

THE TERRIER

THE JOURNAL OF ACES - THE ASSOCIATION OF CHIEF ESTATES SURVEYORS & PROPERTY MANAGERS IN THE PUBLIC SECTOR

VOLUME 19 - ISSUE 3 - AUTUMN 2014



RETIREMENT BECKONS FOR COLIN AND TIM



ACES

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EDITORIAL

Betty Albon

Welcome to the Autumn Terrier.

I'm recently returned from the ACES Presidential Conference, held in London and the first report is the conference write-up. Full summaries of the presentations will be in "Asset", which will be sent electronically to all members and conference delegates.

This issue contains some linked articles on initiatives in housing, particularly in the private rented sector, and partnership opportunities with other providers, using public sector land. This is something the government is eager to encourage, as Colin explains in his summary of DCLG policy developments.

There are also some interesting case studies of partnership initiatives from the Local Government Association – a new organisation to write for the Terrier – and ACES members. We also have a useful framework for the easy transfer of land between public sector organisations – adopted in Wales, but a good model that could be applied anywhere.

There's a bit of a legal flavour to this edition as well, with articles on compensation and privilege, plus pieces on infrastructure, energy supplies and community assets. I think this just illustrates the whole range of work we have to cover in our day jobs.

And finally – the end of an era. I had to feature Tim Foster and Colin Bradford on the front cover. They retire at the Annual Meeting in November, after many years' service to ACES, both in their formal roles as Secretary, Editor, photographer, data manager, website manager, and much more, as staunch and consistent supporters of ACES organisation. And as good friends. ACES would have been a much weaker organisation without their solid commitment. We have much to thank them for. I would also say, "behind every man,..." All best wishes and thanks to Sue and Kath, who have always been there to help and support. We look forward to seeing you all at future events.

The content of these articles are not the opinions of the Editor or ACES.

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ACES COUNCIL MEETING NOTES, 22 AUGUST 2014

Tim Foster, ACES Secretary

17 members attended the meeting held at Manchester.

Financial matters

The Treasurer reported on the financial position of the Association as at 30 June 2014 – this is a better position with a smaller deficit than previously anticipated, mainly due to a better than forecast outturn for the 2013 Glasgow Conference and better advertising revenues. Next year's budget was discussed, together with recommended subscription levels, which was not to increase fees for the various categories of membership for the year 2014/15.

Three year financial planning was discussed. However, the Treasurer considered that this would be inappropriate at this time, because of the potential changes in administration costs; the outturn for the upcoming conference needs to be assessed, together with the future involvement of 3Fox International and that company's influence on membership, advertising and sponsorship levels; the impact of regional CPD events; and publications. Council agreed that Andrew Wild, Richard Wynne and Willie Martin would look at best and worst case scenarios before the Annual Meeting. Consideration would be given to improved strategic planning and sensitivity analyses.

Post of Secretary

Following the notice given by Tim Foster to terminate his contract, arrangements for appointing a replacement secretary were agreed, the rate of pay to be based on £22 per hour; timesheets to be kept; salary to be up to £10,000 p.a.; 3-5 year contract, reviewed on an ongoing basis.

There was a vote of thanks to Tim Foster in recognition of the dedication he had given as ACES Secretary over 19 years.

Colin Bradford

Following the notice given by Colin to terminate his present contract, consideration was given to the role of replacement of Colin's skills. It was acknowledged that a replacement co-ordinator for website and database functions was essential to agree at today's meeting. A back-up offer was made by Keith Jewsbury.

There was a vote of thanks to Colin for all his work, much of it behind the scenes, in setting up and maintaining the ACES database, and for his roles as recorder and photographer at formal events.

"Domesday" database

It was acknowledged that ACES needed to secure external expertise

for development of the website and maintenance of the database, but retain internally an intelligent client. Colin Bradford has requested quotations from IT firms with a knowledge of Microsoft Access databases and this task has yet to be finalised. It was agreed that appointing a contractor would be a delegated duty.

Modernisation

Council considered a progress report on establishing a regional CPD event. The most effective roll-out would be if the branch could administer the venue booking and ACES central co-ordinate the programme and speakers. It was agreed that the initiative could begin with a half day CPD event in one of the branches, with a view to 2 additional events at other branches in the spring.

Presidential conference

The President reported on current numbers of delegates and amount of sponsorship attained. ACES may need to consider moving slightly out of the city for subsequent London conferences because of the prohibitively high prices of central London.

It was agreed that Andrew Wild, Jeremy Pilgrim, Richard Wynne and Willie Martin hold a wash-up session after the conference to assess all aspects of

performance of 3Fox International, and report back to the Annual Meeting.

(FPS); Development and Regeneration to include Distressed Town Centres.

Performance management – NaPPMI is now being organised by CIPFA

Asset

The editor outlined the proposed format for Asset – there will be a full précis of each presentation and workshops. A journal will be produced in the same format as previously, but it will be posted to all delegates, speakers and ACES members and put on the website.

It is anticipated that savings will be made on the costs of production, printing and postage. The question of changing to electronic format of all ACES journals was briefly discussed. Colin Bradford also mentioned a facility now available called 'Print on Demand' and agreed to look into it.

Co-ordinators and external working groups

It was agreed to amalgamate some groups – Compensation to include Valuation; Performance Management to include Federation of Property Societies

Reports received were:

Compensation – Gary Sams is representing ACES at the compulsory purchase seminar to be held by the Compulsory Purchase Association in October at the House of Lords. There will be representatives of the Lands Tribunal present and the representatives at the seminar will try to get approved some of the Law Commission reforms proposed in 2006. Different rules are likely to apply to HS2 compensation. Gary will report back at the Annual Meeting

Housing – Rachel Kneale made reference to an article in The Times about investors buying council houses. Questions were raised about the Right to Build "Vanguards" and local authorities providing 'shovel ready' plots for self-builders; there was a request for information on nominated Vanguards, rules and definitions of self-build [Ed – see DCLG article in this Terrier]

Corporate asset management – Michael Forster agreed to take this role

FPS – SCALA and ACES are now the key members. Richard Wynne reported that FPS acknowledged the successes of ACES at conferences

Leeds University – Malc Williams advised that the one-year MSc in strategic property asset management is due to start in February 2015. RICS accreditation is being sought. There will be a role for ACES members in tuition groups and as assessors. The President agreed to invite the course leader to the ACES conference.

Officers of the Association

Selected ACES members were considered for the nomination of Junior Vice President. Jeremy Pilgrim was charged with holding discussions with nominees and reporting back.

MEMBERSHIP

Tim Foster, ACES Secretary

I list below the changes in membership between 1 July and 30 September 2014

New members approved

There were 7 new applications approved during this period

Marina	Mari	London Borough of Waltham Forest
Simon	Hughes	Essex County Council
David	Kelly	London Borough of Waltham Forest
Iain	Love	Glasgow City Council
Rubina	Nisar	London Borough of Lambeth
Tom	Putt	Oxford City Council
Paul	Venn	London Borough of Waltham Forest

Transfer from full to past membership

No members transferred to past membership during the period

Resignations

There were 6 resignations during this period.

Richard	Platt
Richard	Stafford
John	Stevens
Andrew	Voss
David	Winstanley
Martin	Wright

The membership as at 30th September 2014 now comprises

Full	222
Additional	73
Honorary	33
Past	66
Total	394



ACES PRESIDENTIAL CONFERENCE 2014, LONDON A SUMMARY OF EVENTS

Will Brown

Will Brown is Estates Surveyor for St Edmundsbury Borough Council, West Suffolk Property Services.

Before I start, I would firstly like to thank ACES Eastern Branch for kindly sponsoring me to attend this event as part of its initiative to see an increase in attendance from younger members.

Having overcome the 5.15am wakeup call and braved the short tube ride from Liverpool Street, I arrived at Grange St Paul's Hotel bearing a dinner jacket in one hand and a sports holdall of clothes in the other. I was soon ushered downstairs to the conference registration where I was able to check in my belongings and take on board some coffee and breakfast pastries. A short while later, once I had introduced myself to several fellow attendees and perused some of the sponsors stands, we were directed through to the Nelson Suite where we, along with all the speakers and sponsors, were welcomed by Andrew Wild, president of ACES.

A brief presentation by Robert Gordon Clark of the LGA kicked off proceedings as he discussed neighbourhood forums and community assets (£370bn worth nationally) – and how we should embrace change. It was this last point that he suggested needs to be emphasised, given that lots of people just don't like change in principle. To overcome this way of thinking, early community engagement should be encouraged at the beginning of any development's feasibility/planning stage to help iron out or remove any issues that the community may have at the start of the process.

Robert's delivery was followed by a talk from Graham Hacche, visiting fellow – National Institute for Economic and Social Research. Graham described the after effects of the 'Great Recession', post Lehmann Bros and the global change in economy and finance. He went on to discuss various factors currently affecting the economy including low level interests rates, inflation levels and annual GDP growth, while asserting that a weak recovery from the recession is continuing – although this is not 'v'-shaped as previous recession recoveries.

Graham did however emphasise that there has been a loss of skills in the economy as a result and there has therefore been a depreciation in 'human capital'. As he described the impact of the retirement of the 'baby boom generation', we were reminded that pre-crisis, there had been little growth in the economy anyway and that we need to look at increasing inflation in order to help reduce debt burdens and to become more financially competitive.

The speaking baton was then handed over to Andrew Warren, Director of the Association for the Conservation of Energy. Andrew, perhaps unsurprisingly, stressed that there would be changes in energy in the coming years, while outlining the impact of such changes on the building sector. A brief example of this impact is the target of achieving zero carbon

homes by 2016 and zero carbon non-residential property by 2019.

This initiative is being led by the Juncker Commission – which has 3 key objectives:

1. Competitiveness (on energy prices in the light of widespread fuel poverty);
2. Ecological preservation (energy and climate change policy aims to minimise usage of fossil fuels); and
3. Energy security (in relation to the volume of imported energy and where it is coming from).

Andrew then went on to reiterate that EPCs were required when property changes ownership and that the rating is required to be shown in every advertisement in relation to its disposal. He also mentioned the low uptake of funding from the poorly publicised Landlord Energy Saving Allowance, while providing us with a short update on the Energy Act 2011 – explaining how the rental of F or G rated buildings will soon be outlawed, while tenants of residential properties will be able to demand improvements in relation to low ratings by 2016 [Ed – see article in this Terrier].

The talk on energy was rounded up by the query of whether or not there would be tax relief incentives to encourage 'early movers' or

Caption: Left to right – Andrew, Peter, Gordon, Bob, Stuart and Patrick



‘incentivisation’ of larger/better improvements than to the minimum ‘E’ grade to pass, followed by a closing quote – “the most ecologically sound, and most economical is that which you don’t have to use in the first place”.

The task then fell to Professor Jane Falkingham, Director of Centre for Population Change, to conclude the first session as she delivered an interesting presentation on the key demographic changes over the last 10 years. The salient trends in the UK population were explained to be that it is growing, aging, and becoming increasingly diverse with a changing family formation. The statistics showed that there has been a net migration since the millennium, while it was suggested that there is also an improved life expectancy as the ‘baby-boom’ generation retires. It was interesting to note that there has been both a growth in ‘childlessness’ and in larger families.

Finally, Professor Falkingham described the effects of the ‘Boomerang Generation’ – where children have left home only to return as a result of a relationship ending or the completion of further education. It was also explained that there are various factors associated with leaving home including gender, age, household income, living outside of London and the parental family structure.

After the coffee break, where further networking and discussions had taken place, we returned to the Nelson Suite for a ‘Question Time’ style panel, to discuss ‘The Future of Property’, the board consisting of Stuart Ladds (Head, National Property Controls, GPU), Peter Bennett (City surveyor, City of London Corporation), Patrick McAllister (Professor of Real estate, UCL), and Bob Thompson (Director, Remit Consulting).

It was noted that various public sector bodies had signed service level agreements with One Public Estate – a “pioneering initiative designed to facilitate and enable local authorities to work successfully with central government and local agencies on public property and land issues through sharing and collaboration”.

Peter Bennett described the recent trend that SME’s are now attracted to London rather than the large firms previously – and stated that we all need to adapt and change - although he asked whether or not we (the property sector) were changing sufficiently quickly to meet the change in demand.

Patrick McAllister referred to the growing use of viability tools amid claims of ‘commercial confidentiality’ and the need for transparency, while questioning whether or not energy-efficiency labelling is affecting the saleability of property. Bob Thompson discussed product life-cycles and technology in real estate – using elements of the Shard as a case study, with other topics of discussion covering PFIs (private finance initiatives), s106 contributions in relation to development activity levels, and how we should ‘move with the times’ in terms of businesses designing space according to the workforce.

Following the panel’s conclusion, the delegates descended, well ascended to be correct, upon the Novello restaurant where we were treated to an expansive hot and cold, 2-course buffet lunch, providing much appreciated sustenance before the afternoon workshops.

After the dénouement, we returned to the conference level where we attended our pre-chosen workshops – the first of which for me was on Planning, presented by Stephen Milner (Head of Development and Viability, VOA). Hot topics in this workshop included a discussion on viability, in particular when development land with

planning permission becomes unviable, the cumulative impact of NPPF policies on competitive returns, and logistics of CIL contributions in lieu of actual affordable housing provisions.

The change of tenure of affordable housing in relation to value/increase in profit was also discussed, while the decline in reliance upon benchmark site values was mentioned in favour of more accurate site specific appraisals – suggesting that benchmark values be used for cross-referencing only. Finally, it was stated that reviews of viability – and appeals where necessary – can be taken part way through a development to show lack of viability with respect to CIL and s106 even once a scheme has started.

My second workshop saw me visit the Shakespeare Suite to see the Housing presentation. Presented by Pat Hayes and Wendy Stokes of Ealing Council, an explanation was given of their regeneration project of underdeveloped local authority land, whereby various properties previously sold under the right to buy scheme were bought back at market level in order to allow larger scale redevelopment of such areas. The purpose of such schemes was twin edged – the redevelopment majorly enhanced the appearance of the ‘council estate’ feel, while providing much needed additional affordable housing. It was explained that this scheme became justifiable given the high land values combined with the high demand for housing.

After Pat’s overview, Wendy explained a little about the mechanics of how the

council had set up a separate company to provide affordable housing whereby the council retained 100% of the shares. By doing this, the new company removes any RTB commitments while allowing them to regenerate run-down housing. Wendy did reiterate that although the company is owned by the council, they can't actually be seen to be getting any preferable benefit (State Aid)!

The final workshop that I attended was presented by John Jones (National Senior Director, GVA), with further input from Benjamin Moorhouse (GVA) and John Wood (The Other Retail Group) on the topic of Asset Management and Valuation. Here, we were told how most authorities had now exhausted most of their ways of reducing the cost base and that we should now consider regeneration and growth, service delivery and operational quality and efficiency.

It was suggested that a number of factors should be considered with regard to keeping on top of the valuation of assets including: an increase in investor appetite, condition of stock, service charge allowance, location of property, tenant covenant, lease length, and planning flexibility. It was also recommended that tenancy schedules are updated frequently, including in them information such as rental levels, break options, rent reviews and lease end dates.

Finally, it was mentioned that rates play a massive part in retail premises occupation – they drive down rent and stifle tenancies as a significant additional cost to tenants. It is prudent therefore that those who look after assets have a vision, understand the requirements of both the landlords and tenants, and have a plan to deliver the vision. This concluded the workshop session for me, before we were ushered towards the reception area for the afternoon refreshments.

[Ed – other parallel workshops were on a legal update, BIM, and schools provision. Full notes will appear in Asset].

Following the tea break, the final session of the day took place – a



Q&A panel on the importance of asset managers, comprising Brian Reynolds (LGA), Martin Farrington (Director of City Development, Leeds City Council), Martin Reeves (Chief Executive, Coventry City Council) and Eleanor Kelly (Chief Executive, Southwark Council). An interesting debate ensued where numerous points of view were portrayed. Noting the comments from the panel, I would suggest that, of course there is still a strong requirement for asset managers – taking on board the comment that if you have a particular need you go to the member of staff who can deliver the desired result, regardless of their role – however I believe it is essential that, where property is involved, the correct people with the right knowledge and skillsets are involved throughout any process.

The captivating Q&A session was followed by the day's closing remarks – an amusing anecdotal conclusion, given by Mark Boleat, (Chairman of Policy and Resource Committee, City of London Corporation), and closed succinctly by ACES President Andrew Wild, before we collected our belongings and headed off to the health suite to change for the evening's black tie event.

After a champagne rooftop reception



with an impressive array of canapés, the delegates re-entered the hotel and headed downstairs to the Dickens Suite for the gala dinner, where we were greeted with a drink while we found our way to our designated seats. The superb 3 course meal was followed by the after-dinner entertainment, an a cappella female quartet known as The Aperitifs, before the evening guests withdrew to the bar for the remainder of the night.

The following morning we reassembled once again for coffee and pastries before returning to the Nelson Suite for the President's welcome by Andrew Wild. Once the scene for the day had been set, Andrew handed over to Peter Schofield (Director General for the Neighbourhoods Group, DCLG) to provide an update on 'What is in the Pipeline'.

Peter's opening comments echoed the sentiments of Robert Clark from the previous day regarding embracing change. He suggested that 3 main elements should be at the forefront of estates managers' minds throughout their day

1. effective use of land and property assets;
2. effective estate management; and

3. seize opportunities to lead change locally.

He continued to explain how economic and fiscal challenges require innovation and new ways of working in order to be overcome effectively but that the government estate can provide a source of funding to boost housing and drive growth (including an initiative to release land for 100,000 homes).

It was mentioned that councils could be challenged to use existing stock in a more commercial way and that land and asset audits should be undertaken to identify suitable land. Such land could include garage sites, more densely developing existing sites, relocating public services to high streets (increasing footfall to other businesses), and using adjacent land owned by different public services in order to create better opportunities with joined up teams.

Peter's talk was aptly followed by a presentation on Estate Rationalisation by Malcolm Sutherland (Senior Manager, GPU), Anne Parker (London Strategic Property Adviser, GPU) and Murray Quinney (Regional Property

Manager, GPU), detailing the specifics of a case study at 21 Bloomsbury Street which saw 7 government agencies relocate their HQs to a newly renovated 80,000 sq.ft property, releasing 8 properties back to the open market and saving the taxpayer £60m in the process. The process involved estate rationalisation, modernisation and growth in equal measure to deliver more integrated and customer focused services. Malcolm and his team had won the ACES Award for Excellence 2013 with this successful project.

Jamie Kerr (Head of Station Regeneration Company Development, HS2) followed with an update on High Speed Rail 2 – highlighting the benefits that will be brought to various regions of the UK, coupled with estimated timescales of delivery, perceived difficulties and how they can be overcome. This delivery was followed by the final presentation of the day – another update, this time on RICS global measurement standards, presented by Johnny Dunford (Global Commercial Property Director, RICS). To summarise a both interesting and educational presentation in one sentence, it was broadly suggested

that, save for a few varied terms, the global standards are vastly similar to the UK standards, emphasising strongly the importance of a unified global standard.

The conference was closed by an address from ACES President, thanking all of the speakers, sponsors and event organisers 3Fox International for arranging such a seamless experience – a sentiment shared, I'm sure, by all of us delegates in attendance. A second hot and cold buffet – again suitably delicious – succeeded the final address before we said our goodbyes and began our journeys home for the weekend.

Speaking for myself, I can say that I thoroughly enjoyed the whole conference which I found to be an informative, relevant and captivating selection of presentations, delivered with due guile from the requisite speakers – and therefore I must thank (again) ACES Eastern Branch for its sponsorship.

Professional

DCLG POLICY – LATEST DEVELOPMENTS

Colin Wright BSc (Hons) MRICS

Colin is the Deputy Chief Estates Specialist at the Department for Communities & Local Government. Prior to joining central government he had previously worked in both private sector consultancy and local authority sectors. His team in DCLG leads on the provision of professional property advice and support on the development of government policy on housing, regeneration and local authority assets. colin.wright@communities.gsi.gov.uk

In line with the ACES new ways of working with DCLG, Colin gives an update of 3 recent government initiatives.

At the last ACES/DCLG working group in July, and as reported in the Summer Terrier, we agreed new ways of working with ACES that included the commitment to disseminate more

information through this journal. While policy colleagues will continue to provide separate articles detailing significant DCLG policy developments and providing case studies, in addition

we also hope to provide a regular DCLG policy update covering areas that are of relevance and hopefully of interest to ACES members.

For this article we discuss the latest developments in 3 policy areas which help address the DCLG objective of helping people to have a home of their own, in this instance by doing more with public sector land; diversifying supply; and through exploring the vital role that local authorities can play.

To start with we look at public sector land and the key role this plays in the provision of housing supply. This is a follow up from the keynote address to the ACES Conference on 12 September given by Peter Schofield, Director General of Neighbourhoods at DCLG and my thanks to DCLG colleague Nicola Lowis from the Public Sector Land Team for providing the following:

Public sector land

There are currently 2 big challenges facing central and local government:

- The economic challenge – despite recent good news on the economy, how do we see a return to long term, sustainable economic growth across the country? and
- The fiscal challenge – with austerity likely to continue for many years to come, how does government, at every level, provide the quality public services that people expect?

In responding to these challenges all of the public sector needs to identify ways to innovate and explore new ways of working – including both across internal and local/central boundaries. Nowhere is this more relevant than in the way government uses its land and property assets.

Why does the government estate matter?

The levels of grant funding seen in the past cannot be expected to continue in the future, and government must explore how its estate can act as a source of funding. This includes examining whether the asset base is

being used effectively; identifying any untapped opportunities to sell land, vacating expensive land currently occupied and reinvesting savings into front line public services.

Equally important is the opportunity to drive growth. Government has often been complacent and inactive, accepting the footprint it has inherited. But land availability is critical to housing supply and new economic growth. Underused land needs to be identified and released, and land that is retained put to more intensive use.

What is DCLG doing to meet these challenges?

Like other departments across government, DCLG is reducing its footprint. This summer the department moved out of Eland House in Victoria and into shared office space, working with the Home Office. Moving to a purpose-designed office block has encouraged more flexible working across organisational boundaries and will save the department £9m each year.

DCLG also led a cross government programme to release surplus government land with capacity for 100,000 homes by April 2015. The programme covers the entire central government sector. By June this year, land with capacity for 80,000 much needed homes has been released. Since May 2010 £1.5bn has been raised in sales of freehold properties. In that time over 1,600 buildings have been freed up and the central estate has reduced by over 2m sq m.

Between 2015 and 2020 Cabinet Office has already identified the opportunity to raise £5bn from land and property across government. The challenge is to make sure that this is released in a way which can support growth.

Working with local government

DCLG also helps to support change in the local government sector. Over the summer, a consultation on proposals to increase local transparency in the size and value of local authorities' social housing assets was conducted,

and work to improve local asset management of high value vacant social housing properties is taking place. Under these plans, local residents will be able to see the number and value of properties held by councils, challenging them on the best use of their stock.

Working across Boundaries

To achieve the full potential of the central and local estate we cannot work in silos. There is considerable opportunity to share local assets, make savings and release the most developable sites to the market.

One example of where joint working is being put into practice is the One Government Estate Programme. The programme is about having a shared strategy across the public sector for the use of land and property; freeing up land to support new homes, new businesses and jobs as well as providing receipts and savings to be reinvested in local services.

Putting different parts of government – local and national – together on a single site can encourage coordination between service providers and provide a better service to local people. For example, placing services on high streets can increase footfall and create a more vibrant town centre; land can be freed up for new housing; and new health and leisure facilities can be built. These benefits sit alongside the financial benefits that can be realised, cutting capital receipts and reducing operating costs.

