The Terrier

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

VOLUME 21 - ISSUE 2 - Summer 2016

No empty seats expected for ACES Annual Conference 2016, The Oval, 29-30 September

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THE JOURNAL OF ACES - THE ASSOCIATION OF CHIEF ESTATES SURVEYORS & PROPERTY MANAGERS IN THE PUBLIC SECTOR VOLUME 21 - ISSUE 2 - SUMMER 2016

EDITORIAL

Betty Albon

Welcome to the Summer Terrier.

I shall avoid mentioning all of the unmentionable subjects, but suffice it to say, this year is not panning out to being one of the best! Notwithstanding, I am quite excited about this issue of Terrier. It contains good information about the momentous Housing and Planning Act, with perspectives from surveyors and lawyers. And then there are a host of articles and case studies about delivering housing and being proactive about investment portfolios. It's not often I regret retiring, but this is certainly a time for surveyors and planners working in all sectors to grasp the nettle and get themselves back at the top table. I really cannot remember when there has been a better opportunity – I wish I was in the thick of it.

You'll have noticed that the front cover is a famous venue – The Oval Cricket Ground. ACES has been lucky to secure this top quality venue for the Presidential Conference, which will take place on 29/30 September 2016. Look out for an outline of the programme in this issue. Also visit ACES' website at www.aces.org.uk where there is a dedicated page, which is being updated as information becomes available. Keith Jewsbury, ACES Secretary, will also be circulating members direct. And while you're on the website, have a look at the jobs page. It's a cost effective way to advertise a vacancy.

You will also see that a number of articles have been written by firms who advertise with ACES, including 2 new ones. Your support, and that of all ACES' advertisers, enables me to produce the quarterly Terrier – even better when you supply material. So thank you.

There's a varied selection of features from ACES members too, which is always pleasing for me. If you've got some good practice to share - shout it from the rooftops.

Cover photo: The Oval, Kennington [Photo kindly provided by Emily Pritchard at Kia Oval]

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NOTES OF ACES NATIONAL COUNCIL MEETING 29 APRIL 2016

Keith Jewsbury, ACES Secretary

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

President's report

The President, Jeremy Pilgrim, reported that he had visited the London and South East branches and intended to visit a number of branches in June/ July. He was hopeful of announcing the identity of the new Junior Vice President shortly [Ed – I'm pleased to report it is Neil McManus of Suffolk County Council].

Secretary's report

The secretary reported on matters arising during the period from the 22 January 2016 Council Meeting and in particular that the August Council Meeting will be held in Birmingham, that he and the Treasurer were still chasing outstanding annual subscription payments and that he had arranged to visit the Scottish Branch in June and the Welsh Branch in July in line with his commitment to visit branches.

Financial matters

The Treasurer reported on the finances of the Association for the first 9 months of the current financial year and stated that, in general terms, the overall financial position is within the budgeted parameters for the year. The position had been enhanced by the eventual receipt of monies from the 2014 London and 2015 Salford conferences.

The full financial details of the London 2016 Conference are not as yet known and the payment of the anticipated deposit will be borne in this financial year.

Annual conference 2016

The President reported that, subject to the contract being completed, the conference will be held at The Kia Oval, the home of Surry Cricket Club, which is a brilliant conference venue with excellent facilities. It is located within a very short walking distance to Oval (Northern Line) and Vauxhall (Victoria line).

The conference theme will be "Powerhouses and Smart Cities". The Thursday evening dinner will be held in the famous Long Room (not the one at Lords) with views over the ground and west London.

He is hoping to attract a government minister and a good level of sponsorship. The social programme will probably include trips to the South Bank, Borough Market, Globe Theatre and hopefully, subject to availability and numbers, a matinee performance.

Booking forms will be available on the ACES website shortly. All members will be notified by email.

He hopes that all members will support the conference and make it successful.

Annual conference 2017

Daniella Barrow reported that the conference will be held in Leeds and that she was looking at the Leeds Beckett University facilities.

The future of the Federation of Property Societies (FPS)

Daniella Barrow reported that FPS had now been dissolved as from the 5 April 2016 and that the FPS funds were to be distributed to the 5 subscribing societies of which ACES was one. Also, the FPS Treasurer and Secretary are to produce a short history of the FPS which would be distributed to the societies and CIPFA together with copies of all reports produced by the FPS over the past 20 years.

With regard to COPROP, Daniella and Malcolm Williams had met with their representatives and further information was awaited regarding membership, funds and possible incorporation.

Website

The Secretary reported that the website is being used more and that the Job Page was proving both useful and an income generator [Ed – see advertisement in this Terrier].

ACES Award for Excellence

Daniella Barrow reported that she was investigating types of trophies to be awarded and preparing the brief for the 2016 Award that will be sent out to all members shortly.

Constitution and rules – working party

A full discussion was held regarding the membership proposals incorporated within the full and detailed report from the working party and it was decided to consult with all members by email setting out the Council's thoughts and attaching the whole report for their information. [Ed – this has now been sent out by the Secretary and he has received some feedback].

Future meetings

Annual Conference	29/30 September 2016	London
Annual Meeting	18 November 2016	Riverbank House, London
Annual Conference	September 2017	Leeds
Annual Meeting	17 November 2017	City Hall, Cardiff

Diary of future Council meetings for 2016

Friday 19 August 2016	Carrs Lane Methodist Church Conference Centre, Birmingham

MEMBERSHIP Keith Jewsbury

I list below the changes in membership between 1 April and 15 June 2016.

New members approved

There were 7 new applications approved during the period.

Nick	Corker	Cornwall Council
Brian	Maguire	Valuation Office Agency
Chris	Riggott	Mid Sussex District Council
Melvyn	Stone	NPS Property Consultants Ltd
Neil	Thompson	London Borough of Bromley
Margaret	Wells	Concertus
Talha	Yakub	Blackpool Council

Transfer from full to past membership

1 member transferred to past membership during the period.

George	Church

Resignations

6 members resigned during this period.

Caroline	Blackburn
Jeff	Burkitt
Rodger	Hawkyard
Alison	Johnston
Graham	Macpherson
Neil	Turvey

Total membership

Full	225
Additional	74
Honorary	31
Past	48
Total	378

CORPORATE ASSET MANAGEMENT

Barbara Vernon

Barbara is Senior Estates Surveyor, Property Services, at Carlisle City Council, and ACES Coordinator for Corporate Asset Management.

This paper was written by Barbara for ACES Council, 29 April.

International Property Measurement System (IPMS)

Following the release of IPMS: Office Buildings, the RICS has redrafted the Code of Measuring Practice 6th Edition (CoMP) and republished this as the Practice Statement RICS Property Measurement, first edition (the PS). This document is mandatory for all RICS Members. As other sections of the PS are published, they will take over from the relevant sections of the CoMP.

There is no immediate requirement for all existing buildings to be measured under the new standard, but buildings must be measured under IPMS 'in the event of physical change' or for 'any new event requiring the use of building measurements' (e.g. lease extensions, rent reviews, sale, purchase, revaluations).

GEA, GIA and NEA are replaced by IPMS 1, IPMS 2 – Office and IPMS 3 – Office. The differences are fully set out in the PS but in summary:

- Balconies, covered galleries, and rooftop terraces now included in IPMS 1 and IPMS 2 – Office; also included in IPMS 3 – Office when an occupier has exclusive use of them
- In IPMS 3 – Office, columns included but building facilities (e.g. corridors, toilets, lifts, stairs) excluded
- IPMS 3 - Office introduces 'limited-use areas' such as restricted ceiling height previously regarded as unusable in terms of calculation
- Internal measurements now taken to the 'internal dominant face' for both IPMS 2 – Office and IPMS 3 – Office.

There is no standard ratio between CoMP and IPMS. However, the RICS is developing a free online tool that converts IPMS office measurements into CoMP standards. It is likely there will be a period of years of dual reporting until the new system is fully adopted.

During the initial transition RICS regulation and compliance will be assessed in response to complaints made against RICS professionals. However, there can be valid reasons when IPMS will not be appropriate – mid-lease for instance where the contract/lease may stipulate a particular measurement standard. IPMS should be adopted for all new leases and new buildings.

RICS has also stated that 'deviation from the PS in situations where a client has stated in writing that they would prefer an alternative specified standard' would be acceptable. However, practitioners must satisfy themselves that there is good reason for not using IPMS.

One Public Estate – Phase 4

A further £31m has now been announced as part of the Autumn Statement which will support further expansion for the programme. The Phase 4 Prospectus had a closing date for submissions of interest of 6 May 2016 with service and asset delivery plans completed by 29 July 2016. Up to £50,000 funding can be allocated to each bid, although bids could be partially funded. Once on the programme, partnerships are eligible to bid for additional funding to deliver additional projects and benefits throughout the programme.

Land Registry privatisation

On 24 March the government published a consultation on privatising the Land Registry (closing date 26 May 2016). This is part of the wider government aim in looking for £5bn of asset sales by March 2020. The sale is expected to generate a capital receipt and assist the Land Registry to run more efficiently, supporting the UK property market.

State of the Estate

The government's annual 'State of the Estate' report, published on 3 February 2016, confirms that its estate reduced by just 3.6% in 2014-15, its lowest proportion since 2010. New measures were announced that mean both Whitehall departments and LAs are now required to publish details of their surplus properties. The report states that government aims to reduce its offices by 75% by 2023 from 800 to 200 in an attempt to save over £2bn over the next 10 years. It also informed that each government employee now works in an average space of 10.4 sq m, a reduction of 20% since 2010.

The Housing & Planning Bill will encourage LAs to make reductions by asking them to report on how they

are rationalising their estates and publishing information on the surplus assets they have retained for more than 2 years (6 months for housing) and their reasons for this. HM Revenue & Customs plans to close 137 local offices, replacing them with 13 regional centres by 2027.

Through the Right to Contest and Government Property Finder, members of the public are being encouraged to report underused or surplus public property which could be sold.

The report shows that the government estate's size fell by 300,000 sq m over the past year, saving £279m, a decrease from 500,000 sq m and £240m in 2013.

The government also saved £842m in 2014-15 by selling empty buildings and existing rentals, and has reduced the cost of running the estate by 28% since 2010, cutting greenhouse emissions by 22%, water consumption by 11% and a 38% reduction in paper use.

DCLG announcement and disposal guidance

All asset sales proceeds can be spent by LAs for 3 years from 1 April 2016, in a bid to reduce financial pressures. New rules allow LAs to spend revenues from selling assets on services, in a move designed to encourage efficiency. The decision is accompanied by Local Authority Assets Disposal Guidance published in March 2016. The guidance is designed to support and encourage LAs to dispose of surplus assets and outlines the package of measures announced in the 2015 Spending Review. The guidance contains links to each of the relevant policy measures and outlines the local authority role, making reference to technical guidance.

Councils are required to develop a dedicated strategy document to go alongside their annual budget, which should include details of each service that would be improved though the use of capital receipts and details of the expected savings or service transformation. From 2017-18 strategies will also be expected to be reviewed to ascertain whether planned savings outlined in previous years are being achieved.

Outsourcing

According to the UK Outsourcing Index, councils signed £756m of deals last year, which represents 13% of all outsourcing agreements signed during 2015 and an increase of 23% on the previous 12 months. The average value of a council contract rose by almost 30% to £37.8m and around 55% of agreements signed were new deals, up from 38% in 2014.

COMPULSORY PURCHASE

Gary Sams

Gary is Principal Estates Surveyor at Fylde Borough Council and ACES Coordinator for Compensation and compulsory purchase.

This holding paper was prepared by Gary for ACES Council, 29 April. Gary is soon to retire, but he has written a compensation update which will feature in the Autumn Terrier.

The main news in the field of compulsory purchase is the announcement of proposals for further law reform issued in March by the Department for Communities and Local Government. Full details of the consultation process can be found at https://www.gov.uk/government/consultations/further-reform-of-the-compulsory-purchase-system and the closing date for responses was 15 May.

The law reform proposals announced last year in the Housing and Planning bill are mainly procedural, whereas the new proposals are probably of more interest to valuers, as they almost all comprise changes to the compensation code. The consultation document specifically invites comments from acquiring authorities but, as with the Housing and Planning Bill, ACES has not been directly consulted.

One of the main changes is to the Pointe Gourde rule which requires any positive or negative effect of the scheme to be left out of account. The Localism Act 2011 clarified that the scheme is to be disregarded by assuming it has been cancelled just before the valuation date. The DCLG clearly recognises that this approach causes as many problems as it solves and now proposes a completely new approach which it calls 'rule 13'. The new rule is a compromise of ignoring the scheme by assuming it has just been cancelled, but also ignoring any action or development which has already taken place in pursuance of the same scheme.

Other proposals include:

a. Where a transport scheme creates opportunities for regeneration, any increase in values caused by the infrastructure works will be left out of account when acquiring land for regeneration

b. Disturbance compensation under s20 1965 Compulsory Purchase Act will be assessed having regard to the period for which the claimant might reasonably have been expected to occupy the land. There is currently an assumption that the landlord would terminate the tenancy at the earliest opportunity, putting s20 claimants in an inferior position to those who qualify under s37 1973 Land Compensation Act

c. Reversing loss payments so that occupiers receive 75% of the value of land taken and owners 25%, rather than the other way round as at present

d. Penal interest rates of 8% over base rates for acquiring authorities who are slow to make advance payments (is this really a problem?)

e. Increasing the rateable value limit for serving blight notices in London

f. Repealing s15 Land Compensation Act – an assumption that planning permission would be granted for the scheme to be undertaken by the acquiring authority.

RATING AND TAXATION REPORT

John Murray

John is Principal Surveyor at the DVS, the Property Services arm of the Valuation Office Agency (VOA), and ACES Coordinator for Rating and Taxation.

This paper was written by John for ACES Council, 29 April.

Revaluation - collaboration with local authorities

From the beginning of February, the VOA has been encouraging ratepayers to visit www.gov.uk/voa/revaluation and register their email details. The VOA will then email them when the draft rateable values are available online in October 2016.

Members should be aware that colleagues in Billing Authorities have contributed to publicity flyers encouraging ratepayers to register and also providing general information about the revaluation.

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As of 18 April 2016 the number of registrations the VOA had received was 124,127 with 71% of individuals responding getting the message to register upon receiving the flyer.

Revaluation – Progress

As at April 2016 Revaluation 2017 has achieved and exceeded its 3rd key milestone of valuing 90% and validating 80% of all hereditaments in England & Wales.

The 4th milestone follows on quickly on the heels of the 3rd, with only 3 weeks to hit the targets of 95% valuations and 90% validations, but the VOA is confident that the plans are in place to achieve these figures.

Business rates review

In the spring budget the Chancellor announced the government's aim to introduce more frequent revaluations - at least every 3 years. A discussion paper has now been published to start a debate with customers and stakeholders about how more frequent revaluations could be delivered.
The discussion paper explores some potential options for delivering more frequent revaluations and seeks suggestions for other alternative approaches.

The discussion document covers the following areas:

- The challenges of delivering more frequent revaluations under the current system
- A self-assessment alternative
- A formula alternative.

Case law updates and VOA Rating Manual

Ryde on Rating & the VOA Rating Manual

- Useful places/sources of information to find out what rating professionals think about various topics such as rating principles
- VOA Rating Manual also covers how the VOA values different types of properties and the main valuation methodology
- Can be quoted in litigation and at times seen as helpful by the different layers of tribunals and courts
- But sometimes the content needs to be changed or updated when litigation runs its course eg Monk v Newbiggin and Woolway v Mazars.

Briefly, Monk v Newbiggin (Court of Appeal) identified 3 questions to ask when considering whether the actual state of repair of the hereditament needs to be taken into consideration:

1. Is the hereditament in a reasonable state of repair?
2. If not, can the works which are required to put the property into a state of reasonable repair properly be described as 'repairs' (the repair question)? and
3. Would a reasonable landlord consider the repairs to be economic (the economic question)?

Most recently the UK Supreme Court decision of Woolway (VO) v Mazars [2015] RA 373 has led to a fundamental revision to the Rating Manual section 3 (valuation principles – identification of the hereditament).

Briefly extracted:

"In many cases the identification of the hereditament will be a straightforward matter but it is the first thing that needs to be done. Before a valuation can be made it is necessary to know what is to be valued - the hereditament - and how many there should be.

From case law a number of broad rules can be discerned particularly now from the judgment of the Supreme Court in the Woolway case.

The Woolway case concerned whether the 2nd and 6th floors of Tower Bridge House in London formed one hereditament or two. The Supreme Court decided following a careful examination of established legal principles that each floor formed its own hereditament. It set out clear tests for establishing the hereditament.

A previous case of the Court of Appeal in Gilbert (VO) v S Hickinbottom & Sons Ltd (1956 CA, 2 Q.B. 40; 1 RRC 46) was regarded until Woolway as providing the leading decision on the identification of the hereditament. Given the criticism of that case by the Supreme Court in Woolway, the Hickinbottom case should now be disregarded.

Since the Gilbert case it has been the practice of VOs to treat contiguous occupations (those that touch each other) as single hereditaments and those that are not contiguous as separate hereditaments unless an 'essential functional connection' existed between the parts – that is to say that unless both parts are occupied together they could not properly function according to their character – for example, a golf course divided by a road could not function as a golf course if each part was a separate hereditament. The Supreme Court, as explained earlier did not consider the Gilbert case correctly decided and set out appropriate tests to determine the hereditament, bringing English and Welsh law into line with Scottish law.

The Woolway case concerned whether it was correct to assess together 2 non-contiguous offices floors in a multi-let building. The Supreme Court determined, unanimously, that it was not correct to do so because the primary test was a geographic one and was whether the occupation can be ringed around on a map or plan without any intervening occupations."

Members engaged in Rating matters should be aware of the consequences of this important case, and VOA will be raising significant numbers of reports to enact the changes. From a wider estates perspective, members need to be thinking about their property portfolio and if Mazars may have implications.

Being an APC assessor is about more than just giving something back to the profession. Volunteering could help your own career as much as the candidates who will benefit from your knowledge.

ARE YOU EXPERIENCED

Brendon Hooper

The final interview of the Assessment of Professional Competence (APC) can be a daunting experience. Face to face with an assessor, a candidate must prove their competence to become a chartered surveyor. In these situations, it is reassuring to know that the assessor is aware of exactly what the candidate is going through – they have been through it, too.

"Because we've all been through the APC, some more recently than others, the assessors can have a lot of empathy with the candidates," says Kate Taylor FRICS, RICS training consultant and assessor chair.

APC assessors play one of the most important roles in the profession: deciding whether or not a candidate is ready to become a chartered surveyor. Working as one can be personally rewarding and satisfying, and bring benefits to your professional career as well.

Importantly, all APC assessors are volunteers. By having a panel drawn from a range of relevant specialisms, APC candidates can be reviewed by people who are best able to evaluate them. "It means we are the gatekeepers of our own profession," says Taylor.

Peter Brooks FRICS, a former executive director of EY, and an APC assessor in New York, agrees. He believes volunteer assessors are also essential because they are better able to determine whether candidates are truly qualified, based on a wide variety of indicators, not just check-the-box factors that paid staff members might employ.

"Discussing case studies and picking up subtle clues as to the candidate's depth of knowledge, for example, is a critical part of assessing their experience," he says. "And with so many potential competencies that can lead to RICS membership – from geomatics, to valuation, to quantity surveying – it would be almost impossible for RICS' non-technical staff to have relevant experience in all these different areas."

And when the assessment does not quite work out for the candidate, the assessor is vital to the next step, too. "In those cases where it is determined that the candidate is not yet ready to be a member, assessors perform a really useful function by providing detailed guidance, suggesting what steps they need to take to become eligible for membership," adds Brooks.

Being an APC assessor offers members more than just the chance to "give something back to the profession" – it can also make a real difference to your own career and skill set. For many assessors, explains Taylor, the biggest reward comes from helping to ensure that the next generation of chartered surveyors is competent and able to comply with all the necessary RICS standards.

"Personally, I find this aspect very satisfying," says Taylor. "When an interview with a candidate goes well and they walk out of the room as a pass, it's a great feeling to think 'there goes a fantastic new ambassador for our profession'. It's also nice to meet other colleagues who are committed to the future of the profession, too."

Beyond increasing your knowledge and understanding of the APC process, being an assessor can open up networking opportunities, while the interviewing skills you acquire can also be useful in your day-to-day business activities.

"Professionally, being an APC assessor helps me to examine myself against the RICS competencies and to see if I have gained knowledge, skills and experience in current and new areas," says Joseph Lin FRICS, managing director of CBRE Taiwan and an APC assessor. "And, personally, it's a great opportunity to meet and catch up with other APC assessors and RICS staff."

Furthermore, undertaking the role actually contributes towards the continuing professional development (CPD) that all RICS members have to complete. "On the day, all assessors get their expenses paid," says Taylor, "but many might not realise that being an assessor also counts towards CPD – in fact, it could contribute up to half a year's total.

"I also think the role can increase your own skills and chances of promotion. For instance, competency-based interviews are increasingly used by some of the bigger firms for selection, and this is a great interviewing skill to have, especially in the public sector."

