Open Spaces

It seems that for the 1963 study, Wilks assessed public open spaces on the basis of the compulsory purchase value[21].

The method adopted for the 1963 study was abandoned for the 1973 study and these areas were:

> Valued on the basis that the local authority would pay a site rent for land to be held in perpetuity for public open space of benefit to the town and therefore a rent greater than a peppercorn[22] would in fact be paid. A similar method has been adopted for private open space where it is so designated on the development plans of the town. (Land Institute, 1974: 9)

Thus, Wilks acknowledged that his approach in the 1963 study had been "wrong in principle" to use compensation payable following compulsory acquisition and that "it should be the value of the land as if it were perpetually restricted to open-space purposes and therefore worth considerably less" (Wilks, 1973:251). This, he recognised (ibid.), followed more closely the actual planning requirement and the actual permissions on the land.

Agriculture

In the absence of a publicly available register of transactions, Wilks found no evidence of rental values for agricultural land. Thus, he adopted what he describes (Land Institute, 1974: 10) as "an almost ad hoc figure based in part on sales of pure agricultural land in East Kent."

Agricultural Fringe on the Urban Area

Increasing uses of such land (e.g. riding schools and grazing of horses) and uses to a greater intensity (e.g. influxes of sheep and cattle) have made such land more valuable. Wilks does not record in either report how he undertook their valuation.

Beach Huts

These were valued on the site rents passing.

Registered Common Land and Village Green

Any such as were registered under the Commons Registration Act were valued at nil.

Sewage Disposal Works

At the time of the 1973 study, a new system of sewage disposal was in the process of being introduced and planning permission for a new yachting marina granted on the land formerly used as the sewage disposal works. In the light of the transition, Wilks valued the land as a sewage works, recognising that, once the planning permission could be implemented, a change in value would be necessary.

Planning Effects

With regard to town planning, Wilks recognised that certain fundamental principles needed to be taken into account. These were (Land Institute, 1974: 16) that:

1. The valuer must work within the general planning framework alone and totally disregard 'hope value'[23].
2. The sole requirement the valuer has to meet is one of interpreting the mass of information relating to town and country planning.
3. The current town map could no longer be relied upon to give a fair reflection of values without having regard to other matters.

The 1973 report (ibid.) identifies the following planning matters which affected the value of land:

1. The county development plan
2. The town map
3. Legislation generally
4. Conservation areas approved or in published draft under the Civic Amenities Act
5. Building preservation orders, tree preservation orders, building preservation notices, lists of buildings of special historic or architectural importance, both main and supplementary
6. Government policy – such as the 'South East Study', Ministerial orders and circulars
7. Government policy - as evidenced by ministerial appeal decisions
8. The stated policies of the local and county planning authorities

Wilks' conclusion on these matters was that they were not as formidable as they sounded and that the valuer would, in practice, be able to "make his own inquiries of the local planning authority for each site, and, with comparative ease, determine the town planning position from the factual evidence available" (ibid.).

Having said that, Wilks appeared to have had difficulty with some aspects of planning policy. With all policy statements he recognised that the valuer must ignore 'hope' value (refer earlier) but there appeared to be times when this proved difficult:

> With all policy statements the valuer must determine as to whether the statement is a 'puff' or a solid fact directly affecting the immediate site value. For example land may be zoned at 5 units to the acre. A planning authority may have made a policy statement that the zoning should more sensibly be 10 units to the acre. The valuer will read the policy statement. If any consents at the higher density have been granted, directly or on appeal, the policy is binding. The policy statement otherwise, we submit, is a 'puff' if it amounts to a substantial departure from the development plan and would therefore need confirmation, as a major departure, from the Secretary of State. (Land Institute, 1974: 16 – 17)

Two further important points were made:

1. It is crucial to the valuer to regard positive town planning restrictions as limiting the site user of any site just as much as increasing the potentialities of underdeveloped sites.
2. Town planning restrictions will not affect supply of and demand for land unless the restrictions are backed by statute, or the equivalent. (Land Institute, 1974: 17)

On the basis of the above Wilkes recognised that a different approach to town planning was required for the 1973 study. He accepted that the 'old style' Town Map with its emphasis on rigid zoning of land uses had made it difficult to assess the potential value of sites. By accepting that planning acted as a 'guide' to the use and intensity of use of sites a great number of the difficulties and criticisms of the previous Whitstable study would be negated (Land Institute, 1974:17).

Thus on certain restricted uses of land, Wilks reported (ibid.) as follows.

Listed Buildings

Buildings of special historic or architectural interest are 'listed' for special protection. Any works which affect their character – whether internal or external – require special consent known as Listed Building Consent. There is a nationwide presumption against allowing the demolition of such buildings which means that they must be adapted for modern usage through extra careful provisions regarding design, alteration or extension.

For these buildings Wilks concluded that the land on which there is a listed building should be valued only with that building on it. The use could vary but the 'bricks and mortar' would remain.

Churches

Whereas, in the 1963 study, churches were valued in the commercial open market with no consideration given to consecrated ground, Wilks recognised, for the 1973 study (ibid.:17), that consecrated ground might be in a different category for valuation

purposes. It was also recognised, however, that some churches in some locations could be demolished and the sites redeveloped.

Publicly Owned Public Open Space

Land which is zoned as publicly owned open space should be valued as if it is land with a restrictive covenant attached to it. Wilks concluded that this would in practice be not much different to a field on the edge of town designated as being within the green belt.

Privately Owned Public Open Space

Wilks' conclusion in 1973 was that the valuer should not have regard to any alternative certificate of value, which he had adopted in 1963. If the owner were to receive more compensation simply because the land was zoned for public open space rather than, say, green belt, then this would be a 'fortuitous result of legislation and not a matter to be taken into account in assessing site values' (ibid.: 17).

Private Open Space

Wilks saw private open space simply as land with a restrictive covenant attached to it and designed to ensure that it should not be used for purposes other than, say, publicly accessible gardens or a golf course. Wilks commented that if land is designated for development then the position is very clear, adding, "…it is a matter of fact alone for the valuer to decide whether the evidence proves a site value or whether the evidence should be ignored simply because it indicates 'hope' value" (Land Institute, 1974: 17).

By accepting this principle Wilks concluded that many problems fell into perspective. If planning "restricted the site value, it must be valued with that disability. The valuer must value as to hard facts at the date of valuation and as a matter of fact ignore the likelihood of the order being set aside or continuing" (ibid.).

Wilks clearly recognised (Land Institute, 1974:16) the 'cardinal principle, that, "no owner should be rated for site value on the basis of a value which cannot be realised."

Outcome of the Studies

Wilks provided summary information about the outcome of his research in tabular form in both studies, and these are reproduced below.

Unfortunately, Wilks did not group the properties in the same way for the two studies so that comparison is difficult. However, the focus of this research report is on methodology, not the specific nature of the changes in taxable values or shifts in value (although both of these are relevant to the arguments for and against the introduction of

land value taxation). Nor is the purpose of this research to compare the outcome of the current valuation exercise with Wilks' results.

The outcome of Wilks' studies demonstrates the dramatic impact of LVT on undeveloped land, with, in 1963, reductions in the taxable value (and therefore the tax payable) on those properties which were then (and are currently) liable to local property taxation.

In relation to Table A, it should be noted that (then as now) operational hereditaments of the utility companies (e.g. water, gas, electricity) are not valued using conventional valuation techniques. Instead, tax to be paid is based on a statutory formula or on a contribution agreed between the company and the Treasury. There is, therefore, no way to ensure that such occupiers pay an appropriate share of their tax burden.

Wilks give little explanation of these Tables in his report. However, he does stress that:

> The characteristics of group totals cannot be assumed to apply in individual cases…. Most domestic properties in Whitstable will gain appreciably if a site value basis of rating were to be introduced, but some with large plots will not. (ibid.: 36)

As indicated earlier, Wilks discovered a significant discrepancy between the outcome of his land value taxation exercise and the rateable values produced by the Valuation Office.

The totals are not strictly comparable and the excess (of approximately £1m.) which represents an increase of about 37 per cent. in total rateable value will be reduced if the current rating valuation lists are notionally updated to allow for the fact that in one case (site value) the totals are on current values, while the other (rating system presently operating) the assessments were made some time ago. For example, as far as dwellings are concerned the valuer, in his report, suggests an updating by 25 per cent of assessments under the present system if they are to be compared at all. The proportionate updating is, admittedly, arbitrary, but reflects his professional opinion. (Land Institute, 1974: Appendix A) The effect of this uplift (ibid.) is represented below, as Table D.

Table A: 1963 Summary of Total Rateable Values (all totals to nearest £50) (R&VA, 1964: 36)

Official Valuation List now in force in Whitstable			
	£		
Total Rateable Value	702,300		
GPO, Water Company, Gas, Electricity etc.	19,650		Based on contributions made in lieu of rates. No separate values appear in the present valuation list in respect of railway property, but an estimate of equivalent value has been made, based on the present rate poundage and the actual cash contribution made in place of rates.
British Railways	2,150		
	724,100		
Site Value Valuation List			
	£	£	
Agricultural Land	14,500		
Church Land	3,400		
General	604,300	622,200	
GPO, Water Company, Gas, Electricity etc.		18,050	Estimate: see above, less parts valued separately as above.
British Railways		2,000	
Total		**642,250**	

Table B: 1963 Group Result for Property Types Which Will "Gain" Under LVT (R&VA, 1964: 37)

1963 Survey (1)	Rateable Value		
Property or Land Group	Present	Site Value Method	Net Reduction
	£	£	£
Houses	342,850	180,200	162,650
Bungalows	179,050	90,200	88,850
Flats & Maisonettes	14,200	5,100	9,100
Shops, Hotels, Public Houses, Banks, Cinemas and Offices	75,300	55,400	19,900
Factories, Workshops, Filling Stations and Garages	48,800	22,500	26,300
Schools and Playing Fields	13,300	12,700	600
Hospitals and Homes	2,150	1,650	500
Total	**675,650**	**367,750**	**307,900**

Table C: 1963 Group Result for Property Types Which Will "Lose" Under LVT (R&VA, 1964: 37)

1963 Survey (2) Property or Land Group	Rateable Value Present £	 Site Value Method £	 Net Increase £
Scheduled Land			
~ Future Schools	0	10,900	10,900
~ Future Industry	0	6,550	6,550
~ Future Residential Development (including all small vacant plots	500	81,150	80,650
Public Open Spaces (including beach huts)	1,950	26,550	24,600
Churches, Church Halls, Cemetery, Land earmarked for church, Clubs and Institutes	3,300	10,800	7,500
Allotments, Nurseries, Orchards	0	6,700	6,700
Caravan Sites and Holiday Camps	13,800	41,000	27,200
Golf Courses	500	39,300	38,800
Public Shelters, Tennis Courts, Sewage Works, Lavatories, Sports Grounds, Car Parks, Library, Employment Exchange, Police Station, Ambulance Station, Fire Station, Public Baths	6,100	15,600	9,500
Post Office, Electric Sub-stations (not included in public utilities adjustment)	500	1,400	900
Agricultural Land	0	14,500	14,500
Total	**£26,650**	**£254,450**	**£227,800**

Table D: Results of the Valuation Exercise on Residential Property

	Present Total Rateable Value £	As Notionally Updated 25% £	Site Value Total £
Privately owned houses	1,115,164	1,393,955	1,256,838
Privately owned bungalows	702,239	877,799	991,487
Privately owned flats	12,283	15,354	6,294
Privately owned maisonettes	28,697	35,871	16,774
Council dwellings	60,744	75,930	40,946
Totals	1,919,127	2,398,909	2,312,339

Apart from the explanation already provided in this report (refer above), Wilks cites (Land Institute, 1974: Appendix A) the following reasons for the variations:

1. There are many houses standing in large gardens and many houses with side plots used as gardens. In both these cases, the spare land bears little if any value in the current orthodox list. Under site value rating, however, it is all assessed as developable land.
2. There is an area in the town centre which is semi-derelict, obsolete, and awaiting redevelopment. All this attracts a low level of value on the current orthodox method, but under LVT it has been valued as land ready for redevelopment.
3. In any residential area, flats constitute the most intensive form of development. It is to be expected, therefore, that under LVT, owners of flats will benefit proportionately more than other residential owners.
4. The council houses valued are all located on one estate containing 11 blocks of property and were valued for LVT purposes as a single site.

Table E: 1973 Summary of Total Rateable Values for Those Property Groups With a Reduced Taxable Values on Wilks' Valuation (based on Land Institute, 1974: Appendix A)

1973 Survey (1) Property or Land Group	Orthodox RV £	Site Value RV £	Decrease in Values on SVR	% Shift in Values on SVR	% Shift in Value in relation to total increase
Council Dwellings	60,744	16,774	-43,970	30.88%	-1.92%
Shops	204,789	202,063	-2,726	1.91%	-0.12%
Industrial properties	179,010	83,323	-95,687	67.20%	-4.17%
Totals	**444,543**	**302,160**	**-142,383**	**100.00%**	

In total, only Council Dwellings, Shops and Industrial premises would "gain" under Wilks' 1973 valuation exercise.

Table F demonstrates that, according to Wilks' valuation, all of the above property types would "lose" as the result of the introduction of LVT.

In summary, therefore, the outcome of Wilks' valuation exercise produced an overall reduction in taxable value (Rateable Value – RV) in 1963, but an increase in 1973.

Table F: 1973 Summary of Total Rateable Values for those Property Groups with an increased Taxable Value on Wilks' Valuation (based on Land Institute, 1974: Appendix A)

1973 Survey (2) Property or Land Group	Orthodox RV £	Site Value RV £	Increase in Values on SVR	% Shift in Values on SVR
Houses	1,115,164	1,256,838	141,674	6.18%
Bungalows	702,239	877,799	175,560	7.66%
Flats and Maisonettes	714,522	997,781	283,259	12.35%
Other Commercial Property	91,535	137,272	45,737	1.99%
Licensed properties	21,397	26,545	5,148	0.22%
Schools	27,192	56,848	29,656	1.29%
Land Scheduled for Schools	0	44,802	44,802	1.95%
Development Land	0	329,463	329,463	14.37%
Public Open Spaces	0	47,964	47,964	2.09%
Public & Private recreation grounds	980	39,956	38,976	1.70%
Churches & Church Halls	4,813	44,375	39,562	1.73%
Allotments	0	8,524	8,524	0.37%
Caravan Sites & Holiday Camps	57,448	165,823	108,375	4.73%
Golf Courses	1,550	38,030	36,480	1.59%
Vacant Sites	0	68,394	68,394	2.98%
Miscellaneous - council properties, hospitals etc.	1,640	29,862	28,222	1.23%
Harbour Installations	0	26,088	26,088	1.14%
Agricultural land (only dwellings rated)	3,520	32,569	29,049	1.27%
Land Scheduled for Schools	0	44,802	44,802	1.95%
Development Land	0	329,463	329,463	14.37%
Public Open Spaces	0	47,964	47,964	2.09%
Public & Private recreation grounds	980	39,956	38,976	1.70%
Churches & Church Halls	4,813	44,375	39,562	1.73%
Allotments	0	8,524	8,524	0.37%
Caravan Sites & Holiday Camps	57,448	165,823	108,375	4.73%
Golf Courses	1,550	38,030	36,480	1.59%
Vacant Sites	0	68,394	68,394	2.98%
Miscellaneous - council properties, hospitals etc.	1,640	29,862	28,222	1.23%
Harbour Installations	0	26,088	26,088	1.14%
Agricultural land (only dwellings rated)	3,520	32,569	29,049	1.27%
Totals	**2,811,951**	**5,104,783**	**2,292,832**	**100.00%**

Wilks commented (Wilks, 1973: 251-2) on the fact that the total rateable value his 1973 Study produced was significantly higher than that of the orthodox lists. As well as the problem he encountered with residential properties (refer above), he recognised that:

> First of all it is general practice in this country for an industrialist to buy more land than he wants for his immediate purpose, so that he has land available for expansion. This means that on the orthodox system this spare land gets included at virtually no value at all. On a site-value method, of course, the whole of the land is valued as if it were available for industrial development.
>
> Second, I have been rather surprised at the figures on some of the schools, and in particular on the main secondary school at Whitstable, where my value, just on the land, is of the same order as the Inland Revenue's valuation of land and the land and the school buildings as well. . . . within the orthodox method, the Inland Revenue values local authority schools on a formula based on the number of pupils, the number of square feet per pupil, the quality of the buildings and so on, but adds very little for playing fields. Now I have valued the land as if it were available for school use so that all the land is of equal value, being available for educational purposes. As a result of this, of course, in a fairly densely-populated urban area, the value of the school land makes a complete nonsense of the application of the formula the Inland Revenue use today.

Before 1990, when both Whitstable Studies were undertaken, such an outcome would have meant that, in 1963, the local authority would have had to increase the level of rates demanded (the rate in the pound) in order to maintain the (then) current level of income. However, in 1973, failing to reduce the level of rates demand (the rate in the point) would have given the local authority additional revenue.

Table G: Summary of the outcome of Wilks' two valuation exercises.

	Rateable Value		Shift in RV on SVR
	Present	Site Value Method	
	£	£	£
1963 Total Values	702,300	622,200	-80,100
1973 Total Values	3,186,543	4,531,093	1,344,550

Conclusion to Studies

Both studies document the process and the outcome of Wilks' exercise to create a valuation list based on land values which could be compared with the official valuation list, produced by the Valuation Officer and to test the process of valuing land for the purposes of a land tax system.

The absence of detail in the study reports for both the valuation methodologies and their application to individual property types is regretted, particularly for the purposes of this update of the studies.

Inevitably, their content focuses on the methodology (survey and valuation) and also the problems (lack of tested definitions, transactional data etc.) and the nature of the planning system which would provide the assumptions on which land would be valued in order to create the necessary tax base.

The final outcome was a series of tables with an entry for each site, showing the area, area multiplied by the unit value, value/depth factor, LVT value, any adjustments made (e.g. for shape), the current rateable value and the aggregate rateable value (if the site comprised more than one hereditament). Both reports provided summaries of these valuations.

In neither of the studies does Wilks himself make any comment on the principles underpinning LVT. Indeed, he states (R&VA, 1964: 12), "It is not for me to comment on the political, social or other repercussions of any movement or burden."