There are a number of examples of where excellent estate management and cross boundary working is already taking place and delivering real benefits to local residents. The partnership working in Tate Knowle, Staines is a great example of local authority and central government departments working together to deliver local benefit. But more needs to be done to make sure even more local benefits are realised.

The whole of government must play its part. Though central government cannot prescribe the right solutions

across the country, it can create a policy framework that will support and drive change. The opportunity is to work across government boundaries and utilise the valuable local knowledge developed by local level estate teams.

Embracing new ways of working, innovating further and working across government boundaries at every level, we all have the opportunity to deliver change which supports our local economies and helps fund the services people rely on. For more information please contact: publicsectorlandteam@communities.gsi.gov.uk

The Right to Build - unlocking the growth potential of the custom build housing sector

The government also sees diversity of supply as an important part of stimulating housing growth. The developing Right to Build policy, discussed at the ACES/DCLG working group in the summer and introduced in the Summer Terrier, demonstrates how local authorities can play a key role in this objective. The next section of this article provides further detail on the policy and confirms the authorities that will be acting as vanguards to test the model in practice.

Many people will tune into self-build TV programmes, yet how many can turn building a house of their dreams into a reality? Research by Ipsos MORI has shown that over one million people are looking seriously at building a home for themselves in the next 12 months, yet when compared with our European self-build neighbours, where more than half of new homes are self-built or commissioned by the home owner, England lags far behind. For too long custom build homes have been seen as an option only for a privileged few. But in many other European countries, they form an important way of building new homes for households right across the social spectrum.

Custom and self-build housing is where prospective home owners choose to have some say in the design of their home. Whether this be the self-build route (where self-builders tend to design and build their house

themselves) or custom build (where they may work with a specialist developer to commission and build their home). Both routes can be an affordable route to home ownership and an opportunity to own a bespoke and sustainably designed, high quality home, while also helping support local economies and diversifying the house building industry. However, one of the biggest barriers holding back the expansion of this sector is the availability of suitable building plots.

What is the Right to Build?

The Right to Build aims to tackle this barrier, making it easier for prospective custom builders to build their own home and make this form of house building a mainstream option for future home owners.

The aim of Right to Build is to give prospective custom builders the opportunity to purchase suitable shovel-ready plots of land so they can get their projects off the ground.

To develop the Right we will:

- Consult on the Right to Build this autumn;
- Work with a number of Right to Build Vanguard areas to test critical elements of the Right.

The Right to Build consultation

Budget 2014 announced that the government “would consult on a new Right to Build to give prospective custom builders a right to a plot from councils” to improve the availability of suitable, serviced plots of land for custom build.

The consultation will be published in the autumn and looks to develop the Right and put in place the foundations for implementation.

The Right to Build Vanguards

Budget also announced that a small number of Vanguards were to be identified to test how the “Right to Build” model would work in practice.

To inform the implementation of the Right we have commissioned 11 Right to Build vanguard local authorities. The vanguards will voluntarily test out how this new policy could be framed. These local planning authorities will pioneer the Right to Build in their local areas. The lessons learnt by the vanguards in establishing and monitoring registers and bringing forward land to meet demand will be integral to designing and shaping many practical elements of the Right. The vanguards were announced by Planning and Housing Minister Brandon Lewis on 30 September and will receive funding to support them in the vanguard process.

Vanguard highlights:

- Cherwell – who will receive £90,000 and is committed to deliver 2,000 custom-build homes over the next 10 years
- South Cambridgeshire Council, who will receive £50,000 and will bring forward at least 100 plots of land for custom builders and to begin selling land from January 2015;
- Teignbridge Council, who will receive £100,000 and will be implementing a ground breaking ‘5% self-build’ policy in its newly adopted Local Plan;
- Shropshire County Council, who will receive £10,200 to bring forward 6 hectares of land by linking with Stoke Council and local social landlords to find suitable plots for interested self-builders;
- Oldham Metropolitan Borough Council, who will receive £15,000 to begin bringing land forward for sale in autumn 2014 by using formerly-developed council-owned land to support aspiring self-builders in the area;
- West Lindsey District Council, who will receive £5,000 to make self-build plots available on previously-developed public sector land in the area;
- Exmoor and Dartmoor National Park Authorities, who will receive

£28,000 to explore how local self-builders can be helped while protecting important countryside;

- Pendle Council, who will receive £46,000 to deliver self-build plots in the area and explore how this could be used to further deliver affordable homes;
- Sheffield City Council, who will receive just under £100,000 to further deliver over 800 self-build sites, and look to support groups planning their own custom builds;
- South Norfolk District Council, who will receive £25,000 to work with Saffron Housing Association in the area to deliver 40-60 custom build plots and;
- Stoke-on-Trent City Council, who will bring forward 72 hectares of land for local self-builders in the area.

The Right to Build Private Member's Bill

This new measure is in line with proposals included in a Private Member's Bill currently going through Parliament by MP for South Norfolk, Richard Bacon, which would place a duty on local councils to keep a register of individuals who have expressed an interest in finding land for their self-build projects.

Where next?

We will use the responses to the consultation and the lessons learned from the vanguards to develop our Right to Build proposals further.

For more information on the Right to Build, please contact the team by e-mailing righttobuildvanguards@communities.gsi.gov.uk and thank you to Hannah Scott in DCLG Planning for providing the above text.

Builders Finance Fund

Finally we turn focus on boosting development of local small-medium sites through the Builders Finance Fund and with thanks to Daniel Bridger,

DCLG Large Sites team, for providing the following.

Since the banking crisis, banks and lenders have continued to withdraw from the housing sector and access to finance remains a significant stumbling block.

We understand the difficulties small builders in particular face in trying to access development finance to help progress housing schemes. In 2013, 80% of members of the Federation of Master Builders cited current lending conditions as a constraint to development.

We are determined to get the country building and help large and small construction firms to get their developments back on track. The Builders Finance Fund aims to address these financial constraints by providing recoverable investment to support the development of locally-led fundamentally viable housing sites between 15 – 250 units in size. The Builders Finance Fund will provide the much needed development finance for small sites, benefiting smaller/medium sized builders and supporting the construction of new homes.

We have recently shortlisted 165 small housing schemes across the country to be considered for the Fund. The bidding for the Fund has now closed but the Homes and Communities Agency will be re-opening its engagement with the market and inviting schemes to come forward for the Fund over the next few months, on a continuous market engagement basis. This will help to bring forward other schemes which were not quite ready for this round of bidding but which offer a valuable contribution to meeting local housing need and give further opportunities to house builders and SMEs to meet their development aspirations.

If you are aware of any potentially good schemes then please contact the Homes and Communities Agency on 0300 1234 500, email Builders.FinanceFund@hca.gsi.gov.uk or visit its website <http://www.homesandcommunities.co.uk>

Further information about the Fund can be found at <https://www.gov.uk/government/collections/builders-finance-fund>

ACES members have made a valuable contribution to the development of DCLG policies in the past and this article has aimed to build on that relationship through providing more information on current policy developments. If you would like any further details on the policies covered above, please feel free to use the contact e-mail addresses provided. Alternatively if you have any more general comments on this article, including policy areas you might like to see covered in the future, you can either contact me directly using the e-mail address at the top, or through Betty Albon as one of our main points of liaison with ACES.



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BUILDING A BIGGER AND BETTER PRIVATE RENTED SECTOR

Andrew Stanford BSc Hons MRICS FIRPM

This article is an update on his presentation to ACES Presidential Conference in September 2013, held in Glasgow. He explains how large investors are increasingly entering the market with schemes, and that a number of local authorities are rising to the challenge to facilitate this important housing sector. Andrew exhorts more to take the “fantastic opportunity to increase tenant choice and housing supply”. The previous paper can be found in Asset 2013.

Andrew was appointed Head of the Private Rented Sector Taskforce at the Department for Communities and Local Government in April 2013. He has over 20 years’ experience in residential asset management, valuation and investment agency. He is managing director and owner of Stanford Mallinson, which provides chartered surveying, property consulting and residential investment agency services to public, private and third sector clients. He is a non-executive board member of Orbit Group, one of the country’s largest housing associations. andrew.stanford@communities.gsi.gov.uk uk.phelps@nps.co.uk

The private rented sector is now England’s second largest housing tenure. 2012-2013 saw the number of English households renting privately overtake households living within social housing for the first time since the mid 1960s. There are now 4m households living in the private rented sector (18% of all households) whereas 3.7m (16.8%) live in social housing.

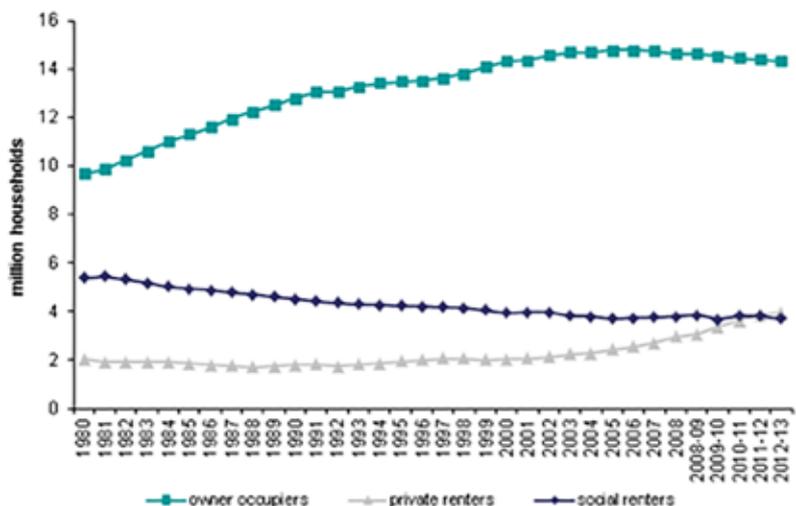
The UK government is looking to increase housing supply across all tenures to fix the broken housing market. The private rented sector is dominated by small-scale landlords. 10% of these landlords, the majority of whom are good landlords, own between 1-4 properties. It is very much a cottage industry.

By increasing housing supply, many new small-scale landlords will emerge and through a number of measures, the government wants to ensure that there are more good landlords. These include

the publication of a How to Rent Guide, a Model Tenancy Agreement which tenants can use to request

longer tenancies and an industry Code of Practice on letting and property management.

Figure 1: Trends in tenure, 1980 to 2012-13



Base: all households

Note: underlying data are presented in Annex Table 1

Sources:

1980 to 2008: ONS Labour Force Survey;

2008-09 onwards: English Housing Survey, full household sample

But it also wants to increase tenant choice and accelerate housing supply in the private rented sector via Build to Rent.

Build to Rent is the large-scale development of flats and/or houses designed for market rental and held by institutional type investors over the long-term. It is by no means a new phenomenon. We used to build a lot of it in the 1930s and 1940s. These purpose-built schemes were owned by large-scale institutional investors such as the Prudential and Friends Provident. They left the sector en-masse when rent controls and security of tenure were introduced in the 1960s.

Over the last decade or so, we have been building a lot of it again but only in the form of purpose-built student accommodation. Much of that is owned by institutional investors once more. It is estimated by CBRE that this sector is now worth an estimated £15bn, excluding university owned halls of residence.

It is not therefore a giant leap to make from the establishment of a purpose built student accommodation market to a Build to Rent market. But it does need local and national government support to be rejuvenated.

Having determined in the 2012 Montague Review that there was an appetite among institutional investors for Build to Rent investment, the government introduced the innovative and recoverable investment programmes of the £1bn Build to Rent fund and the £3.5bn Private Rented Sector Housing Debt Guarantees Scheme (with a further £3bn in reserve). Both of these initiatives have been supported by the Private Rented Sector Taskforce, which was charged with kick-starting Build to Rent.

Build to Rent demand

It is not just tenant demand for the private rented sector that has strengthened. As government support for Build to Rent has increased since the announcement of the Montague Review, so too has demand from institutional investors wanting to invest. It is not surprising that institutions

are taking note. Analysing data from trusted sources, such as the Investment Property Databank, institutions are concluding that the private rented sector offers excellent opportunities for long-term investment.

The private rented sector has low volatility compared to other asset classes, including equities and commercial property. It has really good liability matching credentials, particularly for pension funds. Its performance is lowly correlated to other asset classes and, as a consequence, it offers a good diversification of risk.

In the early days of the Taskforce, Martin Moore, then Chairman of PRUPIM (now M&G Real Estate) described the private rented sector as being at a "tipping point". "The journey from niche to mainstream is just beginning" he noted, as PRUPIM powered back into the market, buying 434 rented homes from Berkeley Group in a £105m deal partially funded by the Homes and Communities Agency. Since then, led by fund manager Alex Greaves, they have completed their first forward funding deal for a specifically designed for rental scheme by Hub for 152 flats in north Acton. They are keen to do more.

Other funds have followed suit. Invesco, led by residential fund manager John German, on behalf of a local authority pension fund has forward funded the development by Be:Here of a new 118 home build to rent scheme in Hayes, West London.

In total, the Taskforce has unearthed

Figure 2 – Hub/M&G Real Estate Build to Rent housing scheme north Acton



aspirations to invest in excess of £10bn in build to rent. These include a regionally focused joint venture between Sigma Capital/Gatehouse Bank to provide up to 6,600 build to rent homes (mainly houses) at a total cost up to £700m, initially in Liverpool and Salford.

Essential Living/M3 Capital aims to build 5,000 homes for rent within London on behalf of a North American pension fund and has 7 schemes in the pipeline. Thames Valley Housing Association has secured £200m of equity from the Abu Dhabi Investment Authority for its Fizzy Living brand, which aims to own more than 1,000 rental homes in London.

There are many other parties actively pursuing large-scale private rented sector investments throughout the country and the Taskforce continues to engage with them.



Figure 3: Invesco/Be:Here Build to Rent Scheme in Hayes, West London



Figure 4: CS Capital Partners 192 home Three Towers refurbishment scheme in Ancoats, Manchester

Build to Rent supply

Clearly it is not enough for there to be demand from institutions – there also has to be something to invest in. That is why the second frontline in the Taskforce’s work is to expand the supply of Build to Rent housing schemes.

By leveraging the £1bn Build to Rent fund, which provides development phase finance to large-scale private rented sector projects, the aim is to create a stock of up to 10,000 new homes for private rent in which investors can invest and thereby demonstrate the viability of developing and investing in large-scale private rented sector schemes. The Fund was 4 times oversubscribed and 11 projects are already under contract for more than £150m of finance for around 2,000 new homes. Examples include CS Capital Partners 192 home Three Towers refurbishment scheme in Ancoats, Manchester funded with just under £8m of build to rent investment. A Bovis/ Mill Group joint venture is to build 190 homes for rent in 6 areas including Bristol, Southampton and Horsham with



Figure 5 An example of the housing being developed by Bovis/Mill Group

£8.8m of build to rent funding.

The Private Rented Sector Housing Debt Guarantees Scheme offers investors guarantees, using the government’s fiscal credibility, to reduce the cost of investing in new build private rented sector accommodation across the UK. The government is already progressing discussions with bidders capable of accessing the bond market directly. A delivery partner will also be ready to do business in the new year with any borrower with a project above £10m.

Local authority support for Build to Rent

Just as these policies are making it financially easier to invest, the Taskforce is also working to ensure that the development environment is suitable for build to rent projects. Key to successful large-scale development - for developers, investors and communities alike - is the role of local authorities; and there are many reasons why local authorities should seek to promote these schemes.

On the most basic level, private rented sector housing can help meet local demand for rented accommodation. However, developing the sector can also help meet housing supply more broadly. It can bring forward stalled sites and accelerate the speed with which multiple phased large housing schemes can be delivered. And it can create new housing communities, owned by long-term investors with a clear interest in creating a sustainable community, helping to drive out rogue landlords and increase quality and choice for all kinds of local households.

There are also economic benefits for the local authority – construction helps to stimulate economic growth, employment and labour mobility and, just as they offer investment opportunities broadly, large-scale private rented sector developments offer opportunities for local authorities to invest. It can also generate income and/or capital receipts from local authority owned land, new homes bonus and Council Tax receipts.

Ultimately, local authorities have the

power to use the National Planning Policy Framework and s106 agreements to support private rented sector development. Recent revisions to planning guidance, supported by the Taskforce, recognise the private rented sector as an asset class. Local authorities should recognise the importance of private rented housing when addressing local housing need.

A first tranche of 84 local authorities were highlighted by the Taskforce as having large-scale market rental housing investment locations. We have been engaging with these local authorities to promote the private rented sector; but we hope that this is just a seed that will germinate into much broader support for build to rent going forward.

To date, we have identified 29 local authorities who are supportive of build to rent. They include Croydon which is backing build to rent by converting its own offices with just under £20m of build to rent round one funding into 216 private rented sector homes which will ultimately be owned by Essential Living/M3 Capital. Build to rent will clearly play a part in its drive to build 9,500 homes over the next 5 years.

Derby City Council is keen to use build to rent to help rejuvenate its city centre and it is seeking key partners to invest and develop in key sites under their City Living initiative. It is a potentially exciting opportunity for build to rent investors having the highest gross income by workplace of any UK city outside London.

In South Cambridgeshire, Urban and Civic has secured the development partner mandate for the Waterbeach Barracks scheme with plans to turn the base into one of the country’s largest private rental housing schemes. Wandsworth Council has recently granted planning permission for a 114 home build to rent scheme within a 500 home development by Bellway Homes in the Nine Elms regeneration area in Battersea. Manchester City Council has teamed up with Abu Dhabi United Group to back an 830-home build to rent scheme to regenerate Ancoats and New Islington in Manchester.

Increasing standards

This is not to say that planning and valuation for the private rented sector cannot be improved. There is significant scope for work to increase the quality and availability of information about the private rented sector and the Taskforce is working closely with the property industry on technical aspects including valuation, planning viability and house-builder returns. This work is closely related to the third strand of the Taskforce's work – work to improve standards.

Certainly one of the most compelling arguments in favour of supporting private rented sector development is that increasing supply increases competition and with increasing competition we expect to see improved quality and choice. Yet equally, one of the key reasons that the build to rent multi-family model has been so successful in the US and Germany is that developers have invested time and thought into how to create spaces and communities that people want to live in.

We want to promote this same culture and considerations within the UK.

By facilitating guidance, such as the Urban Land Institute's Build to Rent Best Practice Guide, we hope to encourage further thinking about quality and innovation in the sector, but also to help provide tools that those with an interest in the private rented sector can use. We also supported the recent publication of the RICS information paper on valuing modern residential property designed to be rented, which will help valuers and their clients commissioning valuations of these schemes.

Taskforce legacy

The final strand of the Taskforce's work – legacy – recognises that the term of the Taskforce is relatively short. Our work is currently anticipated to draw to a close in March 2015.

One area of focus is the encouragement of new financiers into the market to support future build to rent schemes

and long-term investment. We have already seen a strong response from the market and are encouraged to see the number of private rented sector projects that are proceeding without government finance. We estimate that there are at least 2,500 homes to be built specifically for rent without government support.

We are also working with partners to develop university modules and courses on private rent to ensure that we cultivate and conserve as much specialist knowledge about the private rented sector as possible.

But the biggest legacy we can leave is for local authorities to support the development of build to rent schemes of the future. Without this continued support, the momentum that the Taskforce has helped to build within the sector will wither and a fantastic opportunity to increase tenant choice and housing supply will have been lost. If you or your colleagues want to support the establishment of this new housing sector, do please get in touch.



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SAY 'YES YES YES' TO PRS

Gill Marshall

UKR's regeneration project in Lenton, Nottingham and its revolutionary concepts have been featured a couple of times in Terriers, following Jackie's presentation at ACES Spring Conference in Barnsley in 2012. "UKR is leading the practical application of all the theory surrounding the PRS (private rental sector), with pioneering work in the Midlands. The re-emergence of inflated house prices plays into - and strengthens - the sector's hands."

Gill Marshall is head of operations at UK Regeneration (UKR) and has worked in the inward investment sector for more than 25 years - the first dozen spent at the London Docklands Development Corporation (LDDC) working with foreign and UK investors. In 1998 Gill was recruited by London First to set up Docklands East London, a private sector led partnership tasked with continuing to secure investment in east London; its funders including Canary Wharf Group, London City Airport and Tate & Lyle.

In 2001 Gill and her team moved to Gateway to London, the investment agency for the London Thames Gateway. As Deputy Chief Executive in charge of operations, she delivered a full investment service for the region resulting in the creation and retention of over 10,000 jobs in east London.

Gill joined UKR 3 years ago and manages the UKR Business Forum, heads the community relations for the Nottingham 'Sandfields' project, and develops the 'Club UKR' proposition. Gill is heading the UKR operation while Chief Executive, Jackie Sadek, takes a one year secondment to act as policy advisor to Greg Clark, Minister for Cities. gill.marshall@ukregeneration.org.uk

Rising house prices – they're not going away, are they? Just when you thought it was safe to re-enter the choppy waters of mortgages and gazumping, here comes Savills' latest prediction that the average house price will rise more than 25% by the end of 2018.

And as the latest round of terrifying price rises are reported, we also clock the fact that the number of homes actually occupied by their owners is on the decrease – so obviously the PRS is on the rise, just not in a co-ordinated way that is designed to actually meet the needs of the people living in these homes.

And don't get me started on decades of under-investment in new housing stock.

So at what point do we, as a nation, say 'enough is enough'? My belief is that we have already said it, but not loudly enough.

The good news is that the PRS is on the up as well, now accounting for around 4m households in England. But of course PRS is not really a 'sector' in the strict sense of the term. It's more an amalgamation of piecemeal properties held in small portfolios by independent landlords – the majority owning fewer than 10 properties.

But I have a problem with all this. This growth in the PRS is not fuelled by new homes. It's not fuelled by homes being designed and built with the tenant in mind – the growth is coming from homes that were designed as one thing being knocked about and rented out as another thing. The homes that are underpinning the PRS's growth are, in fact, often carved out of bigger and better homes.

But given the fact that anyone and everyone involved in housing, in redevelopment, in cities and in urban life per se understands that real growth

will come from new housing stock, it is there that we have to focus. And it is there that the government is focussing.

I don't need to go into detail about what's wrong with turning the existing housing stock into PRS properties, do I? Small bedrooms, not enough bathrooms, poor finishing, little storage...in fact, no compelling 'narrative'.

The PRS is not telling its story well enough or loudly enough to make itself really attractive to the consumer. There is no synchronised brand, no set of values that the tenant can see and identify. This is because too much of the PRS is last-minute, thrown together and badly thought-out.

There are so many levels that the PRS has to address genuinely to raise itself from the current 'it will have to do' sector to being a desirable, honourable and even status-driven offer that is

seen in other European countries. We need to stop recycling houses into pokey flats, we need to work with the tenant – the customer – and we need to think afresh about what we're delivering long-term.

This means high spec housing that people choose to live in, rather than see as a fall back for when they can't get a mortgage. This means bigger rooms, better storage, more bathrooms. This means better places to live.

And this also means we need developers who have vision, insight and commitment to building a brand so that their tenant is a willing tenant, someone who'll seek out their properties wherever they move in the UK.

Why? Because not only are they well-built and properly designed, they come with the things that we all expect in life nowadays: properly serviced, fully-functional, places to live with a team behind them that is involved in where and how the tenant lives.

UKR is clear about this. We have plans to help tenants find the best deals locally or who the region's best employers are. In fact, when UKR goes into a town or city we work with the best employers, in a 2-way relationship whereby we can develop what their staff need and their staff can have access to our properties. People in UKR homes will cross-pollinate their work ideas and build communities that are inter-connected. We're actually developing communities, rather than pockets of reluctant tenants.