Jon Lever FRICS is an RICS training adviser and UK-licensed assessor trainer, who has helped train more than 6,000 APC assessors since 2006. He explains that quizzing candidates more on their competency is a result of how the assessor training process has changed in recent years, and continues to evolve. Whereas the assessment used to be predominantly knowledge based, with a portion focused on the experience the candidate had gained, it is now more the other way around.

"The questioning is now predominantly experience-based enquiry," he says. "While knowledge is also stringently tested, it may not be the main starting point. It is very important for candidates to appreciate both their competencies and the levels they are taking them to, ensuring there is plenty of relevant experience to discuss."

Brooks points out that "the UK has a robust support system for candidates who want to become RICS members. From universities with long-standing RICS-accredited courses, to firms who employ junior staff and train them under RICS standards, the UK is 'user friendly' for young people who aspire to become members."

Perhaps, more than anything, being an APC assessor is about helping a potential new surveyor discuss their hard-earned knowledge in a clear and confident manner. "If they've been signed off by their supervisor and counsellor and met all the requirements, all they've got to do is tell us what's in that final submission," says Taylor. "When the candidate comes to the interview, really they have already met the standard to pass. It's more about them confirming that with us."

What does it take to be an APC assessor?

To become an APC assessor, first you must have been a full RICS member for at least three years. You then must complete a one-day interactive training course that will guide you on how to perform well as an assessor. The course will teach you skills such as active listening, recognising signs of nerves and how to make candidates feel more at ease during their interview.

Preparing for an interview with candidates all depends on your experience, explains RICS training consultant and assessor chair Kate Taylor FRICS. "Now that I'm more experienced I can prepare in around an hour, but at first I probably did more preparation than the candidates," she says.

"You have to study their final submission, and treat the interview not as an exam, but a conversation about the candidate's experience. It is a serious, but also relaxed and sometimes fun discussion.

"Being an assessor has a status in its own right – so you'll find that candidates and other people in the profession are likely to treat you with a higher degree of respect as a result of it."

For further information about becoming an APC assessor, visit rics.org/assess

Ed – This article is taken from one appearing in April 2016 Modus. Thanks to the RICS for giving permission to use it.

HOUSING AND PLANNING ACT 2016

Christine de Ferrars Green and Alex Round

Christine is a Partner in the Real Estate practice with a focus on development and experience of working with local authorities, and Alex is a trainee soon to qualify into Mills & Reeve's specialist planning team. Christine.deFerrarsGreen@Mills-Reeve.com

This article covers some of the provisions in the 2016 Act, with a particular focus on starter homes and gives brief notes and commentary on some of the other provisions in a wide-ranging piece of legislation. My grateful thanks to Christine and the team at Mills & Reeve for preparing this summary, and for the regular Legal Snippets taken from "Property Matters" www.property-matters-law.co.uk

Starter homes

The idea of starter homes seems to have been around for a while, though it has only now been given life by the recently enacted Housing and Planning Act 2016 ("Act"). Given some prominence, in Chapter 1 of Part 1 of the Act, the starter homes initiative is set out across 8 sections.

The relevant provisions of the Act are much less descriptive than they might have been. What is encouraging to see, however, is that the Act lays the foundations for further regulations to be made to give the initiative direction and it looks as if starter homes will be more prominent and more flexible than first envisioned.

The criteria for what constitutes a starter home is largely as before – a building (or part of a building) that:

- is a new dwelling
- is available for purchase by qualifying first-time buyers only
- is to be sold at a discount of at least 20% of the market value
- is to be sold for less than the price cap, and
- is subject to any restrictions on sale or letting specified in regulations made by the Secretary of State.

A complicated tapering provision was drafted at the Bill stage, describing a tapering in the value of the 20% starter homes discount that would have to be repaid if a starter home was subsequently resold, reducing by 1/20th for every year following a purchase. The final details of such a tapering scheme, like much else in relation to starter homes, will come in subsequent regulations.

Digging a little deeper into some of this starter home terminology, a "qualifying first-time buyer" is someone who:

- is a first-time buyer
- is at least 23 years old but is not yet 40, and
- (and this is the interesting bit) "meets any other criteria specified in regulations made by the Secretary of State (for example, relating to nationality)" (emphasis added).

Starter homes will, therefore, (at least initially) be out of the reach of 18-23 year olds, who may have been hoping to benefit from them, and everyone over the age 40, who will have already known that it was not intended that they would benefit. Curiously, the Act later sets out that the Secretary of State may by regulations dis-apply the age requirement in relation to specified categories of people, and specify circumstances in which a dwelling may still be a starter home, even if it is available for purchase by joint purchasers, not all of whom meet the age requirement. Fairly stringent criteria then, on the face of it, which may yet prove to be quite flexible.

The same can be said of the much discussed "price cap". Two figures have been central to starter homes discussions since their conception: £450,000 for starter homes in Greater London; and £250,000 outside of Greater London. As anticipated, starter homes will be subject to these price caps, which has provoked much criticism. With house prices continuing to soar, particularly in the south east, £450,000 looks like an increasingly modest sum when contemplating the purchase of property in London, and £250,000 is not likely to get you more than a one-bedroom apartment in cities like Brighton, Cambridge, Oxford and towns in and around the home-counties commuter belt.

Further regulations to the rescue? The Secretary of State may, by regulations, amend the price cap (presumably with continuing inflation in mind) and the regulations may provide for different price caps to apply to starter homes in different areas in and outside Greater London. In other words, the price cap on starter homes may be set on a regional/area by area basis, which could bring a little fairness and proportionality to the scheme. It will be interesting to see whether the price cap ends up being lowered in certain areas, particularly in the north, where house prices are much lower.

The rest of the Chapter sets out the framework for further regulations to put starter homes firmly within the context of the planning system. We are likely to see regulations coming in to provide that a planning authority may only grant planning permission for a residential development if certain starter homes requirements are met (whatever they may be). The Act states, by way of example, that such regulations may provide that an authority may grant planning permission only if a person has entered into a planning obligation to provide a certain number of starter homes, or to pay a sum to be used by the authority for providing starter homes.

At this point many will be thinking that this sounds a little bit like the affordable housing obligations we have been seeing in s106 agreements for many years. It is.

A proposed change to the definition of affordable housing in the National Planning Policy Framework, to include starter homes, is currently subject to consultation. In the meantime, the Act inserts a new affordable housing definition into the Town and Country Planning Act (TCPA) 1990 in relation to the enforceability of existing planning obligations, being "housing for people whose needs are not adequately served by the commercial housing market, including starter homes". It appears the Secretary of State may now introduce regulations to force existing planning obligations requiring affordable housing to be read as to include starter homes, where the obligations have not yet been discharged and, presumably, where the obligations do not already define the tenure split/mix.

The Act does not guide us in relation to whether the delivery of specified levels of starter homes will have priority over the delivery of other forms of traditional affordable housing, but this may be clearer after the regulations that follow. What is clear is that the government's intention is for a fundamental rethink in this area, which could have profound effects on the way in which development is brought forward in future. Expect further discussion, debate and disagreement to come. A technical consultation on starter homes has now concluded, and so we await the feedback with interest.

Self-build and custom housebuilding

The Act also addresses housing land supply for those who want to build or commission their own new home on a self-build or custom build basis. You may be familiar with the existing obligation on local authorities to maintain a register of people seeking to acquire a serviced plot of land to build their own home, as contained in the Self-build and Custom Housebuilding Act 2015. That Act also requires local authorities to have regard to the demand for custom build housing, as evidenced by the register that they keep, when exercising statutory housing and planning functions.

The Act makes some technical amendments to that legislation and then goes further to put an obligation on local planning authorities to grant suitable development permissions for enough serviced plots of land to meet the demand for self-build and custom housebuilding on an annual recurring basis.

Government support has continued for self-build and custom housebuilding through the Homes and Communities Agency's Custom Build Serviced Plots Loan Fund. However, some land owners with available plots are not finding a rapid take-up on the sites by aspiring home-builders. Maybe this is why local authorities can seek an exemption from this new duty – if they perceive that demand as apparently demonstrated by a register will convert to actual building projects.

Public authority land – consultation on disposals and registers of surplus land

The part of the Act that deals with public authority land has been little commented on. The provisions require government ministers to engage on an ongoing basis with local and other public authorities in relation to the disposal of land held by the government; and any relevant public authority must engage likewise with other relevant public authorities, which will be specified in regulations to follow. Regulations will be issued by the Cabinet Office, that will also provide guidance on how this duty is to be complied with. Certain specific land or types of land may, by regulations, be excluded from this duty.

Regulations (yes, even more regulations!) will also be drawn up requiring public authorities to publish a report on a regular basis (probably annually) of surplus land. This is land that the authority has a land interest in and which has, within at least 6 months of the relevant date for residential land and 2 years for non-residential land, been declared surplus to the authority's requirements. The Secretary of State will issue guidance to assist this process.

Local authorities' compliance with this duty will mean that on a regular basis there will have to be a review of landholdings and interests and a determination of status, as surplus to requirements or otherwise. Regulations will be issued setting out the form of report, its content and provisions about publication. Once land is identified in a report as surplus to requirements, the authority must say why the land has not been disposed of. Certain specific land or types of land may, by regulations, be excluded from this duty.

Reports on improving efficiency and sustainability of local authority buildings

Starting in 2017, every local authority, together with a wide range of other

public bodies, will have to prepare an annual report containing a "buildings efficiency and sustainability assessment", setting out details of progress towards improving the efficiency and contribution to sustainability of buildings that are part of the authority's estate. The report will need to include an assessment of the progress made by the authority in the relevant year, towards reducing the size of the authority's estate.

If buildings become part of the estate they should fall within the top quartile of energy performance and an account must be given, if they do not, as to why they have been acquired. Cabinet Office guidance will be issued to authorities as to how they are to carry out their functions in relation to these provisions.

Dispute resolution in delayed negotiations on planning obligations

The Act enables the Secretary of State to appoint an "appointed person" (on request from an applicant or council) to resolve disputes delaying completion of planning obligations if, in his opinion, the local planning authority would likely grant the application upon entering into satisfactory planning obligations.

The appointed person will produce a report setting out common ground and recommendations for appropriate terms for obligations. Once issued and an agreement based on its recommendations has been signed, the local authority will no longer be able to refuse permission on s106 agreement grounds. However, if the report recommends terms, but the agreement is not signed within a certain period, the authority must refuse permission and until the dispute resolution process is finished, the matter cannot be subject to appeal.

Neighbourhood right of appeal

Something that did not quite make it into the Act was the much discussed neighbourhood right of appeal. As originally tabled, the Act would have provided that where a planning authority grants planning permission and the application does not accord with policies in an emerging or made neighbourhood plan (in which the land to which the application relates is situated), a parish council or neighbourhood forum may by notice appeal to the Secretary of State against the approval by two-thirds majority voting.

After many rallies of legislative table tennis over many weeks, agreement was eventually reached for a compromise provision. A new provision is introduced in the TCPA 1990 to require planning officers to report on planning applications that conflict with a neighbourhood plan where approval has been recommended, setting out how the neighbourhood plan was taken into account and identifying the points of conflict, thereby bringing the matter to the committee's attention. It will still be for the committee to weigh up the usual planning considerations and determine the application in accordance with the existing statutory duty (i.e. in accordance with the development plan unless material considerations indicate otherwise). Not quite an appeal then.

Sustainable drainage

In similarly anti-climactic fashion, the House of Lords had originally requested a provision which effectively would have required all land owners/owners of private sewers to ensure that their drainage systems were "sustainable" drainage systems, if they wanted to connect to the public sewer network in respect of surface water. This was subject to a huge amount of debate but, ultimately, SUDs found their way into the Act in section 171 merely as a duty on the Secretary of State to carry out a review of planning legislation and other policy concerning SUDs.

Any other business

Space does not allow us to give detail to all of the provisions of the Act. Maybe the Editor will ask us for another article in the future [Ed – too right she will!]. For the sake of completeness (or perhaps to whet your appetite) here is a note of some of the other pertinent planning-related points:

- Government step-in powers in relation to those local plans which are taking too long to adopt. This is in the context of around a third of councils having failed to adopt a new local plan since 2004

- The Planning Act 2008 is now amended in relation to development consent orders for nationally significant infrastructure projects, with 'related housing development' now being qualifying development. Related housing development is housing development near the infrastructure project or related to it. Draft guidance suggests the maximum permitted number of houses will be 500

- Minor amendments are made to the neighbourhood planning process including a new right for neighbourhood forums to be informed by local authorities of relevant planning applications on request

- Powers are given to the Secretary of State to prepare a local development scheme for a planning authority if they have not yet introduced one

- A privatisation of planning services (reviewing applications, not making decisions) is enabled by the Act

- Provisions are made in relation to Urban Development Corporations including new duties to consult and procedures for establishing these, and new town areas

- A number of amendments to the processes and procedures of the compulsory purchase regime.

In conclusion

Needless to say, the Act is wide-ranging in its remit and reach, with a broad sweep of legislative reform and provisions to give effect to recent government policy announcements, and with much detail to follow in regulations which will precede implementation of the many new duties and requirements.

THE HOUSING AND PLANNING ACT 2016 - Or is it the Secretary of State knows best!

Kyle Gellatly MRICS

Kyle is an Associate Director of BPS, and specialises in provided viability and valuation advice to local authorities in London and the south east, including negotiating affordable housing contributions and s106 Agreements. Prior to joining BPS 5 years ago, Kyle worked for Estates Gazette Interactive in the London offices team. kyle@bps-surveyors.co.uk

Kyle outlines the affordable housing and planning provisions of the Act and a surveyor's view of the implications for the public sector in delivering large housing targets, in the context of increasing government interference. There follows a summary of many of the provisions of the Act, prepared by Mills & Reeve. This complements the summary of many of the provisions of the Act, prepared by Mills & Reeve, in the preceding article.

The troubled bill has now received Royal Assent but not without a fight and many revolts from the House of Lords. The question is, why has this Act created so much concern and what will it actually mean in practice?

Like so many modern acts, most of the monster's teeth will only be seen when the Secretary of State produces regulations or statutory guidance. These instruments will provide much of the actual detail, thresholds and timescales for the framework provided by this Act to come to life and, were it not for the Lords intervention, many of these teeth would not come before Parliament for approval.

Anybody working in the fields of planning and affordable housing will know that the government has a clear agenda to emasculate the planning system so it cannot interfere in the process of making land available for housing development. As a subset of this agenda, to replace affordable housing largely with lower cost private sale housing for first time buyers. This Act serves to meet these requirements by a series of fundamental measures.

Starter homes

Central to the Act is a duty on local planning authorities (LPAs) to deliver and report on their success in delivering starter homes. These are new build units priced to a discount of at least 20% of market value not exceeding £250,000 outside London and £450,000 in London. Consultation on proposed regulations ended in May so will be published soon. These regulations have the power to vary these figures on a more localised basis and will impose a target percentage delivery on most housing developments. This percentage requirement is widely tipped to be at a level of 20%, subject to scheme viability.

Purchasers of starter homes will be restricted in their ability to re-sell units at market value to other than first time buyers for a maximum period of 8 years; this restriction is likely to be no more than 5 years in practice, with a requirement to sell at a tapering discount to market value to other first time buyers. Owners are also restricted in their ability to let the property during this period.

The order of priority for delivery is starter homes first, then and only if a scheme is sufficiently viable, can a LPA seek delivery of traditional affordable housing. In the absence of any national funding programme for affordable housing, and given the huge impact on Housing Revenue Accounts' (HRAs) and Registered Providers' (RPs) borrowing abilities following the Chancellors U-turn on the rent escalator (turning this to a de-escalator), it looks like there will be very little new affordable housing development in the foreseeable future.

Secretary of State powers

To ensure a pipeline of housing sites the Act enables the Secretary of State (SoS) effectively to take over the planning process through a number of measures summarised below:

Issue of planning consent - LPAs can be prevented from issuing consents if s106 Agreements do not provide for delivery of starter homes

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Reduction in other payments - LPAs should not seek s106 contributions for starter homes, although authorities can still claim New Homes Bonus for these units

New 106ZA resolution of disputes concerning planning obligations - The SoS can suspend or modify the enforceability of planning obligations where these require the delivery of affordable housing. The SoS can also change the definition of what constitutes affordable housing. The SoS would need approval by Parliament for these measures

Exception sites – These will need to be identified where industrial or commercial uses evidence voids or limited occupier demand. These sites should be identified for development, for schemes comprising largely starter homes, and there is a presumption of consent in this regard. Schemes would not be required to pay CIL or s106 or provide affordable housing, but could include an element of market housing to improve viability where necessary

Preparation of a local plan - If a LPA does not have a current adopted plan this can be prepared by the SoS or the London Mayor, with the LPA footing the bill for the costs

Neighbourhood development order – This is a means for parish councils or neighbourhood forums to grant planning permission for certain kinds of development within a specified area. The order is subject to independent examination and referendum. Where such applications meet the criteria or fail to be determined, the LPA is required to grant the order

Development order - The principle of permission attaches to land benefitting from a development order and will have consent for a period of 5 years, if the order is made by the SoS, or 3 years if made by a LPA. These orders can extend to the creation of New Towns but such large-scale proposals would have to go before Parliament

Planning freedom - The SoS can create a planning freedom scheme where the requirements of the local plan can be dis-applied

Processing applications - The SoS has the right to trial an approach whereby the applicant or the LPA can nominate a person of their choice to process their application. Decisions will still be made by the LPA. This means that private sector planning consultancies and developer-focussed firms of surveyors can be instructed by the applicant to process the application and consider the viability implications and this would be the only information put before a planning committee, including any subsequent appeal

Requirement to adhere to PPG - LPAs are required to following national planning policy guidance.

The Act provides the SoS with the ability to allow a period of transition for introducing these measures, which will, you've guessed it, be made by regulation. To me the government appears to be in a hurry and having set a target of 200,000 new homes by the end of this Parliament, it will need every second to achieve this target, so don't expect these provisions to come in slowly.

In the 2014-15 financial year, 124,520 new homes were built. Brandon Lewis has stated publicly that he wants 200,000 homes built every year. Whether you take current delivery rates or the more ambitious views of Mr Lewis, the starter homes target will take 5-8 years to achieve, even assuming 20% of all housing delivered is of this type.

The 3 most far-reaching measures of those summarised above will be the inability of authorities to grant consent without including a starter homes provision, the percentage of starter homes to be included in schemes, and the applicant's ability to nominate planning consultants and viability experts of their choice to report on their schemes to the planning committee, the latter being very much a charter for the poacher to run the estate. Putting aside the undoubted professionalism of such consultants, it is highly unlikely they would see completely eye to eye with in-house officers, and how would elected members be enabled to challenge their views?

So what about affordable housing?

It's very easy in the light of these measures to foresee very little new affordable housing coming forward from private development. Especially when you consider that even where schemes are sufficiently viable to provide conventional affordable housing, the proportions will be so small that developers will find it easy to argue for off-site provision and evidence limited interest from RPs for 1-2 units here and there.

However, the Act also takes significant steps to reduce the current stock of affordable housing and reduce their affordability. A brief summary of the measures is set out below:

Extension of tenants' right to buy to Registered Provider housing stock - RPs are to receive grants from the Homes and Communities Agency to subsidise these sales

Requirement for HRAs to sell high value housing stock - The SoS will decide by regulation what constitutes a high value house and the tenures to which the requirement applies

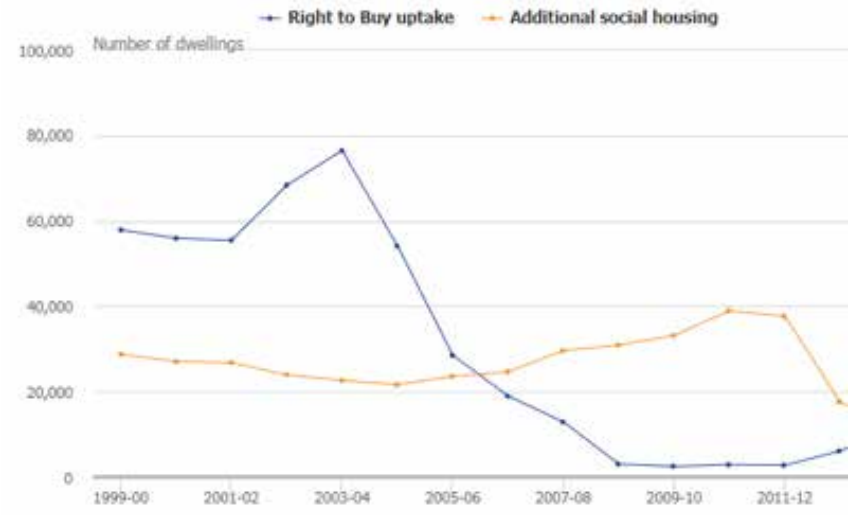
Upfront payment to SoS by HRA - HRAs will be required to pay the SoS an annual sum based on the anticipated number of high value homes to be sold

Replacement units? - HRAs can retain money from such unit sales where it can be demonstrated that the cash from a house sale has entirely funded the replacement of 2 units in Greater London and a single unit elsewhere. HRAs will have to have a new build programme to meet this test; in London this seems a very high hurdle to overcome, given current land values

Sale of stock to RPs - there is no avoiding the payment to the SoS by HRAs selling or transferring stock. Payments will be based on the assumption of continued ownership, whether actual or not

Figure 16: Additional social housing and social housing sale counts under the Right to Buy scheme

England & Wales, 1999 to 2000 til 2013 2014



Raising tenants' rents - The SoS will decide, by regulation of course, the income thresholds at which tenants will be required to pay a market rent rather than an affordable or social rent. Any extra rent raised by this means will naturally be payable to the SoS. The anticipated income levels are £40,000 p.a. in Greater London and £30,000 p.a. elsewhere

Loss of tenancy for life - New tenants of social housing stock will be granted a maximum term of between 2 -10 years depending on the age of any children in the household. Tenancies will typically be for 5 years, creating much more opportunity for turnover and presumably for selling higher value units.

