The Terrier

The Journal of ACES - The Association of Chief Estates Surveyors & Property Managers in the Public Sector

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ACES

Over ONE HUNDRED YEARS of managing PUBLIC PROPERTY for the PUBLIC GOOD

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EDITORIAL

Betty Albon

Welcome to the Winter Terrier.

This edition starts with our new President's speech given at ACES Annual Meeting on 14 November. Richard Wynne is a Director with Urban Vision Partnership Limited at Salford City Council. Both his speech and the guests' response talk about the importance of partnerships between the public and private sectors. Together, surveyors can influence places and communities.

The professional presentations at the meeting were given by Lesley Webber and Antony Phillips, both consultants at Fieldfisher, who kindly hosted the event. Thank you. Their presentations were extremely practical, highlighting all the pitfalls of poor legal drafting for settling rent reviews and exercising break clauses.

This issue also contains 2 linked articles on how local authorities are taking initiatives in commercial and housing investment, to try to alleviate the difficulties of continuing austerity measures to raise independent revenue, and to kick start new homes provision. Surveyors have an important role to play here, wider than what is sometimes seen as nuts and bolts estate management duties. RICS is also pushing for the value of surveyors to be recognised in this wider role, in its "Property in Politics" initiative whose recommendations are being rolled out in this election year.

Community ownership and asset transfer are also featured extensively, including an update of government initiatives on this, and how to release public sector land for growth. And there is a range of other practical material including securing empty buildings, operating the Community Infrastructure Levy, valuation, business rates, Business Improvement Districts, and lessons on new towns from an established garden city. I think that this just illustrates the whole range of work we cover in our day jobs.

One area which does disappoint me is that only 2 branches have submitted notes of their meetings. Come on now, you all do fantastic work in disseminating good practice and providing CPD. Please share it with us all.

CONTENTS

ACES National
Annual Meeting
Presidential address - Richard Wynne....04
Guests' response - Peter Openshaw....06
Annual Meeting - Keith Jewsbury....08
Membership news - Keith Jewsbury....09

Professional
Rent reviews and break options - Lesley Webber....10
DCLG policy developments - Colin Wright....14
RICS Property in Politics - Jeremy Blackburn....16
Building our investments - Chris Brain....19
Unblocking housing delivery - Stephen Armitage....22
Asset management - West Midlands Property Alliance....25
Asset management - Alan Phelps....30
Asset management systems - Mark Jones....34
Community Ownership Forum - Nicola Berry....36
Community asset transfer - Steve Hoyle....38
Securing empty property - Simon Broadbent....42
Community Infrastructure Levy - David Brock....44
Valuing schools - William Ray....48
Business Rates retention - Roger Messenger....50
Cheapside London BID - Peter Bennett....53
Investment in London - Kevin Joyce....55
Cwmbran Garden City - Stan Edwards....57
Enterprise Zone news....62

Branches news
Heart - Richard Allen....63
Eastern - Duncan Blackie....64

Other interest areas
Suffolk Scribbler....65

The content of these articles is not the opinions of the Editor nor ACES.

Cover: Richard Wynne, ACES new President


Andrew Wild hands over to Richard

ACES ANNUAL MEETING 2014 – PRESIDENT'S KEYNOTE ADDRESS

Richard Wynne MRICS, Director, Urban Vision Partnership Limited

Firstly I would like to thank Fieldfisher and Anthony Phillips for hosting this event in such magnificent surroundings. We are very pleased to be here.

I wish to make some comments on the importance of public sector surveyors and the changing environment we work in. In general most ACES members work within the public sector. I say generally because in some areas, the private sector is now part of the public sector and for example my own organisation is a partnership between the private and public sectors. I think that demonstrates the breadth of knowledge and skill that we all need to have so that we can give quality advice to our respective authorities.

I was reminded when thinking about my speech last week about the time when the planning committee dealt with buying and selling land. During discussions with the Planning Committee Chairman in Salford, a Councillor who is, sadly, no longer with us, we talked about buying various plots of land and he said "you just have to get out there and buy it lad because nobody is making new land any more so once we have it, we can get on." Perhaps he wasn't thinking about a master plan or a strategy with various layers of local government planning guidance; he was just urging us to go and do it because it was the right thing to do.

However in the current economic climate it is difficult for authorities to set aside budgets so they can go out and buy 'it', where 'it' might be land or buildings and these days we are more than likely to be trying to establish areas of influence where we can encourage developers to act perhaps with a little bit of council money, maybe using some planning powers, highway regulations or CPO powers. This makes our business more complicated, and probably more interesting, and highlights again the need for timely, quality advice needing quality professionals to give that advice.

Keeping with the ownership and change theme, I am privileged to have been part of the team that turned Salford Docks into Salford Quays and now into Media City, a fine example of what ownership, vision and concerted action can achieve with property professionals in local government, working with the private sector. I mention this due to my personal involvement, but it is abundantly clear that local authority property surveyors play a significant part in many schemes that change the face of our towns and cities.

It is discussions between delegates at meetings like this, or at our conferences, or branch meetings that make me realise that many ACES members are doing a lot of good solid work and so it is essential to ensure that ACES provides adequate opportunities for members to network, exchange information and discuss topical issues. We only meet from time to time and we are spread across the whole of the country but by building those networks we can give assistance if even in a very soft way.

Obviously surveyors work within local authority boundaries and it is often very difficult to spread outside that boundary. I am mindful that in many ways the nature of local authorities is to look after their own area and this can make both members and offices rather insular. I think an organisation like ACES helps us to actually look over those boundaries and think about what is happening in our locality and in our region.

I am sure that there are more challenges coming: there certainly are in the North West. We now have a Greater Manchester Combined Authority that has been around for a few years, which you could say it is GMC revisited, but it is not quite. This one is voluntary and it is going to get more powers, so how does, in my case, Salford sit within that Greater Manchester Combined Authority? How does my Mayor now relate to the Leader of Manchester Council or the Leader of Stockport Council? It is bringing in a new dynamic and it also ties in with the work through the One Public Estate about trying to look across boundaries and how can we be more efficient. Budgets are under pressure, be it local or central government and somehow we have to agree areas of divergence and overlap. I don't think that there is necessarily a clear way through it all, but I think that with quality professionals giving quality advice, we should manage to find our way through.

I have mentioned budget cut backs and there is an upturn in the property market, which almost seems a bit of a conundrum, in that we have got a lot more work to do. There is more money around; it is a bit harder to get hold of it in the north than it might be from what we hear down south. But there is money about and things are happening. We have developers chasing plots that a few years ago nobody would even sniff at; equally we have still got plots that nobody seems to want to know about, but things are on the move. Yet at the same time there are fewer staff and there is probably going to be fewer staff again in the next few months or years as budgets are going down. That is not just within my authority but everywhere, so somehow we are having to find a way of working leaner and working smarter.

How do we work differently? Can we keep the costs down? In Salford a few years ago we had 4 core sites, big office buildings full of staff. We are now down to one. We have shed vast areas of space. We can now predict that probably within 2 years, half of the one building we still have will be redundant. What do we do now to shape ourselves to deal with that half? We must try to find somebody who will move in, but how do we do that when we are talking about an area that doesn't have any office demand? So we have got a bit of a charm offensive now underway around other public sector colleagues to try and find someone who is looking for a good deal.

We need to keep promoting ACES as an organisation. There are a lot of people who leave their respective authorities and it is very difficult to keep track of what happens when somebody has left. At a Branch meeting we may hear that ACES has lost a member, knowledge and a little bit of contact has gone. So I would urge the various branch secretaries to do their utmost to track where they have gone and more importantly to track their replacements and try to get them into ACES. Also, I think those members who can't come to a particular meeting should send along a deputy, try and get people involved, so that when the boss leaves, someone will say how about the new boss joining ACES?

Certain branches do rather more than others in terms of CPD. We are all subject to the CPD requirements. How can ACES make sure that we get CPD to more people? Within some branches we run some very good grass roots type of CPD, which is for people in our respective offices who need to know the nuts and bolts of, say, capital accounting. These colleagues need to know how it works and are just looking for clear uncomplicated advice, and they just lap it up. I would like during the year, with Rachel Kneale and Neil Webster, to try and make more inroads into what we have been talking about at ACES Council for some time – something that might be called the road show, using practitioners from a different office in a different location, so we can get some grass roots CPD out and help our members to perhaps help themselves.

I think it is also just worth a mention that we come from a very long heritage. For the information of our guests, Tim Foster and Colin Bradford retired this morning as Consultant Secretary and as

our IT Guru, photographer and sound recordist, respectively. They have been with us for many many years. This has made me look back and think because I can't remember ACES without either of them.

Although I am very much the new boy, they have been there as fixtures and fittings and everybody says how reliable they are. So ACES as an organisation - although not with that name – was established in 1908, so it is quite a long pedigree. We were the Association of Local Authority Valuers and Estate Surveyors and the County Land Agents' Association, but times have moved on and we have perhaps got a snappier title these days, although that was not until the mid-1990s. But I would certainly

Adrian James, Richard Wynne, Jeremy Pilgrim

we do try to carry on in a fairly smooth manner with contact with all of our guests here today. But it is really good I think to keep those networks, keep those friendships going. It takes a bit of effort as any friendship or any relationship does, but I think that it is important. As I said before, in the public sector there are stresses and strains and at times we need people who are outside the public sector, we need experts from different walks of life, be it legal, property, or accountancy.

ably supported by the President who has helped a lot by promoting the award during his visits round the branches. And now, following a review and assessment of all the entries we would like to make the award for 2014 to Grace Hicks from NPS Southwest.

Grace is a member of the ACES Rural Branch and is part of a team promoting the Farmwise Devon event which highlights the importance of the County Farms Estate and the rural economy to the public, young people and many other rural organisations. I gather the event, which has been held twice now, has gone particularly well, and I think your involvement shines a light on a different part of our profession, namely rural estate management, which we think is excellent.

hope to carry on the traditions of my predecessors and it has been very good working with Andrew, and before that, Tom Fleming. We have the upcoming team of Jeremy Pilgrim (Senior Vice President) and Adrian James (Junior Vice President).

I want to try and keep that team approach so that we don't get any lurches of the ACES ship, so to speak;

So I am looking forward to carrying on all those traditions and this is my first invitation to you all to come to our Conference at Media City next September.

ACES Award for Excellence

It has been my privilege as Senior Vice President to oversee the ACES Award for Excellence in Estate Management,

RESPONSE TO THE PRESIDENT'S KEYNOTE ADDRESS

Peter Openshaw FRICS, Operations Director,

Urban Vision Partnership Ltd

Richard thank you for your thoughts putting forward some of the challenges facing surveyors in the public sector and advisors in today's climate.

It is my privilege to be asked by Richard today to say a few words on behalf of the guests. Richard and I have worked together for just over 25 years and so we know each other reasonably well and our careers have been pretty much intertwined during that time, firstly at Salford City Council and more latterly at Urban Vision, which is a joint venture partnership which the City Council has with Capita. I have quite a lot to be thankful to Richard for really because as he has progressed up the slippery promotion ladder of local government, I have been able to piggy back behind him, so thank you Richard! At the fear of embarrassing him, he really is a consummate property professional, he is a great listener and has been a great help to me over the years - really just a thoroughly good bloke. I think those attributes will stand him in good stead for his term of office and I think the Association will benefit greatly from that.

When asked to speak today I gave it a lot of thought. There are 2 areas that I particularly want to cover. Firstly, it is about Salford. What you may not know is that Salford has a really rich history which goes back to the industrial revolution. A lot of innovation and vision goes with that as well, so I thought that I would just tell you about a few Salford world firsts that may be a surprise to you. Apparently Salford had the first ever steam boat in the world, the first artificial street lights, the first free public library, the first smoke free zone, the first major canal and underground colliery, the first public parks, the first meeting of the TUC and the first horse drawn bus service. Even more surprisingly was the first meeting of the Teetotal Society; I don't think that it is still going today. We didn't get the first golf course, we were number 2 with that apparently.

That sort of innovation owes much to visionaries from the past, real people with vision and character and you can see that around Salford and Greater Manchester today. Lots of other interesting things about the city. We also have a great unlisted hall where Guy Fawkes apparently hatched his plot to blow up Parliament and we also have the Manchester Ship Canal and Salford Quays, as the home for the Lowrie collection and Media City.

Salford docks are about 40 miles inland from Liverpool and in its heyday, was the 3rd biggest port in the UK, employing 10,000 people, but by the early 70s it was semi-derelict, a big chunk of inner city land; it was a blight on the city and really that was when some of the modern visionaries came into the fore, so people like the Leader of the Council at the time, and the architect who gave consultancy advice, really came up with the plan. Salford was a very different place then and acquired that site for £1 from the Manchester Ship Canal Company and that started the 30 year journey of tireless effort to secure public and private sector funding that has led today to the Quays being a transformed area of Salford, employing over 20,000 people, with a mixed development of homes and businesses, retail, all that you would imagine in a city environment. And I personally consider that that is probably the start of the modern rebirth of inner city Salford.

Certainly, there has been enormous development transformation of the inner city in Salford. We have a number of strategic partnerships transforming that area of the city and now wider afield, people like Countryside Properties, Ash Developments, Inner Cities Fund, Urban Splash, Lodgeday Properties, and of course The Peel Group, and that is just a few of the partners whom we are working with helping to transform the city. Richard and his team have been instrumental in the majority of those partnerships and the developments that are taking place.

Some of the other little known facts about Salford. I think people who probably don't know it very well think of it as a grimy northern town but it is anything but - 60% of Salford is actually green open space and we have 30 miles of canals and rivers. We also have a growing and increasingly diverse population within the city, which is bringing in quite a number of challenges.

I could continue all day about Salford because I am very passionate about it and hopefully you can see that I am a very proud Salfordian and I guess Salford is not that different from many of the areas that you look after. It is a challenging area, it is interesting and constantly innovating in terms of what it has to do and it is a really exciting place to work as a local government surveyor. It is probably why Richard and I have stayed there for so long.

Richard has already mentioned the conference at Media City UK in September 2015 and hopefully you will be able to come along to that and it would be really good to see you there and you can see the city first hand. You would all be most welcome.

My 2nd topic is what the future holds for surveyors working in the public arena, whether that be as local government surveyors or the private sector. It really is a time of great change, obviously government austerity measures are hitting the public sector very hard and that is particularly challenging I think for services like surveying, where we are not traditionally seen, certainly by the public, as a front-line service. Our council is looking at huge cuts in terms of adult social care, leisure facilities, and children's services and certainly we are under pressure. People say well what do you guys contribute to that? We are saving you at the expense of cutting some of these other services, but if you stand back and actually take a look at what we do in terms of managing property portfolios and the wider impact of surveying, it is huge both indirectly and directly in terms of the local environment.

We have talked about regeneration, place shaping, the impact of that is just enormous in everybody's day to day lives and when you start looking at the public sector property estate, it is absolutely massive and the value of that in terms of costs to local authorities, very often it is the 2nd biggest cost to staff within the organisation. So the challenge to all, as it always has been really, is to manage that estate to the best advantage of the council, to help support those front-line services, you know whether that be through lowering costs, generating extra income, being innovative in the way that we deliver services or just general partnership working, whatever that may mean. So as surveyors our skills have to evolve constantly to meet those new challenges. As Richard said, that is going to require engagement and integration between partner agencies and I think professional leadership is absolutely key in that. The association bodies like the RICS and ACES have a huge role to play in terms of visioning for the future and I suppose almost in a way, civic leadership.

Austerity clearly isn't going to stop whichever government is in power in the future. I think it would be really interesting to have a crystal ball and look 10 years ahead or even 5 years ahead and see what that make-up is going to look like and what that means for us. I hope very much that surveyors will still have a huge part to play. I think we will, but we will need to rise to the challenges that will be coming forward over the next few years.

NOTES OF ACES ANNUAL GENERAL MEETING HELD AT RIVERBANK HOUSE, LONDON ON 14 NOVEMBER 2014

Keith Jewsbury, ACES Secretary

55 members attended the meeting held at the officers of Fieldfisher, solicitors. The Secretary reported the deaths of Tony Ryden (ex. Liverpool) and Chris Thomas (ex. Swansea). Members stood to observe a minute's silence to their memories.

Annual report of the Council

The Secretary circulated a comprehensive report on the work of Council and the Association for the year 2013/14 which was noted. The President answered questions raised by members present on matters contained within the report.

Financial matters

The Honorary Treasurer presented his report containing the unaudited accounts for the period from 1 July 2013 to 30 June 2014 with recommendations for subscriptions for the coming year. It was agreed to adopt the unaudited accounts. It was further agreed to maintain the subscriptions at the current levels, being £120, £75 and £40 for full members, additional members and past members respectively; past members still carrying out work in the public sector to pay the additional member's rate of £75.

Appointment of Consultant Secretary

The Secretary reported that following the post being advertised, 2 applications had been received and following consultation between the President and ACES Council, Council accepted the application from Keith Jewsbury. The meeting noted the terms of the appointment and endorsed the action.

National conference

The President gave an interim report on the conference held in London and noted that the feedback from delegates was very positive in respect of the quality of the speakers and the professional way that the conference had been organised. The future use of 3Fox International for the Salford 2015 and London 2016 conferences will be discussed at the next Council meeting.

ACES/DCLG Working Party

It was agreed that the following members serve on the Working Group for 2014/15:

B Albon, L Dawson, T Fleming, H McManus, N McManus, P Over, J Pilgrim, R Wynne, A Wild and K.Jewsbury.

Officers of the Association

The following were approved as officers of the Association for 2014/15:

President
Richard Wynne

Senior Vice President
Jeremy Pilgrim

Junior Vice President
Adrian James

Immediate Past President
Andrew Wild

Secretary
Keith Jewsbury

Hon Treasurer
Willie Martin

Editor
Betty Albon

Hon Auditor
Wortham Jaques Limited

Liaison officers

The following were approved as liaison officers for 2014/15:

Compensation & valuation
Gary Sams

Rating taxation
John Murray

Housing
Rachel Kneale

Performance management & FPS
Trevor Bishop

Corporate asset management
Mike Forster

Commercial asset management
Dave Willetts

Agricultural asset management
Stephen Morgan

Sustainability
Lee Dawson

Consultation
Jeremy Pilgrim

Procurement
Abdul Qureshi

Urban regeneration
Jeremy Pilgrim & Heather McManus

RICS
Sam Partridge

ACES/DCLG
Heather McManus

Post graduate courses
Malcolm Williams

[Ed – Liaison officers invite all ACES members to contact them if they have issues on their specialist areas which they would like to discuss, or to submit consultation responses if ACES plans to make a formal submission on behalf of the Association].

Council membership

Peter Burt and Sam Hird were elected to serve on Council for 2014/15 representing Past and Honorary members of the Association. Tom Fleming, Paul Over and Danielle Barrow were elected as directly elected members of Council for 2014/15.

Future meetings

The following meetings were noted:

Presidential Conference	
17/18 September 2015	Salford
Annual meeting	
13 November 2015	Edinburgh
Presidential Conference	
September 2016	London
Annual meeting	
11 November 2016	London

The meeting was followed by a joint presentation [Ed – included in this edition of Terrier] and the annual lunch.

MEMBERSHIP Keith Jewsbury

I list below the changes in membership between 1 October and 31 December 2014.

New members approved

There were 9 new applications approved during the period

Anstey	Kate	London Borough of Lewisham
Bridges	Laura	London Borough of Haringey
Corrigan	Nick	South Wales Fire & Rescue Service
Dixon	Jenny	Darlington Borough Council
Jones	Matthew	Neath Port Talbot CBC
McGrath	Jon	London Borough of Haringey
Reed	Christopher	East Sussex County Council
Scott	Rob	Northamptonshire County Council
Tyler-Morris	James	Staffordshire County Council

Transfer from full to past membership

No members transferred to past membership during this period

Resignations

No members resigned during this period.

Total membership

Full	218
Additional	83
Honorary	34
Past	65
Total	400

RENT REVIEWS AND BREAK OPTIONS

Lesley Webber and Antony Phillips

Lesley is a Consultant in Fieldfisher's Property Litigation Group. She is an acknowledged leader in the rent review field and a specialist in contentious property law and practice. She also has a distinguished track record in planning and in 2002 she was awarded the OBE and in 2007 an honorary membership of the RICS, both for services to the property industry. Lesley.webber@fieldfisher.com

Antony is Head of Real Estate and also heads the Property Litigation Group at Fieldfisher. He deals exclusively with contentious commercial property issues, including dilapidations claims, rent reviews and other landlord and tenant disputes, real property disputes, contentious planning issues, and other disputes. Antony.phillips@fieldfisher.com

This is an abridged version of Lesley and Antony's presentation given at the ACES Annual Meeting at the offices of Fieldfisher in London, November 2014. ACES thanks Fieldfisher for the use of its offices.

Rent reviews – knowing what's what. Lesley Webber

We thought that this would be a good time to do a quick route map of the things that you really need to know about rent review.

The purpose of rent review

The courts have said the purpose is to compensate landlords for increases in the value of property and the decreases in the value of money. Most of the rent review cases were heard in the time of inflation; the thought that we might have deflation was not actually contemplated and in effect the courts accepted, almost as if it would be automatic, that the rents would be upwards only.

There is a presumption against windfalls, and there is a presumption of reality. If the words in your documents are clear or tolerably clear, then the presumption of reality will have no effect whatsoever, you will be stuck with those tolerably clear words. If however, you have slightly more ambiguous words then the presumption of reality may help decide which of the alternative available interpretations apply. But it is not available to deal with something unpredictable which happens between your drafting of the lease and your rent review date so that the benefit to one party turns out to be greater than seems to be palatable.

What makes rent review difficult?

It is because it is a hypothesis; you cannot value circumstances that are actually on the ground because you would then, for example, be valuing with a sitting tenant. Once you say it is a hypothesis, everyone is tempted to go further. 0ne of the ways to simplify the process would be to value what is actually there, but the temptation is almost invariably too great. The hypothesis is mixed up with reality, which makes it fiendishly difficult. It has to last at least 5 years and as one solicitor sadly remarked in relation to the joys of precedents, "hindsight we can do, foresight at a pinch, clairvoyance definitely not."

The other problem with rent reviews is the Arbitration Act 1996, which limits court intervention, so we have less legal precedents, we have less information as to what is going on, but you do need to know what is happening in practice. A lot of the law is being made privately within the arbitrations in rent review.

Nobody of course has a crystal ball. My favourite case of this was a railway terminal leased in Paddock Wood in Kent, granted in 1975. At the time, Harold Wilson had in his mind the Channel Tunnel, so it was thought that the best thing to do was to value in future on the basis of small warehouse units. By 1985, small warehouse unit rents were going through the roof and the Channel Tunnel had expired as a proposition. So that direction had proved a disaster. I have always wondered what would have happened at the 1995 rent review, but the tenant bought the freehold instead.

Hypothetical premises

So rent review has to deal as a generality with hypothetical properties and this part is not often well understood: the general principle is to value what's there at the review date, not the original building. It's for that reason that tenants need an improvement disregard - otherwise they would end up having to pay rent for their improvements twice - once for the payment costs and once for improvements at rent review. There is a presumption in the courts that you shouldn't pay twice.

You then assume that everything else is compliant with covenants, in terms of repair and statutory requirements; you are allowed to value any rights to alter and a willing tenant would therefore make an additional rental bid for that fact. My favourite point is that very often you will be told by a tenant that there is no access that is possible to the particular premises. It happens surprisingly often and the answer is that if you do not have one, the law will provide one for you. On the other hand if you have a really ropey one, the law will not intervene with that - a rather interesting proposition!

Hypothetical tenant

It cuts no ice that nobody would take these premises in the real world at the review date. The answer is there will be one - again it will be provided for you by law. So you will always get a willing tenant, the question of course is at what price will the willing tenant be prepared to pay and also of course whether there will be competition so the willing tenant's bid would reflect that fact.

There is a lot of talk in rent review about special purchasers. Most rent reviews assume vacant possession. Once you assume vacant possession the courts will tell you that you cannot ransom the exiting tenant on the basis that that tenant will pay a lot of money to come back in, having been unceremoniously and notionally ejected from the premises by the vacant possession assumption. But in what is an increasingly common situation, it may be that a tenant has, say, 2 shops, one of which is being valued and that tenant may have been interested in the other unit independently of the vacant possession assumption. There is a counter argument that even if you are a special purchaser you may not pay very much more than the rest of the market would pay; that would depend of course on valuation factors.

What happens to personal clauses is becoming really important and topical in rent review. If you have a clause which is personal to the tenant it will not repeat into the rent review clause and a lot of interesting conundrums for lawyers emerge from that.

Letting as a whole or in parts

There is a further effect of the vacant possession assumption which is known as the "99 Bishopsgate Effect". If you take a large amount of building and assume it is vacant then the question of what would happen to it in the real world at your review date is going to depend on whether your tenant is going to be an occupational or an investor tenant. An occupational tenant may be less likely because of the sheer scale of the expense. He may choose in those circumstances to sublet in which case he is going to want to look at what the related costs are going to be. The investor tenant will have to let the premises, and factors like management profit and void discount come into play. The highest I have seen was 75%, so drafting your clauses are enormously important. If you are a landlord you want to be able to value by aggregating part values.

