

ACES TERRIER

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

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ACES TERRIER

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

EDITORIAL

Betty Albon

Welcome to the 2021/22 Winter Terrier.

Well, it's a new year, but unfortunately same old, same old, for our restricted lives, whether self-imposed, or imposed externally. But we have a new President, Chris Rhodes. This issue contains notes of the - once again - virtual annual meeting, and Chris' Presidential speech, delivered from his home (and with an impressive backcloth of books).

With the passing of the Environment Act, this issue features a number of rural and open space articles which give us room for some optimism for our environment and our communities. Also, the RICS has prepared various new guidance and rules, and there are articles on conduct, sustainability and accounting for leases, as well as other professional areas such as dilapidations. Don't miss the fascinating article on the implications of the imposition of a fixed infrastructure levy on housing delivery, for those of you involved in this area of our varied profession. There are also articles on my regular themes of housing initiatives, asset management, and town centre regeneration - in fact, plenty to get your teeth into.

Please spread all this valuable information far and wide in whatever ways you can - and there's certainly a lot of opportunities now to do that in hard copy and online www.aces.org.uk/library/. Remember to tell ACES' Secretary, Trevor Bishop, if you would like to change your delivery address to reflect changing work patterns - we're here to please!

While every reasonable effort has been made to ensure the accuracy of the information and content provided in this document at the date of publication, no representation is made as to its correctness or completeness and no responsibility or liability is assumed for errors or omissions.

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Cover photo: Chris Rhodes, ACES President 2021/22,
taken by Chris

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PRESIDENT'S KEYNOTE ADDRESS On-line, 12 November 2021

Chris Rhodes president@aces.org.uk

Good morning everyone and thanks so much for this huge honour you've done me. A few months ago was the 30th anniversary of my start in local government at Birmingham City Council and I certainly never expected to become President of ACES. I'd like to welcome our guests, including our new Fellow, Jackie Sadek, and many others from public and private sector organisations whose support for ACES over many years is greatly appreciated and valued.

Thanks to you all for continuing to bear with the on-line meeting format. We did think very carefully about whether it would be feasible to make this AGM a face-to-face meeting, but had to conclude in the end that on-line would be better, and that's why I am talking to you from my office at home in south-east London and not in the splendid surroundings of Cardiff City Hall. I'm glad the chain made it here safely as you can see.

Looking at the illustrious names on this chain I realise I've got some very hard acts to follow. I want to pay tribute in particular to my immediate predecessor Simon Hughes for his calm and steady steering of the ship through the stormy times of the Covid pandemic. Our new Senior Vice-President, Helen Stubbs, has already been very supportive of the work I've had to do in my previous role as Senior Vice President.

I am hopeful that we can quickly appoint a Junior Vice-President from among the excellent spread of potential candidates and would strongly encourage anyone contemplating that role - or even not really contemplating it up to now - to make contact.

It's normal for a gift to be made to the outgoing President and Simon has asked that instead of a gift, a donation be made to East Anglian Air Ambulance, a very worthy cause indeed and I am sure we're delighted to support Simon's generosity.

Simon, as you know, is based at Norfolk County Council and so was Dick Miller, who was President in 1988/89. Only two other authorities had fielded more than one President and they were Glasgow City Council with Remo Verrico (1986/87) and Tom Fleming (2012/13), and the City of London Corporation with Ted Hartill (1996/97) and Andrew Wild (2013/14). That is until today, because John Morris of Sutton was President in 1999/00.

That brings me on to the thanks I must make to my employers, the London Borough of Sutton, who have been very positive of my taking this role on, although clearly the day job has to take priority. All of us who take on roles in ACES need a certain amount of support from employers or loved ones and we need to acknowledge that too.

I must also thank London Branch which I've been involved in since 2008, spending 5 years as Secretary and 4 years as vice-chair and then chair, and I'm due to hand on the chair in a couple of weeks to Neil Simon. Everyone involved in the branch over the years has combined to make it a cohesive and effective unit, to continue to bring people together to pool their resources, to do our jobs as best we can, and that's what ACES for me is all about.

We've been through great challenges in the last couple of years with the Covid pandemic and have done some fantastic work to deal both directly with that,

and with the aftermath of it. We've seen colleagues involved in keeping businesses running in their areas, so economic activity continues and residents have choices. A huge amount of work has supported the Covid relief effort, with premises for vaccination and testing, PPE distribution, grants, and of course the provision of emergency medical facilities, against great time pressure and in very difficult circumstances.

All those of us who've been involved in that in any way should congratulate ourselves. But there is more to do. As the economy recovers and we watch carefully for signs of any resurgence of the pandemic, we need to use our links to communicate good practice and up to date information. One of the things that's kept me in local government has been the ability to use my skills for public benefit, rather than for a private landlord. That ethos is common to many of us, and it's never been in better or sharper focus than just recently.