Based on these measures, we can expect affordable housing stock to contract. This ongoing trend is evidenced by the graph produced by the Office for National Statistics.

It is apparent that we are now at a crossroads where housing stock creation is about to fall below the rate at which right to buy uptake rates are taking place. This is before the compulsory sale of high value stock and extension of the right to buy.

The Act will undoubtedly help many people who are currently at the margin of being able to afford their own home and seeks to bring in much needed additional regulation of the private rented sector, so does offer benefits. However, the redistribution of resources from housing the poorest members of our society to help middle income earners will not serve in itself to expand overall housing provision. Nor will it provide solutions to those in housing need who will have to contend with increasingly expensive houses in multiple occupation and other private rented housing, which in turn will challenge the cost of housing benefit.

The centralised direction of planning powers will increasingly serve to take decisions from locally elected councillors towards nationally elected government.

Will the Act bring forward an increased supply of land for development? In our experience, one of the biggest factors in holding back development has been the unprecedented rises in the costs of land. Currently national policies, guidance and the Planning Inspectorate have encouraged developers to believe that what they pay for land will be a primary consideration in determining their need to deliver affordable housing [Ed – see Tony Mulhall article in this Terrier]. This in turn has helped fuel price rises. Until this changes, delivery of starter homes will also be impacted, so bashing the planning system alone is not a panacea to increased land supply.

There is no wonder given these huge shifts in priority that many politicians were nervous about the scope and direction of this Act.

HOME TRUTHS

Tony Mulhall MA MSc MRICS MRTPI

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Tony examines what 'policy compliant' really means when deciding the number of affordable homes. It also shows the vast range of site values that can arise to establish benchmark value This article first appeared in RICS Land Journal March/April 2016.

A planning appeal decision

In a recent planning appeal decision, policy compliance on affordable housing delivery was a central issue. Against a local authority's strategic target for 50% affordable housing, the Planning Inspectorate determined 14% as complying with policy. It also accepted that the price paid for the site could be taken into account when assessing site value.

Parkhurst Road Ltd sought planning permission for residential development on a 0.58ha former Ministry of Defence (MoD) site at 65–69 Parkhurst Road, London N7, in a built-up area of Islington. The site was bought following a public tender exercise by the MoD, attracting 26 bids. The final planning submission proposed 112 dwellings, but the application was refused by the London Borough of Islington on 3 grounds, including inadequate affordable housing provision. The key decision for the inspector was "whether the proposal complied with policy objectives relating to the provision of affordable housing."

At the outset, the inspector recognised that there was a "substantial unmet need for affordable housing both in London and in Islington", but added that "while 50% is the strategic target, any level below this could be in accordance with the plan, providing it is shown to be the maximum reasonable amount."

Paraphrasing the National Planning Policy Framework (NPPF), he said that "to ensure viability the costs of any requirements likely to be applied to development, such as affordable housing … should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer."

Referring to the national Planning Practice Guidance (PPG), he continued: "where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible."

He added: "the PPG further identifies that the assessment of land or site value is central to the consideration of viability and will be an important input into the assessment". Drawing again on the PPG, he noted that in all cases land or site value should:

- reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy (CIL) charge
- provide a competitive return to willing developers and landowners
- be informed by comparable, market-based evidence wherever possible; where transacted bids are significantly above the market norm, they should not be used as part of this exercise.

Comparable evidence

The table shows the various valuation figures submitted by the parties, ranging from the notional existing use value of £750,000 to the winning tender of £13.25m. The question was which of these figures should be the relevant land value benchmark for assessing viability, and therefore for the level of affordable housing necessary to comply with policy.

The appellant argued that the site value in accordance with RICS guidance of £13.26m – was the relevant land value figure to be entered into the development viability appraisal as a fixed acquisition cost. The council disagreed, arguing that the site value adopted and also price was an overpayment that did not fully factor in the need for 50% affordable housing.

The council carried out a number of residual valuation calculations based on the proposed scheme at different levels of affordable housing of 50%, 40% and 32%. The calculations gave a residual land value of £4.98m, £7.32m and £9.35m respectively.

Reference	Value	Affordable housing (AH) and obligations
Winning tender May 2013	£13.25m	
Under-bidder – registered provider (housing association)	2% below winning bid – £12.98m	
Other under-bids	Within 13% of winning bid, say £11.5m	
Financial viability appraisal, June 2014 – 112 dwellings (25% reduction on earlier submission)	£13.0m	21% AH by habitable room (14% by unit) £2.54m (s106, Mayoral CIL, Islington CIL)
Unsolicited bid Taylor–Wimpey May 2015	£15.75m	
Independent CBRE Valuation May 2015	£15.5m	Assumed 25% AH in a scheme of 125 units
London Borough of Islington viability appraisal based on the proposed scheme	Not in excess of: £9.35m £7.32m £4.98m	AH by floor area 32% 40% 50%
London Borough of Islington notional existing use value	£750,000	

Table: Establishing benchmark value, Parkhurst Road, London N7; MoD site sold by public tender with obligation to achieve "best consideration"

Critically, the inspector said that the council had not put forward any market-based evidence of the kind that the PPG indicates is important. In contrast, the appellant had the following evidence to support the figure of £13.26m:

- First, the MoD was bound by a statutory requirement to obtain the "best consideration". The under-bid was only 2% lower and was made by a registered provider. It was not contested that such a purchaser could be assumed to have reasonable knowledge of the local market and be unwilling to overpay for the land. A number of bids were received within 13% of the winning bid, suggesting that the winner was not out of line

- Second, the site was the subject of an unsolicited and unconditional offer of £15.75m in May 2015 by one of the unsuccessful bidders, a major housebuilder

- Third, the site was independently valued the same month at £15.5m

- Finally, the appellant carried out an assessment of comparable evidence based on 21 larger residential development land sales in Islington since 2010. These placed the price paid for the appeal site at the lower end of the range.

A subset of 7 sites, mainly those without planning permission at the time of the transaction, generated a comparable range in value for the appeal site of £12.98m–£16.44m. One of the comparables was located in the neighbouring borough of Camden, which has similar affordable housing policies: a 0.27ha site sold by the local authority in 2014 for £11.2m. This was granted planning permission by Camden, based on a proposal offering 22% affordable housing against a policy target of 50%. The borough was also being bound by "best consideration" requirements.

Inspector's observations

The inspector commented that the appellant's evidence showed that the price paid for the site was not significantly above the market norm. There was no counter-evidence.

The council pointed to the PPG's statement that land or site value should reflect policy requirements as well as planning obligations and CIL. The inspector regarded this as consistent with the special assumption approach of the RICS Financial Viability in Planning guidance note in defining site value, which should equate to market value but have "regard to development plan policies and all other material planning considerations and disregard that which is contrary to the development plan."

It was argued by the council that the appellant's evidence did not assess the extent to which these sites took account of affordable housing policy and therefore may be importing the constraints of other sites inappropriately into the assessment of the appeal site.

The inspector recognised that, in recent decisions in Islington, around 25% affordable housing was typical but with a wide variance. The council expressed strong concern about the possible effect of using purchase prices based on a downgrading of policy expectation for affordable housing as this would perpetuate under-delivery. The appellant stressed that the comparable sites on which they had relied had been acquired at risk prior to seeking planning permission.

Again referring to the PPG, the inspector emphasised the need to take account of market signals, and concluded that the only information on these supported the use of the appellant's land value figure. He concluded that the evidence did not suggest that a reasonable landowner would have an incentive to release the land for development at the value

suggested by the council.

The inspector found that the appellant's land value figure of £13.26m reflected policy requirements to achieve the maximum reasonable, rather than the maximum possible amount of affordable housing. He accepted that the delivery of 14% affordable housing would comply with policy, but did provide for a pre implementation review mechanism.

The inspector, however, dismissed the appeal on amenity and other environmental grounds.

Judicial review

Islington started proceedings for a judicial review of the appeal decision. In its "letter before claim", it argued that the decision would have "significant implications for affordable housing provision within London and beyond." It was concerned that the appellant would rely on the inspector's reasoning in a re-submission. It could also be used by other developers to justify affordable housing levels well below the 50% strategic target, drawing on land transactions that do not reflect development plan policies.

It argued that the inspector addressed the wrong issue by seeking to establish whether the price was sufficiently above the market norm to constitute an overpayment, when he should have been identifying whether the land value had "reflected policy requirements", particularly on a relatively unencumbered site.

Specifically, the council asserted that the inspector:

- failed to understand and/or give lawful effect to the PPG requirement that site value should reflect policy requirements in all cases
- divorced the concept of securing a competitive return from the policy requirements that affordable housing should be maximised as a requirement of the development plan, and the NPPF
- unlawfully undermined the plan-led system contrary to the statutory scheme
- proceeded on flawed logic by basing site value on market evidence without taking proper steps to ensure that it reflected policy requirements.

Government response

The government's legal department rejected the proposal for a judicial review. It said the council was not a "person aggrieved" because the inspector had dismissed the appeal on other grounds. This would result in a hypothetical case being presented that the High Court would not entertain. The case did not meet the "exceptional circumstances" test necessary for special treatment; besides, there were many other avenues open to the planning authority in taking decisions on future proposals. The council discontinued the judicial review.

The government's response also addressed the issue of "reflecting policy requirements" but chose not to go beyond the content of the PPG. It said the Secretary of State had given such guidance as he considers appropriate in his PPG, which states, among other things, that land value should "in all cases … reflect policy requirements." It added that any necessary working out of its consequences should proceed on a case-by-case basis.

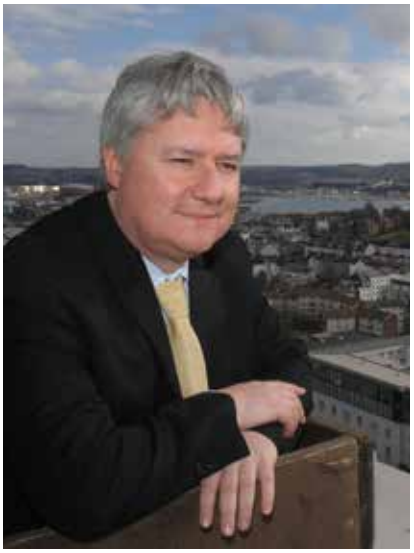
The government response also referred to a leading case where a judge stated that, in principle, interpretation of planning policy is a question of law. He did point out, though, that policy statements should not be construed as if they were statutory or contractual provisions. "Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract … Development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgement."

Conclusion

This appeal reveals the tensions in the planning system between the need to satisfy policy objectives and achieving them through specific development proposals. Overriding national policies emphasise the need for plans to be deliverable; but being "deliverable" in a market economy requires maintaining the business case for development, which comes down to a question of viability in each case.

Planning appeal decisions do not set precedents. In accordance with the government lawyer's rebuttal, the application of policy should "proceed on a case-by-case basis in practice." The inspector's application of policy proceeded on the basis of taking the headline affordable housing target and moderating it by reference to other material considerations, to arrive at a level which he judged to be deliverable at the time.

The content for this article is mainly drawn from the planning inspector's report, the local planning authority's letter before claim and the response of the government legal department to that letter.



PLYMOUTH PLAN FOR HOMES

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In 1996 he delivered the regeneration programme of Plymouth's historic Barbican which won the BURA/Secretary of State's Award for Partnership in Regeneration and led the radical Vision for Plymouth produced by Barcelona architect David Mackay in November 2003. He oversaw the production of the Plymouth Core Strategy (the first and fastest adopted for a major English city) culminating in Plymouth winning the RTPI Silver Jubilee Cup in February 2006 - and numerous other awards recognising Plymouth's approach to community and spatial planning.

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The Plymouth initiative appeared in an article in The Planner, June 2016. Plymouth is a lead partner in the "Plan for Homes" project and has been awarded the 2016 RTPI Silver Jubilee Cup for Excellence in Planning for Housing. Below are extracts from the submission. It is an approach which could be used elsewhere to excellent effect: "the Plan for Homes has already become synonymous with delivery rather than good intentions." My thanks to Paul and colleagues for sharing this good practice.

Key facts

The Plan for Homes will significantly increase and accelerate housing supply to deliver a range and mix of well designed, greener homes across the city.

The Plan for Homes is an ambitious set of proposals to deliver 5,000 new homes over 5 years from 2014/15. It will enable a step change in future housing delivery, contributing to the prosperity and growth of the city and will address a range of known housing needs.

The Plan for Homes contains 16 initiatives across 5 themes that describe how we will lead, partner, engage, innovate and directly provide resources and assets to plan and deliver the homes we need and support our wider growth agenda:

- Finance: creatively using local authority resources alongside the flexible application of our planning and housing policies
- Land: identifying and releasing substantial amounts of city council owned land for housing in the most streamlined and targeted way
- Infrastructure: proactively working with institutional investors to attract new funding and aligning our own capital programme
- Community engagement: proactive dialogue with local communities, ward councillors and delivery partners
- Leadership: provide positive strategic leadership of the housing agenda in advocating the need for more homes.

It provides the framework for proactive and positive planning and housing delivery with Cabinet-level political leadership to deliver our ambitious plans for the homes the city needs.

The Plan for Homes represents a radical response to the housing challenges facing the city and provides a comprehensive delivery framework to respond to the need to increase the supply and quality of new housing in the city. Our achievements to date demonstrate how we have been able to translate our planning ambition into housing delivery.

Launched in November 2013, the Plan for Homes has already become synonymous with delivery rather than good intentions. It provides for leadership, engagement and partnership working through proactive and positive planning and housing

delivery, and has become the focus of attention in the city for direct action to deliver our ambitious plans for 5,000 new homes over 5 years.

"Plans are only good intentions, unless they immediately degenerate into hard work" (Peter Drucker). Since its launch and first full year of delivery, the Plan for Homes has undoubtedly 'degenerated into hard work'. The Plan for Homes is worthy of celebration because of the notable achievements it has already made which include:

- Completed a strategic land review to identify every possible council owned site suitable for housing; 847 sites were initially identified with further analysis on 184, resulting in 40 sites being recommended for housing
- Released 33 council owned sites for housing, with delivery partners agreed and contracts exchanged, totalling 138 acres of land (78 in and 60 outside the city); exceeding our target of releasing 100 acres of land for housing
- Of the 32 sites in the city, 73% are brownfield land and 27% are greenfield; which equates to less than 0.4% of all green space within the city
- These sites are planned to deliver 1,650 new homes of which 840 are affordable (50.9%); the number of affordable homes will reduce the city's priority housing waiting list by 20%
- Created a £50m Affordable Housing Loan facility to support registered providers, housing co-operatives and community land trusts deliver new affordable homes; currently agreed £15m to support 267 homes on 5 sites
- Proactively supporting self-build and custom-build; a pipeline of 112 homes on city council sites including serviced plots, individual plots, developer-led and community-led schemes
- Focussing work on tackling stalled sites; there are now only 431 homes on 12 'genuinely' stalled sites across the city
- Secured ethical institutional investment into affordable housing delivery through RENTplus; a new innovative affordable housing product that will bring substantial UK institutional investment into the affordable housing sector.

A vision for Ker Street, Devonport Town Hall at far end

These positive actions and interventions are already improving our housing delivery pipeline. Outputs over 2014/15 included:

- 971 new homes completions; the highest number since 2008/09 and 27% increase on last year
- 396 affordable homes completions; the highest figure during the current plan period
- 989 start on sites; 10% increase on last year and highest figure since 2006/07
- 894 homes under construction; 14% increase on last year and highest figure since 2007/08
- 68 long-term empty homes brought back into use
- 95% of new homes developed on brownfield sites.

The Plan for Homes represents a transformational step change in housing delivery, demonstrating partnership working and excellence in planning, is key to enable achievements on this scale.

Context

Housing is a top priority for Plymouth. We are planning for growth with an aspiration to increase our existing population of 258,000 to over 300,000 by 2031, creating 18,600 new jobs and delivering 22,700 new homes, of which at least 30% will be affordable.

The city has many local housing pressures. Plymouth is a low wage economy; average earnings are £23,000 with 40% of households earning less than £20,000, resulting in housing affordability issues with lower quartile homes costing 6.3 times the lower quartile salary. Our housing list currently stands at over 13,000, with

Eco homes in Garrison Close, Devonport

3,077 households in priority housing need, but with fewer lets becoming available, it has a higher than national and regional incidence of homelessness and a growing and ageing population.

Despite some creative planning and development initiatives undertaken by the city council over the last decade, housing supply still lags behind need, especially for those in most acute housing circumstances. All this requires a credible response. The Plan for Homes is a considerable part of that response.

The provision of new and decent housing is central to the delivery of the city's Vision for Plymouth to be **'One of Europe's most vibrant waterfront cities where an outstanding quality of life is enjoyed by everyone'.**

Sustainable development

The Plan for Homes sets out a 5-year programme to help achieve our objective of making the city a great place to live and delivering housing opportunities to benefit everyone.

One key initiative to achieve this is through our streamlined and targeted approach to city council land disposals **- The Plymouth Model.** The Plymouth Model allows planning, housing and land and property teams to work together to take greater control over what gets built, the number, type and mix of new homes provided, the timing of development to ensure prompt delivery and completions, as well as the capital receipt offer.

The **Plan for Homes** recognises the economic benefits of housing and its contribution to the achievement of Plymouth's prosperity and growth, in a cohesive and sustainable fashion. New and improved homes stimulate and sustain economic activity, supporting productivity as well as consumption. Increasing the supply and accessibility of housing also improves mobility of labour for workers within Plymouth and also for those locating to the city.

This supports our **Plan for Jobs** as new homes and refurbishment create employment and training opportunities within local communities, from architects and surveyors to plumbers and bricklayers. A strong and resilient supply chain is key to build the homes we need, but growth in house building could be curtailed by skills shortages.

Development propositions on Plan for Homes sites regularly contain commitments from partners to increase training and employment opportunities on the individual sites, using local people and local suppliers where possible. Our assessment process also enables us to support small and medium sized developers (SMEs) to get access to sites, helping support more SME development capacity and choice in the city.

Our commitment to deliver 5,000 new homes over 5 years will create 7,923 direct construction jobs and 1,547 indirect/induced jobs, totalling 9,471 full time equivalent jobs; and £259.8m direct Gross Value Added (GVA) and £72m indirect/induced GVA, totalling £331.8m (Source: AMORE (Advanced Modelling of Regional Economies) Tool, The RED Group, Plymouth Business School).

The social benefits achieved through the Plan for Homes are demonstrable. By directly intervening in the housing market to increase the number and quality of homes built, supported by our land disposals and loan facility, we have been able to achieve a housing pipeline that offers considerable social benefits and improve the quality of life of residents;

- 1,650 new homes of which 840 are affordable (50.9%); significantly above our affordable housing policy requirement of 30%
- 110 homes are Extra Care for older people
- 219 Lifetime homes on qualifying sites - 26%, exceeding policy requirement of 20%
- 112 self- and custom-build opportunities across various city council owned sites.

Our approach enables us to secure propositions that offer a wide range of house types and mix of tenures, including social rented homes as well as affordable rent and shared ownership. This helps improve housing choices

and affordability. These outcomes are complemented by the environmental benefits we are securing through the Plan for Homes.

We aim to deliver greener homes, demonstrated by the fact that all the affordable homes on city council land releases will be built to at least the equivalent of Level 4 of the Code for Sustainable Homes. Plymouth has 14,000 households living in fuel poverty. High quality and energy efficient homes help tackle fuel poverty and reduce household running costs that contribute to overall housing costs, helping improve affordability.

Our ambition for high quality and energy efficient homes has resulted in us working with a number of housing partners to deliver more sustainable homes on council owned land; a scheme for 92 Zero Bills homes has planning consent, and we are in pre-application discussions for one site of 70 homes to be built to Passivhaus standards.

Community involvement

The Plymouth Housing Development Partnership (PHDP) is a partnership between Plymouth City Council, 11 developing housing associations and the Homes and Communities Agency. As the key delivery vehicle for new and in particular affordable housing, partners recognise that individually and collectively, we will work proactively to engage with communities in the delivery of the Plan for Homes.

Over the past 12 months PHDP has worked to engage with local residents and organisations in raising awareness of the Plan for Homes and supporting the 'Yes to Homes' campaign to make the case for additional accelerated housing to meet the city's needs. It has held a housing debate and co-funded a 'Building Plymouth' film, which was publically screened at a local cinema in partnership with RIBA in December 2014. It held in June 2015 an inaugural 'Housing Plymouth' event in the city centre. This was the first time a public/private/voluntary sector event had been held to make the case and promote new and affordable housing opportunities.