Rent free periods

Some fiendishly, wonderfully complicated law surrounds these! The courts approve of there being no differentiating factor for our notional tenant on the basis that he doesn't get a rent free period to fit out that might otherwise be granted in the real world. This is on the basis that the actual tenant doesn't need to fit out in reality, so why should he be able to argue for some sort of discount? But incentive-only rent free periods are not the same: they distort the market and the consequence of them distorting the market is that the courts will require inordinately clear words for an incentive-only rent free period to amount to a differentiating factor. It is a drafting matter and your lawyers should draft on a fair basis, that the willing tenant has the benefit of any rent free periods going at the rent review date for fitting out but not otherwise.

Break clauses

Personal break clauses do not apply to the hypothetical tenant. Break clauses that have expired are likely to be included in a hypothetical lease. The extra drafting which says that a break clause is at the expiration for example of the 5th year, will be likely to be treated as the 5th year of the hypothetical term for rent review; if there is a specific date mentioned, the specific date will go into the notional lease. If your notional lease is a long one, those break dates can make a huge difference to the value; a very early break may be particularly valuable.

Hypothetical term and hypothetical lease

The courts consider that the "residue" of a lease at review date is what is left from "a term equal in length to that originally granted". In the current market short leases are valuable, so the residue point can be very useful.

"Otherwise on the same terms as the existing lease" - this is the general presumption, but it is a very cavalier way of drafting and the better route is to very often draft a standard rent review clause which will apply to your notional lease. The reason is because anything you put in that is specialised such as a gearing clause, may produce a circular advantage when translated into the notional lease with either extra rent or a discount in rent on review. So an exercise needs to be done to make sure that your notional rent review clause will not come back to bite you later.

Post review date

There is an easy way of understanding this. Post review date evidence you can take into account; post review date events though are not relevant and not to be taken into account, and you may have to adjust your post review date comparables to eliminate the effect of post review date events. My favourite quote of all rent reviews is Industrial properties (Barton Hill) Ltd v AEI Ltd. "I must ask myself what a skilled valuer would have done at Christmas 1973, knowing all that has happened up to then, but denied knowledge of the catastrophes of Christmas 1974."

Break options – an option or an illusion? Antony Phillips

Many tenants have found to their peril that when they thought that they had a break option it was either an option that they failed to exercise successfully, or indeed, they simply weren't able to exercise because in effect it really wasn't an option to break at all.

We are talking today about tenants' options to break and essentially a contractual option for the tenant to serve notice on the landlord, comply with any conditions that it is required to comply with and then the tenant ends the lease, walks away and goes and takes premises elsewhere. Any residual liabilities for dilapidations and so on are crystallised at the date of the break and the landlord can pursue the tenant for those, but it has lost its tenant.

What we saw in the 90s was much shorter leases and very often, particularly if 10 year leases were granted, with a 5 year break that gave the tenant ultimate flexibility. Unfortunately through bad drafting or a lack of foresight, the reality is what was drafted as a break provision often ended up as a nightmare. Last year we served nearly 100 break notices during the year (albeit some relating to the same buildings); that is the level of activity in terms of tenants trying to get out of over-rented premises. Then the cases arrive because landlords are desperate to keep tenants in over-rented premises because the market hasn't been good. We are going to see that trend continuing, landlords would often rather retain their tenants (particularly if the premises are over-rented and there are upwards-only rent reviews).

Break options – the "golden rule"

There are 3 types of break option - the unconditional (but they are not quite unconditional), the semi-conditional breaks and then the fully conditional breaks. If you take one thing away from this session, it is what I call the break option 'golden rule'. This applies in respect of any provision relating to breaks - **the terms of the clause are construed strictly.**

The court has no discretion in relation to break options - if you don't comply fully with the contractual conditions of the break, you do not break. So the first thing you need to establish, whether you are the landlord or the tenant, is what are the provisions of the break option? Are there any conditions attached to it or are there simply obligations? The distinction is important and not necessarily that obvious; in fact a badly drafted break provision will give you trouble in working out what is a condition and what is just a general obligation. It may not say that this is a condition, it may use words such as 'so long as' or 'unless' which might indicate that it is a condition (not a general provision). A failure to comply with a condition will be fatal to a break; a failure to comply with a general provision will leave the landlord only with a contractual damages claim.

Service of notices

Obviously, you always have to serve a notice in order to trigger a break. You need to follow those service provisions in the lease very carefully. If it says that all notices served by the landlord or by other parties have got to be served on the landlord and its agent and you only serve a landlord, then (subject to the precise terms) you probably don't break. If it says that you have got to serve in a certain way and you don't, then again, you probably don't break.

Deeming provisions on service can be good or bad: a deeming provision that says that it is deemed served the second day after posting whether or not it arrives is quite helpful to the tenant in terms of proving service. However, it does mean that service can't be left to the last minute - if it is served on the last day for service, that is too late (as it is deemed served 2 days later). However, deeming provisions will not normally be implied – they will generally only apply if expressly stated in the lease (or if a relevant statute or regulation is incorporated). Look out for that. Give yourself plenty of time.

Semi-conditional break options - rent

The best type of notice for a tenant is one that simply says that you need to serve the notice and at the end of 6 months you can leave. But these are relatively rare; a lot of them are semi-conditional and those often will include a provision that require you to pay rent and give vacant possession. Well what could possibly go wrong?!

That seems pretty straight forward. Well does it? What does rent mean? How is rent defined, is it just principal rent, is it all rents, ie service charge, insurance and even interest on rent that has been on late payment of rent? And the answer is, well it depends on how rent is defined and it depends on the words used in the breaks provision. I have seen some very careful definitions of rent, which is a "capital R" rents, and when you get to the break provision, it is "small r" rents, so what does that mean? That's when you need a good lawyer. In the Avocet case (Avocet Industrial Estates LLP v Merol Ltd and another [2011 EWHC 3422 (Ch)) the tenant knew it had to pay all rents, defined as, inter alia, including interest on late payments. The landlord went through the payment record for the last 6 years and found 2 or 3 payments that were a few days late for a few pounds' worth of interest. The court said absolutely that the lease had not been broken.

Apportionment is a very topical subject at the moment because of the M and

S case (Marks and Spencer plc v BNP Paribas Securities Services Trust Co (Jersey) Ltd [2014] EWCA Civ 603). It is an established principle that rent falls due on the quarter days and if the break is part the way through the quarter, which is often the case, you have to pay the whole quarter's rent, not the apportioned part to the break date. The lawyers for M and S knew that and paid the whole quarter. The break was successful. However, M and S said that there was an implied term in the lease to say that they could have that portion of rent back (£1million) for the period after the break. The Court of Appeal said that, unless there was an express provision in the lease that allows you to get the rent back again, then you have to pay the whole quarter.

Semi-conditional break options – vacant possession

The other condition - which seems so innocuous, but yet it is not - is that you have to give vacant possession. Possession and occupation are 2 different things. If you give back the property but you don't remove all the chattels then there is a risk that you haven't given vacant possession. Chattels includes cabling, so everything above and below should be stripped out. Chattels may be partitioning; it depends on how affixed they are to the premises. So you basically have to work out what is a chattel and what is a fixture and fitting in order to know what you should remove. We have managed a huge number of these where vacant possession is really the only condition other than rent and it has been a huge operation in terms of stripping out - quite an onerous provision. The tenant also has to make sure that no persons are in actual occupation at the break date. The occupation of, for example, builders/decorators could frustrate the break.

Full and material compliance

Imagine a break condition that says that you have to give 6 months' notice and comply with all covenants and conditions in the lease. That is quite a common standard provision in leases. What that means is that you have to comply with every single obligation in the lease, which means if it says that you have to decorate with 3 coats of good quality paint and you decorate with 2 coats of good quality paint, you have not complied with the obligation. Equally if there is a stain on the carpet or a scratch on the wall, then you may not have complied with all covenants. Going back to the golden rule - if you haven't complied with all covenants, and that is a condition of the lease, then you don't break.

So these fully compliant conditions are very difficult to achieve. Make sure that you have the building surveyors assessing well before you need to comply and advising on what they need to do to comply. If the process is managed very carefully, you may be able to break. Give yourself a period before the break date to make sure that everything has been done. Something that we do is then get a third party surveyor to sign it off (as an independent person) that the covenants are all complied with. It is not conclusive but it is good evidence that actually all obligations had been complied with. Incredibly difficult to achieve, particularly then if there is a leak or a break-in once you have done all those works.

Material compliance, where it says that you have to comply materially with all obligations or covenants in the lease, is a slightly less onerous provision and the test was set out in the Fitzroy House case (Fitzroy House Epworth Street (No 1) Ltd v The Financial Times Ltd [2006] 1 WLR 2207). This questioned what impact any failure to repair or to decorate has on the landlord's ability either to sell the property or to let it at a proper price? If the answer is none, then you have got a good chance of getting over the hurdle. However, if the answer is that the breach may affect the marketability of the property, then the tenant probably hasn't complied.

Now this may seem a very sort of tenant-directed presentation, but in a poor market a landlord is perfectly within its rights to say – well actually tenant you haven't broken and you are stuck in the lease for the next 5 years (or however long it is). So this is an opportunity for landlords to hang onto their tenants who are looking to break. Care needs to be taken by the landlord, where it doesn't want to lose its tenant, to monitor whether the tenant has complied fully with the conditions of the break and to take professional advice (both legal and surveying) in this regard.

Practical points

Plan well in advance. If you are a tenant in relation to a break, obviously the first thing you look at is how much notice you may have to give. You may have to give 12 months' notice; even if you have got to give 6 months' notice, then frankly you should still be thinking about it a year before, because you have to work out how difficult it is to strip everything out in order to give vacant possession and to comply with any other conditions.

As a tenant, try to engage with the landlord and try and agree a surrender deal, by offering to pay rent and money for dilapidations. The landlord may decide to engage with you and then at the last minute dump you - that is not uncommon and the courts have found nothing untoward about that. So until the ink is dry on the surrender deed or the agreement to surrender, there is no deal and you can be left in the lurch by the landlord. So by all means do a deal, but work out when you need to stop talking and start doing. For example if you need to give vacant possession and it will take (for example) 2 months to clear out chattels, then make sure you have started the works at least 2 months before the break date. Once you do start works, the landlord may then do a deal (particularly if it wants cash rather than the work done). If you leave starting the works too late, the landlord 'has you over a barrel' – it will know that you cannot break and any deal that it may do will not be a generous one to the tenant.

Make sure that you have got a good lawyer and a good building surveyor on board who have really got the knowledge and the experience to manage a project of this nature. You then give yourself the best chance of getting out of what could be an extremely onerous obligation for many years in the future.

DCLG POLICY UPDATE

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 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

Colin says: "Following positive feedback on the update article provided in the last edition of the Terrier, I hope this can become a regular feature and a helpful way of disseminating information to ACES members on the latest policy developments which both help support and impacts on their roles and their authorities." Colin welcomes any general comments on this article, including policy areas ACES members might like to see covered in the future.

There is a distinct "community" flavour to this edition's update, covering how Community Rights to Reclaim Land and to Contest operate, as well as an update on Assets of Community Value, which follows on from an article by my colleague Kerry Williams in the 2014 Summer Terrier. Finally the article provides the latest on public sector land following on from the Chancellor's Autumn Statement.

Assets of Community Value

The fast growing list of treasured Assets of Community Value under the Right to Bid scheme currently stands at over 1,800. Over the summer and autumn 2014, the Community Ownership Forum, supported by colleagues from DCLG, ran a series of workshops for local authority officers and members up and down the country on community assets and the Right to Bid, with the aim of promoting good practice. The workshops were well attended and feedback was positive. [Ed – see also Community Ownership Forum notes in this edition].

If you are interested in attending similar events or have ideas for future workshops that focus on a particular theme such as heritage assets or open spaces please contact community.assets@communities.gsi.gov.uk .

In early December, partners of DCLG, the Social Investment Business Group announced the final round of the Capital Grant element of the government's Community ownership and Management of Assets support programme, worth £3.4m. The successful asset projects to be supported include a Grade 2 listed lido, a village shop, a former stable block as well as previously derelict land. Each community asset will receive between £130,000 and £440,000 from a £3.4m DCLG community assets fund, which is managed by the Social Investment Business Group.

In March 2015 the current support programme will come to an end. The future support programme will focus on supporting partnerships between local public bodies and community organisations around multiple asset transfer strategies, or single, complex/ground-breaking asset transfers. DCLG will shortly announce the successful bidder for this contract.

Community Right to Reclaim Land & Right to Contest

What are these Rights?

The Community Right to Reclaim Land and Right to Contest allow anyone to challenge local and central government to release its land. Local councils can be challenged through the Community Right to Reclaim Land, while central government and its arm's length bodies can be challenged through the Right to Contest. As land is held on behalf of the taxpayer, the public sector has a duty to use it effectively. These rights give communities the power to ensure that the public sector does so. Submitting requests is a simple and easy process, with request forms and detailed guidance available on the government website.

Community Right to Reclaim Land

The Community Right to Reclaim Land gives communities the right to ask that under-used or unused land owned by local councils and some other public bodies is sold so that it can brought back into use. The Right aims to enable communities to improve their local areas by allowing them to challenge public bodies holding onto land that is not being put to use.

How does the Community Right to Reclaim Land work?

Anyone can send a request to the Secretary of State for Communities and Local Government requesting that a council is directed to dispose of under-used or unused land it is holding. Once received, the Secretary of State for CLG will evaluate the request. If it is found that the land is being held without being adequately utilised, and that the council has no plans to bring the land into use, the Secretary of State for CLG can direct the council to dispose it.

Right to Contest

In January 2014, the Community Right to Reclaim Land was joined by the Right to Contest. Right to Contest allows communities to challenge land owned by central government and its arm's length bodies. Requests can challenge land which is under-used or unused. Additionally, Right to Contest goes further by enabling communities to challenge land even if it is in use, if the land could be put to better economic use, such as for housing.

How does Right to Contest work?

When requests are received, the landowning department is asked if it agrees to sell the site, or to make a case for why it needs to keep it. Once a case has been made for why a department needs to keep a site, Ministers will weigh up the arguments and decide on the best course of action. If the site is not found to be vital for operational purposes, the landowning department will dispose of the site.

Public sector land

Maximising the release of surplus public sector land is critical to supporting the government's ambitions to reduce the deficit, increase the number of homes being built and drive economic growth.

As part of the Autumn Statement, the Chancellor confirmed the government's commitment to release land with capacity for up to 150,000 homes over the course of the next Parliament.

Over the current Spending Round period, the Public Sector Land Programme has identified land with capacity for over 100,000 homes which we are aiming to release to the private sector by March 2015. By the end of September 2014, central government departments had released land with capacity for almost 90,000 homes.

We have committed over £60m through the Public Land Investment Fund to 53 sites, bringing forward their development by investing in their infrastructure and making the sites more marketable. We encourage all departments to use Build Now, Pay Later terms in disposing of surplus land – enabling builders to start work on housing sites without having to bear the up-front cost of paying for the land – to help unlock activity on sites, particularly where development has stalled, and get house building on track.

Where government land or buildings are potentially surplus and could be put to better economic use, people can challenge us to release them, using the new Right to Contest, which was introduced in January 2014 (see details elsewhere in this article).

The government launched the Strategic Land and Property Review which has identified scope to generate significant receipts from government land and property, to support growth and drive efficiency from 2015 onwards. There will also be a greater role for the Home and Communities Agency (HCA) in the next Spending Round period. The agency will act as the land disposal agent for government, using its expertise on land sales and centralising responsibility for more complex disposals in one place, to drive the programme forward. Successful pilots have already been undertaken with a number of departments.

Conclusion

If readers of this article would like any further details on the topics covered they can either contact me directly using the e-mail address at the top, or through Betty Albon, The Terrier Editor and member of the ACES/DCLG Working Group. Also please feel free to provide any general comments on the article, including policy areas you might like to see covered in the future.

Finally, my thanks to DCLG colleagues Hayley Johnson-Hurst (Assets of Community Value); Thomas Marsh (Community Rights); and Douglas Taylor (Public Sector Land) for providing the respective updates.

PROPERTY IN POLITICS

Jeremy outlines the vision and progress of RICS' major initiative Property in Politics (PiP), designed to ensure that chartered surveyors of all disciplines and practices are heard – and can influence - at national political level.

Jeremy Blackburn

Jeremy is Head of Policy & Parliamentary Affairs at RICS. jblackburn@rics.org

What was the project?

Ahead of the General Election in 2015 in the UK, it was important for RICS' profile, influence, member satisfaction and public interest that we shared the views of the chartered surveyors across the UK into what a future government should undertake in order to create a vibrant and sustainable land, property and construction sector. http://www.rics.org/uk/footer/property-in-politics/

The Vision

It was agreed to focus on 4 key sectors which in the UK we were best known for, which were infrastructure, construction, housing and planning. We also agreed at the outset 12 recommendations; 3 for each section was a manageable number in terms of messaging, campaigning and press.

The vision was outlined in advance in order to set a context for the consultation: "RICS calls on all of the political parties to recognise the role property, across housing, planning and development, construction and infrastructure plays in driving the UK's economic growth and building better communities."

Alongside the vision we sought to pull the major stakeholders together and provide the best professional advice. RICS led PiP as a conversation between the political parties and the property industry in order to build a vibrant marketplace. This made the report/campaign open and accessible to all.

Aim

The final report had to truly represent the views of chartered surveyors across the UK, therefore had to be wide ranging in its consultation, include and engage new, non-traditional groups of members, be representative of the sectors and start from the bottom up. The strength of the report would be twofold. Firstly the influence of the report would be based on the number of contributions and views collated and the ability to demonstrate the breadth and depth of the surveying profession across the UK. Secondly the report must contain tangible recommendations, supported across the membership that they genuinely believed if implemented by a future government would improve the sector.

Consultation

In order to focus what could become wide ranging discussion it was determined that the format would be a series of nationwide roundtables that asked specific questions of the members, based on the vision. All members and member firms that sat within the postcode of the workshop host city were invited to attend. Workshops ranged from 20 to 70 members.

There were often topics that emerged that weren't in the gift of government to work on and out of line with the focus on the recommendations in the report. We kept a record of areas RICS or the wider industry should therefore focus on.

Consultation groups

The following groups were consulted before a final shortlist of key challenges and recommendations were drawn up:

- 11 regional workshops across the UK
- Online survey promoted to members
- LinkedIn discussions forums
- Twitter discussion #propertyinpolitics
- Postal survey (insert to Member journals)
- Formal submissions from Professional Group Boards and Panels, UK Regional Boards, UK&I World Regional Board and UK& I Regulatory Board
- RICS UK Policy Panels
- Political party roundtables/dinners (Labour, Conservative and Lib Dems).

Shortlisting and review groups

In each of the sector areas a list of 8 solutions was drawn up, based on the most common challenges and most innovative or most agreed solutions. These went out to a 2nd round of review to groups including an online vote to all workshop attendees, sister organisation roundtable (ICE, RTPI, RIBA etc), and the groups included in the 1st round.

Recommendations

PiP kept 3 recommendations for each area. Additionally in housing we called for a Housing Observatory and in planning for a commitment to keeping the National Planning Policy Framework.

Following the repeated calls for a regional focus on all policies by government, we worked up an overarching recommendation. The theme on "bigger than local, smaller than national" meant that we were able to have a recommendation alongside the vision that all stakeholders could buy into.

Launch

PiP was launched with the most newsworthy recommendation of "Amberfield" (see below). The launch secured national and local media coverage across the UK. All parliamentarians received a copy of the report as did workshop attendees and senior civil servants.

Property in Politics update November 2014

The Report made 12 recommendations to the next government – and these recommendations had the weight of expertise drawn from the views and insights of over 500 chartered surveyors and 273 organisations, from sole practitioners to SME firms and from large corporations to sister organisations.

So what has happened so far to the Report and its recommendations?

The Party conferences and political engagement

The Property in Politics Report was promoted throughout the political party conferences season of Labour, Conservative, Liberal Democrat, Plaid Cymru and Scottish National Parties. RICS called on all of the political parties to recognise the role property, across housing, planning & development, construction and infrastructure plays in driving the UK's economic growth and building better communities. To highlight the recommendations RICS hosted a number of events to bring together members, firms, industry leaders, Ministers, Shadow Ministers, parliamentarians and policy makers.

There is a heightened interest from politicians in the views of RICS. We are now having one to one discussions on the recommendations with, among others:

- Eric Pickles MP, Secretary of State Communities & Local Government; on planning and local development
- Emma Reynolds MP, Shadow Housing Minister; on housing supply and infrastructure
- Stephen Williams MP, Parliamentary under Secretary, Communities & Local Government; on planning and local development
- Brandon Lewis MP, Housing Minister; housing supply, property taxes, planning and skills shortages
- Iain Duncan Smith MP, Work & Pension Secretary of State; on housing supply, private rented sector and skills
- Esther McVey MP, Employment Minister; on skills shortages,
- Nicky Morgan MP, Women & Education Minister; on diversity in the industry and skills shortages
- Chief Planner Steve Quartermain, on planning and infrastructure
- Iain Wright MP, Shadow Business Minister; on property taxes, business rates and infrastructure
- Chris Leslie MP, Shadow Treasury Minister on property taxes, SME financing and business rates
- Conservative Advisors Julian Sturdy MP & Bob Neill MP on all areas of Pip
- Labour Advisor Baron Wood on infrastructure and housing

Embedding Property in Politics

This is a shortlist of the highlights so far in getting RICS members' voice heard.

<u>Bigger than local, smaller than national: sticking the regions together:</u> Our members' voice was loud and clear when it came to the need to support regional growth. We are working to focus all political parties on local growth and devolving further spending powers and responsibilities for infrastructure and housing delivery to regions.

- RICS Senior Vice President Amanda Clack was a panellist at the launch of the Cities Growth Commission Report
- Government has continued to devolve further powers, including to the Manchester Combined Authority [Ed – mentioned by Richard in his Presidential address in this Terrier]
- Surveyors at the heart of devolved infrastructure delivery through proposed Rail North
- RICS hosted high profile event with the FT at MIPIM UK to promote regional growth agenda.

<u>Housing:</u> PiP recommends - to implement New Development Delivery Units (DDUs) and Housing Zones; issue Property Tax Forward Guidance within its first 100 days; deliver a professional private rented sector (PRS).

- Coalition government has announced a Housing Zones Prospectus across the UK
- Labour Party announced proposal for "News Homes Corporations" as a result of our DDUs
- RICS recommendations adopted in Labour Party Lyons Housing Review and by Liberal Democrats (DDUs, Mandatory Local Plans, Housing Growth Areas/Zones and Housing Observatory)
- Parliamentarians support RICS setting up a Property Taxation Forward Guidance Group
- PRS Code of Practice being taken forward by Ministers as gold standard.

Planning & Development: PiP recommends - to introduce Amberfield (planning class between green and brown, which is designated by local authorities and communities as being land which is 'ready to go' and would have to be developed within 5 years); embed Local Plan enforcement; lead a resource revolution in planning departments.

- Liberal Democrat support for "planning revolution" to support neighbourhood planning
- "Amberfield" headlined press coverage following launch with industry support
- RICS cited in House of Lords debate of planning in relation to Amberfield.

Construction: PiP recommends - to create a National Procurement Framework; introduce a Construction Skills Investment Charter; implement a single Construction Finance Hub.

- RICS and industry partners discussing with Department of Business on implementing a public and private Finance Hub
- Labour Party support for National Procurement Framework and Construction Skills Investment Charter
- RICS working with Construction Industry Council on a proposal for Procurement Framework
- RICS concerns over construction skills are rising up the political agenda and shared with key industry stakeholder, eg. CBI.

Infrastructure: PiP recommends - to produce a National Infrastructure Delivery & Business Plan; promote 'Olympic- style' Infrastructure Delivery Partnerships; set up an Infrastructure Commission.

- Armitt Infrastructure Review utilising RICS expertise and RICS proposals for "Delivery Plans"
- RICS is collaborating with partner organisations including Infrastructure UK to prioritise regional infrastructure
- RICS President hosted a pre Autumn Statement Infrastructure Briefing for Chief Secretary to the Treasury.

Next steps

The Property in Politics work has now entered the 2nd phase: we are now looking to provide detail on how to implement the recommendations – and we are doing this at local and national government level, with politicians and civil servants. RICS will therefore continue to call upon the expertise and influence of its members – **please stay involved.**

BUILDING OUR INVESTMENTS – HOW SOME LOCAL AUTHORITIES ARE EXPANDING THEIR PROPERTY INVESTMENT PORTFOLIO

Susan Robinson and Chris Brain

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Chris and Susan kindly agreed to write this article after the Editor attended an AMP Network presentation on this topic, which seems to be of growing importance to many councils, as austerity measures bite ever deeper.