But because people want and need flexibility in their rental agreements, because so many people now are on short-term work contracts, UKR homes will have agreements that can be transferred from city to city. If the UKR brand is attractive, then they'll want to stay with us.

The new breed of landlord/developer understands that 'they will stay with us' can mean 'forever'. We're not just talking about the young professional waiting to get their first foot on the property-owning ladder. We're talking about developing a brand so strong

and an offer so attractive that for the people who 'get it', the PRS will feel like home and they will choose to stay.

And that's a key ingredient. We're not talking about 'somewhere to rent' but 'somewhere to live'. We're talking about people feeling at home.

Let's talk about money

One of the factors holding the PRS back is money. If it is so easy to build and sell then of course developers will do that. Except that they're not.

Institutions see that the build for rent movement is not as straightforward as build for sale. There are always ongoing costs in PRS. But – and it's a big but – this is where the demand is, as people want more and more to rent a home that someone else will maintain; as people want to be rid of the mortgage albatross. People want flexibility in where and how they live.

So the enlightened finance houses are working closely with the PRS developers. They're talking big numbers in terms of investments and housing units. They're talking long-term and 'slow money', with PRS being a new asset class. And they're talking big assets.

This dialogue is mirrored by the conversation between developers and planners. Investors need to know that the homes receiving planning permission still hold the potential for returns. There has to be a balance, but with the strength of the PRS demand and the growing obligation on councils to encourage developments mean that the 'win win' relationship between tenant, investor, developer and local authority is gaining momentum.

The truth is that the councils hold the key. This is why UKR has developed such close links with councils in Nottingham, Derby and elsewhere. This has to be a partnership. UKR has to develop homes that people will cherish but the council needs homes in large numbers. So, again, the correct balance has to be struck.

With an open and clear dialogue, PRS

can satisfy the needs of city councils UK-wide.

What about the government in all this?

The government is actively supporting a bigger and better private rented sector. The government recognises the need for homes and the need for a properly-planned, financially sound PRS. So the Build to Rent Fund has reached £1bn so far, coupled with the £3.5bn Private Rented Sector Housing Guarantee Scheme.

And this only helps to boost the confidence of the financial institutions looking to get involved. The aim is not just to deliver numbers, but to deliver quality. To deliver proper, desirable homes that contributes to the fabric of city living in general.

In turn this boosts a city's status and that, in turn, brings greater inward investment to the region. Put into that context, it is not surprising that PRS is such a prominent factor within the development strategies of all the UK's main cities.

And this is why the PRS is poised to become such a dominant player in the entire housing market. It reaches into the needs of so many individuals, so many families, so many local authorities and investors and right to the heart of government.



KENT COUNTY COUNCIL HOUSING INITIATIVE

Rebecca Spore

This initiative illustrates one way that the local authority can work in partnership to develop challenging sites and provide much-needed housing.

Kent County Council (KCC) has agreed an innovative land transfer deal with Kier Living, the residential division of the Kier Group, which will see more than 150 new homes built throughout the county. The Kier Kent Initiative (KKI) was created to enable the development of challenging sites with much-needed homes in the south-east of England.

The unique land deal between Kent County Council and Kier has been structured to use vacant public sector land and private sector institutional investment to build new homes for private rent and open market sale. The initiative packaged together Kent County Council-owned sites in Sevenoaks, Canterbury and Swale, which would have struggled to deliver housing on an individual basis, and as a package, allowed Kier to lever in institutional funding to finance the building of new homes.

The KKI is a key strategic market-led deal, put together to bridge the gap on marginal sites to deliver new homes. It is clear that this and other similar initiatives have the potential to unlock sizeable institutional investment to deliver much-needed homes in new exciting ways that leverage the growing appetite of the public and private sector to underpin housing delivery.

Kier also worked with local planning

authorities to outline the advantages of granting planning permission on these sites, which were on the edge of built development areas in their respective localities.

The rented homes are to be managed by a leading Kent-based registered social landlord. The initiative was attractive to Kent County Council as it placed the responsibility on Kier designing, financing and obtaining planning permission for the build, while bringing forward more than 150 new homes that could have been unfulfilled without the programme. This style of approach is being considered for other sites and may prove effective in some of the more deprived areas in the county. It also gives the council an opportunity to establish a significant land investment portfolio where it receives income from the transaction.

The programme has the ability to offer a range of housing tenures that traditional methods would not have been able to deliver in these localities. Affordable rent, private rent and open market sale homes have all been created across the various sites, enabling new affordable homes to be delivered without the requirement for government grants.

The attractive structure of the land transaction resulted in the realisation of capital receipts and a rental income flow for Kent County Council. The rent income flow was fixed as part of the land transaction deal and flows from a percentage of the rental income secured by the registered social landlord.

Kent County Council's leader, Paul Carter commented: *"This is just the kind of deal that is needed. Through an innovative land transfer, 152 new homes will now be built for local people, and local jobs and apprenticeships will be created."* He commented further, *"By harnessing its assets effectively, the Council will benefit from a long-term income stream which can be reinvested in local services. With many sites remaining undeveloped and land-banked when Kent County Council began the programme, it seemed to be a ground breaking method to kick start local housing markets moving and get local people into employment. I have no doubt the approach will be replicated around the country."*

The use of public sector land within the KKI model is vital to its success. With significant pressure on public sector finances, KCC was keen to consider how it could release public sector land to stimulate housing delivery. Another key aspect that makes KKI work is the provision of a long-term inflation-linked return for the institutional investor in the form of rents underpinned by the housing association. It has become clear that there are a growing number of institutions with funding available for investment in housing, who are seeking an inflation-linked return. We considered this as potential funding for the future, which can enable new affordable and market rented housing to be delivered without the need for significant government grant and enable housing projects to come forward sooner.

For Kent, it is using its assets to help drive the economic activity in the county as the deal drives smaller scale developments where the contractors will use local labour and bring new jobs to the Kent economy. The ongoing management of the houses will be a

Kent-based housing association and new jobs will be provided too.

KCC will continue to search for innovative solutions to producing housing and developing sub-prime sites throughout the county, which

in turn will stimulate stagnated markets and promote regeneration. This approach may be modified and adjusted to suit a number of sites that do not lend themselves to a traditional disposal method while delivering mixed tenure homes in key localities.



CUT BACKS – WHAT CUT BACKS?

Debbi White

Debbi is Property and Asset Manager, Community Services, at St Albans City and District Council.

This article is an outcome from a presentation Debbi made to ACES Eastern branch about St Albans' initiatives. "The office accommodation, leisure and heritage projects are just a flavour of what St Albans has been doing over the last few years or will be doing over the next few. I can honestly say that with so much going on I am proud to be a local authority property professional."

Like all other public sector organisations St Albans City and District Council (SACDC) has had to tighten its belt and find ways to save money and become more efficient. With ever reducing resources and more demands

for better service provision this is a challenge you will no doubt recognise. You will also recognise the growing importance of your assets in helping to achieve efficiencies and improving service delivery.

Although this has been a time for cutting back, it has also been a time of opportunity. SACDC has made the most of cheaper borrowing, partnership working, and grants to fund an exciting capital programme. In this article I:

- explore ways in which SACDC has worked with partners to create savings and improve the customer experience in its central offices:

- look at how SACDC has funded major leisure developments during a period of recession and budget cuts and
- consider the innovative ways in which SADC is involving partners and community stakeholders to deliver a major heritage project.

Work Environment Programme

If your organisation is thinking about sharing office accommodation with partners, I hope our experience will be of some help.

The first phase of the Work Environment Programme began with making space on the upper floors of the council offices to accommodate around 40 SACDC staff from a self-contained area on the ground floor. These moves enabled us to create a hub for local services including the Citizens Advice Bureau, Centre for Voluntary Services and a local college.

After successfully piloting the hub, we created further space on the ground floor by rationalising desk layouts. The Citizens Advice Bureau and the Centre for Voluntary Services then moved

Figure 1 – Desk Utilisation Survey Results

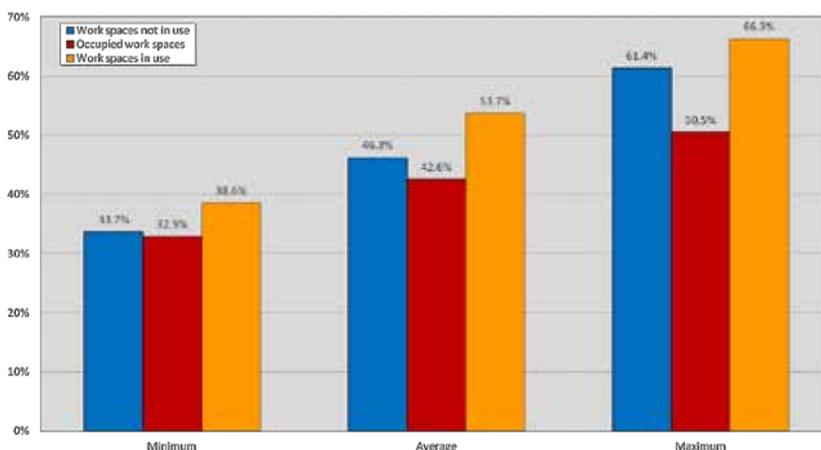


Table 1 – Workstyles		
Workstyle	Description	Desk Ratio
Fixed Worker	Spends 60-100% of their time at their desk	1:1
Flexible Worker	Spends 40 -60% of their time at their desk	1:2
Mobile Worker	Spends less than 40% of their time at their desk	1:4

into the vacated space leading to an immediate saving on business rates and grant payments.

The second phase of the programme was designed to improve not only the tired physical environment but our way of working. It was also the opportunity to create more space to rent out in order to generate income. The outcome we wanted to achieve was to move the majority of SACDC staff onto 2 floors. This meant creating space for a further

100 staff, in addition to the 40 staff previously moved onto the top floors.

Desk utilisation

Our first step was to analyse our desk utilisation – we started with 384 desks. For anyone who has not done this it is well worth it. You will be amazed at how little time people spend at their desks. With holidays, site visits, meetings and sickness the average desk usage at SACDC was around 54% with a

maximum of 66% (see Figure 1).

It was an easy decision therefore to work towards a target of 70% occupancy. Using a mixture of fixed and flexible desks allocated by reference to workstyle data (see table) we were able to reduce the number of desks to around 250. It was clear however that this could not be achieved using existing antiquated and inflexible furniture.

We opted for the modern bench type desks with personal lockers instead of pedestals. We also reduced storage in the working areas to keep the floors as spacious as possible.

Storage

Storage is another area that deserves attention. We identified over 1,400 linear metres of filing located in our work areas. We were able to reduce this by around a third using the FAB process (File Archive Bin). From having around 40 filing cabinets in 2010/11 my property team now has 6. It's amazing how rarely files are needed when they are stored in the basement archives!

Implementing the changes

We had worked out the numbers of desks and filing cabinets that would be needed. We had also tendered the re-carpeting, redecoration and refurbishment works for the 2 main staff floors. The challenge was how to implement the changes while keeping service disruption to a minimum.

It was rather like doing a jigsaw and we could not have done it without the co-operation of the staff and our excellent contractors. One team agreed to work in the basement committee rooms for 3 months, trialling the flexible working arrangements in a windowless and dreary environment. This allowed us to refurbish the area they vacated – one side of the second floor. Two other teams were moved into this area and the area they vacated was then refurbished and so on. This meant that, except for the first team, disruption was kept to around one day per team. We were also able to arrange for key members of staff to move ahead of the



main teams to ensure continuity of service throughout.

Lessons learned

The staff move and refurbishment of the staff work areas took around 3 months. Throughout that time we kept staff and councillors informed on progress and worked with staff representatives to ensure that the decant processes ran as smoothly as possible.

The biggest lesson learned was that communication is vital. Engaging people and giving them the choice where possible helps to bring them along. Communication within the project team is also essential since it prevents duplication of efforts and ensures things are not forgotten.

Clear roles and responsibilities are also important. Resources are limited so in-house staff co-opted onto the project team need to be clear about what is expected of them. They want to be able to make a difference or there is no point in them being there.

Finally – do not forget the politicians. Their buy-in is crucial.

Was the project a success?

On the whole I think the project was a success. The council now has a flexible way of working within a modern and clean environment. The future savings

for the council are estimated at about £180,000 per annum based on rental income, business rates savings and savings on running costs.

Staff surveys have shown a definite improvement in satisfaction with the work environment since the project completed - 65% of staff are now more satisfied with their immediate work area than before the works (up 27%) and 80% are happier with the building as a whole (up 30%).

The council offices are home to 2 voluntary sector partners, with a third partner to join us shortly. We also offer a flexible hub space for other voluntary sector partners that allow the public to access a range of services in one place.

The police have just signed a lease for around 7,000 sq ft of surplus space in the council offices and they will be starting their fit out works in October. The police move will mean that their building is vacant. Together with an adjacent empty building, a significant area of the Civic Centre is now available for a mixed use redevelopment scheme. This will help reinvigorate an important city centre area with potential for major economic development.

What appears on the face of it to be rationalisation of office accommodation, when done by a local authority can actually be the catalyst for other important community benefits.

Leisure developments

A local authority can also contribute to the economy in times of recession. When private leisure operator developers were cutting back, SACDC was in the process of building and/or planning new leisure facilities in the district with a total cost of around £36m.

Construction of the new £24.1m Westminster Lodge Leisure Centre was completed in 2012. It was funded using capital resources, Growth Area Funding, s106 receipts, and prudential borrowing funded by revenue savings and income generated from the management contract for the new facility. The Centre has a 180 workstation gym, sports halls, 10 lane, 25m swimming pool, learning pool, children's confidence water and a spa to rival any in the private sector.

We have also re-built Batchwood Sports Centre, which was destroyed by fire in 2011. Using insurance monies (£3.8m) together with funding from Sport England (£500,000), the Lawn Tennis Association (£600,000) and council capital budgets, we were able to re-build and improve upon the gym and tennis facilities. We were also able to introduce a new Judo dojo and re-provide new golf and bowls facilities that were destroyed in the fire. The new Centre opened in May 2014.

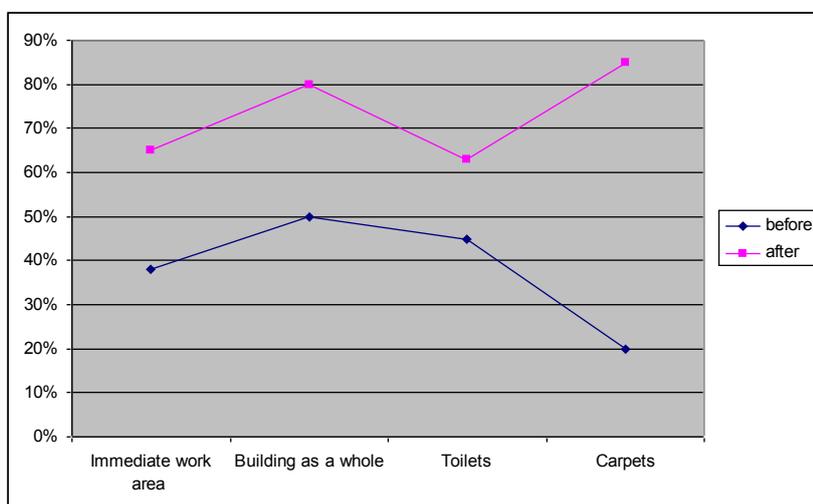
Our third leisure project is currently under construction. Cotlandswick will be a brand new sports centre with a single court sports hall, 60-station gym, exercise studio, outdoor and indoor children's play areas and 9 synthetic turf pitches.

Works started in August and are expected to be completed in summer 2015. Cotlandswick is being funded by a mixture of s106 monies (£1.1m); council capital funding (£780,000) and prudential borrowing (£2.9m).

Heritage project – new museum and galleries programme

In addition to the leisure projects, SACDC is also engaged in a heritage project that involves relocating the city museum and

Figure 2 – Staff Satisfaction Survey Results – before and after the works





gallery from Hatfield Road into the Town Hall in the heart of the city centre. If all goes to plan the new facilities should be in place in summer 2018.

This is an ambitious £6.75m project involving complexities such as listed buildings, Heritage Lottery Fund (HLF) bids and charitable trusts. We are seeking to fund the project through HLF funding; the sale of the existing museum site and general community and major donor fundraising. Partners and stakeholders involved include the Museum Trust and the University of Hertfordshire and we are working with the community in new and innovative ways.

Although the Council is the lead for the overall programme, our project teams and Programme Board include community stakeholders and community representatives involved in the way projects are managed and outcomes are achieved. Councillors too have a much more hands on role than they perhaps have had in other projects.

From a property point of view one of the most interesting aspects of the programme is the sale of the existing museum site. It is our intention to sell the site with the benefit of planning permission and this is where our engagement with the community is perhaps most surprising. Using a design charrette (an intense period of design or planning activity) we will be asking the community to help shape a sensitive, durable design for the redevelopment of the existing museum site.

We are working with Look! St Albans, which is a community-led organisation formed to promote and enhance design criteria within St Albans City Centre. Look! St Albans will arrange and run the charrette using independent facilitators. The community as well as architects, planners, valuers, highway engineers and surveyors will be invited to attend the charrette workshop and design sessions. This goes well beyond offering the community 2 or 3 options to choose from. Their ideas will help to create a design that will then be taken forward for planning permission.

The office accommodation, leisure and heritage projects are just a flavour of what St Albans has been doing over the last few years or will be doing over the next few. I can honestly say that with so much going on I am proud to be a local authority property professional. I know from speaking to colleagues in other authorities that St Albans is not unique – there is excellent, innovative work going on in the public sector all over the country.

If you would like more information on any of the projects mentioned please contact me at debbi.white@stalban.gov.uk

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ESTATES CO-ORDINATION AND LAND TRANSFER PROTOCOL



Richard Baker

Richard is Acting Joint Head of Division and Head of Estates, Property Division, Welsh Government. He is a Chartered Surveyor with over 20 years' experience in the public sector. His focuses primarily on strategic asset and estate management, programme and project delivery, public sector construction sector projects and policy development.

As Head of Estates he is the lead advisor on the Welsh Government estate, providing independent and impartial property advice on both the administrative portfolio and across policy areas. He leads a team of property professionals and project managers within the Property Division which acts as the Welsh Government's Centre of Excellence on asset management, compulsory purchase and governance in respect of property activity. Richard is the editor of the Welsh Government's annual 'State of the Estate' report.

Richard is now the workstream lead for the National Assets Working Group and has led on the establishment of the All-Wales Public Sector Property database (ePIMS Lite) and the development and embedding of the Land Transfer Protocol, as a best practice guide for the transfer of assets between public bodies in Wales. Richard.Baker@wales.gsi.gov.uk

This is an update of the presentation made by Richard's colleague at ACES Annual Meeting held in Cardiff (see 2013/14 Winter Terrier). It explains the Land Transfer Protocol, to facilitate public sector asset transfers and indicates what more is to come for community asset transfers.

In November 2013, Sioned Evans provided a broad overview on the work of the National Assets Working Group (NAWG). As a quick reminder, the NAWG is taking forward a programme of work aimed at delivering on the agenda of collaborative asset management in Wales by identifying, supporting and encouraging innovation in the management of the public estate and its corresponding assets, which present opportunities for improved service delivery and realise significant efficiencies. It is also a forum for sharing best practice among public sector property professionals, which is now supported by the AssetsCymru website.

To achieve effective strategic management of land and buildings across the public sector means working together, sharing information, challenging ways in which we deliver services. The NAWG seeks to, in the

first instance, unlock key barriers and facilitate a more collaborative approach in the use of the public estate. Long-term it is hoped, indeed expected, that this will enable the public sector in Wales to develop innovative solutions in an open and collaborative environment.

When the NAWG was established, 2 of the initial tools developed were the Wales Public Sector Property database hosted on e-PIMS ("e-PIMS database" was created by UK central government to record property data across the central government civil estate. e-PIMS "lite" sits alongside the main database to provide a strategic overview of property assets) together with the development of the Land Transfer Protocol (LTP).

As highlighted in Sioned's article we have been extremely successful in capturing public sector assets onto a single database (e-PIMS'Lite'). There

are now over 22,000 entries on the database. The challenge continues to be how that information is used by the public sector in Wales in making better use of existing assets both from an efficiency perspective but also assisting in delivering policy and service delivery objectives.

Estates co-ordination and Land Transfer Protocol

See <http://wales.gov.uk/topics/improvingservices/pslg/nwp/assetprocure/landtransfer/?lang=en>

Early on in the work of NAWG it was evident that there was significant frustration around inter-public sector land and property transfers. These transactions were being handled in the same way as transactions between the public and the private sectors – which were not always appropriate.

Co-ordination principles



It could be quite confrontational with separate valuations and long protracted negotiations. When talking about 2 public sector bodies working together, this seemed unnecessary because all the costs and resource were coming effectively from the same financial pot.

The LTP was introduced to increase efficiency and reduce the time and cost associated with the transfer and disposal of the public estate between public bodies in Wales. The original LTP was approved in February 2011.

Since its introduction it is fair to say that the LTP has now become a mainstream document when transfers/disposals are progressed between public bodies in Wales, with over 70 instructions issued via the LTP. It is already estimated that savings in the order of £100,000 have been achieved in valuation fees, but the opportunity costs in respect of extended negotiations and staff time saved on transfers are still to be fully evaluated.

Following reflections on the work of NAWG in part as a result of the NAW Finance Committee Inquiry into Asset Management in the Public Sector which issued its report in August 2013 and feedback from users of the LTP, it was considered that it would be beneficial to

update the document for a number of reasons:

1. In terms of the existing document and user experience, the primary area for improvement related to the clarity and timing of instructions to the 'independent valuer'. By and large, the LTP has worked well, but on occasions instructions were not as clear as they could be and issues that impacted upon valuation (e.g. planning etc) were not resolved pre instruction. It was also the case that valuation instructions were issued prematurely, prior to firm proposals having been agreed between the parties. All of these issues effectively lengthened the time an independent valuer was engaged on a valuation and added to costs;
2. The document needed to align more closely with the work and overall objectives of NAWG. In that context an 'Estates Co-ordination & Collaboration' section has been added;
3. Finally, in seeking to optimise the efficiency of the public estate in Wales and reduce costs, many public sector organisations are

looking to share accommodation, which reduces overall expenditure on property as well as many associated occupational costs. A co-location/shared occupancy section has been added to meet this requirement.

What is the guide?

This guide sets out advice by the National Assets Working Group for a best practice solution regarding property asset coordination, transfer, disposal, shared use and co-occupation of land and property assets between public bodies in Wales.

This updated Estates Co-ordination and Land Transfer Protocol encourages public sector organisations to produce asset management plans to aid effective and efficient use of the assets, while also recognising assets as enablers of policy and service delivery.

What the document does not do

1. It does not deal with the mechanics of identifying property need or availability;
2. The guide does not seek to offer specific property management advice with regard to the process leading to the decision to dispose.

What does the document cover?

One of the key deliverables of the NAWG is the development and delivery of a best practice guide for use by the Welsh public sector to make best use of our asset resources and assist in reducing cost and time associated with the transfer and disposal of the public estate between public bodies in Wales. This updated version extends the guidance to co-location/shared occupancy of assets by public sector bodies.