On every city council site, our selected housing delivery partners have committed to work with us on 'meaningful engagement' with the local community on the housing delivery proposals. In addition, all partners must demonstrate how they will involve the community in the development, including school visits, work experience and apprenticeships.

A number of potential housing sites were withdrawn following consultations with the local community, resulting in alternative uses being agreed; public engagement at a site of abandoned and overgrown tennis courts resulted in its transfer to a community group for a community park instead of development.

Planning approach to delivery

The quality of planning work and innovation is demonstrated throughout the delivery of the Plan for Homes. Our innovative approach to land disposals responds to the challenge of how we could identify and release over 100 acres of council land for housing in the most streamlined and targeted way.

We completed a Strategic Land Review where 847 sites were considered, with 184 being assessed in more detail. Following detailed assessment, 40 sites were recommended by officers as potentially suitable for housing development; currently 17 are agreed for release for housing.

Sites agreed for release were supported by Site Planning Statements - short professional documents that help both shape and promote development proposals while enabling flexibility for creativity. The impact was an efficient and effective planning process, frontloading issues into the pre-app process and proposals. The Site Planning Statements help de-risk private investment and resulted in proposals that have created quality places, captured public value and promoted sustainable development.

We advertised site opportunities on our website across 4 tranches of 10 sites, inviting housing propositions, only specifying our planning and housing policy requirements. This ensured bidders submitting proposals that were always planning policy compliant. **By not specifying anything**

over and above our normal policy requirements, we avoid having to go through a formal EU procurement process, accelerating delivery and saving money.

The 'essential ingredient' in this model is the city wide conversations taking place under the umbrella of the Plan for Homes with housing providers, agents, council members and through the media, articulating what the city's housing priorities and needs are. This enables bidders to consider how they might want to respond when bidding for sites and has resulted in propositions for improved housing offers.

All propositions are considered on a best value basis, assessed on quality of the housing offer as well as wider economic, social and environmental benefits, rather than on best consideration. This enables the council to take greater control over what gets built, the number, type and mix of new homes provided, the timing of development to ensure prompt delivery and completions, as well as the capital receipt offer.

Dedicated planning and housing delivery team to work proactively with delivery partners to drive developments forward, enabling, planning and getting land deals into contract.

We manage delivery timescales through the land deals. Should the preferred developer fail to obtain consent for the development proposed as part of their offer for the site, the council would retain the site. Contracts for sale include clauses ensuring delivery is accelerated by including milestones for submitting a planning application, starting on site and completing the development. Covenants ensure that any housing outputs accepted, which represent part of the offer providing best value for the site, would be retained in perpetuity. Should any s106 agreement be renegotiated in the future, the enhanced housing offer would be retained.

Championing opportunities for self and custom builders. We have appointed a 'Self-build Champion' and are developing a wide range of measures to encourage self and custom-build. We have dedicated planning resources for self-build applications to build up our knowledge and experience in this growing area of delivery. Demand and expectations are high and having dedicated resources allows us to offer a more personalised service from staff with an awareness of the specific challenges facing self-builders. We offer free pre-app advice for self builders which includes a site visit.

A register of self-build interest has been established, currently with over 200 households, and it is clear that the council's most effective intervention would be to activate measures to improve land supply availability for self-builders. We have a pipeline of 112 homes on city council sites including serviced plots, individual plots, developer-led and community-led schemes.

Tackling stalled sites. There are currently 6,144 homes with planning permission yet to start in Plymouth. Most of these are homes are to be built on sites under construction, therefore they will be built out. However, we have reviewed all sites, to identify only 431 homes on 12 'genuinely stalled' sites, and are focussing our work to unlock these homes.

We have adopted a flexible approach to planning policy to unlock delivery. We maintain regular dialogue with owners, agents and developers to help understand why sites have stalled and to remove barriers to development. Sites are promoted directly and at the Plymouth Regeneration Forum; we expedite applications to discharge and vary planning conditions; we provided grant funding to bridge a development viability gap to deliver 56 affordable homes; we worked with the HCA to acquire our first stalled site of 74 homes, taking ownership to ensure future delivery.

Inclusive planning

A key driver for the Plan for Homes is the need to provide homes that help improve the quality of life of households living in the city. This requires us to deliver a mix of homes to meet a range of housing and health needs, including:

- 40 units of affordable Extra Care, supported by free land and council capital grant; HCA and council funding for another scheme of 70 units through s106 negotiations on the Waterfront Regeneration programme
- Lifetime Homes Standards on a high level of homes and bespoke wheelchair homes
- Worked with a neighbourhood forum to change the community's anti-homes stance on a particular site, through the inclusion of small one-bed units
- Involved SMEs to develop template tender documentation for our Serviced Plots Model, which details all steps from identifying a suitable plot through to its sale
- The Nelson Project is a 'flagship' custom-build project of 24 affordable homes involving ex-service personnel, at the heart of the community of Stonehouse. We are providing the site at nil cost and the developer is working with the Community Self Build Agency to engage and train 12 ex-service personnel to custom-build the new homes, providing the opportunity to rehabilitate and reintegrate into society through community self-build promoting health and social equality. Six of the homes will also provide support for other households requiring assisted but independent living.

Paul outlines the key outputs from a recently commissioned research report on accelerating the delivery of new housing on surplus public sector land. The report considers the best mechanisms for land release to achieve rapid delivery of homes, while recognising the very wide range of circumstances that are encountered in practice, with regard to each landowner's objectives and capabilities, the size and complexity of each site, and local market conditions.

NEW HOMES ON SURPLUS PUBLIC SECTOR LAND

Paul Disley-Tindell

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Background

The demand for additional housing is widely acknowledged. With many years of under supply and, seemingly, ever increasing demand, the need for new homes in the UK has never been more acute.

Both central and local government have responded to this challenge with a wide range of policy initiatives intended to increase the number of new homes being constructed. These include ambitious targets for public bodies to identify and release their surplus land holdings for new housing development, additional incentives for landowners, and initiatives to coordinate property strategies across the public sector.

So with the market demand and proactive government policies, why are there not more tangible results? It is to explore this question that Telereal

Trillium commissioned this piece of research from Savills.

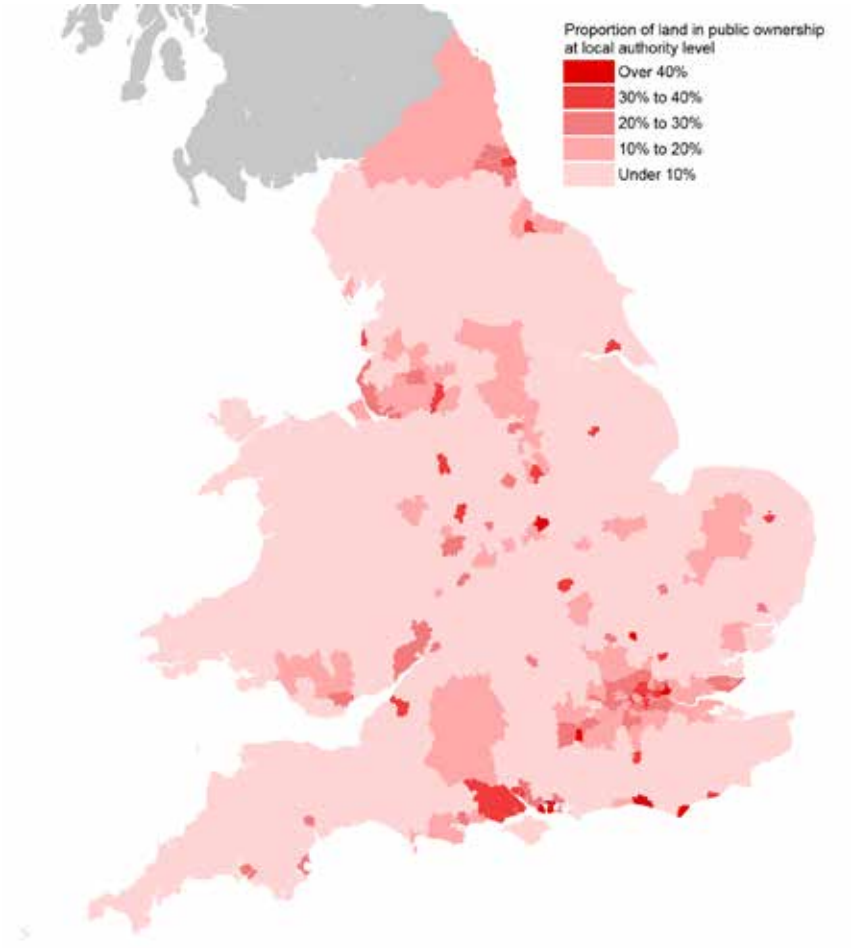
To inform the report, we consulted key decision-makers across central and local government about their objectives, their different approaches and the constraints they face when disposing of surplus land and procuring its development.

Introduction

The nation has a housing supply crisis that needs solving and there is a gaping hole in public sector finances that needs to be plugged.

These twin pressures reinforce the need for more surplus public sector land to be identified and released for the creation of new homes. As a result, the government has set ambitious targets for central government to release land for 160,000 new homes during the course of this Parliament, and challenged local government to achieve the same figure. However, land release alone is not enough: it must be done in a way that leads to the rapid delivery of new homes. The National

Source - Savills' analysis of Land Registry title data



Audit Office (NAO) review of the land disposal programme in the previous Parliament ('Disposal of Public Land for New Homes' NAO, June 2015), clearly demonstrated that the release of land does not necessarily lead to homes being built. While land for 109,500 homes was sold by public bodies between 2011 and 2015, only c1,800 new homes were actually completed.

Plugging the housing supply gap

At current rates of delivery, only 850,000 homes will have been added to England's housing stock during this Parliament, a shortfall of 150,000 homes against the 1m government target. When measured against total housing need of at least 250,000 per annum, the total shortfall is in excess of 400,000 homes. To reach the 1m homes target, 230,000 new homes will need to be added p.a. by 2020, compared with current levels of 170,000.

Headline planning consents are not the main barrier to delivery; it is rather the availability of viable, ready to build sites, with all planning matters resolved, and the capacity of the housebuilding sector. The major housebuilders are planning to increase production through controlled growth strategies, but the required step change in supply must include other forms of development to add to capacity, differentiating the product for the wide range of housing need that has to be met, and increasing the resilience of housebuilding to any change in market conditions.

The gap in supply, compared with previous periods of higher overall housing delivery, is the decline in output from small and medium enterprise (SME) builders and the public sector. Policies are required therefore, to stimulate new participants to enter the market and ensure that they have access to the right combination of land, finance and development skills.

Scale of the opportunity

The scale of the opportunity to build homes on public sector land is significant. Savills' analysis of newly available Land Registry data shows that at least 900,000 ha (6%) of all freehold land in England and Wales is in public ownership. Within this total:

- 15% of all land within urban local authorities is owned by the public sector, representing a huge opportunity for new homes to be built in areas of greatest need, and to provide vital financial receipts for local and central government
- Around two thirds of public sector land is owned by local government, and
- Within 8 local authorities alone, the proportions of public land rise to over 40%. In London, the figure is c25%, rising to more than one third in some boroughs.

Savills' research has previously highlighted that there is substantial capacity for new homes to be built on the public estate, but only if land can be released from its current use and in places where homes are needed.

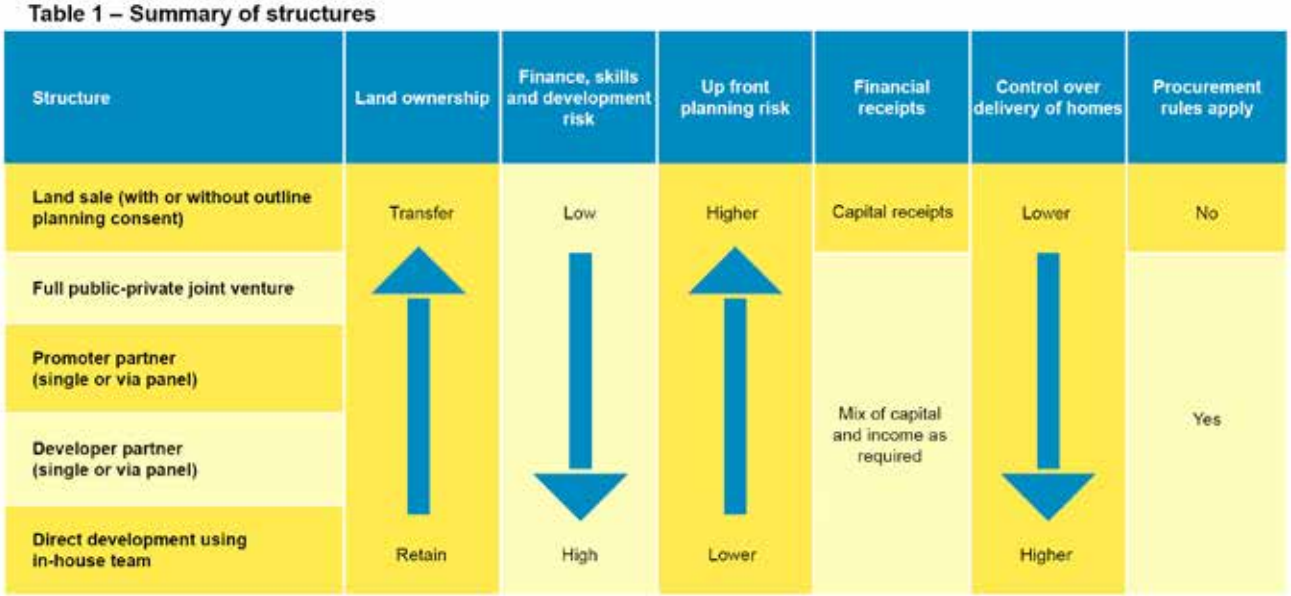
Backed by the government's commitment to boost housing delivery significantly, public sector landowners are engaging in a variety of strategic reviews and programmes to identify surplus land, including the Ministry of Defence's (MoD) footprint strategy, the nationwide strategic reviews being completed by NHS Clinical Commissioning Groups, and the Government Property Unit's (GPU) initiatives for both central and local government, such as One Public Estate.

Objectives and constraints

The objectives of public sector landowning organisations are many and varied. As a result, the disposal of their surplus land must be considered within the context of:

- Whether a capital sum, or a long term income stream, is the preferred financial receipt

Table 1 – Summary of structures



- The non-financial objectives that form part of a judgment as to what constitutes "best value"
- Operational priorities that may continue on site, alongside the development of new uses, or have to be relocated
- Compliance with procurement rules
- The skills and capacity within the landowning organisation. In-house skills have often been eroded after many years without active housing development programmes
- The financial capacity of the organisation and its enthusiasm for property and development risk
- The scale and complexity of development required to deliver new homes.

Land release mechanisms

With so many variables at play, a range of mechanisms are required to meet the objectives of the landowner while also ensuring that new homes are delivered as quickly as possible. The mechanism selected will depend on the capacity and skills of the in-house team, the degree of direct control required, and the attitude to risk.

In summary, the mechanisms are:

- At one end of the spectrum is direct development, using an in-house team. This will provide complete control of a scheme up to the limits of an organisation's capacity and appetite for risk. If sites are large and complex, then other mechanisms tend to be used in order to access additional capacity from other parties and transfer a proportion of the risks involved [Ed – see article on Portsmouth in this Terrier]
- At the other end of the spectrum are land sales. In many ways this is the simplest option, in that development capacity requirements and risk are transferred to the land buyer. Furthermore, straight land sales do not require compliance with EU procurement rules. However, for a land sale to achieve the desired outcomes, the land needs to be sold with the right planning consent to optimise land value and allow the buyer to move quickly to construction. If land is sold without that optimal planning consent, the landowner may not receive best value and the buyer is less likely to build out the site quickly. An increasingly used option is to sell sites subject to a planning brief from the local planning authority [Ed – see article on Plymouth in this Terrier]. This enables the buyer and seller to share the planning gain and risk, such that the developer can proceed quickly to a detailed consent and build out the site
- A step along the spectrum from land sale is to transfer the land into a joint venture company, set up between the landowner and a developer. The set-up costs can be substantial but, if the land value is large enough to merit the expense, it offers a good way of accessing developer skills and capacity with aligned financial incentives, to share risk and return
- A further step is to procure a promoter partner to manage the planning process and ready the land for development, by financing and installing the required site infrastructure, before selling on the serviced land to final third party developers, in a 'shovel ready' form. On larger sites, this sale will be undertaken in phases or parcels, spreading the final build out to as wide a market as possible, including SME developers. There is also the option of building out housing units on part or all of the site, from which an income stream can then be generated
- Closest still to direct development, is the procurement of a development partner to provide skills, finance, and share the risk and return. The procurement must be compliant with EU rules, which can

Telereal Trillium

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Public Sector Property

Image: Arlesey, Central Bedfordshire

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About Telereal Trillium
Telereal Trillium is one of the UK's largest property companies; operating in property partnerships, investments and developments. We have an established UK-wide estate of more than 8,000 properties, owning and managing an 86 million sq ft, £6 billion estate, and housing 1% of the UK's workforce. We have an enviable customer base of private companies, local authorities and central government departments.

be achieved by using a development partner panel, such as those set up by the Homes and Communities Agency (HCA) and the Greater London Authority (GLA). Some landowners with a need for partners with specialist skills and capacity have set up their own panel, with Transport for London being a recent example. Other landowners such as the MoD, with a long pipeline of large complex sites, have chosen to refine their procurement process to select development partners via a site-by-site bidding process.

What is needed?

For the government's ambitious targets to be hit, and for the delivery of new homes on public sector land to be accelerated, the report recommends that:

- Public sector landowners should be clear about the objectives they are seeking to achieve at the outset of each disposal
- There should be less reinvention of what are essentially standard disposal processes. Setting up individual procurements is time consuming, expensive, reduces competition (particularly from SMEs) and delays delivery
- Central coordinating bodies, such as the LGA, GLA, Department of Health, GPU and HCA, should scale up the work they are already undertaking to promote best practice. They should provide detailed guidance as to the disposal methods available and how they best fit with differing objectives and constraints. To accelerate transactions, and reduce the levels of duplication and cost, standard document templates should be made available
- Through initiatives such as One Public Estate (OPE), public sector landowners should seek further opportunities to cooperate with other organisations and take a more strategic view on disposals, land assembly, and rationalisation opportunities [Ed – see article on the OPE programme in 2016 Spring Terrier]
- Public sector landowners should look to increase their capacity and capability to deal with land disposals, either through recruitment or engagement with private sector partners. Identifying surplus sites and working up optimum planning consents are key aspects of accelerating the delivery of new homes and so it is vital that the necessary resources are readily available
- To accelerate the appointment of private sector partners, and increase the breadth of expertise available, additional supplier panels should be set up. These could be arranged by the central coordinating bodies so that the panels can be accessed by a range of public sector organisations
- The use of land promotion partners should be considered where additional know-how and finance are required to unlock sites for development. Promoters can supply 'shovel-ready' sites into the land market, thereby accelerating the delivery of new homes and providing developers (including SMEs) with access to public sector land without the often prohibitive costs of complex tenders.

Conclusions

With such a broad range of landowners and landholdings, and many different objectives and constraints applying to individual projects, a 'one-size-fits-all' approach to public sector site disposals will never be appropriate. However, to ensure that the correct approach for each disposal is selected, public sector landowners should be clear at the outset as to the key objectives they are seeking to achieve. To make an early impact, and reach the widest market, including SME's, procurement processes should be efficient and cost effective for bidders, with greater use being made of panel arrangements so as to minimise the need for bespoke procurements.

Overall there is much to commend in the current initiatives to release public sector land for the development of new homes. However, to make an early impact on the housing supply and public sector finances, there is an urgent need for best practice to be shared and for landowning bodies to be able to access additional capacity and expertise.

The Terrier

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CHALLENGING THE NON-INVESTMENT TNRP

Ben Colman

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This paper follows the presentations at the recent AMP Network series. It complements the research paper undertaken at Nottingham Trent University, also featured in this Terrier.

Introduction

As major land and property owners, with the benefit of planning and economic development powers, a local authority's estate has more often than not been pieced together over decades and has been influenced by a variety of events ranging from war bomb damage clearances, merging of neighbouring authorities, acquiring properties for road widening schemes which never took place, or donations/ gifts by wealthy landowners. This has led to an incredibly mixed estate often containing assets of historical and political significance which can be sensitive due to community attachment and involvement.

With ongoing budget cuts, local government reform and conflicting priorities, it is incumbent on estate managers to ensure that assets are being optimised in the broadest sense. Given the diversity of a local authority's property holdings it is fundamental to understand why we hold these assets and what their purpose actually is.

Property teams across the length and breadth of the country are under constant pressure to release the last pound from their portfolios and improve financial returns. But it is also necessary from time to time to take a step back and ask why are we holding certain property assets and how can we measure their performance more effectively? These questions become even more pertinent when managing a disparate estate which could include anything from industrial warehouses, shops, bowling greens, enterprise centres, crèches, farms and airports – the list goes on and on!