Wilks' own conclusions to the 1963 Study are, as follows (Wilks, 1973: 251):

> First, it showed that a site-value rating exercise could be carried out, and in a comparatively short time, by people who had had no experience in the matter whatsoever. Second, it showed that by bringing in undeveloped and underdeveloped land at an optimum developable value it produced a total aggregate rateable value not dissimilar to that of the orthodox rating system so that rate poundages would also be of the same order. Finally it demonstrated that—because alterations in site-value assessments would have to be made only if a land unit was increased or decreased in size or if a different planning permission was granted for it—the number of interim alterations of assessments would be reduced by a phenomenal percentage.

In relation to the process involved, Wilks comments (R&VA, 1964: 12):

> It is clear that valuation of site values is little more than valuation on the town planning, permitted, optimum user. In effect this means that the town planner will, in the final analysis, dictate the amount of rates an owner pays. This may, or may not, be true of the present day system to the same or lesser extent.

While not speculating as to whether LVT would be publicly acceptable, Wilks considered that if all transactions in land become public knowledge, it would help the taxpayer to understand how each unit of land had been assessed.

In relation to the valuation process, Wilks stated (Land Institute, 1974: 17) that:

> The valuer therefore sees 'Town Planning' as imposing site restrictions or limitations. The line between hard facts and high hopes is faintly drawn but it is the valuer's duty to value on the facts as he sees them, not to prognosticate as a town planner.

Originally, he had been a sceptic, but Wilks concludes his 1963 valuation exercise, as follows:

> It seems to me, however, as a valuer, that the difficulties are likely to be no more complex nor intractable than those met and solved under the present orthodox system. (R&VA, 1964: 13)

Whilst stating that the rates which is an occupiers' tax was one of the easiest taxes to collect, Wilks speculated that with an LVT recovery would be easier, there would be fewer taxpayers and it would cost less (Wilks, 1975), although these issues are not tested in either of his studies.

Part 4 - Updating the Whitstable Studies

Research Background

The stated objective of this research is to update the Whitstable studies by dividing the project into three stages proposed over three years. This report covers the first year of research, in which it was proposed to concentrate on producing an up-to-date survey of site and land values for all parcels of land including all of the hereditaments (taxable units) in Whitstable. Based on the methodology undertaken by Wilks in 1963 and 1973, the intention was to adapt the exercise to reflect subsequent changes in circumstances, including the technological advances, and to draw conclusions as to the appropriateness and reliability of the outcome (refer Part 1).

The methodology adopted has been based on the use of 'modern technologies' and we have therefore relied on a GIS data base (discussed further below), rather than replicate the measurement exercise undertaken by Wilks. We have also sought other relevant forms of electronic data which could be used together with GIS. The data issues, the outcomes achieved and the problems encountered are discussed below.

In addition to the above, there are significant changes which have occurred since Wilks undertook his studies in 1963 and in 1973, which are relevant. These involve in particular the rating system and the technologies which have revolutionised the survey and the valuation processes.

Rating System

Since Wilks undertook his two studies, the system of landed property taxation has altered dramatically. The current system is explained in some detail in Appendix C. This section merely details the main changes which have occurred since Wilks' studies and which have an affect on the current research.

Perhaps the most important change is the introduction of a Council Tax (based in part on the banded value of property and in part on the number of residents) which is levied by local authorities on all domestic properties in their area. The valuation date is 1 April 1991, with a proposal to undertake a revaluation which will take effect (in England) in 2007.

All domestic properties are allocated to one of eight value bands based on their capital value, and half of the Council Tax levied relates to this value. The other half of the tax, which relates to the number of occupiers, assumes that there are at least two "taxable" adults in occupation; if there is only one taxable adult, the tax paid is reduced by half of the personal element (25% of the whole bill). If there are no taxable adults in occupation, then the tax paid is reduced by all of the personal element (50% of the whole bill). Thus, domestic property which is the owner's 'second home' attracts only 50% of the tax bill. Council Tax is fixed, demanded, collected and spent by the local authority but the level imposed may be limited by central government which may impose a "cap" to prevent local authorities from demanding excessive levels of Council Tax from their residents.

Rates continues to be levied on non-domestic property but the 1990 changes included the shift of the fixing of the level of rates from a local to a central government tax. Central government now imposes a uniform business rate (UBR), which is a tax at a single level on each country (England, Wales and Scotland), although the UBR is an assigned revenue. Although the rates continue to be demanded, collected and spent by local authorities, the revenue is allocated on a per capita basis of residents – thus local authorities do not always get to spend all the rates they collect (refer Appendix C and Plimmer, 1991).

Since 1990, taxable values have been subject to quinquennial revaluations, the current lists taking effect on 1 April 2000 and the next ones due to take effect in 2007 (with a valuation date of 2005), and they are valued to a net annual rental value (rateable value) although on the same hypothetical basis to that which applied when Wilks undertook his studies.

Part 3 has illustrated the outcome of Wilks' study and made the point that, before 1990 when both Whitstable Studies were undertaken, any reduction in the overall value of taxable property would have meant that, in 1963, the local authority would have had to increase the level of rates demanded (the rate in the pound) in order to maintain the (then) current level of income. However, with the increase in value of taxable property in 1973,

failing to reduce the level of rates demand (the rate in the pound) would have given the local authority additional revenue.

Circumstances now have changed in that there is a central government commitment that the UBR levied on non-domestic hereditaments will increase year on year by no more than the level of inflation. Also, central government retains the right to (effectively) limit the level of Council Tax charged on domestic properties by any local authority which is considered to be levying an excessive amount of tax on its taxpayers.

Therefore, the results of any similar study today would not alter the total revenue available to local authorities in England, unless central government altered its current policy.

Thus, with the exception of the introduction of the Council Tax for domestic properties and the imposition of a UBR fixed by central government, there remain broad similarities between the current tax system and that familiar to Wilks. The introduction of the Council Tax and the removal of the local authority control over the level of rates may cause some difficulties, but these will be considered in the future work of this research.

Whitstable

Whitstable does not seem to have changed radically over thirty years since Wilks undertook his second study. However, it is also futile to seek to compare the outcome (values and liability) of Wilks' surveys of thirty years ago, because of the scale of the development which has taken place in the interim and the change in the local authority boundaries which has occurred with the disappearance of the urban district council.

In terms of taxable units, Whitstable in 2003 has 1,032 non-domestic hereditaments and 14,476 domestic hereditaments, (i.e. a total number of taxable property units of 15,508) which are categorised, as shown in Appendix D.

Based on the (so-called) average value Band D, the level of Council Tax imposed in Whitstable was £1,076 and the UBR applicable to England was 44.4p (£0.444), the revenue for 2003-04 from Council Tax levied on domestic properties is £14,851,265 and the revenue from Rates levied on non-domestic properties is £5,252,088, giving Whitstable a total annual revenue raised from property tax of £20,103,353[24]. Thus, domestic property accounts for over 70% of the total annual revenue raised from landed property taxes in Whitstable.

Methodology

The methodology adopted in the updating of the Whitstable Studies is outlined below, and details of the limitations are also included. We propose to follow the method previously used in 1973 for each site as closely as possible, whilst recognising that this

will not always be feasible due to changed circumstances and different evidence being available.

Metric Measurements

One such change is the fact that the UK has now adopted the European practice of using metric measure instead of imperial. This means that metres and hectares are used instead of feet and acres. This will have the disadvantage of not allowing direct comparison with the results of Wilks' original studies: however, a comparison of Wilks' measurement or valuation outcome was not considered a priority – it is the valuation methodology and the testing of the planning system to support the valuation process which are the focus of this research. The use of metric measurements has the advantage of being in line with current practice and thereby facilitating other research and comparative study in the future.

Date of Study

For the purposes of this study, it is proposed to use the year 2001 as the base year. An alternative is 2000 which is when the assessments of the hereditaments subject to the UBR were last revalued. However, 2001 was a census year (this occurs once every 10 years in the UK) which will enable the results of the study to be linked to sociological, demographic and economic data contained in the census. This would make it more useful for future aspects of the research and also subsequent studies.

Indicative Planning Uses

In the UK, virtually all building work (which includes some demolition) and changes of use of landed property require planning permission from the local authority. This has been the case since 1947 when the comprehensive planning system now in operation was introduced in the UK. Based on a series of development plans and stated policies, new development is required to be in accordance with such plans and policies, unless material considerations dictate otherwise.

This is the situation today, although, as explained in Part 2, this was not the case at the time of the two Whitstable Studies. The problem then, and to a lesser extent now, is the weight and importance to be given to other material considerations in the determination of planning applications.

Despite the primacy of the development plan, decisions on applications can vary from it. LPAs are legally entitled to make decisions contrary to their own established planning policy which consequently creates uncertainty about the outcome of some planning applications. This, in fact, is at the root of the problem in establishing the potential for development at individual sites and, subsequently to assess land values.

The methodology for dealing with this is explained in Part 5. In outline, it involves making adjustments to the calculated unit value to include the development plan and other material considerations deemed appropriate at individual sites. Whereas Wilks calculated a unit value for each landed property and then made adjustments for location, shape and size of plot, the proposal is to allow for additional adjustments to be made, where appropriate, to show existing use, development plan allocation and other relevant planning considerations. For example, if a site is allocated for residential development and also subject to a tree preservation order, these would be shown as 'residential' under the development plan and 'tree preservation order' under 'material considerations'. An appropriate adjustment to the unit value would be applied to reflect such matters.

Valuation Methodology

The initial focus of the literature review has been on the two Whitstable Studies, as reported by Wilks (RVA, 1964 and Land Institute 1974). These have formed the basis for the valuation methodology which needs to be investigated and to be compared to other potential methodologies. They also form the basis for the identification of specific issues which need to be considered, both to secure the quality of a land value tax base and to ensure its suitability for England in the twenty first century. Such issues include the definition of "site value"; publicly available registration of land title; availability and suitability of market transactional data; exemptions and reliefs from tax liability.

In addition, general valuation and rating valuation texts have provided useful theoretical approaches to methodology, specifically methods of valuation suitable to arrive at a land value and of UK practice and procedure in valuations for tax purposes and for other purposes which have been tested and examined by the judiciary. Special attention has been given to transactions of improved property because of the comparative wealth of such transactional data, compared to that for undeveloped sites. The assumption has therefore been made that site values for an appropriate range of uses cannot reliably be based on the limited number of sales of undeveloped sites, and that an alternative methodology (such as the one adopted by Wilks himself) will be necessary.

Other texts produced by experts from other countries with more experience of site value rating have been investigated to provide evidence on the usefulness or otherwise of the various methods of arriving at a value for the unimproved sites. Such evidence has also inspired the use of methods not previously adopted within the UK for taxation purposes.

It is anticipated that the vast majority of sales of landed property in Whitstable will consist of house sales, with a smaller number of commercial and other non-domestic properties. For the latter, it is likely that details of transactions over a wider geographical area will need to be obtained, as Wilks, himself, discovered in his studies.

Wilks, in his studies, calculated the value of land on a pound sterling per 100 square feet basis for every plot. How he arrived at the unit price is not clear from his reports, nor is

any indication given of the methodology adopted for any particular property types (except for those reported in Part 3). It is also clear that Wilks assessed a ground rent as a basis on which LVT should be levied. This research will consider both a ground rent and a capital value for the land, investigating appropriate methodologies for each.

It is axiomatic that land values should be based on open market sales evidence and, therefore, this will be the preferred method of assessing a plot value. However, if there is insufficient data to adopt such a methodology, it is envisaged that Wilks' method of deducting the value of the building (refer Part 3) will be used. It is, however, recognised that the use of a cost-based method of analysis is widely used both in the UK and elsewhere to assess land values and such a method, which is regarded as one of the 'traditional methods of valuation', has been tested and accepted by British courts for the purposes of assessing a value for tax purposes.

A cost-based method of valuation has been widely criticised (refer Part 6) and is recognised by both valuers and the judiciary as an unsatisfactory method for arriving at a base on which to levy tax. Nevertheless, it is clear that, for certain property types, this was the method which Wilks adopted and we will be assessing its reliability and acceptability in our future research.

As mentioned previously, adjustments will be made for any variations from the 'standard' plot characteristics, and for town planning requirements. Interpolation between known sites will then be used as far as practicable to arrive at values for other parcels.

<u>Survey and Data Base</u>

The survey process adopted by Wilks (refer Part 3) was almost entirely manual (two electronic calculators were used in the 1973 study) and involved on each occasion a team of referencers to measure each site, a draughtsman to plot those measurements on a paper plan, before the valuers, who had analysed transactional data for a range of property types, carried out and documented the valuations.

Wilks commented in both his reports on the survey process he adopted and, in his final report on the speed and ease with which this was undertaken. However, in 1982, an Inland Revenue memorandum to the House of Commons Environment Committee (Mason, 1985) stated that the introduction of land value taxation would require the establishment of 18.5 million new survey records and the initial valuation would require a minimum of 7,000 man years. This indicated the importance of using 'modern technologies' to achieve a digitised map of the locality in order to identify and measure all taxable units and with which to integrate the transactional, planning, valuation and other data.

Thus, no survey along the lines of that undertaken by Wilks has been attempted of Whitstable. Instead, the research team were provided with a copy of the portions of OS

MasterMap® which cover the Whitstable area by the Ordnance Survey (OS). OS MasterMap® is an intelligent digital map of Great Britain to be used with geographical information systems and electronic database systems. OS claims that it is a definitive and accurate map of Great Britain, in effect a database, created as a business tool to manage information, aid analysis and speed the decision-making process. It provides intelligent data with real-world objects represented as explicit features within OS MasterMap®, each identified by a unique number, allowing data association, and it is the data association that makes OS MasterMap® intelligent. It enables organisations to link their own data to that of the digital map. By associating their data to the OS MasterMap® features, organisations are then able to analyse a richer database, and can search and query using their own data fields as well as the attributes provided by OS MasterMap® (ibid.).

The OS MasterMap® includes Address Layer which provides precise coordinates for more than 26 million residential and commercial properties in Great Britain, described (ibid.) as the most accurate and up-to-date link between any property address and its location on the map. The Address Layer originates from the Royal Mail's postcode address file (PAF®). Ordnance Survey uses on-the-ground GPS survey, aerial imagery and various other techniques to establish precise coordinates for each address and match this to the property on the map – effectively joining up postal and topographic geography, creating a fixed link between the property and its address (ibid.).

Addresses are subject to a high level of change from:

1. The creation of a new property
2. Property redevelopment
3. House or street name changes

The Address Layer provides a robust mechanism for professional users to track and manage these address changes relating to the actual property on the ground, and a continuity between a physical property (essentially unchanging) and the dynamics describing that property (changeable) (ibid.). Further experience of using OS data can be found in Vickers (2003: 18-27).

OS MasterMap® is compatible with Arcview GIS 3.2 and, with technical support, the research team has been able to interrogate the database and link other databases to it. No attempt has been made to verify the accuracy of the data provided by OS MasterMap®. Again the assumption has been made that, should the VOA be required to undertake a valuation of all sites in England, a similar form of digitised map will be used. Existing data held by the VOA is related almost exclusively to the dimensions and other relevant details of the buildings and other rateable improvements on the land, not in relation to the land itself, so an entirely new survey database will be necessary and it must be anticipated that the VOA will take advantage of the opportunities of modern technologies in order to achieve that survey output.

Initially, it was considered necessary to edit the OS MasterMap® database to remove topographical details (e.g. contours) which were considered superfluous to the requirements of the research. (The topography of Whitstable is relatively low lying and flat.) This also reduced the size of the file and rendered it easier to manage. The actual valuation list (Council Tax bandings) and rating list (rateable values for non-domestic properties) for Whitstable were sourced from Canterbury City Council, the local authority responsible for the Whitstable area. The data was provided in electronic form and work started on generating maps to show the location and values of these properties.

Limitations of the Research

Two significant problems arose during this first year of the research: ill health and data limitations.

Ill Health

A significant set back to the progress of this research was the unexpected illness of one of the researchers (Greg McGill) who was not able to carry out any research-related activity for over six months. He has now recovered, but his absence has meant that part of the work proposed for this first year of study has been postponed and rescheduled for the second year.

Data Issues

In respect of the necessary data, it soon became clear that there were a number of issues resulting from the merging of this data with the Address layer within OS MasterMap®. The principal difficulty is associated with the lack of a uniform method of recording addresses, particularly for business premises. The local authority and the OS databases contain addresses for the same properties but in slightly different formats, making automated merging of data difficult. In addition, address data from OS only lists postal delivery points, which resulted in the following issues:

1. There were addresses for which there were no taxable properties (hereditaments) – these were mainly identified as "post office box" addresses to which no property is attached.
2. There were taxable properties for which no postal address existed e.g. church halls.

This stems from the fact that the Acacia project which is designed to produce unique and standard addresses for each property in the UK has yet to be completed and have its findings adopted (refer Vickers, 2003: 23-4).

Specific issues identified are, as follows:

1. For dwelling houses converted into flats for multiple occupation, there is no consistency between the addresses used by the local authority and OS address data, although in terms of quality, the local authority database is assumed to be the more up-to-date.
2. Many dwelling houses, particularly in rural and semi-rural parts of the study area are identified by names rather than by numbers. However, in a small number of cases, one database may list some dwellings by name only, while the other lists the dwellings by number only. Such discrepancies will need to be verified either by an additional third party source or by a site visit.
3. It is clear that for some dwelling houses converted into flats for multiple occupation that numbering systems can differ in different databases. For example, the following conventions can be used interchangeably for the same building: Flat 1 at 22 Station Road; Flat A at 22 Station Road; 22a Station Road; Ground floor flat at 22 Station Road. It will be necessary to verify this situation 'on the ground'.
4. The GIS database will need to reflect the merging of some residential properties. However, checks should be made as to which individual properties make up the merged properties; e.g. is 15-17 Bennells Avenue made up of 15 and 17, or 15, 16 and 17?
5. It is difficult to identify the correct hereditaments from addresses alone. The following are used in the rating list to refer to particular properties: building number; building name e.g. Jubilee House; occupier e.g. J Sainsbury plc.
6. In some cases, properties are listed as being on different streets in different databases. This is most likely for modern large out-of-town retail and industrial developments built on arterial rather than local roads. This stems from the fact that the Valuation Office is not legally required to use the standard Post Office address when entering a hereditament into the rating list. All that is required is that the address is sufficient so that notices sent by post will be correctly delivered.
7. The GIS database needs to reflect, in a consistent manner, the presence of the following hereditaments in Whitstable, which may be liable for LVT: buildings listed as 'adjacent to…' or 'rear of…'; kiosks; advertising rights (including bill boards and 'personal information posts' at bus stops); public amenities (including tennis courts, playing fields and public conveniences); communication masts (including television, mobile telephone and emergency services) which could be either freestanding (with base station) or in or on buildings; car parking rights; beach huts; caravans and mobile homes rented to the public.

