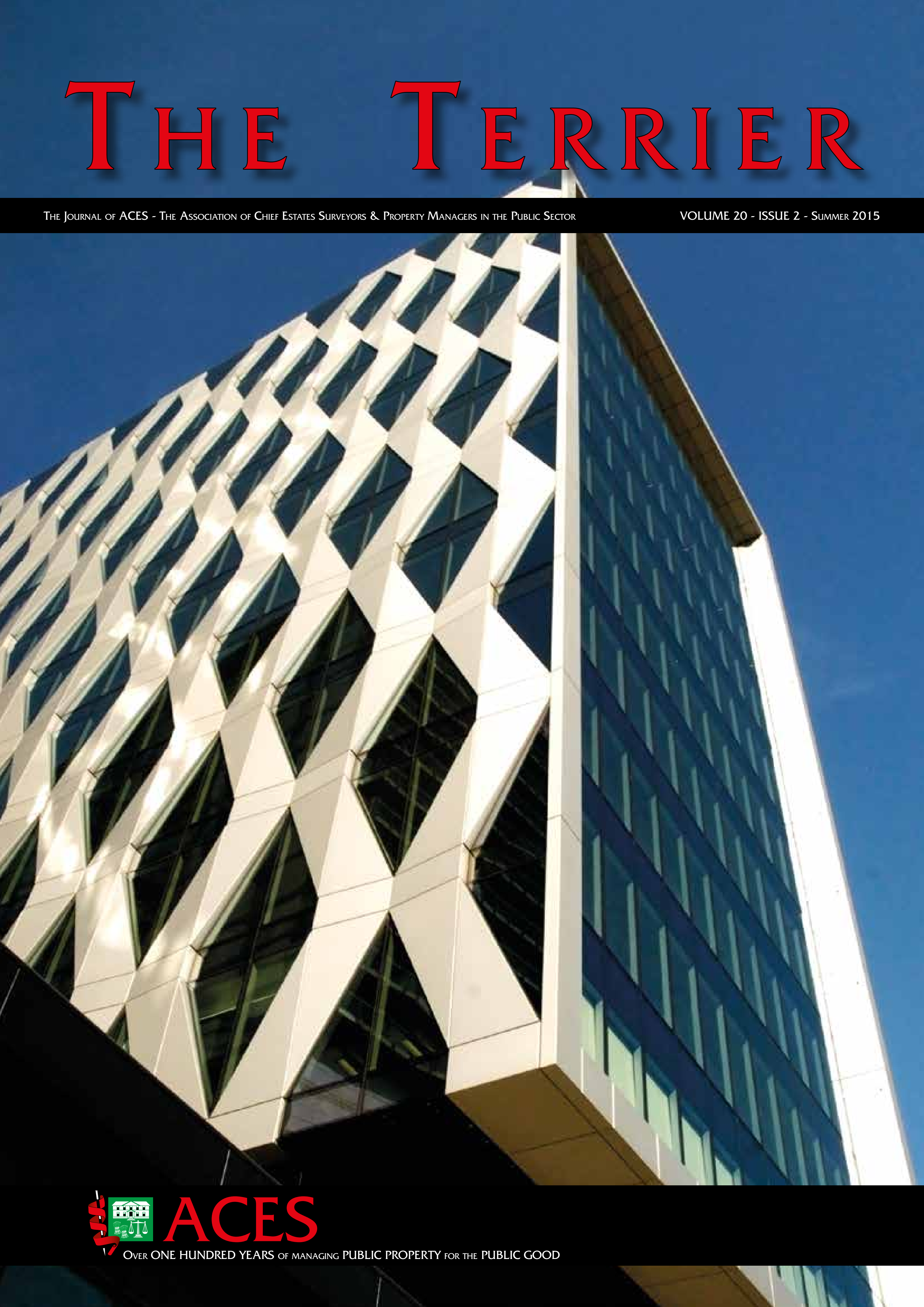
THE TERRIER

The Journal of ACES - The Association of Chief Estates Surveyors & Property Managers in the Public Sector
VOLUME 20 - ISSUE 2 - Summer 2015



ACES

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

estateman
for local authorities 2015



Estateman Property Management Software has been at the forefront of the Property Software Market for over two decades and has over 50 Local Government Clients.

Estateman for Local Authorities has been written in conjunction with several Local Councils and now includes the following functionality:

- Property Terrier
- Tenancy Register
- Property Managers Diary
- Acquisitions and Disposals
- Deed Register
- Accounts Modules & Interfaces
- Asset Register & PPI's
- Asset Management Plans
- Condition Surveys
- Links to GIS & Autocad
- Report & Export Wizard
- Health & Safety Register
- Document Management System
- Environmental Module

For further information on Estateman for Local Authorities or to arrange a demonstration please ring 0113 387 3099, or email sales@estateman.co.uk

estateman

"Estateman is an easy to use system, which offers a wide range of property management functions."

Estates Gazette

"Estateman go from strength to strength and are probably the market leaders for midrange property management packages."

The Valuer

"Congratulations to Estateman on coming top in the National Survey - by Ernst & Young - for customer satisfaction on their Property Management Systems."

Property Week

Estateman Limited
6 Harewood Yard,
Harewood
Leeds LS17 9LF
Tel: 0113 387 3099
Fax: 0113 387 3179
info@estateman.co.uk
www.estateman.co.uk

The Terrier

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

VOLUME 20 - ISSUE 2 - Summer 2015

EDITORIAL

Betty Albon

Welcome to the Summer Terrier.

Reading the back copies of my bound volumes of Estates Gazette, from 1963, which I mentioned in my last editorial, is on the back burner. Perhaps that's not the right expression to use – the back burner isn't a good idea for volumes of paper and the weather has been uncharacteristically hot. So most of my time (when I'm not editing) is currently spent with a couple of watering cans strapped to my wrists. The price of growing your own! But I'm not complaining.

This issue has a number of themes. There are articles about housing provision and how to protect vendors' land value for large schemes through overage, and the associated subject of Community Infrastructure Levy. Community involvement in assets and services is covered by an update of DCLG policy and there is a fascinating case study from my home branch of an appeal against a designation of an asset of community value. Linked to this is a timely reminder about the rules for disposal of assets at under-value.

For those of you involved or potentially involved in compulsory purchase and compensation, there are some useful notes on claim items and valuation rules. The detailed advice about asset valuation changes for financial accounting concludes in this edition.

ACES members have worked closely with CIPFA's roadshow (Asset Management Network) on round-ups of what councils are doing with property to ease the financial squeeze from central government. There are a couple of papers on this topic.

All in all, a fabulous read for your summer breaks (do you still have time for those?).

The contents of these articles are not the opinions of the Editor nor ACES.

Contents

Cover photo: Orange Building, Media City UK, Salford Quays

NOTES OF ACES COUNCIL MEETING, 17 APRIL 2015

Keith Jewsbury, ACES Secretary

16 members attended the meeting held at the Guildhall, London.

President's report

The President, Richard Wynne, reported on his 6 branch visits, the IRRV lunch and meetings regarding the 2015 Presidential Conference.

Secretary's report

The Secretary reported on matters arising during the period from the 16 January Council Meeting and in particular the progress on the receipt of subscriptions since the posting out of invoices in January, the website training and a visit to the North East Branch meeting at Darlington.

Financial matters

The Treasurer reported on the financial position of the Association including a detailed breakdown of the income and expenditure for the first 9 months. The forecast is for a small surplus for the year. The financial outcome of the Presidential Conference 2014 was still awaited. The Treasurer presented a 3 Year Budget forecast to 2018 and Council agreed that there should be no change to the current dates of the financial year.

Salford Conference

Following a report by the President, Council agreed to appoint 3Fox International to organise the 2015 Annual Conference at The Lowry Centre, Salford on 17/18 September. Council discussed the marketing of the event and the target cost to members. It was agreed that information be sent out to all members shortly. [Ed – see advertisement on page 4 of this Terrier].

CPD events 2015

Following a report on the progress to date of organising CPD Events, it was agreed that the 3 branches that had shown an interest in hosting the event, being the South East, Heart of England and Welsh branches, be contacted and the events progressed.

Member category review

Following a report by Andy Algar of the London Branch outlining possible problems with the existing member categories and possible opportunities to extend them, it was agreed that a small working group will develop the report and also look at the current ACES Constitution and Rules.

Database and website

It was reported that the new website was now live and the feedback from members had been positive. A number of issues needed to be resolved especially concerning the search facility. The Secretary is to contact contractors with regard to the database ongoing maintenance and discuss with the President.

Publications

Following the mixed feedback from branches regarding the Terrier only being sent to members by electronic copy and discussion regarding the effect on advertising revenue, Council agreed that the Editor should approach the current advertisers for their views before a decision was made.

ACES Award for Excellence

The President to write to all members regarding the ease of applying for the Award and to encourage applications.

Honorary membership

The President recommended that Malcolm Williams be made an Honorary Member of the organisation in recognition of his 25 years' service to ACES and in particular his contribution to Council. Council agreed.

Future meetings

Presidential Conference
17/18 September 2015 Salford

Annual meeting
13 November 2015 Edinburgh

Presidential Conference
September 2016 London

Annual meeting
November 2016 London

Presidential Conference
September 2017 Swansea

MEMBERSHIP Keith Jewsbury

I list below the changes in membership between 1 April and 30 June 2015.

New members approved

There were 18 new applications approved during the period.

Steve	Sprason	London Borough of Waltham Forest
Colin	Scott	Stirling Council
Belinda	Gaynor	Bradford Metropolitan District Council
Donald	Farquharson	Kent County Council
Gary	Reevell	West Lindsey Borough Council
Caroline	Blackburn	NHS Property Services Ltd
Jim	Goulden	NHS Property Services Ltd
Joanne	Jones	Cheshire East Council
Rachel	Moan	Cheshire East Council
Mark	Cheverton	Kent County Council
Helen	Stubbs	NHS Property Services Ltd
Chris	Finch	Cheltenham Borough Council
Sarah	Chaudhry	London Borough of Brent
Ian	Gifford	Mid Sussex District Council
Ian	Evans-Fisher	Worcestershire County Council
David	Kemp	Canterbury City Council
Gurpaje	Singh	London Borough of Hackney
Liz	Suatt	Eastleigh Borough Council

Transfer from full to past membership

1 member transferred to past membership during the period.

Joe Keys

Resignations

10 members resigned during this period.

Ian	Anderson
Glenys	Barnes
Simon	Dougall
Emma	Grundy
Kristan	Livingston
Michael	Lyon
Paul	Venn
Andrew	Voss
Andrew	Wilcock
Steve	Williamson

Total membership

Full	221
Additional	86
Honorary	34
Past	52
Total	393

LOCAL AUTHORITY DISPOSALS AT LESS THAN BEST CONSIDERATION – A REFRESHER GUIDE TO THE PROCESS AND VALUATIONS

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 worked in both private 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

Although there has been no change in policy regarding disposals at undervalue, Colin here reminds us of the rules, at a time when councils are undertaking property rationalisation.

Introduction

This article aims to provide an overview of the principles and processes involved when a council decides to dispose of a land or property asset at "less than best consideration". Reasons for councils choosing to adopt this disposal route vary, but examples may include: enabling housing development on otherwise unviable sites; facilitating town centre regeneration; creating public facilities; and transferring assets to community groups. Given the variety of objectives that a council can have to fulfil, the ability to dispose at an undervalue can prove a useful tool, helping to promote growth and underpin policy delivery.

There is no specific change in government policy that predicates this article, but it will hopefully prove a useful refresher and bring clarity to some aspects which, from a casework perspective, can sometimes prove problematic.

The focus here is solely on disposals under s123 of the Local Government Act 1972 and s233 of the Town and Country Planning Act 1991, both of which are covered by ODPM Circular 06/2003 and the accompanying technical (valuation) appendix. In other words this is where the disposal is of a property asset is held either for general or planning purposes.

When is a disposal at "less than best consideration"?

A common misconception from the outside can be that councils are required to achieve best value in all of their dealings. While this is the case in many aspects, it does not include land and property disposals. However this doesn't mean that land and property can simply be sold, without restraint, at whatever figure is on the table and for whatever reason! Any disposal at less than best consideration should meet the relevant justification "tests", whether or not consent is required from the Secretary of State.

The valuation benchmark, below which a disposal can be classed as being at "less than best" is the Unrestricted Value (UV) of the property. It is important to consider that this is a figure which may differ from the Market Value (MV) and we will be covering this more detail when looking at the required valuations.

When is Secretary of State consent required?

Disposals under s123 (where the land is held for general purposes) normally require consent from the DCLG Secretary of State where the undervalue (essentially the difference between the Unrestricted Value and the proposed monetary consideration) is greater than £2m.

Where the undervalue is below £2m and the disposal is using s123, councils have a general consent to dispose where the benefits supporting economic, social or environmental wellbeing can be clearly demonstrated. Where this is not clear, councils should consider referring the case to the Secretary of State, even if the undervalue is below £2m as the terms of the general consent may not be met.

However for disposals of planning-held land under s233, such a general consent does not apply and <u>any</u> disposal at less than best consideration will require Secretary of State consent.

Justifying the disposal

As previously mentioned, any disposal at less than best consideration should be justified and it is important to note that the "tests" for s123 and s233 disposals differ. Councils should be aware of these differences when supporting a disposal at less than best consideration, whether it is under the general consent, or where Secretary of State specific consent is required.

All disposals under s123 are essentially expected to demonstrate clearly the promotion or improvement of economic, social or environmental wellbeing to the area and/or its residents.

For s233 disposals the specific tests are contained within the legislation, the thrust of which is to secure the best use of the subject property or secure construction needed for the proper planning of the area. As with a disposal under s123, the justification under these tests should be clearly presented.

It should be made clear at this point that the above is very much a brief summary and any council considering a disposal at less than best consideration is advised to examine the relevant legislation carefully and take appropriate advice to ensure the correct disposal route and approval process.

Submitting a case to DCLG for consideration

All queries and applications should be directed to the National Planning Casework Unit (NCPU), part of the DCLG Neighbourhoods Group (contact details of the Unit are provided at the end). Neither the NPCU nor DCLG can advise whether an application is required, nor are disposals policed. In all instances it is down to the individual council to decide whether specific consent from the Secretary of State is required and make the application accordingly.

Where a legitimately qualifying case is submitted and it is subsequently established that no consent is required, a letter is normally provided by the National Planning Casework Unit (NPCU) to confirm this. An example could be where revisiting a valuation as a result of a NPCU/DCLG query establishes that there is no undervalue, and therefore no disposal at less than best consideration. However, cases that are submitted speculatively with no obvious less than best disposal element (e.g., as evidenced by a formal valuation) are normally rejected by the NPCU. Similarly consent cannot be given "in principle", say to provide comfort in anticipating a possible future disposal – there has to be a demonstrable transaction in place, complete with committed parties. Where councils are unsure whether a disposal can be categorised as being at less than best consideration, they are advised to seek advice from their auditors in the first instance.

How long does an application take to determine?

This will depend on the complexity of the case and the quality of the application. The casework team will always aim to deal promptly with queries and applications, but the case needs to be clear and all queries addressed before it can be submitted to the Secretary of State for his consideration. Councils can help the process greatly by making their applications clear and concise from the outset and by addressing all the requirements set out in the guidance provided in the Circular.

Valuation considerations

The valuation is a fundamental element of any application and determines the level of undervalue which the Secretary of State is being asked to consider. All valuation figures provided in the application should be supported by a report prepared and signed by a qualified valuer (a member of the RICS who is a Registered Valuer).

Essentially the valuation required comprises 3 elements: the Unrestricted Value (UV); the Restricted Value (RV); and the value of any Voluntary Conditions. Together these establish the amount of undervalue through the following calculation:

Unrestricted Value

LESS

(Restricted Value PLUS Voluntary Conditions)

In general terms, **Unrestricted Value** is the amount that would be received for the disposal of the property where the principal aim was to maximise the value of the receipt. Unlike Market Value, any additional value attributed to a special interest purchaser should be included in the assessment. A full definition of Unrestricted Value can be found in the RICS Red Book, as well as the technical appendix which accompanies Circular 06/03.

Restricted Value is defined in the same way as Unrestricted Value (i.e., Market Value, plus any additional special interest value), but crucially it also takes into account any terms the authority has chosen to impose, i.e., those terms and conditions that reduce the price that a purchaser in the market would be prepared to pay. In most cases the Restricted Value is usually the same as the proposed consideration to be received. However in those cases where the proposed consideration is more or less than the Restricted Value, both figures should be provided.

What can be included under the banner of **Voluntary Conditions** can sometimes cause confusion. Voluntary Conditions occur where the disposing authority makes an operational saving or generates income on/from a statutory duty by choosing to impose that duty on the purchaser as a condition of the transaction. An example could be where a local authority imposes the responsibility for refuse collection on the purchaser of a residential development site. The simplest way to think about it is to apply a 2-test principle:

a) is the saving on a statutory duty? and

b) is that duty being explicitly imposed on the purchaser as part of that transaction?

If those 2 tests are met then it is likely to be a Voluntary Condition and should be included in the valuation. Where Voluntary Conditions are claimed, it is helpful if the relevant statutory duty is also stated in the application as inevitably this question will be asked.

Voluntary Conditions do not include

any term or condition which the authority is obliged to impose as a result of the transaction, such as a covenant that runs with the land or a legal duty on the authority to transfer a particular service. Nor do Voluntary Conditions include any term or condition of the transaction relating to a matter which is a discretionary (rather than statutory) duty of the authority. Examples here could include operating a local museum or providing land for public events such as markets or fairs.

Where the saving is in revenue terms, this should be capitalised so it can be compared directly alongside the Unrestricted and Restricted Values. Any supporting valuation report should be no more than 6 months old.

Voluntary Conditions have the potential to be perceived as quite narrow in what they include and clearly a proposed transaction may generate other benefits to the council that do not qualify as Voluntary Conditions. While the values of these other benefits should not be included in the undervalue calculation, they may be relevant to a council's wider case and can be included in the application to support the disposal, where appropriate.

Contacts and further sources of information

The NPCU based in Birmingham handles all the s123 and s233 cases requiring DCLG Secretary of State consideration and should form the first port of call for any queries. Its contact details are:

National Planning Casework Unit
(NPCU)
Department for Communities and Local Government
5 St Philip's Place
Colmore Row
Birmingham
B3 2PW

npcu@communities.gsi.gov.uk

The NPCU main enquiry number is: 0303 444 8050.

All prospective applicants should read and refer to ODPM Circular 06/2003, which can be found online on the gov.uk website. RICS guidance on the valuation element can also be found in UK GN 5.1 of the Red Book.

Conclusion

The use of council land and property remains high on the local and national agenda. Individual councils may be seeking to review their land and property holdings, merge interests, move services, encourage and support town centre development and sites for new housing, or carry out initiatives such as community asset transfers. In all these cases there could be scope to have the the ability to dispose at less than best consideration in order to achieve those aims.

It is therefore important that councils understand the powers available to them and the process for applying them, which hopefully this article helps to summarise. However as is always the case with such matters, councils are strongly advised to take the appropriate legal and professional advice when considering a disposal of land and/or property assets at less than best consideration.

TRAINING THE NEXT GENERATION

James Dunn MRICS

James is Head of Regeneration & Investment at Telford & Wrekin Council, overseeing the Authority's significant property investment portfolio, development and regeneration projects and the asset disposal programme. He is also a Planning & Development Assessment of Professional Competence (APC) assessor for the RICS.

I'm really pleased that James has taken up my request to continue the theme of experiences of training young surveyors in the public sector.

Having developed my professional career firstly in the private and more latterly the public sector, I will always be thankful for the initial break a Director at Carter Jonas, Shrewsbury office, gave me when I was searching for a sandwich year placement in my 3rd year of university, studying Property Management and Valuation. This gave me the first step on my career path and from which I was able to build my experience and understanding of the profession. Furthermore it has given me the strong belief that I should always look to support and develop the next generation of property professionals. I took the traditional degree and experience based route, but I would advocate that you look at other options now available to train the next generation.

Over a number of years our department has developed a strong track record of developing graduates through the process to become fully qualified Members of the RICS. Traditionally this has been through the more standard graduate route, having appointed them as trainees with RICS accredited BSc (Hons) degrees, or as seems more popular over the last 5 years or so, with RICS accredited Masters qualifications.

I have seen a number of excellent candidates work hard to become Members of the RICS, who have gone on to develop their careers not only within our authority, but also with a range of organisations including national house builders, national retailers and other public sector organisations, largely due to the broad experience that they have gained at Telford & Wrekin Council.

Training and support

While candidates work their way through the graduate route (usually 2-3 years) before sitting the APC, it is vitally important to offer them the opportunity to experience a wide variety of work, as well as providing training, support and guidance. In this respect I believe that local authorities are well placed to offer significantly more varied work opportunities than many small and medium sized commercial firms, who may well be specialists in only a small element of our field, and who can't provide graduates with a more rounded work programme. This broad scope of experience that we offer at Telford & Wrekin Council as well as at most other local authorities, enables them to gain a better knowledge and decide for themselves the areas in which they would wish to specialise.

Assessment of Professional Competence

The APC can certainly be daunting for anyone and in my work for the RICS, as an APC assessor, it is normally very clear from the quality of the submissions and the level of stock answers you receive, which candidates are from the big commercial firms, compared to others. The APC is not there to trick anyone, but time and effort has to be put in not only by the candidate, in terms of revision and practising the presentation, but also by the organisation putting the candidate forward. This support needs to start with providing guidance when the candidate is deciding which competencies to undertake, allowing him or her time to attend appropriate courses, allowing the time off to prepare for the interview, setting up a mock interview and providing feedback along the way. As a manager the most vital resource you can provide them with is your time!

Administrative apprentice to surveyor

In addition to the training and support of a number of graduates, we have more recently looked to develop support staff. Specifically having recruited an Administrative Assistant to support the wider team, we firstly oversaw her completion of an NVQ Level 2 and 3 in Administration. During this period it was clear that the individual had a lot more to offer, was dedicated and had the drive to continue to develop. Given this we looked at opportunities to support her towards a career in surveying. The first step towards this was the completion of a Diploma in Surveying Practice from the College of Estate Management. This course, which took 2 years through distance learning, has set the foundation of her knowledge in the area. Completing this qualification has enabled the individual to enrol on the BSc (Hons) Real Estate Management course, which is a degree level course with the College of Estate Management. This course is normally 4½ years but given certain exemptions having been obtained from the Diploma, this is reduced to 3 years. With the first year of the degree coming to an end she is one step closer to becoming MRICS.

The future

At a time of reducing budgets and cost saving initiatives, it is vital for the future success of the profession and local authority property departments that we look at the other options available to recruit and retain staff that have the skills, knowledge and experience to deal with the challenges of the future.

STICK OR TWIST – PLAYING YOUR CARDS RIGHT

Andy Algar, Richard Wynne and Neil Webster

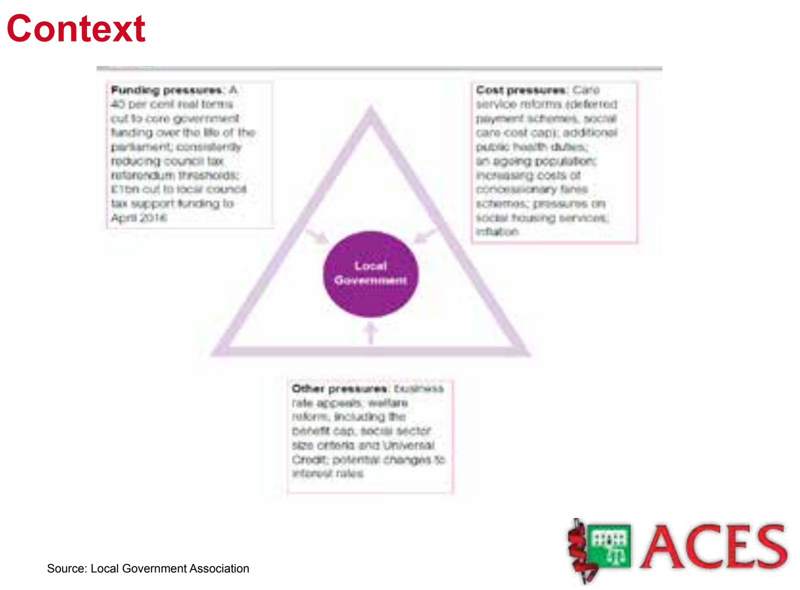
ACES members recently collaborated to deliver a series of CIPFA AMP network presentations on the subject of "how asset managers have been coping in these economic times and initiatives they have tried/or are trying to help them through". Andy Algar, Richard Wynne and Neil Webster delivered the presentations in London, Wigan and London respectively. Chris Brain of CIPFA also delivered the presentation at Bury St Edmunds. This paper is a summary of their content. [Ed –also see the paper by Dave Ayre in this edition].