The purpose of this article is to provide an overview of the asset challenge process for both the commercial (non-investment) and non-commercial (or community) portfolio. In unpicking this subject area, we touch on a range of issues including strategic purpose, ownership/accountability and performance measurement.

The commercial portfolio

Many local authorities will hold a 'commercial' property portfolio which might well provide a steady year-on-year rental income. But this may not necessarily be the prime purpose for holding it. The types of properties we are talking about here include:

- Offices
- Industrial
- Retail
- Leisure (i.e. cinema, gyms, restaurants)
- Land banks.

As commercial estate managers hungry for the next property transaction or opportunity to release a 'quick win', we need to try and understand that there is an appreciable difference between assets held solely for investment purposes as opposed to a wider 'commercial' asset.

The following (accounting) definition helps to shed light on the issue **'An investment property is used solely to earn rentals or for capital appreciation or both'.** On this basis an investment asset has no intended wider community, social or economic role. In reality, having regard to this narrow definition, the pure investment assets could in fact form a relatively small proportion of an authority's estate.

So why do councils hold such properties? The reasons are varied and are often tied up with a series of historical events. However perhaps a key one relates to strategic control

in a town centre or a designated regeneration area. Owning a piece of freehold (or long leasehold) within the red line boundary of a proposed redevelopment scheme gives a council a sense of control over how an area develops, over and above planning control. It can also provide a real seat at the table when negotiating financial, planning/design and phasing/timing issues of future development with private sector partners.

Retention of commercial interests also gives councils an opportunity to flex their economic wellbeing powers through direct intervention in supporting and stimulating activity where there is market failure and indeed, where appropriate, offering preferential lease terms in order to incentivise tenants and new businesses to locate to a particular area. In addition to town centre ownerships, another reason could relate to a council's strategic housing delivery objectives, where it is prepared to retain land to deliver an affordable-led scheme rather than selling it for 'top dollar' to the highest bidder.

When dealing with these type of assets, a healthy degree of leadership and ownership will be needed in order to help shape the future direction and purpose of the estate. Depending on departmental and political structures, councils obviously deal with this in different ways. However, it is not uncommon for a reorganisation or restructure to 'blur' the decision-making process and for an asset effectively to fall between the crack into a black hole!

More often than not, asset ownership (or portfolio accountability) is likely to sit in planning, property/ regeneration or economic development departments. It will therefore be important to identify the right person and sensitively to put the issue on the agenda in order to generate profile and hopefully a sustained interest, which could lead to a greater understanding and consideration of the issues.

In order to give this asset class a clear place in the overall portfolio (together with a better understanding of its purpose) a periodic performance measurement against agreed indicators is likely to be of assistance. Depending on the property type, these could take a number of forms including:

- Void rates
- Employment outputs
- Business longevity
- Growth in profits.

Clearly there is not a one size fits all approach and often a degree of professional judgement or 'instinct' will be needed to make sure that an over-burdensome range of indicators and statistics don't start to disguise or skew the reality of performance.

And finally, we are all aware that we are now operating in a world of increasing prudence and transparency and the matter of management and associated costs will need to be factored into the assessment equation. There will inevitably become a point in time when the costs of managing an asset simply outweigh any greater good it is achieving through holding onto it. In these circumstances the decision to dispose or transfer the asset might be the right option. But without measuring performance and cost, such decisions cannot be made in an evidence-based manner.

The non-commercial portfolio

If you think the commercial portfolio can be challenging, this can be nothing when compared to the non-commercial (or 'community') portfolio. These types of assets can sometimes fall to the bottom of the pile and over time can seem to have inherited peculiar lease arrangements or user agreements, the detail of which may have been lost over the passage of time! The type of properties we are talking about here could include:

- Allotments
- Community centres
- Sports clubs
- Scouts/cadets halls
- Other third sector leases.

In the very simplest of terms, these facilities can be categorised as uses where the occupier is not seeking to make a living or a commercial return. The tenants will often be charities but may not always be so. These types of properties are immediately differentiated from the rest of the estate as their strategic purpose is likely to involve promoting a range of non-financial corporate outcomes, for example healthy lifestyle, general wellbeing, inclusive communities, etc.

Whatever the strategic objective for any particular asset or group of assets, councils should be capable of knowing why they have them, and measuring performance and achievement. Given the type of uses involved, rental return or capital appreciation are not sufficient indicators of success.

Notwithstanding that these assets are generally held for community reasons, there is often a significant cost attached to holding them. This is particularly the case if leases were granted at a nominal or discounted rent and with internal repairing obligations. And it is not uncommon for tenants in addition to receive a council grant.

This therefore should place a greater emphasis on the justification for holding these assets, together with their utilisation and ability to measure their outputs or outcomes. More often than not however, the outcomes from such assets has not been clearly defined, and is certainly rarely measured.

As an example, where would you start in measuring the potential outcomes from such an asset? Perhaps it could be things such as:

- Frequency of use of the facility
- Age profile, ethnicity or demographic of users of the facility
- Numbers of users of the facility and which area the facility serves

- Financial sustainability of the organisation concerned.

The financial sustainability measure will be of particular interest, as this underpins everything else. But it is not an outcome in itself. Through liaison with the tenant, we can gain a better understanding of the organisation's financial position including reserves (and access to grant funding where applicable) to maintain the facility into the foreseeable future. Issues such as an organisation's or club's approach to maintenance and repair, together with any future plans for investment to grow the membership base or upgrade/ extend the building, should all have a bearing on a council's approach to management.

In addition, the issue of utilisation could be further enhanced through the introduction of third party users. Clearly this wouldn't be appropriate or achievable in every instance and could be a thorny issue for some. But challenging the status quo should be a healthy sign of a mature organisation so that all possible options and ideas are explored. Arguably this goes to the heart of our role as asset managers.

What makes a 'successful asset' will vary from arrangement to arrangement. The important thing is to be clear what the asset is there for, what benefits are intended to derive from it, to determine measures of success, to monitor performance against objectives, and to undertake a cost benefit analysis to determine whether the outcomes justify the costs.

Summary

Inevitably these tenanted assets are always likely to form a part of a council's estate. However, we need to be aware that just because it is a property asset, the use conducted within it can be more important than the outcome of a rent review or lease renewal. Where resources are stretched and priorities seem to revolve around maintaining the bottom line, it is arguably more important than ever that there is transparency around why we retain these assets and the outcomes generated from the various arrangements in place – whether they be economic or social.

As responsible estate managers or asset managers, our role is to challenge ownership, and in the current financial climate there could be no better time to do it. Sometimes we need to push our organisations to question the status quo and ask the important questions:

- Are these areas sensitive? Yes they are
- Are they highly political? Yes of course
- Could the challenge we bring be unwelcome? Yes it could
- Is that a reason not to do it? We would say not!

LOCAL AUTHORITIES SHOULD BE CHALLENGING AND RESTRUCTURING THE RISK BALANCE OF THEIR TENANTED NON-RESIDENTIAL PROPERTY PORTFOLIOS

Gloria Tele-Djawu and Richard Allen

The Heart of England branch supports Nottingham Trent University with its BSc (Honours) Real Estate course and each year offers a prize for a real estate project. This year's winner is Gloria Tele-Djawu who was chosen from an initial submission, to undertake an exercise into why local authorities are starting to reinvest in real estate and also are they restructuring their existing Tenanted Non-Residential Property (TNRP) to create a more balanced portfolio. The following is an article of her findings which has been produced jointly with Richard Allen, past President and past ACES Commercial Asset Management Coordinator, who has supported her with the exercise. It provides empirical evidence to complement Ben Colman's article in this Terrier.

Local government is responsible for managing and delivering a range of services to their communities, such as education, social services, public health, recreational facilities, waste management, road maintenance, crematoria and public libraries.

The real estate to support these services has evolved over many years, generally in an unplanned non-corporate way. Most estates include income-producing assets, often developed or acquired to support services or socio-economic initiatives. They are referred to as Tenanted Non-Residential Property (TNRP). Typical examples are council estate shops, small industrial units, business centres, ground leases of shopping centres/ industrial estates, county farms, miscellaneous income producing assets that may be a legacy of a slum clearance or highway scheme, and former operational assets that have been retained and let to generate income. The number of these assets varies greatly from small district authorities with just a few, to large urban authorities with rent rolls in excess of £10m p.a. But they all have one characteristic in common - there is nothing balanced about these portfolios.

The RICS Asset Management Leaflet No 6, published in 2009 on 'Tenanted Non-Residential Property', assets let to a third party (other than housing stock) stated that if there is no clarity about why TNRP is to be retained, it should be disposed of, on the best terms that can reasonably be obtained. If measures of performance are not acceptable, the TNRP estate should be driven harder or sold and the capital generated redeployed. To support this approach, in 2010 the ACES Commercial Asset Management Working Group produced the 'Model TNRP Strategy and Review Action Plan'.

Rather than disposing of TNRP, some authorities are now creating revenue-

producing investment vehicles, including the acquisition of investment property assets. This article looks at why the change of policy, and as in many instances authorities are adding to an existing revenue producing portfolio, are they reviewing these holdings to create a better balance?

Methodology

An analysis was undertaken of recent Terrier and internet articles, research undertaken by CIPFA, a case study by the Local Government Association, a number of authorities' investment property acquisition strategies and responses to a questionnaire sent to authorities that are starting to purchase investment properties. Percentages are shown where there was a 100% response to questions in the questionnaire.

Some authorities are putting their assets into investment-producing investment vehicles. Studying these cases was beyond the brief. However, one authority in its investment strategy considered this option and decided that retaining direct control achieved the optimum balance of return, risk and control, and subject to available funding, would contribute to the strategic priorities set out in the corporate plan for the economy. A number of authorities that have supported this exercise asked to be anonymous. Accordingly, no authorities are mentioned by name.

Exercise analysis

Local authorities are starting to purchase property to reduce the reliance on shrinking central government funding and to limit council tax rises. Authorities are restricted in the ways they can invest. But one of the few options open is property and the returns from this asset class have generally been, and currently are, greater than the limited opportunities in the money market. Many authorities have funds on deposit at banks/building societies, earning as low as 1%.

The purpose is primarily to generate revenue (100%). For some authorities

The Point

the purpose is also capital growth (40%). One authority may only hold the investment for a short time if the opportunity arises to sell for a capital profit. Other reasons given are to replace poor management-intensive properties, produce development opportunities and support regeneration. One district authority appointed a national property consultancy to advise on how to diversify its overall asset base to achieve a more balanced portfolio. The consultants identified that it needed a greater element of commercial property. Accordingly, they were appointed to find and acquire secure investment properties well located within a strong economic area. So far they have acquired for the authority 5 properties ranging from a multi-tenanted business park to a major office building.

The types of authorities purchasing are mainly unitary, city, borough and district councils predominantly in the south east within a 70 mile/1-hour radius of London. It was not possible to obtain any data from metropolitan, London boroughs or county councils. This does not necessarily mean that none are acquiring investment properties. As the exercise provided only a 'snapshot', it was not possible to establish how many of the 433 principal authorities in the UK are purchasing, but it is probably only a low percentage, perhaps no more than 10%.

Criteria used to select properties in order of priority is, firstly, covenant strength - presumably to redress an in-balance of a heavy weighting of income from poor covenants such as small businesses and community groups. Of equal importance is location. This is then followed by tenure, occupier lease length, building quality and low management cost. Two authorities in their investment strategies have produced a matrix scoring the relative merits in this order, to use for comparison purposes against other opportunities. Another authority prioritises revenue highest, followed by building, yield, tenant, location and lot size. One also analyses the strategic opportunities a property can bring.

Target net annual yields are generally not less than 6% (8% internal rate of return (IRR)), at least 2% above prudential borrowing rate or 3.5% above current interest rates. Examples of purchase yields range from 4.78% in the south east, to over 12% for a grade A office development in multiple occupation. This high-yielding investment was purchased from the receiver by an east midland authority in its area, to produce both revenue and support small businesses development (The Point). Generally yields are between 6% and 7.5%, but with a number of authorities going as low as 5% and as high as 9%. Higher yields seem to be required outside the south east.

Types of property purchased are wide-ranging, but mainly retail, office or industrial. A number of authorities are purchasing outside their administrative areas, as this provides a much larger selection of investment opportunities. It also means that there is unlikely to be any interference from elected members in their management, as is sometimes the case with lettings in their administrative area. One authority in its investment policy states that no single asset should comprise more than 10% of the whole portfolio; locations should be as diverse as possible with an ideal balance of 30% in retail, office and industrial sectors and the remaining 10% in leisure and miscellaneous uses. The authority has a target to grow the revenue from the portfolio by 5% p.a., and that a long-term average total return of 8.3% would be the most reliable benchmark.

Method of funding is a mix of the use of reserves (43%) or prudential borrowing (36%), with some authorities using both methods (21%). Prudential borrowing payback arrangements vary. Methods given are 10, 25, and 50 years with 2% payback of capital p.a. and borrowing period dependent on type of property, cost and return. One authority has created a £100m plus fund to acquire investment properties.

Objectives of existing TNRP portfolios are in all cases the same as given for purchasing investment assets: revenue growth with a number of authorities requiring capital appreciation and looking to replace management-intensive and poor performing assets. Supporting employment uses, business opportunities and promoting economic development are given as further non-financial socio-economic objectives.

Methods of measuring performance are: revenue growth, then yield, IRR, monitoring voids, arrears and management costs.

Although many authorities' TNRP portfolios support strategic, community and socio-economic objectives, few authorities appear to measure this performance. If they do it is not in any depth or in a financial way. Some authorities do accept a higher yield to reflect the objectives and higher risk. Others give as examples of performance measurement: number of units let to start-up businesses and accepting peppercorn rent in lieu of tenants taking properties on a full repairing basis. One says using financial performance is an inappropriate method, but does use return against cost. Some separate these assets from pure investment properties and one considers physical regeneration/ development opportunities more important than yield. One authority also considers that all its investment assets support socio-economic objectives.

Where portfolios are being reviewed, views on a balanced portfolio vary from a 'mix of appropriate types of property and uses' to a balance of location, uses, tenure, lease lengths and management implications. Only one authority has in its investment strategy a description of what it considers to be a balanced portfolio, which loosely follows a private sector property investment company's approach. A number of authorities consider it to be in their authorities' best interests to have a balanced portfolio. But there are some that do not believe it to be crucial.

Action being taken to restructure portfolios is the acquisition of new assets from the disposal or redevelopment of poor performing management-intensive and low income-yielding properties. One authority does put the property through a 'supporting strategic, community and socio-economic objectives test' before a decision is made regarding disposal. A number of authorities are not reviewing their portfolios and some are proposing to do so, but are still considering the approach or securing political direction or buy-in.

Conclusion and recommendations

A local authority's corporate plan will set out objectives which will need to be serviced by both revenue and capital. The plan may include in it socio-economic objectives such as providing land for housing, supporting regeneration and economic development, supporting and developing small to medium size enterprises, and services to communities that can only be provided by the public or third sector. A balanced portfolio will, therefore, be determined by the specific priories of a local authority: revenue requirements and risk considered acceptable to produce a secure revenue stream, capital needs or capital growth and the areas of socio-economic activity to be supported.

From the analysis of recent local authority acquisitions, it can be concluded that a diverse balanced TNRP portfolio to achieve solely financial objectives should produce an income return yield of 6% (8% IRR) or slightly better. This is higher than the standard assumption made by the financial services industry for money invested in the stock market, which is that it will grow by 5% p.a., and for corporate bonds which currently yield in the region of 4%. Outside the south east in areas where there are still economic, social and environmental well-being challenges, this could be 8% to 10%. Where an authority is using its TNRP portfolio positively to support wider corporate socio-economic objectives, these rates could be higher. How much higher would be determined by the importance of these non-financial objectives to the authority and greater holding risks which should be assessed and ranked.

A method of ranking is suggested in the ACES Model TNRP Strategy. Based on the ranking, properties supporting these wider objectives could still be included in the portfolio and an appropriate target yield be set for the ranking groups and overall portfolio. Alternatively, they could be held in a separate property portfolio. For example, this would be particularly appropriate for properties quite commonly let to community groups at less than best consideration, or properties that are to play a major role in supporting an authority's corporate key objective such as regeneration. Both approaches have their merits. But the wider objectives and financial performance are perhaps more likely to be considered and measured

with appropriate weighting in one combined portfolio.

Yields of individual holdings in existing portfolios vary hugely from as low as 1% for ground rents with no rent reviews, to as high as 20% for run-down management-intensive shops, offices and factories at the end of their economic and/or physical lives. The probability is that many local authority portfolios are yielding significantly more than 6%, probably around 10% to 15%, with some higher.

Such portfolios need to be challenged and then restructured (see 2016 Spring Terrier article by Susan Robinson and Chris Brain of CIPFA AMP Network: 'Comfortably numb - are we getting lazy with our asset management approaches'). This can be achieved through appropriate disposal, lease re-gears or redevelopment and the acquisition of properties with a significantly lower risk, in order to redress the risk balance. Capital receipts from the sale of very low-yielding assets, reserves currently on deposit earning very low interest, use of prudential borrowing and grants (presumably the government will introduce a subsidy to replace European Regional Development Fund) can be used to fund the exercise.

Restructuring in the past has been difficult because of central government controls over expenditure and the need to target reducing resources directly at core services. Local authorities are now being encouraged to be more financially innovative. Under these new financial freedoms, they have the opportunity through adopting more commercial innovative property solutions to restructure and grow property investment portfolios in a more cost-effective and efficient way. In doing so, they can support corporate objectives by creating a more secure income stream from a diverse balanced TNRP portfolio that reduces the reliance on central government funding.

Model ACES TNRP Strategy and Review Action Plan

The questionnaire sent to authorities asked whether they had used the above mentioned model and action plan to support a review of their investment portfolio. Although only 6% of respondents said they had, it appeared that no authority is doing anything that is not in the model. As proposed in the model action plan, they are effectively agreeing a target rate of return with their Chief Finance Officer in order to justify using prudential borrowing, assets not performing are tested against other non-financial criteria and in a number of instances, authorities are looking at IRR as well as initial yield. They are also using methods suggested in the model to measure performance. Although the model was produced 6 years ago it still appears fit for purpose. The only amendment that perhaps needs to be made would be to develop further the 'acquisitions policy' to reflect what is actually happening and the criteria authorities are using to select investments. One respondent said 'having read it there is some great stuff in there we can use over the next few months.' It is, therefore, suggested that you take a look; you will find the model on the ACES website in 'Publications – Spring 2010 Terrier', page 35.

Addendum: European Union (EU) Referendum

This exercise was undertaken and the article written prior to the referendum. Advice from wealth and asset managers to investors is that during the inevitable period of uncertainty and volatility in the markets, while the government negotiates the terms of exit from the EU, diversification across and within all asset classes is essential to mitigate risk. The fall out of BREXIT will just add to the pressure on public sector finances, making it even more essential for local authorities to challenge and restructure the risk balance of their investment portfolios.

'WE'RE TRYING TO RUN THE CITY MORE LIKE A BUSINESS'

Tom Southall

Tom is Portsmouth City Council's investment and property manager. He is the city's valuer responsible for the acquisition, development and disposal of assets across Portsmouth and the UK.

Tom describes a modern solution by taking a commercial approach to local government funding challenges. For example, by using a trading fund: "purchases can be completed within the typical 15 days from agreement of heads of terms."

Context

Property can play a vital role in local government funding and Portsmouth City Council has put it at the centre of a commercial approach to income generation in the face of continued cuts to government grants.

Portsmouth is the UK's only island city with more residents per square mile than anywhere outside London and an ageing and growing population which is increasing demand for care services and pushing costs up. Like all local authorities, we're facing further cuts to the money we get from the

government. We need to make £31m of budget savings over the 3 years from April 2016. The council is working hard to meet these challenges head-on, while continuing to provide high quality services for residents, and a new entrepreneurial approach to property is seen as an important part of our strategy to strike that difficult balance.

We're trying to run the city more like a business so development and investment is overseen by a development board of experienced, skilled, key decision-makers from a range of relevant disciplines, chaired by the leader of the council. This streamlines the process and allows the council to stand toe-to-toe with private sector competitors.

The new commercial approach includes: a £100m property investment strategy to expand an investment portfolio already returning £7.5m per year; the construction of a 54-acre business park to add to the council's 2,500 assets which have a total value of £1bn; the launch of an arm's-length property development company and the largest council property building programme in the city for a generation, which will expand an existing stock of circa 17,000 properties with high quality, energy efficient housing.

Property investment strategy

We have pushed forward a new property investment strategy and established a £100m property trading fund. So far we have purchased 3 properties - a £9.7m Matalan retail warehouse in Swindon, a £13m Waitrose supermarket in Crewkerne, Somerset and a £8m industrial warehouse near Gloucester.

The council's budget anticipates an extra £1.7m in profit from the current investments, which means that by using cheap borrowing to create income, we have been able to continue some services that would otherwise have had to go. Without these investments we'd have to re-open the budget and take another £0.5m out of expenditure.

The main objective of the investment strategy is to bring extra money into the council to offset some of the potential impact of spending cuts. Plans for further property investments are already under way with more deals expected to be completed in the coming months.