Another problem which had not been anticipated was the difficulty (which has yet to be resolved satisfactorily) of creating identifiable site areas within the OS MasterMap® database. The file recognises only the shapes of features displayed (each man-made and natural feature, from fields to pillar boxes, has its own unique identifier or TOID® (ibid.)) and to redefine a site, which may include a number of toids (a property which includes, for example, a front garden, the building and a rear garden). Expert advice is being sought to find an appropriate way to merge multiple toids and from these to create a new

one. This was an unexpected and significant problem which resources have not to date resolved.

Analysis of Property Transactions

An initial stage in this process was to seek out property transactions within the Whitstable area. As described earlier, in England, all property transactions are confidential to the parties concerned who may or may not choose to make the details public. Also informed of all transactions is the Valuation Office Agency which, because of its role as valuer for government purposes, is provided with the information but is prevented from disclosing the data by the Official Secrets Act. Parties (and their agents) may agree to publicise the details of a transaction and certain basic transactional information is now often available within the professional press, although details may be limited (and therefore *caveats* must be attached to the analysis of such transactions). However, during the 1960s and 1970s, when Wilks was undertaking his studies, such publicity of deals was very unusual.

Thus, in terms of replicating Wilks' methodology, this research was placed in the same position as he was regarding the availability of property transactional data. However, Wilks was a resident of Whitstable, and, it seems, well known within local professional circles. He was therefore able to obtain details of local transactions, although neither report contains details of either the transactions, the methods used to analyse them nor examples of that analysis for any particular property type. Each of the reports provides valuations, with limited explanations. In his report, he comments on the availability of transactional data, as follows:

> Hand in hand with [undertaking the survey] we were collecting local evidence of transactions in land and buildings. The sources of the evidence we obtained have been granted absolute anonymity. Under this guarantee we were able to get a substantial body of evidence together and a "facts book" of evidence soon began to build up. (R&VA, 1964: 4)

It seems that his sources of transactional information were unofficial, although that in no way discredits the quality of such information. Wilks was, however, more concerned with the reliability of the valuation methodology than the comparable data used:

> Whether or not the evidence was wholly reliable was a matter of theory only; for, as from the practical point of view, I had no other evidence, so I had to use it. (R&VA, 1964: 6)

This research adopts a similarly pragmatic view, and while the advantage of local knowledge is not available to the research team, there is available data on transactions of property published both by local agents and commercial organisations on the World Wide Web (WWW).

It is clear, however, that this information is inadequate, both in terms of volume of transactions and also range of property types. It is our intention for year two of this study to replicate Wilks' methodology of approaching real estate agents working in Whitstable and seeking their co-operation in building up a database of appropriate transactional evidence for further analysis. This demonstrates a significant limitation imposed on valuers who seek to undertake valuations in locations where they are not also active 'in the market', and represents the outcome of the failure of the UK government to make data available to the public.[25]

Should it prove necessary, we intend to seek further transactional information in relation to properties outside the Whitstable area, if that is necessary, to supplement any gaps in our data base. Wilks too found the need to use transactions from outside the locality, when valuing the less numerous property types e.g. industrial properties. Once again, some of the solutions we are adopting to deal with the difficulties of limited market evidence are the same as those used by Wilks.

We therefore repeat Wilks' comment on the suitability of data: whether or not the evidence is wholly reliable is a matter of theory only; for, as from the practical point of view, we have no other evidence, so we will have to use it.

While the quality of any land values and land value tax base relies both on reliable transactional data and a rigorous valuation methodology, it must be recognised (as Wilks did) that valuers must use market evidence. If land value taxation is officially introduced into England, then the responsibility for producing the new tax base will almost inevitably be given to the VOA. They will have all the available data and the issue for them will be the technology and the methodology which they use to establish a land-only tax base. Given the fact that access to a complete data set for transactions is not possible, neither for Wilks nor for the purposes of this study, the critical focus is the methodology used to establish a land-only tax base and this latter issue is explored further in Part 6 of the report.

Further Research

The reliance on electronic data sources which are not compatible has delayed the development of the survey of the site area and the identification and measurement of the land area parcels. This is a challenge for year two of the research. Similarly, the paucity of electronic transactional data available publicly has also delayed the valuation process. Nevertheless, part of the objective of the research is to replicate Wilks' methodology using 'modern technologies' and the difficulties and inconsistencies encountered merely present the research with the need to find alternative solutions. Some of these will be of a technological nature (e.g. the creation of land parcels within MasterMap®); others will be more pragmatic (e.g. the attempt to gather transactional data in the same way adopted by Wilks).

The outcome of these methodologies will be discussed in our Year 2 report.

Part 5 - The Effects of Town Planning on Land Value

Introduction

In Part 3 it was reported that land values are created largely if not exclusively by the community and that the community, through the planning system, controls where and in what manner new buildings and new uses of landed property (and land) may take place. It follows, therefore, as land values are intimately connected to the use of land, that planning controls will have an important influence on land values. In this Part, this influence is examined under the following headings:

1. Highest and Best Use
2. Interpreting the Legal Requirements of Town Planning
3. Planning Methodology for Whitstable

Highest and Best Use

The primary influence on land values is the interaction between supply and demand for land and, therefore, what people will pay for it. As land is fixed in supply and location, it is axiomatic that changes in demand for land can have a substantial influence on land values. But changes in demand do not operate in isolation and are influenced by a number of factors. These include changes in the size and composition of the population, the state of the economy, local and global markets, government policy – especially monetary policy relating to interest rates, business confidence and speculation in land. Blundell (1993:13) adds fertility of the land, the presence of minerals, ease of communication, proximity of towns and the kinds of use permitted by planning and other environmental legislation.

Individual perceptions about the relative importance and influence of these factors vary enormously. Similarly, individual perceptions about the benefits to be obtained from land or buildings also vary. Potential purchasers will pay for potential benefits arising from:

1. Enjoyment of existing buildings and sites in their current use.
2. Improvements to existing landed property incorporating physical alterations, extensions or changes of use.
3. Development on land that has not previously been developed (known as greenfield sites).
4. Development of cleared urban sites that previously contained buildings (referred to as brownfield sites).
5. Partial or total redevelopment of urban sites with new buildings in previous or new uses.

6. As an investment where the intention is to retain existing landed property or land and receive rental income from it.
7. As an investment where the intention is to retain land or buildings and to sell at a profit at some future date with or without the benefit of planning permission for development.

From the above it is clear that the price a site will command does not depend on its existing use but on its potential use. Blundell reinforces the point:

> People will often pay a great deal of money for a piece of land which is more or less derelict, because they think that they can use it in a way which will bring them profit. (Blundell, 1993:5)

Alongside this, there are important economic considerations to be taken into account. One of the primary aims of land value taxation is to encourage landowners to use land more efficiently. The theory is that by taxing land (the natural resource upon which all human activity depends) and not buildings and other man-made improvements (i.e. capital in economic terms), it will encourage landowners to use it to better effect. If there is a charge on the land, irrespective of what it is used for, there will be an incentive for the landowner to make better use of it in order to obtain a financial return. If it remains unused, and possibly even under-used, the outgoings would exceed the income and it would be unprofitable to hold on to the land without doing something to it. The rationale is that if land is put to its highest and best use then this would be the most rewarding for the owner. It would also, in theory, result in the most efficient use of land for the community.

Different writers have given credence to this. Lichfield and Connellan (1999) state that it would encourage development at the right time in the right place. Peddle adds:

> In general, the site should be assessed according to its highest and best use, rather than being assessed on the basis of the use or non-use to which the present owner is now putting it. (Peddle, 1994:158)

He further comments:

> Highest and best use is based on the *capacity of the land to serve*. Capacity to serve is measured in terms of the highest currently economical use and not a use that may become economical at some future date. (Peddle, 1994:158)

Another important economic consideration relating to highest and best use is that if the charge on land was based on existing use rather than potential use the incentive to make better use of land would disappear. This is because such a tax would encourage landowners to leave unused sites idle and not put them to good use. A nil use would result in a nil tax liability and a nil contribution to the community (either in terms of tax

revenue or in any other terms). There is, therefore, an economic need for LVT to be based on potential use which is why town planning requirements become important.

Interpreting the Legal Requirements of Town Planning

Town planning can be said to operate to create a more effective and more equitable use of land alongside the economic arguments for greater efficiency. The Government has stated (Department of the Environment (DoE), 1992:1) that the broad objective of town planning is to regulate the development and use of land in the public interest. This enshrines the general character and purpose of planning in the UK, although more specific statements are often used. Examples are: 'to encourage the development of land'; 'to protect the environment'; 'to ensure that development is sustainable'; and 'to reconcile conflicting interests in land'(Cullingworth and Nadin, 2002:2). Other objectives can be added to this list.

In pursuit of these objectives the process of planning today encompasses: the setting of objectives for the use of land; the formulation of land use policy; the regulation of development in accordance with that policy; a means of evaluating outcomes; a process of review and updating of policy; and the involvement of the general public in each of these stages. The nature and extent to which each of these steps have been incorporated into planning legislation has varied over the years and no doubt will continue to vary.

Planning law is currently to be found in the Town and Country Planning Act, 1990 (TCPA 1990) as amended by the Planning and Compensation Act 1991 (PCA 1991). A new Act is to be introduced in 2004 but for the time being and for the purposes of this study – which is focused on 2001 (Census Year) – the 1990 Act is the appropriate legislation.

Section 70 of the TCPA 1990, which repeats the wording contained in the 1947 Planning Act, states that the local planning authority, when determining any planning application for development "shall have regard to the provisions of the development plan, so far as material thereto, and to any other material consideration" (s. 70 TCPA 1990).

It is these two matters which need to be addressed.

<u>The Development Plan</u>

The legal requirement stated above implies that the development plan be given equal weighting with other material considerations when LPAs determine development proposals. This was, in fact, the situation at the time of both Whitstable studies and continued for some time thereafter. Government advice, contained in Circular 14/85 Development and Employment, was that the development plan was only one of the material considerations to be taken into account and should not be regarded as overriding other relevant factors. The Circular went further:

> There is therefore always a presumption in favour of allowing applications for development, having regard to all material considerations, unless that development would cause demonstrable harm to interests of acknowledged importance. (DoE, 1985:1 – their italics)

For the calculation of land value, such sentiments, without an understanding of what might constitute a material consideration, would have created uncertainty. However, in 1991, a new section (54A) was inserted into the TCPA 1990 by section 26 of the PCA 1991. This is still valid and states:

> Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. (Section 54A TCPA 1990)

This requirement signifies a major shift in thinking towards a presumption in favour of development which accords with planning policy contained in the development plan. This was made clear by the Government in 1992 (DoE, 1992: para 25) and expanded upon in 1997:

> Those deciding such planning applications or appeals should always take into account whether the proposed development would cause demonstrable harm to interest of acknowledged importance. In all cases where the development plan is relevant, it will be necessary to decide whether the proposal is in accordance with the plan and then to take into account other material considerations. (DoE, 1997:7)

These statements suggest that it should be relatively straightforward to assess development potential and hence development and land value at different sites and that the earlier uncertainty would be reduced. The situation, however, is not that straightforward.

<u>Other Material Considerations</u>

A major difficulty regarding the impact and effect of 'material considerations' is that this phrase is not defined in the planning Acts. There is also uncertainty regarding the weight to be attached to such matters in the determination of planning applications. The classic case is Stringer v Minister of Housing and Local Government [1970] in which Cooke J, in upholding a decision to refuse planning permission, stated:

> It seems to me that any consideration which relates to the use and development of land is capable of being a material consideration. Whether a particular consideration falling within that broad class is material in any given case will depend on the circumstances.

The Government in PPG1 General Policy and Principles (1997) expands the point further:

> Material considerations must be genuine planning considerations, ie they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest. The considerations must also fairly and reasonably relate to the application concerned (*R v Westminster CC ex parte Monahan 1989*). Much will depend on the nature of the application under consideration, the relevant policies in the development plan and the surrounding circumstances. (DoE, 1997: 9)

From the above it is clear that the term 'material considerations' can be wide ranging and that it is not always clear as to what may reasonably constitute a material consideration. On the other hand, the courts, precedent and common sense do provide an extensive guide. Over time, judicial authority has judged on a variety of matters and a body of knowledge is now available to help assess whether a particular matter is material or not. For the purposes of this research, material considerations are divided into three broad areas. These relate to:

1. The development itself
2. Policy considerations
3. Other external planning matters

Among the considerations relating to the actual development itself these commonly include: the siting of buildings; their area; layout; number; height; mass; design and external appearance; means of access and landscaping. Similar considerations can apply to other structures and engineering works. Where changes of use are proposed, additional relevant matters may include the nature, extent (temporal and physical) and intensity of the new use or uses.

Policy considerations can also be important. Notwithstanding that there will be a development plan, two other aspects of policy can impact on development potential and land value. One is central government policy. The other is other policy guidance issued by the local planning authority.

Central government policy is primarily to be found in Planning Policy Guidance Notes (PPGs) and Circulars, although Planning Policy Statements (PPSs), which are new, are now being issued. The former have been held by the Courts to be material considerations which must be taken into account, where relevant, in the determination of planning applications. (e.g.: *R v Pool Borough Council, ex parte Beebee* (1991), of *Worth Ltd v Wyne Forest District Council* (1991)). A total of 25 PPGs have been issued and deal with such matters as nature conservation, the historic environment, renewable energy, pollution control and noise. All of these may be material depending on the circumstances.

Policy considerations of a local nature are generally referred to as Supplementary Planning Guidance (SPG). Issued by local planning authorities they tend to reinforce or expand on policy contained in the development plan. There are two main types.

The first is site specific. Often called a 'planning brief' or a 'development brief', they spell out detailed policy requirements for a particular site or area. They are prescriptive in nature providing information on, for example, the size and type of development that will be allowed, where access is to be gained, car parking standards and so on. They tend to be prepared where development is anticipated either as redevelopment or at a greenfield site. Even where these policies are in draft form they can still be important. For instance, if a brief or other SPG has been through a public consultation exercise and has subsequently been adopted by the LPA as part of its policy for regulating development then this could be an important planning consideration (DoE, 1997: 9) and, as a consequence, affect the value of the land.

The second type of SPG is subject specific, that is, it will relate to a particular type of development or to one or more aspects of development. Examples include: guidance on caravan sites; a residential design guide; or a shop front design guide. These may or may not be relevant in the assessment of land value.

Finally there can be other external matters of a planning nature that will impact on development. Significant among these are:

1. The character of the site and abutting land. The use(s), size and siting of surrounding buildings may dictate the height, position, design and scale of new buildings. Trees at a site or on adjoining land and whether there is a building of special architectural or historical interest (a listed building) at the site can also be important because of their ability to limit development.
2. Other planning decisions. Applications for similar development at a site or in the locality or for other development at the site to be assessed would need to be taken into account, particularly in respect of appeals that had been either upheld or dismissed. The former could indicate an uplift in land value, the latter a downshift.
3. The character of the area. Depending on the nature of this character, the value of sites can be affected. For example, the designation of urban land as an area of special archaeological or historical interest (a conservation area), the overlooking of a park or other open space, a run-down or neglected area and the general scale, design and use of buildings could all have an effect.

From the above it is evident that whilst decisions on planning applications should be in accordance with the development plan there will be occasions when this will not be the case. Some decisions will vary from the plan depending on the nature, extent and strength of other material considerations. The methodology, therefore, needs to focus on the

policies of the development plan and on the variance from it caused by the material considerations.

Planning Methodology for Whitstable

In order to assess the impact of planning on development potential and hence land values it will be necessary to examine both the development plan for Whitstable and other relevant planning documents for the town. The starting point is the local plan produced by Canterbury City Council, the local planning authority for Whitstable. This will be followed by an examination of other documents and records of planning importance.

The Development Plan

In respect of the development plan two matters are considered important. The first is what the plan includes in its written statement and shows on maps for Whitstable regarding the potential for development. It will either allocate land for development or it will not. For the former, it is envisaged that only a small proportion of sites will be zoned for specific purposes (e.g. residential development or public open space) and that the presumption is that development or use in accordance with the zoning will be allowed. The land will be valued on this basis.

Where land is not shown as being allocated for development – this will apply to most of Whitstable – the initial presumption, for the vast majority of sites, will be that the existing use will continue and that the land should be valued accordingly. It is anticipated that many residential areas will fall into this category although other material considerations, reported below, may well affect some sites. These considerations could alter the initial presumption.

The second matter relating to the development plan that we intend to investigate is the extent to which decisions on planning applications vary from adopted planning policy. The methodology is based on the fact that many decisions of local planning authorities are straightforward, in that they can be seen to be in accordance with the plan, whilst others are not. It is the latter that need investigating.

Most, if not all planning authorities, adopt a system of delegation for determining planning applications. This is where many decisions of the authority are delegated to the chief planning officer (CPO) for determination without recourse to the planning committee. The committee, made up of elected councillors from the authority, is the responsible authority but, in terms of dealing with simple and uncontroversial applications, a system of delegation is put in place so that committee members can concentrate on more important matters, on the understanding that the CPO would refer controversial matters – such as a conflict with the development plan – back to the committee for a decision. Standing Orders of the authority will normally specify the

circumstances when this should be done and this is, in fact, what happens at Canterbury City Council.

For the purposes of this research, the intention is to examine the applications determined by the planning committee during the study period of 2001. The objective will be to establish the extent, if any, to which the authority has departed from established planning policy for Whitstable and to use the results to assist in the calculation of land values.

Other Material Considerations

Whilst the development plan is of prime importance in the assessment of development potential, other material considerations are still important because they can affect this potential irrespective of whether proposals are in accord with the development plan or not. The plan cannot cover all eventualities concerning the use and development of land, particularly in respect of detail. For example, whilst it may specify that trees subject to a tree preservation order (TPO) shall be protected, it will not, in all probability, specify the details of the trees and the impact their preservation will have on development potential. This could be substantial and adversely affect what may be constructed at sites. Conversely, trees subject to a TPO could enhance the value of sites and neighbouring land.

Other material considerations, therefore, need to be considered for their positive and negative effects on land value. For the purposes of this research, they need to be investigated solely with this in mind and, because of the primacy of the development plan (required by section 54A of the TCPA1990), subsequent to it. Thus, whilst the range of material considerations can be very extensive, it is considered, for this research, that it would be more appropriate to examine them under the following four headings.