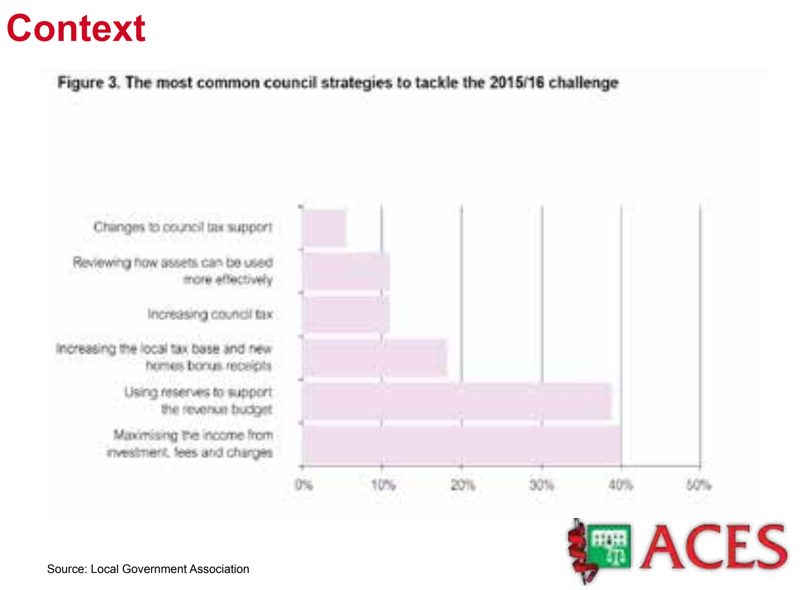
Context

We are all aware of the stringent cuts in funding to local authorities and many newspaper articles have had banner headlines on how various councils are responding to these changes to services e.g. welfare reform. This combines with pressing the central government agenda of councils being responsible to local taxpayers etc. What is less well known is what initiatives are being taken at the property level.

The context for the responses include a year on year reduction in council spending as % of GDP, down from 4% in 2009/2010 to a forecast of less than 2.5% by 2019/20. CLG support for local authorities is projected to fall from £11.4bn in 2015/16 to £5.9bn in 2019/20 – a fall of 48%. Local Government Association research from 2013 into how to respond to this, shows authorities' most common response is to maximise income from investment, fees and charges. This is followed closely by using reserves to support the revenue budget. Clearly the latter isn't sustainable in the long term.

Responses by local authorities and property teams to the challenge will vary between councils and one size clearly won't fit all. The differences in culture, funding, size, politics and risk appetite will influence each response.





There is certainly no "magic bullet".

Responses can broadly be divided into 4 areas:

- procurement
- commercial portfolio
- disposals and
- council owned companies.

<u>Procurement</u>

Some councils have looked to bundle services in a form of total facilities management package but this may not produce savings for every authority. Some will need to look at what they can stop providing as it is not a necessity. Others focus on improving the clienting end of the relationship spectrum in order to drive better performance from their providers.

There are examples of shared procurement between neighbouring authorities – Wandsworth and Lambeth saved 20% on an estates management contract by letting a joint contract across both boroughs. Enfield and Waltham Forest have a joint Head of Procurement. 95% of authorities now have some form of shared service arrangement albeit not always in property (for example shared legal services between Salford and Manchester). There are examples where property is outsourced as part of a wider corporate services package (Barnet). Wandsworth/Richmond are moving towards a shared staffing arrangement which proposes a single staffing structure for asset management and Enfield has a co-sourced arrangement with GVA.

Commercial portfolio

Councils are, under the powers of competence, acquiring assets for investment purposes. As the rates of return provided can exceed the cost of borrowing (or return on reserves) these provide a net yield margin. Not all authorities have gone down this path due to a low risk appetite or other political reasons.

Within existing commercial portfolios there may still be some sensible restructuring to do to improve returns – what might be called "old fashioned" estate management. Re-gearing of leases, investment in existing assets, property/land swaps, change of use etc may provide such uplift. Elected members are more willing to allow an aggressive approach to debt recovery in increasingly straitened times. Previously 'unthinkables' are also being considered – for example advertising hoardings, aerial sites, charging the third sector for accommodation, and 'leasing' General Fund property for temporary housing accommodation.

Disposals

Many authorities are looking seriously at whether they should sell surplus assets or find other ways of generating income by retaining for direct development and/or joint venture. In the long term these may provide better financial returns and may provide wider social benefit by supporting service delivery and wider regeneration. Proactive authorities are investing in planning, design and site assembly work in order to add value to assets before they are sold or developed. Phased receipts on disposals may benefit authorities rather than taking a single receipt on completion.

Other initiatives include:

- selling residential sites on long leasehold arrangements and keeping the ground rents
- create lettable commercial space in developments and retaining them
- joint ventures and self-development e.g. Camden and Ealing
- using Guardians on vacant property as there could be net income generated.

Council owned companies

All of the above may be seen by some as just common sense or business as usual. The area that is gathering pace and far newer is that of council-owned companies. These don't just apply to property. Enfield has set them up for market gardening initiatives and the local heat network [Ed – see 2014 Summer Terrier]. Within the property sphere, examples include trading services either to other local authorities or the private sector. Norfolk Property Services has been established for some time, as has the creation of Urban Vision between Salford and Capita but it is only more recently that this model has begun to become more commonplace across the UK as councils seek innovative solutions.

A number of authorities have established companies for the purpose of acquiring properties for temporary accommodation (e.g. Enfield). Others have set them up for small scale development opportunities but which might lead to larger scale roll-out if successful e.g. Ealing's Broadway Living [Ed – see 2014 Asset, London Conference] and Newham's Red Door Ventures.

Property and regeneration joint ventures are sometimes carried out in separate council owned companies but this will depend on scale, the degree of risk accepted, the nature of the development and whether it is a one-off or a planned series of related developments. This is where we move into the sphere of the Local Asset Backed Vehicle which has been much vaunted and is a mixed bag in terms of successful outcomes. Some are ongoing and others have been folded.

Some authorities are establishing arms' length mutuals with the aim of creating efficiencies through a more commercial approach, plus potential savings on business rates due to charitable status. Wandsworth LBC's Parks Mutual goes live in October 2015 with a mutual covering Learning Disabilities Services to follow.

One additional possible area for revenue generation and capital receipts is with more creative co-locations with other public bodies. The One Public Estate initiative featured in 2014 Summer Terrier (Neil Webster). There are still opportunities to be exploited ranging from co-locations of office-based teams for closer joint working and shared overheads, but also shared services beyond assets e.g. payroll and ICT services. This is clearly very dependent on personalities and the political will, but they are practically possible.

Making it happen

Now this is the tricky bit! Many of the above will require joint working with areas of the business beyond property services. It will require strong leadership and support from a high level, sometimes including the chief executive and/or the leader of the council. These are not property problems with property solutions; they are council-wide issues where property can play a part in putting forward comprehensive solutions.

Most of the ideas require a very strong relationship between the head of property, the director of finance and the key executive councillor. This may also span into heads of housing and

ACES – www.aces.org.uk

regeneration, but it depends on the location, structure and geographic nature of the authority. In some cases one is reporting into the finance department; in others it is through environment/regeneration functions, which slightly changes the dynamic.

The key is to link assets planning to capital planning, if it isn't the case already, and to ensure that there is a comprehensive investment strategy for the authority which goes beyond property alone. If capital is being used to generate income it will become scarce. If it becomes scarce there will be increasing internal competition to secure it.

One clearly cannot ignore Member aspirations and for many, this goes without saying. Getting their buy-in at an early stage of planning is crucial to a successful outcome. Many have good ideas to contribute at an early stage, others simply prefer to decide based on options put forward by their officers.

The route your authority takes will very much depend on its appetite for converting capital into revenue and/or extending borrowings to help building up a capital base which generates net increased revenue, once borrowings are repaid. One needs to be careful on the ability to capitalise interest and the tax position created if establishing wholly owned companies – seek advice. There is also the point regarding your authority's appetite for risk and this cannot be overstated, as most of the more innovative proposals bring with them a degree of risk that is not just 'business as usual'. This needs to be understood, explained, considered carefully and ameliorated where possible.

In many ways it will all come down to the business cases and it may not be a property decision which results in a property initiative. The old versions of asset management plans (AMPs) were quite prescriptive and the focus on process rather than outcomes was often unhelpful. The absence of guidance on AMPs and that they are now voluntary, provides an opportunity to start with a blank sheet of paper and for a strategy to be as brief or a detailed as required, but always being fit for purpose for local needs.

The new world has fewer client departments and thus AMPs can be very focused on financial matters and can start to articulate a business case. Fundamentally they can and should be shorter, punchier documents. They do however, call for much higher quality data to inform financial decisions. And that is a whole separate article! [Ed – I look forward to it!]

ACES contribution

All this would not be possible if we didn't share good practice and this is why ACES is an ideal networking organisation within local government and the wider public sector. We collaborated to produce this series of presentations and paper. We need to continue to share best practice at branch meetings, through the Forum on the website, the Presidential Conference and CPD events. If members feel there is an area of practice which deserves a separate article do contact one of the authors:

Richard Wynne
- richard.wynne@urbanvision.org.uk

Andy Algar
- andy.algar@wandsworth.go.uk

Neil Webster
– neil.webster@enfield.gov.uk

Sources

Financing English Devolution – Independent Commission on Local Government Finance
www.cipfa.org/-/media/iclgf/documents/iclgf_final_report.pdf

Under Pressure. How councils are planning for future cuts – Local Government Association
http://www.local.gov.uk/documents/10180/5854661/Under+pressure.pdf/0c864f60-8e34-442a-8ed7-9037b9c59b46

ACES (The Association of Chief Estates Surveyors and Property Managers in the Public Sector)
www.aces.org.uk

Crown Commercial Services
http://ccs-agreements.cabinetoffice.gov.uk/contracts/rm928

HCA Frameworks
http://panels.homesandcommunities.co.uk/login.php

Ed – Jane Taylor of CIPFA AMP Network will be writing up the results of its survey of local authority responses and initiatives in the next issue of Terrier.

TURNING THE FAMILY SILVER INTO GOLD - HOW PROPERTY CAN BE A KEY PART OF A SAVINGS STRATEGY

Dave shared a platform with presenters from ACES in the latest round of CIPFA Asset Management Planning Network events concerning how asset managers have been coping with funding cuts. [Ed –also see the paper by 3 ACES members in this edition].

Dave Ayre

Dave Ayre was Head of Property, Countryside and Business Development at Dorset County Council where he implemented innovative forms of public private partnership. dave.ayre@publicsectorplc.com

The Conservative Party won a working majority in the general election, and is committed to further dramatic reductions in public expenditure during the first 3 years of its administration. Health, education and overseas development will have some protection but demographic pressures from a growing pupil population and increases in life expectancy will bring challenges to these services. NHS plans also assume a hitherto unachievable scale of efficiency savings and as we have seen, cuts in the unprotected social care budgets of councils are contributing to the growing pressures on accident and emergency services. The understandable focus on the impacts of the ongoing austerity programme on these services may deflect attention from the even greater squeeze on the rest of the public sector.

Much of the 'low hanging fruit' of efficiency savings has been picked

The Local Government Association (LGA) has estimated that core funding for local government reduced by over 40% by the end of the last parliament, yet the sector was little more than halfway towards achieving these savings. The newly elected Conservative administration has already caused consternation among local authorities by cutting £200m from public health budgets, following their transfer from the NHS to local government. Much of the 'low hanging fruit' of efficiency savings has been picked and the LGA predicts that front line service reductions will start to feature in a higher proportion of savings than efficiencies.

Most authorities are already pursuing efficiencies in procurement, shared services and various service delivery options and many will be running out of options. There is, however, one approach that only 10 councils are currently benefiting from, and that is to establish a joint venture Public Sector Plc (PSP) Partnership.

The PSP initiative is unique. The 10 councils are from different regions of the UK, comprising different types and sizes of authority, different political complexions, and most importantly, different property needs. They all share a common aim, to achieve revenue savings and to generate revenue and capital growth from their property portfolios. They do this by accessing the funding, skills and expertise of their private sector partners on a without commitment basis.

Origins of PSP

The origins of PSP date back to 1994 and an attempt to insource private sector funding, skills and resources into Portsmouth City Council. The concept of insourcing was a contrast to the outsourcing of public services through the Compulsory Competitive Tendering (CCT) regime that was being implemented by the then Conservative government.

In 1997 New Labour was elected and set about replacing CCT with Best Value. It started by launching Best Value pilots and selected a number of local authorities and 6 private sector led initiatives to trial the Best Value concept. PSP was selected and a partnership network of public and private sector organisations piloted a number of new and innovative approaches to public private partnership.

PSP also participated in the government's Strategic Partnering Taskforce which produced a report on alternative forms of public private partnerships in 2004.

These initiatives demonstrated that longer term strategic partnerships between public and private sectors could deliver real benefits. Instead of services being delivered either in-house or by the private sector, many authorities established arrangements whereby in-house services worked with private sector partners who were insourced to top-up capacity and skills. The more innovative authorities went further, applying principles of reciprocal working where in-house services used spare capacity to work for their private sector partners and generate income for the authority.

The PSP Partnership approach developed into a property model in 2010 when the 1st council established a JV Limited Liability Partnership with PSP and there are now 10 pathfinder councils piloting the model. PSP is supported by a joint venture of the Winston and Pears Groups.

Relationships are key to successful partnering

These councils have formed the Local Government Council Consortium Group (CCG), where they share best practice in the application of this new partnership model based on a new cultural concept of 'Relational Partnering'. Relational partnering is where:

- public and private sectors develop open and honest relationships
- information and innovative ideas are shared
- partners work together to develop property solutions
- the private sector partner brings commercial expertise and inward investment funds
- the public sector partner applies their local knowledge and community awareness.

The establishment of a hybrid joint venture Limited Liability Partnership (LLP) creates a new cultural environment where an open, trusting and honest relationship can be nurtured and developed.

From the outset the core principles are:

- The partners share the same objectives
- The partners share in the success of the partnership and therefore have a shared incentive to work together to add revenue and capital value to property assets
- The private sector cannot recover its costs or generate a return unless it can develop commercially viable solutions that the authority could not deliver through alternative means
- An open, trusting and collaborative relationship is soon established where joint problem solving and innovation become the norm.

This is in contrast to traditional contracts procured through lowest cost tendering where the private sector competitors seek to undercut each other in order to secure work. Loss leading bids are not uncommon and as soon as contracts are awarded the incentives are to apply effort into preparing claims which justify increases in the tendered price due to "unforeseen circumstances". The relationship soon becomes adversarial; knowledge and information is withheld for fear that it will be used to justify financial claims and this results in a lack of openness and trust.

The public sector client designs ever more complex and precise specifications, seeking to pin down the private sector to protect itself against financial claims once the contract is let. This stifles innovation and change, which is sometimes essential to benefit from new technologies and new and more efficient ways of working.

A lot of the resources of both public and private sectors are deployed on these non-productive activities instead of effort which improves efficiency and adds value, which in turn benefits all partners.

PSP Partnerships challenge this traditional approach and align the incentives of the public and private sector partners to reward success.

Providing an additional option

The success of these pathfinder councils demonstrates that PSP Partnerships can form a key part of any savings strategy. It provides an additional option for the public sector to use compared with a 'do nothing', 'do it yourself', or 'doing a traditional public private partnership' approach.

These councils have shared their property information and, working with their private sector partner, are jointly developing a diverse range of property projects which:

- generate additional revenue and capital value from property investment portfolios
- create pools of property to generate, then recycle capital receipts into revenue streams
- create a property investment portfolio where one does not exist
- facilitate the sharing of accommodation with other public sector partners in a fair and equitable way
- invest in town centre and economic regeneration initiatives
- develop affordable housing solutions
- boost in-house capacity to speed up property reviews to reduce maintenance liabilities and increase capital value
- add value to surplus property and land before disposal through site assembly, initial infrastructure works or demolitions and obtaining planning permission for change of use.

Case Studies

The first council to set up a PSP Partnership, Dudley, is using the model to carry out and fund the implementation of workplace transformation. It started with 12 unsuitable properties used as office accommodation and the council is now looking at a further 200 properties which will generate significant savings in property costs.

Dorset County Council was the next authority, using the partnership focused on adding value to surplus property and land before disposal. The private sector partner has funded the costs of site assembly, demolitions, and obtained planning permission for the change of use of sites before disposal, creating significant uplift in value which has benefitted both county and district councils. Dorset is also looking to create a property investment portfolio which generates revenue income through build to let residential projects.

Bolton Council has used the partnership to transform its ground rent portfolio, using its capital value to buy a hotel, develop an office block and build-to-let several car dealerships. These will generate at least 28% more income than the old ground rent portfolio, while costing significantly less to administer. The council is also considering similar proposals for the rest of its investment portfolio. It is also using the partnership to regenerate the town centre by developing an Academic Village in partnership with the university and to pilot new forms of affordable housing.

Cheshire West and Chester is a 'One Public Estate' which is developing through its PSP Partnership, a fair, equitable and transparent way for 7 public sector partners to fund and operate a public sector hub.

These and many more case studies can be viewed on the PSP website at www.publicsectorplc.com.

Insourcing

A PSP Partnership is a genuine partnership where public and private sectors work together to increase revenue and capital income or reduce revenue costs from public sector assets. They are joint ventures with public and private sector partners sharing equal representation on the board. Public authorities have the assurance that they will receive the current market value of their property assets, whether this be in terms of revenue income from investment portfolios or capital receipts from the disposal of surplus property. Any additional revenue income or capital value generated by the LLP over and above this is shared between the partners.

Property initiatives must be able to demonstrate added value over and above the authority's traditional approaches and the up-front investment is uniquely supported by private sector funding, removing any risk to taxpayers' money.

PSP Partnerships do not involve the privatisation of services or the commitment of property up front before the partnership can be established, as would be the case with other public private partnership approaches such as Private Finance Initiative (PFI) projects and Local Asset Backed Vehicles (LABVs).

It would be better to describe the PSP approach as an insourcing model, whereby private sector funding and expertise is insourced to be combined with the in-house skills and local knowledge of the authority. In fact, in-house public services can generate income for the authority by carrying out work for the LLP. This could be in the form of fee income for in-house valuation, legal, engineering and architectural consultancy services, or for works carried out by in-house direct labour organisations where they are present. This is an income stream that would not be available with other arrangements.

£500m Relational Partnering Fund

The CCG has developed an important new initiative with its private sector partner, PSP Facilitating. This was launched in March 2015. To support the initiative PSP announced that a £500m Relational Partnering Fund has been made available for the next tranche of public sector organisations wishing to generate revenue and capital income and add value to their property assets. Over 40 further councils are at various stages of interest in adopting the model and 2 councils have already agreed to join the pathfinder councils, after obtaining the approval of their elected Members.

Public sector organisations can express an interest until the end of December 2015 and can view the funding prospectus and complete an expression of interest online form by going to www.publicsectorplc.com/eoi.

Alternatively, they can contact: Mark Hammersley, Corporate Director of Partnerships mark.hammersley@publicsectorplc.com

SOCIAL HOUSING POLICY – RIGHT TO BUY OR DUTY TO BUILD?

David Garnett

David is a university teacher and researcher. He has written extensively on housing policy and social justice and has acted as a consultant to a number of housing organisations in the UK and overseas.
He is a passionate campaigner for affordable housing and local employment opportunities. He believes that, whenever possible, housing agencies such as local authorities and housing associations, should support local businesses and work to help local communities to become safe and prosperous places in which to live and work.
He has spent most of his working life as a researcher, writer and teacher in the field of the built environment, specialising in housing economics and finance. He has acted as chairman to a number of community organisations, including 2 housing associations.
He likes cricket and amuses himself by writing awful doggerel verse with obvious rhymes and dreadful puns. david.garnett@btinternet.com

"Critics of the government's extension to the right to buy are adamant that the new RTB policy has not been thought through and is likely to worsen, rather than alleviate, the current 'housing crisis'".

"We will extend the Right to Buy to tenants in Housing Associations… It is unfair that they should miss out on a right enjoyed by tenants in local authority homes." Conservative Manifesto 2015.

It is often said that when it comes to major changes to government policy, "the devil's in the detail". In the case of current housing policy, it might be better to argue that "the imps are in the implementation". Unlike devils, imps are not intrinsically evil: they are better thought of as mischievous entities whose activities prevent our plans working out as we intended. Critics of the government's extension to the right to buy (notably the Chartered Institute of Housing and The National Federation of Housing Associations) are adamant that the new RTB policy has not been thought through and is likely to worsen, rather than alleviate, the current 'housing crisis'.

Everybody knows that Britain has a housing problem, and everybody knows that a lack of supply is at the root of this problem. More than 10 years have now passed since the Barker Review alerted us to the historic shortfall that needs to be addressed. In 2004 Kate Barker highlighted the need to build some 250,000 homes a year in England alone if we were to avoid the social and economic difficulties associated with housing market volatility and achieve decent, affordable homes for our children and grandchildren.

All political parties have publicly recognised that supply deficiency is the key current housing issue. The coalition government's housing strategy "Laying the Foundations" made an unambiguous statement about construction. The foreword, signed by David Cameron and Nick Clegg, stated:

'One of the most important things each generation can do for the next is to build high quality homes that will stand the test of time. But for decades in Britain we have under-built.'

Given the strength of the consensus about the need for supply-side stimuli, it is disappointing that the centrepiece of the new government's housing policy involves pouring huge sums of public money into an initiative that is likely to inhibit housing association investment in the creation of new homes.

The financial viability of the policy rests on an assumption that it will be paid for by requiring local authorities to sell off their more expensive homes when they become vacant and then replacing them with cheaper properties in the same area. Given the fact that many authorities have transferred their entire stock to housing associations, it is difficult to see how this pledge can be delivered. Of those who have retained a landlord function, many are expressing concern that the new arrangements will disproportionately affect the availability of social housing in rural districts (where much of the most valuable stock is located). The anticipated surplus resulting from this stripping of publicly owned assets is then expected to be handed over indirectly to individuals to part-fund the purchase of assets belonging to social enterprises, the majority of which are charities.

The details of the legal and bureaucratic arrangements of this secondary aspect of the policy are far from clear and among professional and academic commentators, there is considerable doubt, not only about its ethicality and legality, but also about its efficacy. The Institute of Fiscal Studies has pointed out that under the previous coalition government's RTB arrangements only one in 19 local authority RTB sales have been replaced so far. (Despite documented evidence to the contrary, the present generation of ministers are arguing that their predecessors never did promise a one-for one replacement of disposed-of stock.)

Reservations about the new extended RTB embrace a number of important practical concerns. One of the most obvious is that both local authorities and housing associations will have difficulty in finding suitable sites at affordable prices to build the replacement homes. This problem will be particularly acute in rural areas and other desirable locations where land is in high demand or development constrained by planning restrictions.

Critics make the point that it will act as a disincentive to housing association investment in both the building and improvement of the housing stock. Long-term rational asset management planning becomes virtually impossible in a business context that denies boards and managers security of ownership over their existing and future assets. Furthermore, by undermining their status as independent, self-governing social enterprises, we may well impede their ability to raise private finance.

It is generally accepted that the effective contribution of modern housing association investment is heavily dependent on the sector's ability to attract private funding. This private investment is now at the heart of a system that places tight limits on the amount of supply-side support from the Exchequer. There is a well-established constitutional principle that if it is the state that makes the decisions regarding the disposal of tangible business assets then it is the taxpayer who should pay for the creation and management of those assets. However, it is clear that the days of publicly funded housing schemes are long since passed and the future of social housing is crucially dependent on support from private sector financial institutions. To say the least, these institutions are likely to be wary of lending to landlords whose fixed assets can be disposed of without any reference to the organisations' business plans.

The third key practical concern of the sector relates to the financial management of receipts. It is estimated that the total value of the proposed discounts in England alone amounts to £11,644,362,048 (Chartered Institute of Housing). Research indicates that there will be a significant gap between the anticipated capital receipts and the costs of replacement. This means that, unless large sums of additional public finance are channelled into the sector, the current ministerial promise to ensure that there will be a 'one-for-one' replacement cannot take place. Some housing association properties are already subject to the Preserved Right to Buy and the Right to Acquire. In order to ensure coherence, the government will need to extend the existing Right to Acquire to bring discounts into line with the Right to Buy (£103,000 in London, £77,000 outside of London). Whichever way the new policy is implemented, it will be costly to the Exchequer and will transfer private debt onto the government's balance sheet, thereby worsening the position of the public finances.

The fourth concern is really an aspect of those already mentioned – namely that the legislation will jeopardise the independence of housing associations. By undermining the authority of independent boards of management to look after their assets, the new arrangements will frustrate their ability to achieve their business and community goals. It would, of course also take us further away from David Cameron's vision of a 'Big Society' culture.

Given the legal, economic and practical problems associated with extending the RTB from the public sector into the social enterprise sector, we need to question the government's motivations. If we put to one side the suggestion that the proposal was simply a cynical election gimmick, we are left with the explanation that its introduction is a matter of political and ideological principle. Indeed, the justification, as expressed by ministers and Conservative Party spokesmen, focuses on a political commitment to subsidise home ownership on the basis that it fulfils people's legitimate aspirations to own their own homes. This is a long-standing Conservative point of view that was given a high profile in Margaret Thatcher's government when it introduced the Right to Buy into the public sector in 1980.

The general election is now over and, whatever the critics of the policy say, it is a done deal. But the point has to be made that there are many ways in which housing associations can now work in collaboration with the government to lower the barriers to home ownership without damaging their primary mission of providing affordable decent homes to rent. It is worth noting that over the last 10 years, housing associations have committed themselves to improving access to home ownership: they have, for example, sold 82,000 shared ownership properties and continue to develop new homes across all tenures.