New homes

Dunsbury Park

The trading fund has been set up to enable the council to compete in the market across the UK. A slick and efficient approval process means that offers can be made quickly and purchases can be completed within the typical 15 days from agreement of heads of terms. The fund is looking across all sectors throughout the UK and each opportunity is appraised using a cash flow analysis to model the risks, returns and holding strategy.

Business development

Along with the investment work outlined above we have a stream of development projects in the pipeline, which we are using to create assets that we will hold for revenue generation. The highest profile example of our commercial development activity is Dunsbury Park, a new employment and enterprise development, which the council is currently building on land it owns next to Junction 3 of the A3(M) on the London/Solent corridor, gateway to south Hampshire.

Dunsbury Park received outline planning permission in early 2014 for 750,000 sq.ft. of floorspace including warehousing, factory space, industrial

units, office and hotel and conference facilities. After successfully securing the first pre-let, work started early this year on a distribution centre for international outdoor lifestyle clothing brand Fat Face. The unit, totalling 80,000 sq.ft. plus a 40,000 sq.ft. extension option, will be completed later this year and an access road unlocking the site is due for completion in summer 2016.

This is a great example of how we can use council land, assets, and our expertise, to boost the local economy by creating jobs and generating revenue income - and we are not just working on large-scale schemes. More locally, on the island, we are developing a former industrial site with a scheme of 22 small industrial and enterprise units, ranging from 440 to 2,800 sq.ft. We want to use the site to give local businesses the opportunity to flourish by providing bespoke, modern units for which there is a huge demand in the area. These should be completed later this year.

The future

The council is attracting more and more investment into the area and is dedicated to supporting projects that will not only improve infrastructure and attractions but also create economic growth by boosting jobs and opportunities for residents.

We are continually looking at more efficient delivery methods and the establishment of the arm's-length trading company will assist us with the next phase of delivery of Dunsbury Park and open up the possibility of housing development in the private market.

In the meantime, Portsmouth City Council will continue to put property development and investment at the centre of a forward thinking income generation strategy which will secure the best deal for residents and stakeholders in a challenging financial environment.

ENGLISH LOCAL AUTHORITY COMMUNITY ASSET TRANSFER: BEYOND HOMO ECONOMICUS?

Gill Telford

After 20 years working in various locations for central government's property arm the Valuation Office Agency and 5 years working for South Tyneside Council's Spatial Planning Team, Gill joined Northumbria University in October 2013 as a post graduate researcher. Gill's research field is urban regeneration in a time of austerity; her specific research interests are localism and local authority community asset transfer. Gill's research is supervised by Dr Paul Greenhalgh and Dr John Clayton in the Department of Architecture and Built Environment. gillian.telford-cooke@northumbria.ac.uk

This is a follow-up article, drawing conclusions from the data-gathering exercise reported in 2014 Summer Terrier, and more recent (reducing) trends in community asset transfer.

Introduction

Community asset transfer is a mechanism which allows the transfer of publicly owned land or buildings to the management or ownership of a community based organisation, at less than full market value, provided that transfer achieves a public benefit. The transfer of tangible assets such as land and buildings to a community based organisation (see note) can act as a platform for social, economic and physical improvement on a local scale. As well as delivering reductions in asset running costs for the local authority, within a recipient community based organisation, ownership or management of a tangible asset can foster entrepreneurialism, built on shared social values and collaboration.

[Note: While it is acknowledged that the term 'community based organisation' can encompass a myriad of diverse organisational forms, for the purposes of this article, community based organisations are defined as any not for personal profit organisation or social enterprise, independent of central or local government and the market, which seeks to involve defined communities in its policy making, management or activities.]

This post 'credit-crunch' era of public sector spending cuts, combined with a cross-party consensus on the importance of community empowerment, would seem an opportune time for cash-poor but asset and people-rich local authorities to consider community asset transfer, yet, empirical evidence describes a landscape where the priority of community asset transfer among English local authorities is in decline.

Informed by an extensive review of academic and policy literature and by empirical research into current English local authority community asset transfer (LA CAT) practice, to elevate the status of LA CAT as an effective regeneration tool, this article suggests revisiting the theoretical underpinning of LA CAT. It proposes a rejection of the normative rational choice approach implicitly taken by English local authorities towards community asset transfer, offering instead an explicit conceptualisation of LA CAT as a complex adaptive system.

The situation

While over the last 30 years a pervasive neo-liberal hegemony has seen the steady progress of market logics into British public services (Murtagh, 2013), it has also brought community participation and empowerment to the forefront of successive UK government post 'credit crunch' policy narratives. The desire to engage citizens in public life in an attempt to give them more control over the services they use (Aiken et al, 2011), is exemplified by both the 2005 UK Labour Government's White Paper 'Communities in control' (DCLG, 2008) and by the 2010 Conservative/Liberal Coalition government's 'Big Society' agenda.

The 2010 Coalition and subsequent 2015 Conservative majority government have both championed a 'back-to-the-future-esque' return to the small state ideology of the 1980s. As part of their austerity measures designed to reduce the UK's post financial crisis structural debt, they have rejected an explicit urban regeneration strategy, promoting instead the mantras of economic growth and localism (Tallon, 2013).

Data returned from questionnaire surveys of all English local authorities			
	Between 2007 & 2008 *(SQW Consulting ATU evaluation)*	Between 2009 & 2010	Between 2011 & 2014 (Author survey)
Proportion of local authorities who have transferred physical assets to community based organisations.	80%	59%	50%
Proportion of local authorities reporting that community asset transfer is now a higher priority for their LA than it was a year ago.	38%	27%	26%
Proportion of local authorities reporting that community asset transfer is now a lower priority for their LA than it was a year ago.	3%	7%	11%

There are those who see at the heart of this 'Big Society' rhetoric a true commitment to the redistribution of power from central government to local communities, with the localism discourse providing a genuine opportunity for self-determination, while others view the 'Big Society' agenda sceptically, believing it to be a smoke screen, behind which ideological economic austerity dismantles public service provision.

The legislation associated with the 'Big Society' agenda, the Localism Act 2011, aims to promote community rights and decentralisation, while fostering the community assets agenda through policy initiatives such as the 'assets of community value' scheme. This scheme requires local authorities to maintain a list of 'community assets'. Communities may nominate land or buildings for listing by their local authority as an asset of community value if its current, recent or principal future use will further the community's social well-being or social interests. When an asset on the list is to be disposed of, the sale of the asset can be paused for up to 6 months to give the community the opportunity to prepare a bid to buy the asset. This is not a right to buy the asset, it is purely a right to bid for the asset.

Community asset transfer is distinct and separate from the community right to bid. Unlike the community right to bid, community asset transfer is not explicitly cited in the 2011 Localism Act. Community asset transfer is discretionary; it is not a community right. It is a mechanism which allows the transfer of publicly owned land or buildings to the management or ownership of a community based organisation, at less than full market value, provided that transfer achieves a public benefit. It operates within a spectrum of estate management activities, taking place via: a management agreement, a licence to occupy, a short lease or tenancy, a long lease or a freehold transfer.

The powers under which community asset transfer takes place predate the 2011 Localism Act. The Local Government Act 1972 allowed local authorities to dispose of land for less than market value, on a short tenancy, with the Secretary of State's approval, but, despite the existence of that enabling legislation, Thake (1995) depicts a bureaucratic torpor towards the community assets agenda, describing the late 20th century policy framework for social enterprise in the urban field as "not supportive".

In 2003, a general disposal consent was issued by the Office for the Deputy Prime Minister (ODPM Circular 06/03 – Disposal of land for less than best consideration, August 2003) which removed the requirement for local authorities to seek specific central government approval to dispose of land to community organisations, for less than the best consideration that could be reasonably obtained, provided that the disposal:

I. promoted or improved economic well-being

II. promoted or improved social well-being

III. promoted or improved environmental well-being

IV. the difference between the unrestricted value of the interest to be disposed of and the consideration for the disposal does not exceed £2m.

In other words, asset transfer, at below market value, was sanctioned in order to achieve a public benefit. O'Leary (2011), however, documents continuing reluctance among local authorities at that time to 'sell off the family silver'.

Fresh impetus was given to community asset transfer as a vehicle for community participation and empowerment following the publication in 2007 of 'Making Assets Work: The Quirk Review of community management and ownership of public assets'. This review of the existing community asset transfer powers and polices concluded that what was required was not additional powers but attitudinal change towards community asset transfer.

In response to Quirk, the subsequent community empowerment white paper, 'Communities in control' (DCLG, 2008), announced the establishment of the Asset Transfer Unit (ATU) whose remit was to encourage the transfer of assets, by providing advice and support to both community based organisations and local authorities on the process of asset transfer. The ATU now sits within Locality, the organisation formed by the merger of the Development Trusts Association and the British Association of Settlements and Social Action Centres.

The challenge

Hart (2010) suggests that post-Quirk, the LA CAT paradigm altered. She contends that decades of demand pull have been replaced by an era of a supply-push. Empirical evidence, however, contradicts that claim; it describes a landscape where, despite what could be viewed as a post-Quirk flurry of activity, the priority of community asset transfer among English local authorities appears to be in decline.

Klijn and Snellen (2009) argue that theories of public sector management and policy implementation are often predicated on theories of rational action. Rational choice theories are based on a parsimonious framework in which actors have a fixed set of preferences and they act rationally in order to attain theses preferences (Cerna, 2013). However, as John (2003) points out 'rational choice does not offer solutions for all cases and contexts'. If effective practice stems from valid theory, given the complex social reality in which LA CAT operates, to revive the reputation of LA CAT as an effective regeneration tool, we must consider looking beyond the uni-directional rational choice theory as the theoretical foundation for LA CAT, to identify a more sophisticated theoretical underpinning.

The solution?

As individuals we constantly interact and interpret (Byrne, 1998) and each of us can interpret things in different ways, based on our individual subjective norms and values (Geyer and Rihani, 2010). Each of us can learn and adapt and emerge with different behaviours. In LA CAT where a wide range of individuals and organisational cultures interact, the exact nature of how they will interact is unpredictable: what they learn, how they adapt and what behaviours will emerge can be random, indeed, one could say complex.

Viewing LA CAT through a complexity lens may help local authorities develop a deeper understanding of the ways in which the people and processes involved in community asset transfer are interconnected and emergent. Unlike traditional theoretical governance models which are cast in the form of linear and proportional relationships between cause and effect, complex systems are non-linear; there is more than one cause for an effect and more than one effect with a cause (Stacey, 2012). From a traditionally linear perspective, the roles and responsibilities of the actors involved in LA CAT can be viewed as centrally structured, with little room for diversity or local adaption. In contrast, from a complexity perspective, those actors respond to their own particular local context, producing a diversity of agent behaviours, experiences and adaptions.

For local authorities who embrace the conceptualisation of community asset transfer as a complex adaptive system and consequently take a more adaptive approach to LA CAT, novel solutions to the challenges of austerity era regeneration could result from the complex interactions between the authority, the community based organisations and the service users. With a shift in theoretical underpinning LA CAT could be the austerity era, local-scale regeneration tool that takes us beyond homo ecomomicus towards homo reciprocans.

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SEWERBY HALL – AN HISTORIC ASSET FOR THE FUTURE

Simon Button

Simon Button is a Principal Architect who works for East Riding of Yorkshire's in-house multi-disciplinary consultancy service Building Design. If you would like to know more about the Sewerby Hall project or the consultancy work of Building Design, please contact simon.button@eastriding.gov.uk

ACES North East branch met at Sewerby Hall and Gardens, near Bridlington, in March 2016. This is a report explaining the restoration and development project to transform the visitor attraction at this council-run facility. My thanks to Simon for putting this article together.

Summary

At a time when local authorities are under extreme financial pressure and are considering their role in non-statutory, discretionary activities, East Riding of Yorkshire Council (ERYC) has invested in excess of £4m in the Grade 1 listed Sewerby Hall, a historic country house it owns and runs on the east Yorkshire coast. Throughout this project, which includes £1m of Heritage Lottery Funding, the council sought to promote an offer of access to the heritage of Sewerby Hall and of conserving and revitalising this historic country house as a place for local people and tourists to visit and enjoy. Rather than retreat from the toxic threats of declining public finances, austerity and an economic downturn, ERYC made the decision in 2012-13, to confront these issues directly by transforming Sewerby Hall from an economic liability to a financial asset.

The project

The Sewerby Hall Access Project (SHAP) seeks to engage the widest possible audience with the history of the hall, its outbuildings, its estate village (a Conservation Area) and its parkland as well as also the story of its former

Sewerby Hall

The former laundry converted to a Welcome Centre

Sewerby Hall lodges converted to holiday lets

owners, their servants and the village community. The project has restored principal interiors within the hall to an appearance and function as they would have been in 1910. Other ambitious work was also undertaken, including the conversion of outbuildings to new uses and the conservation and repair of the external fabric of all buildings.

The hall and gardens prior to this restoration project were attracting some 200,000 visitors annually. The financial year 2015-16 saw this figure multiplied by substantially more than 3 times.

The SHAP was project managed, designed and delivered by ERYC's in-house consultancy team, Building Design. The main contractor was William Birch and Sons of York, who have specialist experience of conservation work.

The restoration and conservation of Sewerby Hall has been designed using archival information about the hall, its resident family, the Greames and their servants. The reinstatement of the function of each of the rooms presents these spaces as they appeared at the turn of the century and allows schoolchildren and visitors to see and take part in demonstration activities, such as cooking in the kitchen, including a fully operational range, and preparing the dining room for a formal meal.

The project on site

While the conservation of such a valuable historic asset is in itself worthwhile, ERYC sought to ensure that the outcomes of the project were financially sustainable. To this purpose, substantial investments were also made into ancillary facilities namely a Welcome Centre, café, and toilets as well as other operational accommodation. This work complements and supports the thorough and authentic restoration of the hall. In recent years ERYC had also delivered another conservation project, again using its in-house Building Design – this was the conversion and refurbishment of 3 disused and decaying estate lodges at Sewerby Hall into holiday homes. This venture has also become extraordinarily popular, providing valuable financial income to the estate, supporting local tourism and making productive use of otherwise costly historic buildings.

The council has been carefully focused in making such a large investment at a time when public sector resources are already stretched. The view has been taken that the hall and its outbuildings were of such importance that the large capital expenditure is merited by value returned. This value is measured in terms of educational and cultural gains, as well as supporting and enhancing the local economy through tourism, all of which contribute to the long-term financial viability of this historic site.

The restoration of the building interior, the remodelling and refurbishment of outbuildings, as well as the programme of repair work to the exterior of the building, have been executed to balance building conservation best practice principles with 21st century pressures such as building regulations (eg fire safety), security, environmental control and commercial aims.

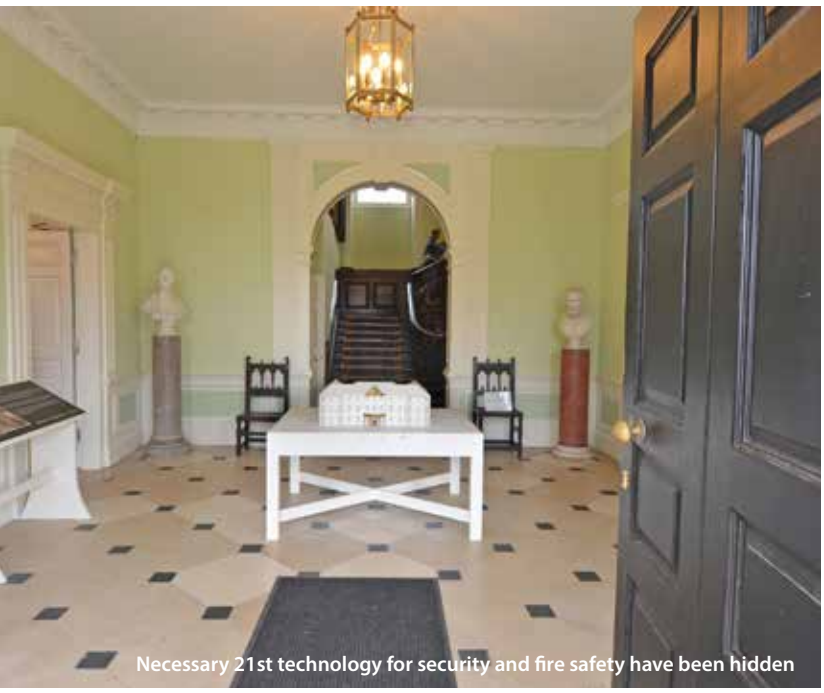
The project team commissioned an audience development survey and strategy for the hall prior to the start of the project, in order to ensure a meaningful response to various groups' and individuals' educational and heritage interests and needs, consulting widely with existing and potentially new visitors. This fed directly into the design of the restoration as well as into a 'museum activity plan' which describes proposals for the interpretation of the hall's history and culture, through displays, models, interactive exhibits, demonstrations (e.g. historic cooking in the kitchen) and other educational activities.

As a result of this restoration project, the hall's room interiors now make sense as an early 20th century country house. This has been enriched by a comprehensive scheme of interpretation devices such as interactive audio visual installations, models and information panels which have been sensitively installed to give a greater understanding of the story of Sewerby Hall and its occupants.

Links with the Victoria and Albert Museum (V&A) were forged and a loan agreement secured to borrow 40 pieces of historic furniture from the national collection to furnish the rooms. This is the largest single-destination loan ever made by the V&A and has required a commitment to a substantial enhancement of the physical and electronic security systems within the hall.

A 2-stage tender process was devised and managed by ERYC's in-house team with an open invitation for expressions of interest and the completion of a pre-qualification questionnaire by suitably qualified conservation contactors. A tender list was drawn up on the basis of a number of criteria including working with historic buildings, working on a public building that continued to be operational, and collaborative working. A price/quality tender was invited from tenderers and ERYC was pleased to be able to commission William Birch & Sons of York to carry out the works.

In order to maintain a level of income and continued use of the site, the project was conceived in 2 phases.



Necessary 21st technology for security and fire safety have been hidden

Phase 1 addressed outbuildings and included work to the new Welcome Centre, stables shop, public toilets and other operational accommodation. Phase 2 comprised the full conservation work to the hall.

Although William Birch & Sons won the Phase 1 work, they did not have a right to Phase 2. This was to be commissioned on the basis of their performance on Phase 1 using key performance indicators. The contractor's performance was of a high standard and Building Design was able to negotiate the Phase 2 contract using an open book approach. This allowed Birch's experience in managing and programming specialist conservation sub-contractors to inform the tender and plan the works with ERYC.

The repairs to Sewerby Hall involved conservation contactors carrying out works to a schedule of itemised repairs. For example, the repairs and conservation of lime plaster was carried out using traditional materials – this section of work notably included work to decorative moulded plaster and ceilings on laths in various degrees of decay. Specialist joiners were employed to work on windows and doors, retaining in situ historic material and renewing parts where there was no other option.

Two unusual sources of information were available to inform the project: a collection of photographs of the interiors of the hall that were taken around 1910; the house auction catalogue from the 1930s. This was when the Greame family vacated the hall and sold their impressive collection of furniture, with the buildings and estate moving into public ownership. These 2 documents provided the project with an invaluable insight into the feel and style of the house as it existed at turn of the century.

An example of where this archival evidence was useful is the carpeting, which was renewed in all the principal rooms. The curator, Janice Smith, was able to work with a carpet manufacturer to design a bespoke pattern that had a historical authenticity rooted in the photographic evidence.

A programme of colour sampling was commissioned. Original paint layers were taken from various locations across the hall and analysed for colour and chemistry. With both an understanding of the history of paint manufacturing and the results of the samples' chemical analysis, the project team were able to gain an understanding of colours as they appeared throughout the house at various points in the building's history. As a result of this, accurately dated colour schemes could be matched with modern paint references to create an authentic building interior.

The project team consistently sought to strike a balance between conservation principles and other technical and project pressures such as modern regulatory and design standards. An example of this is fire safety. The existing fire detection system was a battery-operated radio system. While this minimised the impact on the original fabric, the system presented a surprisingly expensive maintenance problem (70 batteries to be changed regularly) as well as intruding visually into the presentation of rooms (the ceiling mounted units were bulky). ERYC's Building Design specified an aspirating smoke detection system (Vesda) which centrally sampled air to detect smoke through narrow flexible pipework threaded through floors and ceilings to tiny apertures in the historic rooms. These terminations are virtually invisible. A similar approach was taken with emergency lighting, where the smallest LED fittings were specified to minimise the visual impact.

A requirement of the agreement with the V & A outlined above was that the security system within the hall was enhanced, relating to both physical security (steel-lined shutters and in some cases doors) and electronic security ('double knock' intruder detection systems). In both

of these instances, the team worked in collaboration with the Arts Council specialist security advisor, ERYC conservation officers, and English Heritage to achieve a set of proposals which satisfied both sets of criteria.

Strategy

Sewerby Hall is a popular tourist and recreational destination. In order to secure its future and the enduring delivery of outcomes, Building Design was clear about a strategy for maintaining its financial future. The team identified areas where complementary activities could help generate income through sales in the café, stables shop and other activities, including an educational programme and events such as weddings in the Orangery. This ambition required a full overhaul and expansion of the café into a new and attractive space, carefully converting former stable and storage spaces into a modern facility.