1. Other Planning Guidance
2. Extant Permissions
3. Character of the Area
4. Limitations of Sites

Other Planning Guidance

Earlier in this Report, it was stated that policy separate from the development plan is to be found in government documents (e.g. PPGs) and supplementary guidance (SPGs) produced by the local planning authority. Both will be investigated for their possible effect on development at Whitstable.

Extant Permissions

When planning permission is granted by a LPA or on appeal by the Planning Inspectorate, the permission is normally valid for a period of five years. The legal

requirement in the vast majority of cases is that development must commence within five years of the date of the grant of consent after which the permission becomes invalid and cannot be implemented, unless permission is renewed.

This means, in theory, that all applications determined in the five year period prior to the study year of 2001 ought to be investigated. On the other hand, as many applications are minor in nature and unlikely to have any significant effect on land value, it is considered that it would be an unnecessary use of our limited resources to investigate all applications. At most, it is considered that any investigation of past decisions by Canterbury City Council ought to be limited to those applications presented to Committee. The alternative will be to await the results of the investigation into those applications presented to the planning committee in 2001 and then decide on the most appropriate course of action. It is this latter approach which we propose to adopt.

Character of the Area

It is recognized that the character of an area can affect land values and that this character can be affected by and in turn affect planning decisions. Density, the use and type of buildings, visual and residential amenity, urban design and the appearance of buildings are among the matters which can affect what is proposed at individual sites and the decisions made on them. As part of the research, where land has been allocated for development, judgements on the potential for development will include consideration of the character of the area in assessing potential adjustments to land value.

Limitations of the Site

In the same way that the character of an area can affect what is built at sites, so the characteristics of sites to be developed can also have an impact. Significant among these will be the topography of the site including degree of slope and liability to flooding. Similarly, any TPOs or whether there is a listed building on the site will affect what can or cannot be built on it. The research will, therefore, examine the records of the authority to establish which sites may be affected by these matters. The information will then be used to help assess land values.

Conclusions

As planning can have a significant effect on land value, it becomes necessary to examine what development may or may not be allowed by the planning system at different sites. The primary influence in this is the development plan but, as the maps attached to it do not indicate specific uses for many sites, the investigation also needs to focus on other planning documents. The main ones will be the PPGs issued by the government, SPG adopted by the local planning authority, appeals determined by the Planning Inspectorate and other planning documents held by the authority. These will identify which buildings

are listed for their special architectural or historic interest, the extent of any conservation areas and where there are tree preservation orders.

Once all the relevant documents have been examined the research will then focus on those sites identified as being affected by the above investigations. The outcome will be to identify and apply an appropriate adjustment to the unit value for each relevant site or landed property.

Part 6 - Valuation Methodology

Introduction

This section of the report discusses valuation methodology from a range of viewpoints. Thus:

1. The 'traditional' methods of valuation used by the valuation profession are investigated in the light of the need to provide a value for land taxation purposes.
2. The methods of valuation recommended by relevant literature dealing with Land Value Taxation are discussed.
3. The methods used by Wilks in both of his studies is described in the light of his experience and the issues which were prevalent at the time.
4. The proposed methods to be adopted by the current research are presented and critically analysed.

There is a range of underlying or ancillary issues connected with valuation – both the basis of valuation and the process and some of these are briefly discussed below.

The English Property Market

The nature of the property market, and also what market evidence is available to the valuer is significant to achieving an accurate and reliable basis of valuation which is capable of being defended in a judicial hearing. It is also vital that in these days of increased consumerism and focus on human rights that such information should be comprehensible to the taxpaying public and one which allows them to make realistic judgements on the equity and fairness of the taxing process and the resulting tax liability.

According to Hicks (1970:13), in advocating LVT, George was assuming (amongst other things) "That valuers would always be well supplied with evidence of bare-site sales, so that sites which were already built up could be valued easily by analogy."

Within the UK, government policy, as administered by the local planning authorities, seeks to prevent widespread development on previously undeveloped land. Current policy is devised to ensure the development of previously used land (brown field sites) and, in certain locations (such as conservation areas), the retention of existing buildings

or facades together with appropriate and sympathetic physical adaptations and changes of use.

Thus, there is likely to be little evidence of sales of bare sites for the full range of property uses for development purposes. Methodologies are therefore necessary to adapt the sale prices of improved land in order to have a site value on which to levy taxes.

> As an area gets built up, so that bare-site sales hardly ever occur, the reliability of analogizing [deducing the value of sites from the sale of one site only] breaks down, and it is unavoidable to attempt to derive site values from sales evidence of land and buildings together. (Hicks 1970: 18)

It is clear from Wilks' study (refer Part 3) that he was not uncomfortable with the technique of deriving land values from sales evidence of improved properties and gives details of a process of "stripping away" the value (or cost) of buildings from the sale of the entire property.

However, many judicial decisions (e.g. *Downin, Newnham, Churchill & King's Colleges, Cambridge v. City of Cambridge and Allsop (VO)* 1968 and *Eton College (Provost and Fellows) v. Lane (VO) and Eton Rural District Council* (1971) indicate that this is an artificial process. It has no foundation in the open market and is therefore likely to lead to a tax base which would be incomprehensible to the taxpaying public and one which is uncomfortable for valuers to defend.

Degree of Accuracy

This involves the degree of accuracy with which the tax base is required to reflect the market. Within England, there are currently two tax bases, one applied to non-domestic hereditaments and one applied to domestic hereditaments. The tax base applied to non-domestic hereditaments is based on discrete valuations to a net annual value of each and every non-domestic hereditament in the country. The level of accuracy (which can be tested at court) is, of necessity high, being based on relevant data required by statute from owners, occupiers and lessees of such hereditaments and analysed by the Valuation Office Agency for the production and maintenance of quinquennial revaluations (refer Appendix C).

The tax base for domestic hereditaments is a banded system in which all such properties are allocated to one of eight value bands, as at 1 April 1991 according to their capital value (refer Appendix C). It is significant that the valuation date was some twelve years ago, and that the English residential property market is highly volatile. The level of accuracy required for such a banded system is much less than that required for the discrete valuation, such as that used for non-domestic property. Indeed, they were not in fact "valued" as practitioners normally interpret the term.

This indicates the extent to which the English taxpayer will accept a range of different levels of accuracy for tax bases. Indeed, it is clear that the English tax paying public have a wide tolerance of degrees of accuracy for tax bases, although it is also clear that a flat rate poll tax is not at all acceptable (refer, for example, Plimmer, 1998).

In establishing an appropriate degree of accuracy consideration should include the ability of the valuation methodology(ies) to achieve a true and provable level of taxable values – although it must be recognised that the proof of such accuracy lies in the decision by an appropriate court, based on a quantity of suitable and reliable market evidence presented by expert valuation witnesses, rather than an actual open market transaction. Such evidence must rely on the frequency with which unimproved land is sold and the range of uses for which such land is available, as well as the ability of valuation methodology to use sale prices for improved property either as a surrogate for land values or as a starting point in order to deduce land values by, for example, "stripping away" the value (or cost) of the buildings.

Technical Adequacy

There seems little argument that whatever the details of a land value tax, it must be capable of providing sufficient revenue to support a similar level of revenue currently provided by the property taxes which are to be replaced. Issues of buoyancy, yield, technical efficiency and an absence of regressivity are basic requirements, without which any proposed reform is likely to go no-where. Indeed, it can be argued that it is not enough to extol the virtues of a new taxation system; it is necessary to demonstrate the absolute advantages which the new taxation system will have over the old one. This is particularly so if the necessary political and public support[26] are to be recruited and reform is to be achieved to overcome any inertia and perceptions perhaps of 'better the devil you know, than the devil you don't know'. It is also considered especially important if the change over is likely to be expensive, confusing and disruptive, despite any long-term benefits.

Rating of Owners

There is a long tradition and therefore a public acceptability and a tried and tested process in place of levying rates (and Council Tax) on occupiers of landed property. In rare situations (e.g. empty property and where occupiers are transient), an owner is liable for tax under the current system. However, if the property is occupied, this shift in liability is made only where it is considered to be cheaper and more convenient to the collecting authority to seek payment from the owner rather than the occupiers. Indeed, it is anticipated that the owner will increase the level of rent charged to the occupiers to cover the rates bill.

To shift the liability and burden of a property tax to owners would have huge implications for the management of the tax. It must be speculated that there are (in

quantity) dramatically fewer landowners in the UK than occupiers.[27] There is also speculation that a significant proportion of owners of UK property reside overseas and such a situation means that collection of ownership taxes may prove difficult and therefore expensive.

Although not part of this research, it should be noted that any form of LVT introduced into the UK should include provision to ensure that the liability and the burden of the tax is placed on owners and is achieved in the most cost-effective and simple way possible.

Levels of Tax Raised

The UK government has made it clear that annual increases in the Uniform Business Rate (UBR) which is applied to non-domestic property cannot exceed the level of inflation (even on the occasion of a revaluation, when no more revenue will be raised than that raised in the previous year, subject to inflation). Similarly, while local authorities are given the freedom to fix their own levels of Council Tax, central government reserves the right to limit the level of Council Tax to be raised to ensure that excessive levels of tax are not imposed. Thus, it can be assumed that any shift in LVT will not permit a greater level of tax than that currently imposed. LVT will, therefore cause a shift in tax liability between tax payers (because of the shift in tax burden from occupiers to owners); between property sectors (because of the bringing into taxation of land which is currently not liable to tax) and geographical areas (which will reflect both of the above) but will not permit any more revenue overall to be raised.

Valuation Methodology – Methods in Principle

There are a number of methods of valuation currently used to value landed property in the UK, not all of which are used for rating purposes, but all of which are based on an element of comparison. These can be listed as:

1. Investment or rental method
2. Profits method
3. Contractors method
4. Residual method

Although not a method of valuation, the use of formulae is a device imposed by law for arriving at a taxable value for certain property types and so merits discussion.

Of the remaining valuation methods, each tends to be used for specific property types to reflect certain (normally) market-related conditions or when certain assumptions are made.

A critical overview is given below of these methods of valuation; where greater detail is considered appropriate, reference should be made to such texts as Emeny & Wilks

(1984), Plimmer (1998) and Scarrett (1991). Specifically the potential of each of these methods to produce a land value is considered.

The consideration of these methodologies is important because each has attached to it a degree of familiarity and experience for valuers, understanding by the judiciary and acceptability by the British public. It is not anticipated that these methods of valuation will all be appropriate to assessing the value of land parcels for the purposes of LVT – indeed, it should be axiomatic that the methodology for arriving at the taxable value is driven not by the methodologies, but by the data available. However, Wilks identified an absence of experience (both as a valuer and within the judiciary) as a problem which he encountered in his studies.

Indeed, there are a number of potentially conflicting issues which will need to be taken into account once sufficient transactional data is gathered to be analysed. These include the need to base any taxable value on open market transactions, which are clearly and publicly available (so that the taxpayers can comprehend both the 'what' and the 'how' of the valuation process and its outcomes); and the need to use methodologies which are familiar to both valuers and the judiciary and which can be used, tested and determined with confidence (thereby avoiding costly and lengthy court cases).

It is, therefore, logical to consider valuation methodologies which are currently in use (and therefore familiar to all concerned) before embarking on methodologies which are, essentially, untested. The following sections examine the traditional methods of valuation used for rating purposes, in the light of their potential for LVT.

Formulae

Formulae are laid down in statutory instruments and are applied to the operational property occupied by (what used to be known as) statutory undertakers. Thus, operational property occupied by providers of such services as electricity, gas, water and certain transport operators have their rateable values provided by a mathematical formula, for which no valuation skill is required:

> The use of a formula does not involve valuation in the generally accepted sense of the word. It merely lays down an arithmetical method of finding the . . . value for certain hereditaments. (Emeny & Wilks, 1984:163)

One of the perceived problems with imposing tax liability using a formula is that there is no way to demonstrate that their use results in the taxpayers shoulder their share of the tax burden, based on the value of their properties, in the same way that other taxpayers do. Despite UK government commitment to value such hereditaments using conventional methods, this has not yet been achieved nor have recent attempts to achieve such an outcome been successful.

Nevertheless, where open market evidence is lacking or where it is appropriate to use some non-market basis for fixing a tax base, the use of formulae may be considered. In principle, its use has achieved a level of acceptance in the UK to a non-market-base for assessing local authority revenue and this may have implications for the current research.

The use of a formula to arrive at a value on which to levy LVT has the advantage of simplicity but the disadvantage of artificiality. A degree of artificiality may be acceptable if the formula adopted was based on the market value of property. Most property in the UK sells in the open market for a capital sum. For those properties which are let at an open market rent, a capital value can reliably be produced by normal valuation processes. It would be entirely possible to assess a land value based solely on a specified percentage of an open market capital value for the land and buildings, such a percentage being based on a provable relationship between the capital value of land values and the capital value of land and buildings.

This has the advantage of being based on actual market transactions and transparency. There would also be flexibility to vary the percentage adopted should decisions be made regarding levels of relief from tax. There would, however, be the disadvantage that the tax was not directly assessed on a land value, merely on an assumed fraction of the value of the whole developed property and this may be something of a corruption of the original LVT principles for many advocates of the system.

For those properties which are not normally transacted in the open market and for which a contractor's test is generally employed, it may be necessary to devise an alternative methodology, which could also be based on a formula.

Future work proposed for this research will be to test the extent to which a range of potential methodologies are acceptable to stakeholders.

Investment or Rental Method

The current basis of taxing non-domestic hereditaments is the rateable value, which is a net annual value, based on market evidence. For the majority of non-domestic property types (specifically shops, offices, normally non-specialist industrial and warehouse premises), it seems that there is little or no problem in using the evidence of the market to arrive at rateable values because the majority of these property types are either rented or sold in the open market. The use of a rental method, based on rents passing in the open market is, therefore, highly appropriate, provided that there is a volume of suitable and reliable market evidence on which to base such a value.

There is a recognised process which valuers adopt to test and, if necessary, adapt passing rents so that they equate to the definition of rateable value (a net annual rent). Adjustments may be necessary for variations in the length of the lease, outgoings, the payment of a premium or similar capital sum in consideration for a reduced rent, rent-free

periods and service charges (refer, for example, Emeny & Wilks, 1984: 186-207; Plimmer, 1998:80-84).

However, the UK commercial market is not exclusively a rental market and recognising the relationship between rent passing and capital, valuers have developed skills in analysing market transactions of capital values in order to arrive at a rental equivalent, which allows for both rental and capital values to be used to support a rateable value for the majority of commercial property types transacted in the market.

Obviously, where open market evidence is available for the rental and/or capital value of an area of undeveloped land, valuers would have no difficulty in using this information to provide a value for the site and this would be highly relevant to the assessment of a land value tax base.

However, it must be remembered that in England public access to transactional data is not permitted and it is only the Valuation Office Agency which has details of all transactions in landed property, together with an array of survey data for buildings, including internal accommodation and the statutory right to inspect. When Wilks undertook his survey, he was able to use his personal contacts to gain access to transactional data. This research is not likely to have the opportunity either to verify the transactional information or match this with detailed survey information, so the quality of the data is limited.

Setting aside the availability of market evidence, Wilks used his market transactions to provide evidence of both rental and capital value. Although it is poorly recorded, he used techniques aimed at removing the value of the buildings on the land, and thus arrive at the value of the land. The use of open market transactions as a basis for such a technique is generally considered crucial for the public and professional acceptability of the tax base.

Wilks' studies used a rental value or ground rent for the land as the rateable (taxable) value. This is a practicable outcome for the research, but it is anticipated that subsequent research will be necessary to test the extent to which the public understand the meaning of and the value associated with a ground rent as a tax base.

Profits Method

Profits are not taxable within the UK rating system, but on the assumption that the ability to earn profits will give a guide to the level of rent which might be achieved for a particular property, the use of a profits method is accepted by the courts to assess the rental value of properties with a trading potential. The method is normally employed when there is no useful rental evidence available and is generally applied to properties with a legal or factual monopoly, such as petrol filling stations, public houses and caravan sites.

The method assumes that an occupying trader will assess the level of rent payable based on the income and expenditure which the business generates, and having allowed for a suitable level of profit (refer Emeny & Wilks, 1983: 173 – 182; Plimmer, 1998: 65 – 92).

Because the profits method of valuation relates solely to the trading potential of the business for which, generally, a licence is required, and has no direct link to the nature of the land and buildings itself, the method is unlikely to have any relevance to the assessment of a land value and is, therefore, not discussed further.

<u>Contractors Basis</u>

The contractor's basis or contractors test assumes that value and cost are closely related.

According to Emeny & Wilks:

> The contractor's method of valuation is based on the valuation fallacy that 'cost is value' i.e.: that because a property has cost a lot of money to build, it would be necessarily let for high rent. This is plainly not so. The reader will no doubt be able to call to mind a property which if it were to be constructed today would prove very expensive, but for which there is little demand and which would in consequence let at a low rent. (1984:172)

As a method of valuation, it involves estimating the replacement costs of the building and adding them to the value of land. The building costs are reduced to reflect the age and disabilities of the subject building (to arrive at the effective capital value or adjusted replacement cost) (Scarrett, 1991:170).

Traditionally, the contractor's basis is applied to properties which are rarely available in the market – they tend to be owner-occupied specialist properties, such as schools, libraries, fire stations, football stadia, industrial premises and plant and machinery.

For existing taxation purposes, the value of the land included within the contractors test is estimated at its existing use value (*rebus sic stantibus)* and, in order to produce an annual rental value, a decapitalisation rate, laid down by statute, is applied. Current decapitalisation rates are 3.67% for certain non-profit-making educational hereditaments, hospitals and maternity homes and 5.5% for all other hereditaments (Plimmer, 1998: 97).

Citing well recognised valuation principles, Scarrett (1991:171) states that "cost and value make particularly bad bedfellows" and that "not surprisingly the approach has been described as a 'method of last resort' to be used only where other methods are inapplicable or impractical. Court decisions on the use of the contractors test in rating abound with concerns about the assumption that cost and value are related also the stages involved in the process. The contractor's test has been described as "a poor best" and the

Lands Tribunal has criticised "the artificiality of the approach" (*Downing, Newnham, Churchill and King's Colleges, Cambridge v. City of Cambridge and Allsop (VO)* 1968). Thus, the reliability of this method is suspect.