The key principles of each section are summarised below:

Estate coordination:

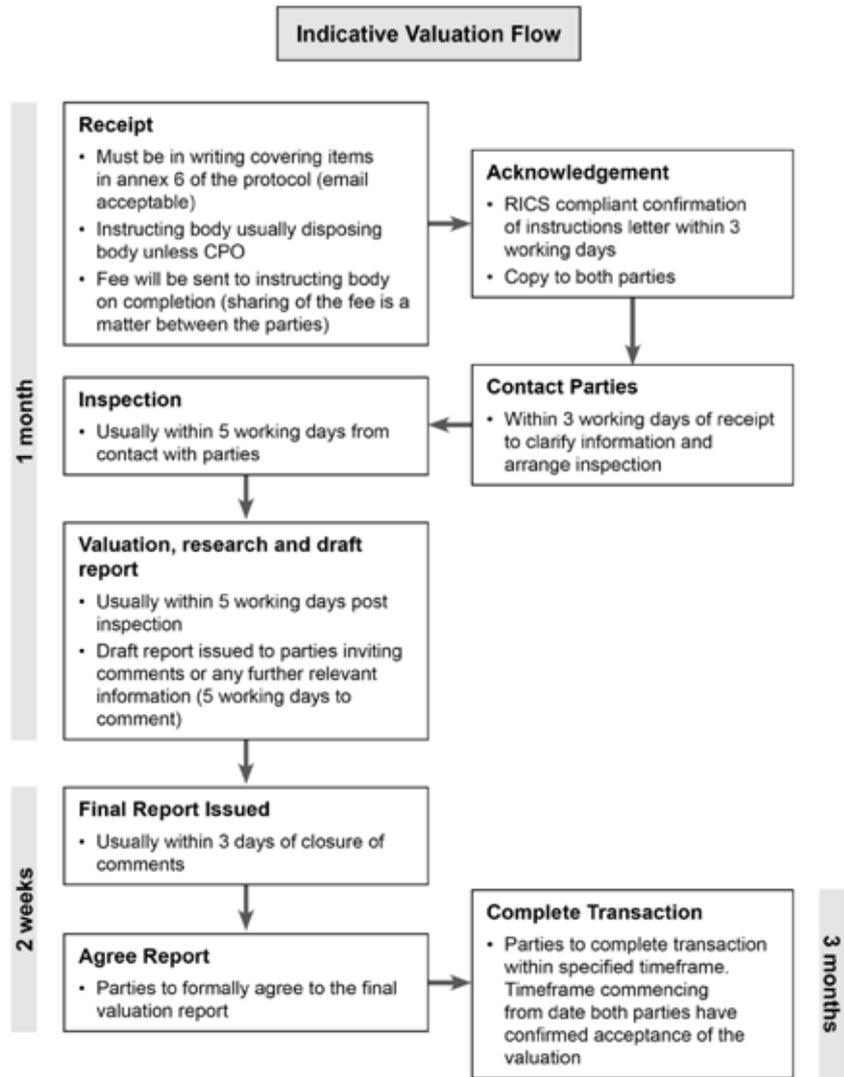
- Public bodies should work together at an early stage sharing strategies and occupational plans;

- New property requirements should be initially pursued through investigation of surplus public sector estate prior to market searches;
- Surplus assets should be identified at an early stage and utilise e-PIMS to assist co-ordinating with other bodies;
- Available assets should be flagged on e-PIMS for 40 days prior to marketing;
- e-PIMS "lite" records should be kept up to date.

A chart is included in annex 4 of the protocol, which summarises the principles.

Land and property transfer/disposal:

- The organisations should jointly appoint a single independent valuation, usually commissioned from the District Valuer or an agreed independent surveyor to settle the price to be paid;
- The organisations may require legal advice, especially where sponsored organisations are involved as these may have specific legal requirements for the transfer process;
- Transfers of property between internal departments within the same accountancy umbrella should not normally need a full investigation of legal title with the transfer likely to be at current book/asset value (subject to internal valuer review);
- Internal transfers should not normally involve claw-back (rights to share disposal proceeds) or overage (rights to share future profits on disposal). But it may be appropriate in certain circumstances to include a claw-back provision in transfers between public bodies outside the same accounting umbrella;
- Assets should be valued at market value in accordance with RICS Standards;



- Transfers/disposals to outside bodies could include restrictions which may be reflected in the valuation. However, care is to be exercised regarding the implications of "below market value disposal" and the interaction of State Aid rules;
- Almost all transfers and disposals can result in accounting and/or budgeting adjustments. Each transfer must be judged on its own merits, involving a business case and covering all legal and financial perspectives.

It is important to point out that the intention of the Land Transfer Protocol is that it is used for the transfer of land/property to meet an operational requirement and not a speculative purpose. It is also on the basis that there is an approved business case in place

for the acquisition with the confirmed availability of funding.

An indicative valuation flow chart is included in Annex 2 of the document.

I highlighted earlier some of the problems that have emerged with the original LTP with regard to timing and quality of instructions to the independent valuer. We have sought to address this within the updated protocol. Annex 2 details the procedures in terms of the agreed appointment and general valuation procedures. It is important that the parties agree as many of the material facts as possible prior to issuing an instruction. To avoid a protracted valuation process, a valuation instruction checklist is also included in annex 3i.

Co-location Agreements:

- Organisations should make surplus space available for occupation by other public sector bodies, where this does not create unreasonable security or cost implications for the 'owning' organisation and, in respect of leasehold property, where it is permitted under the terms of any occupational lease;
- Any request to share space may be rejected if the proposed use is considered an incompatible use with the current occupier;
- When sharing occupation of space for a short term period (i.e. less than 6 months), on a non exclusive basis, organisations should use the Standard Licence Agreement in Annex 10 of the document, if appropriate for their circumstances. If there are any doubts as to whether exclusive possession of the premises is being granted to the licensee, appropriate legal advice should be sought;
- Occupation of an area, either on a long term basis or where the occupier has exclusive use of the space, would typically be via a contracted out lease agreement. If required by the parties, an independent valuation may be commissioned to determine the rental value;
- The standard heads of terms should be used where applicable to minimise solicitor's fees and improve transaction time;
- Legal advice will be required to ensure that any agreement is suitable for the circumstances.

Overview

An attempt has been made in the updated protocol to incorporate documents which will enable the parties to progress matters further than they may have done previously before instructing solicitors, etc. Property professionals in the public sector understand how these arrangements work, but when you are talking about community councils and the third sector, which do not necessarily have access to property expertise, having defined

standardised templates with issues to consider, is really helpful.

Feedback on the use of the protocol

Below are some comments made:

- *The engagement of only one valuer for both parties thus saving time and money on fees and avoiding a scenario where either party have differing valuations and cannot agree quickly on a final price;*
- *The protocol enabled the College to work openly with the Health Board and for both parties to achieve their objectives - the College to extend its existing campus and the Health Board to dispose of surplus property. The joint appointment of the District Valuer, as an independent valuer, ensured that one party did not gain an unfair advantage over the other;*
- *The protocol is fine, as far as it currently goes. However, it would considerably benefit from clear advice to participants to share with partners their emerging property strategies or, where relevant, service plans. Property is an illiquid asset, and takes time to determine and then implement operational decisions. The earlier the engagement, the more likely there will be a positive outcome. Too often the die is cast once properties have been declared surplus to requirements.*

The final comment is one of the key issues that we have attempted to address in the latest version of the protocol by incorporating an Estates co-ordination and collaboration section.

What next?

We have now turned our attention to community asset transfers. Given the financial pressures being faced by local authorities, there is more pressure to transfer certain assets and indeed services to community/town councils and third sector organisations. For the recipient organisations there are clearly capacity and capability issues to be addressed, while there also has to be transparency in relation to these transfers. If they are to happen, it is in

everyone's best interests that they are sustainable. Therefore to support this agenda, the NAWG is now looking to develop a guidance document which will seek to encompass the following:

- Highlight issues relating to transfer of services associated with property;
- Signpost other existing guidance;
- To provide examples of community asset transfer policies from other organisations;
- Highlight case studies to demonstrate best practice and breadth of opportunities;
- Provide a check list of issues to be considered.

It is expected that this guidance document will form a strong basis to progress a common approach to community asset transfers in Wales.



COMBINED LOCAL AUTHORITIES AND ECONOMIC PROSPERITY BOARDS – THE MISSING LINK FOR REGENERATION INITIATIVES

Rob agreed to prepare this paper for the Terrier, following a presentation he made to the Innovation in Asset Management master class in Bury St Edmunds in September 2014. He outlines some interesting statutory models of joint working to encourage economic development.

Rob Hann

Rob is Director, Legal Services, for Local Partnerships LLP. He is also author and editor of Local Authority Companies and Partnerships (LACAP) and Local Authority Charging and Trading Powers, both published by Lexis Nexis on line. Rob.hann@local.gov.uk

In its response to Lord Heseltine's review of how to more effectively promote growth and create wealth in the UK (see 'No Stone Unturned'), the Coalition Government said it wanted local authorities to put economic development at the centre of their activities, and to collaborate, including with private sector partners, across a functional economic area. Establishing a combined authority or an economic prosperity board under new powers, could become an effective way in which local authorities across an economic area can collaborate for economic growth.

The Local Democracy, Economic Development and Construction Act 2009 now provides powers to create new statutory joint authorities (known as combined authorities) who may exercise any function of its constituent councils that relates to economic development and regeneration, and any of the functions that are available to integrated transport authorities. For transport purposes, combined

authorities are able to borrow money and can levy constituent authorities. The Greater Manchester Combined Authority was the first to become established in 2011. The combined authority builds on the 10 boroughs' long experience of working together since the abolition of the Greater Manchester Metropolitan County in 1986. Other authorities are now following their lead (see West Yorkshire Combined Authority case study below).

These new entities have a separate legal existence in law (unlike a joint committee) but remain wholly within the public sector environment (unlike a joint local authority owned company) and provide a much needed 'missing link' to the list of options available to local authorities seeking to join up policy and strategy on certain major functions across geographical boundaries.

Combined authorities may also take on the functions of Economic Prosperity Boards. These are an alternative

structure in the 2009 Act which allows the combined authority to take on the economic development role of their constituent local authorities.

Functions and powers

Combined Authorities can be passed functions by the Secretary of State under the general powers in the Localism Act 2011. Combined authorities also have a version of the general power of competence, again introduced via the Localism Act 2011. The power is similar to that available to local authorities, though it does not allow combined authorities to provide statutory services on a commercial basis (see s113A):

The Localism Act 2011, sections 15-20, allows the transfer of any public function from other bodies, or from ministers, to 'permitted bodies' – a designation which includes combined authorities (s20). It would therefore be possible for further powers to be devolved to combined authorities by statutory instrument.

Process, applicability and limitations

Where local authorities come forward with locally-led proposals for a combined authority, the Secretary of State for Communities and Local Government may, if certain statutory conditions are met and if Parliament approves, make an Order enabling those local authorities to establish their proposed combined authority.

A Combined Authority can be set up when 2 or more contiguous English local authorities, covering an area's economic footprint, want to collaborate more closely together to improve economic outcomes. There are some limitations to the new powers currently. For example, a local authority can only be part of one Combined Authority and currently one part of a Combined Authority's area cannot be geographically separate from the rest of the Combined Authority.

The local authority of any district of England outside Greater London can join a combined authority and a county council can become part of a combined authority even if only some of the non-metropolitan districts that make up the county are within the combined authority area.

A statutory review of current governance arrangements and options must be undertaken, and a scheme outlining their proposals submitted.

The Secretary of State must then consult, including with the authorities that would be covered by the Combined Authority, and must be satisfied that the establishment of a Combined Authority would bring about the following benefits:

- Improve the effectiveness and efficiency of transport in the area;
- Improve the exercise of statutory functions relating to economic development, regeneration and transport in the area;
- Improve the economic conditions in the area.

Case Study

The West Yorkshire Combined Authority is made up of 10 members. Eight of these members will be elected members from the 5 constituent West Yorkshire councils of Bradford, Calderdale, Kirklees, Leeds and Wakefield. The 5 constituent councils would each appoint one of its elected members to the Combined Authority, with the remaining 3 members appointed by the constituent councils to reflect the political balance among the authorities.

The City of York Council will appoint one of its members to be a non-constituent council member of the Combined Authority. The Leeds City Region Local Enterprise Partnership (LEP) will also nominate one of its members to be a non-constituent member of the Combined Authority. Each constituent and non-constituent council will appoint its Leader to the Combined Authority.

In the case of the Local Enterprise Partnership, the Chair will be appointed. This provides for decision-making at the highest level to set the strategic direction of the authority. The LEP has been invited to become a non-constituent (partner) member of the Combined Authority to ensure that decisions made fully reflect the views of business.

Joint Committees and Joint Boards

Other local authorities, while also exploring new models to join up, have decided to establish economic prosperity joint committees covering similar functions (economic development, transport and regeneration) across boundaries. Several Nottingham authorities announced their joint committee approach in 2014 and are now actively exploring going further to establish a Combined Authority. Derbyshire authorities are also thinking along similar lines. The joint committee approach might be a way of testing out working relationships before investing time and energy in setting up new legal vehicles via the statutory process described above. Either way these new approaches to strategic partnerships

between local authorities are a helpful new addition to the options previously available.

Conclusions

These new bodies provide an exciting new opportunity for the joining up of economic regeneration efforts across regions through a legal entity wholly within the public sector administrative environment. Through such bodies, their constituent councils potentially have greater flexibility and influence than each council working independently would have. The process to establish a Combined Authority or an Economic Prosperity Board is relatively straightforward albeit public consultation and the statutory processes necessary before they can be set up may be a disincentive to some.

Economic Prosperity Boards may also start to become an important option open to groups of authorities who are exploring land pooling programmes to generate surpluses for re-investment purposes. Some authorities (sensibly) are testing the waters by working through the more tried and tested method of joint committees but these arrangements have their drawbacks. Establishing a specific legal entity that engages the leading members of the community in crucial economic development, regeneration, job creation and growth initiatives impacting across a wide geographical area must be an attractive option to many councils to combat deprivation and re-invigorate local economies.

Local Partnerships LLP is working with a number of local authorities and LEPS and others involved in regeneration (such as the British Property Federation and their members) to remove obstacles to growth and provide support for developing new ways of working.

BE SMART – RE:FIT – SAVE MONEY

Robert wished to publicise another initiative being run by Local Partnerships concerning energy efficiency initiatives, case studying Cambridgeshire County and other councils.

Robert McKinnon

Robert McKinnon is Business Development and Engagement Lead, RE:FIT at Local Partnerships. Local Partnerships is jointly owned by HM Treasury and the Local Government Association robert.mckinnon@local.gov.uk

That's the simple message that Local Partnerships is seeking to get across to local public bodies it is currently working with to help make existing public buildings more energy efficient.

But can it really be that simple in these financially constrained times to re-engineer the existing public estate in order to secure guaranteed energy savings and reduce carbon emissions?

Well yes it can be that simple - public bodies can take advantage of an existing framework of experienced energy service companies (ESCOs) who have been already procured and stand ready to be called off to undertake such work, following a tried and tested process.

Set up originally by the Greater London Authority the RE:FIT Framework itself has been around since 2008 (although refreshed and re-procured since then). The OJEU advert was framed deliberately widely to enable and facilitate as wide as possible take up from public bodies of all types across the UK.

Local Partnerships has been appointed by the Department of Energy and Climate Change to manage access to the RE:FIT Framework outside of London and more and more public bodies are becoming aware of this opportunity for saving money. Over 180 public sector organisations have already committed to using RE:FIT and over 400 buildings have been retro-fitted so far – with guaranteed energy savings alone worth over £5m per annum and growing.



Air source heat pump



Boiler control

Local Partnerships uses experience built upon its existing offerings of efficiency, street lighting, estates improvement and contractual support to assist public bodies with the processes leading to selection of an energy service company

under the RE:FIT framework.

Energy efficiency measures enable organisations to cut running costs, energy consumption, maintenance backlog and carbon emissions. The way



Pool control

the scheme works is that the ESCo or service provider guarantees the level of energy savings at the outset, thus offering a secure financial saving over the period of the agreement and also removing risk from the participating public organisation. The fact the ESCos have already been procured and selected saves the organisation time and money in going out to bespoke procurement (although there is still a mini-competition to undertake, which Local Partnerships can help public bodies to navigate to identify the best option and best value for money).

Case studies

The most recent public body to work with Local Partnerships to

sign up to deliver a RE:FIT project is Cambridgeshire County Council. It selected Bouygues from the framework to undertake a £5m investment in energy saving retrofits and renewable energy solutions to schools, council land and buildings. The improvements are expected to pay for themselves through the energy savings made.

Cambridgeshire County Council Leader Steve Count, Chairman of the General Purposes Committee, said: "Securing an energy services company to work with us is great news for Cambridgeshire. Local authorities need to operate as efficiently as possible and Bouygues Energies & Services expertise will help us to set a leading example. We have a programme of county buildings and

other sites coming forward and we've had a great response from schools."

Bouygues was successful following the competitive call off procurement process led by Cambridgeshire County Council and supported by Local Partnerships' national RE:FIT programme team.

Other local authorities have been quick to follow suit. Hull, Coventry and Buckinghamshire councils have also signed up to receive Local Partnership's support to access the call off arrangements. Local Partnerships has interest from many other types of organisation working for or within the public sector including central government departments and agencies, NHS trusts, universities, colleges, schools, police and fire services, cultural, leisure and heritage bodies and charities. Local Partnerships web site contains further case studies

(see www.localpartnerships.org.uk)

Given the track record of RE:FIT, public bodies, when exploring energy efficiency measures, must now at least consider this programme as one of the realistic options available and Local Partnerships can help navigate you through the process.

For more information please contact Local Partnerships on 07920 702297 or via email on nationalreft@local.gov.uk





THE ENERGY ACT 2011 AND THE PRIVATE RENTED SECTOR

Andrew Warren

This is a piece sent by Andrew, following his recent presentation at ACES Presidential Conference. It outlines some of the issues with enforcing the changes required to inefficient leased commercial buildings and housing, and proposes some simple adaptations of existing legislation.

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Energy Performance Certificates

Back in 2011 the government introduced legislation that Ministers promised would outlaw the letting of any F or G-rated buildings from 2018. September 2014 marks the conclusion of the government's formal consultation detailing precisely how this potentially market-revolutionising policy will be delivered in practice.

The private rented sector is of growing importance in the residential sector. In the last 15 years the number of people renting from private landlords has increased from 10 to 18% of all households. That is a sizeable percentage. But nothing like as large as the proportion of the buildings in the non-residential sector that are rented out.

Precise figures are surprisingly difficult to establish. But most property professionals believe that the shorter-term (under 99 year) leasehold sector covers between 60 and 66% of all such buildings.

Based on the record of Energy Performance Certificates (EPCs) lodged

to date, approaching 1 in 5 of the certificates registered for non-residential buildings are currently at F or G. But as the Chartered Institution of Building Service Engineers has repeatedly pointed out, there are a vast number of eligible buildings where the leaseholder has altered - but no EPC has been issued, meaning the law has been breached. And nobody official has moved a finger.

By definition, it cannot be proved, but the underlying presumption must be that, within this illegal sub-strata, are likely to be found an even greater proportion of the least energy efficient commercial buildings. Perversely these are precisely the buildings that are to be completely excluded from the new minimum energy performance standards regulations. The ban on letting out an F or G-rated building only applies to buildings for which an energy certificate has been issued.

So, if the building does not have an EPC, nobody officially knows whether it is highly energy efficient or among the worst gas-guzzlers. Whichever, its details don't appear on any official register. And so nobody will ever formally be charged with chasing up whether such leases

will, or will not, be illegal after April 2018, when these regulations officially start.

But I am not convinced that there is a will to ensure all those with an overt F or G-rating will be required to upgrade. Throughout the consultation document, there is an underlying commitment that "landlords would only be required to make those improvements which could be made at no net or upfront cost". This is not a phrase that is to be found in the 2011 Act. Introducing this restriction at this stage is unnecessary gold-plating of the legislation, and is not really in accord with the legal text.

Similarly it seems that if anybody raises the slightest objection to any improvements being made - whether a cowed tenant like a pub landlord of a large brewery, a head lessee based overseas, or even a council planning officer - then this will be deemed to be sufficient reason not to proceed. At the very least, we need to create a central record of properties where such overt wiggling against the regulations has taken place.

Critically, who will police compliance? As ever, it falls upon the local authority's

Trading Standards Department. I have never come across such a department that was not already heavily overstretched (hence perhaps the absence of chasing up of unissued EPCs)?

While government may theoretically have to compensate local authorities for such extra burdens, any sums involved seem inevitably to be lost within overall grants settlements, and seldom apportioned by local treasurers to the relevant department. Precisely as happened to the Home Energy Conservation Act's "extra" resources.

The answer is to create a new direct revenue stream to motivate full-hearted participation. Just as parking enforcement became far more diligent when councils got to keep some of the money collected, so it would be logical for trading standards to retain the revenue from successful prosecutions for non-compliance with EPCs and minimum energy ratings. Ensuring that the results of all prosecutions, both successful and failed, are placed on an open public register should avoid the worst abuses.

The consultation document set out 15 questions, many of which seem to be concerned how landlords can successfully avoid upgrading their building. There really is a nit-picking and negative approach underlying too many of these questions. When Parliament passed the relevant Act in 2011, it did so in the clear understanding that from 2018, there would effectively be no non-residential buildings available for rental which remained F or G-rated.

Were the government to adopt even a portion of the exemptions mooted in the consultation, it is likely that the will of Parliament will have been deliberately frustrated by unnecessary bureaucratic devices. Frankly, 99.9% of non-residential buildings can perfectly cost-effectively be moved up to the (very modest) E-rating. In fact, recent research for the government's own Green Construction Board confirms that improving buildings to a D-rating makes a lot more financial sense.

This would be sad. Because this new initiative does have the potential to

eliminate some of the least energy efficient buildings, both residential and non-residential. The Coalition Government deserves great credit for arranging for it to be introduced – albeit not until 3 years after the General Election.

By next May the final regulations will need to be agreed, with the presumption that "outlawing" every F and G-rated building is mandated. This would be just the first step towards upgrading the building stock we shall be occupying in 2050.

Landlord and tenant arrangements

The landlord/tenant arrangement is one of the greatest barriers to improving the energy efficiency of buildings. The dichotomy is simply expressed. Why should a landlord, who doesn't pay the fuel bills, fund measures intended to reduce these fuel bills? In turn, why should a tenant pay for improvements to a property that belongs to somebody else?

I think there is a small alteration that can be made to an established 28-year-old Act of Parliament which could facilitate a way round this conundrum, and really get the Green Deal ethos going in tenanted premises.

Right now, even if the leaseholder is prepared to fund investments unilaterally, some serious legal difficulties constrain action. The tenant's locus effectively ends at the inner surface of the exterior walls. Any cavity between the 2 skins of brickwork belongs to the landlord. The "demise" (or legal authority) of the typical top-floor flat ends at the ceiling: the uninsulated attic falls within the "common parts", the landlord's domain. Similarly, exterior windows and walls belong to the landlord.

It does not matter whether the building in question is purpose-built, or a conversion. The foundations, main structure, exterior and roof are the responsibility of the ground landlord. That makes it rather difficult for a leaseholder to undertake most of the standard fabric-related energy conservation measures.

So, can the landlord be persuaded to fund the necessary improvements? Since 2004, the Landlords Energy Saving Allowance has permitted expenditure on insulation in residential premises to be offset against tax, up to £1,500 per home. Sadly to date this has only benefitted 0.3 per cent of tenancies.