To celebrate National Apprenticeship Week, local students were given the opportunity to experience what it is like to work on a significant conservation scheme by visiting the project on site. This gave students the chance to compare and contrast modern and historic building methods and also to gain an understanding of the importance of heritage conservation.


Newly refurbished and enlarged café

Support for education and training also included work by students from Lincoln University who took part in the paint sampling and restoration work. A further work experience opportunity was given to a student prior to his joining a specialist joinery company as an apprentice.

The ERYC client team and Building Design were focused on keeping clear objectives in mind throughout the project. This required a rigorous project management founded on a wholly collaborative approach, both in the planning of the project and during its operations on site.

Historically, the hall closed its doors during the autumn, leaving only the grounds to be available to visitors.

Owing to the success of the project, the hall is now open on weekends the year round. This success, coupled with an ever increasing programme of activities for schools' visits, means that this historic facility is delivering results more fully out of season, rather than just during the popular summer months.

SHAP has far exceeded expectations for visitor numbers and income. The project successfully delivers those things which ERYC values in terms of heritage, culture and education. This is underscored by a meaningful financial sustainability that will ensure that this historic country house will continue to delight and entertain its visitors for years to come, despite challenges of continuing public sector austerity.

"WATCH OUT THERE'S KNOTWEED ABOUT!"

Steve Jarman BSc FRICS IRRV

Steve has wide-ranging experience in a career that has spanned the Valuation Office, private practice and a local authority. His current role is as a Principal Asset Management Surveyor with the London Borough of Enfield, covering valuations, portfolio management for public realm and the voluntary and community sectors, rating and providing general property advice to various council directorates.

Steve provides a very useful guide to a challenge which might unexpectedly face many of us.

The issue

We have all heard of Japanese Knotweed (Fallopia japonica for the Latin scholars) and until recently the extent of my knowledge was that it probably came from Japan and was a bit of a nuisance! However, a situation emerged on our patch which necessitated some proper consideration of the problem and fairly swift action.

I thought it may be useful to share a few thoughts on this matter but like any good surveyor, here is the caveat….this is not intended to be a definitive statement on what to do about Japanese Knotweed but merely outlines my experience in a recent case, as I'm sure there are many proper experts out there!

Although Japanese Knotweed is not unknown within our Borough, the first contact I had in this case was from a resident house owner whose rear garden boundary adjoined a sports ground owned by the council. The resident was aggrieved that an application to re-mortgage had been turned down following a surveyor's inspection because of the knotweed invasion which had already covered about two thirds of the rear garden and was heading for the house. The resident claimed that the knotweed had spread from our land and therefore the council was liable for the eradication. Interesting……

My inspection confirmed that the invasion was as had been reported and the resident's garden shed had effectively disappeared under the foliage. The boundary on our sports ground side was overgrown with trees and shrubs and no surprises, the knotweed was evident.

Just to complicate matters, the sports ground was subject to a lease to a club and it was debateable as to whom, if anyone, should "pick up the tab" for the eradication? I recalled from my studies (in the mists of time) the case of Rylands v Fletcher [1868] whereby a landowner was liable for something that escaped from his land when it caused damage to a neighbour. There may well have been many relevant cases since then and my only comment is that it was not a recent case even when I was studying! In any event, that is one for the lawyers to debate.

There was some uncertainty about the possible liability of the sports ground tenant as the lease was not clear as to any potential liability in this respect and needless to say, there was no mention of Japanese Knotweed.

The investigation

I obviously needed to investigate further what measures may be needed to eradicate the knotweed, pending a decision on liability. The Environment Agency has issued a helpful Code of Practice and not surprisingly there are various other sources of information, including the NNSS (GB Non-Native Species Secretariat [Ed – to whom acknowledgement of the copyright of the photographs is given]) and the Royal Horticultural Society. The RICS has issued a detailed information paper.

The list of "invasive species" is much more extensive than I ever imagined and includes all sorts of flora and fauna, but Japanese Knotweed stands out as a particularly aggressive plant that can cause significant damage to property. The most commonly affected areas include patios, paths and drives, outbuildings and boundary walls.


Courtesy of GBNNSS

The knotweed spreads by rhizomes (roots) penetrating below ground level and in the early summer, as a perennial, the stems of which are bamboo-like, can grow to over 2metres high, to form a dense clump which suppresses other plant growth. The rhizomes can extend up to 3m depth and up to 7m horizontally, from the above-ground growth. In the late summer/early autumn, it produces cream coloured flowers and unfortunately, it was considered an attractive ornamental plant when it was introduced in the mid-19th Century. In the winter, the knotweed dies back but that is certainly not the end of it.

Remedies and liability

I do not propose to go into the possible remedies for eradication in any detail but digging out is possible; however, because the rhizomes can reach to such a significant depth, substantial and costly excavation can be required. The problem with excavation is that the material must be disposed of properly at a licenced landfill site, as Japanese Knotweed has been designated as "controlled waste" under the Environmental Protection Act 1990.

Unfortunately, re-growth can occur from very small sections of rhizomes or cut stems. After excavation, it may be necessary to install a specialist vertical root barrier membrane to protect adjoining foundations and buildings or to prevent horizontal spreading across a boundary.

Disposal can also be dealt with by way of burning on site once the stems are dry. However this may not suit many locations.

The other main option is chemical control by way of specialised herbicides and this may be the most economical treatment, although it may be necessary to deal with the eradication in this way over a period of several growing seasons.

Now back to the story……

When Japanese Knotweed exists on both sides of a boundary, my understanding is that it is very difficult to establish with any certainty from which side it originated, although an affected party may well have a firm view, as we have seen.

During discussions, our sports ground tenant did not refuse to take any remedial action, but the prospect of their contractor getting involved in the treatment of a third party's garden did raise some questions in my mind. This pressing matter was becoming protracted and we took the view that without any acceptance of the resident's view that the council accepted liability for the invasion of the knotweed, we should take action to solve the problem.

I duly contacted specialist contractors and after inspecting the site with them and obtaining a quote, they were instructed to deal with the eradication by way of a chemical treatment, by cutting and disposing of the stems and spraying with herbicide. Similar treatment was also given to the knotweed on the council's side of the boundary.

Further treatments are planned but it remains to be seen if this will need to span several seasons.

It is not illegal to have Japanese Knotweed on one's property but planting it or otherwise causing it to grow in the wild is an offence under the Wildlife and Countryside Act 1981. Local authorities are not responsible for controlling Japanese Knotweed, other than that growing on local authority land or land that the local authority is responsible for, such as the public highway. Essentially, managing knotweed is the responsibility of the owner/occupier of a site.

Without wishing to state the obvious, the presence of Japanese Knotweed is clearly a bit of a minefield and the advice of a specialist contractor is essential because if the knotweed is not disposed of correctly, it is likely to spread the growth of the plant which could have criminal implications.

Watch out for the Knotweed!

THE SOLUTION TO THE CYCLING REVOLUTION

Nick Knight

Nick Knight, MD of Eco Cycle Ltd, first put his mind to the need for a more considered approach to bike parking more than a decade ago. His work as a chartered surveyor meant he understood the financial implications of valuable space being devoted to space-hungry bike storage, and the frustrations of such facilities being underutilised due to a real or perceived lack of security. His familiarity with commercial and residential developments, planning requirements, and increasingly stringent environmental and sustainability legislation and ratings, also gave him an understanding of the need for developments to build in secure cycle parking that would actually be used, and that could potentially add to the attractiveness of the public realm, and be accessible by occupants and visitors alike.

Unfortunately, his work at that time left him too little time to develop his fledgling ideas of automated cycle storage, but the subject continued to intrigue him, and by 2013 the rapidly growing numbers of cyclists across the capital, and the introduction of 'Boris Bikes' and improvements to London's cycling infrastructure in line with the Mayor's Vision for Cycling in London, led him to research cycle storage around the world. That's when he first encountered the Eco Cycle concept:

'Eco Cycle's sophisticated automation and engineering just blew me away. Japan is globally renowned for its technically advanced engineering and ingenious use of space, which are perfectly embodied in the Eco Cycle concept. It was clear to me that this would be an elegant solution to the cycling revolution that London (and the UK as a whole) is experiencing; providing the secure cycle storage that's currently the missing link in the Mayoral Cycling Vision. I was therefore delighted to acquire the exclusive rights to Eco Cycle in the UK in 2015.' nick.knight@ecocycle.co.uk

Nick presents an enthusiastic, practical and realistic case for public sector organisations to incorporate effective cycle parking.

A cycling vision

Cycling has unmistakably taken off, fuelled by many catalysts. In London it was cemented by Boris Johnson's Cycling Vision 2020, which established the aim to double the number of journeys made by bike in London each day, bringing huge health and lifestyle benefits, not just to the cyclists themselves, but – thanks to reduced emissions, less traffic, and cleaner and greener public spaces – to every London resident and visitor.

In his ebullient introduction to the Vision, Boris had pledged to make cycling 'normal', not just for the, 'admirable Lycra-wearers, and enviable east Londoners on their fixed-gear bikes,' but for everyone.

However, while we applaud that initial Vision, as well as more recent intervention on a nationwide scale from the Department for Transport (DfT) and the establishment of the 8 Cycling Cities, setting out the need for investment in cycling infrastructure (albeit the enthusiastic talk of following the Dutch is unfortunately not matched by Dutch levels of funding commitment), there is one area that has yet to be addressed properly: the lack of secure cycle parking:

'If we want Dutch levels of cycling, we need to provide Dutch levels of cycle parking.' Peter Siemensma of Royal HaskoningDHV: TransportXtra, Mar 2015.

The cycle space deficit

The public generally suffers from a notable lack of secure cycle spaces and, despite rapidly increasing demand, the situation is only getting worse:

- Planners are trying to de-clutter the streets, and increasingly shy away from putting Sheffield-type stands in newly designed public areas

- Santander Cycles in London, while encouraging cycle journeys and attracting as many as 73,000 hires per day (Transport for London data for July 2015), inevitably steal large chunks out of pavements, or eat into resident or meter parking, so is meeting with increasing resistance from local residents and businesses

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- Although electric bikes are a rapidly growing and evolving market, with an obvious appeal for non-MAMIL (middle-aged men in lycra) commuters, the fact that prices range from around £1,000 upwards means they're unlikely to be entrusted to just a hefty lock and a Sheffield stand

- Provision of cycle spaces may be a legal planning requirement, but according to Greater London Authority research, these semi-public areas (especially within basements) frequently suffer from theft – or even just the perception of theft – and as a result, bikes are often stored on balconies and in apartments and cyclists often use a second less valuable bike to commute on

- While the Mayoral Cycling Vision for London talked about an extra 80,000 cycling spaces being provided by the end of 2016, nearly all of these are through the planning regime, providing bike storage for residents and workers in the new developments, but little or none for the public.

Perceptions count

Health and safety on the streets is often cited as the key reason preventing people from cycling, and it's true that there's much to be done to improve junctions and routes for cyclists, and to change the perception of cycling as being dangerous. However, this isn't the only reason that keeps people away from 2 wheels. The other most quoted concerns are where to park and theft; and both of these can go hand-in-hand.

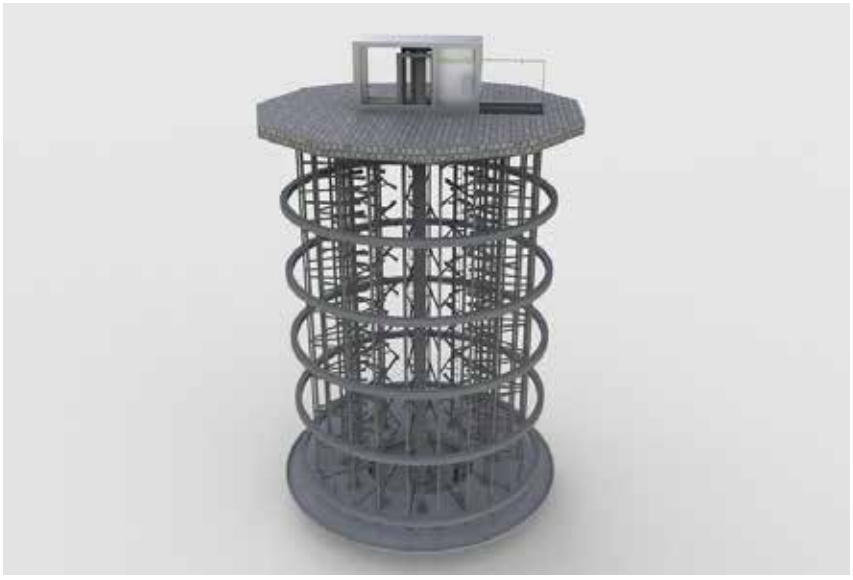
Provision of cycle routes alone doesn't provide the full solution, as non-cyclists tend to need some form of encouragement. For instance, Milton Keynes' best kept secret is that it has more than 200 miles of segregated cycle routes, yet we understand that they're not used to their full potential, which is counter-intuitive as apparently the majority of people work within 5km of their home. At times it's just too easy to take the car, with seemingly too many obstacles to riding a bike; including what to do with your helmet,

and where to put your lights, pump, and other peripherals, let alone where to park and concerns of theft. And for commuters, there's also the question of where to shower and how to keep clothes looking presentable. It's literally not quite as easy as riding a bike!

The Dutch tend to ride their bikes more sedately, without such a need for showers. However, they understand that every journey ends in having to park the bike, and the only way to encourage mass cycling is therefore to provide mass parking. They have a philosophy that all stations should be "mixed-modal"; whereby there's a seamless interchange between rail and bike. Each station will have plenty of parking, which is sadly in contrast to London's Crossrail project that was conceived before the cycling revolution. Their literature states that only 1,335 new bike spaces are being provided across its 40 stations: that's just 34 spaces per station.

Shorter journey times from outlying Crossrail stations will make surrounding areas more attractive to commuters, although the lack of cycling infrastructure – and particularly lack of storage provision at their final destination – will discourage them from using their bikes. The additional car and bus journeys this results in will put the local infrastructure under further strain.

The DfT and train operating companies have been investing in cycle parking at stations, although generally in a piecemeal and incremental manner. The provision of parking appears to be made using calculations and formulae



that assess perceived demand based upon current take-up of non-secure facilities. Steel and glass enclosed hubs are a great start, although their semi-public nature does little to counter the perceptions of theft, nor take away any of the hassle of the journey.

Eco Cycle: the solution to the cycling revolution…

There is a solution: Eco Cycle – an ingenious high tech mass bike storage system that's been operating successfully in Japan since 2002 - has now arrived in London and has the potential to be the missing link.

Eco Cycle holds enormous potential for developers, corporations, educational institutions, transport hubs, hospitals, planners and others interested in:

- Reducing on-street clutter and enhancing the public domain
- Minimising the footprint of bike storage within high value space
- Meeting statutory obligations for provision of cycle spaces more efficiently
- Improving take-up of cycling spaces provided, thanks to greater security and convenience
- Encouraging and facilitating a green mode of transport, improving health and wellbeing among cyclists and the population at large
- Future-proofing developments and adding a unique and distinctive unique selling proposition to a development or area
- Improving corporate reputation, and supporting corporate social responsibility commitments.

Eco Cycle: facts and figures

Eco Cycle Ltd has collaborated with Apex Lifts, London's largest independent lift manufacturing and elevator servicing company, who will manufacture, install and service the units, and also supply round-the-clock engineer call-out services and off-site monitoring.

Eco Cycle's access pod and entrance occupies the equivalent space of two thirds of a car space, with each unit providing up to 204 secure, dry cycle spaces below ground, while taking up just 6% of the space required to house the same number of bikes within 2-tier racking.

Eco Cycle simultaneously reduces on-street clutter and minimise occupation of valuable street (and lower ground floor) level space. And, because it can be integrated into new developments, with cycle access at street level rather than within sensitive and private areas of the building, Eco Cycle offers both public and private provision with no security or access issues.

Eco Cycle also enables developers to make financial sense of future-proofing developments in line with rising levels of cycle use (10% a year in London), as, rather than leaving additional spaces empty, they are able to charge the public to use these until demand from the development's occupiers catches up.

Planning policy tends to stipulate the formula for calculating the number of long and short-stay cycle parking in accordance with the size and use of the building. However, planning does little to ensure that sufficient spaces for the public are also provided. With Eco Cycle, this is now feasible, and locations of high value and accessibility benefit from secure and discreet cycle parking for the public, without impacting on the public realm or purse. To incentivise developers to provide public access to parking within new buildings, planning authorities can look actively to contribute some of the s106 payments, so long as public access is safeguarded.

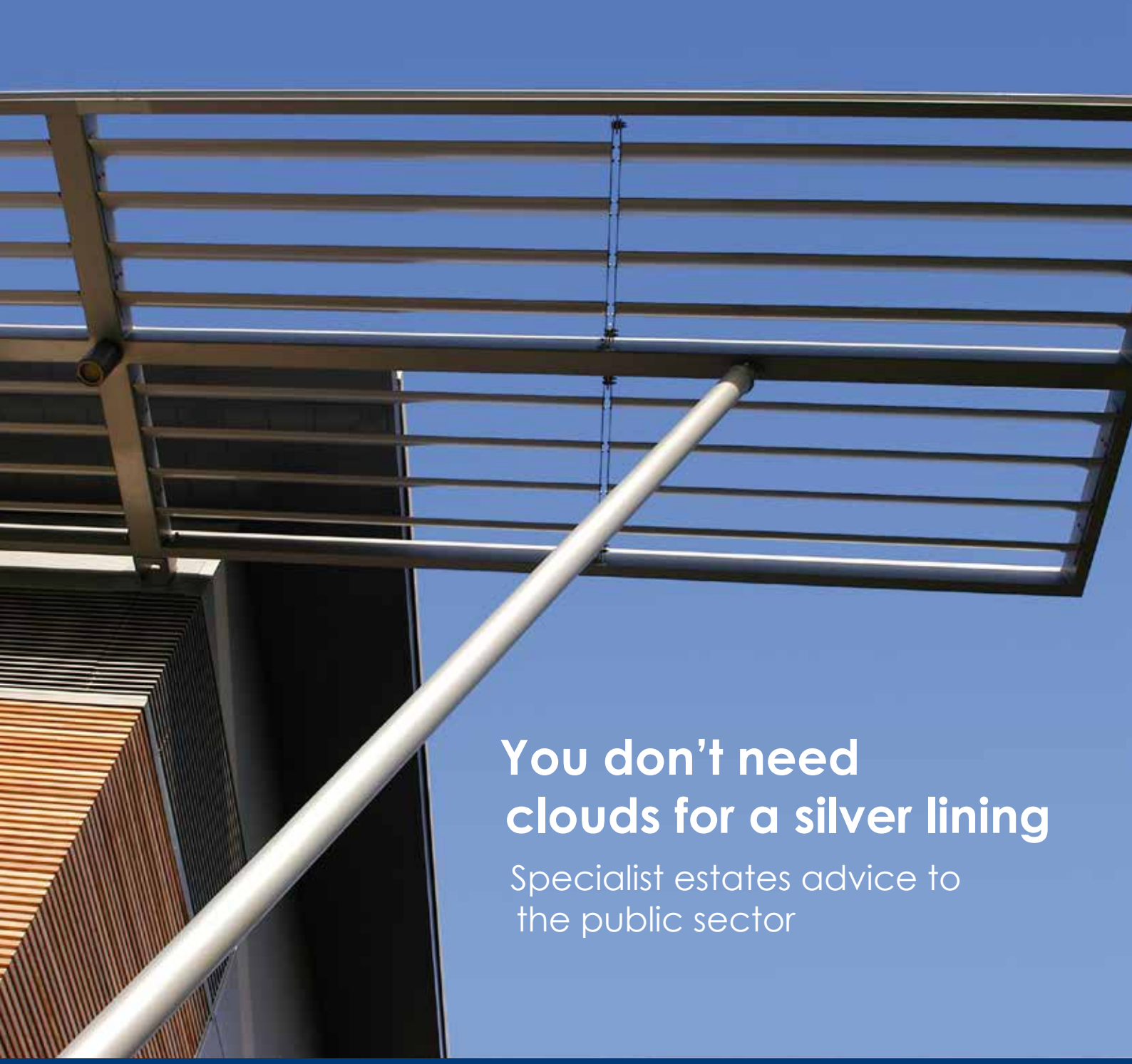
Advantages of Eco Cycle for cyclists:

- Safe, dry and secure bike and accessory storage (no need to lug your panniers, lights, bike computer and helmet around with you) available 24/7, 365 days a year
- App can let you check for the Eco Cycle nearest to your destination and verify the number of spaces available, so you can cycle straight to secure storage, and choose to leave your heavy locks and chains at home if you want to
- Retrieves your bike within 13 seconds: less time than it takes to fiddle with cumbersome locks and chains on a Sheffield stand or railing (or call the police to report the theft of your bike!)
- It can house public, private and even hire bikes within the same facility.

Want to find out more?

A working model of an above ground Eco Cycle unit, with storage for 58 bikes, has been imported from Japan and erected by Apex in premises close to Southwark Underground Station. Interested parties are invited to visit us and have a demonstration.