In *Cardiff Rating Authority & Cardiff Assessment Committee v. Guest Keen Baldwin's Iron and Steel Co. Ltd*. (1949) Denning LJ, said (p. 394):

> Even when the contractor's basis is taken, the assessment on that basis is open to great variations up and down . . . the possible variations may become so great that the contractor's basis ceases to be a significant factor in the assessment. In such a situation the tribunal of fact may prefer to take some other basis.

Its use in rating can be justified on the basis that, in the absence of any better methodology, it can be accepted that the objective of the valuation method is not to arrive at an accurate market value (such as will be tested and proven in an open market sale) but to provide a value on which tax can be levied. In such cases, issues of comparability of assessment and equity in tax demanded may take priority over the niceties of valuation.

Thus, the courts and therefore rating valuers are reluctant to use the cost-based approach but are keenly aware of the need to use it only in the absence of something better. The extent to which the method can be adapted to provide a site value based on removing the value of the buildings on that site is an issue for this study.

If a property is newly constructed, and the use reflected both highest and best use of the land in accordance with the planning policy, then in the absence of information to the contrary, it must be assumed that the decision to construct was one taken on a sound financial basis. In such a case, the use of a contractor's test to deduct the (actual) costs of construction in order to arrive at the (highest and best use) value of the land makes sense. It is when valuers are required to use their imaginations to make deductions, for example, to reflect the "age and obsolescence" of the building that the method loses any theoretical or practical reliability.

As referred to in Part 3, Wilks used a methodology to arrive at the capital value for land based on an implicit assumption that the "value of the bricks and mortar" could be "stripped off" from the value of the whole by the deduction of the "cost of construction" to produce a capital value for the land which had to be converted to an annual value ". . . without factual evidence of the relationship between the two." (Land Institute, 1974: 8) Unfortunately for this study, there is no evidence in the reports as to how in fact this "value" was "stripped off", but it is clear that Wilks was satisfied with the outcome and therefore, presumably, the methodology.

Later in the study, Wilks adopts a process of isolating a value for buildings based on a market transaction of land and buildings. Such a variation on the contractors' test is much to be preferred as a matter of principle. Although the most important test is, of course,

that of the market place and it is unclear to date to what extent such a methodology has been used outside the Whitstable Studies.

Residual Method

The residual method of valuation is not normally used for property taxation purposes in the UK. It is used:

> To provide a valuation of undeveloped land or of land having an obsolescent or otherwise unsuitable building where the site is ripe for redevelopment . . . [because] the market is likely to relate the value of the land to the level of profitability of the development. (Scarrett, 1991: 125)

This method works on the principle that, deducting all costs involved in constructing the building and any external works (e.g. access roads, landscaping) from the gross income of the completed development and allowing a reasonable level of profit for the developer, an indication can be given of how much the developer can afford to offer for the land.

Difficulties arise in the use of this method because of the estimated figures involved. For examples, the premises have not yet been built, rents are as yet not negotiated and plans and costs are tentative. (ibid.: 126), so construction costs and rental returns included in the valuation are tentative only. Variations in any of these figures will cause changes in the purchase price and therefore the value of the land.

Once the land has been purchased and the construction process is underway, the use of computer-based spreadsheets or development appraisal packages allow for such rents and costs to be varied during the construction/marketing phases of the development to reflect market changes. This can mean that, by the date of completion, the price paid for the land exceeded what should have been its value under the assumptions made in the methodology. Thus, it is the sheer unpredictability of the items to be included at the point of purchasing the land which makes this method unreliable as a device to value land for development purposes.

This is not a method currently used to value for taxation purposes in the UK, because undeveloped and vacant land is not taxable. Traditional UK rating principles require that taxable property must be (amongst other things) actually occupied and capable of commanding a rent (refer, for example, Plimmer, 1998: 12 – 22). Vacant land is (almost by definition) neither of these.

However, if land value taxation were introduced into the UK, the use of the residual method of valuation would be potentially a useful valuation method and, it can be speculated, hardly less predictive than a cost-based contractors test approach. Indeed, the residual method has the advantage of reality in that it is the method actually used by developers to value land suitable for development. The extent to which it can be adapted

and the inclusion of a level of developers' profit within the method needs careful consideration.

Valuation Methodology for the Whitstable Study

Despite the undeniable importance of a range of issues of securing the primary fiscal canons of economic neutrality and distributional equity (refer Holland, 1970: 3), it is recognised that the process of valuation used to arrive at the taxable values of land is fundamental to the accuracy and therefore the efficiency, effectiveness and therefore the social acceptability of any system of Land Value taxation.

A number of issues affect this process, including the number, education, competence, organisation and resources given to the valuation profession which undertakes the work (refer, for example, Copes (1970: 74)), the nature of the property market, the availability of appropriate data, and the legislative, technical and administrative support for the valuation process, most of which have been discussed earlier.

Ultimately, there are three major viewpoints to be considered in discussing the suitability and reliability of valuation methodology: the valuation profession; the politicians and the public. All of these will be consulted in further work.

Part 7 –Conclusions

Introduction

This report has discussed the attempts to introduce land value taxation into the UK and the background of planning controls against both of which the Whitstable Studies need to be considered. The Whitstable Studies were exclusively a valuation exercise to assess the practicability of (or perhaps more usefully the problems involved in) creating land values on which a land value tax could be levied.

Issues which were not included in the report include the arguments for and against a land value tax in the UK and also the robustness of the British planning system to support a land value tax.

We have followed the lead of Hector Wilks by not including the arguments for and against a land value tax in the UK. These are well documented elsewhere. However, we have expanded his remit to include an investigation of the appropriateness of the planning system to support a land value tax.

The Updated Whitstable Study

Data Issues

Data issues have been documented in Part 4 above and include the discrepancy in forms of address used by the various organisations which have been providing data to the research. It is anticipated that forthcoming site visits to Whitstable will be used to clarify specific issues which have arisen.

The issue of deriving site areas from MasterMap® is being addressed by GIS experts and must be resolved if the use of 'modern technologies' in the methodology is to proceed. This, of course, has implications both for this study and for the technological advances which the British government is proposing for future taxation administration.

Valuation Issues

It is clear that this study will need to adopt Wilks' approach to the gathering of transactional data and, depending on the nature and extent of this data, a range of methodologies will be used to arrive at a value for the land parcels within Whitstable. These have been discussed in Parts 3 and 4.

A database will be developed for each parcel, containing all attributes material to the value of land and these will form the basis for testing both the methodologies and the resulting values, which can then be presented to a range of stakeholders for their critical examination (in Year 3).

Planning Issues

As planning is recognised as being a key factor in the determination of potential value of land, the main issue is one of assessing the highest and best use of individual sites. It is where the development plan and other planning considerations become important. Both present problems, as explained in Part 5, which concludes with a proposed methodology for dealing with the problem. This will be tested and assessed in Year 2.

Future Work

The primary objectives and hence the programme for year two are as follows:

1. Critique of the methodology used in the 1973 Whitstable study in the light of the data limitations and the outcome of the valuation process already undertaken, in the light of which, a larger database will be developed, based on transactions outside the study area and properties re-valued accordingly.

2. Comparison between different tax liabilities: One of the stated aims of Government is to maintain the present level of revenue collected through landed property taxes. This means that if LVT is to replace both the existing Council Tax and Uniform Business Rate that differences in terms of what taxpayers pay will occur. Similarly, there will be a shift in tax burden from the occupier to the owner, which will have a significant impact in some property sectors (although this is unlikely dramatically to affect the residential sector). The aim will be to establish the nature, extent and location of these differences.

3. Investigation will continue into the robustness of the current planning system to support a real property tax system based on "highest and best use".

In the UK virtually all building work and changes of use of landed property require planning permission from the local authority. This has been the case since 1947 and there is now a comprehensive planning system in operation throughout the UK based on a series of plans and policies. This means that all new development must be in accordance with planning policy adopted and published by the local planning authority (unless exceptional circumstances dictate otherwise) and that this will form the basis, in the vast majority of cases, for assessing highest and best use of landed property. Where this is not the case it will be necessary to take into account current use, extant permissions and planning history in the assessment of highest and best use.

It is anticipated that the primary audience for this research will be those who are interested in or studying or contemplating the introduction of land value taxation, particularly in the UK or who are interested in securing other reforms, such as the introduction of Business Improvement Districts (BIDS) and for which a LVT would be an important factor. In addition, those involved in or contemplating the use of LVT overseas will find this case-based research of immense value as a practical example of LVT, over an extended timeframe. Their interests are likely to range from:

- A need to know what the process involves.
- How LVT shifts existing property values and taxes between owners and occupiers.
- Methods available to establish land values within the UK social and economic environment.
- The possible effects of applying different tax rates on different types of property.
- How to improve understanding of the potential of LVT for raising revenue, encouraging regeneration and other related improvements.
- How to use land taxation to create a more sustainable environment.

Arising from the above we see the primary audience consisting of:

- Those engaged in the assessing of taxable values in the current rating and council tax systems

- Students of LVT and other landed property-based taxes
- Policy-makers who would be engaged in the formulation of government policy on property taxation
- Politicians and their advisers who will need reliable and up-to-date information in order to assess the advantages and disadvantages of LVT
- Landowners in Whitstable interested in the results of the study
- Others engaged in research in support of the introduction of LVT

It was originally proposed that our second year would involve a series of comparative studies aimed at comparing the outcomes between the current and past studies, what landowners of different property types would pay in property tax if the total revenue levied by the local authority remained the same (which is current UK government policy) and what the yield would be if the landowners paid a similar amount in landed property taxes as under the current system. It is envisaged that different applications of LVT could be demonstrated in respect of the split between land and improvements as occurs in Pennsylvania, with the aim of establishing a more balanced and socially acceptable landed property tax.

We also proposed to undertake the development of a transactional data base using the approach adopted by Wilks – that of soliciting the co-operation of real estate agents working in the Whitstable area.

We are seeking solutions to the problem of creating identifiable and measurable toids from the OS MasterMap© database from which we can create a set of land ownerships which can be valued using the transactional data discussed above.

We are also investigating the potential problems which may arise as the result of the introduction of the Council Tax for domestic properties and the removal of the local authority control over the level of rates may cause some difficulties and these will be considered in the future work of this research.

This research has received much interest from those interested in UK property taxation and is clearly an important study, which is being developed further within Year 2, when the opportunity will be taken to resolve identified issues and to test the technology, the valuation methodology, the planning system and related matters to the potential introduction of land value taxation in the UK.

Appendix A - References and Bibliography

Abbott, Damien (2000) *Encyclopedia of Real Estate Terms* (2nd Ed) Delta Alpha Publishing.

ATIS Real Weatherall, University College London and Symonds Group (2002) *Land Value and Public Transport* The Royal Institution of Chartered Surveyors, London.

Back, Kenneth (1970) "Land Value Taxation in light of Current Assessment Theory and Practice" in *The Assessment of Land Value* (1970) Ed. Daniel M. Holland, The University of Wisconsin Press, USA.

Barclays Bank plc v. Gerdes (VO) 283EG1225 & 1227-8

Blundell, V. H. (1993) *Essays in Land Economics* Economic and Social Science Research Association, London.

Cardiff Rating Authority & Cardiff Assessment Committee v. Guest Keen Baldwin's Iron and Steel Co. Ltd. (1949) 1 KB 385

Carpets of Worth Ltd v Wyne Forest District Council (1991) 62 P & CR 334

Cherry, Gordon E., (1974) *The Evolution of British Town Planning (1914-1974)* Leonard Hill, London.

Connellan, Owen (2004) *Land Value Taxation in Britain: Experience and opportunities.* Lincoln Institute of Land Policy (forthcoming)

Copes, John M. (1970) "Imperfections in the Land Market" in *The Assessment of Land Value* (1970) Ed. Daniel M. Holland, The University of Wisconsin Press, USA.

Cullingworth, Barry & Nadin, Vincent (2002) *Town and Country Planning in the UK* Routledge, London.

DETR (1998), *Planning for the Communities of the Future*, HMSO, London.

DoE (1985) *Development and Employment* Circular 14/85 HMSO, London.

DoE (1992) *PPG1 General Policy and Principles* HMSO, London.

DoE (1997) *PPG1 General Policy and Principles* Department of the Environment

domesdaybook.co.uk (accessed 15 January, 2004) http://www.domesdaybook.co.uk/

Downing, Newnham, Churchill and King's Colleges, Cambridge v. City of Cambridge and Allsop (VO) 1968 14 RRC 377

Emeny, Roger, Wilks, Hector M., (1984) *Principles and Practice of Rating Valuation* The Estates Gazette Limited. London. UK.

Eton College (Provost and Fellows) v. Lane (VO) and Eton Rural District Council (1971) 17 RRC 152

Evans, B and Bate, R (2000) *A Taxing Question: The contribution of economic instruments to planning objectives*, Town and Country Planning Association, London.

Greed, Clara (1993) *Introducing Town Planning* Longman Scientific and Technical. Harlow.

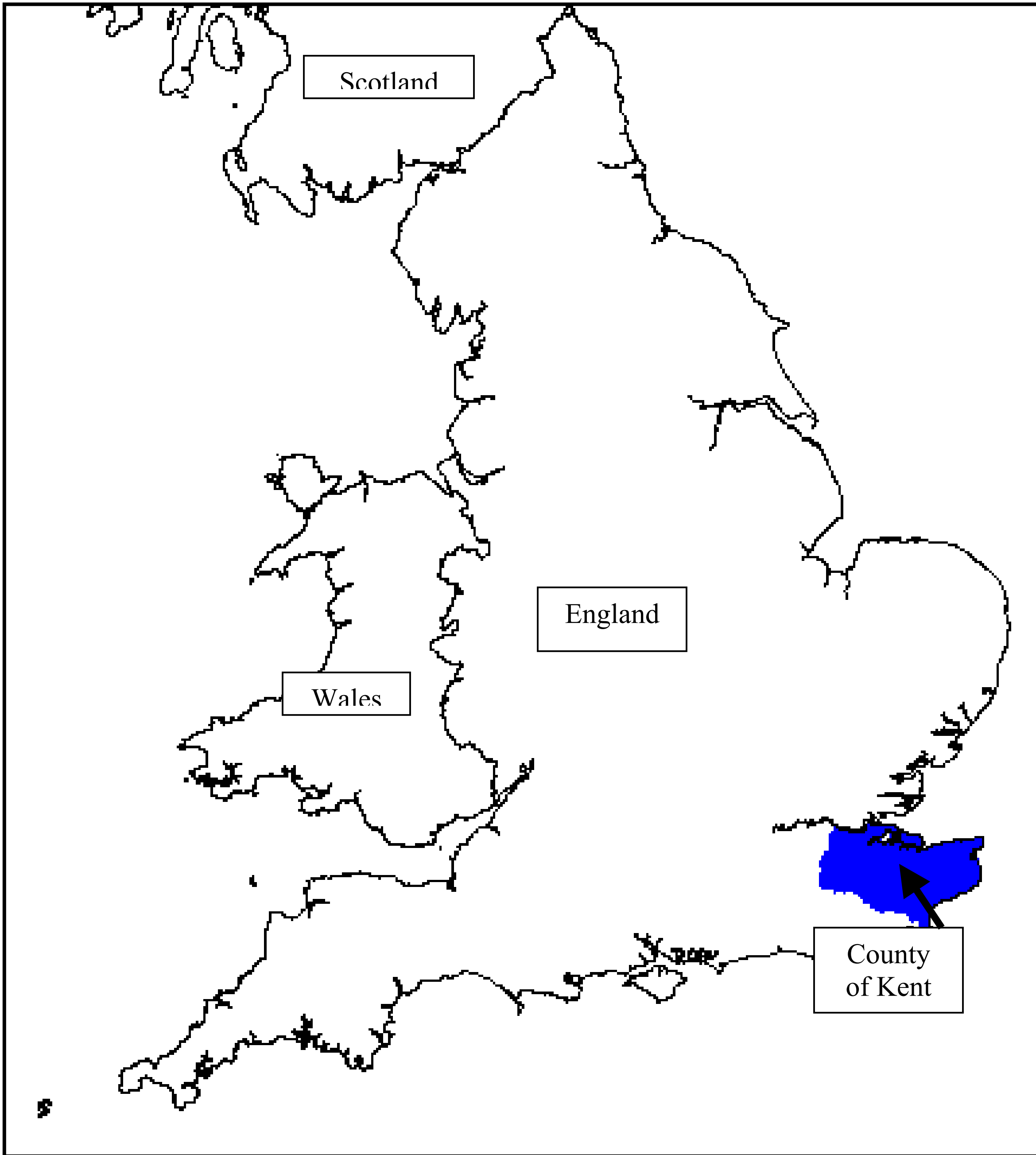
Heap, Sir Desmond (1996) *An Outline of Planning Law* Sweet and Maxwell, London.

Hicks, Ursula K. (1970) "Can Land be assessed for the Purposes of Site Value taxation?" (1970) Ed. Daniel M. Holland, *The Assessment of Land Value* The University of Wisconsin Press, USA.

