

The case for greater land market transparency

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What is the problem?

Land market information barriers to house building

In the 2014 report 'Building the homes we need', Shelter and KPMG identified the lack of transparency in the land market as a key barrier to housing supply in England:

Land prices are difficult to obtain, and harder to benchmark against anything else. Despite compulsory registration, the ownership of land is not always clear in practice and private 'option agreements' between land owners and developers mean that much of the potential development land is tied up in private agreements hidden from competitors, local residents and public authorities. It is very difficult for developers to know how much a piece of land is really worth, as its value depends on a whole host of contingent variables, not least the planning system and future house prices. This uncertainty makes development a risky business.¹

Plenty of land market data exists, but it is held in several different formats by various different agencies. Some of it is free to access, some can be paid for with varying restrictions on its use, while much remains inaccessible to the public. Most datasets cannot readily be compared – for example, information on land ownership and planning permissions is held separately under different formats.

In any market, a lack of transparency creates information asymmetries which distort the market, restrict competition and penalise consumers. As land is immobile and fixed in supply, it cannot readily be substituted – making information particularly valuable in land markets. The opacity of land markets therefore gives existing holders of land and well-informed market insiders disproportionate advantages over small businesses, entrepreneurs, local communities, public authorities and consumers:

- **Planning:** Without understanding who owns, and (in the case of option agreements) who ultimately controls, the potential development land in their area, it is impossible for Local Planning Authorities to plan strategically. Councils must identify five year land supplies without knowing whether the sites they allocate are under the control of a single developer, or multiple developers competing with each other, although this will be hugely important in determining when (or if) allocated sites are brought forward for development.
- **Small businesses:** The lack of easy access to information on the ownership, control or value of potential development land makes it harder for new firms or self-builders to find plots and enter the market, or for existing firms to expand beyond the areas they know well. This means that dominant players in local development markets can limit the number of homes built to keep sale prices up, without fear of competition.
- **Affordable housing:** Lack of detailed, comparable transaction data (including square meterage of homes), makes it difficult for local authorities to negotiate Section 106 agreements with developers and analyse viability assessments – potentially losing out on affordable housing or contributions towards local infrastructure.
- **Local communities:** Multiple datasets held by disparate agencies in different formats, with varying degrees of accessibility, make it almost impossible for ordinary people to understand who owns and

¹ Shelter, Building the homes we need, 2014, p33

controls the land in their local area, fostering mistrust of developers and opposition to development. This is also a major barrier to communities wishing to bring forward Neighbourhood Plans, as it is difficult for them to identify available development land in their area.

- **Innovation:** Informational barriers to entry prevent new entrants from driving innovation and competition in the market: one of the reasons that house building has been so slow to adopt new technologies or increase productivity.

Land market information barriers to efficient housing market operation

These barriers to efficient market operation help entrench market concentration in a small number of major house builders at the expense of SMEs, and hamstringing local authorities' and communities' attempts to plan positively for their local areas. They also impact directly on consumers in the housing market:

- **Intermediaries:** the absence of reliable market information makes homebuyers dependent on intermediaries like estate agents and conveyancers, who can exploit their market advantage to extract fees.
- **Pricing:** The lack of any requirement to publish square meterage data in the UK (almost unique in the developed world) makes it difficult for potential home buyers to readily compare asking prices or gauge how much to offer, reducing the efficiency of market pricing and driving the construction of ever smaller homes.
- **Market chains:** Homebuyers can enter into lengthy housing market chains without any knowledge as to the reliability of the other links in the chain, causing delays, wasted fees and failed moves.
- **Fraud:** The lack of clear, accessible information about land increases consumer vulnerability to fraud, such as the land banking investment schemes highlighted by the Financial Conduct Authority².
- **Transaction volumes:** All of these problems reduce the number and efficiency of housing market transactions, which has significant economic impacts of its own. A less responsive housing market lowers labour market mobility, preventing people from moving for more productive jobs and increasing wasteful commuting times. Lower market transaction volumes also feed back into lower housing supply, because new build completions closely track housing market transactions.

² Financial Conduct Authority, 2016: <https://www.fca.org.uk/consumers/land-banking-investment-schemes>

What is the opportunity?

Rise of open data

The open data movement, of which the UK has been a leader, promotes open data for transparent and open policy-making, and for enabling innovation. Making data more open allows for it to be better used and understood, and for new services to be developed utilising that information. McKinsey have estimated that a global market powered by open data from all sectors would create an additional \$3tn to \$5tn a year – while research by the Open Data Institute suggests that open access to public sector data would provide 0.5% of GDP more economic value every year than paid for, restricted data³.