As well as the pandemic, we have to contribute to the reaction to climate change and my borough, like many others, has declared a climate emergency. We have the changing workplace habits after the pandemic, with more remote working and reduced demand for office space. Those are areas where our expertise can make a real difference. The RACES and IHOPE initiatives are great examples of how we can focus that expertise, bring forward talent, and fulfil roles.

You get out of any link what you put in and I would just like to encourage everyone to maintain or step up involvement with local branches, use the

A summary of the entries for the 2021 ACES' Award for Excellence is contained in the table.

Organisation	Team	Project
NHS Wales Shared Services Partnership (NWSSP)	Property Team – Specialist Estates Services (NHS Wales)	Covid-19 pandemic response Since March 2020, the Property Team has played a key role in the NHS Wales C-19 pandemic response by securing accommodation for a variety of Covid related activities including field hospitals, testing centres, mass vaccination centres, laboratories and storage facilities. The Team has been involved with the acquisitions for 113 schemes comprising: 16 field hospitals, 14 testing centres, 56 mass and local vaccination centres, 2 mass testing laboratories and 25 other Covid related facilities.
Cheshire East Council	Cheshire East Council Estates and Regeneration Teams	Refurbishment of Crewe Market Crewe, had lost its purpose, pride and focus over time. Crewe was under pressure from structural changes in retail patterns. Crewe Market Hall had also lost its way with an out of date, low grade, shabby fit out and noticeably failing offer, under-supported by the council, community and occupiers alike. Grade II listed, it was at risk if the position continued 'as is'. The investment of £2.9m secured the market hall's future, established a vibrant destination in Crewe, and set an important marker for the regeneration of the town centre. By demonstrating things can happen, in conjunction with a credible pipeline of projects, the project has created community cohesion with key stakeholders.
Cheshire East Council	Cheshire East Council Estates and Regeneration Teams	Delivery of Covid related grants to small businesses Property and the council's Estates service played an important role in the C-19 response. The council was already delivering a grant based on businesses paying rates, but it became apparent that there was a range of businesses that still had fixed property costs, but who for a number of reasons were not able to access this funding. Therefore, an additional discretionary grant was proposed by central government. This scheme was administered by the Regeneration Team and successfully delivered several million pounds of grants to a large number of small businesses within the borough, from a standing start.
West Lancashire Borough Council	Multi – departments	Response to rent free periods from commercial property tenants during Covid-19 pandemic Identification and delivery of a fast-track procedure, approvals process and delivery route to action tenant requests for rent free periods.

Forum, volunteer if you can. I absolutely know ACES has helped me to do my job on many occasions and thus helped my career; and it can do the same for you.

At this point I must also thank colleagues on ACES Council for their continued support, particularly Trevor Bishop. Similarly ACES' Terrier, through Betty Albon's continued efforts, looks wonderful, the website looks great and all told, we have some excellent resources which we could shout about more.

I hope next year that we will be able to have a "proper" AGM and meet face to face again. We're certainly planning a face to face conference in Sutton and I'm very grateful to colleagues who have already done quite a bit of work on that. We hope to announce more details soon, but subject to various confirmations, the provisional date is 15-16 September 2022. It will then be 3 years since we gathered in the Isle of Wight for Graeme Haigh's conference, and getting together in one place feels much overdue.

As President, I'm particularly looking forward to visiting the branches and hopefully those visits can also be face to face.

So thank you all once again and it's a great honour to be President of our wonderful Association. I look forward to working with you all, seeing you all in person soon, and thanks for being with us today.

ACES' Award for Excellence 2021

Thank you to everyone who submitted an entry for the ACES' Award for Excellence. And thank you to my colleagues Helen Stubbs, Trevor Bishop, and Neil Webster who formed my judgement panel. It was no easy task to select the runner up and winner for 2021.

Cheshire East Council – Crewe Market Hall – Runner-up

This project centres on a Grade 2 listed market building which was presenting a failing offer to the local community. An ambitious regeneration programme provided new life with retail, dining and entertainment space. This was delivered in spite of all the challenges presented

by getting possession from multiple occupiers, heritage and its impact on viability, budgetary constraints and dealing with many stakeholders. The £2.9m investment has created a much improved resource for the town and the project is an excellent demonstration of multi-disciplinary work delivering a great result and showing how a problem can be turned into a successful outcome.

Andy Kehoe, Head of Estates, responded by giving thanks to the judgement panel, but his main intent in making the application was not to win the Award, but to articulate what he felt is an excellent example of how a team can come together and be motivated to achieve a wide-ranging project.

