

The Land of Make Believe

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Background

- taking without permission is theft;
- public benefit justifies interference with private rights;
- Parliamentary authorisation necessary for:
 - acquiring body;
 - purpose for which land is to be used;
 - procedure to be adopted;
 - use of compulsion;
 - payment of compensation.

Rights to Compensation

- compulsory acquisition is a creation of statute;
- rights to compensation must be authorised by statute;
- rights to compensation cannot be inferred.

the amount which the land if sold in the open market by a willing seller might be expected to realise

Open Market Value implies:

- willing buyer and willing seller;
- arm's length transaction;
- proper marketing;
- adequate market knowledge;
- acting prudently; and
- no compulsion.

Financial Equivalence

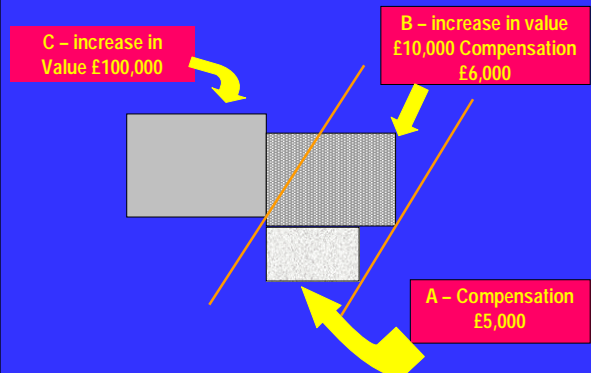
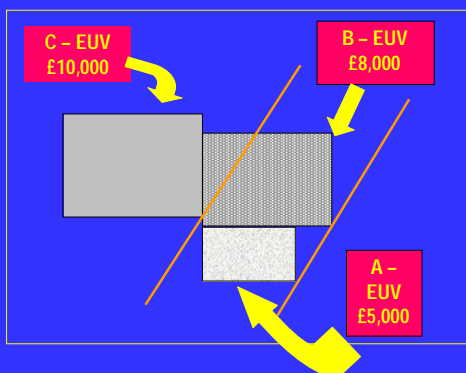
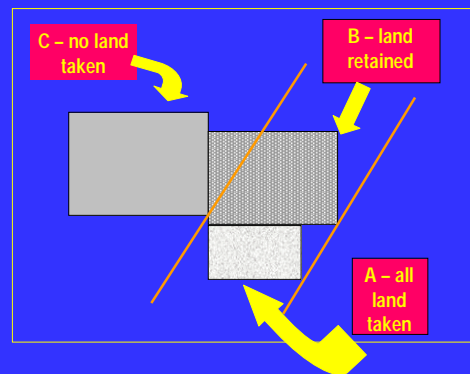
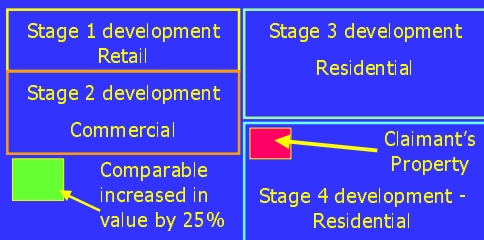
The claimants get no more and no less than their loss.

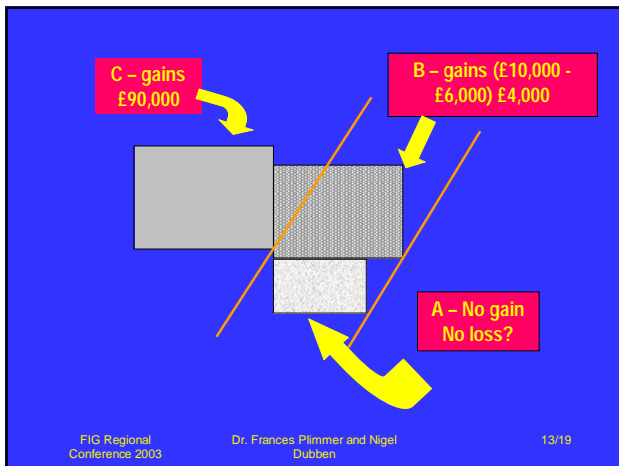
Acquiring authority does not have to pay for any increase in value which it creates

"Market Value" ignores:

- increases in value resulting from the acquiring authority's scheme;
- unless that development would have happened in the absence of scheme.

Four stage development





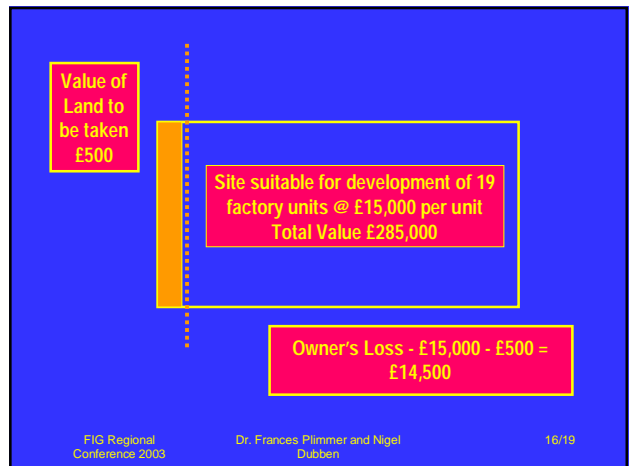
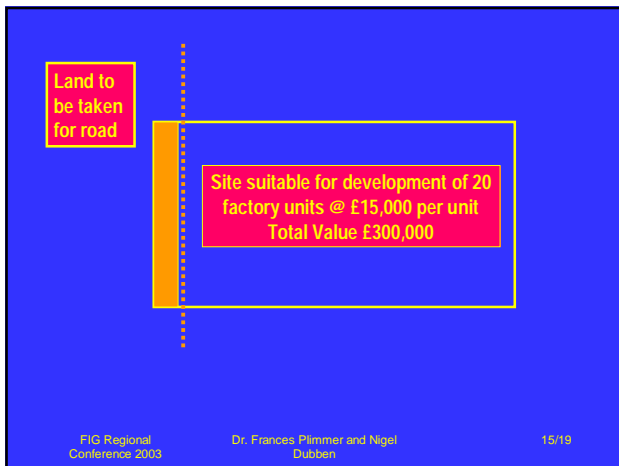
Increases in value in land retained by a claimant

"Market value" of land taken: £

Less: extra value of land retained: £

Compensation payable: £

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Hoveringham Problem

- Land taken is valued in isolation;
- Compensation available for depreciation in land retained;
- No compensation for depreciation in land taken.

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No Scheme World

- Acquiring authority does not pay compensation for value it creates;
- Assess compensation ignoring the scheme;
- Imagine the land with no scheme – no development.

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“the land of make believe”

Myers v. Milton Keynes 1974