

The Menace of Land Banking

What is Land Banking?

The practice, euphemistically called land banking, takes advantage of a loophole in our planning law. Speculators, posing as reputable professional investment companies, buy up agricultural or forestry land (i.e. land that is not designated for development under the relevant local plan) on the periphery of urban areas. They then subdivide the land into residential size plots and offer them to the market as an attractive investment-but at around ten times their agricultural value. Although most companies are careful not to imply-let alone guarantee-that planning permission will be ever be obtained, the growth of land banking indicates that many investors are prepared to risk their money in this way. This practice is perfectly legal, even though it frustrates the policies of the local plan.

Any realistic impartial assessment of the risk however leads to the conclusion that investors have no chance whatever of getting their money back, let alone profiting from their investment.

Why is action necessary?

It is easy to say that it is a case of 'caveat emptor'; that sooner or later investors will start to heed the warnings of government and other bodies and that the practice will peter out, leaving those who succumbed to the blandishments of the investment companies to lick their wounds.

This laissez faire approach will not do. It is not enough because it ignores the very real long term problems created by the subdivision of land into small separately owned plots. The harm caused is not immediately apparent because no development takes place and the local authority has-if it cares to use them-powers to prevent any unauthorised activity on the individual plots.

In an overcrowded country like ours, land will always be at a premium. All land has its designated use and to the extent that it is not fully exploited in that use, the local community is the poorer. Land banking effectively prevents land from being used for its legitimate purpose. Everyone loses except the investment companies who have no further interest in the land once they have creamed off their illegitimate profits. The land can no longer be used for farming or forestry because of the multiple ownership. No one is responsible for its maintenance and the plot owners in any case have no interest in its day to day management. Nor will the land be developed. No local planning authority will bow to pressure to allow development in response to such speculative land purchases. To do so would make a mockery of the whole planning system. There is no recorded case of such tactics succeeding.

So the result is stalemate. The land will slowly become derelict-and vulnerable. Although the local authority has adequate enforcement powers, in the event of any unauthorised activity on the site it is often difficult to trace which plot owners are responsible. At present there is no way out of this deadlock. If any plotholder over the course of time decides to cut his losses and sell, who is going to buy an isolated plot in the middle of a field? At the other extreme, if the local planning authority were to grant planning permission, say as a result of a revision of its local plan, any prospective developer would have to negotiate with every plotholder, each of whom will have paid an unrealistically high price and who may be very difficult to locate. The prospect of a protracted and costly acquisition process is likely to make the developer think twice before committing himself.

Market forces will not bring the land back into use. Local authorities lack the necessary powers and resources. Only action by central government can rectify the situation.

What action is needed?

Action is needed both to prevent the further spread of land banking and also to find a means of restoring land already subdivided into unmanageable plots back to its former state.

To prevent the further spread of land banking the practice per se could be made illegal. This would require new legislation and would need very careful drafting to distinguish land banking from legitimate commercial operations. Alternatively, the practice could be made subject to planning control, but this would be alien to our planning laws which are designed to control land use, not land ownership (though other countries manage to do this without difficulty). But even if either of the above possibilities were feasible, the problem of restoring land already the subject of land banking would remain. However, if local authorities were given the necessary powers and resources to enable them to restore the land, the practice of land banking would cease to be profitable and would vanish overnight. There would then be no need to change the planning laws.

To break the deadlock over land already 'banked' it needs to be re-assembled into parcels large enough to permit its former use. Local authorities already have the powers of compulsory acquisition, which, although not originally intended for this purpose, need to be explicitly extended. They will also need financial support for the additional manpower required to deal with the individual plot owners and to pilot the slow and cumbersome compulsory acquisition process to its conclusion. Once the acquisition is complete, the local authority can market the land to genuine buyers as it sees fit. Thus if the land is compulsorily acquired and then sold at figures which reflect its real value the extra costs incurred by the local authority will be mainly logistical.

This solution is not as draconian as it sounds. The plot owners will lose much of their investment, but they stand to lose it anyway. It will kill the pernicious practice of land banking at a stroke. The solution requires money but every new site 'land banked' means more land taken out of circulation and more costs to put right. No other solution has been forthcoming. When is the government going to act?