It is undoubtedly true that owner occupation remains an aspiration of many people who currently rent their homes from private landlords or housing associations and the pursuit of low-cost home ownership initiatives is a legitimate policy objective of any

government. However, it is also true that many currently renting from private landlords have aspirations to acquire a social rented tenancy and the government has a duty to ensure that their needs and preferences are accommodated (literally).

The responsible way forward is to ensure that that all housing aspirations are addressed. The new measures do nothing for the 11 million private renters and 3 million adult children living at home with their parents. There is a strong moral case for arguing that the public money available for housing should be used to build decent homes that meet the full range of needs of future generations rather than gifting it to the lucky few already housed in housing association properties.

David's latest publication is an A-Z of Housing to be published this summer (see previous page).

Mahroof gives an insight from a private sector perspective into housing issues in the northern regions.

HOUSING DEVELOPMENT CRISIS - WORKING ON THE FRONT LINE

Mohammed Mahroof

Mohammed Mahroof, Consultant at Mark Jenkinson & Son, has over 30 years' experience working in the public and private sectors. In Mahroof's consultancy role, he advises on land development, regeneration and local authority issues. He is also a regular newspaper columnist, and supports community regeneration initiatives. mahroof@markjenkinson.co.uk;

It has been a fascinating election campaign and result. It was interesting to witness politicians talking about housing as an election issue, a subject generally relegated to the fringes of policy making. If you picked up any newspaper or listened to any talk show leading up to the election it was clear to see how much energy was being spent on debating this, developing or in some cases developed, crisis.

Crisis

It is without contradiction we have a developing housing crisis. Why this has come about is simple, supply has outstripped demand coupled with the lack of housebuilding through the recession and you have your answer. Therefore it was refreshing to hear all the political parties saying they will encourage new housebuilding ranging from 100,000 upwards. Although these numbers look high, they do not go very far in covering demand because we already have a backlog built up over many years. Nevertheless there is a recognition policies needed to be put in place to address this demand.

Present scenario

I am looking forward to the next few years, having operated in the northern regeneration world that has seen very difficult times. So what have the last few years been like in housebuilding? It has been challenging, difficult, you can use a whole host of words to describe the scenario but the reality is that it has been brutal. Developers have talked about developing but matters hardly moved towards shovels on site. So what are the reasons for this lack of activity?

On the front line of development the major difficulty is securing finance for small to medium scale projects. There are many sites which are lying undeveloped because developers cannot fund them. Clearly this scenario is more evident in the north than the south. There are many planning applications across the country for new homes which have not been actioned because of financial issues. If these sites were developed we would see supply increasing, the issue is that they are not in the areas where people wish to buy and developers wish to develop.

If you look around the majority of northern towns and cities you will see very little housebuilding.

Working in regeneration

Talking from experience, there are a number of sites that would have secured buyers pre-recession but are proving very difficult to dispose of, as developers are not prepared to take the risk. The market conditions are dictated to by purchasers/developers, land values are in some cases half of what they were pre 2007 and still it is a struggle to encourage development.

One of the key changes is large

housebuilders are becoming very selective about the areas they will develop in and the sites they would consider. Small to medium developers have either left the market or lying dormant. So unless you have a site in the right location of the right size which is easily marketable then your chances of securing a sale are rather challenging.

At the same time landowners having secured planning permission, which in some cases has taken over 10 years, are expecting prices akin to pre recessionary times.

A combination of reluctant house builders, price conscious landowners and difficult planning conditions, have made working in regeneration difficult. Those of us who have seen previous recessions will agree this is nothing new, in fact it is all pretty much the same scenario.

The future

It is without doubt that development of land will follow the natural cycle of economics, there will be a resurgence. In fact there is a new breed of entrepreneurs who are seeing opportunities for developing small residential projects. The scenario is they buy a small piece of land and develop a handful of houses. Clearly they work on lower profit margins making it easier for them financially some of whom do not rely on bank funding but from partnerships with other like-minded people, thereby creating working capital.

In the last few months on the front line we have seen an increase in enquiries. As the saying goes "we are seeing the green shoots of recovery".

Public sector challenges

The government's commitment to build new homes and release public land is going to be a huge challenge for local government. It would be interesting to see what land local government organisations have remaining, bearing in mind that in my time in local government, sales were top priority.

Conclusion

It is without contradiction that we will see a rise in demand for land, whether this is for housing services or facilities. More housing land is needed to support government housing targets. This will certainly stretch public sector land holdings.

I also feel that there will be more new housing developments aimed at the rental market, signs of which are already materialising in some parts of the country. One of the greatest hurdles for any developer is the planning process which has to be proactive in allowing development to flourish.

Finally it is imperative the public and private sectors work together to meet the challenge of housebuilding, turning the crises into an opportunity.

Dan describes what can be done to avoid community confrontation in housing-led regeneration schemes.

HOUSING ESTATE REGENERATION

Dan Knowles MRICS

Dan is Director at Sawyer Fielding Ltd, a property consultancy specialising in compulsory purchase and compensation. He has worked on some of the most high profile housing regeneration schemes in the country and has appeared as advocate and expert witness on compulsory purchase matters. danknowles@sawyerfielding.co.uk

Introduction

Seven years ago, the market crashed and many housing regeneration schemes were mothballed. Luckily for many councils and developers, the market rebounded. Delays to schemes and commercial forces have given birth to a new wave of housing activists and disgruntled residents. Not since the times of Dame Shirley Porter have we seen so much housing activism. This time though, the activists come from a mix of backgrounds, from solicitors to plumbers to single mothers. They're well organised, media savvy and have captured the public's imagination, often at the expense of developers who are seen as ruthless, in the pursuit of profit. Celebrities like Russell Brand have given exposure to housing groups such as Focus E15 mothers, New Era and Our West Hendon.

With battle lines drawn out, this article considers what steps could be taken to minimise the risks of compulsory purchase order-backed regeneration schemes going sour. Simple practical steps taken by joint venture partners can ensure that regeneration proceeds with far fewer bumps along the way.

Consultation

Residents fear what they do not understand. Where there are unanswered questions, Chinese whispers often develop into stories of how terribly the local council or developer is behaving. Often, the truth is far more harmless. Distrust grows quickly and all of a sudden, residents find themselves searching for inequity.

For example, on one scheme, dozens of residents told me how a park was being reduced in size when actually, exactly the opposite was happening. On another, lots of residents suggested to me that they were going to be given 2 months to move out which simply wasn't the case. In the absence of proper information flowing in the correct channels to residents, scary stories often fill in the gaps.

It would be too simple of me to suggest that there should merely be more consultation. Consultation has to be the right sort at the right time. Too often, I hear councils suggesting how fantastic their consultation has been without realising that most of what they've said has gone in one ear and out the other.

For example, residents' regeneration groups are sometimes set up by councils. Here community leaders can be engaged by the council on what is actually happening and consulted on change. Setting these up early and engaging effectively with them can help keep residents onside. Council officers are then seen as real people rather than part of the structure, often despised for unrelated issues such as fortnightly refuse collections or problems in social care. It is often these same community leaders who, if not engaged as part of the process, can attempt to disrupt it.

Councils will often also appoint an external company to provide a residents' independent advisor. This role can be crucial as the advisor is the person with a foot in both camps, able to understand concerns across the estate and have a genuine influence over policy. However, with regeneration being such an emotive issue, if the individual doesn't collaborate well with residents' groups, he or she proves ineffectual. The best examples in my experience are where the residents' group is able to interview a selection of candidates for the role and select who it feels most comfortable working with.

Production of a residents' charter at an early stage, explaining how tenants and owners are affected, is essential. Taking a little more time and expense early in the process can mitigate the risk of residents becoming unduly concerned and obstructive later in the process.

The public interest test

It's human nature for residents to be concerned about what the estate will look like after they move and how they and those they care for are affected.

For example, shared equity schemes are often created to allow homeowners to remain on an otherwise unaffordable estate. Where they are, deciding on all of the policies at an early stage is helpful. On one scheme I worked on, a service charge subsidy had been announced 12 years prior to negotiations starting. However the details of how it would work were only released during a public inquiry in which I was residents' advocate. The more residents know and the earlier they have the information they need, the smoother schemes tend to proceed.

Amounts of affordable housing provision is a hot topic at the moment. In the last year or two, court rulings have required councils in south and east London to release the financial viability reports which have limited the amount of social and affordable housing provision. On one scheme I'm currently working on, over 125,000 people have petitioned the local council for the viability report, following refusal of a Freedom of Information claim.

Councils would be well advised to subject the viability report to independent scrutiny from organisations such as the Valuation Office Agency. As well as satisfying themselves that the regeneration provides the most appropriate mix of housing, it also grants some protection in the event of a challenge.

Communities are far more likely to be engaged in the regeneration where they can see direct benefits to themselves, as well as the provision of new housing. For example, developers can ring-fence a number of construction jobs for residents on the estate. S106 contributions or CIL levies can have amounts ring-fenced to costs that directly benefit the estate.

Sometimes, even simple and low cost gestures like allowing small amounts of green space to be used as allotments or naming new roads or apartment blocks after local historical figures and heroes can go a long way to keeping residents happy. If a community centre on the estate is well used, providing some financial support to its services can win favour with residents. Engaging the community in these decisions can be beneficial.

Offer levels

Offer levels are always contentious and in many instances are incredibly badly thought-out. Developers in particular, when indemnifying councils, will understandably wish to minimise their expenditure. Home-owners will be concerned about where else they can buy, particularly if their existing home is located in the lowest value housing stock in the area. Negotiation tactics may be tried and tested elsewhere but no 2 estates are the same. Tactics should take into consideration who you're negotiating with, not merely following a spreadsheet which was used elsewhere.

For example, where there are a large number of home-owners represented by one surveyor, it's unlikely that particularly low offers will be accepted. All they do is frustrate home-owners, often disenfranchising them, causing distrust of the council or developer. The stubbornness that can be caused can result in negotiations becoming unnecessarily protracted.

Making incredibly low opening offers can be counter-productive where there are high numbers of owner occupiers or a strong residents' group. Residents' groups can become more militant, owners collaborate and any genuine later efforts by the buyer which are reasonable can go unnoticed.

Where the market is rising, the time taken to get up to levels where residents are more engaged in the process can be expensive. As residents become more stubborn about how they feel they are being treated, the likelihood of objections to the CPO grows, causing further delay and expense.

Where there are large numbers of non-resident owners, weak residents' groups or large numbers of unrepresented owners, there is opportunity for more aggressive negotiation tactics. All too often though, councils and developers use a one size fits all approach.

Dealing with individuals, not numbers on a spreadsheet

Moreso than perhaps any other kind of property transaction, compulsory purchase is emotive. It is personal!

Being a CPO surveyor working in residential property can often be a cross between being a property professional and a social worker. Personalities have to be managed. Some individuals will demand far more of your time than others.

While working for an acquiring authority client, I once spent about an hour looking through a property owner's Bic biro top collection! Without doing so, I would have never gained his trust and negotiated the sale of his home. Spending that time enabled the regeneration to go ahead without the expensive and time consuming risk of pursuing a CPO. Eventually, with a lot of patience and treating people as individuals, I may persuade them to negotiate and to sell.

I've known surveyors breeze in and out of appointments to inspect properties in 15 minutes, leaving home-owners distrusting them. I've often spent over 2 hours on a first appointment, most of which is chatting to the home-owner over a cup of tea (tip - always check the kitchen before accepting a cup of tea!). By the end of it, I've won the owner's trust and the negotiations are concluded far quicker.

If you take one tip from this article, it's to treat home-owners as individuals. One size does not fit all. Stories of poor treatment of particularly vulnerable people soon travels round a housing estate.

Dealing with residents' appointed surveyors

Okay, so I'm a little biased here as the services I provide to home-owners puts bread on my table. I've known various approaches when dealing with surveyors, some of which are helpful and some of which are not. Some councils and developers see dealing with agents like me as a necessary evil and some see it as a blessing.

Almost without exception, a home-owner will trust their own surveyor far more than the council or the developer. The better surveyors will find out details about re-housing policy, shared equity provision, phasing timetables and other policies and will advise their clients, rather than merely dealing with the negotiations. Personally, I always provide a series of advice notes. I find that my clients are far more likely to read and understand mine than ones that councils provide. This position of trust can allow for a better flow of information to residents, which can greatly aid the council's and developer's ambitions.

It's therefore important that the residents' professional representation is informed what policies are, so that they can advise their clients. Too often, I've had to chase answers to questions numerous times. Sometimes, once information becomes available, it's sent directly to my clients but not to me. Some won't read it and others will call me asking what it means. I often won't know as I haven't been provided with the same information.

Where vendors have good professional representation, it can result in them achieving a better financial settlement, to the detriment of whoever is paying it. However, it can also ensure that those home-owners whose expectations are too high are given a reality check by someone who they are likely to believe.

If negotiations are handled well by both sides, good professional representation also ensures that deals are done quickly, allowing phasing timetables to be met and minimising the risk of objections preventing or delaying a scheme from progressing.

Almost without exception, home-owners' surveyors will want a scheme to go ahead. Though they have to take instruction from their clients and act upon them, it's in the surveyor's interest for a scheme to proceed as fees for negotiating sales will always far outweigh those for submitting objections, which ordinarily won't achieve any payment at all.

In summary, by ensuring that residents and their surveyors are actively engaged from an early stage and benefits of the regeneration scheme are clearly shown to all those involved, regeneration can run fairly smoothly. There will always be a few people who take the attitude that it won't happen under any circumstances but if the majority are kept on side, the minority will eventually fall in.

MAXIMISING THE TRUE VALUE OF LAND

Max Marrison

This article first appeared in May/June RICS Property Journal. It is a topic which is of relevance to public sector surveyors who are involved in large land transactions which include overage provisions. The Editor thanks RICS for giving permission to reproduce it.

Max is head of commercial property at Sheffield solicitors, Taylor&Emmet LLP. He has wide ranging experience in all types of commercial property matters and has worked on high value, complicated cases for a number of national clients. He acts for developers, local businesses and lenders. max.marrison@tayloremmet.co.uk
For more information about Taylor&Emmet's legal services, visit www.tayloremmet.co.uk.

The inclusion of overage provisions in property contracts continues to be a popular way to protect the interests of the seller.

Commercial agents negotiating deals use overage as a means to protect their clients when the true value of land is not ascertainable or cannot be realised on the sale. It is often used by local authorities, public sector bodies and charities that have a responsibility to ensure that assets are not sold too cheaply.

The terms 'clawback', 'anti-turning', 'anti-embarrassment', 'uplift' or 'kicker' clauses are used interchangeably, but essentially they all mean the same. For the purposes of this article we shall just refer to them as 'overage'.

An overage obligation is a contractual promise by a buyer to make an additional payment to a seller, which represents a share of the increased value of land after the occurrence of an agreed trigger event during a set period of time. These trigger events can include the following:

- Planning permission is obtained for development or change of use
- Implementation of planning permission
- Practical completion of a development
- Disposal of property with the benefit of planning permission

- Disposal of a completed development
- Disposal of land at an increased price within a fixed time period.

Trigger events should be considered carefully and a decision taken on whether overage is to apply on more than one occasion. A buyer will not want to make an additional payment if the grant of planning permission is unsatisfactory or subject to judicial review, or where the buyer may decide not to implement the permission.

A seller must also consider when the liability arises for a buyer to make the additional payment. It may be inappropriate to insist on overage to be payable on the grant of planning permission or the implementation of a new development if the purchaser does not have the financial resources to comply at that stage. It is wiser to request the payment be made on the sale or letting of a specified number of units.

Avoiding overage

Buyers will often attempt to avoid paying overage. A good illustration is the 2010 case of Renewal Leeds Limited v Lowry Properties Limited. The contract specified an overage payment was due on a development if the total sales revenue exceeded £7.4m upon the trigger of the final sale of a completed residential unit.

Lowry Properties obtained planning permission and built 84 houses, but only sold 80 of them. The last 4 were advertised at more than 126% of the market value, yet despite an offer from Renewal Leeds to buy the houses at the inflated price, Lowry Properties declined to sell.

The property contract contained no obligation upon Lowry to build or sell the units, but fortunately for Renewal Leeds, the court was prepared to imply a term that if development commenced, the units would be completed and sold. This case highlights the importance of drafting clear contracts and at Taylor&Emmet we always recommend overage provisions contain a 'good faith' clause.

Calculating overage

The formula for calculating the overage payment can be complex. It may be a fixed sum, a percentage of the increased value of the land with or without planning permission, or a share of the sale price, less base value and development costs (including the Community Infrastructure Levy).

In recent years, the courts have been kept busy settling disputes relating to the construction and interpretation of the overage formulae. Again, legal drafting must be clear and record the intentions of both parties. We would always recommend that appropriate valuation advice is obtained to support this process and the contract contains a worked example.

The length of the overage period must also be considered carefully. If it is too short, the buyer will simply 'land bank' the property until the expiry of the overage. If the period is too long, it will effectively sterilise the land and make it less attractive to potential purchasers, which could ultimately have a negative effect on the purchase price.

Protecting your overage agreement

Security for the overage payment is a very important issue and must be dealt with at the outset of a transaction, when negotiating heads of terms.

Overage is a personal obligation upon the buyer, triggered by the occurrence of a particular event during an agreed period. The burden of the contractual promise does not generally bind the buyer's successors in title, so the prospective purchaser's current financial standing must be considered, along with their likely ability to make overage payments in the future. The buyer's economic prospects might change over the course of the overage period and in the event of insolvency, the seller could end up ranking as an unsecured creditor.

Ideally, a seller would look to secure the overage payment by taking a first legal charge over the land. If the overage payment is then not made on the due date, the land can be sold and the money recovered from the sale proceeds.

A legal charge is a very effective way to secure overage although there are, of course, drawbacks. Most significantly, it is usually unacceptable to any lender providing finance for the proposed development. In the unlikely event a bank agrees to the seller taking a legal charge over the land, it will insist upon a deed of priority being entered into, to restrict the amount secured in favour of the seller.

There are numerous other ways to secure an additional payment, such as a third party guarantee. The downside with this arrangement is that a guarantor's financial standing could diminish during the overage period and may not constitute adequate security in the long run. Bank bonds are another less common option as they are very expensive to obtain and unsuitable in situations where the potential amount of overage is unknown.

Overage can be secured by what is known as an 'equitable lien' over the property. Where the overage payment is defined as forming part of the purchase price, an equitable lien will arise on exchange of contracts and enables the seller to apply for a court order to sell the property and receive the overage payment from the proceeds. To be effective, the seller must lodge a notice of the lien before the buyer's transfer is registered.

Like the aforementioned legal charge, a seller's lien is unacceptable to funders and when acting for a buyer we always include a provision in the contract that states the seller is not entitled to any lien over the property.

Overage can also be secured by indirect means, such as reserving a right over the land, retaining a ransom strip or by imposing restrictive covenants, which dictate what kind of development can take place. However, there is a danger in relying on such implicit methods. For example, there is always the possibility that a Lands Tribunal may seek to discharge or modify a restrictive covenant and a ransom strip might not work if a buyer/developer is able to find an alternative access.

The most common means of securing overage and enforcing provisions against the buyer's successors in title is by way of a deed of covenant and restriction. Using this method, a restriction is entered on the registered title that states no disposition is to be registered by the Land Registry without the seller's consent and this will only be given if the disponee enters into a deed of covenant agreeing to comply with the overage provisions in the original contract.

Conclusions

In summary, overage can be incredibly complex and take considerable time to negotiate. The impact on potential sales must be considered and it should not be seen as an easy option if the seller is unsure the purchase price represents the market value of the land.

Overage provisions should be negotiated by suitably experienced solicitors, with input from surveyors who can provide specialist valuation advice. When agreeing terms and the means by which the overage payment is to be calculated, it is important the buyer is motivated to develop land. If the seller is too greedy, the purchaser will simply delay work on the site for the duration of the overage period.

Consideration must also be given to the management of overage provisions in the contract. A seller should monitor what happens to the property and not rely entirely on the buyer to provide information. This can be especially difficult when the transaction has been completed and/or employees within the organisation responsible for negotiating the overage move on to pastures new.

COMMUNITY INFRASTRUCTURE LEVY – THE PRACTICALITIES

Lizzie Cullum MA (Cantab) MRICS

and Emily Harvey BSc Hons MA

Lizzie is an Associate at Savills specialising in development consultancy and Community Infrastructure Levy (CIL) advice. She leads a national instruction from the Home Builders Federation to provide advice on CIL, including the preparation of representations to ensure that CIL rates are set at viable levels, attendance at CIL examinations, publication of national research on CIL and wider CIL consultancy advice. In addition, Lizzie provides development consultancy advice on large development sites, including financial modelling, market research and options analysis.
Lizzie joined Savills in 2011 having graduated from Cambridge University. She qualified as a Valuation Surveyor in 2013.

Emily is an Associate at Savills specialising in CIL advice. She works with a range of public and private sector clients to promote land and secure planning permission for large development sites. Emily is part of Savills' national CIL team and provides CIL consultancy and strategy advice and attends CIL examinations.
Emily joined Savills in May 2014 from a national construction company. Prior to that Emily worked in a local authority.

This article follows a presentation by David Henry of Savills at a meeting of ACES Eastern branch. It provides an overview to CIL the process and progress and sets out the key points to remember in the day to day dealing with CIL. There are some very useful top tips for practitioners.

Introduction

Community Infrastructure Levy (CIL) is a locally set tax on development that was introduced under the Growth and Infrastructure Act in 2008. CIL is an area-wide levy on development, charged at a set rate per sq m of new floorspace, for different types of development. Unlike current s106 planning obligations, CIL is non-negotiable, even if this makes development unviable. CIL also provides an opportunity for local planning authorities (LPAs) to plan positively for infrastructure provision, provided that other adequate funding sources are obtained, and that the aspirations are appropriately linked to planned growth.

A complex system

How CIL operates and the method of calculation of the levy payable is prescribed by the CIL Regulations 2010 (as amended). The Regulations have been amended every year since their introduction, with the latest changes taking effect from 1 April 2015. This has added further complexity to a system which is arguably convoluted.

CIL does not replace s106 planning obligations. Under Regulation 122 (2) planning obligations may still be sought provided the following requirements are met. Each planning obligation must be:

i. Necessary to make the development acceptable in planning terms

ii. Directly related to the development, and

iii. Fairly and reasonably related in scale and kind to the development.

From 6 April 2015, Regulation 123 of the CIL Regulations added a further complexity to the use of s106 planning obligations for all LPAs, irrespective of whether a Charging Schedule was in place. In effect, Regulation 123 restricts the ability of LPAs to 'pool' s106 planning obligations towards a particular infrastructure project or type. Under the CIL Regulations, LPAs are now limited to a maximum of 5 planning obligations towards an infrastructure 'type' or 'project' (as a reason to grant planning permission). This restriction applies to all planning obligations entered into since April 2010.

The result is that all 'types' and many 'projects' are likely to already be 'closed' to new obligations and LPAs are being forced to be proactive and specific in identifying and costing projects upfront.

A local debate

Each LPA has the option to introduce CIL, but it is not mandatory. The Regulations also grant LPAs flexibility in relation to the scope and content of their Charging Schedule, with the option to differentiate CIL rates across an area by geography, scale and/or use.

The key principle at the heart of CIL is viability. Regulation 14 clearly states that LPAs must strike an 'appropriate balance' between the desirability of funding infrastructure and the potential impact that CIL may have on the viability and delivery of development in the area. This is tested through an independent examination in public before a Charging Schedule can be implemented.

The impact of setting too high a rate is that development is rendered unviable, resulting in development sites not coming forward and LPAs failing to meet their housing and/or employment needs as well as not securing funding for infrastructure. It is critical therefore that rates set within a LPA's Charging Schedule is set at the correct level based on sound viability evidence.

The impact of setting an incorrect rate could be catastrophic. If the viability of residential development is compromised by too high a CIL rate then the greatest impact is likely to be on affordable housing delivery. As planning obligations are still likely to be required (albeit at a scaled back level) and are needed to make a development acceptable in planning terms, they can only be negotiated so far. CIL is non-negotiable and cannot therefore be changed. Affordable housing is the only other variable within this 3-way trade off and will suffer most. This flexibility is clearly not available for other land uses such as retail or commercial.

Each LPA area is different and subject to a range of policy and viability constraints. Every Charging Schedule is therefore unique to its LPA and is informed by local viability considerations and evidence. The Charging Schedule is supported by a 'Regulation 123 List', which effectively sets out those infrastructure types or specific projects that CIL may be used to wholly or partly fund.

CIL progress

To date, only 25% (87) of LPAs across England and Wales have implemented a Charging Schedule, with a further 58% of LPAs engaged in producing one. This indicates that those LPAs choosing not to pursue CIL at this time (17%) are in the minority (see Chart).