Example: Companies House data

From the [Shelter blog](#):

“[The government has a public commitment to data transparency](#). Companies House has blazed a trail by scrapping all of the fees that it used to charge to see their electronic data [through their new beta service](#). This, incidentally, opens up an awful lot of data on land through company charge information (which lists company mortgages, etc.). For example, [you can now see data on hundreds of sites owned by the country's biggest builders](#).”

Government commitment to transparency

The UK Government has a firm commitment to open data and transparency, and in May 2016 published the [UK Open Government National Action Plan 2016-18](#). This set out the Government's commitment to:

- *unprecedented visibility on how government spends money*
- *world-leading commitments to tackle corruption*
- *increased investment in our national information infrastructure, opening up better quality data to strengthen accountability, drive reform and spur innovation*
- *...accepting that we don't have all the answers, and putting data and power in the hands of people who might.*⁴

The Government has made a huge amount of data available in recent years, in a wide range of areas. It is vital that in continuing this work, it looks at options to release land data.

Further open data opportunities

Opening access to land market data is not only an opportunity to solve the housing problems outlined above. Freeing up land data would also enable huge amounts of other information to be used more efficiently, including environmental information, hazardous sites, heritage information, geological information and much more. Having this information stored in a consistent and accessible format would enable new forms of information sharing, mapping and analysis, and allow people to better understand their local areas.

³ Open Data Institute, 2016: <http://theodi.org/the-value-of-open-data>

⁴ Gov.uk, 2016: <https://www.gov.uk/government/publications/uk-open-government-national-action-plan-2016-18/uk-open-government-national-action-plan-2016-18>

What would it take?

Existing data to be released and made more accessible:

A significant amount of data relating to land is collected at several levels, such as central government, local authorities, and non-departmental public bodies. A list covering many, if not all, of the datasets relating to land⁵ has been collated by Shared Assets⁶, as well as information on their accessibility. However, this data is generally held disparately by the bodies which 'own' it – and although the information is collected, it is not necessarily available or accessible to the general public.

Land and property ownership data

In principle, information on who owns every single plot of land in the country is available for anyone to see. The only problem is that accessing information on either a) the boundaries of any individual plot of land or b) who owns it, costs £3 a throw.

That might not sound much, but given the Land Registry last year registered its 24 millionth title in England and Wales, getting coverage for the whole country would cost over £140 million. And it's not only individuals who have to pay, but even other public sector organisations and agencies.⁷

The Land Registry contains vital information on who owns the vast majority of England and Wales. Great strides have been made by Government since 2010 to open up data – increasing transparency and accountability and boosting the economy and public participation. However, the Land Registry still charges both the public and other public bodies £3 for each and every land title and plan. Yet far from being an important source of revenue, these charges in fact account for only a very small proportion of the Land Registry's annual income, with the vast bulk of income coming from conveyancing services. Removing this fee structure would open up information for a vast range of uses, and enable the Land Registry to deliver a truly 21st century service.

Land title information should be made freely available and accessible, with safeguards against fraudulent use.

Planning data

Local authorities hold – and publish – a huge amount of information relating to planning applications and permissions. Although this is theoretically freely available without charge, it is stored differently by different local authorities – often just as online versions of paper documents. Online search functions can be slow, and often require knowledge of the details of a specific application, making it difficult to access.

⁵ Shared Assets, 2016:

<https://docs.google.com/spreadsheets/d/1TuywMaFP1TjF0RgccEaDeUJDWTUUZfyk8oDHgZpKm1E/edit#gid=1100552611>

⁶ Shared Assets, 2016: <http://www.sharedassets.org.uk/>

⁷ Shelter blog, 2015: [The incontestable case for land data transparency](#)

Where there is a requirement to collect information for planning purposes, it should be collected and stored in a consistent, machine-readable format. This would enable data to be made accessible, and enable comparison across areas, and integration of multiple datasets.

Housing square meterage data

Almost uniquely, sellers of homes in England & Wales are not required to state the precise size of the home they are selling. But this information is now collected, as part of the Energy Performance Certificate regime, which sellers are required to participate in. This data is held on behalf of DCLG by a private company. **This square meterage data for all homes should be made publically available and accessible.**

New data collection and analysis needed:

Comprehensive land registration

At present, around 85% of the land in England and Wales is registered with the Land Registry⁸. The remaining 15% includes land owned by aristocratic families, farmland, and public sector-owned land – any land which has not changed hands since compulsory registration was introduced. This is a major barrier to building more homes. Even if it is deemed too difficult to compel private owners to register their land if they have no intention of selling it, at a minimum we would like to see **compulsory full registration of all public sector-owned land, and compulsory registration of all private land in urban areas.**

Option and promotion agreements

Under option agreements, a developer signs a legal contract with a landowner, giving them the right to purchase a site at a pre-agreed price at some point in the future. As these agreements do not constitute a change of ownership they are not legally required to be registered at the Land Registry. They are generally registered as a charge on the title – so even if the landowner sells the site to someone else, the option on the site will still be in place. These charges are not generally included on the title register records which can be purchased from the Land Registry⁹. In essence they are private contracts.