Even when a landlord is amenable to progress (and despite the caricature, many private landlords are just that), present property law does not smooth the path – particularly if each leasehold is for just one in a block of flats, or a single office in an office block. However much everyone may be agreed in principle, the legal matrix makes it really difficult to improve the physical structure.

This is because a landlord is able to pass on any expenditure incurred only if there is clear authority under the existing lease to do so. Very, very few leases make reference to incurring expenditure on energy saving measures. Occasionally, "sweeping up" provisions can be found in leases, permitting landlords to pass through expenditure undertaken for the benefit of the block. Where these exist, theoretically they could be used. But tenants contemplating leases often object to these, as conferring "blank cheque" powers upon landlords.

So energy improvements can really only take place if the landlord is prepared to undertake them, plus the vast majority of (in certain circumstances, all) tenants agree voluntarily to contribute. Section 37 of Part IV of the Landlord & Tenant Act 1987 does permit lease variation, so long as 75% of tenants specifically agree, and no more than 10% object. Such a significant hurdle is surely the reason this option is seldom employed.

But with a little judicious tweaking, the same Act may present a way around this problem. Section 35 permits either a landlord or a leaseholder to vary the lease, in order to ensure it complies with minimum standards. These are currently restricted to require any lease to contain adequate provision for:

- repair or maintenance;
- the provision of reasonably necessary services;

- insurance arrangements; and
- the computation of the service charge.

What we now need is a small additional minimum standard. It should relate to the provision of reasonable measures to improve the energy efficiency of the flat/commercial premises, and of the building of which it forms part.

The word “reasonable” is necessary, to assure any sceptics that over-enthusiasm will not lead to over-specification; the

“reasonableness” could, if necessary, be determined by a Landlord Valuation Tribunal.

Most importantly, making this alteration to s35(2) would not even require primary legislation. Section 162 of the Commonhold and Leasehold Reform Act 2002 specifically permits this section to be altered by Statutory Instrument alone.

While in no way can such a tweak to the leasehold system be the silver bullet to overcome the landlord/tenant barrier,

I would urge Ministers to table this regulatory alteration right now. Agreed it will have no impact upon those steadfastly uninterested in making any building more energy efficient. These will certainly require new sticks to get moving. But it will be an important liberating signal to those who would like to make some progress in improving the rotten energy standards of our building stock, which I am convinced includes both the majority of leasehold tenants. And the majority of landlords.



Kevin gives some examples of successful incubator hubs and invites other councils to consider providing similar facilities in their regeneration schemes.

BUSINESS INCUBATOR HUBS

Kevin Joyce

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A House of Commons Library ‘small businesses and the UK economy’ paper included the observation that in 2013 there were some 4.6m micro-businesses, usually defined as businesses with up to 9 employees, in the UK and that these businesses accounted for 96% of all business transacted in the economy. The ability of micro-businesses to survive, grow and prosper therefore is a critical component of national economic well-being, with only 45% of new business start-ups surviving beyond their first 5 years.

Small business centres and business incubator hubs can offer these businesses cost-effective and flexible space occupation alternatives to leasing conventional and exclusive commercial

and manufacturing space. Whereas small businesses centres offer support services to both start-up companies and small businesses at any stage of their development, business incubator hubs are more focused on specific new start-up ventures, generally only offering incubator space and shared administrative services to new companies with plausible business ideas and workable business plans.

The hubs may also serve affiliate or virtual clients who do not reside in the incubator facilities but who could, for example, be home-based enterprises receiving support services electronically.

Start-up business clients are likely to remain in the hubs for finite time

periods, determined by considerations such as their business expertise and the type of business areas they are operating in. Services and manufacturing companies can normally bring goods and services to market relatively quickly, while other types of businesses may have longer development and research cycles e.g. life sciences.

Many hubs specialise either in supporting specific or a mix of industry sectors e.g. technology, computer software, manufacturing, finance, healthcare, media or fashion, or are attached to universities or other academic institutions.

The largest UK hub, opened in January 2013, is a 29,000 sq ft incubator known

as Level 39 on the 39th floor of One Canada Square at Canary Wharf in London Docklands, specialising perhaps unsurprisingly in the financial services sector.

London's BioScience Innovation Centre in Camden, set up with the help of a government grant in 2001, is now one of 20 bio-incubator hubs nationwide. The hub is owned and operated by the Royal Veterinary College, provides businesses with laboratory space and expert advice, has been responsible for successful start-ups working on new drugs trials, and is now also catering for clean energy businesses.

The Centre for Fashion Enterprise, part of the London College of Fashion, was set up in 2007 and runs a 2-year programme for aspiring fashion designers, with their support including the making of business connections for their clients and giving them survival strategies

advice in a highly competitive industry.

Academic incubator hubs are also on the rise, with London Metropolitan University an early pioneer in 2003 in creating an Accelerator technology sanctuary equipped with a 'hatchery' for start-up businesses run by the university's alumnis and students. Regional Development and European Union funding followed, enabling the Accelerator to create a special programme to support local businesses.

The future of business incubator hubs looks promising, not least because of the advent in 2008 of crowdfunding finance offering their clients alternative sources of finance to small business bank loans.

Crowdfunding is a process of financing projects or ventures by raising funds online from a large number of people through well publicised crowdfunding websites. Initially, the projects created

were film, music, literature and other artistic ventures or the manufacture of goods, with the small investors receiving discounts or rewards in the finished projects. More recently, equity-based crowdfunding initiatives have emerged, with investors having shareholdings in the projects or ventures themselves, thereby sharing in the rewards and risks attached to the enterprises.

The inclusion of business incubator hubs in any mixed use regeneration schemes of significant size would help satisfy local council economic and town planning aspirations to ensure a continuous supply of affordable and flexible business accommodation and support for micro-businesses, in order to help attract and retain local businesses and job opportunities, so could merit serious consideration at the formative stages of new regeneration schemes.



TRACK TO THE FUTURE – THE PROPERTY VALUE MAP OF LONDON IN 2030

Catherine Penman

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With HS2 gathering momentum, Catherine describes some of the predicted property price changes if additional major new rail links are progressed across London.

The economic geography of London has been transformed over the last 30 years. The redevelopment of the London Docklands, the regeneration of South Bank (on the back of the Jubilee Line Extension), and the gentrification of areas like Hoxton have led to an increasingly eastwards shift in the

economic centre of gravity of the capital. The major anchors of the City, the West End and Heathrow remain fundamental elements of the capital's economy although transport improvements have facilitated in opening up development opportunities in the east.

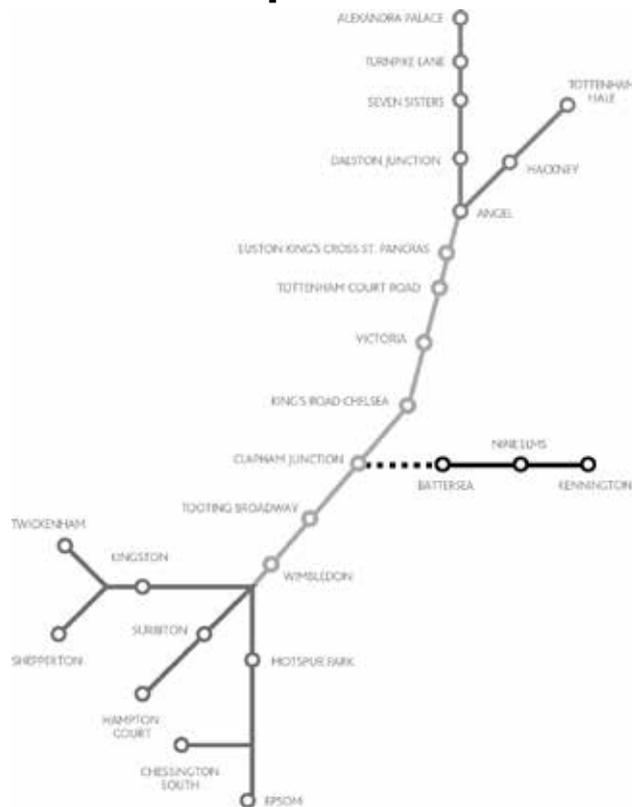
London may well see equally major changes over the next 30 years, which will transform the value map of the capital. This report examines these changes and how potential transport improvements may stimulate growth, as they have demonstrated over the

last few decades, and the changes in property values they may create.

The report focuses on 2 of the 'next big wave' schemes in particular – Crossrail 2 and the Northern Line Extension - and their potential impacts on residential and office capital values to 2030 - the proposed opening time for the 2 transport schemes. The key aim of the report is to identify future potential opportunity areas, as well as assess the value impacts of these schemes on existing values.

Figure 1

The Proposed Route



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The proposed route of Crossrail 2 and the Northern Line Extension (NLE) is detailed in Figure 1 and runs from Alexandra Palace in North East London to Epsom, Chessington South and Hampton Court.

Office Sector Results

The summary results for the office sector under the 'Enhanced Growth Scenario' are illustrated in Figure 2. This graphic shows both the scale of likely impact in value terms, as well as the increase in capital values in percentage terms at each station location.

The Central Activity Zone (Euston/King's Cross to Victoria) is likely to experience the biggest increases in absolute terms, reflecting the scale of existing office stock in these areas. Battersea Power Station and Nine Elms are also likely to see major absolute improvements, but from virtually nothing, hence why the relative increases in these locations will be significant.

Overall, Crossrail 2 could see office

capital values increasing above general trends by £5.4bn under the 'Enhanced Growth Scenario'.

The redevelopment plans for Battersea Power Station and Nine Elms have been achieved on the back of the planned Northern Line Extension. As such, the NLE will be an essential component in generating increased office capital values. Our assessment put these impacts at between £375 and £470m above baseline trends. Overall, therefore, the office sector could see an increase of £5.8bn under the 'Enhanced Growth Scenario'.

Residential Sector Results

The results from the residential sector under the 'Enhanced Growth Scenario' are summarised in Figure 3. The overall impacts on this sector could be particularly significant. Crossrail 2, for example, could lead to above trend increases in residential values of £25.6bn under the 'Enhanced Growth Scenario' with the NLE could see an increase in residential values of up to £6.4bn. The

cumulative increase in values may reach £32bn by 2030, clearly a significant sum.

Locations that could be set to see major absolute increases in residential value include Euston/King's Cross, Victoria, King's Road Chelsea, Clapham Junction, Tooting Broadway, Wimbledon, Battersea Station and Nine Elms. Overall, the average impact rate may range from 27% to 50% over existing values.

Issues and Implications

As the analysis has proven, the impacts of Crossrail 2 and the Northern Line Extension on property values will be substantial. However, it is not just about value increases. These transport schemes will help improve the economic efficiency and effectiveness of the capital through the better integration of people into the labour market and the widening of opportunities. There will be major regeneration benefits, as well as expanding a range of development opportunities.

In addition, these schemes will help



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Figure 2

Scale of Impacts Office Sector



OFFICE SECTOR ENHANCED GROWTH SCENARIO

The schematic map summarises potential impacts on office capital values around the stations.

The colour of the circle represents the percentage increase in office capital values compared to current (2013) total office capital values.

- > 60% uplift
- 30% - 60% uplift
- 15% - 30% uplift
- < 15% uplift

The size of circle represents the estimated impact in terms of scale of increase in capital value.

- > £100m uplift
- £40m - £100m uplift
- £10m - £40m uplift
- < £10m uplift

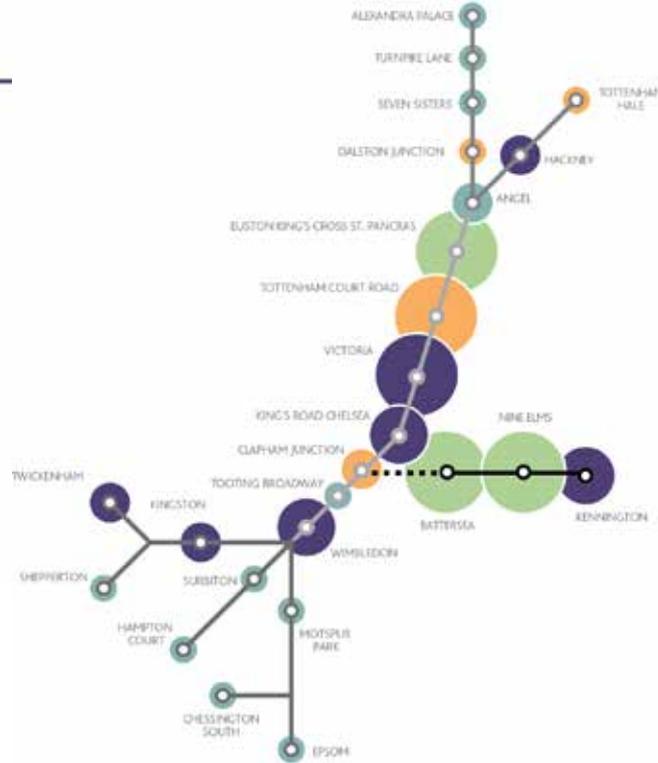


Figure 3

Scale of Impacts Residential Sector



RESIDENTIAL SECTOR ENHANCED GROWTH SCENARIO

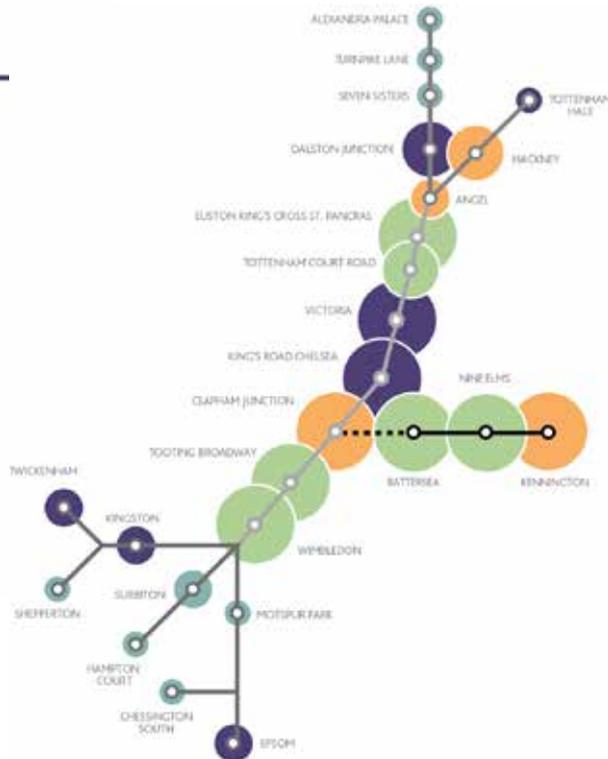
The schematic map summarises potential impacts on residential capital values around the stations.

The colour of the circle represents the percentage increase in residential capital values compared to current (2013) total residential capital values.

- > 70% uplift
- 40% - 70% uplift
- 20% - 40% uplift
- < 20% uplift

The size of circle represents the estimated impact in terms of scale of increase in capital value.

- > £1b uplift
- £750m - £1b uplift
- £200m - £750m uplift
- < £200m uplift



in delivering the additional transport capacity required post 2030. This will not be enough by itself, although it will be a major contribution to keeping London moving. From the perspective of Crossrail 2, a key step is gaining central government commitment to progress the scheme and reaching consensus on the principles of the project. Consultation has already begun on the possible route options, but it is important for the business community and the public generally to demonstrate their support for the project if it is to

progress effectively and swiftly through the planning process.

Funding and financing are of course going to be critical, and much has been learned from Crossrail 1 and the funding experience of other projects. A range of funding options could therefore be available – from grants and the fare box to developer contributions, tax revenues and public asset sales. The critical issue, however, is gaining political agreement to build the scheme.

How will this impact on the future economic geography of London? Crossrail 2 and the Northern Line Extension will help spread the value heat map of London north and south, and will help to further integrate eastern London into the capital's economy. To a certain extent this is an 'improving the existing' focus, creating an incremental – although significant – change in the economic geography of London. It is evolution rather than revolution.



COMMUNITY ASSETS

Christine de Ferrars Green

Christine is a partner in the real estate practice at national law firm, Mills & Reeve LLP. Her work involves a wide range of property matters, specialising in development schemes. Christine.deFerrarsGreen@Mills-Reeve.com

In this wide-ranging piece, Christine considers some figures recently published on registrations of assets of community value under the Right to Bid legislation and goes on to look at the opportunities for residents in newly built developments to take control of community facilities. Finally, there is an update on sustainable urban drainage systems.

Listing

The 2014 Summer Terrier took a look at local authority community asset transfers and also included an article from DCLG reporting on the support being given by Whitehall through the localism agenda for community asset ownership and management.

Shortly following publication, the journal Planning wrote up a piece of research undertaken by Development Control Services Limited (DCS). This looked at data collected from 134 English local planning authorities on

applications for registrations of assets of community value and the success rates, that is registrations being made following such applications.

DCS's analysis showed that 87 of the responding local authorities had received at least one application to register an asset of community value. In total, the responding local authorities had received 616 applications which had, to the date of data collection, yielded 550 decisions and resulted in the listing of 433 community assets.

Pubs came the top of the list – 155 were listed, making up 36% of all of the listed assets, at an approval rate of 88%. The data collected showed a significant number of applications in relation to community halls, open space, including outdoor sport and recreation land and also places of worship, car parks and allotments. Apparently, applications had also included 3 public toilets - listed; and a train station, a petrol station and 5 offices - all refused.

The article by DCLG in the Summer Terrier noted more than 1,200 assets have now been listed, presumably relying on full data from all local planning authorities. Clearly, local communities have taken up the opportunity to seek protective listing. Given the success rates and applications leading to registrations, the hurdle of registration itself can be seen as comparatively low. But that is not to under-estimate the time and effort put in by community organisations seeking listing and the time and resource dedicated by local planning authorities in considering those applications.

Listing, of course, is only the first stage. One has to wonder how many of these assets will, in due course, actually find their way into their communities' hands. That will only happen when the current owner is minded to sell. The Right to Bid gives the local community a short window, of 6 weeks, to bid and, possibly more crucially, to raise the money, for an open market purchase. There are many success stories already, often in relation

to pubs and village shops. Ever the optimist, the writer hopes that there will be many more in the future.

Section 106 opportunities

This article now turns to look at the other opportunities which local communities have to take on ownership and/or management and control of assets of community value in new communities, many of which will be the same as those prominent on registers of Assets of Community Value.

Almost all developments of more than a few dozen new homes will have s106 obligations attaching to their planning consent requiring the provision of public open space, to be enjoyed as amenity land for the benefit of the new residents. On large scale sites, the list of public facilities required to be delivered as part of the planning gain can be extensive, embracing all types of recreational facilities from toddler playgrounds to “all age” urban gyms, football pitches and the like, to community halls, allotments and community orchards or woodlands.

Until not so long ago, the developer of such schemes would expect to hand these assets over to the local authority, or parish council, on completion, together with payment of an appropriate commuted sum. Now, it is more common to see the planning obligations dealing with long term ownership and control drawn more widely. Many still envisage the possibility of a local council, either parish or district taking a transfer, but this is not necessarily the expected outcome.

In s106 agreements, local planning authorities can set out requirements for the preparation and approval of comprehensive estate management schemes for the long term management and, vitally, the funding for future maintenance in perpetuity for the community assets brought into being through the planning agreements. Sometimes, these schemes will be specific and will provide for the transfer to a community interest company or management company owned by the residents of the new development. Other times they will be less directive,



but at the least expect there to be a strategy to set out a framework for determining future ownership, independent of the local authority.

This approach is likely to continue to be driven in large part by ongoing constraints to local government finance, with councils having to concentrate expenditure on core statutory duties. Many local authorities are also mindful of the fact that they have diminishing resources in terms of experienced officers and employees for managing some types of assets and so they will not be part of the council's priority service to local residents. Parks and recreation departments are already reducing in size; in some areas it is predicted that they will cease to exist in coming years. So, councils may rightly be reluctant to take on any responsibility for any more such facilities.

On the other side of this consideration is the fact that many developers and landowners are reluctant to have to budget for the payment of significant commuted sums. The payments involved eat into the overall commercial viability of their development. Moreover, as local government finances do not allow for ring fencing of the monies received, nor hypothecation for future expenditure, developers are worried that the payments they make will not, for a range of well-explained

reasons, be applied long into the future for the purposes for which they are paid.

And there is another edge to this, as well. Developers and landowners of new housing developments of any size are increasingly mindful of their reputations. They want to be remembered in the future for their part in delivering (using Nick Boles' phrase) “beautiful places”, stung by his (and shared by many others') rather harshly expressed criticism of those “pig ugly” housing estates that have been built in recent years.

Stewardship model

One way of managing reputation and being remembered for the “right” reasons into the future is for landowners and developers to stay involved, directly and indirectly, by creating a lasting positive legacy in the new places they help to create. They can do this by establishing an enduring stewardship model for the maintenance and management of the new community facilities they have funded from the development profit arising on their scheme. Sometimes, landowners and developers may choose to participate actively for the longer term. It is a well-trodden path – we only need remember the many landed estates, the historic London estates and the philanthropists who built the model villages at Port

Sunlight (Lever), Bourneville (Cadbury) and New Earswick (Rowntree) and what they have achieved over the centuries.

The model is also well demonstrated through the garden cities principle of the long-term stewardship of community assets, lived out in an almost unique way in Letchworth Garden City. The Letchworth Garden City Heritage Foundation is the successor to the original development company for Letchworth. It manages an endowment of property assets and cash arising from the Garden City's development over 100 and more years. This yields an income to the tune of £10m on an annual basis. This income is applied to provide services to the local community, which include a cinema, a museum, an educational family farm, a community hub, open space and funding for local clubs and community groups, and much more besides.

There are a number of key factors to be taken into account when considering how best to secure the future for community assets created in new and existing communities.

First, there needs to be a comprehensive plan, in the form of an estate management strategy. This should be drawn up and implemented by an organisation which has the capacity and resources to see it through from the start to the finish of development and beyond. That estate management strategy must be flexible, to allow a development to progress and mature, particularly given that large scale schemes will take decades to develop out in full.

Secondly, there has to be a clear plan for what assets are to be put into the community's hands. In tandem with that, there must be careful consideration of the most suitable legal framework for the stewardship body. Not all assets need to go to a single organisation or legal entity. So there is freedom to choose between incorporated and unincorporated bodies, those with special charitable purposes and, not to forget, local existing public bodies such as a parish or district councils. The type of use, the likely users and the anticipated cost of maintenance

and repair on an annual basis and over the long term will be key determining factors influencing the right choice. Also, it must be borne in mind that there is little point in burdening a community with a facility it cannot use or cannot afford to maintain, so care should be taken in the first instance that assets which are created are truly needed.

Whichever legal structure is chosen to hold and manage assets, it is important for the governance of that organisation to be established to allow effective operation and legitimacy in decision-making, for the benefit of the local community. This is most important where a local community is funding an organisation to deliver services and manage and maintain facilities – whether through an annual estate management levy, or a parish council precept. There should be a real role for local communities in decision-making – by giving residents a place on the management board and in ensuring ongoing community engagement.

In some places, the traditional estate management company is being reinvented. The commonly recognised model of the “plain vanilla” limited company, established by a developer and handed over to the residents of a new development upon completion, may become a thing of history. Too often in the past, those companies have been under-resourced, and wither and decline, and the community assets with them; or the management is passed across to a professional service provider which operates in an impersonal way, distant from the community and may fail to engage with it in any meaningful and effective manner. That is not to say that many are more successful, but it needs to be remembered that their functions were low-level when most major community assets delivered through planning gain were handed over to a local authority for adoption.