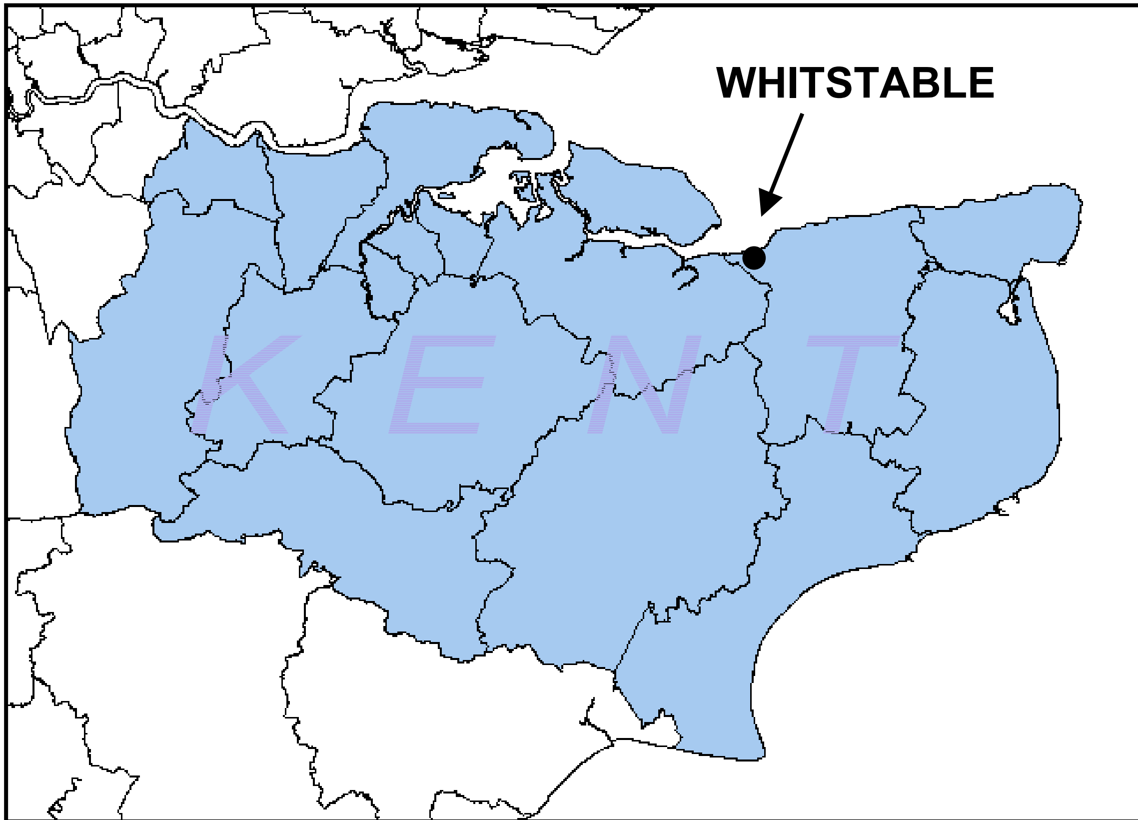
HMSO (1845) *Royal Commission on the state of large towns* Her Majesty's Stationery Office, London.
HMSO (1875) *Public Health Act* HMSO, London.
HMSO (1885) *Report of Royal Commission on Housing of the Working Classes* Cmnd 4402, HMSO, London.
HMSO (1901) *Royal Commission in Local Taxation* HMSO, London.
HMSO (1914) *Departmental Committee Report* HMSO, London.
HMSO (1940) *Report of the Royal Commission on the Distribution of the Industrial Population* (The Barlow Report), Cmnd 6153, HMSO, London.
HMSO (1942) *Report on the Expert Committee on Compensation and Betterment* (The Utthwatt Report), Cmnd 6386, HMSO, London.
HMSO (1944) *The Control of Land Use* Cmnd 6537, HMSO, London.
HMSO (1946) *Report of the New Towns Committee: Final Report* (The Reith Report) Cmnd 6876, HMSO, London.
HMSO (1947) *Town and Country Planning Act* HMSO, London.
HMSO (1952) *The Rating of Site Values* (The Simes Report) HMSO, London.
HMSO (1967) *Civic Amenities Act 1967* HMSO, London.
HMSO (1971) *The Future Shape of Local Government Finance* Cmnd 4741 HMSO, London.
HMSO (1976) *Local Government Finance* (The Layfield Report) Cmnd 6453 HMSO, London.
HMSO (1990) *Town and Country Planning Act, 1990* HMSO, London.
HMSO (1991) *Planning and Compensation Act, 1991* HMSO, London.
HMSO, (1991) *Planning and Compensation Act, 1991* HMSO, London.
Howard, Ebenezer (1902) *Garden Cities of Tomorrow* Swan Sonnenschein, London.
Imperial College of Science and Technology v. Ebdon (VO) and Westminster City Council (1984) RA 213; 273 EG 81
Land Institute (1974) *Site Value Rating* The Land Institute. London UK.
Land Registry (2003) *Annual Report and Accounts 2002-2003* The Stationery Office. London.
Land Registry (2004) http://www.landreg.gov.uk/info/) accessed 1 February.
Lichfield, N and Connellan, O (1998), Land Value Taxation - Does it have a future in Britain? Paper presented to the Annual Conference of the Institute of Revenues Rating and Valuation (IRRV), Blackpool, September 1998
Lichfield, N., Connellan, O. P. (2000) *Land Value and Community Betterment Taxation in Britain: Proposals for Legislation and Practice* Lincoln Institute of Land Policy, Cambridge, MA.
Lichfield, N., Connellan, O. P., (1997) *Land Value Taxation in Britain for the Benefit of the Community: history, achievements and prospects* Lincoln Institute of Land Policy, Cambridge, MA.
Magor, David (2004) in conversation with one of the authors 14th January.
Mason, Douglas (1985) *Revising the Rating System* Adam Smith Institute
Ministry of Housing and Local Government (1959) *Circular 48/59 Town and Country Planning Act, 1959 with Explanatory Memorandum,* HMSO, London.

Ordnance Survey (2003) http://www.ordnancesurvey.co.uk/
Peddle, Francis, K. (1994) *Cities and Greed: Taxes, Inflation and Land Speculation.* Canadian Research Committee on Taxation, Ottawa.
Planning Advisory Group (1965)
Plimmer, Frances (1991) *Rating law & Valuation* Longman. London. UK
Progressive Forum (2002), *Lessons from the Smart Tax,* Progressive Forum, London.
R v Pool Borough Council, ex parte Beebee (1991) JPL 643
R. v. School Board for London (1885) 17 QBD 738; 55 LJMC 169
RVA, (1964) *Rating of Site Values*. Report on a pilot study at Whitstable Rating and Valuation Association. London. UK.
Rydin, Yvonne (1993) *The British Planning System: an introduction* Macmillan, Basingstoke.
Scarrett, Douglas (1991) *Property Valuation. The 5 methods.* E & FN Spon. London. UK.
Stringer v Minister of Housing and Local Government [1970] 1 WLR 1281
Urban Task Force (1999), *Towards an Urban Renaissance; Final Report of the Urban Task* Force Chaired by Lord Rogers of Riverside, DETR, London.
Vickers, T (1999), *Shifting the Burden,* Henry George Foundation of Great Britain, London.
Vickers, T (2002) *Planning to Pilot Land Value Tax in Britain,* Lincoln Institute of Land Policy, Cambridge, MA.
Vickers, T (2002), *Smart BIDs: The Political Prospects for LVT in Britain,* Lincoln Founders Day Lecture to Lincoln Institute of Land Policy, Cambridge, MA.
Vickers, T. J. M. (2003) *A Blueprint for Smart Tax in Britain* Lincoln Institute of Land Policy Working Paper WP03AV1.
Widdicombe, D. Eve, Trustram, D. and Anderson A., 1976 *Ryde on Rating* Butterworths
Wilks, Hector (1975), *Some Reflections on the Second Valuation of Whitstable,* Land and Liberty Press Ltd, London.
Williams (VO) v. Cardiff City Council 1971 RA 417 LT

Appendix B - Whitstable – Location



Appendix B continued:



Appendix C – The Current System of Landed Property Tax in Britain

This text below appears as Chapter 4 "Property Taxes for Local Government Revenues" in Owen Connellan's *Land Value Taxation in Britain: Experience and Opportunities.* published by the Lincoln Institute of Land Policy (forthcoming) and is reproduced here with the kind permission of the author.

This is a detailed review and critique of the extant property tax system in Britain, prepared by Frances Plimmer, to enable further access to the detailed history and background of policy and legislation.

Overview

Since 1990, Britain (England, Scotland and Wales) has had two parallel taxation systems which apply to landed property. Rates are imposed on non-domestic property. It is tax fixed annually by central government, but cannot be increased above the annual level of inflation. Rates are, however, levied, collected and spent by local authorities and therefore represent an assigned revenue. The tax is based on the net annual value of landed property and is fixed at an antecedent valuation date, currently 1st April 1998. There is a requirement for quinquennial revaluations and increases in tax are phased in, in accordance with a self-financing system of transitional relief.

In 1993, the Community Charge or Poll Tax was replaced by a hybrid system of taxation for domestic property. Half of the tax relates to a personal element which assumes that two or more taxable adults are in resident and there is a reduction of 50% of the personal element if only one taxable adult is in occupation. If the dwelling is vacant, all of the personal element is exempt and only half of the normal tax bill is paid. Half of the tax relates to the value of the property, and all dwellings are allocated to one of eight value bands according to their open market capital value as at 1st April 1991. However to summarize the relative fiscal position: the level of Council Tax is fixed by local authorities, but central government retains overall control by the "capping" of tax-raising powers.

Northern Ireland retains a Rates system which is applied to the net annual value as at 2001 for non-domestic property (the list took effect in 2003 (VLA, 2004)) and 1974 for domestic property. The Rate is fixed, levied, collected and spent by local authorities, based on their spending programs for the forthcoming fiscal year.

There are proposals to reband council tax in Wales and England but in Northern Ireland it seems likely that a revaluation of the tax base will take effect in 2006. However, local taxation has become the subject of major political debate responding to selective public pressure to undertake substantial reforms of the council tax.

Historical Statement

A nation-wide system of property taxation was introduced into the UK in 1601 to raise revenue to provide welfare facilities within each parish. Over the centuries, this property tax, known as "Rates", evolved into an established and comprehensive system of raising income for local authority expenditure and was fixed annually by each local authority depending on its spending programme. Major reforms in 1990 split the system of property taxation of non-domestic and domestic property. Rates were levied only on non-domestic property and became a tax fixed by central government. Central government allowed local authorities to retain the power to levy a tax on domestic property (Council Tax) although it retains a large measure of control over the level of Council Tax imposed. These systems have been in operation since 1993.

The UK comprises four jurisdictions: England, Wales (which until recently have had the same legal and procedural systems), Northern Ireland (where non-domestic rating has followed a different route), and Scotland (where, because of its different legal system, variations in the process of taxing property exist). This appendix assumes that the system in England is similar to that of the other jurisdictions, although specific reference is also made where variations are significant in Northern Ireland, Scotland or Wales.

Currently, property taxes are levied under the provisions of the Local Government Finance Act 1988 (the 1988 Act), which came into force in 1990. This statute has been subsequently amended and is supplemented by a large number of statutory instruments. However, many of the principles previously established by the courts continue to apply. Thus, the legislative framework which regulates the imposition of the British property taxation system comprises statute, statutory instruments and case law.

The tax levied on non-domestic property (and domestic property in Northern Ireland) is called "Rates", and the tax levied on domestic property (in England, Scotland and Wales) is called 'Council Tax'. Rates and Council Tax do not share the same legal or conceptual roots (although there are some similarities), so each is discussed separately here. However, the 1988 Act ensures that, subject to specific exemption, all land and buildings are subject to either Rates or Council Tax.

Administration

Since its introduction in 1601, the responsibility for administering the UK's property tax has shifted from the parish to local authorities or municipalities (a collection of parishes). Local authorities therefore are both the geographical units over which the tax is levied and also the administrative units, responsible for levying, collecting and spending the revenue. In the case of Rates, the tax is fixed by central government, but local authorities fix the level of Council Tax imposed on their taxpayers. Since the whole of the UK is sub-divided into parishes or communities, there is no part of the UK that is not liable to

property taxation. In the context of the levying of local property taxes, local authorities are called ‘billing authorities’.

The assessment of the property values for both Rates and Council Tax is the responsibility of the Valuation Office Agency (VOA) (in Northern Ireland, it is the Valuation and Land Agency [VLA], and in Scotland, the Assessors), which is an independent organisation of civil servants responsible to central government. Valuation Officers from the VOA are responsible for producing (rating) lists containing rateable (taxable) values on which local (billing) authorities levy Rates. Such individuals are renamed for the purposes of Council Tax, as Listing Officers and they are required to compile (valuation) lists containing the banded (taxable) values on which the local (billing) authorities levy Council Tax. The Council Tax is imposed in England, Scotland and Wales. Northern Ireland retains rates as a tax, fixed by local authorities and imposed on both domestic and non-domestic properties.

Thus, there is an administrative split between the assessment of land values (central government) and the levying, collection and spending of the revenues (local government). Local authorities in the UK have statutory responsibility for certain functions and local authority expenditure covers education, housing, transport, social services, police, fire and additional environmental (e.g. parks and garbage collection) services. In order to perform these functions, they obtain their finance largely from central government grants, although in 1998/9, 22% was raised from non-domestic rates (the UBR), 22% from Council Tax and 11% from sales, fees and charges (DETR, 2000).

Thus, Rates and Council Tax together represent 44% of local authorities’ income in England. However, local authorities have direct control only over the fixing of the level of Council Tax, subject to central government’s power to “cap” the level of Council Tax imposed on domestic taxpayers. Therefore, the significance of property taxes as a source of income independent of central government control is relatively limited in England, Scotland and Wales.

Rates: Introduction

Rates, now known as the Uniform Business Rate (UBR) or the National Non-Domestic Rate (NNDR), are a tax levied on non-domestic property as now fixed by central government in England, Scotland and Wales, and which is levied, collected and spent by local authorities. The annual level of rate is permitted to rise by no more than the annual level of inflation. There is a separate rate for England, Scotland and for Wales and this rate is multiplied by the taxable (rateable) value for each non-domestic property to produce the amount of Rates paid. Thus, the rate (UBR) multiplied by rateable value (RV) equals Rates paid.

In Northern Ireland, Rates retains its origins as a tax which is fixed, levied, collected and spent by local authorities, and which is levied on both domestic and non-domestic

property. The level of Rates is based on local authority spending plans, although central government has power to limit the level of Rates imposed.

Although assessed on an annual basis, Rates are normally demanded and payable half-yearly in advance. The legal requirement under the 1988 Act is that Rates is a daily charge.

Taxpayer

Legally, it is the occupier and not the property, which is liable for Rates (i.e. the occupier is rateable in respect of the property occupied). The nature of an occupier's liability has evolved since 1601 and has been established by case law. However, where there is no occupier, an owner may become liable to pay Rates. Such an owner is required to pay half the occupied level of Rates for empty properties, subject to specific exemptions.

For the purposes of establishing liability to occupied Rates, there must be evidence of actual use made of the property (actual possession); an ability to exclude everyone else from using the property in the same way (exclusive occupation); the ability of the property to command a rent (beneficial occupation); and a sufficient degree of permanence (refer John Lang & Son Ltd. v. Kingswood Assessment Committee). Thus, a vacant site will not be liable to Rates until some use (for which a rent would be paid) is made of it.

Certain taxpayers are exempt from liability to pay Rates. Thus, no Rates are paid by diplomats and those with diplomatic immunity; registered charities enjoy a combination of mandatory and discretionary rate relief and other non-profit-making organizations can apply for discretionary rate relief. Ratepayers who suffer financial hardship can also apply to the billing authority for rate relief.

Taxable Property

Legislation (s. 64 (4) 1988 Act) states that all land and buildings are rateable, unless specifically exempt. Advertising rights and mineral rights are also specifically mentioned as rateable property, although they are not referred to further in this text. The unit of property to be rated is called the hereditament (refer, for example, Plimmer, 1998 pp. 37 – 43 for a detailed definition of "hereditament") and comprises the land, buildings and rateable chattels (e.g. items of plant and machinery listed in statute and therefore rateable).

Chattels (being tangibly movable assets) are not normally rateable. But if they are enjoyed with land and enhance its value, they may become rateable together with the land (see, for example, Field Place Caravan Park Ltd. v. Harding (VO)). Chattels which are plant and machinery are not rateable, unless listed in legislation (Valuation for Rating [Plant and Machinery] Regulations 1994). Thus, plant and machinery used for providing

power or for the heating, lighting, cooling, ventilating a building are listed and therefore rateable.

Since the taxable value (rateable value) is required for the entire hereditament, it is not necessary to ascribe individual values to the component parts of the property. Thus evidence of open market transactions is used to assess the value of the hereditament. Major exemptions from Rates include agricultural land and buildings, sporting rights, fish farms, and fishing rights. Domestic property is exempt Rates, but liable to Council Tax (which is referred to later).

A hereditament which comprises both non-domestic and domestic property e.g. a shop with living accommodation is called a composite hereditament. The occupier is liable to pay Rates on the non-domestic part and to pay Council Tax in respect of the domestic part of the property.

Rateable Value

Rateable Value (RV) is the value ascribed to a hereditament on which Rates paid is calculated. Thus, rate (UBR) multiplied by rateable value (RV) equals Rates paid. Rateable value is a net annual value, specifically defined (Sch.6 para. (2) (1) 1988 Act) as equivalents viz:

> The rent at which it is estimated the hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and other expenses (if any) necessary to maintain the hereditament in a state to command that rent.

The statutory definition requires the assumption that a hypothetical tenancy exists, with a hypothetical landlord offering the hereditament for rent, and a hypothetical tenant agreeing to pay the rent, and undertaking to pay all repairs and other outgoings. Thus, the occupation of a real tenancy or the fact that a hereditament is owner-occupied is ignored in the fixing of the rateable value.

The interpretation of the conditions imposed by the hypothetical tenancy, the nature of the hypothetical tenant and therefore the circumstances under which such a tenant would offer to rent the hereditament are the result of case law (refer, for example, R v. Paddington (VO) ex parte Peachey Property Corporation Ltd.; also Plimmer (1998: 59-70) . For example, when assessing the rateable value of a hereditament, it is assumed that the property is vacant and to let; it is valued rebus sic stantibus (things as they are), i.e. assuming no changes in the mode of use or in the physical structure, (with the exception of the state of repair, because the definition of rateable value assumes that the hypothetical tenant will undertake all repairs).

Antecedent Valuation Date

Since 1990, all non-domestic hereditaments in England, Scotland and Wales are subject to quinquennial revaluations, the current revaluation in England and Wales taking effect on 1 April 2000, with an antecedent valuation date of 1 April 1998. Thus, the VOA revalued all non-domestic hereditaments in their physical state as at 1 April 2000, but at the level of value (or tone of the list) which existed as at the antecedent valuation date of 1 April 1998. The use of such an antecedent valuation date permits the VOA to gather market evidence around that date, analyze it, establish an appropriate level of values (tone of the list), to undertake the process of valuing all hereditaments and pass the resulting rateable values to the billing authorities so that they can issue the Rates demands by 1 April 2000.

It follows that all properties which require to be taxed between 1 April 2000 and 1 April 2005 (the date the next revaluation takes effect) must be valued as at the antecedent valuation date of 1 April 1998.

But Northern Ireland has a (non-domestic and domestic) tax base which was valued in 1974 with a valuation date of 1974.

Methods of Valuation

There is no legal requirement to use any particular method of valuation for rating purposes, although certain specified hereditaments, normally occupied by such utilities as providers of gas, electricity and water, are valued using a statutory formula.