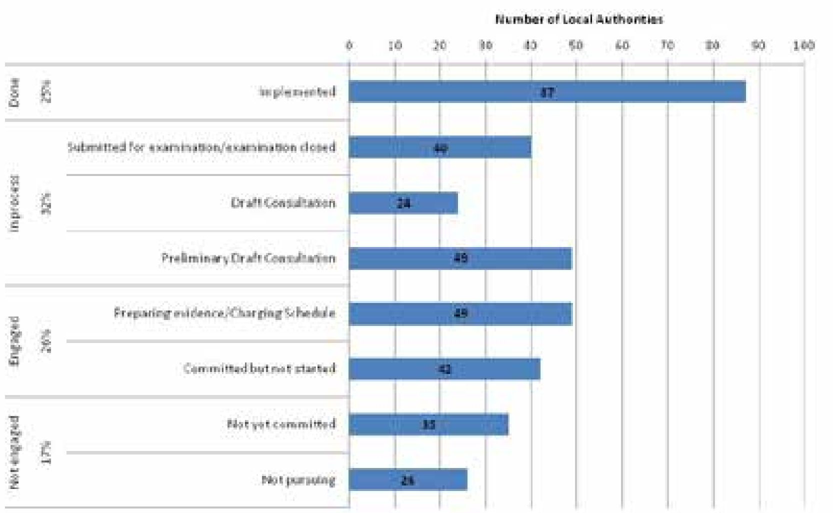


Chart - CIL progress

Monitoring of the emerging Charging Schedules across England and Wales reveals that more LPAs are progressing CIL across the south of England in comparison to the north. London is leading the way in the south, with 27 London Boroughs (77%) having implemented a Charging Schedule in addition to collecting the London Mayoral CIL. There are currently 40 CIL Charging Schedules that have been submitted for examination, including areas such as Northampton, Birmingham and Cambridge (see map).

Why is it relevant?

Despite being introduced over 5 years ago, the majority of LPAs across England and Wales are yet to introduce a CIL Charging Schedule. At present there has been no indication from the government that CIL will be amended or replaced. The present government guidance contained in the PPG encourages CIL implementation as part of, or post Local Plan adoption. For the reasons outlined, speculation about the future for CIL and the large scale absence of up to date Local Plans (only 24% adopted in England) creates a degree of uncertainty and increases the potential for delay in the delivery of development.

We have outlined below our top tips for dealing with CIL in practice:

1. **Viability evidence** – In preparing a CIL charging schedule it is vital that the assumptions and outcomes of the viability evidence are realistic and accurate to avoid setting the CIL rate too high or low and thereby threatening the delivery of infrastructure and development. LPAs need to appreciate this, and developers/landowners need to be forthcoming with appropriate evidence.

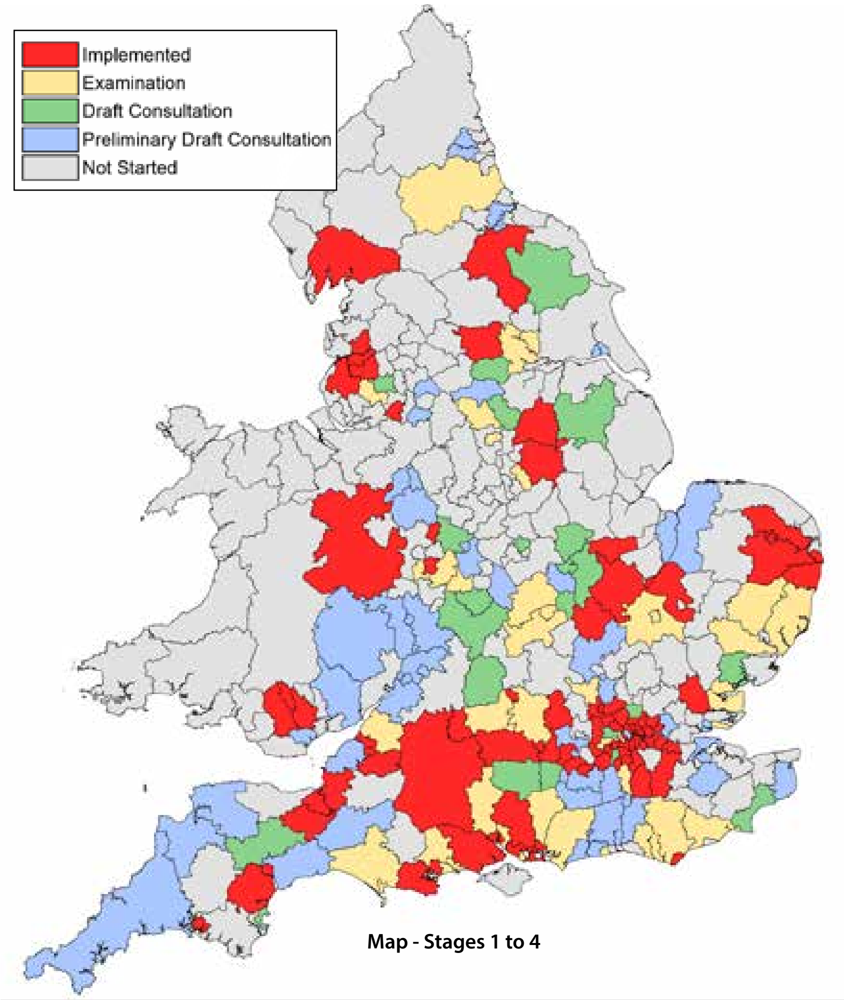
2. **Regulation 123 Lists** – Regulation 123 Lists need to be clear and precise. In preparing a CIL charging schedule, Regulation 123 Lists should be produced in conjunction with a Planning Obligations SPD to ensure that the theoretical requirements set out within the list can work as well in practice.

3. **CIL is liable for chargeable development triggered by planning consent** - The trigger for CIL is the grant of a planning permission. This means that schemes submitted for planning, prior to CIL implementation, may still be liable for CIL, dependent on the timing of the decision. This should be factored into scheme appraisals and valuations. LPAs must also be mindful that land value is often set based on 'hope value' prior to planning permission, for example as part of a site promotion.

4. **CIL is index-linked** - All CIL rates are index-linked to the BCIS All-In Tender Price Index from the date that the Charging Schedule is implemented. It is therefore important that the correct index figures are used when calculating CIL liability in accordance with Regulation 40. The Index date is 1 November for the preceding year. The CIL calculation is triggered on the date of planning permission.

5. **Floorspace is calculated using Gross Internal Area** - Unlike the Milton Keynes 'roof tax', CIL is payable on net increases in floorspace. It is therefore important to consider the Gross Internal Area of proposed developments, which should be calculated in accordance with the RICS Code of Measuring Practice (as amended).

6. **Off-setting of existing buildings' floorspace is subject to the "lawful occupation" test** - To be off-set, a part of each existing building must have been in continuous lawful occupation for a minimum of 6 months out of the 36 months preceding the grant of planning permission. The relevant buildings must therefore still be standing on the day that planning permission is granted. Occupation itself is not necessarily enough. The occupation must be lawful and this must be adequately evidenced which could be achieved through submitting historic evidence such



Map - Stages 1 to 4

as utility and rates bills, and/or statutory declarations.

7. **CIL is payable on commencement of development** - The timing and amount of these CIL payments may be subject to the Charging Authority's Instalments Policy. Where there is no instalments policy, CIL is payable in full 60 days after the commencement of development. For phased outline applications, each phase of a development may be charged separately.

8. **Exemptions and reliefs must be applied for and approved prior to commencement** - A number of exemptions or reliefs are available which may reduce the CIL liability. These include social housing, self-build housing, or charitable relief. Social housing relief removes the requirement to pay CIL on the affordable element of a residential development. Some reliefs are compulsory; others are offered at the Charging Authority's discretion and you should check the Charging Schedule.

9. **Amendments to planning consents can trigger CIL** - A minor or non-material amendment to an existing consent, which results in an alteration in the total floorspace, can trigger CIL where there is a net increase in the gross internal area. The CIL will only apply to the net increase. This applies to any planning consent in a LPA that charges CIL, regardless of whether the original consent was granted pre or post the implementation of a CIL Charging Schedule.

10. **Notice procedures must be followed** - It is essential that the collection process is followed and relevant forms and notices are issued, both by the developer/owner and the Charging Authority. For developers and owners, it is essential that the Notice of Commencement of Development is served at least one day before development commences on site. Failure to do so will result in the loss of all reliefs, removal of the ability to pay by instalments and penalties and interest becoming liable. In addition there are penalties and surcharges for failing to comply with the notice procedures set out in the Regulations.

Conclusions

CIL is here to stay, at least for now. While recent changes to the CIL Regulations have made some improvements to the operation of CIL in practice, it is still an incredibly complicated process. Failure to comply with the legislative requirements for paying CIL can have severe consequences for those involved. Equally, failure of a LPA to set appropriate rates within their Charging Schedules can have significant impacts for development and infrastructure across its administrative area. LPAs should also have a clear prioritised ambition for the new infrastructure to support local growth. The consequences of CIL are not yet fully known, but it is clear that great care needs to be taken at all stages of the process.

Savills are industry leaders on CIL, acting on behalf of landowners and developers in seeking to ensure that a reasonable rate of CIL is applied to new developments. Our regional network of consultants provides advice at all stages of the CIL process, including CIL calculation and consultancy services. Should you wish to discuss opportunities with us, please contact Lizzie Cullum or Emily Harvey.

The Terrier

The Terrier is published quarterly by ACES. The inclusion of any individual article in the Terrier should not be taken as any indication that ACES approves of or agrees with the contents of the article.

ACES Secretary: Keith Jewsbury FRICS
8 Coolidge Avenue
Lancaster, LA1 5EH
01524 745643
secretary@aces.org.uk
kjewsbury@talktalk.net

ACES Editor:
Betty Albon FRICS
editor@aces.org.uk
bettyalbon@gmail.com

ACES

OUR PLACE

Tracey Foster

Tracey works in John Connell's team - Our Place/First Steps - at DCLG.

Tracey outlines some exciting new initiatives being undertaken at neighbourhood level, to provide local services through the community.

There has been a change in the role of neighbourhoods since the introduction of the Localism Act in 2011. Working at the neighbourhood level can transform local services, making services more flexible and responsive to local need. Up and down the country, thousands of communities are taking action - from regulars running their local pub and protecting other treasured assets, to ambitious plans for new development, new jobs and better targeted services.

To support the use of these 'Rights', we developed new ways of working to transform services at a neighbourhood level through piloting Neighbourhood Community Budgets in 12 areas in England: Devon (Illfracombe), Bradford (Little Horton), Newcastle (Cowgate), Birmingham (Shard End, Castle Vale, Balsall Heath), Suffolk (Haverhill), Tunbridge Wells (Sherwood), and London (Queens Park, Poplar, White City). The pilots were led by a range of bodies working closely with the community, and looked at issues ranging from early years intervention, to youth unemployment, health inequalities and anti-social behaviour.

Our Place

Our learning from those pilots led us to create Our Place, a neighbourhood level partnership-based approach to service transformation which brings together local partners – for example public sector agencies, local authorities and local businesses – with the wider community to tackle issues identified as a priority by people in the area. Local assets, like valued community centres or green spaces, can be the perfect base to deliver neighbourhood services such as job clubs, healthy eating and exercise classes and activities to tackle social isolation.

We have found that taking an asset-based approach to deliver the Our Place programme has been effective in projects that involve the care of the neighbourhood's health and wellbeing. An example of this is the Kingstanding Regeneration Trust which has created a neighbourhood health and well-being centre in an existing leisure centre. This centre will be offering health checks, educating people on food, have gym equipment and many different training and advice services. There will be community development workers, and volunteers will be engaged and undertake a range of initiatives to help improve people's health.

Green spaces can take on many different forms. The Archibald Corbett Society in Lewisham and Community Teachsport has formed a partnership and has secured the use of the Abbotshall Road playing field on a 25 year lease. They will be developing community-led services, concentrating on the provision of healthy lifestyle activities and employability training. This will be done with the regeneration of the playing facilities for junior cricket, junior football and an arena for primary school sports activity and multi-sports for children and their families during the school holidays. The hub will also offer activities for seniors and a community garden to grow fruit and vegetables, it will include a health hub with training and sports facilities, a community café and a community garden.

HALE

HALE (Health Action Local Engagement) is a healthy living project working across West Yorkshire, based in Shipley. Local people can access services and take part in activities and programmes to help them manage better their own health and well-being. HALE works with people of all ages and backgrounds, and prides itself on having a skilled team of community health workers who understand that to make a difference to people's health and wellbeing, local people themselves need to be involved in developing projects right from the start. As well as working with local people, they often work in partnership with community groups, schools, GP practices, Bradford Council and other organisations.

From the 118 areas recruited onto the Our Place programme, 57 were asked to undertake a cost benefit analysis (CBA) to showcase the return their project has potential to yield. 39 areas have had their CBAs signed off as robust and 'fit for purpose'. From these areas the average financial return (which indicate the relationship between fiscal (public sector) costs and those benefits which accrue to the public sector as a whole) was 2.9 which means for every £1 spent there are £2.9 of direct benefits to the public purse. This is generated through many ways including helping unemployed people find work, reducing pressures on hospitals and the NHS more widely, reducing care needs, etc. Looking at the wider economic and social benefits, such as potential income, individual and community well-being and relationships, as well as benefits to the fiscal purse, the average overall return was 16. The CBA was undertaken before implementation and as such these numbers are only provisional but it shows the possible savings and efficiencies that could be attained from the programme.

Asset transfer

More and more local authorities are seeing the benefits of working with the community in the future use and maintenance of local authority buildings and transforming local services. Northampton Borough Council has handed over its community centres to the management of 13 different local community groups. This move is believed to be one of the largest ever transfer of assets to community management. It has given local people the power to ensure that the centres provide services and facilities that meet the needs of their own local communities and helps to secure the position of the centres at the heart of neighbourhood life. The project will involve a partnership between the community centre managers, Northampton Borough Council, Northampton Volunteering Centre (the Local Infrastructure Organisation) and the University of Northampton. The plans will support the use of the community centres, tailoring activities to suit the needs of the community, encourage volunteering, participation and activity to improve the quality of life for local residents.

Abbotshall Road partnership

The asset-based approach to deliver the Our Place and service transformation is a perfect fit for parish councils, which know their communities' needs and skills, can harness volunteers, can deliver services more effectively, and can be flexible. There are around 10,000 parishes and they are increasingly taking on more services. As continued austerity means different models are needed to deliver our services, ACES members should be looking at their skills your parish councils have that show what a valued partner they can be.

First Steps

In recognition that not all communities will be ready for the Our Place approach, the Department is also funding the First Steps programme. This will enable 115 projects in deprived communities to identify priority issues for their area and design an action plan to work out how tools like community rights might help them to improve their neighbourhood. So watch this space – there may be more assets of community value nominations on the horizon!

In 2015/16, Locality and the Community Development Foundation, funded by DCLG and with partners including LGA, National Association of Local Councils, and Society of Local Council Clerks will be working with over 179 Our Place and First Steps projects that will be making significant changes in their communities.

For more information on the Rights and Our Place, and to access a wide range of resources, visit the My Community site.

ASSETS OF COMMUNITY VALUE – A CASE STUDY

Debbi White

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

Debbi shares the experiences of St Albans City and District Council through the process, from consideration of nominations through to the Upper Tier Tribunal, using a case study of an area of undeveloped land at the edge of a private residential estate in the green belt.

Background – the Localism Act 2011

Under s89 of the Localism Act 2011 (the Act) qualifying community groups have the opportunity to nominate publicly and privately owned assets they consider should be listed as having value to the community. Assets are assessed by the local authority in accordance with criteria set out in s88 (1):

- an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
- it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

Or s88 (2):

- there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and
- it is realistic to think that there is a time in the next 5 years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

If listed, although the owner is not under an obligation to sell the asset to a community group, it cannot dispose of it without:

- letting the local authority know it intends to sell or grant a lease of over 25 years
- waiting until the end of a 6 week interim moratorium period (to allow community groups to ask the local authority to treat them as potential bidders)
- waiting until the end of the 6 month full moratorium period if a community group requests that they are treated as a potential bidder.

Once an owner notifies the local authority of its intention to sell, there is a protected period of 18 months during which no further moratorium can be imposed.

The owner can ask the local authority to review its decision to list the asset and further appeals can be made to the General Regulatory Chamber First and Upper Tier Tribunals. There is also a compensation provision where an owner can demonstrate that it has suffered loss as a result of the local authority's decision to list the asset. This is set out in The Assets of Community Value (England) Regulations 2012.

In this paper, I would like to share the experiences of St Albans City and District Council (SADC) through the process, from consideration of nominations through to the Upper Tier Tribunal, using a case study known as Bedmond Lane Field.

SADC perspective

SADC has so far received 34 nominations for a variety of types of asset (see Fig.1) both publicly and privately owned (see Fig.2). It has listed 18 assets; 10 have been unsuccessful, 1 nomination was invalid and 5 assets are under consideration (see Fig.3). Details of all the decisions, reviews and appeals may be found on SADC's website at:

http://www.stalbans.gov.uk/community-and-living/improvements/CommunityRights/assets.aspx

At SADC the nominations are considered and assessed by the Property and Asset Manager (PAM) who decides (in consultation with the Portfolio Holder for Community Engagement and Localism) whether or not to list the asset. Reviews of the PAM's decisions are undertaken by the Head of Legal Democratic and Regulatory Services (HLDRS), in consultation with the Leader of the Council.

To date, of the 18 assets listed by the

Fig. 1 Nominations by Type

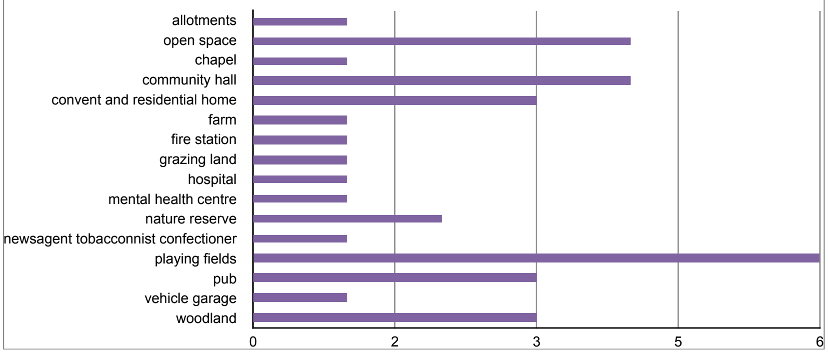


Fig. 2 Public/ Private Assets Nominated

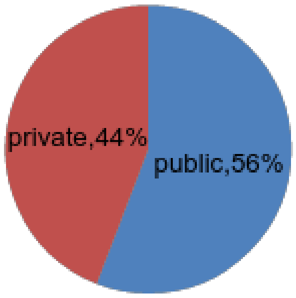
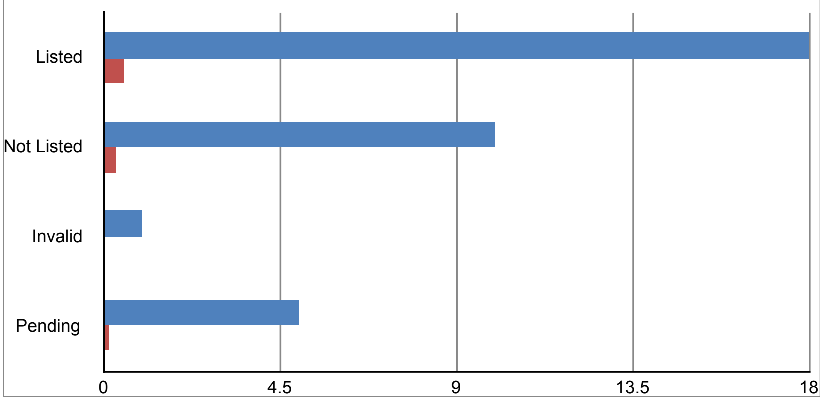


Fig.3 First Decisions Made



PAM, 3 have been requested for review by the landowner. Of these, 1 has been reviewed by the HLDRS and the decision to list upheld. 2 have been reviewed and a decision is awaited.

The 'case study' from the perspective of the first decision maker (PAM)

The case study involves an asset known as Bedmond Lane Field (the "Field") owned by Banner Homes (the owner). It is an area of undeveloped land at the edge of a private residential estate in the green belt. There are public rights of way running along the edge and through the land. The asset was nominated for listing by Verulam Residents Association (VRA), which claimed the land had been used by local residents for a number of community purposes such as "children playing, kite flying, walking and exercising dogs".

Stage 1- The Decision to List

As the PAM, it was my role to assess the asset and to decide whether or not it met the criteria. Upon inspection I noted the well-worn public footpaths and the lack of fencing or signage preventing access to the land beyond the footpaths. I also noted the numerous 'desire lines' through the Field, indicating to me that the public had accessed the land beyond the public footpaths. I also saw first-hand evidence of dog walkers and I noted the visual amenity to a number of properties over-looking the Field. I believed these uses to further the social wellbeing or social interests of the community.

Having regard to whether the community use was ancillary to the main use, I looked at the planning history of the site. I noted that the owner had submitted a number of unsuccessful applications to change the use of the land and the fact that the land is in the green belt. It therefore remained as a field to which public access was possible and at the time of my determination, appeared likely to continue due to the lack of fencing and lack of action on the owner's part to prevent it. Weighing up the evidence before me I therefore determined that the asset met the criteria set out in s88 (1) and the asset was listed in March 2014.

Stage 2 – The Review

The owner did not agree with the listing of the asset and requested a review of my decision. The grounds for the review were (my interpretation):

- That the "actual current use" of the land relied upon is wholly or in substantial part trespassory and therefore unlawful and consequently cannot be a qualifying use under the Act, and
- The owner has since fenced the land beyond the public footpaths and it is not realistic to think that the claimed use can continue.

The matter was considered at an oral hearing, at the Council's offices in September 2014 by the HLDRS in consultation with the Leader of the Council. The owner's representative (owner), the VRA and I (as first decision maker) gave evidence.

The grounds for review are interesting and potentially far reaching in their implications. At the point of my decision there was no fencing or signage preventing public access. However the owner had subsequently erected fencing and was now seeking at review to overturn my decision. I inspected the site again prior to the hearing and noted that the fencing had been damaged in places and that access was still being gained to land beyond the public footpaths. I also noted that although the fencing could potentially prevent public access, because it was post and wire stock fencing, it did not prevent the public's ability to enjoy the flora and fauna in the Field.

The owner also claimed that the residents had trespassed onto the land and that such unlawful use could not give rise to a social benefit. I reviewed the evidence provided by the VRA and the owner and noted that the parties had discussed the possibility of a licence to allow VRA to maintain the land. No licence was granted but neither had the owner taken action against trespassers, despite being aware that residents were using the Field.

The owner cited Welwyn Hatfield BC v Communities and Local Government Secretary (2011) 2 AC 304 as evidence that there has to be clear language in an Act before it can be presumed that Parliament intended to confer rights on the basis of unlawfulness.

The HLDRS (in consultation with the Leader) accepted that, as a general rule "use" for the purposes of s88 means lawful use. However he considered that there was a clear lawful use in this case (demonstrated by the evidence provided of walking along the public footpaths and enjoying the land which is notable for its flora and wildlife) which furthers the social wellbeing and interests of the local community. He also went on to consider that some uses could qualify for the purposes of s88 "notwithstanding a taint of technical unlawfulness", especially where that use has caused no harm and has been condoned for many years.

The HLDRS also considered the impact on his decision of the change in circumstances with regard to the fencing. He concluded in this case that the erection of the fencing was of little significance. Either he should consider the circumstances at the time of the original decision, in which case he could conclude that the community had unimpeded access to enjoy the land and thus the criteria of s88 (1) was met. Alternatively he should assess the asset as it is now, with the fencing, in which case he could conclude that the community might still enjoy the benefits of flora and fauna that the land has to offer from the public footpaths. "In other words, with or without the fencing, the land has been and is being used in a way which furthers the social wellbeing or social interests of the local community."

The HLDRS therefore upheld my decision to list the asset.

Stage 3 - The Appeal to the First Tier Tribunal

Unwilling to accept the review decision, the landowner appealed to the First Tier Tribunal and a hearing was set down for March 2015. The grounds for appeal against the review were essentially (my interpretation):

- That the reviewing officer (HLDRS) was wrong to consider a non-physical use as meeting the criteria for the purposes of s88 of the Act
- That any physical use of the land was trespassory and therefore unlawful and outside the criteria of s88
- The use could not continue because a non-physical use does not meet the criteria and the owner has no intention of removing the fencing to allow access to continue.

The First Tier hearing took place at Field House London before Judge Peter Lane. It was conducted by barristers acting on behalf of the owner and the Council. The judge considered witness statements from PAM, HLDRS, VRA and the owner.

The decision of the First Tier Tribunal in April 2015 was to dismiss the appeal. Judge Lane accepted that the use intended by the Act should be physical. He noted that the Council's interpretation would "have some surprising consequences". In relation to trespass however, the judge did not accept the owner's argument. He appeared to be more persuaded by the HLDRS's view that the use, although "tainted with technical unlawfulness" nevertheless furthered social wellbeing. He cautioned however that his decision in this case "does not give carte blanche to use that section in ways that would violate the in bonam partum (in good faith) principle".

The judge considered the planning history of the Field, the earlier discussions between the owner and the VRA regarding a licence and "the long history of peaceable, socially beneficial (if formally unauthorised) use of the Field". He consequently accepted the Council's argument that there was a realistic chance that in the next 5 years, there could be non-ancillary use of the land, similar to that prior to the erection of the fencing.

Stage 4 – Appeal to the Upper Tier Tribunal

In May 2015, the owner sought leave to appeal the First Tier Tribunal decision. Judge Lane granted leave on the basis that:

"It is appropriate to grant permission on ground 1, so that the Upper Tribunal may consider the important issue of the application of the Localism Act 2011 to trespassory use."

but refused the owner's second ground:

"Ground 2 has no merit. The antithesis of "realistic" is "fanciful". The reason for the Tribunal's finding lay, as is stated, in the "history of the field", amply set out in the decision."