Option agreements are extremely important for the functioning of the land market and development process. They give landowners and developers more certainty and security. They also de-risk the initial planning process for a developer – allowing them to make enquiries without being completely financially committed to a site. However, in their current form they also stymie potential transactions and growth. Not knowing who truly controls a piece of land makes it difficult for local and combined authorities to plan effectively, for new entrants to break into the development sector, and for land to be accurately valued.

We would therefore like to see **details of all option agreements (registered name and address of the individual or company holding the option, date the option was agreed and pre-agreed sale price) mandatorily included on the land title of the site they relate to.**

Promotion agreements are similar to option agreements, but are typically signed between a landowner and a land trader rather than a developer. A legal agreement will be drawn up between the landowner and trader, and a sum will be paid to the landowner. The trader will then look to promote the site through the planning

⁸ Land Registry blog, 2014: <http://blog.landregistry.gov.uk/giving-85-per-cent/>

⁹ Gov.uk, 2016: <https://www.gov.uk/get-information-about-property-and-land/search-the-register>

system, and aim to set up a sale once the site has achieved outline permission – taking a pre-agreed proportion of the sales value as a reward. They therefore allow the trader to invest the sums needed to secure planning permission without the risk that doing so will only benefit the landowner. Promotion agreements are not necessarily registered as a charge on the land, so will be more difficult to collate in the short term – but they are vitally important in assessing the availability of land for development (to meet the 5 year land supply requirement of the NPPF).

We would therefore like to see **details of all promotion agreements (registered name and address of the individual or company with who the agreement is held, and date the agreement was put in place) mandatorily included on the land title of the site they relate to.**

Beneficial ownership

Much¹⁰ of Britain's land is owned by companies rather than individuals. This in itself is not a problem; however, it can mean that it is difficult to understand who truly owns the land: the beneficial owner. This is especially the case where land is owned by companies based overseas.

Since 6th April 2016, all companies have been required to keep a register of 'people with significant control' – namely beneficial owners. Since 30th June 2016, as companies have filed their annual returns, this information has been added to the Companies House records detailed in the example box earlier in this paper¹¹. However, this will only apply to companies based in the UK and registered with Companies House.

In May 2016, David Cameron announced a new register of beneficial ownership of all overseas companies owning UK property¹². If enacted, **this register should be combined with existing title information held by the Land Registry. This would go a long way towards improving understanding of land ownership in the UK.**

Land value data

The volatility of land and development markets is well known, and has significant impacts on the wider economy. Land prices typically boom and bust ahead of house prices, making them an important economic indicator. But since 2011 the Valuation Office Agency has not published land transaction data at a level that allows policymakers to see broad market trends. The VOA has produced an estimate of land values for policy appraisal¹³, but these are single indicative figures for each local authority, rather than any indication of actual sale values or market trends. Limited data is collected by some estate agents, but these datasets are not comparable or freely accessible.

Given the central importance of the housing market to the financial system and the wider UK economy, there is an urgent need for a reliable public dataset on land market transaction volumes and prices.

¹⁰ Private Eye, 2015: <http://www.private-eye.co.uk/registry>

¹¹ Companies House blog, 2016: <https://companieshouse.blog.gov.uk/2016/04/13/the-new-people-with-significant-control-register/>

¹² Financial Times, 2016: <https://www.ft.com/content/c1a49662-17a1-11e6-b197-a4af20d5575e>

¹³ Gov.uk, 2015: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488041/Land_values_2015.pdf

Turning the data into a useful tool:

Once the data has been gathered and any gaps identified, it will be necessary to centralise access so that data can be put to good use – for example through an open data API. Government has done this in the past [for health and transport data](#): open data APIs are the foundations on which apps such as Citymapper are developed, for example.

Creating and releasing an API would enable innovation and provides opportunities for businesses and start-ups to develop new services. For example, apps could be designed to identify land that might be suitable for self-build plots in a given area, by combining ownership, planning and infrastructure datasets. Online services could provide Neighbourhood Forums with rich local information to inform their Neighbourhood Plans.

Example: Land Insight – a tech start-up using land data to increase efficiency

From [Land Insight's website](#):

“Land Insight is a web application that provides the core data needed to undertake site viability assessments. This gives decision makers the power of having the right information in the right place. It is designed for pro-active land teams and individuals, who regularly search for and assess development opportunities.