Since it is necessary to establish a rateable value (i.e. a net annual value) for each hereditament, open market rents, fixed at or near the valuation date, are considered to be the best method of valuation, and the VOA has statutory power to require owners and occupiers of hereditaments to provide details of rents paid, so that rateable values of hereditaments can be assessed.

However, for certain property types, rental evidence is not available and even where such evidence is available, it may provide unsuitable or unreliable evidence for fixing a rateable value. There is, therefore, a widespread use of a profits (expenditure and receipts) method and, on occasions, a cost-based approach (or Contractor's Basis) for fixing rateable values (refer, for example, Plimmer, 1988 pp. 72 – 116; also Scarrett, 1991).

Regardless of the method of valuation adopted, it is necessary to establish a rent that a hypothetical tenant would pay for the hereditament as at the valuation date. Thus, whichever method of valuation is employed, it is necessary to ensure that it is adapted to conform to the terms and interpretation of the hypothetical tenancy and other conditions imposed by rating law.

Thus, in valuing an office hereditament, for example, it would be usual to investigate the open market rental value of the hereditament, (being the land, buildings and rateable plant and machinery), based on:

the level of rent paid by the actual occupier (if any); and
the level of rent paid by occupiers of comparable hereditaments in the locality,

making appropriate allowances for material differences in both the hereditaments and location.

Rating Lists

All rateable values are contained in local non-domestic rating lists – one list for each billing authority area. Rateable values for utilities such as gas, electricity and water are contained in a central rating list. It is the duty (s. 41 (1) 1988 Act) of the Valuation Officer to compile and then maintain a local non-domestic rating list comprising all relevant non-domestic hereditaments for each local or billing authority.

The contents of the rating lists are to comply with certain regulations (s. 42 (2) 1988 Act).

Billing authorities hold copies of the local rating lists and demand Rates based on the entries contained in the lists. When an entry requires amendment, the VOA informs the billing authority which makes the appropriate amendment to its copy. The rating lists are conclusive proof of rate liability (ss 43 (1) and 45 (1) 1988 Act). Hereditaments which are entirely exempt are excluded from the list, although composite hereditaments (i.e. hereditaments which comprise partly non-domestic and partly domestic property) are included in the list and are identified as being composite.

Since the 1990 revaluation, each new revaluation (1990; 1995; 2000) has been accompanied by a self-financing system of transitional relief which allows for the phasing in of both increases and decreases in rate liability. Transitional relief is justified in order to protect businesses against sudden increases in their rates bills. However, central government requires that such a system of transitional relief should be self-funding. Thus, the occupiers of those non-domestic hereditaments the rateable values of which have increased dramatically will have their increased rates phased in over a period of years; while the occupiers of those non-domestic hereditaments the rateable values of which have decreased will have their reduced rates phased in at a level which pays for the phased increases.

Appeals

Appeals for ratepayers are possible against the level of the rate (UBR) fixed by central government (by way of judicial review) and, more usually, by the making of a proposal

to amend the rating list. Such a proposal can be made by any "interested person" (i.e. an occupier, owner or connected person), although the Valuation Officer can alter the list without making a proposal. The procedure for dealing with appeals is contained in the Non Domestic Rating (Alteration of Lists and Appeals) Regulations (as amended).

Briefly, a valid proposal, which is made in writing and which identifies both the hereditament and the nature of the alteration sought, is served on the Valuation Officer. If the proposal is not accepted as "well founded", the making of an objection to the proposal means that one of four outcomes are possible:

The proposal is withdrawn
The objection is withdrawn and the proposal is accepted as "well founded" by the Valuation Officer
An agreement is reached as to the revised entry into the list
The case is heard by the Local Valuation Tribunal

Valuation Tribunals (refer Valuation and Community Charge Tribunals (Transfer of Jurisdiction) Regulations 1989 (SI 1989 No. 440) and s.15 Local Government Finance Act 1992; and Plimmer, 1998 pp. 140 – 149 for further details of powers and procedures) which are the courts of the first instance for rating appeals hear appeals against valid proposals and are able to determine the correct rateable value and the effective date of any amendment to entries in the rating list. Appeals to the Valuation Tribunals are relatively cheap, quick and easy for ratepayers.

Appeal against the decision of the Valuation Tribunal is to the Lands Tribunal and thence, on a point of law only, to the Court of Appeal and thereafter to the House of Lords. Any determination of a point of law which affects the valuation is referred back to the Lands Tribunal, which is the highest court in the land for the determination of valuation issues.

Rate Collection and Recovery

Billing authorities send out Rates demands to all ratepayers in their area. Rates are demanded half-yearly in advance, although they can be paid by ten monthly instalments.

If Rates are not paid in full, the billing authority can apply to the magistrates' court for a liability order, under which goods can be distrained from the premises of the defaulting ratepayer and sold to cover the outstanding debt. Other remedies available include committal to prison and insolvency. There is an appeal to the High Court by anyone aggrieved against the decision of the magistrates' court.

Council Tax: Introduction

In 1990, when the Uniform Business Rate was introduced in England and Wales, the previous system of taxation of domestic property was replaced by a flat rate Community Charge (or Poll Tax) which was fixed, levied, administered and spent by the local authorities. The Community Charge (or Poll Tax) had been introduced in Scotland in the previous year. However, the introduction of this system resulted in civil unrest and civil disobedience and, within eight months of its introduction into England and Wales, the British government was devising its replacement (refer, for a critique, Plimmer 1998 pp. 195 – 205).

Neither the Community Charge (or Poll Tax), nor the Council Tax has been introduced into Northern Ireland, which taxes domestic property using a rating system (refer Rates).

However, the Council Tax was introduced into England, Scotland and Wales on 1 April 1993 (in the Local Government Finance Act 1992) and is, effectively, a hybrid property tax and poll tax, in that half of the tax relates to the banded value of the property and half of the tax assumes that there are two taxable adults in residence in the dwelling.

The tax is fixed, levied, administered, collected and spent by local (billing) authorities but central government retains the power to "cap" local authority spending, which effectively controls the level of Council Tax, which the municipalities can impose.

Although a very new system in principle, the Council Tax retains many similarities to Rates, both in its definitions and practice.

Taxpayer

Liability to pay the Council Tax is primarily an occupiers' liability, although the Local Government Finance Act 1992 imposes a hierarchy of liability. Thus, those residents with a legal interest in the property are given first priority; followed by residents with no legal interest in the property; and finally an owner of a dwelling in which there is no resident at all. Thus, as with Rates, the Council Tax is initially an occupiers' tax, with an owner being liable to pay if there is no occupier, although certain occupiers are exempt Council Tax.

But as regards the application of Council Tax to "second homes", in November 2002 the Government announced that the existing 50% Council Tax discount for owners of second homes is to be changed in the forthcoming Local Government Bill. Under legislation that will go through Parliament in 2003, Councils in England and Wales will be allowed to set their own discount for owners of second homes, on a sliding scale of 10%-50%.

Personal Element

Half of the Council Tax bill relates to the assumption that there are two (taxable) adults resident in the dwelling. A relief of fifty percent of this amount is given (i.e. a relief of 25% of the entire bill) if there is only one (taxable) adult resident and a relief of one hundred percent of this amount (i.e. 50% of the entire bill) is given if there are no taxable adults resident in the dwelling. However, no additional tax is charged if there are more than two (taxable) adults resident in the dwelling.

This relief within the personal element reflects the reluctance of the British government during 1991 to abandon entirely the poll tax principles in devising its replacement, and is applied regardless of the value of the property occupied or of the financial circumstances of the occupier.

Residents who are "disregarded" include persons in detention (subject to certain conditions); persons who are severely mentally impaired; and students. A system of benefits has been incorporated into the social security legislation, so that residents on low incomes are entitled to tax rebates of up to 100%.

Taxable Property

Domestic property, which was specifically excluded from liability to Rates, is liable to Council Tax. For both taxes, the definition of "domestic property" is the same (s. 66 (1) 1988 Act) i.e. "…property [which is] used wholly for the purposes of living accommodation". It includes a private garage, private storage premises, a mooring and a caravan pitch used for private dwellings. The criteria that such a dwelling must also be "hereditament" is retained (refer Plimmer, 1998 pp. 30 – 43 for a definition of "hereditament"; also pp. 176 – 178).

Certain hereditaments are exempt Council Tax and these include vacant dwellings which are undergoing structural or other major works to render them habitable; dwellings which have been vacant for less than six months and unoccupied dwellings where occupation is prohibited (Council Tax [Exempt Dwellings] Order 1992).

Basis of Valuation

For the purposes of Council Tax, the "value of any dwelling" is defined (para. 6 (1) of the Council Tax (Situation and Valuation of Dwellings) Regulations 1992) as, "The amount which, on the assumptions mentioned . . . below, the dwelling might reasonably be expected to realise if it had been sold in the open market by a willing vendor on the 1st April 1991."

The assumptions include that the sale was with vacant possession, the size, layout and character of the dwelling, and the physical state of the locality, were the same as at the

date the valuation was made, that the dwelling was in reasonable repair, and that the dwelling has no development value other than the value attributed to the permitted development.

Thus, the value on which Council Tax is levied is the capital value of the dwelling, as at the antecedent valuation date of 1st April 1991 (refer Rates: Antecedent Valuation Date).

Strictly speaking, however, dwellings are not “valued” for the purposes of Council Tax. Each dwelling is merely allocated to one of eight value bands, based on the valuation cited above.

The value bands vary, with one band applied to England and Scotland and a different value band applied to Wales [refer Tables (4) and (5)].

Table (4): Council Tax Bands for England and Scotland

Valuation Band	Range of Values
A	Not exceeding £40,000
B	Exceeding £40,000 but not exceeding £52,000
C	Exceeding £52,000 but not exceeding £68,000
D	Exceeding £68,000 but not exceeding £88,000
E	Exceeding £88,000 but not exceeding £120,000
F	Exceeding £120,000 but not exceeding £160,000
G	Exceeding £160,000 but not exceeding £320,000
H	Exceeding £320,000

Table (5): Council Tax Bands for Wales

Valuation Band	Range of Values
A	Not exceeding £30,000
B	Exceeding £30,000 but not exceeding £39,000
C	Exceeding £39,000 but not exceeding £51,000
D	Exceeding £51,000 but not exceeding £66,000
E	Exceeding £66,000 but not exceeding £90,000
F	Exceeding £90,000 but not exceeding £120,000
G	Exceeding £120,000 but not exceeding £240,000
H	Exceeding £240,000

The value bands were constructed around the average property values in each country and central government has the power to vary the values within the bands and to substitute other value bands for those currently in force.

In addition to the banding of properties, central government controls the relativity of taxation applied to the different bands. Thus, the level of tax fixed for the so-called average Band D is half that levied on the highest value Band H properties; and is fifty percent greater than that levied on lowest value Band A properties. The relativities imposed are demonstrated in Table (3).

Table (6): Relativity of Council Tax Liability

Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H
6	7	8	9	11	13	15	18

The numbers represent the relative proportions of the Council Tax bill which are paid by Council Taxpayers whose properties fall within the different bands.

For example, if a particular local authority set an average Council Tax of £300, properties in Band A will pay (6/9 x £300)=£200; those in Band D (9/9 x £300)=£300 and those in Band H (18/9 x £300)=£600.

Since their introduction in 1993, there has been no review of the value bands, nor has there been a revaluation or rebanding of properties. Thus, the Council Tax is levied on the taxbase which was introduced in April 1st 1993 and for which the valuation date is April 1st 1991. However there is now a present intention to reband in 2007, which process is referred to later in this Appendix.

<u>Methods of Valuation</u>

Council Tax is based on the capital value of dwellings, as at 1st April 1991. The method of valuation used is, therefore, based on direct comparable market transactions. However, since it is not necessary to produce a discrete value for each dwelling, merely to allocate them to an appropriate value bands, the level of valuation skill and the amount of comparable market evidence required is likely to be less than that required to provide a rateable value for a hereditament liable to Rates.

<u>Valuation Lists</u>

All taxable domestic hereditaments in each billing authority area are entered into a valuation list. The Valuation Officer is renamed the Listing Officer for the purposes of the Council Tax and is required to compile and maintain a valuation list for the area of each billing authority. The contents of the valuation lists are to comply with regulations (Council Tax (Contents of Valuation Lists) Regulations 1992).

A copy of the valuation list is held by the billing authorities and they send out Council Tax demands based on the entries in the valuation list.

Appeals

Appeals against Council Tax liability and against the allocation of a dwelling to its band are to the Valuation Tribunal (Council Tax (Alteration of Lists and Appeals) Regulations 1993. There are only limited rights for interested persons (i.e. an owner, or any one liable to pay Council Tax in respect of the dwelling) to make a proposal to the listing officer to alter an entry in the valuation list.

Critique of the British Property Tax System for Local Government Revenues

This Appendix now ends with a personal critique of the British property tax system for Local Government revenues prepared by its contributing Author, Frances Plimmer.

With the exception of the on-going debate in Northern Ireland regarding imminent reforms to up-date the tax base, the current property taxation systems in the UK have not been the subject of a major political inquiry since the introduction of the Council Tax in 1993. The 1996 Bayliss Report (RICS, 1996) which proposed reforms to the existing system of Uniform Business Rates (UBR), dealt only with matters of detail and has not resulted in widespread changes. Nevertheless, there are major criticisms which can be levied against the operation of both the existing uniform business rate and the Council Tax, as operated in Britain. (Criticisms concerning the principles of land taxation are addressed elsewhere in this book.)

The uniform business rate can be criticized because it is an assigned revenue. The rationale behind the assignment of the tax by central government to local government seems to be that, while local government requires the revenue from local businesses to pay for its services (at least in part), local government cannot be trusted to levy a rate which minimizes local government expenditure and allows local businesses the chance to budget ahead for its occupational costs. (This is evidenced, too, in the way the level of the Council Tax which is fixed by local government is liable to be "capped" by central government so that local authorities are financially penalized if they attempt to increase the level of Council Tax levied in their area over a certain level).

The fixing of the UBR by central government (as opposed to local government) can be justified on the basis of electoral representation. All adults resident in the UK (with UK and Republic of Ireland citizenship) have the right to vote in national elections and those who are enfranchised also pay central government taxes. They, therefore, have a right, within the ballot box, to influence the nature of central government taxation. Within local government, the right to vote exists only for local residents and there is no right to influence the nature of local government taxation within the ballot box for owners of local businesses, unless the proprietor also happens to be a resident in that local authority area.

The removal of the fixing of the level of the tax from local government has had several significant effects. For example, local government has lost direct control over a significant portion of its income, thereby increasing the level of its financial dependence on central government. The reduction in financial independence has meant, inevitably, a reduction in the freedom of local authorities to vary the range and level of the services they provide. This further reduces the level of local democratic accountability which was a stated aim of central government when introducing both the Community Charge (or Poll Tax) and its replacement, the Council Tax (HMSO, 1986; HMSO, 1991).

Local democratic accountability is one of the arguments for returning non-domestic rates to local authorities and for treating domestic properties in exactly the same way as non-domestic property i.e. for abolishing the Council Tax and for making domestic property liable to the UBR. This would give local authorities control over 45% of their sources of finance. The argument against this is considered to be largely political.

The UBR has been criticized as being a tax on improvements and, in the same way that it is criticized as being a tax on a necessity, although it is hard to see how else a real property tax could be implemented with any degree of equity, as argued in the Bayliss Report – (RICS, 1996, para 3.10: pp.15-16).

The UBR in its current form exists, however, as a result of a political commitment to reform the pre-1990 rating system, and is, therefore, something of a political solution to a series of problems rather than a serious attempt to deal with the issue of landed property taxation in the UK. This is not to excuse its failings, but to set them into a context for further debate.

The UBR can be criticized because, like the pre-1990 rating system, it suffers from a number of illogical exemptions, such as the exemption from the UBR for agricultural land and buildings, and empty industrial premises (but not other commercial property). In the Bayliss Report (RICS, 1996), which recommended the establishment of a Committee to review the current exemptions, the issue was summarized, as follows:

Exemption from rates has been a matter of some controversy over the years. It is now generally accepted that certain public facilities such as places of public religious worship and public parks are properly exempt, but exemption for many others is now widely seen more as a matter of expediency than deserving (ibid. para. 6.2.1: p.32).

A system of landed property taxation can only be perceived as equitable if all land is subject to taxation. If it is considered politically expedient to exempt a particular occupier, for example, because of poverty or because it is considered to be socially acceptable to do so (as could be argued for places of public religious worship), then the tax liability of such occupiers should be paid by central government (refer, for example, The Report of the Committee of Inquiry on Local Government Finance [The Layfield Report] (HMSO, 1976, para. 63: p.168).

Another principle of the tax for which it can be criticized is that the rate is presented as a tax on the occupier and the occupier is perceived to bear the burden of the levy while enjoying few of the long-term advantages of the capital value of the property which the community has created.

It can be argued, however, that the incidence of the UBR is, in fact, an indirect burden on the landlord. It is well recognized that, because of the rate burden, less rent is payable by an occupying tenant. Therefore, the UBR should be levied directly on the landlord who would require a contribution to that liability from an occupying tenant. While the tenant would end up paying the same level of occupational costs (rent and rates), the liability and incidence of the tax would be clearly visible as falling on the owner. There would be few practical difficulties in identifying an owner to pay the rates and the tax would clearly be seen to be an impost on the owner.

There is considered to be a high level of ignorance on the part of ratepayers regarding the UBR system itself and the role of the various bodies responsible for its operation, e.g. RICS (1996); HMSO, (1976). Whilst this is not necessarily an intrinsic fault of the system itself, it does make public acceptability of the tax less likely and, therefore, its administration harder and expensive.

The social acceptability of the UBR could be dramatically improved by the removal of the transitional arrangements which currently operate to ensure that on the 1990, 1995 and 2000 revaluations, the increases in rates which were phased in for certain occupiers were paid for by the phasing in of the decreases in rates for those occupiers entitled to a reduced rate liability.

Transitional arrangements immediately obviate the implied fairness of a revaluation and cannot be justified on any grounds other than the political expediency of ensuring that transitional relief is self-financing. If it is desirable from the political standpoint to phase in increased rate liability for certain occupiers, then any deficit to the rate revenue as a result of transitional relief should be paid for by central government and not by those ratepayers who, by definition, have been paying and are forced to continue to pay more than their liability under the strict rules of the phasing system.