To be part of the solution to the cycling revolution, simply contact us at info@ecocycle.co.uk. For more detailed information on Eco Cycle visit www.ecocycle.co.uk



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NON-DOMESTIC RATES AND LOCAL AUTHORITY RATES RETENTION - WHERE ARE WE NOW?

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This is the follow-up to articles in 2013 and 2014 issues (the last in 2014/15 Winter Terrier) which consider the many changes afoot for NNDR reforms. "To give 100% retention, reduce rights and put large assessments into a Central List is not localism or 100% retention: it is soundbites that do not stand scrutiny and give additional uncertainty for cash strapped BAs."

As we enter the third year of the rate retention system, we are awash with potential changes and reforms to the Non-Domestic Rates system, predominantly in England.

2017 Rating revaluation

We await the 2017 Rating Revaluation which goes live with the new assessments on 1 April 2017, with the draft list available (we are assured) from 1 October 2016. At the same time, we look forward to the announcement of a new transitional scheme to cushion the blow for 'losers' paid for by restricting early gains for 'winners'.

The whole transition scheme needs to be self-financing. The missing piece of the jigsaw beyond this is the Uniform Business Rate poundage and until such announcement is with us, liabilities for ratepayers for 2017 onwards is just a guess. Of course that guess is the same for Billing Authorities (BAs) who at present do not have a measure of what income they might expect in 2017 from the new Rating List. Some degree of certainty in budgets is a common plea and a theme to which this article returns.

Check Challenge and Appeal

The other major change which has been through consultation, and has the relevant enabling legislation in place, is to overhaul completely the current appeals system with the new Check Challenge and Appeal (or CCA).

At present from the BAs' perspective, they have visibility on the entire Rating List which is updated and supplied regularly to them by the Valuation Office Agency (VOA). From the data supplied, they are able to ascertain all those assessments in the list that are under appeal. Specialists firms (Rates Plus included) have been able to consider these appeals and forecast likely outcomes with any potential reductions and the timing/backdating of such amendments, to inform the BAs of the likely income profile from the Rating List.

The current system is far from perfect. As many will know, rating appeals can take a very long time to be dealt with, often many years, and a degree of uncertainty remains with so many appeals unresolved. With a current significant backlog of appeals to be dealt with both by the VOA and the Valuation Tribunal (VT), there will be a large number of 2010 list appeals still outstanding after the 2017 list commences.

Worse still if matters progress beyond VT to the Upper Chamber, this can add to the years of delay.

Single large rateable values and small business rate relief scheme

A critical problem for BAs has been the perhaps single large rateable value (RV) suddenly savaged by an agreement or decision backdated often to 1 April 2010, giving the BA a hefty refund profile and ongoing loss of income. A number of authorities have entered local pools of BAs to ameliorate and share that shock risk.

One of the problems is that RV is not evenly distributed through local lists

and the most difficult effects have been felt by relatively small BAs with one or a small number of disproportionately large RV assessments which are reduced, causing a disproportionate effect on BA income. The government safety net exists but that is not a welcome resolution for most.

The budget of 2015/16 gave us a much extended small business rate relief scheme taking many businesses out of rate payments, up to assessments of £50,000 RV. This in itself has had a future depressing effect on BA income, but we are told it will be offset handsomely by the budget declaration that from 2020, BAs would get to keep all the rates raised in their area with 100% retention.

Some authorities have already been given a head start on this as a government incentive. Notwithstanding of course the current grant system that sits alongside the current retention from central government will all but be removed. In its current form it works as a redistribution of the central government share of NNDR income paid back to BAs by grant on a per capita basis.

Unfortunately, while it is fairly obvious that some form of balancing between BAs in 2020 will be necessary, we have yet to see any detail about how that might be actioned.

The Central List

One of the latest discussion points is whether the 'Central List', which currently contains large network assessments like BT, railways and others from which government gets the rates income directly, should be extended to include other large properties currently in local lists or those subject to volatility also to be included, thereby removing risk in the local list. This, it is suggested, might give sufficient funds collected centrally to be able to fund something akin to a balancing fund from the large Central List RV.

How such a Central List is a demonstration of localism is difficult to see. The counter-argument is that any so called Central List is anathema to a Localised Retention system. Much of the devil in this will be in the detail of whatever becomes the chosen policy. In the meantime, BAs attempt to budget within uncertain parameters of what their local list might contain, and what balancing provision if any might be available.

Currently BAs have some, though limited, powers to intervene in the Rating List in respect of third party properties and appeals. They may and do seek to do this to get greater visibility of the appeals process and in some cases, take part in that process through representation at VT in their capacity as BA. A common practice up until 1990 but a new experience now for some. As major stakeholders many authorities are now protecting their interests in this way.

A CCA system

The change to a CCA system may give opportunity for further angst to BAs. Currently even with limited powers, but arguably fairly good visibility of what is under appeal in their local area, they can form a view as to what outcomes might be.

At the time of writing we do not have the draft regulations to CCA, but the concern is that this new system might dilute existing BA powers of intervention rather than enhance them and that visibility might be significantly reduced.

Ratepayers can instigate a check of their assessment, which is supposed to deal with factual information on floor

areas and similar, and once that process starts, they will have a time limited right to challenge that assessment. The VOA will determine when a valid challenge document has been received and will adjudicate as to whether the figure in the list is reasonable or not. That might take up to 18 months as proposed.

It is not clear whether the BA will have any knowledge at all that something is under a challenge, and of course the VOA might amend the list during a challenge and that amendment might be the first knowledge by the BA, with perhaps an immediate refund profile.

The appeal part of CCA does not operate until the ratepayer, dissatisfied with the VOA answer on a challenge, decides to appeal. That appeal may attract a fee payable to the VOA/VT, as yet not determined, and will at least from then presumably be in the public domain.

These appeals will then take time to resolve at VT. It is difficult to imagine how this brave new world will reduce the timescale to achieve the end settled figure in the list and I would suggest it is likely to lengthen the process over the current one, and with less transparency and certainty for the BA. Not a great result.

Most ratepayers' agents and advised BAs are sceptical. Of course the government statistics on appeals will show a much lower number than currently - a long-held government goal – except they will all still be in there but called Challenges instead!

Concluding thoughts

Finally, the whole retention system was predicated on growth, giving BAs the opportunity to reduce rates in their area to attract new businesses, thereby creating differential rate poundage – within limits. Unfortunately, most BAs/ local authorities are strapped for cash and need the money from NNDR and would not speculate on growth coming from reducing the income base in the interim.

Many BAs have been able on their own or with specialist firms to find 'missing' RV in the list which can boost income. Nationally important case law precedents can also have this perhaps perverse effect on raising additional income by forced changes to the Rating List. So retention has worked to an extent and some authorities who have grasped the nettle have been able to increase their income from business rates, despite losses on appeal.

As we move from partial retention to 100% retention, the loss of the current grant system, an uncertain solution on any balancing, and perhaps with big loses in RV from local lists to the Central List, where does that leave BAs and how do they budget? Giving with one hand and taking with the other perhaps?

Whatever the final outcome of all these structural changes to the system, if you give BAs a major stake in the Rating List, that in my view has to be supported by their ability to intervene in that list with enhanced statutory rights.

To give 100% retention, reduce rights and put large assessments into a Central List is not localism or 100% retention: it is soundbites that do not stand scrutiny and give additional uncertainty for cash strapped BAs.

We now have the Brexit decision. While it is far too early to measure any likely effects on local authority funding, the potential long term withdrawal of European funding to large parts of the UK may well lead to a lower growth profile for "UK plc", which in turn means that the growth that BAs were to enjoy from an enhanced and growing Rating List may also prove to be illusory. Interesting times.

LEGAL SNIPPETS

Below are extracts from Mills & Reeve "Property Matters" which are of relevance to public sector property professionals. My thanks to Mills & Reeve for letting me reproduce them. Mills & Reeve Property Matters www.property-matters-law.co.uk

Non-residential conversions: to VAT or not to VAT? That is the question

HMRC has recently issued a business brief clarifying its policy concerning the VAT treatment of conversions of non-residential buildings into dwellings with deemed planning consent. This will be of great interest to developers carrying out such conversions and unsure of their VAT liability.

Sales of new dwellings are usually a zero-rated supply as are the supply in the course of construction of a building designed as a dwelling. HMRC require, as a condition of zero-rated supply, that statutory planning consent ("SPC") has been obtained in relation to that dwelling and that the construction has been carried out in accordance with the consent.

The government has introduced Permitted Development Rights ("PDR's") which permit the change of use of specific categories of buildings into dwellings without the requirement for planning permission, examples of which include:

- Shops
- Betting offices
- Pay day loan shops
- Casinos
- Offices
- Storage or distribution centres.

So what is the VAT position where a developer establishes that the conversion is covered by a PDR and

therefore no SPC is required? HMRC in their brief have clarified that they will continue to permit a zero-rating for these supplies but further evidence will be required to show that the work carried out is lawful. Such evidence includes:

1. Local Planning Authority ("LPA") notification of the grant of prior approval.

2. LPA notification that prior approval is not required.

3. Evidence of deemed consent.

This will be welcome news for developers as the HMRC brief sheds some light onto what was formerly an ambiguous area.

Does it take two to tango? Validity of contract signed by only one of two purchasers

Where a contract for the sale of a property is intended to be entered into by 2 joint purchasers, but only one of them has signed the contract, is the contract still valid and binding upon the purchaser who has signed the contract?

In Marlbray Ltd v Laditi (2016), the Court of Appeal examined the question.

A hotel developer claimed to have entered into a binding contract for the purchase of a 999 year lease of a room at a London hotel. The contract named 2 people, a husband and wife, as the joint purchasers. The husband, Mr Laditi, had signed the contract "on behalf of the Purchasers". In fact, he had no authority to act on his wife's behalf: she had not known that her husband was entering into the contract and had not consented to it.

The Court of Appeal held that where a contract has provisions that are expressed to be joint and several (so that the seller of the property may enforce the relevant contractual obligation, in full, against either of the joint purchasers) those provisions are still valid and binding upon the purchaser who has signed the contract. The Court ruled that such a contract will only fail if the parties have indicated by express wording or by inference that a purchaser is only to be bound if all intended purchasers sign the contract.

The Court of Appeal found that Mr Laditi was still bound by provisions of the contract even though the other named joint purchaser had not signed it, observing that "the failure to obtain his wife's authority to sign the contract was entirely his."

Sellers should always be cautious where a single purchaser purports to sign on behalf of all joint purchasers – this should not be accepted unless there is clear evidence that the other named joint purchasers have given their authority for the contract to be signed in this way. However, the Court of Appeal's decision in Marlbray Ltd v Laditi does offer some comfort to sellers on the continued validity of a contract signed by a single joint purchaser.

Branches News

DUNCAN BLACKIE, EASTERN BRANCH

The branch met on 18 May at the offices of Essex County Council in Chelmsford. Approaching 50 delegates, members and guests, attended, including Jeremy Pilgrim, National President of ACES who introduced himself to attendees, made some announcements and promoted the National Conference to be held on 29/30 September at the Oval, London. The theme will be Powerhouses and Smart Cities.

Following the adopted format for branch meetings, after a short introduction by Chairman Neil McManus, there followed 4 presentations.

Liz Wigley and Craig Egglestone

Liz Wigley of the Government Property Unit and Craig Egglestone of the Local Government Association provided an update following the allocation of £31m of funding to the One Public Estate programme over 2016/17 [Ed – see 2016 Spring Terrier for article by Craig]. Applications for May 2016 have now closed and there will be further opportunities to apply in early September 2016 and March 2017. Some pointers were provided:

- Be concise and clear on benefits to be delivered
- No need to hit every button – bids can be geared to growth or to deliver service efficiency etc.
- Ambitious bids with benefits of scale will be well received
- Partners should be drawn from across the public sector/public service.

Colin Wright

Colin previously headed up the Estates Specialist Team, Land and Housing Delivery at DCLG but in the presentation he was referring to his role in DCLG's National Planning Casework

Unit (NPCU). He provided guidance to dealing with under value disposals [Ed – see Colin's article in 2015 Summer Terrier]. Colin concentrated on s123 Local Government Act 1972 (general disposals) and s223 Town and Country Planning Act 1990 (planning). Points made:

- Circular 06/03 is the prime reference base, which provides guidance on the application process, including a technical appendix. Additional guidance is available from RICS Red Book Guidance Note 5

- The £2m general consent [for the economic and social well-being of the area] applies only to s123 and no general consents are available for s223 disposals (although this may be forthcoming via regulations to be issued under the Growth and Infrastructure Act 2013).

- The NPCU receives applications and deals with ministers. A simple but well-presented application may be dealt with within 2 months – more complex and/or poorly presented applications can take considerably longer

- The application should contain sufficient information to be considered on its merits and needs to make clear the unrestricted value (including special interests) together with the proposed restricted value (and the terms of disposal if different to restricted value), the value of any voluntary conditions to be imposed on the sale, and the element of under value

- The technical appendix of Circular 06/03 is due to undergo revision to clarify its meaning

- It is worth noting that the Secretary of State cannot call in disposals or impose sanctions on local authorities. Nor can he provide retrospective consent. The NPCU will not provide advice or respond to speculative or 'in principle' applications.

Isobel Watterson and Edward Morgan

This session, delivered by Lambert Smith Hampton, was split into 2 elements:

a. Investment market update 2016 Q1 report by Izzy Watterson, which reflected on recent changes (downturns in activity) in the investment market, partly as a result of the uncertainty concerning the forthcoming EU Referendum, and

b. A regional context by Ed Morgan, Director at Chelmsford, looking at residential trends.

David Wilde and Gwyn Owen

This was a joint presentation and Q&A session on Essex Housing Growth Strategy and the Essex housing function, provided by David Wilde (Executive Director ECC) and Gwyn Owen (Head of Essex Housing). It became an interactive session, with discussion particularly about the approaches of 3 of the counties of East Anglia to meet housing targets and capitalise on attracting income and capital to support dwindling budgets [Ed – it is hoped that case studies of Essex, Cambridgeshire and Suffolk will follow in future Terriers].

The meeting closed at 13.00 having provided 3 hours formal CPD. However, before closing it was announced that our Branch Chairman, Neil McManus had allowed himself to be persuaded to take on the role of the currently vacant post of Junior Vice President of ACES (and therefore it is likely that the National Conference will be held in our region in 2 years' time). Lunch and networking followed.

A further CPD meeting is planned on a similar format on Friday 1 July at Cambridge Fire Station, Parkers Piece, Cambridge.

Other Interest Areas

THE SUFFOLK SCRIBBLER

The dentist - an encore

After the successful extraction as reported in the last issue of Terrier, I was urged to avoid compromising the gap by chewing on the other side, at least temporarily. This immediately brought about the collapse of another tooth; in fact, the mirror image of the previous extraction. This time, what was left felt like a long extinct volcano and so an appointment was made for a return visit to the Saturday extraction man.

I should have spotted the bad signs as having got a firm appointment, the timing was adjusted twice before the due date arrived. However, I was up bright and early on the agreed Saturday and ready to go when the phone rang. Apparently the Saturday man had just rung in sick and so all his appointments were cancelled but the regular dentist was prepared to do the business on the following Saturday at 9am; agreed!

And so it was that I was shuffling my way into the dentist's chair one week later without, apparently, a care in the world. After the usual pleasantries we made a start. I manoeuvred myself into a less uncomfortable position in the by now fully reclined dentist's chair and "opened wide," as requested, while the dentist began the usual cheery banter with the nurse. Almost at once things began to go wrong. The dentist's opening gambit was to grip the exposed side of the tooth with dental pliers and give the tooth a few

exploratory twists and pulls. With what seemed like a very loud CRACK!! most of the exposed side of the tooth then broke off and so it was that the dentist then had to spend the next 15 minutes wrestling with the remainder of the tooth before, finally, drilling it out.

I think it goes without saying that both dentist and patient had had more than enough of this particular extraction by then.

A Painful encounter in the Waitrose car park

Normally the car park of my local Waitrose is a very civilised and unremarkable location which I visit once per week. On this particular occasion, perhaps out of devilment, or a need to change my routine, I decided to reverse into my chosen space rather than just driving straight in and reversing out.

Although there was plenty of room, something was unsettling my reversing bleepers, which were sounding off even when I was only halfway into the space. As I could not see anything suspicious in my mirrors, I tried twisting round in the driver's seat and looking over my right shoulder. Still nothing; so I tried twisting round while trying to stick my head out of the side window.

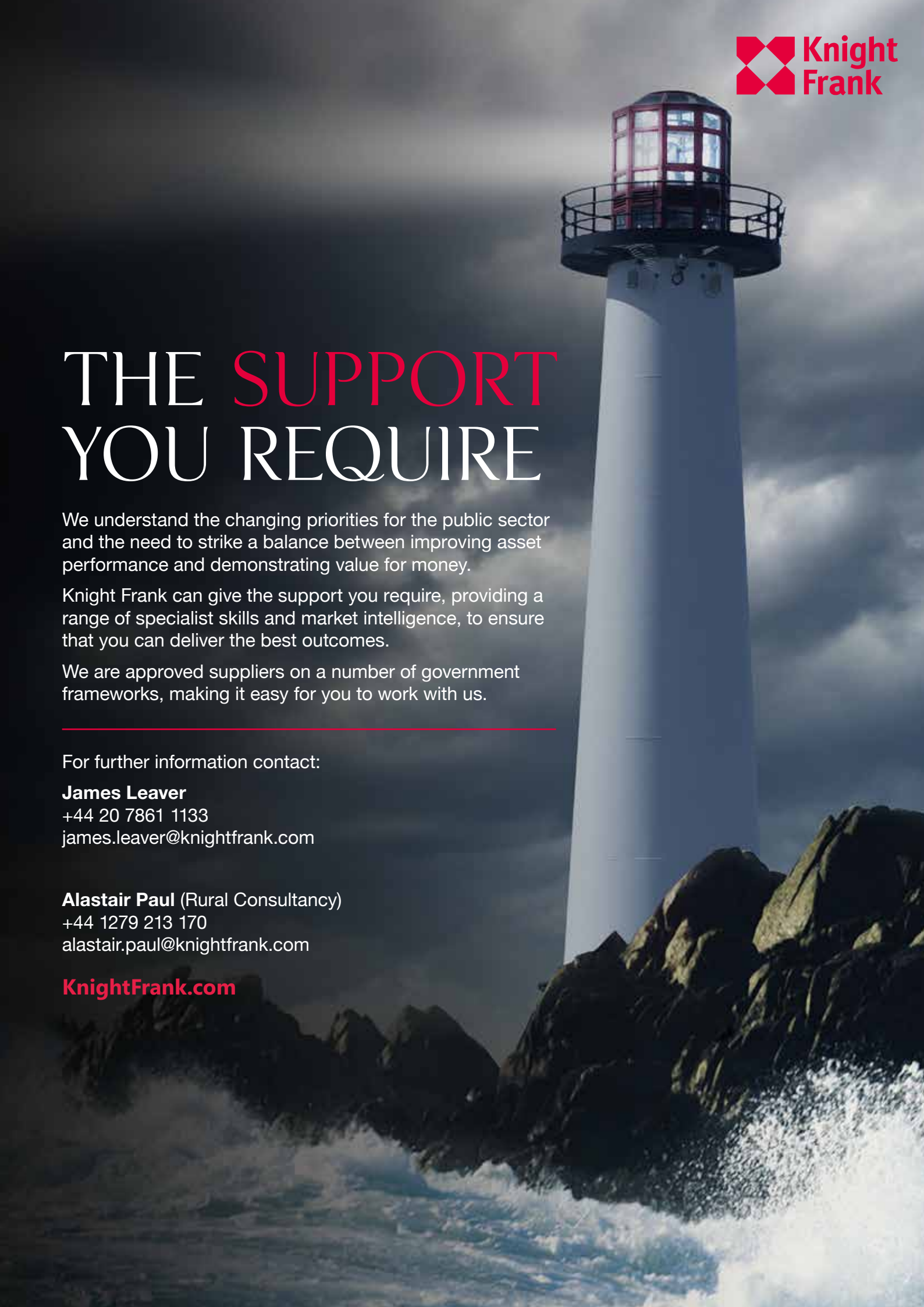
It was at this point that I felt a couple of ribs rubbing together and a tremendous pain from the right hand side of my chest. In short I have severely bruised ribs; a problem which I am finding is very difficult to treat and live with [Ed – this man is a liability!].

Puppies and the BBC

On 16 May I happened to watch the Panorama programme 'Britain's Puppy Dealers Exposed.' The blurb for the programme, transmitted from 7.30 pm to 8 pm on BBC1 reads as follows: "An investigation into the dog trade that uses secret filming to explore the supply chain of the nation's favourite pet. Reporter Sam Poling uncovers shocking truths about how some of these dogs are being bred."

It was certainly an horrific expose of the depths plumbed by some parts of the puppy trade. However, on the same evening the BBC transmitted a programme called 'Choose the Right Puppy for you' from 8pm to 9pm on BBC2; and the blurb for this reads: "Characteristics, habits and needs of different breeds of dog...Animal behaviourist Louise Glazebrook is also on hand to help prospective owners find the right puppy for them…"

I don't recall a mention in this following programme of the issues of puppy dealing. Perhaps the BBC needs to get its scheduling and referencing in order?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