Many local authorities around the UK hold investment property within their portfolio. This part of the portfolio has received increased scrutiny since the CIPFA Code adopted the IFRS model in 2010, which created for the first time in the balance sheet the asset class of **Investment Property.**

Initially many local authorities classified as Investment Property any asset where a market rent was being received. Some even classified as an Investment Property anything where a rent was payable. Gradually over the past few years authorities have been reclassifying much of this property into a more appropriate classification that accords with the CIPFA Code of Practice on Local Authority Accounting (the Code).

The definition of an Investment Property in the Code is an asset that is "…**used solely to earn rentals or for capital appreciation or both…**"

Alongside this reclassification of assets, some authorities have started to consider what by nature a true Investment Property is and some authorities have challenged their earlier decision and determined that under the strict definition, they do not in fact have any such properties at all.

But while the general move has been to reclassify assets away from the Investment Property classification, there is a new body of authorities that are beginning to explore an expansion of their Investment Property portfolio.

We have undertaken some research into this area and while up to about

2-3 years ago there were only small numbers of authorities expanding their investment property portfolio, that number is certainly increasing. And when we delivered a presentation on this research at our most recent series of asset management network events around the UK, it became obvious that there are even more now taking this approach than we had at first realised.

So why are authorities expanding their portfolio of investment property?

Central government funding for local government has been falling for a number of years in response to the austerity measures. CIPFA/DCLG figures show a fall in spending of 29.1% between 2009/2010 and 2014/2015 (allowing for inflation), and 2014/2015 spending is at same level as 2005/2006 in cash terms.

This has impacted significantly on local government spending and budgets and has prompted some authorities to look for means to soften the impact by creating new income streams that will be free from austerity measures. Income from property is one of the areas that is often high up the list.

An increasing number of authorities have started to ask themselves questions like:

- Is there another means of plugging the funding gap?
- Is there another route to becoming more financially self-sufficient and sustainable?
- Was selling assets the right answer?
- Should we reverse that trend?

In parallel to the austerity measures and budget cuts, the levels of local authority cash reserves has increased significantly, occasionally prompting criticism from the Secretary of State and the Audit Commission. So where are these reserves held? Are they held in high earning long term accounts? Well sadly, in most cases they are not. According to Audit Commission data 62% of local authority investments are deposits with banks or building societies, where the rates of interest can be as low as 1% p.a.

In contrast, yields from property present an opportunity for much greater returns, even allowing for the inherent risk and illiquidity in direct property ownership. Property values are still relatively low in many parts of the UK, providing an opportunity to exploit capital growth, as well as the revenue return on investment.

It is this very simple comparison of returns that has prompted an increasing number of local authorities to look to property investment – directly or indirectly – as a means of helping to ensure greater financial stability.

Which authorities have embarked on this journey?

One authority that has expanded its investments in this way and which has received a degree of publicity is Ashford Borough Council. A report to its Cabinet in December 2013 set out the financial picture quite clearly, acknowledging that ever decreasing funding from central government has necessitated the council looking at innovative ways to generate revenue streams so the reliance on central government funding is reduced. At that time the council received £3.8m of formula grant and by 2015/16 it will fall to £1.9m and it is expected to fall even further by 2018/19. The report recommended making a strategic acquisition in order to strength its long term financial stability in line with the agreed Corporate Plan.

Having allocated £2m for property purchase, the council bought its first new property earlier this year using prudential borrowing to fund the purchase, at a fixed interest rate of 4%. The property is within the borough and is a mixed use retail and residential scheme.

The council has since considered further purchases and has also been exploring as an investment the construction of 3 new industrial units on land it already owns.

From the publicity that Ashford has received, one might be forgiven for concluding that it was the first to follow this course, but far from it. For example Elmbridge District Council started out on its journey in 2012 when it bought 2 investment properties - shops at Cobham for £6.8m and Consort House in Weybridge for £4m - generating net annual yields of 5.61% and 7.74% respectively (based on the rental stream for April to December). In December 2013 the council bought a further 2 investment properties, Albany House for £1.6m and The Old Post Office for £2m, both of which are in Esher, generating net annual yields of 6.45% and 4.78% respectively.

These net annual yields compare favourably with the 1.09% (1.45% annualised) it was receiving on cash investments at the time. The council acknowledges that there are always risks with rental properties and the Revenue Risk Reserve will serve as a safety net should there be periods of void or rent free periods.

But even before Elmbridge DC had started on its strategy, Eastleigh Borough Council, had developed its investment acquisition programme way back in 2008/09, reportedly in the tens of millions of pounds, including strategic investments connected with the county cricket ground. The difference with Eastleigh however, is that while the investment must generate an acceptable rate of return, there is a definite driver of local regeneration in its acquisition targets.

What do these examples have in common?

One clear common theme from the examples quoted is that they have all confined themselves to property acquisition within their own administrative areas. I am sure some readers of this article may question whether acquisition of property within a council's own area only can really be termed an investment. We might well have similar questions, as an asset that is to be treated as a true investment should surely be located where it will provide the highest possible rate of return, within the risk parameters that have been adopted? This is unlikely to be only ever in the council's own geographic area.

Not only that, but so long as any acquired investment property is within the council's local area there is always the risk that there could be political 'interference' in the management of the investment, such as intervention by elected members in situations where a tenant finds itself in arrears or some other potential landlord and tenant conflict.

Some authorities have come to similar conclusions and made positive decisions NOT to acquire property within their geographic boundary. Examples of this are Wolverhampton MBC which is exploring options elsewhere and Mansfield DC which bought a hotel investment in Edinburgh.

What are the legal considerations in expanding the investment portfolio?

There are a number of areas to consider if your organisation is considering following the lead of those mentioned above, and one of the most important is the legal position. This is a complex area and we are not aware of any published guidance that local authorities can rely upon. They consequently have to weigh up the legal issues for themselves and be satisfied that what they intend to do is compliant with local government legislation.

We believe that Ashford BC relied upon the Local Government Act 1972 in its decision-making process, probably s120. As for the other examples given above, the situation is not quite so clear, but there is other legislation that councils might seek to rely upon such as s12 of the Local Government Act 2003 and the general power of competence contained in the Localism Act 2011 – and the latter we believe has been relied upon in some other cases not mentioned in this article.

Of course the legal landscape could well be different depending on whether the authority is intending to acquire property investments within or outside its geographic area.

What about the risks?

Despite the obvious gross financial benefits over interest on cash deposits, expanding or creating for the first time an investment property portfolio is not something to be entered into lightly, and will require a mature culture and, not least a full realisation of the inherent risks to the gross income.

We are not going to go into the detail in this article of all the risk issues. Suffice to say that issues such as portfolio mix and concentration limits (whether by sector or geography) – especially in the early years – do need to be thought through and evaluated.

Equally there will be a need to consider how the investment value will be maintained and how you will guard against deterioration in investment returns as the portfolio stock ages and as you move through economic cycles.

Is indirect property ownership an option?

Some authorities having considered the risk of direct property ownership, and especially the liquidity issue, have opted for indirect property acquisition instead – generally through one of the many property trusts available. Clearly the authority will incur fund charges but there is generally greater liquidity and the exposure to risks within particular market sectors or geographic locations is lessened.

Ultimately the decision on direct or indirect property acquisition is likely to turn on the organisational appetite for risk, and perhaps also on the economic regeneration aspects of property ownership.

Other challenges

Finally there are a range of other issues and challenges that authorities will need to consider and reflect upon, before developing any acquisition strategy, including:

- What will be the high level objectives/vision?
- Do you need a Statement of Investment Principles?
- Will 'responsible investment' be a factor to take into account?
- How will these objectives be balanced? (e.g. revenue & capital growth versus regeneration)
- What is the organisational attitude to risk?
- Is the culture right?
- Will there be adequate leadership – do you need a 'stewardship policy'?
- Will there be clear accountability?
- Which performance measures will you use to demonstrate achievement of your objectives?
- Will you make acquisition recommendations yourself or seek external expert advice?
- Who will make the ultimate decision on what is acquired? What will the checks and balances be and how will your schemes of delegation need to be amended?
- Will the investments be managed by the in-house team or will you use commercial agents?

Hopefully this article will provide a useful summary of some examples of who is doing what, and perhaps provide a stimulus to some to begin to consider whether these or other similar approaches might bring value to your organisation.

This goes to the heart of asset strategy, financial strategy and treasury management and needs to go much beyond just the estates manager acting alone. But the estates manager can at least start the dialogue.

Stephen explains a workable solution to provide much-needed housing. "With an increase in land availability, market recovery, finance availability and evidence of delivery, development partnerships are becoming an increasingly viable option."

UNBLOCKING THE HOUSING DELIVERY CHALLENGE

Stephen Armitage

Stephen is Head of Public Sector Services at Lambert Smith Hampton. He has over 20 years' experience of working on public and private partnerships and can provide practical delivery and procurement advice at all stages. He regularly works at a senior level, presenting advice to public sector clients engaged in complex projects. sarmitage@lsh.co.uk

Introduction

At the beginning of December 2014, Lambert Smith Hampton hosted a breakfast briefing in partnership with Pinsent Masons LLP and Grant Thornton UK LLP. The event was entitled 'Unblocking the Housing Delivery Challenge' and was attended by representatives from a number of borough, district and county councils, who had expressed an interest in discussing this increasingly important topic.

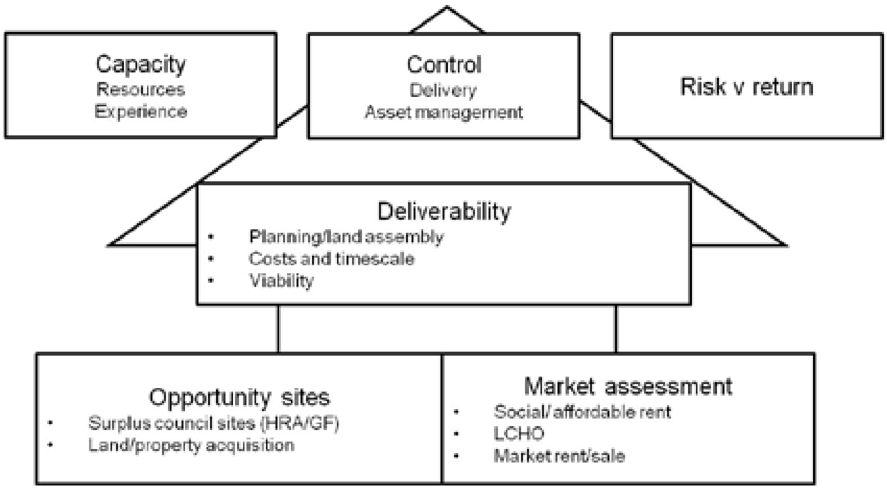
Context

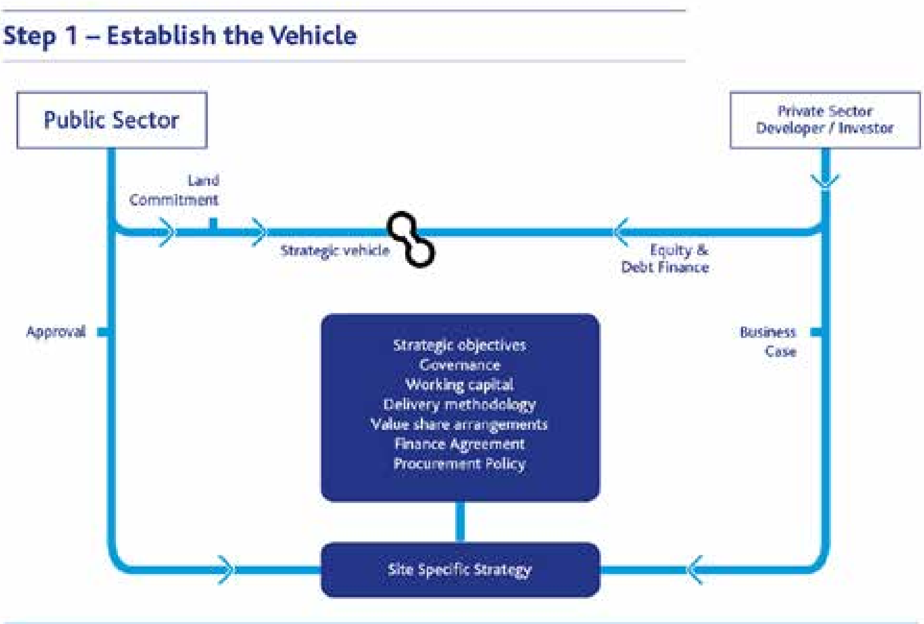
Across the UK, private sector developers and local authorities are struggling to keep up with the demand for housing, with an insufficient supply to meet household growth. In connection with local authority housing in particular, short term housing options, including bed and breakfast and social housing, are not sustainable in the long term, not just from a financial perspective but also for a number of social reasons. Government statistics estimate that approximately 250,000 units are needed each year until 2020 to achieve market equilibrium, a requirement that the current private and public sectors cannot meet.

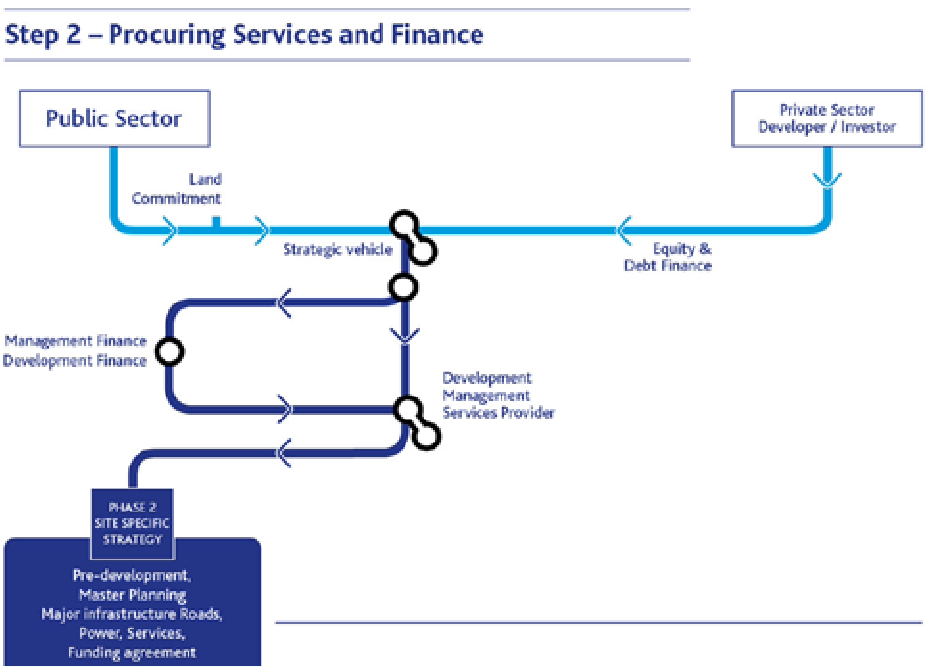
Local authority perspective

The event began with an introduction from Margaret Lee, Executive Director for Corporate and Customer Services, at Essex County Council. Margaret explained that the population in Essex is predicted to rise from 1.42m in 2014 to 1.68m in 2037. Furthermore, in 2013 there were over 36,000 people on local authority waiting lists for general needs affordable housing. This population increase together with record low house building, loss of stock, an increased demand for private rented property and decreased supply of social housing are all reasons why Essex County Council, like many local authorities, is beginning to recognise the need to address the demand for housing.

However, faced with stretched budgets and competing demands that require self financing council services and improved revenue streams, there is a growing need for agile strategic vehicles that can operate at pace. On top of these challenges, there simply is not the resource







available in the public sector to procure and operate vehicles of this nature effectively. This is why local authorities are increasingly turning to the private sector to look at new ways to address the shortage of housing, with development partnerships being seen as one way to address the challenges faced.

Development partnerships

Lambert Smith Hampton, Pinsent Masons LLP and Grant Thornton UK LLP took attendees through the subject of development partnerships and delivery structures. Development partnerships are public/private partnerships for schemes of regeneration or service property development. In these partnerships, the public sector usually brings limited public funding but can offer the key asset of development - brownfield or greenfield land. The private sector brings finance and the expertise to enable value to be created by private housing and/or commercial uses.

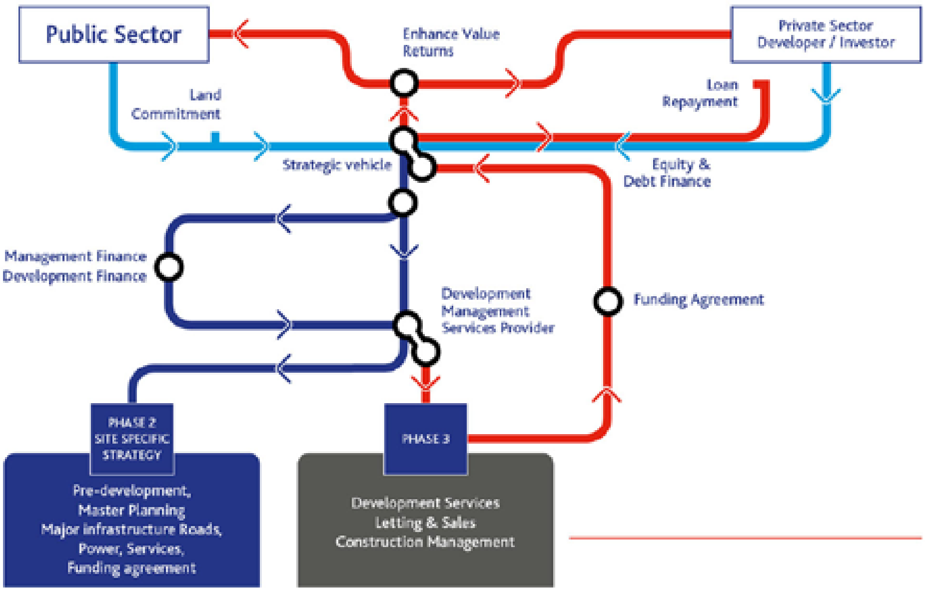
With an increase in land availability, market recovery, finance availability and evidence of delivery, development partnerships are becoming an increasingly viable option. Several examples were cited at Oxford, Kent, Gateshead and with Hammersmith & Fulham councils.

Key considerations

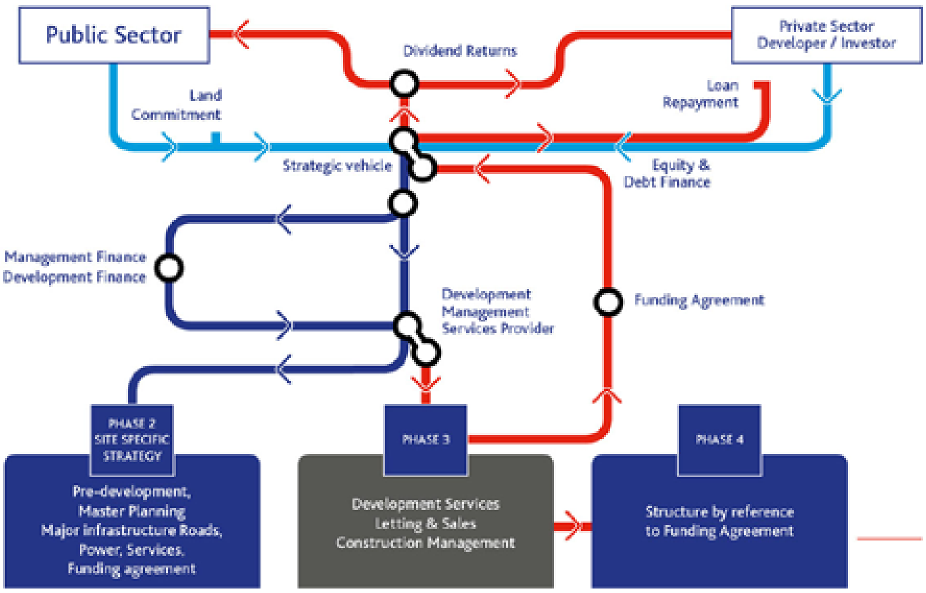
The public sector is faced with many options and so it is vital that opportunities for partnership are well prepared before propositions are presented to the market. Appropriate due diligence must be carried out before entering into such an agreement. Property development can be a risky investment and its value and delivery costs can fluctuate dramatically with changes in the property market and general economic conditions. Development partnerships also require a long term commitment from all those involved and should only be entered into with commitment from both parties.

The chart above details the items that should be considered when entering into such a development partnership

Step 3 – Deliver the Strategy



Step 4 – Management & Revenue



to ensure that the strategy put in place is correct. Any process should begin with a thorough understanding of what the vehicle will need to deliver, a question that can be answered with full knowledge of the strategic need, market assessment, the legal context and full financial modelling and analysis. In addition, the strategic and operational risks, resourcing and interface with the council's current offer are important additional factors that should be considered.

Note in chart: LCHO – Low cost home ownership

Getting the strategy right

Once the decision has been taken to enter into an agreement, it is important to get the strategy right to avoid costly issues appearing later down the line. Factors such as procurement, vires, State Aid, sector classification, balance sheet treatment, difficulties relating to land transfers, supply chain exclusivity and exit strategies, are all areas where issues often occur.

To avoid falling into these common pitfalls, the following steps should be taken:

<u>Step one – Establish the vehicle</u>

Tried and tested delivery models include land sale with development agreements and public/private partnerships for schemes of regeneration or service property development. Alternative options are emerging however and these include the creation of publically funded housing companies, joint ventures and facilitating/strategic vehicles.

The public sector must consider how best to establish the vehicle that will deliver site specific strategies. There is a need to consider carefully the strategic objectives, governance, working capital, delivery methodology, value share arrangements, finance agreement and procurement policy for their intended vehicle.

<u>Step two – Procuring services and finance</u>

The next step is to procure the services and finance to cover the pre-development, master planning, major infrastructure roads, power and services.

<u>Step three – Deliver the strategy</u>

Once the strategic vehicle has been put in place and the procurement process finalised, the actual delivery can get underway. When the development and construction is complete, the revenue generation via lettings and sales can begin.

<u>Step four – Management and revenue</u>

This should be managed in line with the funding agreement put in place at the beginning of the process.

Conclusion

Addressing the housing delivery challenge is fundamental for all councils across the UK. Consideration of how best to address it can be tricky however, with any market assessment informed by a number of commercial and social issues. Strategic housing vehicles are one way to generate a surplus but the establishment of these vehicles requires a strong commitment from all partners involved and should not be entered into lightly.

WEST MIDLANDS PROPERTY ALLIANCE, 2010-2014

At ACES Presidential Conference in London, Martin Reeves, Chief Executive of Coventry City Council, referred to the excellent achievements of the West Midlands Property Alliance. "The Way Forward: Transforming Local Government Property Asset Management 2010-2014" has recently been published. Below is a summary and extracts, including useful case study material. The photographs have kindly been provided by Dudley MBC and Walsall MBC.

Background

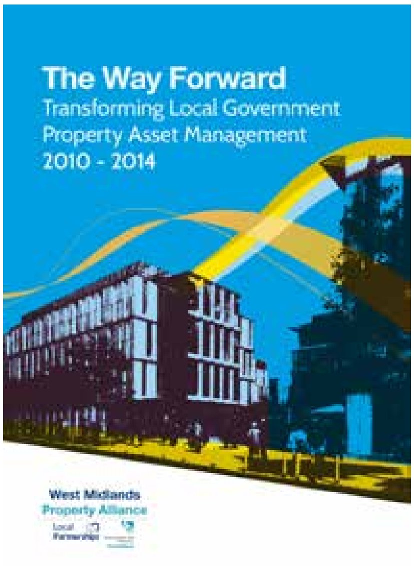
This publication brings to a conclusion the work of WMPA and the associated supporting programme of the last 4 years and celebrates the work undertaken across the region. Previous documents were produced in 2009 by Improvement and Efficiency West Midlands, with an update in 2011, also with the assistance of Local Partnerships.

In the Forward, Martin Reeves, former chair of WMPA, says that he is acutely aware of the huge challenges facing local authorities in these difficult economic times. Property assets represent an enormous cost to all councils. Together with construction it is the 3rd highest spend area with external spend estimated to be around £1.2bn p.a. (25% of the total external regional spend).

Developing a modern estate that is fit for purpose and reflects the requirement to respond to more flexible ways of service delivery, together with having more energy and operationally efficient buildings presents difficult yet exciting challenges. Inevitably facing such a huge challenge will require closer work with other public and private sector partners in order to reduce costs and provide more efficient customer focussed and joined up pan-government services. Responding to this challenge will also provide the stimulus for economic growth in our communities and an estate that makes both customers and staff feel welcome and valued.