The use of formulae to assess a rateable value for the operational hereditaments occupied by the so-called statutory undertakers of such enterprises as electricity, gas and water cannot ensure that such occupiers pay the same proportion of their rate liability as any other occupier. Central government has stated its intention to return such hereditaments to conventional methods of valuation to ensure that each pays UBR on the same basis as all other taxpayers, but despite expectations, such provisions were not implemented for the 2000 revaluation.

In relation to the Council Tax, research (Plimmer, 2000; Plimmer et al. 2000) has demonstrated that the currency of the current allocation of dwellings to the Council Tax bands, based on values as at 1st April 1991 is no longer equitable. Of the sample of transactions investigated, only 55% of current transactions reflected the existing banding of dwellings. Of the remaining 45% of transactions which occurred out of band, transactions at the lower value end which were taxed excessively, with transactions at the middle and higher values which were under-taxed. There is an intention to reband British domestic hereditaments, for 2007, with ten yearly re-banding cycles thereafter. However, ten yearly cycles are unlikely to be sufficient to maintain an accurate and reliable valuation list given the UK's active and volatile housing market. (McCluskey et al. 2002)

There is also a case for increasing the number of value bands particularly at the upper and lower ends of the value scale, and also for modifying the relative weightings of values, in order to reflect the relative values of the properties being taxed.

Finally, the automatic reduction in Council Tax (50% of 50%) which is given where there is only one taxable adult resident is unjustifiable within a property-based tax system. It can be argued that such a tax allowance does not encourage the optimum use of dwellings, in a country with a chronic housing problem. It is not based in any way on the ability of the occupier to pay and exists alongside a comprehensive benefit program for those residential occupiers on low income. It is a relic of the discredited pre-1993 Community Charge or Poll Tax and arguably should be removed.

The success of any tax can be measured in a variety of ways, e.g. cost-efficiency, certainty and predictability of yield, and social acceptability. It is, perhaps, within the criteria of social acceptability that the fundamental success of any tax should be measured. Part of achieving such success it is in the presentation or marketing of the tax to the nation as a whole, so that it is seen to reflect the priorities, standards and aspirations of the nation as well as to be capable of responding to any relevant social changes. It is also true that the structure of local authority finance must be compatible with (and ideally should be reformed along side) the structure of local authorities themselves, together with their responsibilities.

To date, these are not principles which have been recognized within the UK. The current trend of tinkering with the system to make it more palatable cannot be expected to deal with the fundamental problems within the system. Indeed, such tinkering makes matters worse by increasing the impressive number of legislative documents which relate to a complicated taxation system.

There is no evidence that the UK government is considering environmental and sustainable principles in either its financing of local authorities or in its consideration of landed property taxes. This is not likely to be a situation that the public will allow to continue for much longer. However, the political trauma associated with the 1990-1993 reforms of local authority revenue mean that arguably there is likely be a lack of current

political will to revisit this issue, which could delay any fundamental changes in local authority financing, but chapter 16 takes up this challenge in an analysis of political prospects and feasibility of tax changes.

References

Council Tax (Alteration of Lists and Appeals) Regulations 1993 (SI 1993 No. 290) as amended
Council Tax (Contents of Valuation Lists) Regulations 1992 (SI 1992 No. 553)
Council Tax (Exempt Dwellings) Order 1992 (SI 1992 No. 558) as amended
Council Tax (Situation and Valuation of Dwellings) Regulations 1992 (SI 1992 No. 550)
Field Place Caravan Park Ltd. v. Harding (VO) [1966] 3 All ER 247
DETR, 2000. Modernising Local Government Finance: A Green Paper Department of Transport, Local Government and the Regions
http://www.local.detr.gov.uk/greenpap/part2.htm
HMSO 1981 Alternatives to Domestic Rates HMSO. Cmnd 8449
HMSO 1976. Local Government Finance: Report of the Committee of Inquiry. HMSO. Cmnd 6453
HMSO, 1986. Paying for Local Government. HMSO. Cmnd 9714
HMSO, 1991. A New Tax for Local Government. HMSO
HMSO. 1983. Rates – proposals for rate limitation and reform of the rating system. HMSO
John Lang & Son Ltd. v. Kingswood Assessment Committee [1949] 1 All ER 224
Local Government Finance Act 1988 (the 1988 Act)
Local Government Finance Act 1992
McCluskey, W. J., Plimmer, F., and Connellan, O. P., 2002 Property Tax Banding: a Solution for Developing Countries, Assessment Journal, International Association of Assessing Officers (USA), 2002, (Vol. 9 No. 2 pp. 37-47)
Non Domestic Rating (Alteration of Lists and Appeals) Regulations SI 1993 No. 291
Non Domestic Rating (Unoccupied Property) Regulations 1989 (SI 1989 No. 2261), as amended
Plimmer, F., 1998. Rating Law & Valuation. Longman, UK
Plimmer, F., 2000. The Council Tax: The need for a revaluation. Journal of Property Tax Assessment & Administration. Vol. 5 No. 1 ISSN 1357-1419 pp. 27 - 40.
Plimmer, F., McCluskey, W. J., Connellan, O. P., 2000 The British Domestic Property Tax: A Banded Solution for Other Countries? IAAO International Conference – Edmonton, Canada, September 2000
R v. Paddington (VO) ex parte Peachey Property Corporation Ltd. [1965] RA 177
RICS, 1996. Improving the system. The National Committee on Rating. The Royal Institution of Chartered Surveyors
Scarrett. D., 1991. Property Valuation. The five methods. E & FN Spon. London
Valuation and Community Charge Tribunals (Transfer of Jurisdiction) Regulations 1989 (SI 1989 No. 440)

Valuation for Rating (Plant and Machinery) Regulations 1994 (SI 1994 No. 2680), as amended.
VLA, 2004 *http://vla.nics.gov.uk/rfaq.htm* accessed January.
Westmister City Council v. Southern Rail Co. [1936] AC 511
Wilks*,* Hector. 1985. A case for the present system. 275 *EG* 26&28

Appendix D – Analysis of Domestic and Non-Domestic Tax Liability

Table B1: Analysis of Domestic Hereditaments and Council Tax Liability in Whitstable.

				2003-4	2003-4	2003-4
Values £	Band	Number	% Props	CT levy £	Income £	% Income
0 - 40,000	A	1,548	10.694%	£717	£1,110,473	7.48%
40,001 - 52,000	B	2,466	17.035%	£837	£2,063,845	13.90%
52,001 - 68,000	C	4,756	32.854%	£956	£4,549,019	30.63%
68,001 - 88,000	D	3,125	21.587%	£1,076	£3,362,625	22.64%
88,001 - 120,000	E	1,406	9.713%	£1,315	£1,849,115	12.45%
120,001 - 160,000	F	802	5.540%	£1,554	£1,246,533	8.39%
160,001 - 320,000	G	371	2.563%	£1,793	£665,351	4.48%
320,000 +	H	2	0.014%	£2,152	£4,304	0.03%
		14,476	100.000%		£14,851,265	100.00%

Source: based on data supplied to research by Canterbury District Council 2003

Table B2: Analysis of Non-Domestic Hereditaments and Rate Liability in Whitstable

				Total Yield	
	Modified Description	Number	Total RV	UBR 2003-04	% of Total Yield
				£0.444	
1	Advertising Right	13	3,565	£1,583	0.03%
2	Amusement Premises	5	137,400	£61,006	1.16%
3	Bakery	1	15,250	£6,771	0.13%
4	Bank etc	8	63,000	£27,972	0.53%
5	Beach Hut or Chalet	28	4,745	£2,107	0.04%
6	Beach Huts	1	53,190	£23,616	0.45%
7	Cafe	3	15,400	£6,838	0.13%
8	Camping Site	1	6,650	£2,953	0.06%
9	Car Park	11	85,400	£37,918	0.72%
10	Caravan Park	13	310,225	£137,740	2.62%
11	Cattery, Kennels etc	5	11,855	£5,264	0.10%
12	Club	15	122,045	£54,188	1.03%
13	Communication Station	6	29,200	£12,965	0.25%
14	Community Centre	2	9,000	£3,996	0.08%
15	Factory and Premises	28	1,326,150	£588,811	11.21%
16	Fire Station	1	48,750	£21,645	0.41%
17	Fisherman Store	23	8,080	£3,588	0.07%
18	Garage etc	3	36,900	£16,384	0.31%
19	Garden Centre	2	35,750	£15,873	0.30%

20	Golf Course	2	47,175	£20,946	0.40%
21	Guest House	2	6,600	£2,930	0.06%
22	Hairdressing Salon	6	14,705	£6,529	0.12%
23	Hall and Premises	10	34,425	£15,285	0.29%
24	Holiday Accommodation	3	9,750	£4,329	0.08%
25	Hospital and Health Centre	3	62,500	£27,750	0.53%
26	Hotel	1	20,975	£9,313	0.18%
27	Kiosk	1	1,500	£666	0.01%
28	Land used for Storage	3	5,500	£2,442	0.05%
29	Launderette	1	4,300	£1,909	0.04%
30	Library	2	22,500	£9,990	0.19%
31	Lifeboat Station	1	8,600	£3,818	0.07%
32	Miscellaneous	12	90,060	£39,987	0.76%
33	Museum	1	6,300	£2,797	0.05%
34	Offices	80	707,345	£314,061	5.98%
35	Petrol Filling Station	6	185,200	£82,229	1.57%
36	Playing Fields	2	4,550	£2,020	0.04%
37	Post Office etc	2	31,200	£13,853	0.26%
38	Public Conveniences	7	16,075	£7,137	0.14%
39	Public House	27	584,650	£259,585	4.94%
40	Restaurant	14	139,225	£61,816	1.18%
41	Retail Warehouse	1	335,000	£148,740	2.83%
42	Riding Stables	3	10,975	£4,873	0.09%
43	School Premises	13	379,000	£168,276	3.20%

44	Sewage Treatment Works	1	169,000	£75,036	1.43%
45	Shop	287	1,378,370	£611,996	11.65%
46	Showroom	3	27,900	£12,388	0.24%
47	Sports Centre	2	137,500	£61,050	1.16%
48	Sports Premises	2	41,500	£18,426	0.35%
49	Stables	1	1,000	£444	0.01%
50	Stores	60	189,021	£83,925	1.60%
51	Supermarket	3	1,575,500	£699,522	13.32%
52	Surgery	9	40,150	£17,827	0.34%
53	Tennis Courts	3	4,325	£1,920	0.04%
54	Theatre	1	4,300	£1,909	0.04%
55	Unclassified	104	1,419,850	£630,413	12.00%
56	Vehicle Repair Workshop	10	87,800	£38,983	0.74%
57	Warehouse	42	552,450	£245,288	4.67%
58	Wharf Premises	2	139,000	£61,716	1.18%
59	Workshop	126	1,010,695	£448,749	8.54%
		1,028	£11,829,026	£5,252,088	100.00%

Source: based on data supplied to research by Canterbury District Council 2003

Appendix E – Abbreviations and Glossary

Abbreviations

AONB	Area of Outstanding Natural Beauty
CPO	Chief Planning Officer
DETR	Department of the Environment, Transport and the Regions
DoE	Department of the Environment
ft. (‘)	foot/feet
GIS	Geographic Information System
HMSO	His/Her Majesty’s Stationery Office
IRRV	Institute of Revenues, Rating and Valuation
LCC	London County Council
LPA	local planning authority
LVT	Land Value Taxation
NNDR	National Non-Domestic Rate
ODPM	Office of the Deputy Prime Minister
OS	Ordnance Survey
PAG	Planning Advisory Group
PCA 1991	Planning and Compensation Act 1991
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RICS	Royal Institution of Chartered Surveyors
RV	Rateable Value
SPG	Supplementary Planning Guidance
sq. ft.	square feet
sq. m.	square metres
SVR	Site Value Rating
TCPA 1947	Town and Country Planning Act 1947
TCPA 1990	Town and County Planning Act 1990
TPO	Tree Preservation Order
UBR	Uniform Business Rate
UK	United Kingdom
VLA	Valuation and Land Agency
VOA	Valuation Office Agency

Glossary

Appraiser/Appraisal	used synonymously with valuer/valuation
Britain	comprises England, Scotland and Wales
Council Tax	System of taxing domestic hereditaments introduced in 1 April 1993
Eminent Domain	Expropriation or Compulsory Acquisition
Hereditament	unit of taxable property
Land Value Taxation	used synonymously with Site Value Rating
Local Planning Authority	A public body responsible for considering formulating and implementing local or central government policies for the use and development of land (Abbott, 2000:836). It is a branch of local government, although, in England, the central planning authority is the Secretary of State for the Environment
National Non-Domestic Rate	post 1990 rates applied to non-domestic hereditaments (also called Uniform Business Rate)
Rateable Value	a net annual rental value on which (pre-1990) rates and the (post 1990) Uniform Business Rates are payable
Rates	pre-1990 system of taxing non-domestic and domestic hereditaments
Site Value Rating	used synonymously with Land Value Taxation
Uniform Business Rate	post-1990 rates applied to non-domestic hereditaments (also called National Non-Domestic Rate)
United Kingdom	comprises England, Northern Ireland, Scotland and Wales
Valuation Office Agency	Independent agency (formerly under the Commissioners of Inland Revenue) responsible for valuations of landed property for government purposes, including local property taxation
Valuer/Valuation	used synonymously with appraiser/appraisal

Endnotes

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[1] In the UK, Land Value Taxation is more usually referred to as Site Value Rating (SVR). This report refers to Land Value Taxation but references to historical documents and quotations from such sources use Site Value Rating. The terms are considered to be synonyms.

[2] The Domesday book was commissioned by William the Conqueror in 1085 and the first draft, completed in 1086, contains records of 13,418 settlements (domesdaybook.co.uk)

[3] Part 6 of the 1947 Act was repealed in 1953 following a change of government in 1951.

[4] Only occupiers of domestic dwellings were entitled to vote in elections for local authority councillors who made the decision on the level of rates to be imposed.

[5] Details of such legislation, their provisions and effects are available in Lichfield and Connellan (1997: 20 – 36).

[6] The first Whitstable Study was undertaken in 1963 and reported in 1964; the second Whitstable Study was undertaken in 1973 and reported in 1974. This Report refers to the studies as the 1963 Study and the 1973 Study respectively, although the references are to the reports' publication dates.

[7] For further details refer Appendix C, Emeny & Wilks, 1984 pp. 15-44 or Plimmer, 1991 pp. 12-57).

[8] Gross value was a gross annual rental value for the hereditament, assuming the tenant was responsible for all outgoings. Before 1990, rateable value was derived directly (for all hereditaments except certain industrial premises) from the gross value, after the deduction of outgoings, based on a standardised scale of deductions. The rate in the pound levied by the local authority was applied to the rateable value to give the rates payable.

[9] At that time, the law required that the values in the Valuation List should be "correct". Thus any change in the physical or economic circumstances, including changes in value, had to be reflected in the taxable values. Although by 1967, there was introduced a statutory "tone of the list" (whereby all values had to be correct as at a specific date, regardless of any physical alterations in the state of the properties, their locality or other circumstances, in 1963, the courts operated a non-statutory tone of the list. Nevertheless, there was an obvious urgency for Wilks to be able to compare the outcome of his study with the values contained in the "orthodox" list when it took effect.

[10] The availability of transactional data is discussed later in this report.

[11] A secured ground rent is "a ground rent paid for land upon which a building or buildings have been erected. The ground rent is said to be 'secured' because, in the event of the ground rent not being paid the landlord has the benefit of a right to the extra value provided by the additions to the land. If the buildings are let, the security of a ground rent may be measured by the ratio of the ground rent to the market rental value, or the contracted rent receivable from the property." (Abbott, 2000: 1047). Unsecured ground rent is "a ground rent receivable for a site upon which no building has yet been built. (ibid.: 1216)

[12] This is a hypothetical Act which Wilks presumed to have been passed and which requires the compulsory registration of all interests in land in the UK (Land Institute, 1974: 12). Registration of title is considered again later in this report.

[13] It is the interpretation of the authors that this refers to the right of compensation payable by the landlord to an agricultural tenant to cover tenant's improvements and fixtures.

[14] The certificate of appropriate alternative development issued under s. 17 of the Land Compensation Act 1961, states what planning permission(s) can be assumed to have been granted is used to permit the assessment of compensation on compulsory acquisition (eminent domain) to reflect the value of planning permission for any other use which the local planning authority would permit, if the land were not being acquired for the specific purpose required by the acquisition. It is normally sought on "white" land i.e. land where no use is indicated on the development plan. It is well known that such a certificate could be "negative", meaning that the only development which would be permitted by the local planning authority is either existing use or development for the purposes for which the acquisition is undertaken.

[15] Refer footnote 13 earlier.

[16] This, of course, would be true under the current system of land taxation.

[17] Note that for the purposes of clarity, no attempt has been made to convert imperial measurements in Wilks' methodology into their metric equivalents.

[18] Refer for example *Eton College (Provost and Fellows) v. Lane (VO) and Eton Rural District Council (1971)* at page 182.

[19] It should be recognised, however, that compensation payable following compulsory acquisition of land taken is open market value ignoring any added value created by the development for which the land is acquired. Thus, compensation does not necessarily reflect the true open market value of land.

[20] There is a theory that a corner shop which has a shop display facing two thoroughfares will attract more customers and, therefore, command a higher rent and attract a greater capital value.

[21] It should be recognised, however, that compensation payable following compulsory acquisition of land taken is open market value ignoring any added value created by the development for which the land is acquired. Thus, compensation does not necessarily reflect the true open market value of land.

[22] A peppercorn rent is "a form of nominal consideration payable for the right to take a lease of a property. . . . a token rent . . ." (Abbott, 2000: 820)

[23] "Hope Value" is defined (Abbot, 2000: 543) as: "an increase in the value of land produced by the belief that there is a chance that the demand for that land will change significantly; for example where there is a prospect that planning or zoning approval will be granted for a change to a more valuable use. 'Hope value' may be quantified as the price paid for land in excess of the existing use value when a purchaser considered that there is a chance of obtaining consent to carry out an alternative and more valuable form of development . . .".

[24] It should be remembered that a significant additional source of income for a local authority comes from grants from central government.

[25] It should be remembered that in Scotland, such transactional data is available for public inspection.

[26] Particularly important in the light of the UK experience (1990-93) of the Community Charge (or Poll Tax) fiasco which is widely credited with the political demise of Margaret Thatcher.

[27] It seems that the town of Oxford is owned by just four owners (Magor, 2004).