Increasingly, we are seeing the traditional estate management company being restyled as a community “land trust” or “development trust”. Rather than the developer issuing shares to all residents at the same time as initial plot sales and, having built out, passing control to those residents, developers

are now looking to stay in control for longer than the initial development phase. By taking a stake in the ongoing community organisation, they can ensure continued high quality amenity services for the new community. Landowners and developers can see this role as place-making beyond straightforward house building. With this new model comes innovative local management organisations which have the capacity to give new residents a real say in how the facilities delivered for them are put to use.

Sustainable urban drainage systems

A topical mention can be made to the future for sustainable urban drainage systems (SuDS). DEFRA and DCLG jointly issued a consultation paper at the beginning of September 2014 setting out plans to deliver SuDS through changes to the current planning regime, as an alternative to the approach envisaged by the Flood and Water Management Act 2010. The reason why this is relevant to a piece on community assets is that in new developments the SuDS can form an important element of shared open space. SuDS will usually include some element of green space and water bodies. These often provide a significant amenity value beyond the surface water drainage function for which the SuDS is created.

The consultation document addresses the need for SuDS to be maintained to minimum standards, to ensure continued effectiveness and suggests the use of service management companies to do this. It also considers the need for maintenance costs to be reasonable, acknowledging that they are going to be paid by householders served by the SuDS. Looking into the future, it is reasonable to expect that SuDS will not fall for adoption by SuDS approval bodies at county or unitary authority level, but where appropriate in new development schemes will become another asset of community value to be managed by and enjoyed by the local community.



Milton McIntosh warns that many surveyors misunderstand the rules on disclosure. He gives here a very clear explanation on privilege.

Do you have the privilege?

Milton McIntosh

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There is a tendency to assume that, when a dispute arises in a property context, say, regarding dilapidations or a rent review, all communications between the client and the surveyor advisers will be protected from disclosure – “They are privileged, aren’t they?” is the common refrain. However, they may well not be. The scope of privilege is much more limited than most surveyors believe.

So what is ‘privilege’? Privilege is concerned with the entitlement of a party to litigation to withhold relevant evidence from production or disclosure to another party to the dispute or to the court. In litigation, the starting point is that all documents relevant to the issues in dispute should be disclosed. This applies not only to documents that help the disclosing party’s case, but also those that help the opposing party. It can be a very inconvenient rule for the party having to give up a damaging document.

For example, if, after proceedings have commenced in a boundary dispute, a party comes across a deed establishing that the opposing party is correct in their claims about the true position of the boundary, the finder is duty bound to disclose it to opposing party.

All relevant documents should be included in the list that a party compiles

at the disclosure stage of proceedings or, subsequently if documents are created or located at a later stage.

However, certain documents are protected from disclosure, i.e. they are ‘privileged’. One type of privilege is ‘legal professional privilege’, which includes legal advice and litigation privilege.

Legal advice privilege

Legal advice privilege attaches to confidential communications between a lawyer and their client for the purpose of seeking and receiving legal advice. It can apply at any time, whether or not litigation is pending or contemplated. The word ‘lawyer’ includes solicitors, barristers, in-house lawyers and foreign lawyers. In the recent decision of *R (on the application of Prudential plc) v Special Commissioner of Income Tax* [2013] the Supreme Court refused to extend the scope of legal advice privilege to specialist accountants who give tax advice to clients.

Without question, legal advice privilege does not apply to surveyors giving advice direct to clients outside the context of a dispute regardless of the legal content of that advice, which in certain specialist areas may be very significant.

For example, if, ahead of serving a substantial service charge demand that is likely to be disputed by tenants, the landlord’s surveyor writes to advise their client of a possible unfavourable interpretation of the service charge clause, that advice will not be privileged.

Surveyors should also be aware that, in the context of Licensed Access (formerly Direct Professional Access) to barristers, the fact that they have taken on the role as professional instructing counsel does not change the privilege rule. Surveyors are best advised to ensure that counsel’s advice is addressed to the client direct, to avoid any issue about the transmission of that advice through the surveyor.

Litigation privilege

It is usually the scope of litigation privilege that is widely misunderstood and narrower than is generally believed.

This privilege protects from disclosure confidential communications between a client and their lawyer, a client and third parties and a client’s lawyer and third parties. Thus a surveyor’s communications with their client and their client’s lawyer may be protected under the rule.

The communication must be for the dominant purpose of litigation

that is either pending, reasonably contemplated or existing. This includes tribunal hearings and arbitrations. The emphasis is on 'dominant'; it does not have to be the 'exclusive' purpose and a document prepared for a number of purposes, one of which is litigation, may be protected.

Thus, in the context of a rent review dispute, a valuation undertaken by a landlord's valuers for mortgage purposes may be disclosable, but advice from the same valuers as to the approach the arbitrator may take to the valuation of the property for the purposes of making a settlement offer to the tenant would not. Similarly, in a dilapidations dispute, discussions between the landlord and its letting agents about the effect the condition of the property may have on its lettable may not be protected, while discussions with building surveyors on the effect of undertaking different schemes of repair

works may have on the claim against the old tenant may be protected.

Litigation, if not already existing, must be 'pending or reasonably contemplated'. It is not sufficient to show that there is a mere possibility of litigation, or that there is a distinct possibility that someone might at some stage bring proceedings, or a general apprehension of future litigation. This does not require the prospect of litigation to be greater than 50%, but a possibility that, sooner or later, someone may make a claim. A general expectation of future litigation is not enough.

Practical steps

The point at which litigation privilege is triggered in any particular case depends very much on the specific facts. If there is any doubt on the matter, it may be sought to bring the communication within the scope of legal advice

privilege. The communication should be directed via the client's solicitors and headed 'Confidential and privileged – communication for the purpose of legal advice'. However, it should be noted that the heading used is not decisive. It is content that matters, and in at least one court decision, a very restrictive view of the word 'client' for the purposes of litigation advice privilege was taken.

Ultimately, the safest course for a surveyor to take prior to litigation being pending or contemplated is not to commit to writing anything where disclosure to the other side would be a concern; instead, hold a meeting or telecon.

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LAND GRAB

James Del Mar

James Del Mar heads up Knight Frank's Rural Consultancy department and has responsibility for Knight Frank's Compulsory Purchase Team. The team has over 100 years' combined experience advising land and property owners who are affected by compulsory purchase issues and are heavily involved in HS2 and its knock-on effects.

Our clients include all types of property owners who are affected by a compulsory purchase order or who need to make a compensation claim. We specialise in farms, estates, rural businesses and high-value historic homes but also advise on residential development and London properties. While typically the public sector may be acting as the acquiring authority in a CPO context, where infrastructure projects are concerned, we are finding that some of our public sector clients with rural land holdings also face the prospect of having their assets compulsorily acquired. james.del.mar@knightfrank.com

The government's appetite for improvements to national infrastructure has implications for all landowners.

For those with land portfolios in the south east, compulsory purchase is always on the agenda and never more so than now. However, for those with land further afield, a general increase in infrastructure spending and upgrades by the government and utility companies are affecting landowners across the country and schemes such as HS2 have brought the subject into sharp focus.

When part of a portfolio is set to be compulsorily purchased for a railway, road or pipeline, action needs to be taken in order to ensure that the owner is fully and properly compensated and appropriate mitigation effected.

The overriding tenet of the compensation system is equivalence, that is to say the compensation received should not put somebody in a better or worse situation than they enjoyed previously. Obviously, however, what that entails is open to interpretation, so arguing your case to make sure that you don't lose out is vital.

In common with all claims for compulsory purchase compensation, a claim for compensation in respect of rural land may include some or all of the following. The main areas that a statutory compensation claim will cover are:

- The value of the property taken – this can include future development potential and marriage value;
- Severance and injurious affection – this applies where not all of a property is taken and covers any diminution in the value of the retained land or business, for example if a property is divided as a result of the development;
- Disturbance – this covers items such as moving and relocation costs, as well as crop loss and damage. Disturbance compensation is typically, but not always, limited to occupiers of property;
- Professional fees – subject to the usual proviso on "reasonableness";
- Betterment – if the scheme in some way increases the value of any retained property, by adding development potential, for example, then this will be deducted from the value of the claim.

The above and some further disturbance measures for occupiers will affect rural portfolio tenants but in most cases owners' and occupiers' claims are separate.

Compensation legislation is very

complex and often archaic. Valuations of severance and injurious affection claims become much more complicated when farms and businesses, which all tend to be unique, are involved.

In any case, the body acquiring the land will have to pay for the cost of any reasonable professional advice, so there really is no need to go through what can often be quite a protracted and involved process without assistance. We also find that confirming the appropriateness of a compensation settlement (and best value) in these instances can be more easily achieved with the benefit of specialist third party advice.

As with any CPO claim, in-depth knowledge of local property markets backed up with convincing evidence is vital to ensure fair compensation. Particularly where rural land is concerned, owners may not always be aware of the current strength of the market for farmland. The land values reported in annual valuation figures may be different, for a number of reasons, from those which could actually be obtained on the open market.

It should also be remembered that each claim for compensation will be considered on its merits, and claims for disturbance can include costs incurred as a "direct, natural and reasonable

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consequence” of the acquisition. We have examples of a utility company’s offer of compensation going from £1,100 to £22,500 because the work required the relocation of livestock during the project.

It is also possible to miss many secondary opportunities which may arise as a result of the CPO process. Soil bunds created to reduce the impact from roads and rail, with space for further income creating bunds or farmland improvement works, are so often not considered. These opportunities need to be addressed before a CPO notice has been issued. Often a secondary project is only capable of being pursued because access to land adjoining the CPO (ie the area for a soil bund) is only possible because of the CPO works. As soon as the works have been completed and the

CPO site closed, access to the adjoining site is no longer possible.

Large infrastructure projects such as railways, airports or roads invariably affect many more people than just those whose property is actually required to build the scheme. Local property markets can suffer, while the amenity value of nearby houses can be affected by the likes of noise, vibrations and light.

The statutory compensation available under such circumstances is limited and considered by many of those affected to be inadequate. Claims for general blight, known as Part 1 claims, can usually only be made one year and one day after the scheme in question becomes operational. Even then there are tight definitions about what represents an acceptable basis of claim. Claims can only cover objective physical factors

such as noise, smell, vibration, fumes and light, and not, for example, the loss of the view from a property.

In the case of very large projects like HS2, which will not be operational for many years and are likely to be political hot potatoes, the government will often introduce extra discretionary schemes to soften the blow [Ed – see article by Gary Sams in 2014 Summer Terrier].

The incidence of settlements under actual or threatened CPO is only likely to increase over the next few years. Early action is essential to ensure ownership and occupational arrangements are appropriate to protect claimants, such that the full loss is recoverable and mitigated.

The Terrier

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Here Stan makes a whistle-stop tour of failed CPOs and gives reasons why.

CPO – BEWARE, POWER FAILURE

Stan Edwards

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CPO power has to be used deftly and unless the rules are carefully followed CPOs may be doomed to fail. Some causes of failure are constantly repeated and those who cannot remember the past are condemned to repeat it (George Santayana).

Introduction

At the end of my previous article [Ed – 2014 Spring Terrier] I left a cliff-hanger at the time of the close of the Inquiry into the CPO in the centre of Banbury promoted by Cherwell District Council (The Cherwell District Council (The Crown House Site, Banbury) Compulsory Purchase Order 2013 The Housing Act 1985 and the Acquisition of Land Act 1981). The article deliberately focused on the CPO power used and not the challenge to the justification for the CPO. A decision has been given with the CPO not confirmed but not due to the power selection element – all will become a little clearer later. It is therefore opportune to also bring together some other strands relating to CPO failures over recent years.

Reasons for failure

All the areas below are addressed in Circular 06/04.

- Power and interpretation – selection and application;
- Context – justification; a compelling case in the public interest; a reasonable prospect the scheme

will proceed; planning impediments and alternatives;

- Content – technical flaws; too much land; too little land and flaws in evidence base;
- Process - ability of owner to renovate.

Power and interpretation - selection

The purpose for which an authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought; and that, in turn, will influence the factors which the confirming Minister will want to take into account in determining confirmation. Authorities should look to use the most specific power available for the purpose in mind, and only use a general power where unavoidable (06/04 paras 14 & 15). Normally the scope of the intended works and their purpose will appear from the formal resolutions or documents of the acquiring authority.

A lesson was learned some years ago regarding an objection to a CPO in respect of an inappropriate selection of powers. The project was a mixed used retail/housing scheme in the town centre. The promoting authority, in partnership with a developer, had used a mixture of 2 powers to secure the scheme – the Local Government Act 1972 and the Town and Country Planning Act 1990 (as amended). Only one power should be used. Appendix A Circular 06/04 states “These powers

[T&CPA 1990] are expressed in wide terms and can therefore be used by such authorities to assemble land for regeneration and other schemes where the range of activities or purposes proposed mean that no other single specific compulsory purchase power would be appropriate.” The reason for using the LGA 1972 for acquiring part of a public park was arguably to avoid the provisions of s19 of the Acquisition of Land Act 1981 regarding replacement of ‘equally advantageous’ land or Special Parliamentary Procedure.

Whereas there was a reasonable case against the justification for the Order, the decision at the Inquiry by the objectors was to concentrate on a ‘knock-out blow’ in respect of the selection of powers. The Inspector decided to recommend confirmation of the Order leaving the legality of the use of the powers to that for the case for a challenge - it never was.

Banbury

The flaws in the selection of the Housing Act 1985 (HA) power were pointed out to Cherwell District Council. The Order for the Housing Act CPO itself stated “Cherwell Council to purchase compulsorily, for the purposes of regeneration and housing.” Given that the Housing Act 1985 is a power specifically in respect of the provision of housing, regeneration was too wide.

In the Statement of Reasons the scheme was “to regenerate the Order Land

through the provision of approximately 33 new homes for rent (with ancillary parking and amenity facilities) and a new retail unit, contributing to the wider regeneration of Banbury Town Centre." Additionally, misstating "Section 17(1) (c) of the 1985 Act permits the council to acquire land in connection with housing accommodation, for the provision of shops and for other facilities which will serve a beneficial purpose, in connection with the requirements of the persons for whom the housing accommodation is provided." Additionally, it stated that the retail element was not focused on the housing element but to "increase footfall to local businesses and provide an additional small element of retail space, which could potentially be made available to new enterprises requiring premises."

Circular 06/04 (50) Legal difficulties says that " whilst only the Courts can rule on the validity of a compulsory purchase order, the confirming Minister would not think it right to confirm an order if it appeared to be invalid, even if there had been no objections to it. Where this is the case, the relevant Minister will issue a formal, reasoned decision refusing to confirm the order."

Tactical power exclusion

Slighte Limited, the developer/owner, did not actually include the use of wrong powers in its Statement of Case. Reflecting on the above 'knock-out' scenario, there is much prudence in focusing on the other issues of the case apart from whether or not the correct power was used. The approach for Banbury was mainly fourfold:

1. To avoid the distraction of arguing a legal point
2. To focus on the owner's own regeneration plans
3. To put the affordable housing requirement in context
4. To avoid the possibility of a replacement CPO

Distraction avoidance

The main reason for not focusing on

the inappropriate power is that it can cause a distraction. Much time could be spent on looking into the council's intentions regarding delivering a stated wider regeneration scheme using the HA power.

As it is there were bigger fish to fry. Whereas the acquiring authority's (AA) prime argument was the provision of affordable housing and the removal of the problems of Crown House labelled derelict, Slighte had over the years put forward a number of schemes for regeneration. By including the regeneration element in the scheme, Slighte could demonstrate that its 2 schemes - one for a hotel and the other private housing (both with planning permission) - were for regeneration. Discussions had taken place with the AA, even including negotiations for the AA to acquire the site, but it was at a level not acceptable to Slighte, hence the AA proceeded to make the Order. The council's case did not turn on any urgency but it rushed to promote the CPO, even though its own scheme was not even the subject of a planning application at that time.

It was unclear to Slighte whether the AA had undertaken a fair balancing exercise as it declined to disclose even a redacted version of a report balancing the competing considerations. Related correspondence was put before the Secretary of State (SoS) for him to draw his own inferences. The AA seemingly had not afforded any weight to Slighte's schemes to develop the land and the benefits they would bring, including the fact that Slighte would develop the Order Lands without compulsory purchase or calling on public money that is reserved for the purposes of housing Cherwell's residents.

The Bexley Test

Circular 06/2004 requires there to be a compelling reason in the public interest in support of a CPO to justify the interference with the human rights of those with an interest in the land affected. It is a measure of last resort and public benefit must clearly outweigh private loss. These must be weighed in the balance, as must the disbenefits of compulsory purchase. The Council

had not done that or put the SoS in a position to do so and as in Bexley (London Borough of Bexley v SSETR (2011) EWHC Admin 323) the Order could not lawfully be confirmed.

Regeneration

The most relevant emerging Banbury Masterplan is to promote regeneration, particularly of the Canalside area that includes the Order Lands. Three potential schemes were before the Inquiry – the council's and the 2 from the developer. While the first 2 broadly complied with planning policy, the hotel provision was criticized on grounds of comprehensive development and timing, (which could be applied equally to the council's scheme).

Need for affordable housing

The benefits of affordable housing delivery were not disputed and nor were the statistics referred to by the AA, but such benefit must be weighed in the balance against interference with private property rights. The council had a fund of £7m to spend on affordable housing, but that would not warrant a CPO as the money must be spent on housing in any event. It seems that the council had considered both bringing empty properties into use and other sites without recourse to CPO.

The case was not made that the CPO would meet a greater need than the planning system, even if the £7m was used to provide affordable housing elsewhere. The AA at the Inquiry stated that it did not rely on the HCA grant funding that was the basis for urgently seeking the CPO. Whatever the outcome of the CPO process, the monies would be put to a housing purpose by someone, but in any event the AA's timetable was not consistent with obtaining the funding, which required confirmation of the CPO and the challenge period. The start on site date was (at the time of the Inquiry) less than 4 months away.

Replacement avoidance

Usually the big worry about objecting to the use of the wrong power is that, if it is greatly significant, the Minister will be

very quick to refuse confirmation. Other things being satisfactory, it is possible for a new CPO to be made adjusting the power and/or the characteristics of the scheme. However, this was tactically taken out of the equation by no legal issue being made.

Inspector's Conclusions

The Inspector concluded that all the schemes before the Inquiry would generally accord with planning policy and would provide regeneration benefits and there was little between the proposals in terms of impediments to implementation. Although serious need for affordable housing was acknowledged, at best, the proposal would provide less than 1% of the affordable housing planned during the Plan period. In any event he deemed it likely, due to redistribution, that not all of the 40 proposed homes would be additional to the planned 285 affordable homes in the wider Canalside regeneration area. This possibility of some additional affordable homes had to be set against the draconian measure of depriving a developer of its land. In this situation the Inspector found that the Order was clearly not justified by a compelling case in the public interest.

I feel satisfied in myself that an Act specifically for the delivery of housing cannot be used for the purposes of wider regeneration particularly where the T&CPA 1990 (as amended) is the vehicle for delivering regeneration which includes housing. From this stance it is easy to see why avoiding the discussion on power removed an unnecessary legal distraction. Weighing the ultra vires power argument for future CPOs may perhaps be reserved as a 'knock-out' for when the overall objection to the justification to CPO is weak. CPO anoraks are still left with a fruitful area for legal discourse regarding the selection of CPO power under the Housing Act, notwithstanding I feel that the argument may be settled easily by focusing on strict interpretation.

Power and interpretation – application

It is not only in the selection of the CPO power that care has to be taken but in

the application and strict interpretation of the empowering statute. Although the Wolverhampton case (R (on the application of Sainsbury's Supermarkets Ltd) (Appellant) v Wolverhampton City Council and another (Respondents) [2010] UKSC 20) was specific to the facts, related to the strict interpretation of the T&CPA 1990 (as amended) particularly materiality and reasonably related benefits including their flow, connectivity, proximity, scale and direction, it served greatly to remind authorities, advisors and promoters of CPOs of the importance of respecting the legal structure and requirements.

Bromley by Bow

The Inspector in the Bromley by Bow (BbB) CPO [Ed – see 2013/14 Winter Terrier] was 'switched-on' to the specifics of the empowering Act. Since 2004 we have become used to the empowerment of regeneration CPOs to be s226 of the Town & Country Planning Act 1990 (as amended). In this case the council used s142 of the Local Government Planning and Land Act 1980 (LGPAL Act). Under this statute there was a specific requirement by the acquiring authority to find alternative premises for businesses affected by the CPO. The specific requirement of the Act is stated in the Circular that 'so far as practicable, to assist persons or businesses whose property has been acquired, to relocate to land currently owned by the UDC.' The acquiring authority in that CPO overlooked the basic regeneration ethos of its empowering Act to encourage the development of both existing and new industry to achieve its regeneration objectives.

There were additional defects regarding that CPO which, as with the London Road Fire Station, Manchester, fell foul of CPO principles majoring upon the failure to demonstrate a compelling case in the public interest and a reasonable prospect that the scheme would proceed. In BbB in particular a spotlight was put on socio-economic impacts and that sceptically there were no significant reasons for urgency.

Other CPOs' failure based on context, content and process

Bromley by Bow was gratifying in that the Inspector, it seems, was giving a deeper, welcomed focus, on the guidelines and statute. Housing Act CPOs concern me. Notwithstanding the 'empty houses' CPO principle is of great public interest, over familiarity, by many local authority housing CPOs, causes sausage machine attitudes and mentality. This can lead to complacency and an omission to understand the gravity of each case and the seriousness of taking someone's proprietary rights.

Failures in CPOs have provoked a review of some of the main reasons why they fail and many points were made by Frank Orr (of Bond Dickenson LLP Solicitors) on why some housing/ planning CPOs failed. To follow are some cameos of failure, which practitioners in this field should note.

Mansfield - In a Mansfield CPO the failure was technical. In the Newspaper notices and Order Maps they were undated with no street names, house numbers or local landmarks. The boundaries not clearly delineated and the numbering was hard to define. There was no Table 2 and no signed certificates provided.

Bridlington - Here the Housing Act CPO case was well made out and the Order would have been confirmed if not for technical flaws. The Order Map included part of adjoining property in error. Here modification was possible without prejudice to the scheme. However, the Order Map failed to include a rear single storey extension – an integral part of the dwelling house and omitted the rear yard of the property, so the description of the area of land in the schedule was materially inaccurate. Circular 06/04 para.51 the confirming Minister may confirm an order with or without modifications with limitations. There is, however, no scope for the confirming Minister to add to, or substitute, the statutory purpose(s) for which it was made. The power of modification is used sparingly and not to re-write orders extensively. There is no need to modify an order solely to show a change of ownership where the acquiring authority has acquired a relevant interest or interests after submitting the order. Some minor slips can be corrected, but not significant matters

such as the substitution of a different, or insertion of an additional, purpose.

In Bridlington there was no overall ambiguity in the council's intention but promoting authorities must follow statutory requirements as to form, content and procedure.

Islington - Many times CPOs are promoted when the justification is finely balanced. The Order was in respect of the disrepair of an empty 'eyesore' in need of complete renovation and the authority was able to demonstrate the need for housing. Here the Inspector admitted from the evidence presented that there is a likelihood that if the properties remain with the owners, there is a reasonable prospect of their refurbishment/redevelopment within a relatively short space of time: planning permission was in place and a CPO was premature. The council was factually wrong in its belief that the properties were not occupied. The council had no formal agreements in place with any specific RSL or developer and so the Inspector concluded that a compelling case was not clearly demonstrated.