Keith Gordon, former Assistant Director for Efficiency and Delivery, Improvement and Efficiency West Midlands (IEWM), identified all 33 councils having participated in the programme. The original report outlined how gross benefits of approximately £640m over 10 years were achievable within the West Midlands. This included cashable revenue savings of £173m, gross capital returns of £467m, as well as avoidance of spend on backlog maintenance and a reduction in the carbon footprint of 50,000 tonnes p.a.

Since this time and with the continued support and investment by IEWM and Local Partnerships, the local councils have undertaken work which has delivered £34m in cumulative revenue savings and set it on course to deliver the target £173m by 2020.



The WMPA programme 2010-14

The West Midlands is unique in being the only area of the country that has an established, networked and coordinated approach to generating value from the local government property base. As well as representatives from the local authorities, other organisations involved are the Government Property Unit (GPU), Local Partnerships and Improvement and Efficiency West Midlands. Relationships with other government agencies, e.g. health, police and fire are managed in each sub-region, reflecting more flexible and localised approaches.

The decision was taken early in 2012 to move away from being project focused to concentrate on promoting more strategic and joined up cross government sector initiatives.
From 2014, the Alliance has left the programme in the hands of the councils in the region (and beyond) to implement the knowledge and best practice examples from the case studies that have been showcased in this report.

The report also acknowledges the complementary work undertaken in construction frameworks and the low carbon programme. Relevant sites:

- www.worcestershire.gov.uk/cms/pdf/ WMCF%20Year%203%20Re-port.pdf
- www.niepbuiltenvironment.org.uk/ss
- www.westmidlandsiep.gov.uk/climate-change

Valuable guidance

In addition to providing strategic and

operational leadership and supporting specific projects, the WMPA has commissioned important and valuable guidance to support the 3 core themes within its programme:

- Knowing where assets are and how they are performing – a recommended methodology for asset mapping work was produced by Worcestershire County Council;

- Increased multi-agency occupancy – a practical guide which provides practical advice, based on experiences across the region, for dealing with logistical issues such as ICT, document management, security and wider facility management: www.invigour.co.uk/documents/SharedServicesGuide_000.pdf;

- Driving efficiencies from facilities management – a toolkit charts a journey from inception to delivery, combining practical theory and online tools with example case studies of emerging practice and aims to reduce reliance on external consulting support for the early scoping and business case stages: www.niepfmhub.org.uk/

Case studies

Asset mapping

Worcestershire County Council and the Government Property Unit (GPU) facilitated a number of workshop sessions across the region to help authorities and their partners with the process of assets mapping and identifying rationalisation and collaboration opportunities.

Barriers to co-location

The Birmingham and Black Country Asset Management Group was established in 2010 as part of the WMPA programme. It led a project to stimulate integrated property solutions and help facilitate area based delivery of public services. The objectives of the project were to investigate barriers to sharing property across organisational boundaries, identify existing examples of integrated property solutions and consider a pilot project.

Shropshire Council and its partners have, through the Capital and Asset Pathfinder (CAP) programme, formed an effective Shropshire Estate Partnership (SEP) which has mapped all public sector assets in Shropshire and agreed a 10 year implementation plan. SEP has undertaken a number of place based asset reviews, predominantly focussed on the needs of Shropshire market towns, to adopt a local commissioning approach to asset management.

Collaborative procurement

All 8 local authorities in Coventry, Solihull and Warwickshire along with Warwickshire Police and Coventry PCT have come together to create a sub-regional approach to their services. A number of collaborations have been identified in relation to procurement, statutory maintenance and compliance services, design and building services, and repair and maintenance.

Occupying less space

Birmingham City Council has developed an innovative efficiency programme called Working for the Future (WFTF) which aims to transform and rationalise its core office estate and generate significant financial and environmental savings in the process.

Staffordshire County Council has engaged with partners at district/borough council level, blue light and health services. Working in partnership with all 8 district councils, Staffordshire undertook a strategic property review that subsequently identified over 100 potential sites that might be suitable to develop co-location working. This was later narrowed down to the top 25 sites that appeared to provide the best opportunities.

Walsall: The Way We Work – Smarter Workplaces programme led to the reduction in the council offices from 25 to 2 buildings through an £8m capital investment that is yielding significant carbon emission reductions and improved staff working conditions. http://youtu.be/Nl4E_bjZwoo

Solihull set up a pilot flexible working approach on one floor at the main council offices to test the concepts and practicalities resulting from reconfiguring the office layout and the supporting infrastructure. It is now being rolled out and will result in 30% reductions in both floor space and CO_2 emissions. The main council base is now set up as a public sector hub with a bank of desks and IT connection points set aside to enable other public and third sector partner organisations to use the office as a touchdown location.

Aggregation & redesign of FM services

Staffordshire CC is leading on the

Walsall before and after

Dudley before and after

development of a new model for delivering FM services that respond to the financial and policy pressures and are driving increased collaboration. Outcomes are savings, better budget management and control, more appropriate application of rates to volume and scale, intelligent distribution of resources and increased ability to influence exposure of local SMEs to the supply chain.

Walsall MBC - all FM functions have now been centralised into a corporate landlord function that will exercise a greater degree of cost control, improved procurement and contract management, improved systems and processes, performance management and customer focus. Walsall also completed a pilot reverse auction for a number of the building maintenance activities at the beginning of May 2014. This is a national first and delivered savings of 41%.

Sandwell MBC's service-wide health check highlighted the need to look in further detail at its property maintenance activities. CIPFA was commissioned to carry this piece of work forward as a LEAN review into the many processes and procedures that had clearly evolved as a result of incremental changes over time. Through the adoption of new methods of procurement and driven by a customer service programme, Sandwell will deliver savings in excess of 25% across the management and implementation of cyclical, planned and reactive repairs and maintenance works on the council's commercial stock, currently at a value of approximately £5m p. a.

Dudley MBC's Transforming Our Workplace project involves disposing of 12 surplus office sites within the town centre, with a 40% reduction in floor space. The project is facilitated through the council's innovative partnership PSP Dudley LLP – a jointly owned company with Public Sector Plc which facilitates the disposal of the surplus office sites by guaranteeing a market value and sharing any profit after disposal on a 50/50 basis. This strategic 10 year partnership has given the council greater choice, flexibility and has enabled risk to be transferred to the private sector whilst ensuring statutory compliance and a share of development profit. The deal has meant that capital receipts have been ploughed back into the refurbishment of core office to be retained creating a new, sustainable environment compatible with the council's new agile working policy.

The creation of a new Energy Management team (based on research funded by IEWM) will be integrated into the new corporate landlord model to ensure the reduction of energy consumption and carbon emissions becomes embedded into future work programmes.

Consolidate health & social care estate

Herefordshire Public Services represents the partnership between Herefordshire Council and NHS Herefordshire and involves co-delivery of services under one management team.

Community led co-location of services

Worcestershire CC is involving the community in the re-modelling and management of community based assets on a locality by locality basis. The strategic outline business case for the programme has been presented and the next stage will be to create the development of a Joint Property Management vehicle.

Collaborative working with the district councils

A significant amount of collaborative work is carried out among second tier authorities:

East Staffordshire BC is capitalising on an opportunity to share office premises with a major private sector employer in the area which will enable it to generate a significant capital receipt and restructure its FM provision.

Cannock Chase DC agreed a back office sharing arrangement with Stafford BC.

Lichfield DC, in actively managing and reviewing its accommodation needs, has been able to create 3 surplus office facilities, 2 of which are being converted into affordable housing.

Tamworth BC and the County Council have continued to increase their co-location, to promote a public sector hub.

Stratford on Avon DC is pursuing a £5m investment in the Stratford Visitor and Leisure Centre, consolidation of the estate and subletting surplus office space to allow expansion of a local school.

Worcestershire CC is working in partnership with all 5 district councils together with Job Centre Plus, police, CAB and community groups to develop a more sustainable library service through shared use of buildings.

Stimulating growth and economic regeneration

As highlighted above, the WMPA programme refocused in 2012 to concentrate on promoting more strategic and joined up cross-government sector initiatives, such as those in Worcestershire, and the Stimulating Growth project which will bring the WMPA programme to a conclusion in the summer of 2014.

The Stimulating Growth project is being delivered through our joint partners, Local Partnerships. and will be reported in more detail in a separate publication "Rebuilding our local economies – How West Midlands councils are using assets for growth", and will focus on how councils together with other public and private sector partners are working together to stimulate regeneration and growth in their communities through both the innovative leverage of finances and the use of assets.

Inevitably the difficult economic challenges councils face in response to the government's austerity programme continue to place significant strain and provide greater emphasis on "balancing the books". However, the emerging evidence recognises that efficiency targets and stimulating growth can be delivered in tandem and are complementary opportunities. For this to be successful it needs to be driven forward within an integrated and co-ordinated approach between the public and private sector and local authorities are well placed to help drive this agenda forward.

More information about the WMPA and many of the case studies within this report are available on the IEWM website: www.westmidlandsiep.gov.uk/wmpa

More information about the NIEP can be found at: www.niepbuiltenvironment.org.uk

List of case studies

Title	Participating Councils	Project Outcomes/Outputs
Regional Construction Frameworks	Worcestershire, Herefordshire and other wider public sector organisations	A West Midlands Construction framework with turnover of £180m during the 4 year contract period and projected savings of £9m. Over 75% of the work was sub-contracted to firms within 30 miles, bringing significant benefits to the local economy
The Low Carbon Programme	All 33 councils	A programme of energy audits in 30 councils identified over £4m savings and provided implementation support to help councils deliver the benefits. Provided £0.172m pump priming grant to fund small scale capital works
Knowing where assets are and how they are performing	Valuable guidance for all 33 Councils	A methodology for asset mapping work was produced by Worcestershire County Council and distributed to all local authorities in the region to help establish a consistent approach
Increasing multi-agency accommodation guidance	Valuable guidance for all 33 Councils	A practical guide to implementing successful co-locations dealing with logistical issues such as ICT, document management, security and wider FM
Deriving efficiencies from FM guidance	Valuable guidance for all 33 Councils	A practical web based tool to promote developing best practice in FM
Workshops to promote a consistent approach to asset mapping	Worcestershire CC	A series of facilitated workshops to help authorities and their partners with the process of assets mapping and identifying rationalisation and collaboration opportunities
Researching physical barriers and associated solutions to creating multi-agency, co-location facilities	Birmingham and the Black Country councils	Advice to enable councils to consider the practical barriers and solutions associated with implementing multi-agency co-locations
The Shropshire Estate Partnership and rationalisation programme	Shropshire CC	A 10 year disposal and rationalisation programme that has generated £6.4m of capital receipts together with a further £20.7m earmarked to be sold for 2014/15
Independent research of a range of asset and FM collaboration opportunities across the Coventry, Solihull and Warwickshire sub- region	Coventry, Warwickshire and Solihull	A £3m p.a. collaborative procurement between 8 local authorities along with Warwickshire Police and Coventry PCT for statutory maintenance and compliance services, design and building services, and repair and maintenance. The procurement delivered savings of £0.3m p.a.
Birmingham City Council's - Working for the Future (WFTF) Programme	Birmingham City Council	The Central Administrative Buildings (CAB) element of the Working for the Future programme will realise £100m of net benefits over 25 years

Staffordshire District Property Boards	Staffordshire CC and the district councils	Rationalising the county council's main offices from 17 to 2 delivered £0.25m p.a. benefits. An outline business case identified potential further net capital receipts of up to £19.5m, and annual revenue savings of up to £2m by implementing a Staffordshire multi-agency rationalisation programme, including all 8 district councils together with the blue light and health services
The Walsall "Way We Work" - Smarter workplaces programme	Walsall MBC	A reduction in the number of main council offices from 25 to 2 buildings through an £8m capital investment that is yielding annual savings of c£1m
Piloting a generic, flexible workspace area to precipitate new ways of working	Solihull MBC	A Council wide agile working and "hot desking" programme delivered savings of £0.15m. Additionally a public sector hub was created to enable other public and third sector partner organisations to use the office as a touchdown location
Developing a new model for delivering FM services	Staffordshire CC	A new collaborative model for delivering FM services has delivered aggregated savings of between £2.8-£4.5m
Application of systems thinking to a local authority's asset and facilities management function	Walsall MBC	The implementation of a corporate landlord function delivered £0.75m p.a savings. A pilot reverse auction for building maintenance activities achieved a 41% cost reduction, equating to a saving of £0.18m p.a.
Health Check & LEAN Review	Sandwell MBC	The adoption of the corporate landlord function together with new methods of procurement will yield efficiencies of circa £1m p.a.
Public Sector Partnership	Dudley MBC	The innovative partnership PSP Dudley LLP – a jointly owned company with Public Sector Plc facilitated the disposal of 12 surplus office sites within the town centre delivering saving of circa £0.4m p.a. Additionally, the implementation of a corporate landlord function delivered £0.5m p.a. savings
Reconfiguration and co-location of the public sector estate	Herefordshire Council	Herefordshire Public Services is the partnership between Herefordshire Council and NHS Herefordshire and involves co-delivery of services under one management team. An estate reconfiguration programme has reduced revenue spend on property by £0.76m p.a. and generated at least £6.8m of capital receipts
Re-modelling and management of community based assets on a locality by locality basis	Worcestershire CC and partners	The strategic outline business case for the programme estimates that as much as £100m of revenue savings can be generated over 25 years as well as £60m of capital receipts arising from the synergies and economies of service co-location as well as improved service accessibility
Collaborative working with the district councils	District council projects	Examples of work completed by district councils in Staffordshire, Worcestershire and Warwickshire that have delivered efficiencies, service improvements and led to wider community benefits
Using property assets to stimulate growth	Valuable guidance for all 33 Councils	A report showcasing how West Midlands local authorities are working with other public and private sector partners to stimulate regeneration and growth in their communities through both the innovative leverage of finances and the use of assets

DOES 'COLLABORATION' SIGNAL A CHANGE IN THE NATURE OF ASSET MANAGEMENT?

Alan Phelps

Alan presents an argument about the evolution of asset management and invites comments on its future direction and the skill set needed by surveyors.

Alan is a property asset management consultant with NPS Property Consultants Ltd (NPS) and has been involved in asset management since its inception in the UK. Alan originally worked as Principal Planning Officer at both Birmingham and Oxford City Councils. Before joining NPS Alan was Corporate Asset Manager at Kent County Council. In the last 10 years he has undertaken a range of asset management consultancy assignments both domestically and internationally. He has a PHD in Asset Management from the School of Public Policy, University of Birmingham. alan.phelps@nps.co.uk

Introduction

Property asset management as the emerging professional discipline concerned with the strategic management of publicly owned property assets has been changing as it matures. This change has embraced its purpose, scope and practice. Is the discipline now at a pivotal point in its development and what might this mean looking forward? This article provides a brief analysis of the development of property asset management and explores the 'old' version with a 'new' version of the discipline. It is intended to provoke thinking about the changing nature of the discipline within the practitioner community.

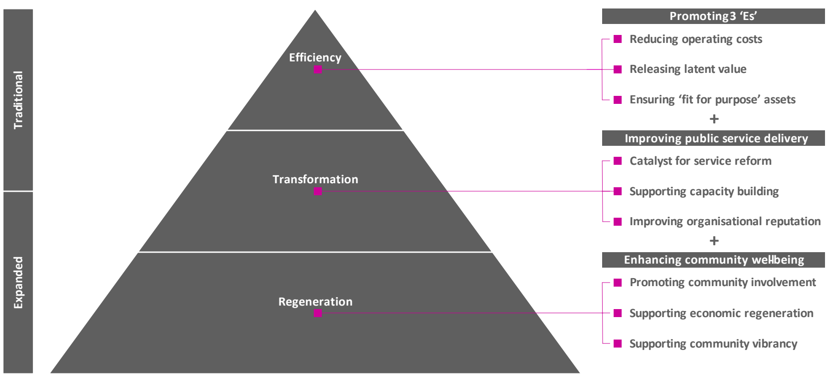
The origins of property asset management have been well documented. Perhaps less well documented has been the changing nature of asset management. The analysis below attempts to illustrate that even as the discipline has emerged, its nature has changed, broadening and deepening the purpose and scope of its role.

The evolving nature of property asset management

The evolution of property asset management can be summarised in 3 broad phases, as illustrated in the diagram and narrative. These changes have happened in a relatively short period of time of 10-15 years since its inception in the UK during the late 1990s. Since then, asset management as a discipline has been evolving with its scope and purpose broadening. In general terms it can be described as going through 3 broad phases with each phase absorbing the focus and approach of the preceding phase. The focus for asset management has changed from an emphasis on performance of the property portfolio to the performance of the wider organisation (or even public services in general) to the well-being and vibrancy of a geographically based community.

Now in 2015 the role of asset management, while being concerned with creating the right spaces (for public service delivery), is also fundamentally involved with shaping places - that is making places which are attractive in which to live, work

Diagram 1 – The evolution of asset management



Element	Looking 'backwards'	Looking 'forwards'
Purpose - As implied in this article, the purpose of property asset management has been changing. While there remains some commonality of purpose between the 'old' and 'new' property asset management, increasingly the purpose of asset management is directed towards place shaping	• Releasing value, reducing costs & liabilities • Responding to service needs – service shaping • Individual buildings & individual portfolios • Looking in & across a single organisation • Portfolio alignment – matching the estate to service needs. Focussed on creating spaces	• Releasing value, reducing costs & liabilities • Focus on regeneration & community vibrancy • Multiple buildings & multiple portfolios • Looking across several organisations • Portfolio reduction – shrinking the collective public estate. More about shaping places
Philosophy – how asset management is carried out is also changing. It is now more proactive than reactive, driven by strong resource pressures and a need for change in portfolios to save costs. The net effect of this is the adoption of a more commercial approach to the portfolios	• Ought to do it ('best practice') • Reactive (response to service needs) • Focus on 'review' + pre-austerity approach • Operationally focussed • 'Paternal stewardship' or 'Managerial efficiency' mode of asset management	• Need to do (resource pressures) • Proactive (questioning service needs) • Focus on 'challenge' + more radical approach • Strategically focussed • 'Public entrepreneurialism' mode of asset management – more commercial perspective
Strategy – strategy provides a mechanism around which to coordinate actions and resources. While there have been limited examples of multiagency, areas based strategies this is surely the logical extension of collaborative asset management and these could replace the conventional Corporate AMPs	• Organisationally based • Looking inside a single organisation • Low level – action/process based • Short to medium term focus • Property led and with a property focus	• Area based • Looking across many organisations • High level – vision statement • Medium to longer term focus • Property supported but with a service or area focus
Data – data is critical in underpinning decision making. The quality of data has an impact on the quality of decisions. Collaborative working with a greater focus on opportunities to rationalise on a cross-agency basis will perhaps require limited data prior to option identification, with data collection more dependent and following option selection (to validate options)	• Defined 'template' of data needs • Focus on cost, opportunity cost, condition & suitability • Decisions dependant on data • Data owned & maintained by a single organisation • Data 'rich' processes – time consuming & data 'dependant'	• 'cut down' data needs • Focus on utilisation, commerciality & regeneration potential • Data dependant on decisions • Data a collective resource in a single system • Data 'poor' processes (initially at least) & data 'independent'
Stakeholders –Stakeholder engagement has become more critical. This is because there are more stakeholders; they may have different objectives and work in organisations with different cultures. There is potential for conflicting interests and thus a need to identify & resolve these	• Mainly internal • Service managers • Finance director • Corporate asset management group • Generally 'friendly' stakeholders • Degree of coherence with common objectives & culture • Relationships marginal to asset managmt	• Internal + external • Service managers (+ a host of others) • Finance director(s) • Public services board • Potentially 'hostile' stakeholders • Generally diffuse with potentially differing objectives & cultures • Relationships critical to asset management
Property review – The nature of review processes may need to change in a collaborative asset management environment. As a result of its multi-agency nature, property review processes may need to be more opportunistic, less constrained by methodology and the need for comprehensive data. There is also likely to be an increased area focus	• Structured methodology - elongated process (by nature of methodology) • Single organisation – often service based • Single, formal review methodology • Sequenced and routine + property led • Methodology bound (single agency, service based & methodological)	• Semi-structured or un-structured methodology – short & sharp process • Multiple organisations – area or place based • Adoption of multiple methodologies • Pragmatic + property supported • Opportunistic (multiple agency, area based and pragmatic)
Asset ownership – A fundamental consideration for asset management is the issue of property ownership. With increased shared asset use; shared service delivery and possible outsourcing of services, the need for property ownership may change. There may need to be a willingness to cede ownership to other agencies	• Mix of freehold & leasehold • Presumption of ownership (family silver) • Property a manifestation of the council in the community (ownership a pre-requisite)	• Retreat to freehold • Willingness to cede ownership • Consideration of 'property vehicles' • Idea of 'collective ownership' of public estate • Question the need to own property • Notion of 'citizen equity' in public property
Outcomes – In line with the changing nature of the discipline the expected outcomes from asset management are changing. In the future the more marginal, incremental changes to single portfolios may be replaced to more radical property transformation and rapid reductions in portfolios	• Some property released • Leaner, more efficient portfolio • Change on an incremental basis • Action at a single property level • Marginal adjustments to the portfolio over long elapsed time	• Rationalisation scenarios to identify opportunities • Drastic change to portfolio (nature & size) • Implemented as a 'big bang' • Action at a whole portfolio or sub-portfolio level • Radical adjustments to portfolios over a short elapsed time

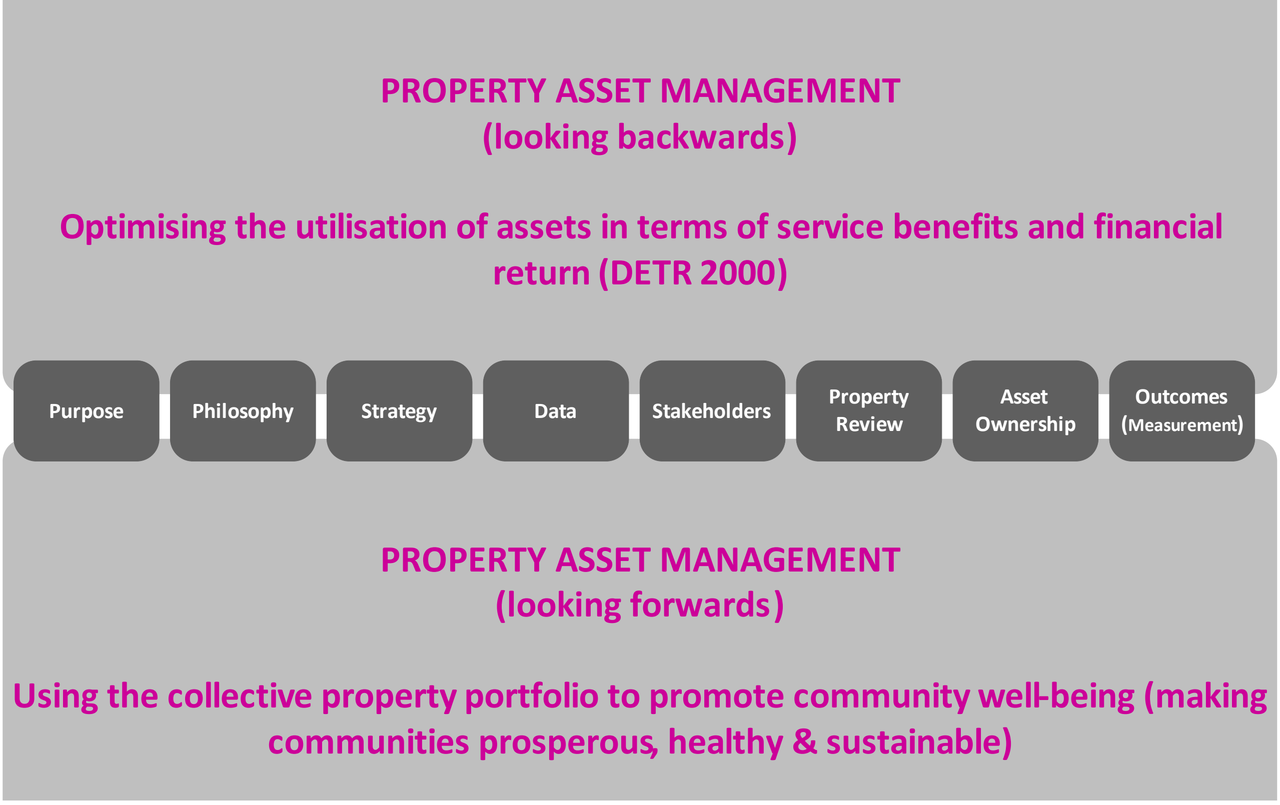


Diagram 2 - A framework for understanding asset management

and play. While the 'efficiency' and 'transformation' phases of asset management have tended to have a single organisational focus, the 'regeneration' phase clearly requires a multi-organisational approach.

The concept of 'collaboration' lies at the heart of this new wider role for asset management. The notion of partnership working has emerged through policy guidance (such as the government's Total Place and the One Public Estate programmes) and has been reinforced by resource pressures associated with constrained public budgets. Collaboration in this sense includes different public agencies in the same geographical area working together; the public sector combining with the private sector to enhance services and the public sector using the skills, capacity and enthusiasm of the community and voluntary sector.