The data we collate, such as planning applications and land ownership, are otherwise time consuming to access in large quantities and impossible to visualise and cross-reference together. We make it as simple as point and click, meaning more sites can be looked at in a faster time period, and it is easier to find an angle on sites you might not have considered before, giving you an edge over the competition.

Land Insight uses cutting edge technology, like big data and machine learning, to tackle the hard datasets that other platforms don't use. Our technology driven approach means we are able to provide this data for every single place, no matter how un-obvious it is as a development site. We enhance the data by making it very easy to access and view together on a map. The time savings made by having this information at your fingertips, creates huge cost efficiencies to your organisation.”

Why should the Government take action?

The benefits of improving the transparency, availability and accessibility of land market data:

- It would make it easier to acquire and develop land:
 - New entrants would be much better equipped to search for and acquire land if they understand who really owns and controls sites.
 - Access to transaction data would enable fairer negotiation and agreement over land prices, improving overall market efficiency.
- It would improve the efficiency of interactions between development firms and public authorities:
 - A key concern raised by developers and land traders is that publicising their interests in land (such as option agreements) would amount to publicising commercially sensitive information about their business operations – such as project margins. If all developers and land traders had to register their interests in land, it would level the playing field and reduce concerns around publishing commercially sensitive information.
 - This in turn would improve Local Authorities' ability to negotiate good Section 106 agreements swiftly and consistently.
- It would give Local Planning Authorities and Neighbourhood Forums stronger tools to plan effectively, and enable ordinary people to understand more about their local area:
 - Understanding who owns and controls land in their area would allow councils and communities to plan proactively based on what the area needs, rather than reactively in response to planning applications. For Neighbourhood Forums in particular it would break down barriers of access – as they do not have the resources to employ professional planners or conduct detailed land searches.
 - People would be better equipped to find out who owns the land around them – whether urban or rural. This would let local people know who to contact in the case of, for example, needing access to a piece of land, or wishing to resolve a planning issue.
 - Greater transparency – along with proactive neighbourhood planning – would help overcome communities' suspicion of development, and help to tackle NIMBYism.
- It would improve the efficiency and consumer experience of the housing market:
 - It would improve clarity of pricing for new build and existing homes and reduce dependence on unreliable housing market chains, giving consumers a better deal.
 - It would reduce opportunities for fraud and gaming of the market by those with privileged access to information, and reduce the power of intermediaries with informational advantages to the benefit of ordinary consumers.
- It would help policymakers better understand important market trends:
 - Full land market transparency would allow much easier monitoring of market trends – both at a national macroeconomic level and in terms of local market movements.
 - Free or lower cost access to data would reduce public spending on proprietary datasets

Achieving these outcomes will require greater coordination and cooperation between several different agencies, which will require Government oversight in the short term. But if the UK builds on its world-leading land data assets and takes a strategic approach to collating and coordinating data release, it could spark a boom in innovation and products for export. The government now has a huge opportunity to promote data synergy across public sector operations and lead the UK out of the analogue era of land data management.

Example: Building Information Modelling

[Building Information Modelling](#) (BIM) is a digital construction technology which has been pushed forward in recent years by the UK Government. It comprises a methodology and set of tools used for modelling construction projects, based on open, sharable asset information. This open information promotes transparency and collaboration between all suppliers on a project, thereby reducing waste in the supply chain. It enables greater efficiency, reduced costs, and more intelligent use of data.

The [Government Construction Strategy 2016-20](#) re-stated the government's commitment to BIM, including fully embedding Level 2, and working towards adoption of Level 3, as part of its drive to export the UK's BIM protocols and technologies around the world. Ultimately, Government's aim is for the UK to become '*a global leader in the exploitation of this technology and ... a supplier of BIM services and software*'¹⁴.

¹⁴ Gov.uk, 2012: [Industrial strategy: government and industry in partnership – Business Information Modelling](#)

Recommendations

We would like to see the Land Registry put in place the necessary processes to:

1. Remove the £3 fee for land titles, making information on title plans and ownership free to access – with appropriate safeguards against fraud, such as a requirement to register prior to access.
2. Require the details of all option and promotion agreements (registered name and address of the individual or company holding the option, date the option was agreed and pre-agreed sale price) to be mandatorily registered, and include them on the land title of the site they relate to.
3. Require all information gathered for the Government register of beneficial ownership of all overseas companies owning property to be mandatorily included on the land titles of the sites it relates to.
4. Produce a reliable public index of land market transaction volumes and prices.

We would like to see Government put in place the necessary processes to:

1. Standardise collection and storage of datasets relating to land held by public bodies, such as planning applications and permissions, and environmental or heritage information, and create and release an open data API drawing on these datasets.
2. Require all public sector bodies to register their landholdings, including infrastructure.
3. Require square meterage of all homes to be made publically available and accessible, and included in the marketing of all homes for sale or rent.