Westminster - A CPO in Westminster revolved around the intentions of the parties. The Grade II Listed mid-terraced property was empty and there had been some squatting regarding which the owner had obtained a Possession Order. It was in a deteriorating condition and statutory notices had been received but not complied with. The council saw it as an eyesore and blight on the neighbourhood and would dispose of it to a RSL.

The owner had taken steps: £60,000 had already been spent but importantly there were planning issues to be resolved although Listed Building Consent had been granted. A revised scheme was likely to have planning officer support. The Inspector saw that the owners' actions and monies spent constituted evidence to of intention to carry out works. It demonstrated a strong financial incentive for the owner to pursue refurbishment and conversion. It was not clear that the council-preferred RSL would be in any better financial position to develop than the owner. Such a case was difficult for

the SoS to decide: weight to be given to the intentions of the landowner as against previously indifferent delivery performance.

Stowmarket - The decision for a mixed use, predominately A1 scheme in a conservation area in Stowmarket is close to my heart. Its components reflected the way in which many 'successful (?)' CPOs in the noughties were confirmed.

An Area Action Plan (AAP) was in its draft stage and there were acknowledged benefits. However there was little attempt at negotiating interests and no offers made leading to the quote "the acquisition of land by negotiation does not accord with the guidelines." Additionally there was a lack of evidence of financial viability and lack of certainty of design and content particularly costs associated with existing users. It was also felt that "it has not been demonstrated that the commitment of the council's development partner has been sufficiently secured."

Although an emerging AAP should be afforded weight, the proposed scheme included the relocation of the Untied Reform Church, a significant community use. This had not been tested in any statutory planning process

The potential impediments to implementation and planning process including the absence of any detailed policy framework and an approved detailed scheme weighted against confirmation of the Order. There was no demonstration of a reasonable prospect that the scheme would proceed if confirmed.

Newport - If ever there was a CPO that should have failed on so many counts it is the John Frost Square CPO, Newport that also involved the 'Iceland' High Court referral. For instance:

- the non compliance with policies in the Statement of Reasons, that the proposal should complement Commercial Street;
- the failure of the council's preferred developer - Modus Corovest Newport Ltd. (Modus);

- the step-in by Newport CC Cabinet in 2009 resolved to take over the acquisition and progress the scheme;
- Iceland Food's legal challenge on the grounds that an execution of the General Vesting Deed was unlawful primarily because that the purpose was different from that for which CPO was made and confirmed;
- The failure of Iceland's challenge but noting the Judge was not made aware by Newport CC that the details of the Modus pre let consisted of properties at the time occupying Commercial Street;
- the Judge's decision significantly held that the site was to be re-marketed on the basis of existing terms and conditions and that the permitted scheme could (in Cabinet's view) still be delivered viably by obtaining alternative funding by another developer;
- Newport CC sought a developer partner and selected Queensberry Developments. In 2013 Queensberry Developments could not obtain market funding the scheme;
- Newport CC has currently sought a £90m loan from the PWLB to pay the developer, a limited company, to carry out the scheme.

It seems to have been lost somewhere that this was a CPO scheme where the council should have fully assessed and demonstrated a compelling case in the public interest and a reasonable prospect that the scheme would proceed.

Success in CPOs?

Every successive failure serves as a reminder to authorities, advisors and promoters of CPOs of the importance of respecting the legal structure and requirements.

The Editor acknowledges the support of John Roberts, Managing Editor of IRRV magazines (The Institute of Revenues Rating and Valuation) to publish an abridged version of this article.

LEGAL SNIPPETS

Below are extracts from Mills & Reeve "Property Matters" which are of relevance to public sector property professionals. My thanks to Mills and Reeve for letting me reproduce them.

Mills & Reeve: Property Matters web.admin@mills-reeve.com

Chancel repair liability – an ongoing issue?

Due to an historic quirk of English law, certain properties located in the vicinity of a medieval parish have an obligation to pay the cost of repairing the chancel of the parish church; often costing many thousands of pounds. The law changed on 13 October 2013. However, landowners and prospective purchasers should not assume that chancel repair is now a non-issue.

Last October's change in the law was designed to ensure that purchasers of registered land would not be bound by chancel repair obligations unless the right to demand payment from the landowner had been protected by the entry of a notice at the Land Registry. However, where a transfer of land is made for no valuable consideration (e.g. a gift, an inheritance or following

an insolvency), the new landowner will continue to be bound by chancel repair obligations, even where these have not been protected by a notice.

Previously it was common to obtain chancel repair indemnity insurance where records indicated that a property was within an area which had a potential chancel repair liability. This remains good practice where a property is not transferred for valuable consideration.

Furthermore, the latest guidance produced on this issue by the Land Registry indicates that a notice purporting to protect a chancel repair obligation can still be entered on the registered title to a property, even where that property has been transferred for valuable consideration since 12 October

2013. It is possible for the landowner to then apply to the Land Registry to remove such a notice. However, this can be a costly and time consuming process.

The treatment of transfers for no value and the Land Registry's latest guidance on chancel repair notices mean that, for the time being, chancel repair liability continues to be a relevant issue for property owners to discuss with their legal advisers.



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Landlord fails in appeal to overturn damages award of £181,000 for unreasonably withholding consent to assignment

In the absence of an absolute prohibition against assignment, when a tenant makes a request to its landlord to assign a lease, the landlord is under a statutory duty not to unreasonably withhold consent, to respond to the tenant's request within a reasonable time and to provide its decision, including any conditions, in writing.

In the recent case of *Singh v Dhanji* the landlord attempted to impose the following conditions to the proposed assignment by its tenant of a lease of a dental practice:

1. the tenant must have remedied its breaches of covenant;

2. the tenant must notify the landlord to enable him to inspect the rectifications; and
3. the tenant must have stopped trespassing on the landlord's adjoining premises.

The tenant did not like these conditions and issued proceedings against the landlord for breach of its statutory duty.

The court found for the tenant on the basis that the alleged breaches by the tenant were not sufficiently serious so as to make it reasonable to withhold consent. The tenant was awarded £183,000 in damages plus £31,000 in

interest, which was upheld on appeal.

Although clearly a question of fact and degree in each situation, landlords must give careful consideration to whether breaches of covenant are sufficiently serious to withhold consent. In addition, this case is a useful reminder that it is the landlord who has the burden of demonstrating reasonableness and of the duties that the landlord is under when its tenant makes a request to assign its lease.

Wear and Tear - landlords and tenants beware!

The commercial lettings market has undoubtedly witnessed a resurgence in recent times especially in the retail sector. However, along with this increasing activity, the market is also experiencing a parallel increase in respect of the volume of instructions for dilapidations matters at the end of a lease term.

To explain this increase, aside from the upturn in the lettings market, the general consensus among property professionals is that lease terms as a whole are shorter (with the average lease length now considered to be approximately 5.8 years in contrast to the 15-25 year lease terms typically granted before the economic crisis)

therefore making dilapidations processes more frequent as a matter of course.

Before the economic crash, landlords would often take a view in respect of a dilapidations claim, and absorb the costs themselves in order to secure a new tenant quickly. However, in a market which is recovering but where there is still significant pressure to minimise costs and expenditure, landlords are starting to focus increasingly more on recovering costs from tenants and protecting the asset value.

Both landlords and tenants ought to understand the financial implications of buildings being left in disrepair

at the end of a tenancy. Having an understanding at the beginning of the process will benefit financial planning for both parties – an accurate forecast of potential costs upon lease termination will lessen the impact when (or if) a schedule of dilapidations is served by a landlord.

Therefore, the key consideration for landlords and tenants alike is to consider the implications of dilapidations from the outset, be well advised, and above all plan ahead to minimise the impact for potential wants of disrepair further down the line.

RICHARD ALLEN, HEART OF ENGLAND BRANCH

Both Andrew Wild, ACES President and Betty Albon, Editor were guests of the branch at its 3 July meeting hosted by Rutland County Council. It was held at the Oakham Enterprise Park, and as was evident by the high security fencing that welcomed the 20 plus members, substitutes and guests that attended, the park is a former prison still in transition.

The morning session started with a number of presentations on the Oakham Enterprise Park. Councillor Terry King, Deputy Leader of Rutland County Council and Portfolio Holder for Places (Development) and Finance who gave a brief history of the site from World War 2, through development as a prison and the riot in April 2009 which led to its closure in 2011.

The site, comprising 23 acres and over 100,000 sq ft of buildings, was identified by the council as an ideal opportunity to provide accommodation for start-up businesses and community use. It had been acquired in January 2013 from the Ministry of Justice for what he considered to be a bargain £1.3m, based on an independent valuation produced by the Valuation Office. The only condition attached to the purchase was that the site could not be used for retailing.

Pritesh Parmer, Property Manager, then spoke on the development of the site as an enterprise park, highlighting the steep learning curve the development team went through addressing challenges ranging from being handed a huge box of keys which then had to be matched to many hundreds of key holes, understanding the services which were provided on site without any operational data, recording asbestos, providing appropriate fire escapes to meet regulations (as it had previously been a prison, escape was clearly not



encouraged) to developing a vision for the site, producing a delivery strategy and procuring contractors.

James Frieland, Business Manager for the Enterprise Park next spoke on the marketing and tenant engagement. The major challenge from the outset was to sell the vision by moving the perception of the site from 'razor wire to porches'. Rightmove was being used to market the accommodation and produce a professional image, but James had also become a big user and fan of Twitter to engage community buy-in and pick up tenants. Once a tenant had been identified, there was a maximum of 8 weeks' turnaround to adapt a unit for occupation. The park was almost self-sufficient as the 35 business tenants already on site included a microbrewery, dating agency, an events zone, judo club, import/export and various IT operations. Finally, Lewis Hopcroft, Building Surveyor, spoke on community engagement and the proposals to refurbish the former prison sports hall for a major leisure facility.

Following the presentations there was a tour of the site to view in particular the sports hall and extensive former prison kitchens being marketed as a food production opportunity.

Although the development was being undertaken by a young and inexperienced team, it was clear from their enthusiasm and commitment for the project that it will be a success and become over time a significant asset for the smallest county in England. It was also pleasing that during the meeting branch members with development experience were able to offer advice to the team.

Just before lunch Colin Packman, Government Property Unit (GPU), gave an update on government's Estates Strategy, including the Strategic Land and Property Review and One Public Estate. He said that since 2010, in the 2014 Budget statement, government departments had committed to reforms that will release £3.5bn of property and a further £1.5bn is to be released through operational reviews and rationalisation

through regional place-based strategies to share services. Part of the policy of reforms to improve the release of public land includes a new role for the HCA by 2015 to dispose of surplus development land, the introduction of the 'right to contest' and the GPU is working on the public and property aspects of Growth Deals.

The One Public Estate joint initiative between the GPU and Local Government Association is looking to create economic growth, generate capital receipts, reduce running costs and deliver more integrated and customer focused services. The central civil service office estate represents only 15% of the total public sector estate with two thirds of public land and property owned locally. There is thus great scope to achieve estate consolidation and rationalisation across the wider public sector and align with the national drive to use surplus public assets to promote growth. Twenty more authorities are to be included in a One Public Estate Extension (OPEXt) programme still to be announced.

During the afternoon meeting it was reported that the follow up joint RICS/ACES CPD workshop had unfortunately not materialised. Andrew Wild, as ACES President, said he would raise with the RICS the fact that the local joint ACES/RICS is not working as hoped. He did mention though that ACES/RICS nationally were working on developing a CPD roadshow that would go around the branches, who would just have to organise venues.

Since the last meeting Richard Allen had presented the ACES cash prize and certificate to the winner of the Trent University Local Authority Corporate Real Estate coursework. The winner was Silke Saur, a German exchange student on the ERAMUS programme. The course leader at the university was very pleased with the support that had been provided by ACES and both Nottingham City and Nottinghamshire County Councils. It is proposed to continue the arrangement next year. An edited version of the coursework appeared in the 2014 Summer Terrier.

It was good to see a number of member

substitute attendees at the meeting and it was mentioned that in other branches attendances are being boosted by ACES members taking more junior staff to meetings as part of their professional development.

Andrew spoke about his role as President for the year and his themes and aims which are: promoting opportunities for young people within member organisations particularly through the Chartered Surveyors Training Trust, upgrading the ACES website, modernisation of ACES as a brand through the use of 3Fox International, working with the RICS nationally and other organisations such as CIPFA and COPROP to support CPD, identifying the ACES contribution to the public sector through the use of the Terrier and better public relations. Andrew also promoted the ACES Award for Excellence and his Presidential Conference on 11/12 September in London. He was asked whether the Association was considering a name change to something that better reflected the current position, such as 'Association of Property Professionals in the Public Sector' as had been suggested by the Branch. He replied that the name had been discussed at length by Council. The conclusion was that the ACES name and logo is well known and regarded and so it should be retained, but there may be an explanatory 'strapline'.

Betty, Editor, did not miss the opportunity to say that she was always looking for articles from ACES members and pointed out that in the last edition of the Terrier over 50% of the articles were from members. Since taking over the 'Editor in Chief' role, she has been impressed by how widely the Terrier is read outside ACES as it is picked up through the website. Both the RICS and DCLG support the Terrier and it was mentioned that DCLG uses ACES as a sounding board for new proposals and values the ACES contribution highly [Ed – see DCLG article in this Terrier].

The focus of the main meeting was on how authorities were achieving budget savings through their property strategies and short presentations were given by members from Sandwell, Warwickshire, Luton, Mansfield, Rutland,

Hinckley and Bosworth, Leicestershire and Nottinghamshire Councils.

All authorities had as targets the reduction of property costs and number of properties held and some were moving to a corporate landlord approach. Actions mentioned included: combining office use, joint working between county/district authorities; creating public sector hubs; centralising support services and adopting common systems; strategic approach to procurement; mobile and flexible working; better energy performance management; savings through fewer and easier office moves; relocating staff vending machines into public areas; rationalisation of museums, community centres, elderly persons homes, youth services, playing fields, libraries with some going to community groups who were incorporating cafes and crèches, and scout huts being sold to occupying lessees; utilising prudential borrowing to acquire investments with yields in excess of 7.5% to boost income and loans to developers to support town centre redevelopment; innovative movement of general and housing revenue funds; use of in house resources instead of external consultants; renegotiation of FM contracts; business process engineering; generating fee income from trading professional services; clearing backlog of rent reviews and lease renewals.

Lessons learnt included need to really know and understand the cost base, staff teams and thoroughly plan for cultural changes such as hot desking and use of flexible IT; hidden costs such as lease termination works/dilapidations, terminating IT agreements and replacing furniture. Easiest savings were where service and property services were aligned. Moves/refurbishments always seemed to trigger refurbishment/remodelling costs. With transfers to community groups, officers need to assist as groups need advice but set and stick to timescales and allow run-in time so leases are in place before closure, which avoids voids/unauthorised occupation.

Tensions with centralised property/service reviews were who benefits from savings, gaining authority for disposals/

acquisitions as increased interest from members and with community asset transfers balancing maximising capital receipts against community benefit.

There was a discussion on how much information is required for the data

transparency project, which is time consuming in respect of inputting data.

Under valuation issues, a question was raised and a discussion took place on the setting up of a 'promotional agreement' to maximise planning potential and

value of development land and when payment should be made; and how to value land for crematoria.

The next meeting will be held on Thursday, 6 November 2014 in Bedford. It will also include the Branch AGM.

DUNCAN BLACKIE, EASTERN BRANCH

The branch and CPD meeting was held on 4 July at Cambridge Fire Station, attended by 32 delegates.

Vice Chairman, Brian Prettyman opened the Branch Meeting and commenced with branch business. Thanks were given to Cambridge Fire and Rescue Service for providing a splendid venue in the centre of Cambridge [Ed - and an even more splendid lunch!]. Notice was also given of the East of England Asset Management master class to be held at West Suffolk House Bury St Edmunds on 26 September.

In an initial open forum discussion, it was noted that a number of councils had recently reverted to a committee system. The advice given was that it was important to establish a good scheme of delegation and have an informal sounding board with members. Some ACES members had found that with amalgamation of departments (notably property with finance), the one-to-one relationship with the delegated councillor for property can be eroded.

Observations were made on the trend of some councils to invest in commercial property, sometimes outside their area. [Ed - see article in 2014 Summer Terrier on property investment strategies and Richard's Heart branch report in this edition]. Other councils have invested in or set up an arm's length company to acquire and manage residential investments, including private rented. Members concluded that commercialisation would be a good area to study at future meetings.

Telecommunications was discussed and practice seems to vary across the branch. Interested colleagues were invited to compile and circulate a table

of issues/solutions and to invite Eastern Branch colleagues to contribute further.

A number of formal CPD presentations were made

- Anthony Walters RICS - CPD
[Ed - see article in 2014 Summer Terrier on CPD]
- Emma Fitzgibbon, RICS - Policy
Emma answered the question 'what does the RICS do for us?' In particular, she advised that there had been significant growth in press coverage and how RICS has geared up to present a positive image of the profession. Emma asked how aware/involved members were with viability assessments relating to development and ensuring that community infrastructure was provided. It was concluded that this would be a good area to explore further at a future meeting
- Danny Rust, Property Lead at Cambridge Fire and Rescue
Danny explained that the CFRS estate comprises around 30 fire stations of various types plus HQ, training and vehicle repair facilities. The Cambridge Fire Station had opened in June 2013. The redevelopment had been entirely funded through a joint venture with Grosvenor Estates whereby residential apartments were developed above. The original fire station that occupied this site was constructed in 1964 and accounted for 20% of all CFRS floor area. The new facility is 50% of the size of the original but is still of significant size - 1,500 sq m. There will be lower maintenance costs and lower carbon emissions. In addition it

was necessary to acquire an edge of town site to provide training facilities for the crews based in Cambridge. [Ed - rather excitingly, the sirens went off during the meeting and 2 engines roared away]

- Debbi White, Property Lead at St Albans City and District
Debbi's presentation focussed on a recent efficiency and workstyle project undertaken by the city council in conjunction with public sector partners in the city centre. This was intended to provide a good case study for discussion. The objectives were:
Efficiencies - open plan, shared desks, new office protocols, reduced file storage, improved archiving;
Environment - printers reduced from 39 to 18, worker satisfaction measured and improved, refurbishment;
Collaboration - Herts Constabulary gave up their building and shared space;
Regeneration - vacation of the police building will unlock a substantial redevelopment site within the 1960s civic quarter of the city [Ed - see full article by Debbi in this edition]
- Workshop session to consider ACES questionnaire
Colleagues broke to 4 county based groups for discussion of the questionnaire being promoted by Andrew Wild, ACES President. Some key points were:
Essex - main driver cost reduction through transformation. Services have been outsourced. At district level, there is clearly an appetite

to generate further revenue to make up for shortfalls anticipated by 2018. The commercialisation agenda is clearly a very important theme for property managers. EPAM [Essex Property Asset Map] funded by East of England LGA, has provided a simple low cost and transparent way to show public sector land ownership. This has resulted in a number of reviews/challenges being undertaken

Hertfordshire – rationalisation of office space, for example, N. Herts going from 3 offices to one. Police co-locating with Three Rivers Coun-

cil. Shared services in a number of locations

Suffolk and Norfolk – one small project which perhaps exemplifies good practice is the Brandon Centre in Suffolk. This former library is now a multi-use centre which is managed by the third sector with a truly shared service at the reception desk. [Ed – see 2013/14 Winter Terrier]. Other examples include setting up Norse Group [which includes NPS], Norfolk county hall refurbishment, Suffolk office centralisation into key hubs, co-located with partners and in pursuance of

shared service arrangements

Cambridgeshire – Making Assets Count project (Ed - ACES award for Excellence 2012) for collaborative working, including strategy, mapping, joint use. LGSS joint venture between Cambridgeshire and Northamptonshire to provide support services, including property, growth projects in the cities of Cambridge and Peterborough, and a range of income producing initiatives are in train including in relation to farms estates and green energy.

CHRIS RHODES, LONDON BRANCH

A full day of activity was arranged for the July meeting of London branch, starting with a visit to the Battersea Power Station development and a presentation on this scheme given by its Head of Estate Management.

Colleagues heard that the scheme will cover an area of 40 acres and deliver 2.5m sq ft of mixed use development scheduled to complete by 2019 with the first phase expected by 2016. The landmark power station building will contain residential, retail, office and leisure space including an indoor food court with vehicle access. The wider scheme costing an estimated £8bn will take advantage of the riverside location and the 250 apartments in the first phase were quickly reserved. Blocks surrounding the main building have been designed by Frank Gehry and Norman Foster.

Years of uncertainty and abortive plans have left the power station itself in a poor state, with the famous quartet of chimneys needing to be rebuilt, ahead of the conversion. The scheme's proposed 800 homes will generate transport needs which will be addressed through several new rail stations and an extension to the Northern Line. Development of this former industrial area will complement the plans for the new US Embassy and New Covent Garden Market, regenerating a large

area of the south bank between Battersea Park and Vauxhall.

Members moved on to Battersea and lunch prior to the branch meeting kindly hosted by Andy Algar at Wandsworth Town Hall. David Warner of London Funders gave a presentation on this body which brings together public sector funders and commissioners, social and corporate investors and others to invest in London through a variety of channels. An example was given of small parcels of land without obvious financial value which could be turned to social action with a revenue funding stream. The organisation could also support community asset disposal and help with small clusters of housing for supported living.

The meeting heard an update on arrangements for the ACES annual conference and a draw took place to decide which member authorities would receive a place sponsored by London Branch from its own funds. Barnet, Lewisham and Sutton boroughs were chosen along with Public Health England. Members went on to discuss education property as a growing area of activity for many members, given the population increase in greater London and the shortage of school places. Topics covered included free schools and academies and arrangements for property disposals and

transfers. Members also discussed their experiences of valuation assumptions.

Branch noted with regret the retirement of Tim Foster and Colin Bradford from the ACES Secretariat and discussed other matters including outsourcing, house building programmes, investment opportunities and the second wave of the One Public Estate initiative. Colleagues from the Cabinet Office reported on the status of national property controls and the ongoing central government review of departmental holdings.

In September the branch met at Southwark Council's offices and hosted Andrew Wild as part of his presidential tour of the branches. Andrew spoke of his aims for ACES and opportunities for improved links with bodies such as RICS and CIPFA to build on gains made already. The meeting took place shortly after the Presidential Conference which it was felt had been well organised and well supported by London members. The meeting also heard feedback from the ACES Council meeting in Manchester at the end of August [Ed – see separate report in this Terrier]. Topics for presentations over the following year were invited and discussed.

A general round-up of issues affecting members covered a land appropriation exercise by Transport for London,

school transfer repair obligations, office rationalisation projects, procurement of house building and market conditions, restructuring and portfolio reviews. Central government matters included new arrangements for the Borders

Agency and the Probation Service.

With the end of the year fast approaching, the arrangements for our Christmas dinner were confirmed and members were asked to support

the Annual Meeting in November. Andrew Wild presented a gift to Geoff Clark to mark his retirement from local government.

ACES NORTH EAST BRANCH - STUDENT PRIZES John Read

The NE branch usually awards prizes each year to students from both Sheffield Hallam and Northumbria Universities. In memory of David Roxburgh who was both passionate and expert about both rating and compulsory purchase, the Branch Executive thought that the branch should offer a discretionary prize to a student who produced an excellent piece of work on either of the above topics.

ACES North East Branch - David Roxburgh Memorial Prize

This prize was awarded to Harriet Frank of Northumbria University for an essay which she submitted as one of her assignments in the Compulsory Purchase and Compensation Module as part of her Estate Management degree. It was presented at the Northumbria University Faculty of Engineering and Environment Award Ceremony on 9 July 2014.