So what might this mean for property asset management? A simple framework is used to explore this question. It is both 'looking backwards' and 'looking forwards' to explore the changing nature of property asset management.

How asset management is changing

The traditional definition of asset management, recognised by practitioners during its inception phase: 'Optimising the utilisation of assets in terms of service benefits and financial return' now seems inadequate to describe the discipline and its full scope. Something broader in nature capturing its multi-agency nature and perhaps different outcomes is required. A current definition might be something along the lines: 'using the collective pubic property portfolio to promote community well-being (making communities prosperous, healthy & sustainable)' may see more relevant. There is a stark contrast implied through these differing definitions which reflects how asset management has changed, even in a short time.

This change can be examined further by looking at the specific elements of property asset management. In each case the table reflects on asset management 'as it was' looking backwards and 'as it is' looking forwards to reflect on how the discipline is changing or needs to change. The analysis is deliberately undertaken in a stark manner to provoke thought – in reality the differences between the 'before' and 'after' collaborative asset management may be less marked.

However the analysis does point to some challenges that asset management practitioners may have to face in the future. Increasingly asset management will require greater challenge (to service orthodoxies over the need for property and the size of portfolios); more innovation in terms of property solutions. It may also require a different set of personal skills and expertise for asset managers. These include the ability to handle the ambiguity, contradictions and conflicts implied through working with multiple agencies. The nature of collaborative asset management will require skills in stakeholder management and strategic planning over and above traditional property related expertise.

Conclusions

This article has been designed to provoke a debate about the future of property asset management and through this question the possible implications for asset management practitioners. While the nature of the argument presented is unlikely to come as a surprise to practitioners who are grappling with such issues day to day, it is hoped that by drawing the analysis into a single article it may help the practitioner community at large to reflect on what might lay ahead.

SATISFACTION WITH SYSTEMS TO MANAGE PROPERTY ASSETS

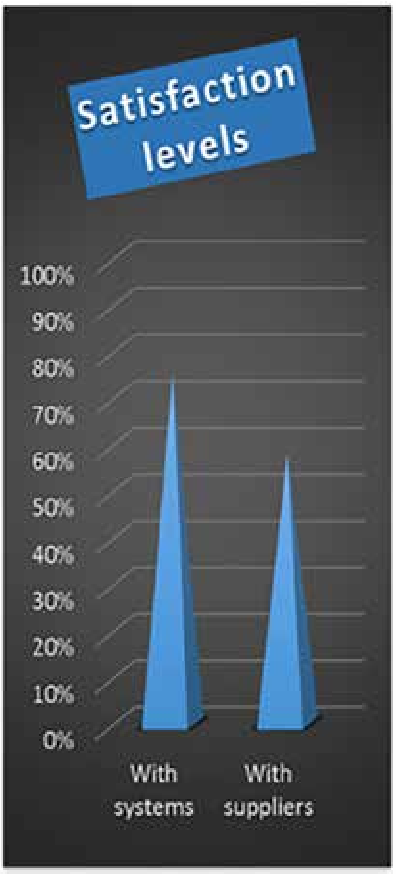
Mark Jones

Mark outlines some high level findings about IT systems used in the private sector and poses the question as to whether the same factors are present among ACES members' systems.

Mark Jones, a founding Partner of Remit Consulting, advises organisations about their use of technology to manage property. mark.jones@remitconsulting.com

Remit Consulting is a specialist management consultancy that advises private and public sector property organisations and teams about technology, business improvement and compliance.

We have all been looking for years for systems to manage our property effectively. Every generation brings a new approach, but how successful are they? To help answer this, ACES plans to send out a questionnaire to investigate public sector organisations' satisfaction with the systems they use to manage their property assets.



In 2014, we carried out a similar survey of private sector organisations, and it will be interesting to see whether there are any significant differences between the views of the sectors about the technology they use to support property. There are clearly some systems that focus on public sector, but there are others used in both sectors.

In any case, organisations who take part find it useful to be able to compare themselves against others, and our previous surveys have addressed IT spending plans, costs, outsourcing trends, social media, cloud usage, and types of software procurement.

As an introduction, we have summarised here our findings from last year's private sector survey based on the responses from 30 or so leading property investors and managers.

System satisfaction

We found that satisfaction with systems and suppliers is high – much higher than we expected from anecdotal evidence (but perhaps that's because organisations normally tend to talk to us more when things need fixing!).

The results also indicate that suppliers have a good understanding of the way their clients need to use the software (as well as being adept system designers and technical developers).

However, there is less satisfaction with the suppliers' services than with the systems, highlighting potential improvements that suppliers could make to their services rather than a need for new functionality.

The key themes that come up again and again when we ask organisations what they want from their ideal software supplier tend to be about the service rather than the software:

- Readily available and quality staff resources when they are needed
- Suppliers taking more responsibility for developing the products
- "Open and honest" communications
- Less "over-selling"
- Fast response to enquiries and in the delivery of solutions.

There are clearly potential improvements that suppliers can make to their customer relationship management rather than the need for new functionality. In the main, it's still about getting the basics right.

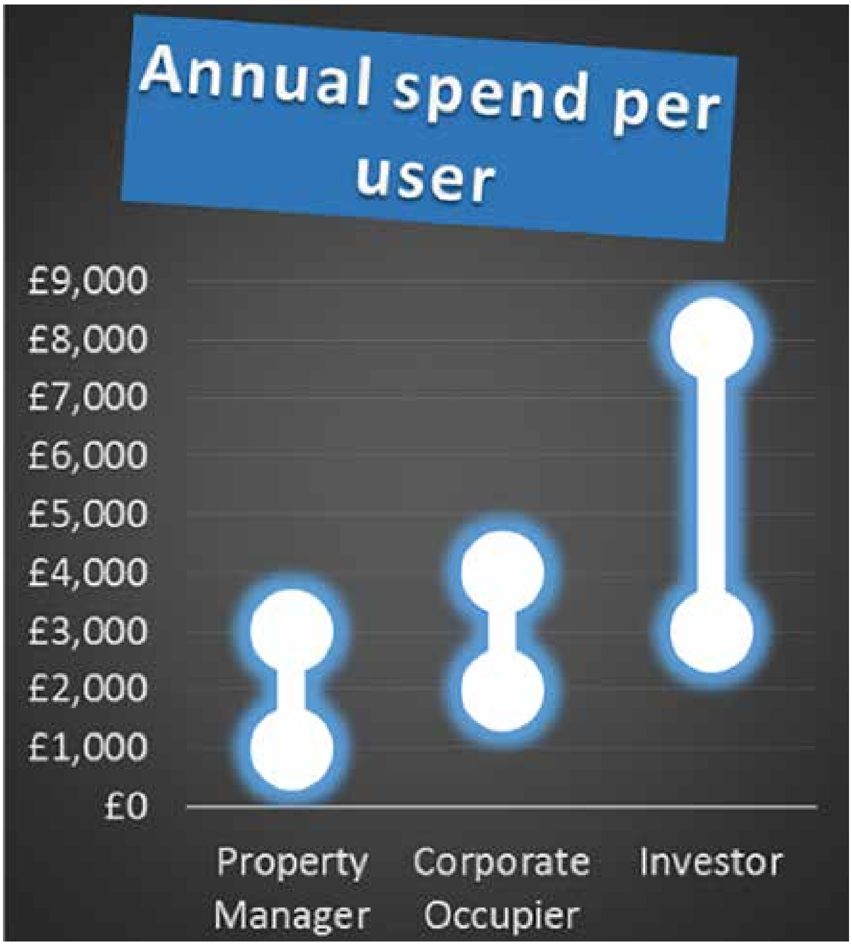
Annual system spend

Our results showed big variations in annual spend on systems - largely reflecting the initial cost of the system and the amount of ongoing development.

Unfortunately, there is little correlation between annual spend and satisfaction with systems or suppliers.

Average spend per system users shows a difference across the various types of organisation – matching the pattern of results from our previous surveys.

Interestingly, the organisations with highest spend per user tend to be those with the newer systems – maybe a rise in licence fees as suppliers extend the scope of functionality, but more likely the higher investment on customisation of a new system in the early years after initial implementation.



System age

The average age of the systems in use today is 10 years and one participant has a 29 year old system which has been regularly updated. Ten years is a long time with no upgrade but it does show that long term relationships with IT suppliers can work well.

While there was a dip in new systems implementations after the financial downturn of 2007/8, new systems activities appear to have picked up since 2012. Other than that, we have spotted no direct correlation between economic cycles and new system procurement.

In our experience, most property organisations have a more reactive attitude towards IT investments, often because IT investment goals and benefits are difficult to measure and quantify. We find that organisations only seek IT advice and look to make new investment when they are faced with specific issues.

System ownership

Surprisingly, only one investor and one occupier said that they use their service provider's system. The majority of the investors and occupiers (and all of the property managers) use their own property system.

This seems very low compared with our experience in the market. Nevertheless, in recent times we have seen a number of organisations who previously used their property manager's system switch to using their own system.

Of course the property managers do not particularly like this trend. However, using their own systems gives clients greater feelings of control and security, and a platform on which to consolidate their portfolios where they have outsourced to more than one property manager.

The difficulty for clients using this model has always been how to manage efficiently a regular feed of clean data from their property manager's systems. Some interesting products have started to emerge on to the property software market to address this issue.

The future...

The respondents to our private sector survey largely commented on the mainstream property management systems. However we have recently seen a lot more interest in facilities management (FM) functionality as organisations start wanting to better support the FM processes with technology.

It will be interesting to see how the software market develops because of this demand and the gradual increase in data that is becoming available to enable more sophisticated management of buildings. We expect to see a blurring of the lines between the mainstream property management systems and the Integrated Workplace Management/FM systems as they build out functionality which crosses into each other's traditional footprints. Then there's the question of when both these types of system will start to integrate more closely with the building "big data".

We think that there will be an interesting and vibrant period of progress in the property and FM systems market, and the continuing development of systems for other niche aspects such as portfolio asset management asset and capital planning. There are other drivers too – demands for different types of property, pressures to make better use of existing space, changes in retail, sustainability reporting and green leases, and greater compliance, to name but a few.

We look forward to be able to compare the responses from the ACES survey of the public sector with our findings from the private sector, and seeing whether the business of managing property assets is really helped or hindered by the systems organisations use.

COMMUNITY OWNERSHIP FORUM

Meeting on 21 May 2014

This summary is taken from the notes prepared by Nicola Berry of Locality.

Updates from Forum members

Department of Communities and Local Government is in the process of tendering for 2015/16 communities support contracts, including Community Ownership and Management of assets. New contracts will start in April next year. The contracts emphasise brokering relationships and partnerships in local areas and with local authorities.

There will be a seminar in early February 2015 on green space as this has emerged as a topic of DCLG interest.

A Communities and Local Government Select Committee has taken place on Community Right to Bid. There was a strong indication from community organisations that the 6 month moratorium was not long enough (9 months was suggested) and there were concerns that there was no appeal process. There are also concerns that there is not enough influence on the planning process. Some consultees suggested Right to Buy provisions. Local government officials have said that the process is too burdensome. The Committee was focussed more on the legislation rather than support.

Government's 2015/16 programme is focussing on partnership models between public bodies and communities. Pre-feasibility funding would be available but only for groups working in partnership areas accepted onto the programme (at least 50 areas). It is not a general open application grants fund. The focus is also on 'ambitious' projects e.g. multiple asset projects and ground breaking projects that focus on broader issues.

Locality believed that over £30m is likely to be raised through community share offers this year, encouragingly by ordinary people investing. Half the market is in community energy. Both public and private sector organisations are cutting their assets, including heritage buildings, former council buildings, theatres, leisure facilities, libraries, green space, banks and retail stores.

The Plunkett Foundation is working with Locality looking at the urban shop. There is a lot of demand for support and more models are developing for pubs, shops, community woodlands, farming and food. How do we support the pioneers who are doing things differently?

The revised 'Pillars of the Community' asset transfer guide for heritage assets has been launched and it well worth looking at: https://www.english-heritage.org.uk/publications/pillars-of-the-community/

Local authority asset workshops 2014

7 workshops were organised by DCLG. The series started off with panel discussions but that format was changed to round table discussions which seemed to work much better. The attendance was generally good at all the workshops and there was a lot of discussion, but the issues were common regardless of location. The interest was mainly in asset transfer rather than Right to Bid. They all received very positive feedback.

There were varied levels of experience - capable authorities who were enthusiastic and those that were there to learn. There were also some good case studies throughout and interest in practical issues and tips to make the process work better.

DCLG has offered more workshops to local authorities and elected members but the take-up has been disappointing.

Research

Big Society Capital has been working to plug the evidence gaps around the impact of community ownership, including estimated demand, who is involved and who still wants to be, across the country and to really understand the types of assets and models that are viable. Additionally, evidence is needed concerning investment and the different kind of financial opportunities available.

The Architectural Heritage Fund is looking at the wider social impact of taking on buildings.

Locality has produced its impact report on members for many years and there is also data available from the Community Shares Unit. There are quite a lot of publicly funded bodies that produce reports on the impact of their funding.

The Plunkett Foundation is producing its annual community shops and pubs report.

Community Matters is developing an impact framework to look at positive achievements as a support organisation.

The following article is adapted from a presentation delivered to an English Heritage Historic Environment Local Management Seminar on 3 December 2014.

COMMUNMITY ASSET TRANSFER – THE LOCAL AUTHORITY PERSPECTIVE: WHAT ARE WE LOOKING FOR?

Steve Hoyle

Steve is Lead for Asset Management for Calderdale Metropolitan Borough Council. He is in charge of the council's Community Management of Assets Policy and Procedure.

Introduction

I was asked to provide a presentation by English Heritage on the local authority's requirements of a community group when requesting a community asset transfer of a heritage building, following my involvement with the organisation on a potential Community Asset Transfer of a Grade II Star Listed former gaol premises in Illingworth North Halifax (not completed when this article was written).

Many groups consider community asset transfer as a reaction to a particular event, be that the potential closure of a building or service that is run from a building. As a result, groups invariably do not fully consider the rigorous demands of the process and the lengths they need to go to, to demonstrate that they are a fit and proper organisation with a business case that evidences that their proposal can deliver additional benefits for the community.

It is therefore imperative that the group fully understands the various detailed information that the local authority requires at the outset so that time and resources are not inefficiently used or wasted, as well as being able to determine a way forward for the property, be it via community asset transfer or other disposal method.

The requirements for any group are very similar whether or not it is a heritage building, the main difference being that a group must fully

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demonstrate how it will deal with the additional issues a listed or heritage building brings.

Calderdale Council has a strong history of actively promoting community asset transfer, producing its first Asset Transfer Framework in 2010, which was refreshed in 2011 and completely revised in 2014, to take account of lessons learned during this period. The council's latest policy, procedure and documents can be found on the website which includes information for groups considering community asset transfer.

http://www.calderdale.gov.uk/community/community-facilities/asset-management/index.html

To try to simplify the Community Management of Assets, the council's new policy and procedure has 2 routes:

Route 1 – where there is a lower level of responsibility and a licence or short or medium term lease is more appropriate. This is dealt with by the Asset Management and Neighbourhood Teams, and

Route 2 – where it is a more complex situation and a long lease or freehold may be granted. This route has a 3 stage process: Expression of interest, Outline business case and Full business case.

Calderdale has been involved in many smaller asset transfers to the community. It is easy to forget that community asset transfer has been around for many years, with the leasing of buildings to community groups for various community purposes. It has also completed 11 complex community asset transfers, with 3 currently approved and in solicitors' hands. The only way that we have achieved these transfers, some of which have been exceptionally involved and complex, has been to adopt a 'partnership approach' with the community groups.

With any potential community asset transfer, early discussions and assistance from the council is essential so that an interested group fully understands what is required, what can and can't be done and how long things may take! From inception to signing of the lease, the timescale for completion of an asset transfer is normally 18 to 24 months, with the longest being 36 months.

So what does the council expect from a group?

The basics:

- to understand the process
- appreciate the amount of work that is required to complete successfully an asset transfer; use the free assistance that is available from the council, sector support, Locality and experience of successful groups, at an early stage
- to know what they want to do (this has to come from the group not the council)
- not to commence the process unless they are ready to do so
- to deliver to the timescales set out
- to be professional
- to use consultants where prudent to do so, and
- to view the council as a partner not an enemy.

In addition, and as an **essential**, the group must have a huge amount of optimism, but also have an element of realism!

A group must be able to demonstrate that it is capable of running the building for its intended community purpose and that it is a viable proposition. Ultimately a group will have to take on the building, all its liabilities and all issues associated with building ownership, including renovation, refurbishment, funding and maintenance. It is therefore imperative that a group can fully demonstrate and evidence to the council that it has a full appreciation of all the issues and that it addresses these in its business case.

The council therefore needs to see a wide range of information from a group


Illingworth Gaol

to demonstrate the above. The group needs to provide evidence that it:

- has the capacity to deliver
- has members which have a range of skills or know how to source the skills that are missing/lacking
- has a strategy for succession planning
- understands the risks involved and how they can be mitigated
- understands the likely sources of funding and its chances of success
- understands the likely revenue costs
- understands ongoing maintenance and repair costs and liabilities
- has a clear, practical, achievable vision for the building
- understands building related issues
- understands planning/conservation/heritage issues
- has a clear business plan which outlines various scenarios
- has appropriate policies and procedures in place
- understands and enacts the VISIBLE requirements or an equivalent [VISIBLE details can be found at http://www.visiblecommunities.org.uk/]
- demonstrates how its proposal provides added community benefit, and
- provides a coherent, detailed business case.

To summarise, a group has to demonstrate that it has the commitment, drive, knowledge and relevant skills to achieve a successful transfer that provides added benefit to the community, through improved use of the building or land.

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ONE FOR THE ROAD? HOW EMPTY PUBS CAN BLIGHT THE HIGH STREET

Although Simon concentrates on the challenges of securing empty pubs on the high street, the solutions proposed could apply to any vacant buildings.

Simon Broadbent

Simon is Chief Executive of specialist contractor Secure Empty Property.

The health of the high street, commercial and town centres is significantly affected by the retail environment. And few retail sectors have been so badly impacted by the recession and changes in legislation than the pub sector.

Recent reports indicate that 31 pubs are closing each week in the UK. Pub numbers have fallen from 68,000 in 1982 to 48,000 in 2013 – a 40% decline. Overlooking the nostalgic handwringing over the demise of our favourite local, this creates a dramatic change in the profile of town centre property and so creates challenges for the local authority. The economic impact to the authority of lost jobs and diminished business rates income is exacerbated by the blight on the high street of another vacant property. Vacant pubs, or voids, are a magnet for crime, stimulating and becoming a focus for vandalism, theft – especially metal theft - squatting and even arson. Worse, badly managed void pubs can have a wider detrimental impact to the adjacent shops and high street, creating a spiral of decline.

For some areas, void rates in the retail sector are improving slightly from an average 15.1% to 13%. However this improvement is very location dependent.

Few industries outside the pub sector have faced the 'double whammy' of recession and constricted retail spending, as well as legislative interference. The proportion of beer sold in pubs versus at home has dropped from 68% in 2000 to just 50% today due to intense price competition from the supermarkets. Add to that alcohol duty, VAT, business rates and inflationary energy bills and the commercial challenges keep coming. Recent controversial changes to the 'beer tie' system could also damage the industry. Here, all tied tenants would have the right to request a rent review if they have not had one for 5 years, together with the option for pub landlords to buy beer on the open market. The British Beer & Pub Association claim this new Bill could result in more pubs closing with 7,000 job losses as the pub management companies are deterred from investment in their property portfolio.

The 'snap-shot' of void numbers however is too simplistic. The big pub companies are in a continuous process of upgrading, refurbishing, purchasing and divesting their property portfolio. It's a significant challenge to match customers' expectations in the pub's facilities and its geographic location and local footfall. And the property portfolio can be extensive

with companies such as Enterprise Inns and Punch Taverns managing 5,000 and 4,000 pubs respectively. Therefore a pub can be void as a result of investment in new kitchen facilities or change of ownership rather than a sign of neglect and disrepair. However, as pubs undergo refurbishment, upgrading or divestment, the void period needs to be managed, to be fair to the high street community and to be 'good neighbours'.

The challenge facing the operator is to assess what measures are necessary to protect the property asset while it is vacant. Moreover, how can these measures be cost effective, support the refurbishment process, maintain the high street 'kerb-appeal' and comply with their insurance companies' policy requirements? Some of these requirements can be mutually exclusive so a 'tool-kit' of options may need to be investigated.

Taking the last requirement first, most insurance policies default to a very basic level of cover after just 30-days' void period. Generally referred to as FLEA cover (fire, lightning, explosion and aircraft) the property owner is now very exposed to losses in the event of vandalism, squatting or theft. Such losses can make investment in on-going refurbishment unsupportable due to additional cost and significantly extended refurbishment time. Recent changes in legislation making squatting a criminal offence in residential property does not generally provide any additional protection to vacant pubs. Worse, the displacement of the estimated 22,000 full time squatters from residential property has heightened the risk to commercial properties and pubs. Significant levels of squatting attack is now reported in London and the south east.

Maintaining the property 'kerb appeal' with aesthetically pleasing physical security can also be problematic. The traditional approach of plywood boarding-up windows and doors creates an eyesore in what are often very public places and has a detrimental effect to the town centre and adjacent retail outlets. The true level of security offered by plywood boarding is also very limited and a determined attack attracted by the potential of high value metal, boilers or fixtures and fittings will not be prevented. The darkened interior also helps the intruders work undetected.

Finally, traditional security measures can effectively hinder the refurbishment process by delaying access to the property, causing damage to glazing, window and door frames and requiring artificial lighting as natural light is blocked.

The above issues can be effectively overcome by the use of bespoke security systems including anti-vandal doors and window screens and the use of specialist temporary electronic alarm systems. Where perimeter security is required, these modular products offer a high level of visual and physical security yet the specialist fixing methods cause minimal damage to the building fabric or fenestration. By allowing easy access into the site and natural light penetration, the refurbishment process is facilitated and the high-value items offered a proportionate level of security.

The alternative, or complementary, approach is the use of temporary alarm systems to detect both fire and intruders. These specialist units are battery powered and communicate to remote Alarm Receiving Centres through GPRS mobile communications. This allows mains power to be isolated – normally an insurance requirement - and phone lines to be disconnected. Wireless detectors allow large properties to be protected without trailing wires. Both systems can be effectively utilised on Listed or protected buildings with minimal risk of damage to glazing, brickwork or fascia.

One pub chain deploys a combination of temporary alarm systems and live-in Guardians to protect vacant pubs. This has the dual benefit of providing 24-hour security even when Guardians are out at work and a 'lived-in' appearance to deter intruders. Guardians can report minor problems at the property without costly inspections but they can be more financially beneficial with regard to mitigating empty property rates. Supporting a change in registered use from vacant commercial property to occupied residential property which incurs standard council tax, the overall cost saving can be significant. Success rates in achieving this change of registered use varies from council to council however; for longer-term voids, it is certainly worth exploring.

So there are a myriad of security solutions to meet the challenges of empty high street pubs. However the one-size-fits-all approach of the traditional security company may not meet all the stakeholders' requirements. Insurance companies' knee-jerk recommendations for


School premises secured

void security tend to be either static guarding or mobile patrols. However, 24-hour guards have a significant cost and the security offered by mobile patrols – absent more often than on site – is generally ineffectual. Swinging in the opposite direction, boarding up damages both the property and blights the high street with little real gains in security. Yet cost can be relatively low with a one-off installation charge. So value for money in vacant property security can be problematic to evaluate, and very dependent upon the individual's viewpoint, the duration of the void, risk profile and ultimate objective of the owner.

As a specialist contractor in this niche marketplace, Secure Empty Property offers clients a wealth of knowledge which is shared free of charge together with a detailed risk, health & safety and security report on each property. By having a range of security solutions and wider property services, the best-fit solution can be delivered nationwide from a one-stop-shop. A unique resource is available to property owners and managers in a web-based 'Risk Slider' which profiles different risk levels to property types and provides security recommendations. This resource can be found at www.secureemptyproperty.com

COMMUNITY INFRASTRUCTURE LEVY – ODDITIES AND TRAPS (OR – ARE THE CIL REGULATIONS FIT FOR PURPOSE?)

David Brock

David gives an authoritative account of how to manage the complexities of implementing CIL. He asks: "Is CIL simple? Clearly not."

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Community Infrastructure Levy (CIL) has been with us since 6 April 2010 when the Community Infrastructure Levy Regulations 2010 came into force. One of the main reasons for its introduction was that s106 agreements were considered to be too complex. CIL would be a simple device. Developers would know where they stand and the payments would be predictable, unlike a s106 negotiation. The cost of infrastructure in an area would be borne by development at a rate or rates per square metre. Although according to the Planning Advisory Service website only 19 authorities had adopted it by August 2013; many more are expected as the April 2015 deadline in Reg 123 approaches.