We now await direction from the Upper Tier Tribunal.

Conclusion

The communities of St Albans City and District have embraced the opportunities provided by the Localism Act 2011 and have nominated a number of assets for listing. As the first decision maker I can attest to the difficulties in assessing assets in relation to the criteria set down in s88.

Bedmond Field was one of my early decisions and though lawyers and judges have so far agreed with my listing of this asset, I await with anticipation the decision of the Upper Tier Tribunal. Its decision will have implications for the other 2 cases that are currently under review and for future applications that cross my path.

[Ed - Debbi has agreed to follow this up].

URBAN SCHOOLS DESIGN

Andy Algar and Kevin Joyce

Andy is the Assistant Director (Property Services) at the London Borough of Wandsworth, and Kevin is a Principal Development Surveyor in Property Services

Here, 2 ACES members give examples of striking new schools in London which have successfully overcome major site development constraints.

New schools templates

A combination of burgeoning demand for primary and secondary school places in the UK and a dwindling supply of land capable of supporting new schools' accommodation means that pressures to deliver new schools, particularly on tight urban sites in our towns and cities, are as intense as they have ever been. Innovative design solutions for such urban sites can both work in functional terms, which should be the first prerequisite of new school developments, as well as create inspirational learning environments for pupils.

The procurement climate for new schools development projects has changed markedly since the 2004 Building Schools for the Future programme was replaced by a system of baseline design blueprint templates in 2012, with government's goal under a Priority School Building Programme being to use a standardised approach to replace some 261 run down school buildings with new schools of simple orthogonal design which can be replicated on different school sites. The standardised designs comprise 1, 2 and 3 storey layouts, which are intended to make development more cost-effective by avoiding features such as curved structures, glazed walls, and roof terraces used as play areas in the new schools.

The new template schools may comfortably fit physically on schools' sites where there are reasonably extensive external spaces and playing fields on site. It is more challenging though to apply the templates to construction of new schools on tight and awkwardly shaped urban sites, where design flexibility may be essential to the actual fitting of the schools on these constrained sites.

Some critics of the blueprint templates are of the view that a more pragmatic approach would be for total project cost guidelines only to be applied to new schemes rather than also to impose design constraints, with the costs being adjusted to take account of regional, school type, inflation, site constraint and abnormal development costs. This would allow more creative and innovative school design solutions to be delivered even within smaller project cost envelopes.

Other areas of specific criticism are that the templates prioritise form over functionality, rather than functionality over form, and disregard elemental pre-design processes, thereby failing in 2 key elements if new schools are to be built which function successfully after their completion and handover.

A benefit of elemental pre-design processes is that a design can be worked up within known cost parameters, which reflects a school's philosophy and vision, looks to deliver a school which operates efficiently by taking account of both the curriculum and the strategy for the school's organisation (different schools may be faculty or department based, or have a house, years or key stage structure for example), and enables accommodation schedules to be developed which maximise the use of teaching and non-teaching spaces. The layout of a new school can be shaped by set adjacencies which cluster complementary or connected school activities so as to make pupil and staff movements during the school day as short and as seamless as possible.

Despite the current challenges, there are some striking examples of new schools projects which have successfully overcome major site development constraints, including the following projects in London, where different yet imaginative approaches have been adopted to the delivery of new schools.

The multi-level primary school

The challenges presented by the Moreland Primary community school redevelopment project in Islington, north London, not only centred on how best to deliver a new 2 form entry 420 pupils primary school, double nursery and children's centre on a tight existing inner London school site, but on a site where the developable area was further constrained by a need to also construct 2 new housing schemes on part of the site for disposal to help fund the new school's development costs. The total site area extends to 5,970 sq m, less than a quarter of the size stipulated in Building Bulletin 99 (BB99) guidelines for a school of this size. BB99 has now been replaced with BB103, a more simplified guide for primary and secondary schools, with non-statutory requirements, and smaller area stipulations.

The design solution produced by Alan Dale Education Architects to overcome these constraints is a new 3 storey primary school and children's centre using a design able to achieve BREEAM 'outstanding' designation, featuring excellent natural light and natural ventilation, minimising external noise intrusion from Moreland Street, part pitched roofs incorporating solar panels and part flat green roofs. The design configuration emphasises practical functionality in the school's operation and use, with good ease of access for parents, pupils, and suppliers, and the avoidance of congestion of pupil movements between classes and at lunchtimes.

The layout of the school provides for the youngest children to be placed at natural ground level (Level 1); the middle level (Level 2) also has easy street access and contains the common facilities including the school hall, activity hall, library-LRC, staff areas, administration and MI room; the top floor (Level 3) is for the use of the older children.

Moreland was curated to be included in the AJ Architecture Tomorrow Exhibition at London Olympia in October 2014, being one of only 2 school projects selected for exhibition, from around 50 national/international practices.

The London Borough of Wandsworth's newest school is a 420 pupil 2 form entry primary school, with 26-place full time equivalent nursery, in Earlsfield. The school, currently under construction, is on the site of a council-owned former day centre. Floreat Wandsworth Primary School will be run by Floreat Education, a Department for Education approved academy sponsor, and is due to open in September 2015, progressively building up to capacity in 7 years. The main contractor for the school is Neilcott Construction Limited.

Floreat Wandsworth Primary School is the first phase of a masterplan for the regeneration of this part of Earlsfield. The wider site presented an opportunity to regenerate an area that had become fragmented and to restore an urban grain that previously existed. Although divided into several ownerships, the masterplan covers all the parcels of land, allowing the site to be developed in a controlled manner.

As with Moreland Primary School, the architect, Broadway Malyan, has had to take account of the design constraints imposed by a tight urban site. A part of the site of 0.53 ha has been sold for residential development; the capital receipt from its sale will part fund the school development. The site for the school itself, 0.465 ha, is at the bottom end of the BB99 recommendations for a 2FE primary school on a 'confined site'. However, the architect has sought to maximise the outdoor space by designing a perimeter L-shaped block and to include a roof top soft play area of just under 400 sq m.

The design of the new school building restores the strong street frontage to form an urban edge on Garratt Lane. The main block of this new L-shaped school is 3 storey, with the double height school halls adjacent. The youngest children are to be accommodated on the ground floor of the main block, Years 3 and 4 on the 1st floor and the older children on the 2nd floor. The plan arrangement is a single loaded corridor with the classrooms on the sheltered courtyard side. All

Rear of Moreland Primary School

the classrooms have direct access to an outside space; in the case of the classrooms on the 1st and 2nd floor this is to a generously sized covered balcony.

The other arm of the L-shaped building along Farlton Road steps down in scale to a single storey with a raised parapet to the roof-top play area. This lower block accommodates the 2 reception classrooms and the nursery.

The main pupil entrance to the courtyard is adjacent to the halls, and the entrance for reception and nursery children is off Farlton Road, a community entrance provides access to the halls, which can be separated off from the remainder of the school for out-of-hour community use functions.

The building is steel framed and brick clad. A buff multi brick is used generally, with the halls clad in a red brick. Careful consideration was given to the choice of brick within the context of the neighbouring buildings. The elevation to Garratt Lane is enlivened by storey-height windows and decorative brick panels with bricks laid in unusual bonds such as herringbone.

The vertical academy

The BDP architectural practice was an early pioneer of the vertical school concept, designing the 2002 built voluntary aided C of E Hampton Gurney primary school in Nutford Place off the Edgware Road in west London. The development is on 6 levels and introducing 2 new design features, play decks at each level and a flat roof playground, to compensate for an absence of external space on site.

Hampton Gurney was the forerunner of the 2009 built Bridge Academy, a specialist music and mathematics academy sponsored by UBS and built as a 7 levels 'Beehive School' on a canal side former Victorian gasworks site at Haggerston in east London.

BDP's design created a 10,250 sq m academy arranged as 3 connected building structures, on a 6,000 sq m site, with the buildings built up to the street edge. The development has some 5,500 sq m of external play space, including terrace decks cascading down to the Regents Canal on the site's north boundary.

Without doubt, the most visually dramatic feature of the school is the beehive design of its principal building, with teaching spaces, learning bays and classrooms arranged on open gallery levels wrapping around a central atrium.

The atrium houses the academy's main assembly hall and social space and a learning resource/library centre in a cradle structure above, and also allows the teaching areas to benefit from high levels of external and internal natural light, thereby minimising energy consumption in these spaces.

The galleries themselves are all on split levels which, together with a lack of staircases (there are only 2), has created the effect of integrated organic spaces rather than a 7 storey traditional school. The top level, occupied by the academy's arts faculty, enjoys an impressive panoramic vista of the City of London skyline.

Linked to the main building structure are both a sunken sports hall and covered car park with a multi-use games area (MUGA) above, and a teaching space with retractable seating which can be transformed into a 420 seater auditorium. In 2013, an octagonal lightweight steel floor was built on top of the auditorium to create a semi-autonomous 6th form facility for the academy.

Other design features of the development are a large ETFE (a fluorine based plastic) transparent polymer wall creating a hoop around the atrium, natural ventilation, and the absence of any corridors to allow wider social cohesion between pupils and minimise opportunities for bullying.

The raised bridge primary school

Some of the design innovations of

Floreat Wandsworth Primary School
under construction

the Bridge Academy also feature in the design of the 2010 built Lauriston community primary school at Victoria Park in east London. Lauriston occupies a restricted site with the new school built up to the street edge. There are no corridors but creative spaces included on each of the 3 levels of the school, and the M & E includes natural ventilation, with the classroom environments controlled by the children themselves. Full length glass windows help ensure good natural light throughout.

In other ways though, the design challenges were quite different from those of the Bridge Academy. The original Lauriston school was a one form entry primary, comprising a 1970s built single storey 'island block' school in the centre of the school site with a caretaker's house at the front of the site. The brief for the architect, Ann Griffin, was to design a new 2 form entry primary without the school having to decant off-site during the construction period, also taking into account an acute lack of external space on site.

A raised bridge structure is the most impressive technical feature of the new school's design. A ground level 'street' runs through the centre of the front part of the school, with a sports hall and nursery leading off to left and right. Above both the street and external play space to the rear are 2 floors of classrooms, learning spaces and a staffroom, with these floors bridging over the external space and being supported on stilts to maximise the play space available. Although classrooms have been arranged in clusters of 4, to encourage a house approach in the larger school, smaller group rooms also provide personalised learning spaces.

Prefabricated timber construction of the main school superstructure both reduced on-site construction times and minimised noise and dust disruption to the existing school during the works. The timber panels have had an additional advantage in that the internal school environment is one which provides the aesthetic qualities and visual warmth of exposed timber surfaces.

A phased development involving the relocation of the caretaker's house, building the front part of the new school and moving the existing school community into this space, before building out the rear part of the school enabled the school to be built without any off-site decants proving necessary.

The three-in-one school campus

An alternative way of addressing pressures on school places is to combine different education facilities on single sites, which can realise space savings through shared services.

The Golden Lane Campus is a 2008-built schools development on the site of a 19th century unconsecrated burial ground adjoining the Barbican complex at the edge of the City of London, with the 3 levels' campus built out to street edges on 2 road frontages, to maximise the developable area of land.

The support of key schools' stakeholders, the design skills of Nicholas Hare architects and the 'buildability' expertise of Wilmott Dixon contractors, combined effectively to overcome a series of obstacles to development in order to deliver a project which was awarded the BCSE Inspiring Design Award in 2009.

Nicholas Hare's brief was to re-provide the Prior Weston primary school with 420 new school places, the primary school part of the Richard Cloudesley community school for children with physical disability needs with 30 new school places, and the Fortune Park Children's Centre, all on a single site. The 3 education elements share some spaces such as reception areas, school halls and dining rooms, while Richard Cloudesley and the children's centre both also have their own dedicated areas at ground level around an internal central street and share therapy rooms.

The main primary school is arranged on 1st and 2nd floors, with the lack of external space on the site necessitating much of the campus flat roofs to be used for play spaces. The design has enabled each of the bright 1st floor classrooms to open up onto an external courtyard or playground, which have soft, bouncy play surfaces. A community resource and caretaker's accommodation have also been provided.

The development has strong sustainability credentials, featuring both glass and rubber used as building materials, a hybrid natural ventilation system, and a high thermal mass for what is predominantly a concrete building structure.

The cavernous school extension

Extending existing school sites can have just as many complexities involved as new build developments and may have to extend while a school is still operating. The close proximity of private housing may act as a constraint on the scale of above ground construction which could prove possible without major detriment to the quality of the visual amenities of neighbouring properties.

Both these challenges had to be met in a 2013 built extension of the Notting Hill and Ealing High School for girls in west London, a project involving the demolition of an existing assembly hall and gymnasium, and linking the existing principal school building and a rear science block with a new extension which is effectively a 6 level school hall, sports hall and dance studio. The brief also involved the remodelling and refurbishment of the school's main entrance, reception and library, as well as the creation of a courtyard garden and an all-weather Astroturf MUGA.

Adjoining the site is a private road of predominantly 2 storey housing, with terraces of houses backing onto the extension land. Ellis Williams architects produced a design for an extension which is partly built below ground with a cavernous 4 court sports hall 3 floor levels deep, with a double height school hall above, to accommodate school assemblies and 100 seat drama performances, and a 2nd floor dance studio with a sedum roof above.

The end result is a new extension which seamlessly links each part of the school, and where the new build construction blends well with the existing Victorian and 1970s/80s school buildings without having an overly intrusive visual impact on the surrounding townscape.

ACES PUBLIC SECTOR PROPERTY SYSTEMS SATISFACTION SURVEY

Mark Jones and Alister Langdon

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

Following a survey of ACES members, Mark and Alister outline some high level findings about IT systems used in the public sector.

Introduction

The public sector is using more up to date technology and is paying less for its property systems than equivalents in the private sector – so why do we hear so many complaints about property technology?

Earlier this year, ACES and Remit Consulting sent out a questionnaire to investigate public sector organisations' satisfaction with the systems they use to manage their property assets.

Given the ever increasing demands for efficiency and cost savings, having the right technology is a key factor for many in helping drive change, working more effectively, better management of assets, and being able to report consistently to measure outcomes.

The survey attracted a good deal of interest – 49 organisations responded – indicating the perceived importance of systems to manage property effectively, and the desire for a better understanding of the extent to which this is being achieved.

This article summarises the results from the responses. It complements the similar survey we ran in 2014 for private sector organisations which we reported in 2014/15 Winter Terrier.

The survey sample

In order to understand the satisfaction with systems in context, let's look first of all at the systems that respondents are using, the system age profile and the annual spend on those systems.

<u>Which systems</u>

As expected most organisations who responded are using systems specifically developed for the public sector. There are clearly some market leaders which most readers will be familiar with – some have been around for many years through many different versions! Overall, this is a very different set of systems than those used by private sector property companies and property managers – confirming the specialist nature of some aspects of public sector property asset management.

The "Others" category includes a slightly more varied set of solutions used by only a single respondent in each case – systems from Concerto, Aligned Assets, MASS, ESRI, Oakleaf (3i Studio) and Raindrop.

Finally, 6 respondents use in-house developed systems. Most of these bespoke systems were implemented 10-15 years ago. This is seemingly because the package systems at that time were much less mature than they are now and did not include all the functionality required. In addition, the software suppliers would not have been able to develop what was required as fast as some in-house development teams.

Which neatly brings us on to the age of the systems used across the survey sample.

<u>System Age</u>

The majority of the systems have

been implemented (or significantly upgraded) in the last 10 years or so. Only a small minority have systems older than 15 years, with a couple dating back to 1990 or earlier!

The results show a flurry of activity especially between 2008 and 2011. This contrasts sharply with a dip in system implementation activity we found in the private sector because of the downturn in the economy. One theory is that public sector authorities at the time really started to view technology as a tool to help drive through structural changes and longer term savings.

We note also that most of the recent implementations reported by the respondents are of the more popular systems with only 1 or 2 breaking away from the mainstream suppliers.

<u>Annual system spend</u>

Some of the survey respondents declined to tell us how much they are spending on property systems. Of those who did, 28 spend less than £25,000 p.a., with only 4 spending £25-50,000, and 2 spending £50-100,000.

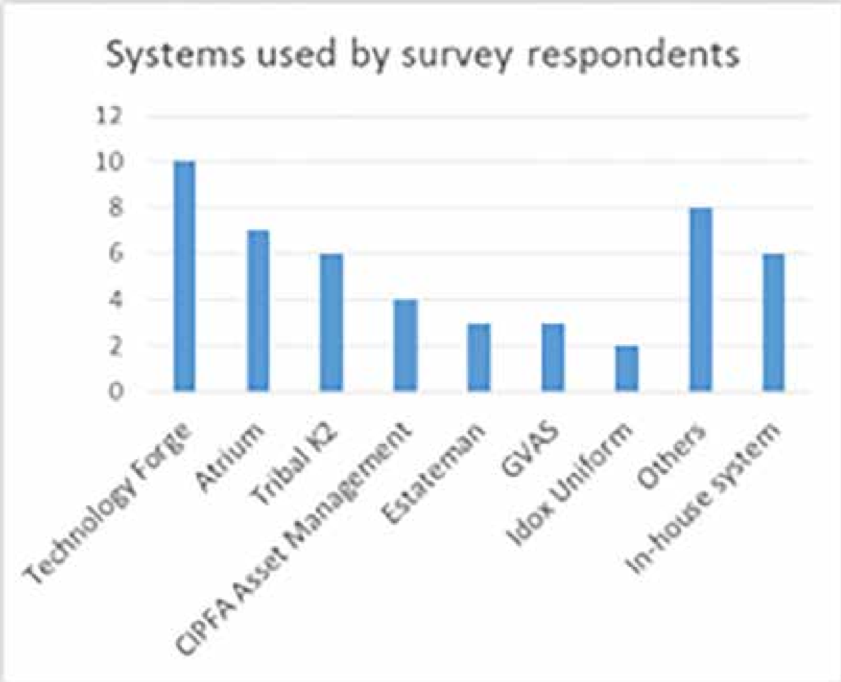
Even though we asked for both user numbers and annual spend as ranges in the survey, we see that there is a good correlation between these measures, and we have calculated an estimated average annual cost per user of around £1,500.

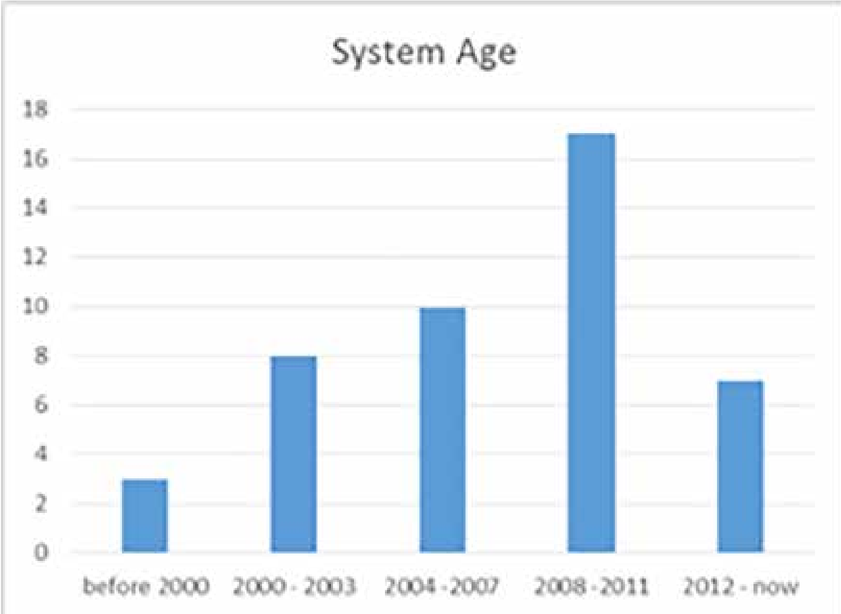
This is slightly lower than the average cost per user of private sector corporate occupiers we have seen in our previous surveys.

Perhaps this is because the public sector system suppliers are more competitively priced than those in the private sector – after all they have a smaller target market. Secondly we suspect that the public sector software is well-aligned to the needs of the potential clients, and therefore requires less customisation and additional knock-on maintenance costs.

Satisfaction with systems and suppliers

And so to the focus of our survey – organisations' satisfaction with both their main system to manage property assets, and with their software supplier.





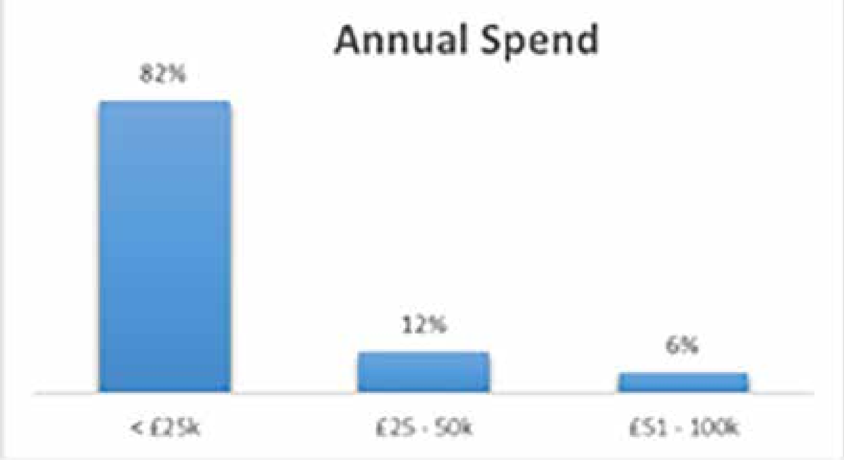
Generally the results indicate that satisfaction with systems and suppliers is high. We have said before that we would not expect this from our anecdotal evidence and experience with user organisations, but it's probably because they mainly tend to contact us when they have problems. The profile of results compare quite closely with those from our private sector survey, although dissatisfaction with systems in the public sector is greater.

<u>Systems</u>

When we dig further into the data, we note that the most dissatisfaction with the way systems support the business needs and the abilities of the software itself come from those organisations that are either using ageing software or only have a small number of users. This stems from a number of factors:

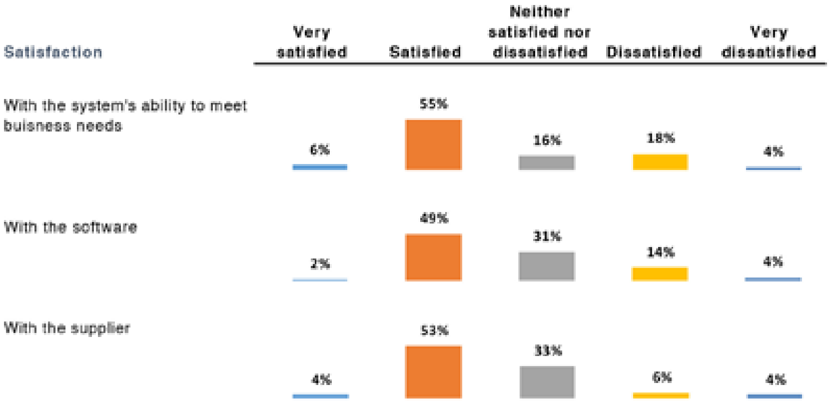
- Original software suppliers no longer existing and unable to properly support the systems
- Use of software that is not developed for the public sector
- Lack of funds available for investment in new systems.

Without singing the praises of any one supplier, larger organisations who have had the money to invest in the more sophisticated mainstream public sector



Type of Private Sector organisation	Average annual spend per user
Property Manager	Between £1-3,000
Corporate Occupier	Between £2-4,000
Investor	Between £3-8,000

Public sector average £1,500



software suppliers do seem to be most satisfied.

Interestingly, satisfaction among those organisations with bespoke in-house systems is mixed, some satisfied, but other dissatisfied – presumably where the system is no longer being developed or is using old technology that is outdated (e.g. lack of mobile access).

Suppliers

The satisfaction with suppliers mirrors our private sector survey, and therefore we do not hold back from repeating that organisations need good service from their software supplier as well as functional, robust software. This service includes:

- Being able to provide the right amount of experienced staff when required by the user organisation
- Taking financial responsibility for developing their product and acting quickly on known issues and problems before they affect the customer
- Being open and honest with their customers
- Being responsive to customers' enquiries and delivering solutions on time.

Conclusions

Actually, the public sector software suppliers are doing a pretty good job in meeting the needs of their market.

Having said that, some individual organisations clearly do not have the right solutions. The question is where they find the money to invest when there is so much pressure to manage costs? This will be particularly difficult for the smaller local authorities and other organisations.

We don't have a magic answer, but a couple of thoughts:

1. The trend these days is for systems to be procured on a monthly fee basis, depending on numbers of users and usage, instead of a significant up-front capital investment. Most of the mainstream software suppliers will be keen to help organisations invest in this way.

2. The initiatives in local government, health and police to share resources to manage property estates should offer some opportunity. Of course these initiatives are not without problems. Neil Webster's article on collaboration in Spring 2014 Terrier described the difficulties that often cause these initiatives to run out of steam. However, the justification for investing in systems will be the enablement of more efficient structures across authorities/estates and savings in the long run. There are examples already where neighbouring authorities are sharing systems as part of an overall service to manage and report across their estates, overcoming key questions that have caused others to falter such as: 'Who takes responsibility for owning and managing the shared systems?'