The essay examined the proposed use of compulsory purchase powers by the London Borough of Hammersmith and Fulham in relation to the land and buildings at Shepherd's Bush Market and assessed whether or not the council's scheme complied with the relevant statutory powers and the guidance set out in DCLG Circular 06/04. Harriet explored the history of the market, its current condition and future prospects before examining the council's plans for the site. The essay included an analysis of the actions the acquiring authority had taken to date and an evaluation of the main challenges they have faced in promoting the order. The essay concluded that although it was clear that would be economic and environmental gains from the council's



proposed scheme, more work was needed to engage local residents and business owners in the project.

ACES North East Branch Prize – Best Regeneration Assignment Prize

The prize was awarded to James Cornish, a student in his final year BSc Estate Management course at Northumbria University. He was also presented with his prize at the Award Ceremony on 9 July.

The subject was the Appraisal of St Stephen's Regeneration Project at Ferensway, Kingston upon Hull. A summary follows.

APPRAISAL OF ST STEPHEN'S REGENERATION PROJECT James Cornish

This is a summary of James' prize-winning assignment awarded by the North East branch for its annual Best Regeneration Award. James is a Final Year BSc (Hons) Estate Management student at Northumbria University and the project is set at Ferensway, Kingston upon Hull.

The St Stephen's regeneration scheme is located on a 40 acre site behind Hull's Paragon Station, fronting onto Ferensway to the West of the city centre, conceptualisation for which was formulated during the late 1990s with construction commencing in 2005. It is a retail-led, mixed-use development, comprising primarily shops, cafés, bars and restaurants. In total, the plan comprised 30,000 sq m of retail space (1). Also included within the scheme was the redevelopment of Hull Paragon station and transport interchange, the Hull Truck Theatre, Albemarle Music Centre and the construction of a 120 bedroom hotel. The total investment in the scheme was £200m (2).

The station was extensively redeveloped and merged with the bus station in order to create a single transport interchange and improve transport links to other areas of the city. The total investment in the station and transport interchange equated to £18m. The £15m redevelopment of the Hull Truck Theatre included a £4m lottery funding grant as well as funding from Hull City Council, Yorkshire Forward, the European Regional Development Fund and ING Real Estate Ltd. (Arts Council England, 2013). A further £3m was invested in the Albemarle Music Centre, which would act as a driver for children to take up music in school as well as a

performance venue. Hull City Council provided a grant of £475,000 toward its redevelopment (3).

The site was developed by ING Real Estate UK Ltd. in partnership with Hull City Council, Yorkshire Forward, English Partnerships and Hull Citybuild. According to Planning's Top 100 Regeneration Projects, ING invested £100m in the scheme, with a public sector contribution of £30m being provided through the Regional Development Agency, Yorkshire Forward (4). The completed development was purchased by British Land for £130m.

The primary aim of the St Stephen's project was to reinvigorate Hull as a major retail destination within the region:

'The St Stephens scheme at Ferensway which will further shift the retail focus to the west of the city centre, and claim back some £30m in spending to the city centre' (Hull Citybuild, 2003).

St Stephen's was the first commercial development that the city had seen for 20 years, since the opening of the nearby Princes Quay in 1991. It was therefore seen as the start of Hull's economic renaissance, spreading an air of positivity into what had become a declining city. As part of Hull's Urban Renaissance, Hull Citybuild's aim was to replace the previous sporadically located retail areas within the city centre with a 'strong retail circuit', providing shoppers with a more appealing environment and encouraging prime retail investment as a result. In order to further facilitate the renaissance, it was hoped that the city centre's core population would be increased by

providing a range of dwellings that would appeal to both existing and new residents and to ensure that a sufficient skills base was retained. The original St Stephen's plans included a second phase of development (planned for commencement in 2008) for the development of 220 homes on the land adjoining Spring Street.

In addition, the redevelopment of Hull Paragon Station aimed to make accessing the city a more appealing prospect, increasing footfall and hence visitor spending. Its aim was to draw in shoppers from across the East Riding of Yorkshire, who would otherwise look to travel to Leeds, York or Sheffield. Another major aim was to increase Hull's civic appeal, making it the destination of choice for cultural pursuits within the region. This had already been achieved in part by the successfulness of The Deep's scheme at the Humber Docks in 2002. It was expected that the redevelopment of the Hull Truck Theatre and Albemarle Music School would help to achieve this outcome.

As well as attracting spending to Hull's economy, the scheme aimed to provide 2,500 new jobs for the city, with investment into the skills base of the current population. Public sector organisations were instrumental in the site remediation and development of the scheme. Hull Citybuild was responsible for forming the private sector investment contracts that secured the project's funding. The total public sector funding of the scheme, according to Planning Magazine, was £30m.

Project evaluation

One way to measure the success of the

scheme is to compare its outcomes against the main aims and objectives set out in the Hull City Centre Masterplan, as well as local, regional and national policy.

Hull Paragon Station

The physical appearance of the area has been improved dramatically. Firstly, the fact that Paragon Station has been transformed to reveal the original Victorian frontage provides a welcoming first impression for visitors to the city and adds to its appeal as a cultural attraction, as opposed to being a product of industrial decline. From the 1960s until the St Stephen's regeneration, Hull's Paragon Station was seen as an eye-sore by visitors and residents alike: an austere office block covered the station's main frontage onto Ferensway. As part of the St Stephen's regeneration scheme, the office block was demolished and the original frontage renovated, revealing the original station façade. The new transport interchange now delivers 24,000 people to the St Stephen's development every day.

City core

The original site previously formed the western edge of the city centre. The site previously comprised a combination of wasteland and derelict industrial buildings. The scheme has transformed this abandoned area into a prime commercial and cultural attraction. Since its development, the boundary of the central commercial district has been expanded and Hull Citybuild's aim to make this shift has therefore been fulfilled. Transport links have been greatly improved, making accessing the development (and the city centre as a whole) easier. Margaret Moxon Way, the street dividing the shopping centre and the transport interchange, is now said to support 280 bus movements every hour (Bondholderscheme, 2013).

Employment

A concerted effort was made as part of the regeneration project to ensure that local people benefitted from the new jobs created from the scheme. Those lacking the appropriate skills

due to the manufacturing decline in the 1990s were particularly targeted. In order to develop new skills among the population of ex-factory workers (now unemployed), Hull City Council worked in partnership with Hull College in order to set up a 'Retail Academy', offering training and qualifications in areas such as retail, logistics, customer services and management. By targeting Hull's existing population, this avoided creating a gentrification effect, therefore aiding the regeneration of the city as a whole. A recruitment fair took place in September 2007 (upon completion of the scheme) in order to promote the job vacancies created.

According to Planning Resource, 1,268 new jobs were created as a result of the scheme, of which 80% were taken by local people. In addition, it is claimed that 68% of the new jobs were filled by people living in deprived areas of the city. This is in line with the Hull City Centre Masterplan, which set out to reduce disadvantage in the city, of which unemployment was a major contributor. Although the total eventual jobs created were less than the original target of 2,500, based upon the fact that the majority of the jobs went to people who would otherwise be unemployed, it could be argued that the project was very successful in terms of aiding Hull's urban renaissance and setting the precedent for investment in similar future schemes. The people in new employment within the city are now able to contribute further towards Hull's economy, hence fulfilling the aims set out by English Partnerships in their national strategy.

The Economy

In a commercial sense, the development was extremely successful, with the retail units fully let by May 2011 and anchored by a large Tesco superstore and a Superdry store. This contrasts with the national average vacancy rate in shopping centres, of 15.6%. This demonstrates that, even during the recession, the confidence of retailers and consumers was upheld within the centre. Within the centre's first year of opening, footfall reached 8.5m and rose to 11m during the following 3 year period.

It is also estimated that the amount of spending from outside of the city boundary has increased. Jim Harris, the centre manager stated that:

'there was a concerted effort to target and attract wealthy shoppers from the outskirts of Hull who had previously shopped further afield' (Harris, J, 2013, quoted in Retailweek, 2013).

By attracting people from outside Hull, the scheme is contributing towards the urban renaissance of the city, the aim of which is to regenerate and repopulate the city. By bringing people in from the affluent surrounding areas, spending will also be encouraged elsewhere in the city. If the retail appeal of the city is improved, so is its overall appeal: hence making the city a more attractive place to live. This has been achieved not only due to the commercial success of the retail scheme but by the ease of access of the city in terms of the infrastructure that has been provided by the scheme.

The Community

The benefits of the scheme are not limited to its commercial success. The St Stephen's scheme has also helped to benefit the community in terms of fund raising and practical support, with £38,000 raised for the local community during 2012 and as a result, winning the Mail Business Awards Contribution to the Community 2011. As mentioned previously, the community has also benefitted from the collaboration with Hull City College for delivering training to the unemployed. British Land states that since the opening of the centre in 2007, 100 unemployed young people have participated in the 'get into retail' programme at St Stephen's.

Culture

The city as a whole has benefitted from the cultural additions brought about by the scheme, most notably with the recent announcement that it has received status as the UK City of Culture 2017. The Hull Truck Theatre is listed as one of the contributors to this accolade, providing a venue for local talent to flourish and attracting an estimated 70,000 people per year to its productions.

Awards

The scheme was awarded the RICS 'Best Regeneration Project in Yorkshire' award in 2008, as well as Regeneration and Renewal's Best Mixed Use Regeneration Scheme in 2009.

Conclusions

Although St Stephen's was primarily retail-led, it is still very much a 'Flagship' scheme: it has undoubtedly acted as a catalyst for future city centre investment. Despite this, there is an argument to suggest that by investing solely into one area of the city centre, the gap between this and the surrounding disadvantaged residential areas has been widened, both socially and economically.

The development has undoubtedly given Hull city centre a more upmarket and desirable image. While this is a positive outcome on the whole, it also has its detrimental effects. For example, the row of independent 1960s shops located on Ferensway, opposite the development, had all been vacated by 2012 due to lack of trade as a direct result of the scheme. This will have resulted in job losses for local people.

The scheme also did not deliver the proposed 220 new homes originally included within the plan, due to the economic downturn in 2008. The residential element of Hull's City Centre Masterplan was therefore not fulfilled: the housing phase of the scheme did not materialise, nor did the scheme improve the conditions for current residents. The future needs to see investment in affordable residential city centre accommodation in order to provide a more prosperous living environment for Hull's current residents.

Taking account of the improvement in economic, physical, social and environmental elements of the city's regeneration, the St Stephen's development has been partially successful. It has given Hull's economy a much-needed boost and placed it back on the map as a major northern retail destination, thereby contributing significantly to local economic development. It has also improved beyond recognition the physical appearance of the Ferensway commercial district and set a precedent for the city to follow.

Footnotes:

1. City Centre Masterplan at: <http://www.hull.co.uk/template02.asp?pageid=201>
2. http://www.hullcc.gov.uk/portal/page?_pageid=293,642453&_dad=portal&_schema=PORTAL
3. <http://www.musiced.co.uk/teachers/extra/lea2009/major.html>
4. <http://www.planningresource.co.uk/article/642575/top-100-regeneration-projects>
5. <http://www.hullbid.co.uk/articles/152>
6. http://www.britishland.com/~~/media/Files/B/British-Land/documents/community_charter.pdf
7. <http://www.artscouncil.org.uk/media/uploads/publications/php2RaYSv.pdf>

Other Interest Areas

THE SUFFOLK SCRIBBLER

The end of an era

The purpose of this piece is to thank Tim Foster and Colin Bradford, on the occasion of their "retirement", for the major contributions they have made to the wellbeing and status of our Association.

Tim

In those far off days, before Tim Foster and the post of Secretary were invented, if I remember correctly, it was the President who called meetings if there were topics to be settled in between Annual Meetings. The only fixed and "formal" meeting was the AM when we all turned up at the Lords Cricket Ground

hoping that his time, if we were lucky, we might actually catch a glimpse of WG Grace. Even so there was no agenda and, for example, the Treasurer never gave a written report but assured those present that income was being collected, sales of memorabilia were going well, and there was no need to make any changes. Clearly a modern professional association would be unlikely to flourish under such an informal regime and, thanks to Tim and his efforts over the years, ACES now has up to date systems of governance in place so that decisions can be taken at the right time and more importantly recorded correctly and progress monitored appropriately. We have a lot to thank Tim for.

In between times of course I cannot ever remember Tim failing to attend a meeting at which his presence was required and he has successfully taken on additional tasks, such as editing journals, in order to preserve continuity and quality. Many thanks Tim.

Colin

Singlehandedly Colin has developed the Association's 2 main publications, the Terrier and Asset into top quality journals that are envied throughout the professional world. For example with Asset, Colin would transport recording equipment to meetings, set it up and monitor its performance, arrange for transcription, sub-edit the transcripts

and then edit the final product, arranging for printing and distribution to members. At meetings, in between times, he was also the ACES official photographer and we have all seen, and envied, numerous examples of his quality work in ACES journals.

We have a lot to thank Colin for both in attaining and in continuing to achieve high standards in the main journals and related one-off publications.

Doctor, the Reverend, Ian Paisley

Sadly, Ian Paisley died recently and almost without exception the obituary writers zoomed in on Paisley the "NEVER! NEVER! NEVER! Never!" politician. My memory of him is somewhat different even though we met in the circumstances of an un-concluded compensation claim which seemed always to offer the celebrity/VIP claimant full licence to behave very badly indeed. However Dr Paisley resisted this and conducted himself in a gentlemanly manner throughout and so we were able to conclude the negotiation quickly and successfully as I reported in the Winter 2003/4 edition of *The Terrier*:

Ian Paisley, so it is said, was delivering one of his scorching sermons. "In the hell that awaits the sinner," he roared, "there will be a-weeping and a-wailing and a-gnashing of teeth." An old man in the front row was impressed, scared and a little puzzled. "Dr. Paisley" he mumbled through his ancient gums, "what if you have nae teeth?" The great man paused for only a second. "Teeth," he thundered, "will be provided".

Dr. Paisley's public image is that of an uncompromising, obstinate, intolerant, hard-line politician. Not the sort of man you would want to share a pot of Earl Grey with. And yet some time ago, a friend, with religious inclinations, took the trouble to go to his church in Belfast to see what it was all about at first hand. He reported back that Dr. Paisley was the most charismatic preacher he had ever heard.

So when I had my opportunity to meet him I did not know what to expect.

In the days, long, long ago when there were extensive programmes of

compulsory acquisition work, usually for highway purposes, it so happened that in my authority one of our road schemes brought about the demolition of one of Dr. Paisley's churches; a clear-cut equivalent reinstatement situation. Compensation principles and the building of a replacement church were resolved without too much difficulty. Then the great man let it be known that there were "one or two loose ends" and he wished to conclude the negotiations personally when he was next in Suffolk.

Now this was at the height of "The Troubles" and arranging a meeting was not altogether straightforward. A date and time of 2pm were fixed and later "a civil servant" telephoned me. "Where exactly will the meeting take place?" he asked. "It could take place in my own room," I replied, thinking a matter of status could be involved. "What sort of room is it?" he said and when I mentioned ground floor with windows along 2 sides he made it clear that was totally out of the question. "Is there an internal room with no windows?" "Yes," I said, "then that's the one." Other than that I was not expecting to attend the meeting personally.

So I forgot all about it until lunchtime on the day of the meeting. Usually I took a lunchtime walk and left the building and walked off down the road as usual. After a few steps a black Granada cruised past only to do a flashy 3-point turn further on and cruise back. There were 4 snappily dressed young men in it with short haircuts. It would have blended in more with a flashing neon sign saying "SPECIAL BRANCH" on the roof. "Christ", I thought, "This is the day Ian Paisley is due." Trying not to draw any attention I hotfooted it back to the office.

After a hurried briefing my Valuer said he wanted me to attend and do the talking but he had no idea what the problem was. Those of you who have done compulsory acquisition work will know exactly what I thought. It was common practice for all owners and agents to pull any trick in the book to increase compensation. Those with member contacts or even minor celebrity status were by far the worst.

Just before 2pm one of the Granada Four introduced himself and then began to lurk just inside the entrance to the building.

We were told to sit in the meeting room. At precisely 2 pm more black Granadas arrived and the Ian Paisley party was conducted in. He sat on the opposite side of the table flanked by 2 vicars and a minder. Dr. Paisley was affable but the others were unsmiling and watchful. It was soon clear that I was completely wrong about Mr Paisley. He was one of the most courteous and professional negotiators I ever dealt with, and a real gent.

First he made it clear that he had come to conclude negotiations with me, and no one else. He added that he was very grateful with how the whole business had been dealt with, very satisfied with the new church and looking forward to an official opening ceremony. But there were a few minor matters that he hoped we could help with. "Such as?" I asked. "Well first of all most of my congregation are elderly and will need help to attend services in the new location. My church," he confided, "has built many more churches in recent years than anyone so we know a little bit about this. And what we need is another minibus. A second hand one will suffice costing probably about £3,000. Could the authority fund this?" He stopped.

My turn. Taking a deep breath I said, "Before agreeing to that I would prefer to hear the full list of additional minor matters." He smiled, and leaning forward touched my arm lightly. "A very professional approach," he commended, "I can see you've done this sort of thing before Mr Scribbler" Without further ado he went through all his additional claims and in no time at all we did a deal, and he, and his party were soon on their way.

About 10 years later, at a loose end following a foreshortened RICS meeting, I was nosing around a second hand bookshop in Charing Cross Road when I realised that a fellow browser was Dr Paisley. He was looking through some dusty ecclesiastical tomes. Should I go across and introduce myself? To do so would mean going across the room and tapping him on the shoulder. Checking out the others in the room I couldn't spot which were the minders so thought it best to leave well alone and be on my way.

Louis (Satchmo) Armstrong

Were he still alive Satchmo would have celebrated his 100th birthday in September so by way of a reminder you might wish to re-read the following piece that was first published in the Spring 2003 edition of The Terrier:

If you've read the Sheffield papers yet you will remember the Sheffield City Centre Regeneration piece by Alison Nimmo and Carolyn Kenny. The City Hall was featured. "We are trying to find creative ways to unlock the value of The City Hall ... to regenerate it and the surrounding streets, and develop these into a new square." I wish them well.

45 years ago, when I was a regular patron the City Hall was a top concert venue. The building is circular in plan with a big open stage area capable of taking the biggest orchestra. Behind this is a tiered bank of seats, a bit like the Albert Hall, capable of seating massed choirs, so that, for example, Handel's Messiah could be staged comfortably, as it often was. If these seats were not needed for the performance they were made available cheaply to customers and provided an uncomfortable, unusual, but if you got there early enough, exciting viewpoint. Performers accessed the stage area up a flight of stairs that emerged centre stage level with the front row of stage seats. The exit was guarded on both sides by large lions, which stared sombrely out at the audience.

At school we had an enthusiastic jazz club and band. The time came when we felt old enough to go and see our jazz heroes at live concerts. There was plenty of public transport and venues. The first band I saw was Chris Barber and his Jazz Band at, in fact, the Gaumont Doncaster. I could give you the line up now but will forgo that pleasure. Doncaster was a little far afield but fortuitously, at about that time, the Musician's Union lifted its ban on American live music and The City Hall became a principal venue on the visiting Jazz Stars circuit.

Perversely the first jazz band I saw at Sheffield was Humphrey Lyttleton and his Band. After that I saw every touring American jazz star. Count Basie, Duke Ellington, Earl Hines, Eddie Condon, Kid

Ory, Big Bill Broonzy, MJQ, Jazz at the Philharmonic, Dave Brubeck and so on. Magical names, most of which are utterly confusing my spell checker, so I'll leave it there, except for one more; the great Satchmo himself.

When we heard he was coming we booked early, and on the night, got there early. I was on stage, on the front row, next to the right hand lion. I can't remember the supporting band at all but the tension built as they went through their set. After the interval the All Stars came on stage one by one and then Satchmo was announced. He came out on to the stage and stood in between the lions saluting the crowd with arms outstretched one hand clutching his trademark white handkerchief and the other the golden trumpet. His roar of greeting was drowned by the roar of the crowd. He was about 6 foot in front of me and I could see him, or at least his back, clearly. Although a musical giant he was in reality quite small. He had obviously been briefed on the customers on the stage and didn't want to ignore us. He took a couple of steps to the right and turned round to face us. He was right in front of me. He looked me in the eye, smiled, and with outstretched arms again roared his greeting straight at me. I don't think I stopped smiling for weeks.

Brazil 1 Germany 7

It is said that everybody knows where they were when England won the World Cup Final in 1966. I don't as my 1966 diary is silent on that date and the days before and after, as is my memory.

However I will always remember where I was when South American football was eventually exposed and humiliated on 8 July 2014. I was at home!

I didn't watch the interminable preliminaries on TV where every Glen, Dick and Harry are invited to give their views, but just switched on for the kick-off. After a tentative opening 10 minutes, on the basis that little happens in the first half friendlies, I decided to clear the dining table of used items. I returned from the kitchen only to discover the score was 0-1 (Mueller 11 minutes).

Ten minutes later I was back in the kitchen making a quick cup of tea,

a process that normally takes 5 to 6 minutes. By the time I settled down again I realised the score was now 0-5 (Klose 23 minutes, Kroos 24 and 26 minutes, Khedira 29 minutes).

I stuck with the half time summaries, if only to find out what was going on, and then went back to the kitchen to pour a glass of red wine; yes you've guessed on my return the score was 0-6 (Schuerrle 69 minutes).

By now I was determined not to move until the final whistle but on making an ill judged and overly exuberant hand gesture the tip of one finger caught the rim of my wine glass on the coffee table, projecting its contents across the light biscuit coloured fitted carpet. The score became 0-7 (Schuerrle 79 minutes), while I had my head stuck under the coffee table trying desperately to minimise some of the damage.

I did see the score become 1-7 (Oscar 90 minutes) but by then was passed caring.

Wat Tyler's mate

In the Spring 2012 issue of The Terrier there was an explanatory biographical piece on Wat Tyler to mark an Eastern Branch outing to Wat Tyler Country Park in Basildon. Sadly I failed to mention Wat's mate John Ball, the subversive "hedge priest" whose radical interpretation of the Bible dovetailed with Wat Tyler and the so-called "peasant's revolt" in 1381, bringing England to the brink of revolution. (No I don't know what hedge priest means either; nor why Melvyn Bragg keeps banging on about the "so-called peasant's revolt.")

John Ball is one of the forgotten heroes of English history: a radical who was so subversive he was written out of history for centuries. He trained as a priest in Colchester, a place that "swarmed with religious battles" and young chaplains with a reputation for "gambling and drunkenness". But boozy priests were the least of England's worries. Ball was preaching to a country broken by death and taxes. The plague years of the Black Death were followed by the war years – which somebody (the peasants) had to pay for.

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By 1364, the church had had enough and Ball was excommunicated and forbidden to speak in any church. So he took to hanging out in churchyards, speaking to parishioners in English, the language of the commoners, and not the French of the courts or the Latin of the clergy. He continued living as an outlaw whose arguments were so threatening to the status quo that the then Archbishop of Canterbury, Simon of Sudbury, had to call on Edward III in his next bid to silence him and eventually he was thrown into prison.

By 1381 Wat Tyler had emerged as a people's leader for the Kentish Rebels, freed the imprisoned Ball and together they marched on London to protest against the poll taxes. However Ball was soon back in the hands of authority and was gruesomely put to death by being hung until he was nearly dead, then cut down while he was still breathing and disemboweled with just enough life left in him to see his entrails burned before him. He was then executed, presumably with the words "He's not the Messiah, he's a very naughty boy," ringing in his ears and promptly written out of history books for many centuries to come.



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