The 4 years since the original regulations have seen 4 amending regulations, some as a result of policy changes, such as the introduction of the self-build exemption but some to correct errors in the regulations. Nonetheless, some oddities still remain. Many of them are traps for the unwary. This article looks at some of them.

Lapse of reliefs and exemptions

There are a number of reliefs and exemptions from CIL. In most cases they need to be claimed. Examples include social housing relief, charitable relief and the exemption for residential annexes and extensions. However, in a number of cases they lapse if the development is commenced before the claim is decided. This includes residential annexes, charitable relief and social housing. It is unclear why this is appropriate, and it is not a spur to speedy decision-making. It complicates the letting and timing of construction contracts, delaying them from being signed. Developments also cease to be eligible for social housing relief if the assumption of liability is withdrawn or transferred to another person. Again it is unclear why this should be so.

The "innocent landowner"

It is well known that planning permission can be granted over land the applicant does not own. Indeed it is a very common situation for larger developments where the site is still being assembled and the developer has options and conditional contracts. Where no-one assumes liability for CIL or there is a default, the landowners are liable (1). So those selling their land to a developer need to beware. However, what about the person who has not sold, or who does not want to sell? Perhaps they are actually opposed to the development. Under the original regulations, that person – let us call them the "innocent landowner" – was completely unprotected. They would have had to pay the CIL in a default. The position is now addressed in Reg 69A. But the innocent landowner is not protected automatically. In fact, they must first await the service of a demand notice, whereupon they have a right to apply for a declaration that they are not liable to pay until works comprising part of the chargeable development are commenced on their land. However there are 5 conditions to be met, not all of them straightforward, including the requirement that it must be reasonable in all the circumstances that they are not required to pay. This is at best a flawed solution to the issue.

Section 73 permissions

Under s73 of the Town and Country Planning Act 1990 an application can be made for planning permission to develop without complying with conditions subject to which a previous permission was granted. The result of a successful s73 application is 2 permissions. Under the CIL regulations as originally drafted, both permissions were liable to CIL. So if part way through a development a s73 permission was granted, changing perhaps the condition on window design, when that second permission was implemented there was a second charge to CIL. It took 2 years for the unfairness to be recognised, but in 2012 the Community Infrastructure Levy (Amendment) Regulations 2012 introduced new Regulations 9(5) – 9(9).

First it should be noted that they do not change the position for s73 permissions granted before the amendments came into force. Secondly they are clumsily and one might argue ambiguously drafted. Instead of simply giving credit for the CIL already paid, they divide s73 permissions into 2 categories and make different arrangements for each. In the case of a s73 permission which "would not change" the amount of CIL, the chargeable development "is the development for which permission was granted by the previous permission as if that development was commenced". The intention is pretty obviously that CIL is only chargeable once. The guidance is clearer; as at 22 December 2014 it read: "If the section 73 permission does not change the liability to the levy, only the original consent will be liable" (2). But the drafting of the regulation is poor and begs questions.

Why is this? We need to start with Reg 9(1) which tells us the chargeable development is the development for which permission is granted. So every permission changes the amount of CIL payable, because more is payable. What the draftsman (probably) means is "would not change in comparison with the permission to which the s73 permission relates". But even with those additional words there appears to be an ambiguity; Reg 9(6) states that that the chargeable development under the s73 permission is the development for which the earlier permission was granted. But one might argue that this means there are still 2 chargeable developments.

The second category is permissions where the amount of CIL would change. In those cases Reg 9(7) says that the chargeable development is the most recently commenced or recommenced development. Then we go to Reg 74A where we see that where CIL has been paid, a s73 permission issued and a revised liability notice has been issued because the chargeable amount has changed, a person liable to pay CIL can apply to have the earlier CIL credited. That has more logic to it than the "no change" position. But it also has difficulties. Liability notices are served on (amongst others) all landowners. Landowners are liable in default. So are they all expected to apply? If so, this is a significant burden in the case of sites assembled from many owners, many of whom may be individuals without access to the specialised CIL advice available to developers. Even some larger and more commercially savvy landowners may miss these issues.

Self-build, assuming liability and State Aid

We have a much lower rate of self-build than other European countries (3). The government aims to double the size of the self-build market with 100,000 new self-build homes over the next 10 years [Ed – see articles in 2014 Autumn Terrier]. The self-build movement has been given a boost by programmes such as Grand Designs. There are plenty of troubles, trials and uncertainties to self-building. So removing CIL would be very welcome.

But how does it work? Firstly, before becoming eligible for the exemption, the self-builder must assume liability (4). This, it is submitted, is a serious burden on the self-build individual. Of course, by this requirement the collecting authority's position is made secure – they have a development on the hook which must pay CIL unless it can show that it is entitled to the exemption. But the self-builder's head is in the noose and they will need to take care to ensure they can get out, and get out completely.

One aspect the self-builder will need to consider carefully is State Aid. Reg 54A(10) brings the unwelcome news that "An exemption for self-build housing cannot be granted to the extent that the collecting authority is satisfied that to do so would constitute a State Aid which is required to be notified to and approved by the European Commission". There may be a temptation to dismiss that as a European issue which could not possibly affect private individuals, but that would be a mistake. The DCLG guidance is not reassuring and (as at 23 December 2014) clearly contemplates that a self-build exemption could constitute State Aid (5). State Aid is a complex area. From where is the self-builder to get the specialised advice at reasonable cost? State Aid is a risk which is borne by the applicant ("supplicant" perhaps) for the relief and the risk cannot be completely closed off before the application is made, as the decision of the collecting authority cannot be fettered by previous agreements. And the self-builder will by this stage have assumed liability. (This problem also affects for example charitable and social housing relief.) If the application for relief could be made before assuming liability the position would be less unsatisfactory.

The other more straightforward and manageable risk for self-builders is that if they commence the development before the relief is granted, the relief is lost – see Reg 54B(3).

Regulations 122 and 123

Regulation 122 turns the policy tests for planning obligations into legal tests by preventing a planning obligation which breaches any of the 3 tests from being taken into account in deciding whether to grant planning permission. The tests are that the obligations must be:

(a) necessary to make the development

acceptable in planning terms

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development.

So for example, questions have arisen whether preventing one part of the development (a foodstore) from opening until a stadium construction contract was let was lawful (6), whether obligations which only partly mitigated the planning detriment met the tests (7), and whether on the grant of a planning permission for a new rugby ground, the sale of the old rugby ground to the council for £1 to ensure its continuance for recreational purposes, something not in doubt, was both directly related and necessary (8).

This single provision has created litigation on this question where little if any existed before. It creates difficulties for planning officers seeking to write reports which comply. The Planning Inspectorate is even reported to be rejecting planning agreements which contain the common requirement to pay the planning authority's legal fees because of it.

Regulation 123 is more convoluted. It does 2 things. Reg 123(3) limits pooling. That is to say it states that a planning obligation cannot be taken into account to the extent that it funds infrastructure and there are 5 or more separate planning obligations relating to planning permissions within the charging authority's area which fund the same infrastructure, entered into on or after 6 April 2010. (This does not include "Crossrail obligations" see endnote (9) for further detail, and there is now an exception for planning obligations requiring highway agreements to be entered into – see details in the Community Infrastructure Levy (Amendment) Regulations 2014 reg.12(c)(i) and note the transitional provisions.)

The limitation in Reg 123 applies to determinations made on or after 6 April 2015 or the date when the charging authority's first charging schedule takes effect, whichever is earlier. But how do we know whether there are 5 or more? Planning obligation means the obligation contained within the s106 agreement (subject to the Crossrail exception) (10). So one s106 agreement can contain more than one obligation relating to the same infrastructure. Indeed they commonly do, as they will often require the payment of money and restrict development until the payment has been made, which is 2 obligations. So it is important to count the previous obligations. Breach of Reg 123(3) will result in the planning permission being voidable.

Do planning authorities keep records of each and every obligation? Are the records organised and searchable to see if they relate to the same infrastructure? At least this requirement now only relates to obligations entered into on or after 6 April 2010. As originally drafted it related to all obligations whenever entered into, so at least as far back as 1991.

But above all with this anti-pooling provision, one asks the question, why is it there? DCLG told the author in 2009 that it was to encourage authorities to adopt CIL. In response to the objection that making a planning permission voidable to achieve this was unhelpful, he was told (in all seriousness) that if that was the consequence it would be a good incentive to adopting CIL.

Reg 123 also contains provisions designed to prevent double-charging, that is collecting CIL and requiring a contribution to the same infrastructure through a planning obligation. Where an authority has published an infrastructure list – intended to be the infrastructure to be funded by CIL - that infrastructure cannot be funded through a planning obligation. In an encouragement to adopt CIL, if there is no such list, infrastructure means any infrastructure (though see the comments below on the defective drafting where highway agreements are concerned).

This sensible aim could of course be circumvented by using other powers than s106, for example a highway agreement under s278 of the Highways Act 1980. This seems to have become a problem as in 2014 the regulations were amended so as to refer to highway agreements. However all that they have done is to include requiring infrastructure funding through a planning obligation which requires a highway agreement within the ban (but see endnote (11) for limited exceptions). This suffers from at least 2 problems. First it does not appear to stop a highway agreement which funds infrastructure entered into at the time of the grant of permission from being taken into account. So the ban could be circumvented in that way. Second there is some exceptionally poor drafting, to the point of incomprehensibility, of the meaning of relevant infrastructure in relation to the attempted ban of highway agreements – see endnote (12) for an illustration of the result.

There are other powers which can also be used to get around Reg 123(2), but care must be taken to ensure that the duties created run with the land.

Conclusion

There are other examples of oddities and traps; Regulation 71 says that CIL is payable in full, apparently without any reliefs, where a commencement notice has been served and nobody has assumed liability; the provisions on permitted development are complex which is unfortunate given that many permitted development rights are exercised without people even thinking about whether planning is being engaged, let alone CIL, part of the reason for having permitted development rights being to keep minor development from swamping the planning system; the formulae for the calculation of the chargeable amount are very complex and need input from both surveyors and lawyers; indeed they have been subject to amendments to correct errors which does not inspire confidence that the drafting correctly reflects the intention of the lawmakers.

Is CIL simple? Clearly not. The formulae alone cannot be operated without professional advice. The reliefs and exemptions are complex, with traps for the uninitiated. The State Aid issue creates uncertainty, which never existed under s106 and is unfair on self-builders. The s73 provisions are inconsistently and poorly drafted in a way which creates ambiguity. This is inexcusable in a tax law. The interactions with s106 pay little attention to practical life in the planning department where prior to the regulations there was no recording of individual obligations in a way which would allow compliance. By turning the policy tests into law, a previously quiescent area has become a fountain of litigation.

Are the CIL regulations fit for purpose? The purpose of simplicity is clearly not met. What of the aim to supplant planning agreements? In this they have spectacularly failed. CIL always contemplated having s106 agreements for on-site mitigation. Regs 122 and 123 specifically contemplate the continuation of s106 agreements. But perhaps most telling is that the regulations themselves were amended in 2014 to allow for developers and councils to agree that infrastructure can be provided in lieu of a CIL cash payment, under the terms of a (non-s106) legal agreement.

Endnotes

1. See Regs 33 and 36

2. http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/cil-introduction/

3. See the House of Commons briefing paper 7 November 2014 www.parliament.uk/briefing-papers/SN06784.pd for a useful summary.

4. Reg 54(2)(a)(ii)

5. See http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/relief/state-aid

6. Derwent Holdings Ltd v Trafford BC [2011] EWCA 832

7. Two cases with the same parties about the same development: R (oao Mid-Counties Co-op) v. Forest of Dean [2013] EWHC 1908 and [2014] EWHC 305

8. R. (oao Hampton Bishop PC) v Herefordshire Council[2014] EWCA Civ 878

9. The definition of planning obligation in Reg 123(4) includes the following: "...but does not include a planning obligation that relates to or is connected with the funding or provision of scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008"

10. The phrase "planning obligation" is often used to mean the agreement under s106. But that is wrong as sections 106(1) and (9) make clear. S106(1) states that the obligations are the individual duties within the s106 agreement which comply with s106(1). They are contained in an "instrument" – see s106(9), that is to say the s106 agreement

11. But note that some highway agreements are exempt from the ban – those with the Minister or Transport for London – see Reg 123(2B)

12. The point is a little complex, but can be illustrated simply in the case of the parallel ban on conditions which require highway agreements. In those cases the modifications to the result in the following wording:

    "(2A) Subject to paragraph (2B) a condition falling within either of the following descriptions may not be imposed on the grant of planning permission— (a) a condition that requires a highway agreement for the funding or provision of no infrastructure to be entered into".

    This does not make sense. See the definition of relevant infrastructure in Reg 123(4); the problem is the words "no infrastructure" (which cannot mean "any infrastructure" because of limb (b) of the definition).

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HOW TO VALUE A SCHOOL – IT'S AN ART NOT A SCIENCE

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William gives a clear summary of the methods of valuation of schools, depending on who is the operator, and future options.

School administrators often ask how we value their property assets. The answer is not always straight forward.

The initial questions a valuer asks are what are we valuing and for what purpose? It may be the whole school, surplus property at the periphery, or the playing fields. Valuations may be for loan security, financial reporting, acquisition, disposal, Charities Act compliance, rent review or lease renewal, business rates or capital gains tax. The issues that emerge and the valuation approach will be dependent on the individual circumstances. A detailed understanding of the relevant market and complexities of educational assets is key.

Basis of valuation

Market Value is the most commonly used basis of valuation. In simple terms, this reflects the realisable price between a willing buyer and a willing seller after a reasonable marketing period. This is used for loan security, acquisition and disposal purposes. For financial reporting purposes, Existing Use Value would be used under UK GAAP accounting requirements and Fair Value under International Financial Reporting Standards (IFRS).

You may hear the term 'bricks and mortar' which in effect, is the Market Value with vacant possession, i.e. if the school closed.

Method of valuation

In practice there are several methods for valuing a school depending on the circumstances:

- Comparison method – evidence of freehold and leasehold transactions of other schools and similar properties are analysed, adjusted and applied to the subject property. Adjustments would be made to reflect location, quantum, condition, any legal or planning restrictions, and facilities e.g. sports pitches etc.

- Profits method – this particularly applies to independent schools. The valuer's job is to assess the Fair Maintainable Turnover of the asset, fully equipped, that would be generated by the Reasonably Efficient Operator. The valuer would apply a capitalisation yield to their assessment of Fair Maintainable Operating Profit [may be equivalent to EBITDA (earnings before interest, tax, depreciation and amortisation)].

- Residual method – vacant school assets may be assessed having regard to market demand and pricing for a continuation of their existing use as well as 'hope value' for any higher value alternative use and redevelopment potential. The valuer assesses the gross development value from a scheme of realistic redevelopment and deducts development costs. The residual land value is then adjusted for planning and other risks.

School uses are often protected by planning policy as 'community uses' and their loss is often resisted. However, through social, economic or demographic change, schools become surplus and on this basis the local authority may consider alternative uses. These matters require detailed investigation and the valuer needs to make a judgement in assessing the likelihood of higher value alternative uses taking account of the risk, costs and delay in gaining planning permission. This is of particular importance when considering charity assets in order to comply with the obligations under the Charities Act by undertaking pre-sale valuations and advice on strategy and to ensure that best terms are received on a sale.

- Depreciated Replacement Cost (DRC) – used for specialised buildings which rarely or never sell in the market, e.g. often applied to state schools. The approach is based on the current cost of replacing an asset less deductions for physical deterioration, obsolescence and optimisation.

- Reinstatement cost assessment – despite the common misconception, this is for insurance purposes only and is rarely close to the actual market value of the asset.

Playing fields

The most commonly used method for valuing playing fields is the comparative method, based on sales or lettings of other playing fields. If the playing fields are being valued as part of a school then it is important to know your comparables and the quality and quantity of the provision.

Playing fields are generally analysed on a per acre basis, and adjustments are made for quantum, the number of 'pitches', the quality of the grounds; i.e. what type of surface, is it level, is there adequate drainage, and whether the fields have good access or parking for third party use for additional income. The type and nature of facilities will also impact upon the value such as a pavilion, clubhouse, changing facilities, and the quality of such buildings.

A particular influencing factor is the potential for alternative use. In analysing this potential, it is important to understand fully the planning environment. Local authorities usually have planning polies which protect community uses and/ or recreation. In addition, any planning application which involves the loss of playing fields will need to be referred to Sport England, a statutory consultee to the local planning authority. It is Sport England's policy to object to the loss of a playing field, unless it meets the relatively narrow exceptions and unless the playing field is reprovided. It is generally difficult to gain planning permission for alternative use of a school playing field but, considering the generally urban location of schools, it is important not to overlook any hope value which may be attached to the land for higher value land uses, e.g. residential. In valuing the alternative use value, comparable land transactions and the residual method of valuation are used.

Demand for D1 property

Location, location, location – the 3 most important factors in determining property value also applies to schools! Rents of school premises in Greater London may generally range from c£15 to £40 p.sq.ft. and outside of London may be circa £3 to £15 p.sq.ft. A wide range of issues determining trading potential and value are at play.

In planning terms, day schools fall into Use Class D1 of the Town and Country Planning (Use Classes) Order 1987 (boarding schools Class C2). D1 covers a wide range of different uses including nurseries, clinics and health centres, art galleries, museums, libraries, places of worship and halls, law courts and non-residential education and training centres. When D1 property comes to the market there is often competing interest from a range of users. In and around Central London, D1 premises are like 'gold dust' given the strength of competing demand attempting to target the level of under-provision.

Outside prime areas, the number of purchasers at any one time and the demand for institutional use is more unpredictable than traditional residential and commercial markets. Outside of London and the Home Counties, particularly in rural areas, the demand for continued D1 use may be limited and alternative use value may prevail.

Leasehold considerations

When valuing leasehold schools the market rent is often calculated based on comparable transactions or alternatively, a percentage of the operating profit. Again, the valuer would identify comparable transactions and make appropriate adjustments for lease length, user e.g. restricted to a particular school use only, or open D1, rent review frequency and basis e.g. reviews to RPI or to open market value, quantum, location etc.

Conclusion

Valuing school property is a complex subject. Through greater understanding of your property assets and the way in which the market would analyse these, school organisations can ensure that the value of their estate can be maximised now and for the future.

BUSINESS RATES – RETENTION BY LOCAL AUTHORITIES WHERE ARE WE NOW?

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This is the follow up to the articles in 2013 and 2014 Spring Terriers which reconsiders the Business Rates Retention Scheme. Changes announced in the Autumn Statement with regard to backdating appeals could have serious impacts on council budgeting.

2013 Retention Scheme

Following on from my article last year, we are now approaching 2 years into the retention scheme that became effective on 1 April 2013.

All of those involved have learnt a lot since the inception of the scheme. Broadly, subject to collars, caps and precepting authorities the idea is that Billing Authorities retain up to 50% of the business rates they collect. Historically of course Billing Authorities merely collected all on behalf of central government.

The scheme is also 'sold' on the premise that Billing Authorities will retain 50% of any new Rateable Value receipt in their area and in certain limited examples of types of property, that can be a 100% retention.

The 'sting' however, has been that Billing Authorities also have to fund up to 50% of losses resulting from ratepayer appeals. The real issue with this is that these refunds are mostly backdated to 1 April 2010 and some even back to 1 April 2005 on historic outstanding appeals.

The losses on appeals have been the major budgeting headache for these first 2 years. Inevitably the older appeal cases outstanding have often been the subject of litigation which has resulted in decisions many years after the effective date. In one or two instances this has resulted in very large refunds due to ratepayers on determination of historic appeals. These refunds have not been the subject of additional funding so they are an extra over cost for the Billing Authority.

In a few cases there have been very large properties with commensurate large assessments giving rise to large refunds disproportionate to the remainder of the Rating List within the Billing Authority area. Some Authorities have entered into local pooling arrangements to attempt to spread the financial risk.

Identification of those appeals outstanding likely to lead to significant refunds has fallen to the local authority and its advisors. It is written in clear terms that the Valuation Office is not in the business of forecasting and nor does it.

Published Valuation Office statistics available to the Billing Authority has improved and more information is available about the appeals outstanding, but absolutely no opinion or advice is tendered by the Valuation Office on the likely outcome of appeals.

As experienced Chartered Surveyors and Rating Surveyors, we at Wilks Head & Eve through our Rates Plus Service have been stepping into that forecasting role, looking at a number of parameters in respect to outstanding appeals and applying value judgement based on the information available, to forecast likely outcomes of appeals to Billing Authorities.

Other systems exists for extrapolation of existing assessments settled and alterations to valuation schemes set by the Valuation Office Agency but we consider that valuer judgement needs to be applied to the Valuation List and is critical in ensuring a better estimation. The Chartered Institute of

Public Finance and Accountancy (CIPFA) agrees and has recently decided to partner Rates Plus with us.

It is fair to say for the most part, Billing Authorities are not so interested in the fine detail or indeed legitimacy of valuation argument between ratepayer/agent and the VOA but actually in the projected outcome. Billing Authorities regard losses on appeal as inevitable but from their budget positions they need to avoid surprises – particularly nasty ones. It is more about accurate forecasting than the actual loses for most.

In some cases, Billing Authorities are starting to take a more active role in valuation considerations and this is borne out of their wish to discover new RV or omissions from the current Rating List. In commencing that exercise, it may have re-energised what they used to do pre-1990 when they last had a financial interest in the Rating List and that is to understand the valuation issues in debate between ratepayer/agent and the VO.

This has led to significant problems in lack of disclosure of information by the VOA, which feels constrained by its interpretation of Customs and Exercise legislation in the information it is able to disclose. This disclosure issue affects ratepayers as well as Billing Authorities. The interpretation by the VOA is not shared by the majority of ratepayers' agents and regrettably, whether justified or otherwise, the lack of transparency has led to significant problems in the administration of the Rating List and also for the number of cases and need for referral to the Valuation Tribunal.

The solution to this must be to codify properly for the purposes of Business Rates a disclosure regime designed for Business Rates and not imported from other taxation legislation.

Autumn Statement review of Business Rates

The government has announced in the Chancellor's latest Autumn Statement yet another review of Business Rates. From all concerned in the smooth running of the system the outcome is critical for the future.

While still considering the fallout from appeals from a Billing Authority perspective, the Chancellor's Autumn Statement has also changed the landscape for the future.

For most of 2014 the Rating Surveyors' profession was dealing with the likely effects of a trumpeted change to appeal regulations to be brought in with effect from October 2014. One of the possible outcomes of that proposed change was to make it harder to lodge valid appeals. A practical consequence of that was to believe that a large number of appeals yet to be made in the 2010 List may have been submitted up to and before October and the new system leading to a spike in the number of appeals outstanding and consequential risks to the Billing Authority budgets.

In the event those changes were abandoned. However, the Chancellor's Autumn Statement has done something else. Regulations are to be made which will limit the effect of any ratepayer appeal made after 1 April 2015 to the rate year in which it is made. Effectively thereby removing the backdating effect of any appeal currently available where appropriate back to 1 April 2010.

Potentially of course this limits the backdating risk for Billing Authorities post 1 April 2015 but it will of course encourage all those appeals not yet made to be served before 1 April 2015, leading perhaps to this aforementioned spike in appeals. We shall see.

However, there is another change and consequence to what the Chancellor had to say. Consistent with existing regulations, the VO has in effect another year beyond 1 April 2015 to 1 April 2016 to make changes to the Valuation List which can backdate to 1 April 2010. This means that for omissions the VO can still backdate for that extra year.

Up to the Statement there was no limitation on this other than the end of the current Rating List which has been extended until 31 March 2017. What does this mean for the Billing Authority?

The second, and for some, more important part of the retention package is to build the RV base in an area, which is not only reliant in new RV from new development, but also on bringing up to date the Rating List and bringing into assessment properties "missed off" the list or otherwise omitted.

This exercise has been underway in earnest now for some time in a large number of Billing Authorities. Certain classes of properties more at risk from omission have been the subject of national projects by the VOA to bring them into assessment.

Up to the Chancellor's Statement many of these projects were ongoing within the VOA with no particular end stop date in view for completion of the projects. Billing Authorities need to assure themselves that if the property is not in the list by March 2015 the VOA is likely to bring it in during the next 12 months, as beyond 31 March 2016 the VO will not be able to backdate an assessment beyond the rate year, whether the property was there historically and rateable or not.

That leads to looking at the powers of the local authority to intervene in the list. Those powers are currently limited. Billing Authorities can opt in to ratepayer appeals which means they can expect a higher level of information flow about outstanding appeals.

In the circumstances of a material change in the area, a Billing Authority may make proposals to alter the list in respect of third party occupied properties. Most significantly though, the Billing Authority has the right to serve proposals to bring into the list properties not in the Rating List which the VO has not brought in. We anticipate that a number of authorities not wishing to await the perhaps uncertain VO action during 2015/16 may indeed serve proposals to bring in known omissions to ensure that their positon is protected.