3. Authorities are reviewing the way they are managing and procuring IT generally in order to realise further cost savings – property teams should "piggy back" on these initiatives wherever possible.

So, why so many complaints about property technology? This is clearly not a technology problem. The sector needs to look at how their tech is implemented and what customers really need. If this can be addressed we will see some big gains in efficiency.

Footnote

We would like to thank all those who responded to the survey earlier this year.

RURAL ROUND-UP!

Alastair Paul

Alastair works for Knight Frank and is responsible for the Rural Consultancy department's Investment Land Management team, a service line established to assist the public sector, charities and institutions with the management of their rural portfolios. Alastair.Paul@knightfrank.com

This is the first of what I hope will become a regular feature in the Terrier, as rural affairs affect a lot more public sector property managers than just land agents managing county farms. Alastair particularly draws our attention to landlord health and safety responsibilities towards the end of the article, which we ignore at our peril.

Introduction

I read (and to a much lesser extent write) a number of articles for specialist property publications. I am not always sure that the articles I read (and possibly write!) always fulfil the intended purpose of the publication or are that useful for the recipient.

Being a specialist advisor in a specific field of land agency means that it is difficult to remember that the audience, despite being experienced property people, may not naturally have an enormous interest in esoteric matters of land agency that might only affect a small corner of their portfolios.

When the Editor very kindly asked me to write another article, I was determined to address this and write what the general readership might find truly useful. In trying to determine what was 'truly useful' I recalled my meetings with clients and potential clients that normally involve a quick round up of what is going on in the industry and what challenges their tenant farmers face.

Dealing from my office with principally London boroughs and Home Counties councils, the easy jibe by the tenant farmer is that the property team is made up of commercial property people who don't understand farming. Not often true, a surprising number appear to have grown up on farms - honestly! But hopefully at the end of this, and future articles, a property officer will surprise his/her farm tenants with a grasp of the key rural affairs.

Farm subsidy payments

So what is going on? A good question being asked by farmers, industry advisors, the farming press and increasingly, rural politicians. The Department for Environment, Food and Rural Affairs (DEFRA) is clearly battling between a rock, how to implement a larger and more unwieldy scheme than its replacement, and a hard place, on-going government budget cuts.

The new farm subsidy scheme, the Basic Payment Scheme (BPS), had a difficult roll out this year. The annual claim forms for the first time had to be completed on-line, following an overly complicated on-line registration system, but quickly DEFRA decided that the system would not be able to cope so delayed the deadline by a month and posted out paper forms.

The key changes in how the system works is a focus on detailed farm management information, a need to understand what is being grown where and what environmental features (hedges, grass margins etc) there are on each farm. This reflects a payment made to farmers to manage the land how the public (who are paying for it) sees fit and marks a greater step in removing the link between payments for pure crop production.

The payments demand more and will provide less income. A way for farmers to soften the blow is to take up one of a range of new Countryside Stewardship Schemes that came into effect this summer. Sadly though, much like the BPS, the new environmental schemes are days away from being launched and DEFRA hasn't yet published its full terms and conditions for the scheme – here we go again.

Commodity markets, farm incomes, rents and land prices

This may be a lot to deal with under one heading but they are all

intrinsically linked – even though they are more often than not moving in totally different directions.

The price of cereals and livestock is becoming an increasingly nervous conversation on farms, with, I have to say, good reason. The recent market volatility shows no sign of abating as the price of most agricultural commodities remains steadfastly below the levels seen 12 months ago.

Lamb prices, for example, slumped almost 20% in the second half of April and at the beginning of May beef prices were around 4% down on 2014 values. The outlook for milk farmers, already hit hard by a slide in milk prices, looks even more uncertain after milk quotas were abolished across the EU on 1 April.

In the arable sector, wheat values continue to bounce around, shifting up or down on a weekly basis by over £10/tonne. A positive outlook for the 2015 global cereal crop is currently helping to push down feed wheat prices to below £110/t. Traders say market fundamentals are not pointing to any significant price rallies over the rest of 2015.

Unsurprisingly therefore, total income from farming in the UK fell by 4.4% in 2014, according to new government figures. What might surprise many is that farm rents appear to be remaining at an all-time high. Agricultural tenancy legislation dictates that in the main, rents are reviewed every 3 years and it was about 3 years ago that cereal prices were at record levels when many rents were set.

Now comes an interesting time as the rent reviews can be triggered by either landlord or tenant. So are we seeing a raft of rent review notices being served by tenants? The answer is no and history shows that it takes a huge amount of pressure on farm incomes for tenants to start serving notices on their landlords, even though for both the historic and modem tenancy agreement types this is reasonably straightforward to do.

In the case of traditional Agricultural Holdings Act agreements, the mechanism for resolving rent disputes has become much easier and less costly after a change of legislation this year. Being a landlord's agent, I do not encourage downwards rent review notices but I do see sense in landlords and tenants working increasingly closely together and this involves conversations about rent.

The average price of English farmland broke the £8,000/acre barrier for the first time earlier this year. According to the Knight Frank Farmland Index, the price of bare agricultural land (without any farm buildings or houses attached) rose 4% in the first half of 2015 to £8,256/acre. This means prices have now risen by 10% year-on-year and by 198% over the past 10 years.

Farmland continues to outperform many other investment classes and this must be of reassurance to those authorities that in the credit crunch lost parts of their long-term, "low-risk" investments in overseas banks, but 'average' figures can be very misleading.

I see land prices across the UK as something like a lumpy duvet, [Ed – interesting analogy!] huge regional variations which can catch out those undertaking desktop annual portfolio valuation exercises. We have seen large blocks of arable land of interest to investors routinely selling for over £12,000/acre, and in some cases much more. Traditionally investors have focused on East Anglia, but deals have been done recently in Hampshire and the Welsh borders.

I note that Knight Frank's Farmland Index states 'we expect average values to grow annually by around 5% over the next few years.' I am not an estate agent and land agents are a naturally more cautious bunch, but I remind myself that in 2005 commodity prices slumped and land prices continued upwards without abating.

I also believe that for the land market, which is an international as well as domestic investment marketplace, the unique structural factors keeping land prices high, such as the list following, will have to fail, to impact the current market.

- the UK's 'safe' political environment
- its gilt-edged government backed title system
- a stable currency
- generous capital tax reliefs
- significant European and Middle Eastern uncertainty.

Added to this, the increasing short supply of land suggests that the strength of the market seems set fair.

Farm renewables

The government has been moving its pawn around the renewable energy chess board. Onshore wind is out, large-scale ground-mounted solar PV has also lost favour, with government policy clearly stating that it feels commercial roof space, not farmland, is the most sensible location for solar panels. Farm renewable energy is here to stay and the government's manifesto appeared to support small scale renewables schemes but interestingly, at the same time committed to the development of the nascent shale-gas industry with £1.2m of funding already being pledged to help local authorities speed up shale-gas planning applications. Difficult decisions await those councils with potential fracking sites.

Farm planning

The relaxation of permitted development rights allowing the conversion of on-farm commercial buildings and general farm buildings into residential uses isn't achieving the traction it was expected to. I have to be careful what I say here, as of course, London borough landowners are also the local planning authority, but there is clear frustration with the news that according to DCLG, over 50% of prior approval decisions were being turned down at one point.

The basic new rules state that 500 sq m of commercial buildings and 450 sq m of agricultural buildings used for storage or distribution can be converted into up to 3 residential dwellings without the need to apply for full planning consent.

For many landowners converting farmyards into housing is desirable and much needed. It isn't so straightforward for public-sector portfolios. Apart from issues with residential letting and the right-to-buy legislation, most farmyards that would convert easily to residential uses have already been converted and sold off. The remainder are either purpose-built or purpose-adapted agricultural yards. Creating a dwelling in such a farmyard would be mean logistical and health and safety concerns and letting a house to a non-farm related tenant in the middle of a working farmyard is going to be fraught with issues.

Farm health and safety

The fact that London boroughs and county councils own large numbers of farms where their tenants work in the UK's most dangerous industry is of great concern to me.

It worries me that albeit landlords are not directly responsible for their tenants' businesses, they are responsible (and in many cases more than they think), for varying elements of the buildings, yards, sewerage systems, bridges, etc. on their farms.

Recently one of Knight Frank's major clients insisted that as its managing agents we were required to comply with 'Occupational Health and Safety Management Systems 18001 Standard', this being an internationally accepted method of assessing and auditing occupational health and safety management systems. As my office does not deal with this particular client, I made the choice to volunteer to join the scheme and be assessed for the accreditation. Something I very soon regretted as I began to understand the level of detail required to pass!

We all learnt a huge amount in a very short space of time, mainly that we possessed a good working knowledge of most of it, but that every action and recommendation required written documentation and that by following clearly written procedures you greatly reduce human error.

For my office this was more than just a steep learning curve in H&S terms, but a desire to be grown up about the subject and take the initiative in an industry which has historically regarded the subject as an annoyance and a hindrance. The exercise of completing a risk register for a whole portfolio with the right tools took hours rather than the days our clients might have expected.

In recent portfolio inspections, at a time when tenant farmers are finalising their recruitment of young and sometimes inexperienced harvest students and intending to put them on large, powerful and dangerous machines and send them up vertical ladders on grain bins carrying a shovel and a broom (some of my own harvest work experiences are still my scariest), asking tenant farmers whether they had completed a risk assessment for their farm invariably met with a wide variety of responses – some unpublishable!

I do genuinely believe, however, without inadvertently straying over the written landlord and tenant responsibilities in tenancy agreements, that by being 'grown up' and not 'shying away' from the difficult subjects for our clients, we are making their portfolios safer and helping working towards removing the shadow that sits quietly over such a unique and diverse industry.

But, I am a realist - a major incident where a public sector landlord is partially responsible will inevitably and sadly, attract a great deal more attention and criticism and I do think it is only a matter of time. One of many over-used 'a stich in time' type comments could apply here but I can't think of a better example of where such a phrase is more relevant and deadly serious.

THE 2015 MODEL ESTATE REPORT

Catherine Penman

Catherine is Head of Research at Carter Jonas Catherine.penman@carterjonas.co.uk

The report is based on a notional estate located within the geographical triangle bounded by the M4, M40 and M5 motorways. It provides some useful performance trends of various asset classes, most of which are also managed by public sector surveyors.

The model estate totals 2,308 acres and comprises a combination of in-hand and let farms, a residential and commercial portfolio, a telecom mast and sporting rights.

The report details the performance of the assets of the model estate during 2014, as well as comparing it to a basket of recognised asset classes. All analysis is based on valuations undertaken on 31 December 2014. The objective of this analysis is to place the model estate and agricultural land in a wider context, enabling an assessment of its performance.

Model estate performance

The model estate was valued at £37.2m as at 31 December 2014, a 13.0% increase from its 2013 level. The rise in value was principally due to an impressive 24.3% total return for the let farms element of the estate. This significant growth was partly due to the re-letting of 403 acres on a Farm Business Tenancy (previously let on an Agricultural Holdings Act) and partly due to limited supply. Market values have continued to rise during 2014, albeit at a lower, and arguably more sustainable, rate compared to previous years. Rental growth and income return remained limited during 2014 due to reduced commodity prices and a squeeze on net farm incomes, with capital values continuing as the driving force behind the rise.

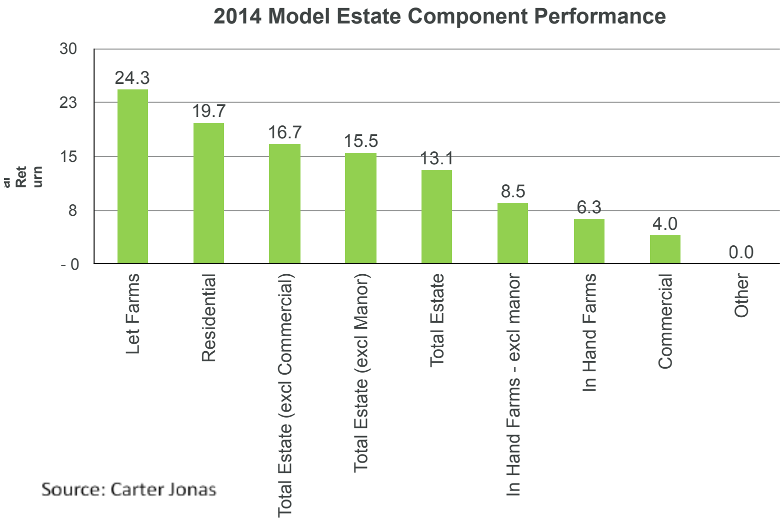
The in-hand farm element witnessed a 6.3% increase in capital values, similar to the growth rate of 6.8% in 2013. This consistent performance illustrates the strength and stability of agricultural land as an asset class.

The residential element of the estate saw a notable improvement in performance during 2014, producing a total return of 19.7%. This was due in part to one of the commercial buildings being converted to residential use and subsequently let. In addition, the improving market sentiment witnessed across the country to the residential lettings market boosted the performance of the sector.

The commercial element of the model estate recorded a 4.0% increase in value to the end of 2014, and the "other" element comprising a telecom mast, syndicate shoot and fishing rights saw capital values remaining static.

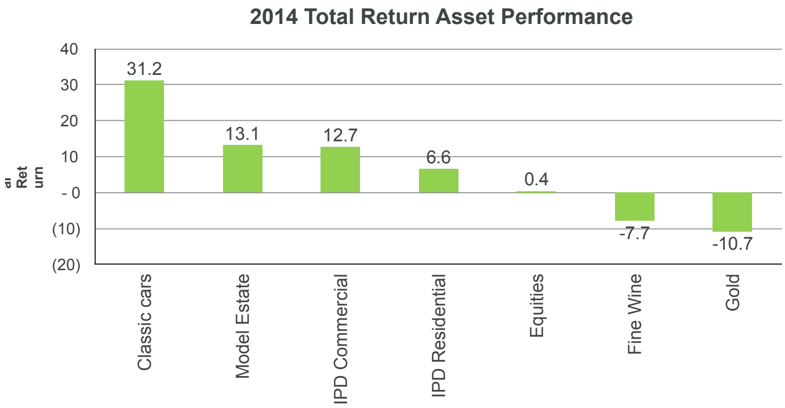
The model estate produced a total return of 13.1%, compared to a 2013 figure of 7.8%, ranking it 2nd of all asset classes analysed. This performance is enhanced to 15.5% when the Manor House is excluded and 16.7% when the commercial element of the estate is removed. These variances illustrate the impact that the various components have on the estate's performance. Taking a longer-term view, the diversity of the holding is a useful hedge against risk when compared to a single asset class.

The estate's 5 year performance showed an annualised return of 6.8% p.a. This



Source: Carter Jonas

rose to 7.9% p.a. when the Manor House is excluded and 9.6% p.a. when the commercial sector is removed. These results placed the Model estate in second position, to classic cars, among the basket of asset classes analysed. Significantly, the stability, in terms of the performance that land offers compared to both the residential and commercial sectors, remains a key component of the sector's appeal and along with the favourable tax regime continues to attract a diverse profile of investors.



Source: Carter Jonas

Agricultural land forecasts

The supply of openly marketed land remained restricted, and average land prices reached £10,000 per acre by 2014 year end. During 2015 to date, values have continued to rise albeit at a more sustainable pace.

Values of prime land are forecast to continue to rise by 5–7% p.a. over the next 5 years, as the appetite for top quality stock remains in high demand. However, despite the continuing increase of average land values, cautionary signals regarding the sustainability of the rate of increase (including the ongoing appetite of investors to continue to chase stock and the future of the euro) are emerging throughout the sector.

In contrast, poor quality land is likely to experience minimal or no growth, of between 0-2% p.a. over the same time period.

The UK land market is expected to become increasingly diverse over the next 5 years. While the total supply of openly marketed land is predicted to remain limited by historic standards, purchasers will become ever more discerning and a 2-tier market, between the best and the rest, will become increasingly evident.

The performance of the model estate versus other asset classes

The model estate produced a total return of 13.1% in 2014, ranking it 2nd of the 7 asset classes analysed. Its performance was improved when the Manor House and commercial sectors were excluded illustrating the strengthening and stable performance of agricultural land as an asset class.

The UK commercial sector recorded a 12.7% total return, driven from continuing capital value growth in London and also increasingly from the prime regional office markets. It is these regional hotspots that are forecast to witness continuing rental growth and yield compression during 2015.

The UK residential sector produced a total return of 6.6% that was in part driven by growth of the London market, and specifically outer prime central London, which comprises such markets as Wandsworth, Fulham and Barnes. Affordability remains a key issue within the capital with increasing volumes of young families now exiting London as values plateau and the realisation of record pricing differentials, boosting outward movers' power in the regions.

Equities produced a total return of 0.4%, the 2rd lowest of the 7 asset classes analysed. The volatility is evident when reviewing the longer-term performance of the asset class, 6.9% p.a. for the 2 year, 7.3% p.a. for the 3 year and 5.1% p.a. for the 5 year annualised total return.

Gold recorded the lowest total return figure of –10.7% for the 2nd consecutive year of all asset classes recorded, reversing its historic performance of pole position. Its rapid fall from glory is now clearly evident, with the 2 year total return p.a. figure of –16.5%, 3 year of –10.5% and only the 5 year annualised total return figure recording a minimal although positive 0.7% p.a.

PASSING THE BUCK WITHOUT THE BUCKS – SOME REFLECTIONS ON FISCAL DECENTRALISATION AND THE BUSINESS RATE RETENTION STRATEGY IN ENGLAND

Kevin Muldoon-Smith and Dr Paul Greenhalgh

Kevin is a regeneration professional, having previously worked for a variety of public sector organisations, specialising in physical, economic and social regeneration. He has managed various commercial property portfolios. He is currently a Post Graduate Researcher at Northumbria University, recruited to investigate the incidence, impact and options available to address office vacancy in town and city centres in the UK. kevin.muldoon-smith@northumbria.ac.uk

Paul is a Reader in Property Economics and founding member of the URBaNE research group at Northumbria University. He has published extensively in the field of urban land economics with a particular focus on evaluating the impact of property-led urban regeneration. He is a member of the RICS Planning and Development, Valuation and Commercial Property Professional Groups. He is also a member of the Regional Studies Association, Fellow of the Higher Education Academy, and ACES. paul.greenhalgh@northumbria.ac.uk

Kevin and Paul reflect on the intricacies and potential impacts of the government's drive toward fiscal decentralisation and independence. They focus on the government's Business Rate Retention Strategy (BRRS) and its consequences for local authorities in contrasting locations.

Introduction

The current hyperbole associated with devolution in England intimates that enhanced territorial governance and localism is bound up with, and dependent on, fiscal decentralisation. The current emphasis on the 'Northern Powerhouse' and the entrepreneurial Devo-Manc would have us believe that a degree of locational independence will be the catalyst for economic resilience and the impetus for spatial rebalancing throughout England. Indeed, it is hardly possible to pick up a government policy document or city future think-piece without finding some reference to more localised power and control of local finance.

Timely research by Northumbria University offers a perspective in relation to this situation, in particular the potential impact of the government's Business Rate Retention Strategy (BRRS) which was introduced in 2013. The central policy drivers for the strategy are localism and economic growth, totems that will receive even more emphasis as local authorities are increasingly expected to stand on their own 2 feet amidst more swingeing public sector cuts and fiscal prudence. Yet, due to its arcane workings, the new system has received relatively little attention (next to the slightly better known Tax Increment Financing, New Development Deals and Enterprise Zones) which has let it fly under the radar with little scrutiny. [Ed – see Roger Messenger's article in 2014/15 Terrier].

The economics of Business Rate Retention

Without question the belated English interest in devolution presents a rare opportunity for new ways of working. Yet, our findings suggest that the current arguments in favour of fiscal decentralisation and spatial rebalancing are hollow words when distilled against the variegated economic geography in England. Rather than ameliorating spatial inequality, the BRRS potentially exacerbates uneven development. Our findings suggest that the centralised national economy could be replaced by an equally divisive city based one where a minority of locations are dealt all of the aces while the rest get a raw deal.

Indeed, the former leader of Newcastle City Council, Lord Jeremy Beecham, argues that the BRRS could result in a case of 'Passing the buck, without the bucks.' (Newcastle Evening Chronicle, 28th March 2015).

The BRRS replaced the centrally determined formula grant funding mechanism for local authorities. The new strategy allows local areas to retain 50% of business rate income and an additional 50% of any new business rate income (Manchester has recently been awarded 100% retention privileges by George Osborne, the Chancellor of the Exchequer and First Secretary of State). The model is clearly complex (perhaps its main weakness). However for the purpose of this article, attention is paid to the incentive effect and the adjustments for national rating revaluation.

The incentive effect means that local authorities in England are encouraged to increase the size of their business rate base in order to create revenue to pay for local service provision, economic development and urban regeneration. However, the adjustment for revaluation that takes place every 5 years strips out any increase in urban growth (through the adjustments in the top up and tariff mechanism); the only growth that remains is that associated with net new floor space, either derived from new build construction or repurposed floor space. The critical point, therefore, is that the relative increase in rental values of existing properties cannot be capitalised. This means that the success or failure of the BRRS incentive mechanism is bound up with the economics of commercial real estate development, which is spatially selective. However, in the absence of central government grant, all local authorities are expected to create investment in new commercial real estate in order to underwrite the funding of public services and urban regeneration.

Dealing with an uneven hand

Our central finding is that the BRRS is not driven by a desire to tackle inequality or to narrow the gap between rich and poor. Rather, the strategy is founded upon the ability to create new floor space through new build construction or conversion of existing floor space. To reaffirm our position, there are traditionally 2 methods of extracting value from the built environment in order to generate 'growth' (new money) in urban finance. The first involves building new properties in order to create 'new' business rate yield. The second involves investment in current property stock and its surrounding area in order to increase its inherent value. In England, in the majority of circumstances, the latter method is unrewarded, quite literally devaluing the exiting built environment. This means that the minority of locations where market conditions are conducive to new development, those with buoyant rental market structures have a distinct advantage over the rest.

We have developed a broad typology of locations in England to illustrate this situation, namely 'premium locations', 'stranded locations', and 'redundant locations.' The formulation of the simple typology is based upon the potential ability of local authorities to capitalise their urban assets into the BRRS model of urban finance.

Premium locations

Premium locations are most adept at exploiting and actualising the twin BRRS policy objectives of 'localism' and 'growth.' Capitalising on buoyant property market characteristics, such locations are relatively autonomous because they are able to leverage the more or less guaranteed ability to promote new floor space creation. Investment yields in these locations create attractive propositions for global property investors who view property as a long term investment medium. This gives premium locations an automatic advantage over other areas because it is these institutional investors and global investment capital that determine, when, where and how commercial floor space is developed. These locations have the inherent ability to exploit and strategise their real estate development, creating and securitising growth, and in turn, linking into international circuits of capital and financialisation. This is because commercial real estate in such locations is more liquid and fungible and can be repackaged into alternative financialised products and traded on the capital markets. In England, these locations are typically few, a consequence of their relative size, and include the central London boroughs, the 'core cities' of Birmingham, Bristol, Nottingham, Sheffield, Manchester, Liverpool and Newcastle (and their cousins over the border Edinburgh and Glasgow) and increasingly the 'Metros' (which include Reading, Oxford and Cambridge).

Stranded locations

Stranded locations have relatively buoyant business rate portfolios in terms of quantity but find it difficult to utilise the BRRS growth incentive. The current formulation of the BRRS, particularly the 'stripping out procedure,' hinders these locations from achieving their full economic potential. This can be because of the historical nature of the built environment (think Liverpool, Bath and Durham), restrictions in the availability of space to build new properties, or more simply, a general satisfaction with the current composition of commercial real estate in such locations. Local authorities like Westminster Council, the holder of one of the most valuable business rate portfolios in England, argues that its hands are tied because it cannot maximise the income from all of its property assets for growth (a consequence of restrained expansion space and the lack of appetite for redevelopment or conversion). Westminster LBC should not see any decline in tax relative to its baseline funding level (dependent on the accuracy of the baseline assessment) however the authority will not be able to manage its existing assets in order to generate any new growth because of the primacy given to new floor space construction.

Redundant locations

Redundant locations are disadvantaged because of their inferior property market characteristics. Such locations have either marginal or negative development values and cannot generate high enough rental levels to justify the costs of new development. Concurrently, these locations may also be shrinking due to economic change and demographic adjustment. Redundant locations are typically associated with older, secondary property markets which exhibit depressed rental levels and low levels of occupier demand. Institutional investors will not provide finance for development in these locations because they are unprofitable and do not conform to the conventions of commercial real estate development. It is problematic for these locations to exploit the BRRS as they do not have the underlying growth potential or critical business rate mass to pay for public services. These locations are typically situated in the north, such as Teesside, Humberside, Grimsby, Scunthorpe, Bury, Oldham, Crewe and the Black Country, indicating that it is often the small towns and cities that suffer urban decline rather than the big cities. Simply put, it is a little churlish to devolve power (and blame) to locations that cannot wield it.

Concluding remarks

How will those local authorities that cannot demonstrate economically viable commercial real estate development fund their future public welfare needs? Which type of local authority do you work for? Are you lucky enough to be in a premium location? Are you frustrated in a stranded location? Or are you struggling to deal with inferior economic conditions in a redundant location?