Ratepayers and their agents are slowly beginning to realise that the Billing Authority is now a stakeholder in the process and will intervene to protect the council taxpayers in its area to optimise the Business Rates receipts and retention. Indeed the Billing Authority would be failing in its duty not to do this.

So what about the future?

It is clear that the 2014 audit of 2013 local authority accounts for the first time started to focus on the estimation of losses on appeal and consequent provisions in the accounts of individual authorities. As time goes on, that audit process, which is a steep learning curve for auditors, will become more refined with more pertinent questions raised. Excessive provisions in accounts and materiality reviews by accountants will all come increasingly under the spotlight as we move to 2014 accounts and the audit requirements.

Local authorities are in a difficult funding position. Many have to face substantive cuts to the services provided in order to balance the budget and may have much more pain to endure in that regard. A number of observers believe 2016 is the crunch time for many local authorities and their funding.

All this puts any omitted revenue or possible additional revenue very much in the forefront for the Directors of Finance. The juggling act of forecasting losses on appeals and finding new revenue just got a whole lot more urgent with the need to have the system working before the backdating processes expire in 2015 and 2016.

Business Rates have come under much scrutiny over recent times and many calls for radical overhaul of what some perceive is an outdated system. The current review would appear to be open to all suggestions - provided the yield of approximately £25bn p.a. is unaffected!

The number of appeals, the length of time appeals take, the accuracy of the List and the ability to budget revenue, are all key issues for the Billing Authorities. It may be that Billing Authorities need greater powers to intervene in the Rating List. What is certain is a greater flow of information and transparency would make the system work a whole lot better.

We have a revaluation in 2017 and with no apparent re-basing in view of local authority budgets – Billing Authorities need confidence in the 2017 List. If they are truly reliant on the VOA to provide security in the accuracy of the List, they need greater interaction to be able to test that for themselves.

To tell an auditor of local authority accounts that all is well because the VO says so is unlikely to get any Billing Authority where it needs to be.

Will retention survive the election in 2015? Good question. The direction of travel seems to suggest it will and across the political spectrum it might be suggested that future Billing Authority percentage retention might actually be greater than the current 50% - interesting times ahead.

CHEAPSIDE BUSINESS IMPROVEMENT DISTRICT

Peter Bennett

Peter is City Surveyor for the City of London Corporation, manages over £3bn of investment property in central London and also provides property services for about 15 Corporation departments. Peter also leads the City Property Advisory Team which acts independently in support of city businesses and the property industry to find solutions for their property related issues in and around the Square Mile. peter.bennett@cityoflondon.gov.uk

Below are extracts of a paper presented to the City Corporation's Policy and Resources Committee in May 2014 proposing setting up a BID. This was approved in the autumn. The author of the report was Simon McGinn, City Property Advisory Team Manager. The editor thanks Peter for making this paper available, which gives useful information to other authorities thinking of becoming actively involved in BIDs.

Background

The Cheapside Initiative (CI) was established in 2007 as a voluntary partnership with the aim of promoting this part of the City as a 7-day retail destination. The Initiative has worked with partners to drive forward the cultural and leisure offer, which has complemented the improvements to the environment that have been delivered by the City Corporation through the Cheapside Area Strategy. Together, the City Corporation and the CI have sought to maximise the impact of the positive change that the area has undergone in recent years. The City Corporation has provided on-going financial support to CI and day to day interaction has been led through the City Property Advisory Team.

In previous years, it was important to support the on-going development of the CI as a voluntary partnership rather than through an alternative mechanism such as a Business Improvement District (BID). However, the CI remained concerned about the long term sustainability of the partnership, while relying on voluntary contributions. In particular, the nature of the partnership meant that it would not be possible to plan from one year to another with any degree of certainty and that the level of contributions received would never deliver a meaningful budget to provide sufficient funds to take forward the key aims of the partnership, with a priority focus on promoting Cheapside as a 7 day retail and leisure destination.

The key point was that new legislation allows local authorities to take a leading role. In the City Corporation's case, where there was a business franchise on top of a small residential electorate, this overcame any problems in having potentially conflicting views from businesses, which was that the BID dealt with extra levels of services not normally provided by a local authority. Therefore it was determined that following amendments to the BID Regulations, the City Corporation could act as promoter of the BID with the CI acting as its appointed agent to manage the BID process and delivery of key priorities of the BID, that will align with City Corporation strategies.

It was agreed that on the understanding that it was a City Corporation promoted BID, that did not relate to the delivery of services that would normally be provided as part of a local authority function, then it would be acceptable for the CI to explore options available and undertake consultation with those businesses in the area about the appetite for a formal BID. This was on the understanding that the CI would be the delivery agent on behalf of the City Corporation.

Over 40 % of the businesses balloted responded (which is considered to be a high response rate compared to what has been experienced with other BID areas) with 90% stating that they supported or maybe supported the concept of a BID.

What is a BID

A BID is an initiative supported by local businesses and the local authority which aim to improve a specified geographical area. Historically BIDs (especially in the United States) have been perceived as being a mechanism to help address municipal failure in an area. As they have developed in the UK, they are now seen as a positive force in promoting business engagement and enhancement of the general economic wellbeing of an area that complements municipal activities. BIDS are principally funded via a mandatory levy on business occupiers which is in addition to the non-domestic business rate, as well as voluntary contributions from local land owners. BIDs vary in terms of their objectives from, for example, increasing visitor and customer numbers to raising the profile of local businesses.

In order to set up a BID in England, BID

proposals must pass the 'dual-key test'. Potential members are balloted and, if the majority vote in favour, and if the combined rateable value of those that vote yes is greater than those that vote no, it will be approved. Once approved all business rate payers in the area must contribute the defined levy. There are normally minimum rateable values thresholds set by BIDs individually, below which businesses do not pay the levy (nor have voting rights).

Currently there are 175 BIDs in the UK of which 37 operate across Greater and Central London with 8 BIDs operating across Westminster.

Proposed Cheapside BID

The area is defined by the institutional anchors of St Paul's Cathedral and the Bank of England that contribute to the area's unique character.

The CI has estimated that a budget of £350,000 would provide a meaningful pot from the levy from which to sustain the activities of a Cheapside BID. This would be supplemented by voluntary contributions from building owners who are not subject to the BID levy. The BID mechanism would provide a guaranteed level of income for 5 years, from which to operate.

The focus of the BID would not revolve around delivery of improved services such as policing or maintaining the environment, as these are already provided for by the City Corporation. The BID mechanism would allow CI to develop activities around areas that would not normally be expected to be the focus for local authority activities. The key areas provisionally identified are:

- Developing a marketing and promotion strategy to support the development of Cheapside as an office and retail destination
- Reinforce area identity and connections between businesses and retailers through initiatives such as the privilege card which requires on-going resource to develop and manage
- Working with businesses to support their corporate social responsibility agenda, particularly around the areas of local procurement, employment and green infrastructure
- Holding events and activities to develop footfall and paying for one off projects such as Christmas lighting
- Working collaboratively with City police and Contingency Planning team, within their established budgets, to deliver a safe and secure environment for businesses and retailers.

BID levy

The approach for arriving at an appropriate levy income for an area, although not prescribed in the BID Regulations, tends to be fairly standard for most areas. In essence a BID proposer establishes a set of 'BID Levy Rules' (BLR) that define what level of levy will be collected and from whom. To achieve the £350,000 contribution required to deliver on the aspirations of the BID, an analysis of the 1,828 hereditaments in the proposed BID area was undertaken. In determination of the BLR consideration needs to be given to:

- Bid levy multiplier – the rate at which to charge. Most BIDs charge a levy of 1%
- Threshold setting out the minimum rateable value of the premises before contributions are sought
- A capped contribution so that larger businesses will not be liable for a disproportionately large BID levy.

A business rate multiplier of 0.25%, together with a threshold of excluding properties falling below premises with a rateable value of £180,000 and a capped contribution so that no business would pay any more than £3,750, was proposed to achieve the necessary income required to support the activities of the BID. Using the suggested rateable value threshold would result in only the largest 220 business hereditaments being affected.

Administration

Part 4 of the Local Government Act 2003 contains the provisions for introducing the BID initiative. The purpose for BID arrangements is to enable the identified projects to be carried out for the benefit of the BID or those who live, work or carry on any activity in the district, financed by a BID levy imposed on non-domestic rate payers, or a class of rate payer in the district. The provisions of the Act allow the City Corporation to be the proposer of the BID and the CI be appointed to act as managing agent to oversee project delivery. The CI would be made up of representatives from the levy paying community and would operate as a voluntary partnership. All funding generated by the BID would be collected and administered by the

City Corporation. A Memorandum of Understanding would need to be entered into between the City Corporation and the CI which would set out the working partnership, roles and responsibilities and legal obligations of the City Corporation acting as BID proposer.

The rating team would administer the billing, collection and recovery of the BID levy. The vote ballot would be carried out as part of the Returning Officer function of the Town Clerk.

The BID timetable, since approval by the City Corporation in October 2014, is:

- Collation of voter contacts Jan 2015
- Campaign start – Jan 2015
- Ballot notice sent out – 9 Feb 2015
- Voting papers sent out – 16 Feb 2015
- Ballot – 12 March 2015
- BID go live – 5 April 2015.

The way forward

If the City Corporation had not decided to promote the further development of a Business Plan, to be taken to a formal Ballot in April 2015, it would mean that the CI would have a straight choice of either seeking to promote the delivery of a BID without City Corporation approval, or to wind down the activities of the partnership due to there being a lack of sustainable funding. Under the terms of the BID Regulations it is not a requirement for a BID proposer to have the agreement of the local authority, although it is considered to be highly desirable; not supporting could be perceived as being out of touch with the aspirations of business stakeholders.

The BID will provide a body that is a focus for delivering key messages. The BID concept is in tune with the localism agenda and will demonstrate that the City is a relevant area from which to do business and help promote a greater diversification of the business base.

The Editor will keep a watch on the progress of the BID.

THE INEXORABLE RISE OF QUATAR AS A PROPERTY INVESTOR

Kevin Joyce

Kevin is a Principal Development Surveyor in the Property Services Division of the London Borough of Wandsworth.

Kevin gives another insight into eye-watering investment trends in London. Strong competition for investments is likely to impact on capital values and yields.

Back in 2006, when the Four Seasons Health Care care homes group was acquired by Three Delta, an investment fund backed by the Gulf emirate of Qatar, few would have envisaged just how extensive Qatari involvement with UK business and property markets would subsequently become.

Despite being only half the size of Wales and with a population of no more than 1.7m people, Qatar has vast gas and extensive oil reserve resources, with the gas reserves estimated at 26 trillion cubic metres, enabling Qatar to become the world's largest exporter of liquefied natural gas (LNG). The UK is a principal beneficiary of these gas exports, with some 15% of the country's entire gas needs now being met by Qatar, primarily through LNG cargo shipments through Milford Haven.

The Gulf state, ruled by the 8th emir Sheikh Tamim bin Hamad bin Khalifa al-Thani, has purposefully endeavoured to divert its wealth away from a dependency on energy natural resources through reinvestment of gas and oil revenues into both the home economy, as well as into overseas investment, managed largely through the emirate's sovereign wealth fund, the Qatar Investment Authority (QIA), led by its CEO Sheikh Abdullah bin Mohammed bin Saud al-Thani. Although the QIA does not publish details of its assets under management, these are currently thought to exceed some £110bn in value.

International investments

The QIA has acquired interests in businesses around the globe, notably in the banking sector (Deutsche Bank, Credit Suisse, Agricultural Bank of China and the Brazilian arm of Banko Santander), oil (Royal Dutch Shell and Total), utilities (Spain's Iberdola), rail operation (Germany's Deutsche Bahn), engineering (Siemens), mining (Xstrata), construction (France's Vinci and Germany's Hochtief companies), hotels (the Royal Savoy Hotel in Lausanne, the Hotel Concorde La Fayette in Paris and the raffles Hotel in Singapore), car manufacture (Volkswagen and Porche), luxury goods and department stores (LVMH and Printemps), and media (France's Lagardere), as well as more exotic investments in Italy's Valentino fashion house and the Paris Saint-Germain football club.

Investment activity in UK businesses has included investments in the J. Sainsbury supermarket retailer, the LSE Group, owners of the London Stock Exchange, and Barclays Bank where an investment of around £6.1bn showed an impressive reported return of £1.7bn.

Real estate

Arguably though, some of the QIA's most eye-catching activities have been in the real estate sector, primarily through the Authority's Qatari Diar and Barwa real estate companies, in a series of development projects across London including high end value residential developments at Chelsea Barracks and Grosvenor Waterside in Chelsea, One Hyde Park in Knightsbridge, the Commonwealth Institute in Kensington, the US Embassy Chancery building in Mayfair, Park House in Oxford Street, the Shell Centre at Waterloo, and the East Village at the Queen Elizabeth Olympic Park at Stratford, as well as the Shard office skyscraper at London Bridge.

The QIA has also made high profile investment acquisitions of the Harrods luxury department store in Knightsbridge, the London Intercontinental Hotel in Park Lane, HSBC's global headquarters office building next to Canary Wharf in London Docklands, and a stake in Songbird Estates, the majority owner of Canary Wharf Group, whose assets include Canary Wharf, the Canary Wharf Crossrail station, and an interest in the city office building at 20 Fenchurch Street known as the 'Walkie Talkie' building.

Harrods was acquired from Mohamed Fayed in 2010 through the QIA's strategic investment arm, Qatar Holdings, and looks to be a sound long term investment with record customer sales of £794m in 2014 enabling a reported dividend pay-out of £118m and a £36m royalty payment to Harrods Corporate Management to be made.

As the long leasehold interest in the 5 star London Intercontinental Hotel and the Crown Estate's freehold interest were only acquired in 2013, it is too early to gauge how successful the long term investment is likely to be, although the continuing buoyancy of the capital's luxury hotels market should prove encouraging. The terms of the transaction reportedly included the long leasehold seller, the Intercontinental Hotel Group, becoming the hotel's manager for the next 30 years with 3 further 10 years' management agreement extension options to follow. The Harrods brand is also being taken to the hotel.

With a 28.6% shareholding, the QIA is the largest shareholder of Songbird Estates and in November 2014 submitted an offer of £2.2bn, equivalent to 295p per share, for the remaining shareholdings, alongside the Canadian fund manager Brookfield, itself a 22% shareholder in Canary Wharf Group.

The offer was rejected but not to be deterred, the QIA and Brookfield returned the following month with an improved offer of £2.6bn, equivalent to 350p per share. This offer though was also rejected by Songbird, on the basis that it materially undervalued the company's worth, and failed to reflect the company's unique position and future growth potential, which includes a Wood Wharf development scheme next to Canary Wharf which now has planning permission for some 3,100 homes.

Future property investment

Following the investments made in London real estate and the bid to take over Songbird Estates in its entirety, the QIA is demonstrating an appetite for real estate which shows little sign of abating at present. This market confidence does not appear to be misplaced, as in 2014 UK commercial property proved itself to be a high performing asset class showing year to year investment returns to October 2014 of 20.1%, outperforming both global equities and UK residential property which showed returns of 12.8% and 11.3% respectively.

London continues to be an attractive property investment location for the Gulf state, with the capital's pre-eminence as a global financial powerhouse and home to over 250 foreign banks appearing to be unassailable. These banks have now been joined by the China Construction Bank, which is the first official clearing bank outside Asia for dealing in China's currency, the renminbi, now the 7th most used currency for international payments. The UK is the first western country to issue a sovereign renminbi bond, a sure indication of the intention to strengthen the economic relationship with China. Similarly with India, in November 2014 the International Finance Corporation announced that it had issued a 10bn rupee bond on the London Stock exchange, which is the largest rupee bond ever issued.

The challenge for the QIA could now revolve around not just the identifying of good property investment prospects, but the making of acquisitions in an increasingly competitive and crowded market fuelled by shortages of occupational space driving up rental and capital growth.

Colliers International research indicates that office vacancy rates in the City of London currently stand at just over 5%, compared with a 30 years' average vacancy rate of 7.3%. In London's West

End, office vacancy levels are even lower at 2.3%, significantly below the 5% norm for the last 30 years. Strong demand from overseas retailers is pushing up retail rents to record highs, with 2014 seeing the healthiest prime rental growth since 1998. Both the Westfield London and Brent Cross shopping centres are to be enlarged, and more than 10m sq ft of new retail space has been earmarked for sites including Earls Court, Battersea and Croydon.

Although the QIA is an active investor, it is not one of the largest wealth funds in terms of size of funds under management. The 3 largest funds, Norway's Government Global Pension Fund, the Abu Dhabi Investment Authority, and Saudi Arabia's SAMA Foreign Holdings Fund manage an eye-watering estimated £571bn, £496bn and £484bn of funds respectively, with the source of funds being primarily oil generated revenues. Portfolio rebalancing by one or more of these funds in favour of real estate over stocks and/or bonds, could intensify quite dramatically competition for new high value investment opportunities.

2014 also saw the Japanese government create a £43bn global real estate war chest, as part of a deliberate wider investment decision to move away from bonds to stocks and other higher yielding assets to help address a domestic imbalance between what the government is receiving and paying out in benefits to an ageing population.

It is not just wealth funds, but wealthy private property investors who have been prominent in acquiring landmark London property investments over the last couple of years. In November 2014, Amancio Ortega, the world's 4th richest individual with an estimated worth of £35bn, acquired Rio Tino Zinc's headquarters in St. James Square in the West End, having previously acquired Devonshire House (opposite the Ritz in Piccadilly), the Jubilee House office block in Oxford Street and a City office building at 100 Wood Street.

In the same month, one of the landmark buildings in the City, the 41 storey office building at 20 St. Mary's Axe, more well known as the 'Gherkin', was acquired by the Brazilian billionaire Joseph Safra, who outbid 10 other parties to purchase the investment.

GARDEN CITIES CWMBRAN, GARDEN CITY OF WALES – AN INSIDER REFLECTION

Stan Edwards

Stan looks at garden cities/new towns by focusing on Cwmbran to demonstrate that idealistic concepts may succeed but not in the way that they were planned. It has been useful to be able to track the major changes and there may be some important pointers for Ebbsfleet.

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Introduction

In the light of the government move towards Garden Cities (New Towns) as being a means of fulfilling an immediate housing need I could not help reflect on the characteristics of one I know well. Having worked for Cwmbran Development Corporation (CDC) for nearly 20 years (until 1985) I have been able to view its early (and ongoing) development from close quarters. There was an overt desire to replicate Welwyn's 'Garden City' success in Cwmbran which, although Cwmbran is generally considered a success today, on reflection much is not by following closely the original design, but by adapting to change. The greatest challenge in developing in phases is that the outcome based upon cumulative impacts tends to vary greatly with what was originally planned.

No social science experiment

Those who studied economics were frequently warned that although economics is a social science there is no laboratory way of testing a theory as with the physical sciences. Garden Cities followed by New Towns were in their time ways of fulfilling a need for housing in a pioneering way that necessitated the development of a whole raft of ancillary and associated uses. In the construction of any small town/settlements such as Ebbsfleet, the lessons to be learned from Cwmbran and other New Towns are immense. The greatest of all is that no matter how well things are planned or how politicians are mesmerised by looking gooey-eyed through rose tinted glasses at historic garden cities, they will avoid the reality that whatever is produced in the end will have been shaped through unintended consequences of external and internal impacts on the original plan.

In this vein we look later at 4 sectors in Cwmbran – housing, employment, retail and transport, all closely intertwined.

Planning

In 1949 the original designated area was 3,160 acres (1,279 ha.) based around 3 existing villages in the Eastern Valley of (then) Monmouthshire between Pontypool and Newport. The proposed physical structure was residential areas of the town to be grouped around the town centre. Each neighbourhood had its own social, educational and shopping facilities with each area fed by a district distributor road. A green lung of parkland formed the central recreation alongside the river, Afon Lwyd. Industry was also placed as central as possible, close to existing and the centre.

However the economic, social and environmental structures changed, adapting to imposed circumstances in terms of:

- The Beeching Axe on the valley branch lines
- Failure of the industrial employment base
- Change in household composition and formation
- Change in housing tenure
- Demographic change not just the '47 boomer bulge' traversing over time
- An increase in car ownership
- Local government reform and authority HQ location
- Removal of funding
- Changes not just in shopping location but changes in patterns of retailing
- A push for expansion
- The M4 at Newport late 1960s

Land acquisition

Many New Towns used the New Towns Act CPO powers extensively. However apart from some strategic post s11 situations (see below), most of the extensive tracts of future residential land in Cwmbran were acquired by agreement – I could not see such a similar situation today. It was post 1980 that CPOs were used most to deliver essential highway infrastructure, notably Cwmbran Drive connecting Cwmbran with the trunk road network

Housing

Like Ebbsfleet the original purpose of Cwmbran was primarily housing. The need was obvious regarding the supply of new housing to:

- Replace aging terraced stock
- Provide key worker housing
- Recognise that in 20 years the 1947 baby boomers would make significant demands upon the housing market.

The plan was simple enough in the acquisition of greenfield sites for the construction of housing neighbourhoods within the designated area. Contemporaneously the town centre was created on a phased basis.

The initial population was 12,000 with a target of 35,000 – it is now estimated at just under 50,000. There appeared a naivety that the population would just grow, age and remain in Cwmbran but a number of things occurred that altered the demographic/tenure mix in a much greater way than expected. Wales was not isolated from the other New Towns in the 1960/70s in respect of a feature that also influenced the location of a number of industrial developments.

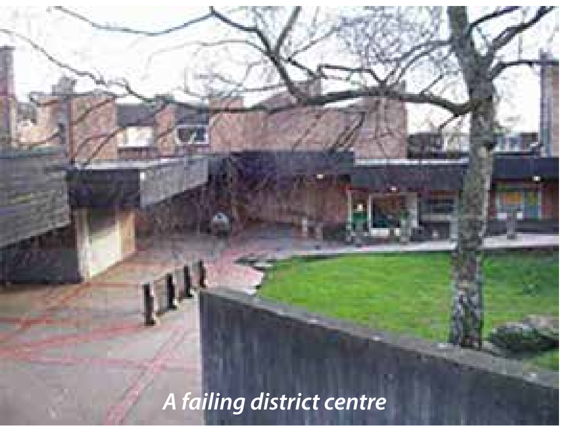
<u>Section 11 New Towns Act 1946 – unintended consequences?</u>
Section 11 was a feature of the Act to take care of a form of New Town blight. The provision was that within a statutory period from the formation of the town, if the residents of non-rented properties had not been approached to sell their property to the CDC, the CDC could be forced to acquire at market value. Whereas it was perhaps not intended to force people out of their houses very many residents (mainly older) took the opportunity to compel the CDC to purchase their old sub-standard properties while at the same time being re-housed in brand new rented stock.

At first this was viewed as a nuisance factor but there were some interesting dimensions. Old families were rehoused in new neighbourhoods; school catchments were impacted; old properties purchased entered the rented stock to be brought up to standard and relet. The effect took place over time so that not all the people from one area dominated a neighbourhood – the demographic mix changed and so did the succession of property ownership. Eventually the CDC's ownership of such properties in a concentrated area became so great that that it became an easy task to CPO the residue and to convert such into industrial/employment use.

Again, the relocation of owners and tenants was to new neighbourhoods being developed at the time. Some acquired cottages, e.g. Garw Row, were preserved in quality enveloping schemes. Section 11 was in time repealed.

Sale to tenants

The other important factor impacting the housing market in the early 1970s was the Conservative government directive to sell rented houses to tenants at discounted prices. It is recalled that there was much Board opposition to this but nothing much could be done because it was government policy. Many tenants took advantage but again the initial take-up was not across the board. Those in settled areas with traditional layouts saw the advantage early on but by this time the architects and planners were experimenting with mono-pitched roofs in confusing service culs-de-sac layouts in the newer phases. Having said that, the present lunacy of reducing car parking provision and access were not even considered, so were amply provided.


A failing district centre

Tenure mix suddenly changed and many new owners engaged in petty turf wars over 3" of boundary. On the whole the scheme was successful in creating a house ownership culture eventually triggering demand for houses specially built for sale, characterised by the volume builders from the 1980s onwards. Today many of the older stock is a source of affordable housing depending upon the location, layout and house type.

This was notwithstanding of course that the CDC continued building houses for rent until the demise of the New Towns in the late 1980s. However things were changing, in that from 1980 there was the additional dimension of 'shared ownership' schemes. The cycle keeps turning, public rented to private ownership and now many returning to rent, but private.

Private sector housing

Whereas the prime provision of housing had been for rent, the CDC followed closely a 'Welwyn' pattern that provided:

- Quality houses built for sale
- Small in-fill sites for local builders
- Sites for self-build plots or self-build groups.

CDC houses built for sale ceased by the early 1970s and it was only when the New Town Corporations were close to being wound up that the volume builders were allowed to bid.