We predict that a key challenge in the future for local government officers (on top of the complexity involved in administering the system) will be retaining the correct balance and mix of employment sites and premises amid pressure to expand local business rate portfolios. Hence, in the future, an underlying question for local government asset managers could be: are you faced with a situation where you are promoting new commercial development to fund public sector services rather than the needs of economic demand?

How can local government officers make sure that the pack of cards is stacked evenly? There is no easy answer! However, we propose a number of considerations:

First, it is not appropriate to introduce new urban finance processes without them being subject to some kind of practitioner and intellectual oversight. The speed with which fiscal decentralisation (and its associated tools of urban finance) is taking place makes it imperative to understand its implications for the funding of welfare provision, economic development and urban regeneration. It is therefore important empirically to monitor, evaluate and review new tools of urban finance in order to expose the uneven geographical distribution, impact and consequences of fiscal decentralisation and contemporary methods of urban finance.

Second, there is considerable tension between the notion of fiscal devolution and equal redistribution and how both concepts might be reconciled. This is because business rate retention, in certain locations, is about the amount of money coming into a location, rather than what could be generated in that location, a consequence of the variability in geographical tax base in terms of quantity and the concomitant ability for that tax base to expand.

Third, amidst the clamour for more local power there must also be an engagement with the textures of locally specific commercial real estate markets and the professionals who understand them best. This is because our analysis of the BRRS in England proves that fiscal decentralisation is bound up with the relative structures of locally specific commercial real estate markets (and therefore the professional expertise of ACES members) and the interlinked ability to both attract and justify investment in commercial real estate development.

This work forms part of an ongoing research project and consultation service (R3intelligence, Department of Architecture and Built Environment at Northumbria University). In order to monitor the Business Rate Retention Strategy we have recently developed a multi criteria commercial real estate model for every local authority location in England and Wales. The intelligent model can be programmed to appraise any geographical scale from the local street, to the economic strategy zone, to the local authority boundary, pooled area or functional economic territory.

COMPULSORY PURCHASE COMPENSATION REFRESHER

Michael Forster

Mike is employed by Rossendale Borough Council, Lancashire and is involved in asset rationalisation and consolidation with a particular interest in town centre regeneration and infrastructure assets. He is a member of ACES Council

This article is Part 1 of a 2-part feature, based on a Central Association of Agricultural Valuers' tutorial held at Skipton Auction Mart on 14 July 2014. It involves a hypothetical situation of land being claimed from a farm holding for a new highway and the various claims and valuation issues to be expected to be included by candidates. Most of it is in list and note format.

Question

Your client is the owner of a mixed arable/beef rearing farm of circa 300 acres and he has recently been served notice of an intended compulsory purchase order in connection with a new major highway proposal (dual carriageway/by-pass) which will sever approximately 50 acres of land from the remaining holding which includes a farmhouse, barns, shippon and farm-workers cottage and will also remove 5 acres from the holding.

How would you advise your client in respect of:

a. The making of a CPO

b. Preparing a compensation claim for all losses suffered?

Making of CPO

<u>Private or public Acts of Parliament</u>

- Can be challenged – Ultra Vires (Wednesday Principles in High Court s23 of 1981 Act) See Prest & Another v S of State for Wales(1983)
- Failure to take all information into account
- Offer of other land for scheme purposes
- Not within enabling act
- Rules of natural justice not observed – Human Rights Act
- Failure to comply with a relevant requirement of legislation
- Objector needed to be substantially prejudiced
- Judicial review – where alternative route not considered
- Public local enquiry - required if objection made and not withdrawn
- Highways Inquiry Procedure Rules 1999
- Evidence to be submitted not less than 3 weeks before enquiry
- Minister can confirm with modification
- Timetable for objections is published
- For highways, alternative route proposals to be served 14 days before inquiry (including Side Roads Orders and Works Orders.)
- Matters of compensation are not valid grounds for objection
- Notice of CPO to be served on all owners affected
- (defined as anyone with unexpired lease term of 3 years or greater).

<u>Compensation – matters to be considered</u>

- Development value?
- Loss of land taken?
- Loss of business?
- Possible reinstatement elsewhere?
- Costs of whole proceedings?
- Lord Justice Scott in Horn V Sunderland Corp (1941) said that an affected owner should be put in the same position, money-wise, as if the land had not been taken from

Valuation Office Agency

DVS EXPERIENCED DELIVERY TO REGIONAL, LOCAL AND DEVOLVED GOVERNMENT.

Being part of the public sector means we understand the needs of our many public sector clients and the challenges they face. **DVS** has national coverage but prides itself on its local experience and knowledge.

OUR SERVICES

Asset Valuations
- Housing Revenue Account
- General Fund
- Plant and Machinery

Viability Assessments for Planning
- Developement Viability Studies
- Planning Appeals

Disposals and Development Consultancy
- S123 Best Price Compliance
- Development Appraisals

Compulsory Purchase and Compensation
- CPO Estimates
- Acquisitions and Negotiations
- Part 1 Claims

Heritage Property
- Valuations for Grants and Enabling Purposes

Strategic Asset Management
- Efficiency and Effectiveness of Existing Portfolio
- Utilisation/Rationalisation to identify surplus assets
- One Public Estate

Building Surveying Services
- Insurance Valuations
- Condition Surveys
- Dilapidation Reports

Clients Include:
- over 300 Local Authorities
- Parish Councils
- Police, Fire and Rescue Authorities
- DCLG
- Welsh Government
- Scottish Government

National Head of Local & Devolved Government
Ian Carruthers
Tel : 03000 504103
Email : ian.carruthers@voa.gsi.gov.uk

DVS
Property Services Division - Valuation Office Agency

Crown Commercial Service
Supplier

him – not less than loss suffered but no greater – but it may be very difficult to replace land lost to the scheme.

Basic rules

A. Six rules from section 5 of Land Compensation Act 1961 (in summary)

1. No allowance for acquisition being compulsory

2. Value to be open market value as if sold by willing seller

3. The special suitability or adaptability for a special statutory purpose or to a particular purchaser not to be taken into account

4. Any increase of value for purposes contrary to law to be disregarded

5. Special and rare cases where compensation may be assessed on the basis of the equivalent reinstatement (where no market exists for the particular class of property, churches, schools etc.)

6. Rule 2, not to affect the assessment of compensation for disturbance or any other matter not directly based on the value of the land.

B. Section 7 of the 1965 CPO Act allowing claims for severance and injurious affection.

C. Section 20 of the 1965 CPO Act allowing claims from tenants from year to year or less than a year.

D. Land Compensation Act 1973, claims - section 28 removals from home during construction works, and section 29-33 provide for home loss payments
Sections 39-43 for rehousing; section 45 re disabled persons homes; section 46 persons over 60 trading from rated hereditaments.

Special additional agricultural provisions

Found partly in Agricultural Misc. Provisions Act 1968, but mostly in the 1973 LCA

a. Section 12 of 1968 Act (as amended by para 44 of schedule 14 to Agricultural Holdings Act 1986) giving tenant additional compensation for disturbance (4 x rent). Apportioned if part only taken

b. Section 34-36 1973 Act provided for farm loss payments, but was repealed by the Planning and Compulsory Purchase Act 2004 for orders made after 31st October 2004

c. Section 48 of 1973 Act protects agricultural tenant's security of tenure for compensation purposes

d. Sections 53-57 of 1973 Act make special provisions where an agricultural holding is severed

e. Section 59 and 61 of the 1973 Act give the agricultural tenant an option as to the basis of the compensation claim

f. The 1973 Act as amended by the Planning & Compulsory Purchase Act 1974 contains provisions for a basic and an occupier's loss payment, the latter being for qualifying interests not entitled to a home loss payment. The payment is the lower of 7.5% of the value of the interest or £75,000. Section 33(b) of the 1973 Act provides for an occupier's loss payment for agricultural land. This payment is the greater of: i. 2.5% of the value of the interest; ii. the land amount; iii. the building amount.

The **land amount** is the greater of £300 and the amount in table 20.1, which is £100 per hectare for holdings of not more than 100 hectares. For larger holdings it is £100 per hectare for the first 100 hectares, and £50 per hectare for the next 300 hectares or part of a hectare.

The **building amount** is £25 per sq m of the gross floorspace of any buildings on the land, measured externally.

Where a person is entitled to an occupier's loss payment and a payment under Section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 he shall be paid only one (the greater) of these 2 entitlements.

Equivalent reinstatement

Does not apply to farmhouses, buildings or farmworker cottages – there is always a demand for farm premises – Viscount Vaughan V Cardiganshire Water Board. However it may be allowed in compensation for disturbance e.g. cost of replacing buildings lost in the scheme supported in Radford V De Froberville.

Cost of construction of wall not just depreciation due to lack of it. Also see Famer Giles V Wessex Water and Another.

<u>Basis of Value</u>

Agriculture or development, or agriculture and hope of development. If there is planning permission for development or a good prospect of getting it, the claim will be for a figure much in excess of agricultural value. In such cases the claim can be made for severance, injurious affection or disturbance to the agricultural use of the land/buildings (Horn V Sunderland Corporation).

If on agricultural basis it is agricultural value of the

1. Land (including loss by severance and injurious affection)

2. Plus disturbance.

If assessed on building value and this exceeds the sum of (1) and (2) the claimant suffers a loss in not being able to claim for disturbance.

If not the latter 2 sums then (1) and (2) will apply.

If it is mineral use consistent with agriculture this is ok and both may be claimed.

Value of land

Date for Assessment of value could affect ability to take a crop from the land.

Either:

(i) The date the compensation is assessed, or

(ii) The date on which possession is taken, whichever is earlier (Birmingham Corporation V West Midlands Baptist Trust Association. It is usually the FIRST DATE of ENTRY following Notice of Entry if various pieces of land are taken at various dates. This also fixes the date for property to be insured against damage by fire or vandalism until date of valuation or date of possession.

First steps

1. Decide unit or units of claim (Lotting). Would this farm sell both as a whole unit or would it be better to split it up into 2 or more units? Can be 2 or more different choices of unit.

2. Decide on basis of value for purposes of this claim. Establish sale prices of comparable properties in the market.

Planning

Existence of any planning permissions includes assumed planning permissions from Section 14-16 of 1961 Act and the prospect of obtaining any permission, or S17 Certificate as amended in Pt1 of Sch24 of Local Government Planning and Land Act 1980. Any UXB will influence choice, but may not add value because of rule in S15 and Pointe Gourde case, which requires the Acquiring Authority's (AA) scheme to be disregarded under S6 of 1961 Act. It is demand which increases value; the permission is the key to releasing the value.

See cases – Valentine v Skelmersdale DC/ Viscount Camrose v Basingstoke/ Bagshaw V Cheshire CC/ Hospital of St. John the Baptist v Kent CC and Myers v Milton Keynes Dev.Corp.

Comparables

1. Matters to take into account:

- Quality of land
- Convenience of working
- Situation of holding
- State of repair of fixed equipment.

2. Capitalised rental value based on either (1) rental value of premises or (2) rental value of comparable premises but (1) is the preferred option.
Sale price comparable should produce a higher value than capitalised rental value.

It is market value not value to the owner which is to be considered and the former may be higher as LT decision of Ellis and Ellis v S. of State for Agriculture.

Where actual rents are used, consideration should be given to when they were fixed, could they be increased by agreement/arbitration after issue of notice procedure?

Timber, mineral and sporting rights should also be considered if not in disturbance claim, plus tillages and unexhausted manorial values or

Claim to be made on an all-in basis.

It is important to be clear on what is covered by the claim figures and what is not, otherwise this could adversely affect the disturbance claim.

Milk quota

Dairy Produced Quota Regs 1986 and Amendment Regs 1988. If part of holding taken, apportioned quota is required – MAFF can enforce arbitration. Notice to be given to MAFF by purchaser. Exemption from notification if less than 5 hectares taken. Loss of quota to be reflected on transfer and Rule (2) market value. If not compensation it may be claimed under Rule (6) disturbance.

Owner may wish to keep quota for retained land.

If production ceases before change of occupation with the AA, it could leave all quota for use in vendor's retained land. It needs a clear written agreement with the AA. If vendor suffers loss, this can be recovered under Rule (6). (Enhancement of retained land may be claimed as set-off by the AA).

(EEC Rules allow for this transfer).

Ensure client does not fall between the 2 stools i.e. fails to get compensation for quota and fails to retain quota for benefit of retained land.

Mike's case study will be continued in the Autumn Terrier. It will include notes on disturbance, severance, accommodation works and other miscellaneous guidance.

IFRS13 – LATEST CHANGES IN THE WORLD OF LOCAL AUTHORITY ASSET VALUATION, PART TWO

Susan Robinson and Chris Brain

Susan Robinson MRICS is a Construction and Property Advisor with CIPFA Property. Her remit is to promote best practice in property asset management within the public sector. This includes the development and delivery of CIPFA's Asset Management Network and Construction and Property Advisory Service, production of best practice briefings in relation to current topics and provision of specific consultancy projects. susan.robinson@cipfa.org.uk

Chris Brain FRICS is a Senior Property Advisor within the CIPFA group. Chris delivers the CIPFA's Asset Management Network and Construction and Property Advisory Service, advises on asset management issues and undertakes a range of related consultancy. He has worked with many authorities, providing consultancy and training including strategic approaches to asset management and delivering efficiencies. chris.brain@cipfa.org.uk

CIPFA Property: www.cipfa.org/services/property

Chris and Susan from CIPFA complete their detailed guidance for valuation practitioners for local authority accounting purposes, who say: "the requirements are so significant and far reaching that any accountants that postpone thinking about them is likely to get themselves into a pickle."

In the last issue of Terrier we published the first part of a two-part article on the adoption of IFRS13 by the CIPFA Code, and the impact on the valuation of local authority property assets. Those of you that read the first part of this article will recall that while the CIPFA Code fully adopts IFRS13, it does so only for certain classes of property asset, namely Investment Property; Non-Current Assets Held for Sale; and Surplus Assets. We looked at the main changes brought about by IFRS13 in terms of valuation basis and the new definition of fair value.

In this second and final part of the article we move on to look at the areas of accounting disclosures, valuation hierarchy and valuation inputs.

The adoption of IFRS13 in the 2015/16 CIPFA Code introduces some new terminology and some new requirements. While these are accounting requirements there is no avoiding the fact that this is likely to change the way local authority valuers think about and record their asset valuations.

Although disclosures aren't required until financial year end – in other words when the statement of accounts is being compiled – the requirements are so significant and far reaching that any accountants that postpone thinking about them is likely to get themselves into a pickle.

Equally any valuers that find themselves in a situation where their accountants have not thought through the disclosure requirements of IFRS13 and how they intend to manage the process, are likely to find themselves having to spend a lot of time at the end of the valuation programme undertaking further work. This might even include undertaking fresh valuations.

So the simple point to be made is that local authorities – both accountants and valuers - need to be thinking about IFRS13 disclosures now.

There are a number of accounting disclosure requirements. We are not going to recite all of them in this article, but we are going to run through the key ones that will impact on the life of the local authority asset valuer. These disclosure requirements introduce the local authority asset valuer to new terminology such as *valuation techniques, valuation input hierarchy* as well as *observable inputs and unobservable inputs.*

What are valuation techniques?

Although IFRS13 adopts the term *valuation techniques* there is nothing terribly new in this that should cause any concern to the experienced asset valuer. IFRS13 talks in terms of 3 'widely used' valuation techniques namely: market; cost; and income. The term is nothing more than the valuation method adopted by the valuer.

Of course those still with a copy of *Modern Methods of Valuation* on their bookshelf will be more familiar with 5 methods of valuation, rather than 3. But there is no actual conflict between these valuation techniques and the more familiar 'valuation methods' and in fact IFRS13 does say that the authority should use valuation techniques that are appropriate in the circumstances and for which sufficient data are available to measure fair value.

What is a valuation hierarchy?

IFRS13 introduces the concept of the *valuation input hierarchy.* Valuation inputs are essentially the information, data and knowledge that the valuers use to arrive at their opinion of value. As most valuers will know, the source of such information, data or knowledge can vary and also differ in terms of quality and reliability. The valuation input hierarchy seeks to categorise those inputs and as the level on valuation inputs are required, in certain specified circumstances, to be disclosed in the statement of accounts, then this creates a whole new way of thinking for local authority asset valuers and will reshape how information is used and how the valuation narrative is recorded.

The valuation input hierarchy comprises 3 separate levels, as follows:

- Level 1 inputs are unadjusted quoted prices in active markets for items identical to the asset being measured

- Level 2 inputs are inputs other than quoted prices in active markets included within Level 1 that are directly or indirectly observable

- Level 3 inputs are unobservable inputs.

IFRS13 states that the distinction between the levels in the hierarchy is simply to inform readers of the accounts about the nature of inputs, and classification at level 3 does not imply that the valuation is of lower standard. The hierarchy is not a measure of valuation quality, and classification at level 3 does not imply that the asset is less liquid than others.

What are observable inputs and unobservable inputs?

IFRS13 requires that in selecting the appropriate valuation techniques, *unobservable inputs* shall be used to the extent that relevant *observable inputs* are not available. It goes on to say that the valuer should be looking to maximise the use of relevant observable inputs and minimise the use of unobservable inputs. It is the nature of the valuation inputs (whether observable or unobservable) that determine which level the valuation will sit in the valuation inputs hierarchy.

Observable inputs are those inputs "*…developed using market data, such as publicly available information about actual transactions…, that reflect the assumptions that market participants would use…"*

Unobservable inputs are those inputs *"..for which data are not available and that are developed using the best information available about the assumptions that market participants would use."*

IFRS13 does not provide a great deal more by way of explanation that the above definitions, and so if you are new to IFRS13 then you might find it tricky to get your head around what this actually means. Our interpretation, which we accept might not necessarily be shared by all, is that an observable input is an input or adjustment that can be observed in the market, as opposed to an input or adjustment that is based on the judgement of the valuer, which we would regard as being an unobservable input.

By way of an example, the valuer in considering comparable evidence in order to bring that comparable on level terms with the asset being valued, will make many adjustments and allowances. If these adjustments can be evidenced, such as a different rate per sq m based on the difference in size of the comparable to the asset being valued, then this would seem to be an observable input. One might well take a similar position on other more common adjustments around user clause, maintenance liabilities, alienation clauses and the like where the valuer is making an adjustment based on evidence that can be observed in the market.

In other words, where other valuers would make similar adjustments, meaning that potential purchasers in the market would also make those adjustments, these are likely to be observable inputs.

The key difference between an observable input and an unobservable input is that the former is evidence based. So if for example the asset valuer is inclined to make an adjustment or use a piece of information which cannot be verified or evidenced by reference to the market this would an unobservable input. Being an unobservable input does not mean that the input or adjustment should not be made, nor that the end valuation is in any way of lesser quality, but it does have implications for reporting the valuations in the statement of accounts, and in particular the accounting disclosures.

So what are the key accounting disclosures that valuers should be aware of?

Set out below are some of the more significant disclosure requirements under IFRS13. But these are by no means all of the disclosures and we would recommend a thorough review of the CIPFA Code. We would also suggest that it might be wise to read through and seek to understand the relevant sections of IFRS13 itself, if you can get hold of a copy.

Disclosure requirement 1

This requires that the authority shall disclose information that helps users of its financial statements assess both of the following:

- For assets and liabilities that are measured at fair value on a recurring or non-recurring basis, the valuation techniques and inputs used to develop those measurements

- For recurring fair value measurements using significant unobservable input (Level 3) the effect of the measurements on surplus or deficit for the Provision of Services or Other Comprehensive Income and Expenditure for the period.

Commentary: This is a general disclosure requirement that provides the high level expectations, below which some of the other disclosure requirements sit. What is clear is that somewhere the range of valuation techniques used will need to be disclosed in the statement of accounts, and where you have used level 3 (unobservable) inputs the accountants will need to discuss with you what the implications of that are.

Disclosure requirement 2 states that in order to meet disclosure requirement 1 the authority shall consider: the level of detail necessary to satisfy the disclosure requirements; how much emphasis to place on each of the various requirements; how much aggregation or disaggregation to undertake; and, whether users of financial statements need additional information to evaluate the quantitative information disclosed.

Disclosure requirement 3

In order to meet disclosure requirement 1 an authority shall disclose after initial recognition in the Balance Sheet, at a minimum, the following information for each class of asset and liabilities measured at fair value:

- For recurring and non-recurring assets the fair value measurements (its value) and for non-recurring assets the reasons for the measurements

- Level of fair value hierarchy within which the fair value measurements are categorised in their entirety.

- The amounts of any transfers between Level 1 and Level 2 of fair value hierarchy, the reasons for those transfers and the authority's policy for determining when transfers between levels are deemed to have occurred

- For Level 2 & Level 3 fair value hierarchy a description of the valuations technique(s) and the inputs used in the fair value measurement. If there has been a change to technique or the use of an additional technique then need to disclose that change and the reasons for making it

- For Level 3 then need to provide quantitative information about the significant unobservable inputs used in the fair value measurement

- For Level 3 measurement, a description of the valuation processes used by the authority (including, for example, how an authority decides its valuation policies and procedures and analyses changes in fair value measurements from period to period)

- For level 3 a narrative description of the sensitivity of the fair value measurement to changes in unobservable inputs if a change in those inputs to a different amount might result in a significantly higher or lower fair value measurement. If there are interrelationships between those inputs and other unobservable inputs used in the fair value measurement, an authority shall also provide a description of those interrelationships and of how they might magnify or mitigate the effect of changes in the unobservable inputs on the fair value. To comply, this narrative description of the sensitivity to changes in unobservable inputs shall include, at a minimum, the unobservable inputs disclosed when complying with bullet point 5 above

- If the highest and best use of an asset differs from its current use, an authority shall disclose that fact and why it is being used in a manner that differs from its highest and best use.

Commentary: This set of disclosure requirements provide more detail on the expectations in disclosure requirement 1 above. You need to record the hierarchy within which each asset valuation falls, so that these can be grouped together into (probably) tabular format in the statement of accounts, and if assets have moved between levels in the hierarchy, why this is.

Alongside this you will need to be recording the various valuation techniques used and if these have changed since the last valuation, why this was.

Where you have asset valuations within level 3 of the hierarchy you will need to provide fairly comprehensive information around this.

Finally (and this is more of an asset management issue than a valuation issue) where you have valued an asset at highest and best use and this value differs from the actual use to which the asset is being put (see examples of this in part one of this article in 2015 Spring Terrier) then the statement of accounts needs to state this and the reasons for it.

Summary

There is quite a bit in IFRS13 for the local authority asset valuers to get their heads around, not least some of the new terminology and what that terminology means. As well as being new to the valuers, the language and requirements are going to be equally new to many local authority accountants. So the 2 professions will need to work together to seek to understand the implications of IFRS13, and what this means in practice for you and your asset valuation programme in 2015/2016.

There is a danger that accountants will view the changes as relating to disclosures and as a result could be reluctant to engage with valuers until it is too late. The changes mean that valuers have to think differently about their valuations, the valuation inputs used, how these should be categorised within the valuation input hierarchy as well as potential changes to the way assets are grouped together as a result of the new fair value definition.

In order to make the valuation programme as efficient as possible and to avoid duplication of effort and lots of extra work right at the end of the financial year, it is important that work starts on this now.

We would also recommend that early dialogue starts with your auditor on the implications of IFRS13, how you are going to implement the changes, and the new accounting and valuation policies and procedures you are going to adopt. Because IFRS13 has been in place in other sectors since January 2013 some auditors may already have experience and may have certain expectations on how they anticipate the changes being implemented. One thing is for certain, as this is a new accounting standard, auditor attention is likely to be high and there will be plenty of potential slips and trips that can be avoided with proper planning.

LEGAL SNIPPETS

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

Mills and Reeve Property Matters www.property-matters-law.co.uk

When you need a bit more time… consider a reversionary lease

Consider a commercial lease that will expire in 2017. The tenant's business is thriving. It already knows that it will need the premises for a further period.

The landlord is content with its tenant. The tenant has a track record of reliable rent payments and has complied with lease covenants. The landlord is mindful that it may be costly to re-let the premises in 2017. There may be a void period between tenants where the landlord would lose out on rent and may be liable for business rates.

Why not vary the existing lease to extend the term? This would trigger an implied surrender and re-grant of the lease, with unintended tax, land registration and other consequences for both parties.

The solution may be to complete a reversionary lease now, for a further term commencing in 2017 immediately following expiry of the existing lease. The reversionary lease will usually be on the same terms, other than the rent. The parties may agree the rent for the further term now. Alternatively they can include a rent review on the first day of the new term in 2017 to fix an appropriate market rent at that point.

On expiry of the existing lease the parties' relationship will move seamlessly to be governed by the reversionary lease. This will leave them free to pursue their respective business interests rather than deal with the uncertainties of a lease renewal.

Rights of Way: Court rules that the right to close gates can be an easement

Disputes over rights of way are common and often make their way to the courts. In the case of Bradley v Heslin (2014) the court was asked to decide whether a party using a right of way over a shared driveway could also close the gates across it that had been put up by its predecessor as a security measure. The gates were on the neighbour's land but nonetheless the court ruled that the right to close the gates existed and that this right had the status of a formal easement in law.

This confirms the legal position that the courts will continue to recognise new types of easements. Examples have included:

- a right to hang a clothes line
- a right to have a fence repaired
- and even a right to create a nuisance by noise.