The neighbourhoods

The developed neighbourhoods still retain their own distinct identities and whereas the first estates are known by their names, the residents of the later estates are quite happy (to this day) to be known by their estate development ID name and number. All the estates are constantly going through demographic change whether it be from the younger generation baby boomers gravitation to the cheaper properties of the 1970s and 80s or the baby boomers themselves now seeking to take advantage of large equities.

Severnside Study and expansion of the designated area

In 1970 the Severnside Study was published wherein a recommendation was to form a linear town from Newport to Cwmbran and Pontypool, injecting an additional population of 50,000. Although the CDC carried out studies on this recommendation, they were dropped due to economic and political considerations.

Following this there was a move to expand the designated area of the town. The first proposal 'South Sebastopol' to the north was abandoned in favour of Henllys (located in the southwest) and an area to the south that eventually became Llantarnam Industrial Park. In its final stages (late 1980s) the CDC sold its Henllys lands to volume builders and a significant area to the Land Authority for Wales which released phases to volume builders by tender over time.

In recent years, Torfaen CBC has struggled to provide additional housing, with a project for South Sebastopol, notwithstanding the many objections to Cwmbran coalescing with an adjoining urban area to the north. Such recent developments include a social (affordable) housing requirement and low car provision no matter the impact on marketing. Coupled with this the council has recently received proposals for a 450 dwelling mixed use development to the south. It seems the pressure is on for the Severnside recommendations to be created by default.

Application for Ebbsfleet?

Just as Cwmbran there seems a naive assumption of retention, no migration of population and a limit on growth. Cwmbran set out to have a dormitory function with an ongoing provision for baby boomers. The dormitory function now has wider popular commuter application. With Ebbsfleet there must be an assumed dormitory function plus some local employment.

In reality it seems that over time the natural movement of growth is for coalescence with adjoining settlements so that in such situations the 'stand-alone' garden city just becomes a step in a strategic infill.

Industry and employment

Early on the creation of industry and employment was not a priority. The town fared well with indigenous employers. Additionally there were industries in surrounding areas, not to mention the basic coal and industrial South Wales.

However in the 1960s the CDC eventually recognised the need for quality rack-rented units (75sqm) and advance factories (2,000 sq.m.+) plus bespoke. The boom in Cwmbran came when, before the fettering influence of the EU on State Aid, its Assisted Area status enabled 2 year rent free periods to be granted to 'suitably qualified manufacturing industries' and thereafter to expansion space. After its acme in the 1970s/80s Cwmbran was not excluded from the vagaries of the world market. Most of the established industries have now gone. Some lands were used to produce the Springvale Industrial Estate and the Cwmbran Retail Park close to the town centre.

The sad thing is that when the basic industries and those associated with them leave, everything else becomes footloose. The State Aid regulations have not enabled the industrial base to recover to its former glory but Cwmbran's location and ability to retain what is left does leave a tenuous platform for growth.

Many of the units are now well over 30 years old and require review notwithstanding that many still operate effectively but with a much different trade pattern than in the early days.

Even the large employers like the local authorities have in turn peaked and troughed in Cwmbran. Retail is however a big employer.

Application for Ebbsfleet?
The existed and predicted employment bases are fluid and will impact on household formation.

Retail and leisure

It is on retail, and to a lesser extent leisure, that these days the spotlight falls. A new town centre was proposed in the Master Plan and it seems from records that there were concerns from


Pontnewydd Inn 1976


Inn Transition 2014

surrounding local authorities at the time but this was overridden.

Cwmbran's retail hierarchy
The CDC's implementation of retail was simple enough and to be fair there was no 'competitive intent' with retail in surrounding towns. However the CDC was visionary in realising that retail success was geared to convenience and accessibility in respect of accommodating the increased car ownership. Key to Cwmbran's town centre retail success was a large quantity of free parking.

The developed hierarchy of shopping was:

1. Pantry Shops. Each residential neighbourhood had a 'pantry shop' to provide facilities as a vanguard to the provision of a neighbourhood/ district centre. These were sacrificial and could be easily adapted to residential use.

2. Neighbourhood/District centres. These ranged from 4-10 units with a large district centre totalling 20 units – each was successful in its time but many have fallen foul of the ravages and fragility of the retail market. Many survived by combining units to form supermarkets – a feature that arrived in the early 60s. The early strict user clauses and cross-covenants had to be seriously revised. Turnover rents were considered to retain services in failing conditions. One centre, Llanyravon, with >10 units, is still successful and its features of convenience and accessibility attest to that. The neighbourhood centres declined as the influence of central retail core grew but not just due to the growing impact of that core but to changes in the pattern of retailing generally.

3. Central Retail Core. The central retail core is an expanded version of the original Master Plan but even that may be considered in terms of:

    a. Town centre, forming the core, sitting within a one-way ring-road

    b. Retail Park adjoining with the usual retail warehouses

    c. Expanded retail space including Sainsbury's, Aldi, Lidl and most recently Morrisons.

Any needs in respect of a wider range of comparison goods are accessible within 15 miles. Cwmbran town centre has evolved into a compact multi retail/sub regional retail destination.

Reformed local retailing – the cuckoo in the nest
Whereas there has been a failure in formal neighbourhood centres and to some extent traditional villages, the national superstore operators take advantage of a continued demand for local convenience shopping using the muscle of economies of scale. Such stores operating locally acquire premises with parking potential. Cwmbran is not immune from such activity and redundant pubs are a target. It is easy to identify spending leakage but socio/ economic impact upon traditional centres is unassessed providing, in many cases, unwanted competition and eventually establishing a monopolistic position.

In Cwmbran a failed purpose built neighbourhood pub, the Golden Harvest was taken over by Tesco. The Pontnewydd Inn is in transition.

The application for the garden cities of tomorrow is that where they are formed in close proximity to existing towns/villages, many establishments within those centres will immediately be threatened by national store operators. Such is the case where the planning system provides no protection against cuckoo egg laying.

Succession in Cwmbran town centre
The town centre followed the Masterplan up to a point. The retail core was phased, with the first phase designed initially as a neighbourhood centre for the Northville estate. The trick with retail phasing is balance, making sure that there is not 'too much too early' for the growing population and not too late for the growing population to establish spending elsewhere – the usual 'chicken and egg'. The CDC's aim was the growth of convenience coupled with accessibility. As with the neighbourhoods this was not without its pub, The Moonraker which for many years was the established town centre pub. In the 1970s the planned development of the town centre included quality apartments (Monmouth House) above the shops.

Moving the CDC offices to the centre, as did the offices provision for growing professional firms, assisted in reinforcing spending. Cwmbran attracted Woolco (replaced by Asda), M&S and Sainsbury's to its core – Sainsbury's (on its original site) was the first in Wales.

Transport

The physical structure of Cwmbran is roughly the same as the Master Plan with some adjustments for layouts and circumstances. Although the main railway line to Manchester and Holyhead still runs through the town with its own busy station, the branch lines to the valley which ran through the centre fell foul of the Beeching axe. Although, on the one hand considered a massive erroneous decision, it had to be quickly countered with a rethink on transport in terms of replacing rail with motor transport facilities so that a new highway (Cwmbran Drive) would feed directly into the town centre and on wards north/south. In the Master Plan the proposal was a highway to the east of the town centre running N-S. This remains but not as a major route but effectively adds to highway accessibility and permeability. Additionally for those wishing to by-pass the town completely a highway to the east was constructed. All, including district distributors, provide a highly effective highway network.

Succession

By succession we mean how urban land use evolves focusing above on properties, neighbourhoods and assets over time. This process goes through – growth, maturity and eventual decline followed then by perhaps some kind of renewal.

Finally succession took the form of disposals of CDCs assets when it was wound-up in March 1988. The town centre was initially sold to Ladbrooks and is now with the Prudential. Industrial estates were sold off and the housing and related assets were transferred to Torfaen CBC with the residual rented stock now with Bron Afon Community Housing.

Summary

Something that may not be replicated in the public sector UK today is a pioneering culture (replaced by a heavily risk averse one). Quangos that delivered such settlements received public funding to deliver through a liberty of enterprise provided by the chemistry of its comprehensive in-house seasoned professionals led by acknowledged leaders, most of whom had seen WWII combat action. Staff and Board demonstrated a desire to succeed and deliver with a great appreciation and understanding of community needs and issues.

The Cwmbran Master Plan was produced in almost a ceteris paribus assumption where the town would grow and there would be no outwards or internal migration, industrial or transport change.

It was not expected that the housing market would alter over time but it did; it was almost naive to think these days that a successful retail core would not impact on surrounding towns – but it did; neither was it expected that the traditional industrial base would collapse but it did; neither was it expected, almost naively, that the neighbourhood centres would decline but they have.

The greatest of all is that because of accessibility, convenience and free parking, Cwmbran would become a highly successful town centre shopping area, unintentionally capturing Newport's extensive valleys catchment of spending power. At the 2011 census Newport is the third largest city in Wales, with a city population of 145,736, and an urban population of 306,844. With Cwmbran's population at around 50,000 it punches way above its weight, throwing Reilly's [blunt] law of retail gravitation into disarray. However Newport centre's problems were not all Cwmbran's fault – accessibility constraints and inconvenience sowed the seeds of Newport's own doom (diminishing returns to agglomeration). Whereas Cwmbran does not have its own out of town problem it seems to be impacted to a limited extent by Newport's Sainsbury's and Retail Park. It is a lesson that everything is continually in a state of flux.

Ebbsfleet

Ebbsfleet may have an original set of goals but taking a lead from Cwmbran nothing is to be taken for granted. My fear for Ebbsfleet is that there are many lurking externalities that have been deliberately suppressed in the thrust of gung-ho expediency – 'imperious immediacy of interest' being a major factor in the law of unintended consequences. Do not get me wrong, I am in favour of a developed focus as in garden cities and new towns but I am far more concerned with externalities causing leakages from or additions to the settlement.

In an attempt to avoid creeping expansion, it seems such settlements are a means of growing conurbations. There will be a need in the planning of future new settlements to put in place ongoing Cumulative Impact Analysis to try to manage the final goal.

This is an abridged version of Stan's article. The full one is in the Valuer, March 2015. The Editor acknowledges the support of John Roberts, Managing Editor of IRRV Magazines (The Institute of Revenues Rating and Valuation).

ENTERPRISE ZONE OFFICES

This news report shows that speculative office development is again happening. This supports comments made at ACES Presidential Conference in September 2014.

Enterprise Zones

Enterprise Zones create jobs and boost businesses in 24 areas across England. They are good places to do business for both new and expanding firms, benefiting from government backing. Established in 2012, Enterprise Zones are at the heart of the government's long term economic plan, supporting businesses to grow. Since their start in April 2012 they have laid down the foundations for success, attracting over 300 businesses, securing over £1.2bn pounds of private sector investment, building world class business facilities and transport links and creating over 9,000 jobs. Momentum is now building across the programme and many zones are poised for substantial development in the coming months and years. For further information: http://enterprisezones.communities.gov.uk

Speculative office development

Milton Park is one of Europe's largest business and science parks home to 6,800 people and more than 250 organisations. It accommodates all types of business, from manufacturing and medical services to mobile technology. By having such a large and eclectic variety of companies and individuals, creates an environment that is inclusive, as well as exclusive.

Two high specification office buildings in the Science Vale UK Enterprise Zone have been developed speculatively by MEPC at a cost of £1m, at Milton Park in Oxfordshire, making them the first to be completed in the UK since the government launched the Enterprise Zones in 2012. 101 & 102 Park Drive may accommodate 500 staff, offering business rates' savings of up to £275,000 on 5,000 sq ft to 50,000 sq ft of high quality, flexible, and energy efficient space. Rated BREEAM Excellent, they are thought to offer the only new Grade A office space available to rent across the whole of Oxfordshire.

There is a shortage of new office space in Oxfordshire and demand for these new buildings is high from local, national and international companies looking for high quality buildings. There is also demand from companies already on the Park who need to expand, and new occupiers who require space in a world-leading business community.

MEPC has provided other non-speculative developments during the last 12 months as part of its ongoing development strategy at Milton Park.

RICHARD ALLEN, HEART OF ENGLAND BRANCH

Traffic congestion throughout the Midlands caused travel problems for members and delayed the start of the 6 November meeting held at the Old Town Hall in Bedford. The Chair missed the first part of the meeting and had a 3 hour drive home to Sandwell. Our Mansfield member abandoned his car at Junction 24 of the MI Motorway and continued the journey from East Midlands Parkway by rail. The writer of this report was pleased that for his journey he had decided 'to let the train take the strain'.

Once it got under way, Growth and Development in Bedford was the theme for the morning CPD session.

Mark Oakley, Head of Economic Development and Growth at Bedford Borough Council presented and explained the reasoning behind the council's new 30 point Growth Plan. It covered developing a business rates policy to incentivise and encourage business growth; promoting key infrastructure to support job growth delivery across the borough; reducing time, cost and uncertainty with planning applications; facilitating and promoting jobs growth; and creating a distinctive, attractive and multifunctional town centre for the future. He then outlined their approaches to stimulating growth and presented a case study of the highly successful Bedford i-brand business centres. One successful initiative mentioned was the beneficial networking between small businesses in communal areas by offering free coffee that could not be taken away!

Andrew Broadbent, Development Manager at Bedford B C, supported by 3 members of his project team, introduced the Bus Station Area Improvement project. He explained in some detail how the council took control of the proposed Town Centre West redevelopment, a victim of the recession, and committed to investing £9m in the area for the benefit of businesses and residents of Bedford. Stagecoach, the owners of the bus station, had been persuaded to support the project which provided a new bus station, refurbished public car park and toilets, improved public realm, remodelled 1960s shop fronts and a relocated tourist information centre and ticket office. The biggest challenge had been phasing the development and keeping a high profile bus station operating at all times. This was being achieved by talking regularly to the public, the project being led by an 'in house' design team, and the coordination of estates, transport and communications service teams within the authority.

Steve Armitage, Director, Head of Public Sector Services at Lambert Smith Hampton, who is advising the council, talked about working with the public sector and new means of delivering development projects in the current economic climate. In particular, he presented a number of public/private sector models now available and being used to forward fund preliminary works to bring sites forward for development.

Henry Angell-James, Director at Graftongate, who is developing land west of Bedford in partnership with the council, gave an overview of development in the borough from the viewpoint of the private sector. He said that Bedford was an attractive place to invest because it has a good communications infrastructure, broad skilled labour force, plenty of housing for workforce relocation and growth, a variety of leisure and recreational facilities for families, available land for development, but most of all a local authority positively encouraging and promoting the growth of the town. As a general comment he said that development in the future would be influenced by technology driving new occupier requirements, collaboration between the retailing and distribution industries and demographics.

The afternoon session started with the Branch AGM. David Willetts, Sandwell MBC continued his 2nd year as Branch Chair. Unfortunately it was not possible to appoint a Vice Chair at the meeting. Richard Allen was elected to continue as Secretary/Treasurer but announced that it would be his last year in the position.

During the year the branch had welcomed 4 new members - Colin Packman and Marie Laure Huke (Government Property Unit), Steve Robson (Leicestershire) and Tom Putt (Oxford). Steve Sprasson had transferred from Oxford to Derby.

A financial loss of £514.20 had been made on the year but the branch was still in a healthy position with £3,656.25 at the bank. Accordingly, it was agreed to leave the branch subscription at £30 per annum, and again reimburse any members full subscription and reasonable expenses incurred in attending meetings where their authorities would not meet such costs. One claim, being the first ever, had been made and met during the year.

Recommendations in a paper prepared by the Branch Chair and Secretary for future branch aims and objectives were discussed. It was considered that to promote and justify membership, the aims should be more positive and start with 'The promotion and provision of professional development and the sharing of best practise through networking, holding regular meetings (incorporating free training), exchanging views and providing mutual support to achieve the highest standards of professional performance'. It was agreed that the paper be redrafted accordingly for discussion and agreement at the next general meeting.

Meetings in 2015 were programmed as follows:

5 March - Kettering - Proposed topics to be corporate commissioning, RICS Professional Ethics update and Kettering Town Centre regeneration revisited.

2 July - Nottinghamshire County Council.

5 November - Sandwell.

The general meeting that followed the AGM received a report on the ACES National Conference held in London in September. Four branch members had attended the event organised by 3Fox International. It had been a much larger, more corporate, event than the previous, twice annually more intimate, conferences organised within ACES. There had been a wide range of speakers and around 200 delegates attended over the 2 days.

Under general asset management issues it was mentioned that one council is proposing to vacate the ground floor of its newly developed central hub and make it available for letting to generate income. They are currently considering how staff can reduce from 7 desks for 9 people to just 4. The ACES member already operates from home 2 days per week.

A metropolitan borough council has updated its Tenanted Non Residential Property strategy to retain the top 75% of investment value by retaining the best performing 25% of the asset base, and the remaining 25% of value from the management intensive 75% of the asset base will be sold incrementally over the next 4/5 years.

Another council is considering purchasing a further investment property outside its administrative district using a mix of its own revenue, monies from asset sales and prudential borrowing. It is also considering selling the hotel investment in Scotland bought last year, to turn a short term capital profit of over £1m on the acquisition. This prompted a discussion on the future implications of using prudential borrowing to generate additional revenue through the acquisition of investment property [Ed – see separate article in this edition].

Members gave advice and views in response to a request for what property management systems are available [Ed – see IT survey article in this edition].

There was a discussion on how authorities were meeting the government's data transparency requirements for property and ePIMS.

Finally, it was mentioned that before retiring as Branch Secretary Richard Allen was producing a branch history for inclusion in a future edition of the Terrier. It was requested that the draft be forwarded to all members for comments [Ed – I will look out for that one!].

DUNCAN BLACKIE, EASTERN BRANCH

The meeting was held at the grounds of Peterborough FC on 7 November 2014. There were 32 attendees for the meeting and the AGM.

The first presentation was entitled 'Growing Peterborough' by Nick Harding, Head of Development Control and Construction at Peterborough City Council (PCC). The first thing to note is that Peterborough has been growing since 4000BC! However, the period 1968-88 saw the city grow by 50,000 residents and reach a population of 130,000. It currently stands at 180,000 and is still growing at 1.6% pa. This places it at or close to the top of the growth indices in the UK.

New home completions in the current plan period (to 2026) were 25,000. The recession put this target under pressure but social providers were able to take up a good deal of the slack. Employment has been growing at a rate of 2,500 new jobs in the past 6 months. Growth is embraced and PCC's land availability is coupled with a quick and positive response toward investors/employers. Although there is a concentration on distribution and therefore relatively low paid employment, it is making efforts through "Opportunity Peterborough" to focus on skills development and hence PCC is increasingly able to offer oven ready sites together with a supply of skilled labour.

The retail offer is also strong, with few void units within the city centre. Queensgate, the main mall, has a new investor/owner with plans for expansion and refurbishment expected to be submitted in 2015. In addition 3 new schemes have added 13,000 sq m of new retail floor space in recent times.

Infrastructure is a key part of the City Growth strategy. It is targeted to ensure that people can travel to/from and around Peterborough and to provide better/more attractive access to key sites. Accordingly there is a considerable investment programme in road, rail and public realm. This is supplemented by investments in super-fast broadband and skills & innovation. However, higher education is an area where Peterborough's ambitions have yet to be fully met. PCC wants a university, which would require a minimum of 3,000 students although at the current time it has a Uni-Centre with around 1,000 enrolled.

The Planning Service takes a pragmatic approach to proposals and has been happy to revisit schemes which have not been viable, for example by pooling planning gain resources. However, it is very unlikely to compromise on education as this is a significant pressure. A roof tax has been operating for 6 years and developers have access to a payment calculator which provides an instant response [financially] to proposals. The Planning Inspectorate is currently examining PCC's proposals for CIL and these are expected to be adopted in 2015. The proposals contain a nil payment for employment uses and residential schemes will be charged according to which zone (of 3) they are based in, with attractive areas set to pay a higher CIL contribution.

The second presentation was from Richard Hodgson, Head of Strategic Projects at PCC, whose role was to focus attention at project level. In doing this, Richard chose to talk about the regeneration of the football stadium and adjacent areas. This is described as City South & Riverside and comprises around 110 acres, 95% of which is now in PCC ownership. The carbon challenge housing scheme, situated next to the football stadium, has been brought forward with considerable HCA funding and construction is progressing well with 250 housing starts, two thirds of which are complete. Interestingly, although they are selling well, the units are not commanding a premium over similar but less eco-friendly new homes.

The first phase of the stadium development comprises 2 components - a new stand and a sustainable skills centre that is situated under the new stand. Kier Eastern was the appointed contractor and it is agreed by the professional team advising the client that excellent value has been achieved. The construction cost was £9.5m, £7.5m of which was incurred in constructing the skills centre at £1,700 psm, with the stand costing under £1,000 per seat (against industry comparisons of circa £1,400 per seat).

Funding was underpinned by a number of grants and a capital injection from PCC. The PCC capital investment into the football club is underpinned by revenues, as this is an EU requirement and would otherwise constitute State Aid. This was one of a myriad of complicated requirements that had to be considered and negotiated by PCC. There were a number of parties to the transaction, not only the football club and council. This was partly as a consequence of grant funding conditions which meant that the ground transferred to a community asset trust under a 25 year lease. One of the unexpected consequences was the need to negotiate a 24 year 364 day lease with UK Power in respect of a substation. The legal documentation required to underpin the project was therefore extensive.

The majority of attendees elected to tour the new stand and skills centre under the guidance of Richard Hodgson and his team.

Other Interest Areas

THE SUFFOLK SCRIBBLER

Getting Older

There are, I think, for a man, 3 stages in life when transfer from one to the next calls for either some physical change or some external validation. I am thinking of course of the change from short to long trousers, the change to adulthood, and then becoming "old".

I reckon I was still in short trousers when I started at grammar school but changed soon thereafter, say in 1953. And thinking back it must have been just before 5 November 1965 when, having transferred to British Railways Estates London location, I was constantly implored by local urchins on my way down the steps to Kings Cross Underground to give a "Penny for the guy, Mister."

Now I have just reached the 3rd stage as confirmed by the actions of others. Accordingly you are getting old when:

- I was at the gym and about to change from one machine when another member, who appeared to be at least as old as me, offers me his assistance to get off the machine
- And later in the changing room when putting on a clean T shirt it became locked up in a hopeless tangle and someone comes up behind me and says "Let me help" and frees the whole thing up. It may have been the same man as above
- And a few minutes later, when I thought the coast was clear, I got into the same bind when trying to put on my ex rugby shirt when, lo and behold, the same man strolls in and offers his assistance for the third time!
- Finally I was doing an early run round Waitrose on the Saturday before Christmas when I stopped by the newspaper shelves to get a Times from the top shelf. As it was Saturday the paper was heavier than usual, and I did have my shopping list in my right hand, so I was trying, unsuccessfully as it turned out, to grip the paper and lift it from the top shelf when I felt this very faint tapping on my right arm. It was a very short little old lady who said, "Move out of the way dear and let me help." She must have been in her 80s. So I moved out of the way and she got me the paper without any problems.

And the moral to this story? Accept any help offered with as much good grace as you can muster.

Linguistic development

English is a constantly developing language with new words and or usages being absorbed or discarded by popular demand, as it were, and not through some learned official body, as in France for example. Although ultimately a form of "official" approval is bestowed when a new word is included in the Oxford English Dictionary.

For example the words fab, gear and grotty came into popular usage in 1961 as one of the outcomes of Beatlemania although that word only came into popular usage in 1963 when it was coined by the Daily Mirror as a headline.

More modern new words include chav, omnishambles and credit crunch. Waiting in the wings for inclusion in the next edition of the OED are onesie and selfie where the latter is defined as "a photograph that one has taken of oneself typically with a smartphone and uploaded to a social media website". To show how change is an essential part of the process I did see in a magazine only this week a cluster of close photos of various dogs described as "selfies," not quite true yet but in the future; who knows?

I suspect that this is an area that the BBC would like to have some official involvement in and, indeed, may already be operating covertly to that end. For example I hear on the BBC the word "genre" used on an almost daily basis and yet seldom hear it used elsewhere. Similarly whenever a volcano erupts or large volumes of water escape from a main or a canal the word of choice used to describe this is "spew"; not a form of popular usage. And why is the quantity of water involved always described in terms of a specific number of Olympic sizes swimming pools?

But in my opinion the worst example of trying to start a new form of popular usage is in the jarring format the BBC uses to describe small modern combat aircraft i.e. the expression "fighter jet" is always used. Since the late 1940s I have only ever used the expression "jet fighter" and the only time I have ever heard the BBCs version used is in a 50 year old American documentary broadcast on some obscure satellite channel.

My version is used throughout the Encyclopaedia of Air Warfare e.g. The Early Jet Fighters and in further support of my version, the one that puts the horse before the cart as it were, I quote the first line of the popular song "I'm leaving on a jet plane" and not, you will note, "I'm leaving on a plane jet."

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