In the case of the right to close gates the decision seems to have been based on either the fact that this right was linked to the existing right of way or that the original agreement and expenditure relating to the erection of the gates meant the right should continue. It should be noted that the right was allowed only if it did not substantially interfere with the property on which the gates had been erected.

Renewal leases, interim rents and the cautionary use of "subject to contract"

A recent case Boots UK Ltd v Goldpine Estates Ltd (2014) highlights the distinction between assessments for interim rent under the Landlord and Tenant Act 1954 and provides a useful reminder that the phrase "subject to contract" should be used with caution.

In this case, Boots occupied a retail unit under a protected lease. They sought to renew their lease and the landlord did not oppose the application. Nonetheless, Boots applied to the court for a new lease in order to protect its position.

The court proceedings were then stayed so that the parties could negotiate terms. The terms were eventually agreed but not signed. The parties expressed the terms to be "subject to contract and without prejudice". The court was informed of this and that the only outstanding issue between the parties related to interim rent.

However, the county court found that as the terms remained subject to contract the court could determine the lease terms notwithstanding they had already been negotiated between the parties. In addition the court ordered an assessment of interim rent under section 24D of the 1954 Act, meaning the court could set the rent on a year by year basis.

On appeal from the county court, it was found that the parties had agreed terms and the court ordered the landlord to grant a new lease on those terms and directed an assessment of the interim rent under section 24C of the 1954 Act, meaning the eventual agreed rent for the new lease would be backdated.

On further appeal the court of appeal agreed with the original decision that the parties had not agreed terms. The correspondence between the parties' solicitors showed that the terms were not agreed for the purposes of the 1954 Act, and that they knew that they might not be binding. Therefore, the court had an absolute discretion in determining the terms of the new lease.

On interim rent, the court of appeal agreed with the appeal judge that assessment under section 24C applied as the landlord had not opposed a new lease. An assessment under Section 24D applies where a landlord has opposed the lease renewal and the county court judge was wrong to initially direct such an assessment when this was not the case.

The case is a helpful reminder on 2 issues:

1. A contract can be created if the parties' conduct demonstrates that a contract is in place and they may be bound notwithstanding the use of "subject to contract".

2. The distinction between the methods for assessing interim rent. A Section 24D assessment of rent (when the lease renewal is opposed) has a cushioning effect and tends to produce a rent that is below the rent ultimately payable under the new tenancy. Under section 24C (when the landlord agrees the renewal), the general rule is that the interim rent will be the rent payable under the new tenancy: this provides an incentive for landlords to only oppose renewal with good reason.

Structural works to leasehold property – protecting the landlord

Tenants will often want to carry out works to a property when they move in so that it is fit for their occupation. But what if a tenant wants to make alterations to something other than the demised property, - for example to the structure?

Unless the lease provides the tenant with the right to carry out structural or external alterations, the landlord is not obliged to agree to them, and doesn't have to be reasonable in its refusal. If a tenant wants to make alterations to something outside of the demised area, the situation is the same.

But what if a landlord is relaxed about agreeing to the proposed changes – what sort of things does it need to consider?

Along with ensuring that the works won't have a negative impact on rent review - and that no other consents are required (either under the lease or in respect of planning) - a landlord should be considering the basis on which it is agreeing to the alterations.

Any consent should contain a reinstatement provision, requiring the tenant to put the property and structure back in the condition it was in before the works were carried out. Without this, a landlord will be left picking up the tab to return the property to a lettable condition, and any repairs to the structure – something no landlord will want!

In addition, a landlord may want an added level of protection so that it can be certain that the works are completed to an acceptable standard, and also reinstated upon the tenant departing. This can be achieved by:

a) the landlord taking responsibility for the works, with the tenant paying for them; and/or

b) the tenant paying a bond to the landlord to cover the cost of such works being satisfactorily completed, and reinstated on expiry of the lease.

Landlords should bear in mind that, in such circumstances, the onus is on the tenant to satisfy the landlord's requirements. Should the tenant fail to do so, the landlord can just say no!

New laws to help save £21 billion a year pub industry

In January 2015 the government announced proposals to bring forward new planning laws to secure the future of public houses. Planning laws will be changed to ensure pubs cannot be demolished or have their use converted without securing planning permission.

Currently public houses can be registered as an asset of community value (ACV) by local interest groups. When an ACV is put up for sale there is a 6 month period in which the local community can bid to purchase the property.

Despite this right to bid (sometimes referred to as a right to buy), communities may still lose their public house because of current planning laws. At the moment ACVs are subject to permitted development rights. This means that the change of use or demolition of a pub could have automatic approval and does not require planning permission.

However the government intends to introduce legislation which removes these permitted development rights for pubs listed as an ACV. Consequently any change of use or demolition of public houses will require a planning application and permission. This will close a loophole that previously allowed owners to automatically change use, for example from a public house to a retail shop.

DCLG has issued a press release on this issue. MP Kris Hopkins made clear that "communities should be given the right to consider planning applications when changes are proposed to the use of their listed locals." The new laws would mean members of a local community can offer their opinion on planning applications. In addition planning authorities could properly consider the application in light of local policy.

More than 600 public houses have already been listed as ACVs and the change in planning law will help to bolster protection afforded to the industry. The news arrives shortly after the unveiling of a code of practice for tied leases in pubs. Together these represent a significant move designed to protect public house properties. New secondary legislation is expected shortly to effect these changes.

This history has been produced by Richard Allen, who will be standing down from his position of Branch Secretary at the end of the year. Richard joined ACES in 1997, was Branch Chair in 2001/03, ACES National President in 2004/05 and has been Branch Secretary since 2007.

AT THE HEART OF MANAGING PUBLIC PROPERTY FOR THE PUBLIC GOOD SINCE 1987: A HISTORY OF THE ACES HEART OF ENGLAND BRANCH

Richard Allen

Formation

No minutes have been kept from the early years but it has been established that the first meeting to discuss forming a branch took place in 1987. It was hosted by and held in the office of Philip Mason, the then Assistant Director of Technical Services (Land) at Nottingham City Council. Among those present at the meeting were Hugh Davis (Milton Keynes), Peter Seddon (Oxfordshire), Tony Schrier (Northamptonshire) and Bob Entwistle (Wellingborough). It was decided to appoint a Branch Chairman, Secretary and Treasurer. The Chairman would serve for 2 years with a Chairman designate to serve as Vice Chairman for the years prior to and after holding office. The branch subscription was £5 and in the early years was collected by the Branch Treasurer.

Meetings

From its formation, the aim of the branch has been to hold regular meetings to network, share best practice, exchange views and provide mutual professional support. The geographical size and diverse make-up of the branch membership determined that meetings be hosted by different members and move around the branch area. The area includes the largest city local authority in the country and ranges through metropolitan and county authorities down to districts, some with just a handful of properties. Meetings have been held in obvious buildings such as county, city and town halls. But they have also been held in museums (Wellingborough) theatres (Nottingham Theatre Royal, Dunstable Grove, Wellingborough Castle), business centres (Nottingham Lenton, Derby Friargate Studios, Derbyshire, Markham Vale Environmental Centre, Coventry, Staffordshire Forest of Mercia Innovation Centre, Oakham Enterprise Park), homeless hostel (Derby Milestone House), football stadium (Wolverhampton Wanderers), recently opened new local authority offices (Nottingham Loxley House, Hinckley Hub) or refurbished offices (Leicestershire County Hall, Worcestershire County Hall), and a range of community centres (West Bromwich the 'Public', Wolverhampton Blakenhall Community Centre). These meetings have often included a presentation on and tour of the venues.

Other meeting locations have included Luton, Bedford, Milton Keynes, Kettering, Mansfield, Matlock, Burton, Redditch, Telford, Oxford and Chicksands. Perhaps the most remote location, being on the very edge of the branch boundary, and yet one of the best attended, was Ross on Wye in the late 1990s. The best attended meetings generally have been those held more centrally and particularly in Birmingham. In 2009 Jones Lang LaSalle hosted a meeting in its Birmingham office which attracted 20 members.

Initially it was general practice to first meet for a buffet lunch and informal chat at the host venue, followed by the formal business meeting in the afternoon. These meetings were held

4 times per year. To justify the time and distance some members have to travel, in 2004 it was decided to move to all day meetings with topical presentations and/or visits of interest in the morning and a general meeting in the afternoon. Since 2012 the number of meetings has also been reduced to 3 a year.

Members from what is now the Eastern branch area joined the Heart of England Branch until 1992 when their own branch was formed. One of the first meetings was held in Lincoln and the first secretary was from Peterborough, both now in the Eastern Branch area.

Themes and topics

In the early years meeting topics and issues were valuation, regeneration and general estate management. At the start of the 1990s the rating revaluation, CCT and best value featured strongly, to be succeeded by asset management which was the main topic and challenge to members between the mid-1990s and 2008. Since 2008 the implications of the recession and public sector cutbacks for property services and the market have featured most prominently.

Standard items on the agenda at branch meetings for the last dozen years have been 'asset management' and 'property and valuation' matters. Under asset management there have been discussions on performance indicators, single capital pot, role of the corporate property officer, asset management systems, incentives to release property for disposal, use of asset rents, area asset management plans, comprehensive performance assessments, RICS guide to local authority asset management, the 'Quirk' review and community asset transfer, peer reviews, corporate landlord, benchmarking, comprehensive spending review, localism agenda, estate office structures, shared disposal and occupation policies, total place, performance management, raising the profile of property and achieving budget savings through property strategies.

There has been a myriad of discussions under the 'property and valuation matters' heading which have included outsourcing right to buy valuations and fees paid for service, asset valuations for financial accounting, rating of leisure centres, UPRN, legionella and asbestos surveys and logbooks, development agreements for city centre retail development schemes, housing stock transfer, disposals at less than best consideration, fire risk assessments, travellers sites, leasehold reform act, service charges, voluntary land registration, securing development through a development agreement, disposals of public open space, renewal of substation leases, restrictive covenant releases, commercial lease code, energy performance certificates, 3G masts, asset impairment, wind farms, DRC spreadsheets, whole life costing, peer reviews, framework agreement for estates services, community right to buy, RICS valuers accreditation scheme, land auction pilots, asset valuation priorities and programmes, recession and market downturn, 'Portas' high street review, mobile phone masts, transfer of schools to academies, support for economic development and small and medium enterprises, conditional break clauses in leases, implication for property of VAT changes and the specific valuation of over-sailing rights, ground leases, highway depots, land for affordable housing, free schools and scrap yards, and setting up of 'promotional agreements' to maximise planning potential and maximise development value, Openness of Government Regulations 2014 and RICS auditing of asset valuations.

Presentations

There have been many presentations over the years on a wide range of topics from branch members, local government and the private sector. In chronological order these have included the Role of the DVS, Birmingham Eastside and Bullring Shopping Centre, Production of AMPs, Wolverhampton Property Partnership, Freedom of Information Act and Prudential Borrowing, Birmingham City Accommodation Strategy, Creating value from local government property, GIS and its application to service property, Planning and development of a customer service centre, Community Asset Transfer of the Lenton Community Centre, Development of elderly person villages, Markham Vale regeneration Project, Putting value in place - local authority property investment, Administration of regeneration projects, Derby City Centre Regeneration, Shared services, Making the most of the property portfolio during a recession, Birmingham Transformation Programme, Negotiating property deals in the electricity industry, Public markets for the public good, Regeneration of West Bromwich town centre, Benefits of mediation, Establishment of the Leamington Justice Centre, Benefits of membership of the British Council for Offices, Regeneration of Kettering, Capital and Asset Pathfinder Programme, Leicestershire 'Workwell' Office Strategy, Viability appraisals and assessing s106 payments and affordable housing requirements, Sandwell TNRP Review, Nottingham City Council Workplace Strategy, Joint venture models to unlock value, Tools for economic growth, Introduction of CIL and implications for s106 obligations, Better use of property in Worcestershire, Corporate real estate management in the public sector, Regeneration of Blakenhall Gardens area of Wolverhampton, Regional growth and unlocking the potential, Setting up and moving to a new joint service centre, RICS Professional ethics, Public sector collaboration through the 'One Public Estate' initiative, Regeneration through collaboration, Oakham Enterprise Park, Growth and development in Bedford and Collaborative asset management through property partnerships.

Guidelines

Led by Tony Wood from Wolverhampton City Council, in 2002 the branch produced 'Guidelines for Minor Disposals'. As a project, the branch also produced, with input from members of the Eastern, South West and South East Branches, the 'ACES Guidelines for a local authority property assets disposal strategy' which was featured in 2009 Summer Terrier.

Publications

The branch has been a regular subscriber to the Terrier with the speakers usually submitting a resume of their branch meeting presentations to this journal. This high level of support has on many an occasion been achieved by the Secretary changing a 'powerpoint' presentation into a word document that would then be developed into an article for final editing by the speaker - who would get the credit?! [Ed – I know who's done all the work!].

ACES Presidents and Council

The national President has visited a branch meeting most years. Four branch members have honoured the branch by serving as national President; Ian MacDonald, Leicestershire (1991-92), Derek Rowell, Bedford (1995-96), John Arnold, Oxford (1997-98) and Richard Allen (2004-05). A number of members have played significant roles on ACES Council, none moreso than Malcolm Williams, who was Branch Chair in 1993-95 and is also a past president of COPROP.

National Conferences

On 4 occasions the branch has hosted a national conference; Coventry (1989), Nottingham (1994), Worcester (2002), Birmingham (2008) as well as Presidential Conferences in Oxford (1998) and Nottingham (2005).

ACES Award for Excellence

Two authorities have won the ACES Award for Excellence. In 2001 Malcolm Newman, of Birmingham City Council won for his 'Excellence in property management' and in 2008 Adrian Stringer of Wolverhampton City Council for his 'Ward Street Regeneration Area Project'. Adrian also gave a presentation on his winning topic at the national ACES Spring Conference in Glasgow the following year.

Membership and attendance

Membership has fluctuated over the years from over 50 in the mid-1990s to just over 30 at the end of the noughties. The average attendance at branch meetings since 2001 (there are no records prior to this date) is around 16 with the highest recorded being 24 at Dunstable in 2001 and lowest 9 at Sandwell in 2007.

Branch Officers

Since its formation the branch has been led by 14 Chairs:

1987-1989 Philip Mason, Nottingham City Council

1989-1991 Hugh Davis, Milton Keynes Borough Council

1991-1993 Bob Entwistle, Wellingborough Borough Council

1993-1995 Malcolm Williams, Worcestershire County Council

1995-1997 Peter Manley, Sandwell Metropolitan Borough Council

1997-1999 Lee Dawson, Wycombe District Council

1999-2001 Peter Murch, South Bedfordshire District Council

2001-2003 Richard Allen, Nottingham City Council

2003-2005 Tony Wood, Wolverhampton City Council

2005-2007 Peter Hirst, Derbyshire County Council

2007-2009 Ray Ashton, East Staffordshire Borough Council/Derby City Council

2009-2011 Steve Meynell, Derby City Council

2011-2013 Peter Burt, Central Bedfordshire Council

2013-2015 David Willetts, Sandwell Metropolitan Council.

It has been a policy to share the Chair around the different range of authorities which have been:

Metropolitan – Sandwell

County – Worcestershire, Derbyshire, Central Bedfordshire

Unitary – Nottingham (2), Derby, Milton Keynes, Wolverhampton

District – Wellingborough, Wycombe, South Bedfordshire, East Staffordshire.

There have been 5 secretaries:

1987-1990 Ian Wilson, Peterborough City Council

1990-1994 Roy Samuels, Shropshire County Council

1994-2002 Derek Wilson, Northampton Borough Council

2002-2007 Judith Bayes, Northampton Borough Council

2007 to date Richard Allen, Nottingham City Council and retired.

And 5 Treasurers:

1987-1992 Peter Seddon, Oxfordshire County Council

1992-1997 Dale Reynolds, Aylesbury Vale District Council

1997-2005 Peter Manley, Sandwell Metropolitan Borough Council

2005-2008 Carol Bramley, Leicestershire County Council

2008 to date Richard Allen.

Note: As it has not been possible to locate any of the early minutes, the post holders and dates prior to 1998 are based on information provided by original members and so the accuracy cannot be guaranteed.

The Future

For the foreseeable future the principal focus for ACES will be supporting its members to drive a better performance from the public estate, deliver efficiency savings and contribute to the growth agenda. But as ever increasing demands are placed on its members to achieve more for less, the need for support from ACES, the only professional property body that is exclusively dedicated to public property, has never been greater. To play its role, the branch has recently adopted a mission statement: **To promote and support the corporate role of branch members, as both strategic asset and general public sector property managers, to achieve the highest standards of performance; through the provision of professional development and the sharing of best practise through networking, holding regular meetings and exchanging views.** It has also produced an Action Plan to deliver this mission statement, promote the benefits of ACES and to increase attendance at branch meetings and national conferences. The challenge now is for its members fully to support these initiatives. And in doing so secure a positive role and future for the branch.

Ed – Many thanks Richard for this detailed resume. It's only when an ACES member sets down all the areas of professional expertise that you realise just how satisfying a public sector surveyor's career can be. It also illustrates the value of attending branch meetings as well as the annual Presidential Conference. And of course, the quality of the Terrier, for which I thank ACES members' contributions and those from the private sector. Keep them coming….

THE SUFFOLK SCRIBBLER

The importance of maintaining contacts

The background to this important sale was fully described in "Sales: Due Diligence" published in 2009 Autumn Terrier. The property involved was a major office building with accommodation on 3 floors, built in 1937. Original building plans and plans of a major 1960s extension were to hand with a copy of the planning consent and news reports on both the original build and the later work. And I had a lot of information on all those interesting little details than enliven sales particulars.

I knew the building of course but nonetheless took the opportunity to inspect the property formally with the building surveyor who had looked after it for many years, then with the head caretaker, and with the benefit of hindsight I remembered that twice when inspecting the basement I asked, "What's that in there?" and was told "Oh that's the electricity substation room." On the outside of this space there was an array of electricity meters that proved the point. "Can I look inside?" "No, it's full of dangerous electric equipment, and we don't have a key."

It was only when a sale had been agreed that it became apparent that the "electricity substation room" was in fact an operational substation in the freehold ownership of EDF! My previous paper identified above sets out the details of how this occurred. Upon asking EDF how we might regularise the position so that our sale could continue without delay and its operation could be safeguarded, the respondent said that they usually appointed a private consultant to advise on how to proceed.

When a consultant was named, he proved to be a former railway colleague with whom I had maintained contact over the years and so we were able to come to a mutually agreeable solution without wasting time investigating blind alleys.

Hippocalypse Now!

I have always admired the art of newspaper headline writing and the above caught my attention during the month of June 2015. You might remember the floods that occurred in Russia during that month that allowed most of the animals in some quite large zoo to escape. One of the tabloids had as its front page just a photograph of a very large and grumpy looking hippo being coaxed back into captivity with the headline Hippocalypse Now!

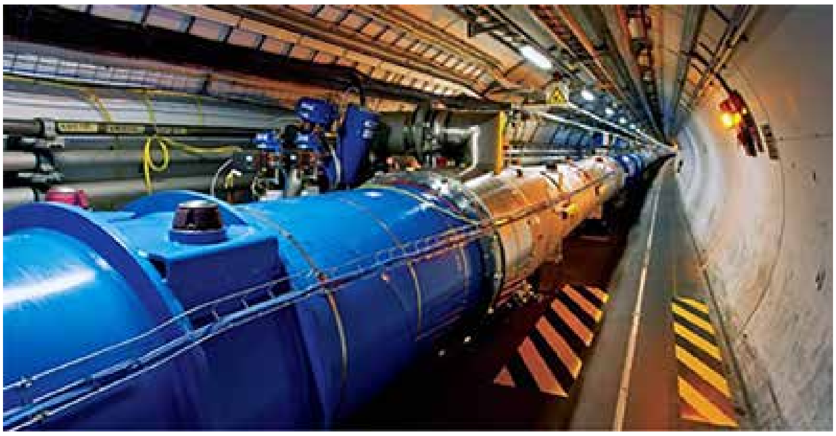
Perhaps it was this that caused the Times to recall some similar headlines of earlier years:

- Headless Body found in Topless Bar
- Nut Screws Washer and Bolts concerning a psychiatric patient who took advantage of a laundrywoman before fleeing
- Missing baby found in Sandwich; it's a town in Massachusetts
- One-armed man applauds the generosity of strangers
- City bus on fire – passengers alight. This comes from the Guardian (the now defunct West Wales Guardian) and is thought to be a skilful exaggeration of a mildly dramatic local story.

Here is another one that must date back to 1940. It concerns an isolated World War 2 incident where an action by the French army managed to block, even if only for a short time, the then unstoppable advance of the German army. This event was reported under the headline "French Push Bottles up Germans".

The newly enlarged Large Hadron Collider

As was suggested in my original piece "Higgs boson made interesting" (2012 Autumn Terrier) having decided that the Large Hadron Collider (LHC) may have (or presumably may not have) detected the Higgs boson, CERN (European Organisation for Nuclear Research) announced its intention



to shut down the LHC for a 2-year upgrade.

In 2015 it was announced that the upgrade had been completed and the LHC had now resumed experiments. No information is available on the nature and extent of the upgrades but it is probably safe to assume that these involved some sort of extension, a conservatory, double glazing and plenty of decking. Now that these are complete, it is stated that the LHC (or more accurately the ELHC, the enlarged Large Hadron Collider) is to run non-stop for the next 3 years, leading the search for those "missing" particles that are most likely to account for "dark matter".

Now I reckon that the latter phrase is code for something far more prosaic. When I was young my Christmas stocking always contained a bar of Fry's Chocolate Cream, rich dark chocolate with a fondant cream icing, hidden among the Brazil nuts and tangerines. This, I think, is the dark matter being searched for. And I haven't seen this confection on the shelves for the last 30-40 years.

So, for the past few months I have been conducting my own search in the hopes that this might possibly assist CERN. Until a few weeks ago, all I had been able to discover was that Fry's went out of business years ago. Then I saw the product advertised on a flyer from Farmfoods, a frozen foods supermarket. However when I got there I could find no trace of it at all, but an assistant did offer the suggestion that they had been unable to source any due to excessive world-wide demand.

So near and yet so far!

Then by chance I spotted some bars very well hidden in Waitrose. In aisle 6, left hand side, the first and bottom shelf from the check-outs to be precise. I'd better tell CERN!

More sic transit gloria mundi

In the last issue I explained the background to my entry into local government in 1970 as follows:

Back in the late 60s and early 70s I was beginning to feel that my time with British Railways in London had run its course so when an opportunity with East Suffolk County Council at Ipswich (ESCC), close to where I actually lived, was advertised I jumped at the chance. So on 2 April 1970 I was interviewed for the job but didn't get it as they were looking for someone with compensation experience. However they were impressed with my landlord and tenant experience, which they could also use and so I was hired on that basis, subject to approval being forthcoming for an establishment increase. I duly started work as a Junior Valuer at county hall on 18 May 1970.

This explanation, however, overlooked one other vital detail, i.e. my experience with British Railways (BR). ESCC was not afraid to offer professional services to other local authorities and had for some time been acting for Woodbridge Urban District Council (WUDC) in a number of matters including a possible purchase of the disused goods shed and yard situated just outside the town centre. This was needed to provide a site for a swimming pool and sports centre and some desperately needed additional car parking.

Unfortunately despite the valiant efforts of ESCC staff, to date all approaches made over many, many months had failed to illicit any response at all from BR. On my first day my new boss was careful to mark my card on this one with the words that to get some negotiations going could be very helpful for ESCC/WUDC relations and my future.

The BR Woodbridge estate was administered from a district office in Norwich and the District Estate Surveyor was an old friend. I picked up the phone and spoke to him and explained the problem and that I was now acting for WUDC and could we discuss terms? He agreed to meet me the following week and suggested the best hotel in the town as a possible venue so he could buy me lunch. I now remember little of the negotiations that followed, other than they were completed quickly and to everyone's satisfaction.

ESCC's standing was greatly enhanced as a result and picked up much professional work from WUDC and other similar authorities in the county. And to complete where I started, another example of the importance of maintaining contacts.

DTZ

Delivering solutions

First class advice and support to Local Authorities

Making change happen

Asset Management | Strategic Consulting | Development Consulting | Facilities Management | Fund Management | Housing Consultancy | Occupier Services Performance Improvement | Procurement and Outsourcing | Planning | Project and Building Consultancy | Property Management | Rating | Sustainability | Technical Assurance | Town Centre Development | Town Planning | Transactions

Strategy and Performance

John Keyes
john.keyes@dtz.com
+44 (0)161 235 8990

Andrew Smith
andrew.tc.smith@dtz.com
+44 (0)113 233 7306

Development and Regeneration

Paul Ellis
paul.ellis@dtz.com
+44 (0)20 3296 3120

Keith Hardman
keith.hardman@dtz.com
+44 (0)113 233 7334

www.dtz.com/uk/publicsector

Making property work harder

Lambert Smith Hampton is proud to work with over 250 public sector organisations, providing property advice and managing complex real estate portfolios.

We can help you to achieve more – from estate management to strategic asset management advice, building consultancy to asset valuations, planning and development support to working with private partners to deliver the best outcome for you.

Contact us to find out more about how we can help you make the most of your property interests.

Lambert Smith Hampton
45 Grosvenor Road, St Albans, Hertfordshire AL1 3AW
T +44 (0)1727 834234

Lambert Smith Hampton

www.lsh.co.uk