NHS Wales Specialist Estates Service – Covid-19 pandemic response - Winner

This team successfully delivered accommodation for a variety of purposes including a field hospital, testing stations, vaccination centres, laboratories and storage. In order to achieve all this, they worked with 7 health boards, 22 local

authorities, and the Welsh government, to convert a huge range of facilities for emergency use in difficult circumstances and under great pressure. This included an additional 5,000 hospital beds. Effective working across the public sector and with private landowners was much in evidence, and the impressive results demonstrate very well how property and estates expertise can make a real difference to the lives of the people we serve.

Clive Ball, Specialist Estates Services, expressed his astonishment to win the

Award and said he was very proud of his small team, which couldn't have done it on its own. It was a difficult task just for its sheer scale, and was a real partnership between all the agencies.

ACES President's Award

Simon took the stage to announce the President's Award, set up in 2018/19 to recognise individuals or one of the 10 regional branches for 'going the extra mile'. Having visited virtually all the

branches and been aware of the diversity of approaches taken, he was especially impressed by the detailed CPD arranged at the Welsh Branch [Ed – see issues of ACES' Terrier for the regular write-ups of Welsh branch activities].

Chris closed the meeting, thanking everyone who joined online. He wished everyone a productive rest of the year and looks forward to his 12 months as ACES' President.



ACES ANNUAL GENERAL MEETING Notes of the AGM held virtually on 12 November 2021

Trevor Bishop, ACES Secretary secretary@aces.org.uk

The 2021 ACES Annual General Meeting was an online meeting and was joined by 59 members and was appropriately quorate. The Secretary reported 27 prior apologies for absence. The minutes of the AGM held online on 13 November 2020 were approved as a correct record.

Annual report of Council

The President, Simon Hughes, and Secretary, Trevor Bishop, presented a comprehensive report on the work of Council and the Association for the year 2020/21 which was approved by members. The Secretary talked through the items in the report including an update on membership. He thanked all the liaison officers and branch representatives for giving up their free time to produce their reports and for their valuable contribution to a successful year for the Association; the President endorsed this.

The President summarised his last 12 months in yet another odd and challenging year and took the opportunity

to hope for the resumption of face-to-face meetings in 2022. The President also thanked several officers and members for their enormous efforts and support during another difficult year. The President wished the best of luck to incoming President, Chris Rhodes, during 2022.

Financial matters

The Honorary Treasurer, Willie Martin, presented his report containing the accounts for the period ending 30 June 2021 with recommendations for subscriptions for the coming year. It was reported that significant variations in income and expenditure had occurred throughout the year, largely as a result of the continuing C-19 situation and the use of virtual meetings. However, the Treasurer concluded that the Association's financial position remained healthy.

It was agreed to adopt the accounts as presented and to maintain the annual subscriptions level at £125 for full members,

£80 for additional members and associate members, and retain the current £40 for retired members. It was further agreed to retain Wortham Jaques as the auditors for the coming year. Following a comment by Keith Jewsbury, the Treasurer agreed to review the appointment of the auditors at a future date.

Annual Conference 2021

The President reported on the Annual Conference 2021. He noted that a live event had been the preferred option and it was a shame we could not meet in Peterborough, but it was important to provide members with the learning opportunity afforded by conference in a safe and suitable format. The President passed on his thanks to all who helped him to put a successful virtual conference together, including the sponsors who adapted well to the virtual format, and professional speakers, without whom the event could not be delivered.

The President referred to a number of

lessons learned which could be adopted if, for example, hybrid events were to be considered in the future. It was noted that while the webinars were provided free to members and others, the financial outcome of the event was a positive one. He added that the software used for the webinar presentations was available for free use by the Association for 12 months.

Business Plan

The Head of Engagement, Neil Webster, talked through his report on recent activities under the existing business plan, which included a number of ACES members recently talking at and chairing non-ACES national meetings and raising the profile of the Association. Reference was made to the increased engagement with non-members and partners which had culminated in a strong list of potential members being made aware of ACES. It was noted that branches had a part to play in furthering the benefits of ACES membership to this community (subject to GDPR) and the Head of Engagement would approach branches in due course.

It was noted that the current business plan period had now come to an end and that a review of future business planning was therefore due. This needed to look

again at several roles including ACES Secretary, Head of Engagement, Branch Liaison Officer, Sponsorship Officer and Conference organiser, as well as the Presidential Officers, to ensure sound structure and management.

Jeremy Pilgrim, gave a verbal update on progress he had made with his report on the future direction of sponsorship for ACES.

Helen Stubbs commented that the review should comprise an approach that initially looked at whether the business plan needed a complete re-write or whether a light touch refresh of the existing plan was sufficient. The review of the business plan was approved.

New class of membership

The Secretary reported on a proposed new class of ACES membership. This referred to people who had not previously been ACES members, although active in the organisation by virtue of attending meetings or other contributions, and who upon retirement wished to be ACES members and give something back to the organisation and the community. Applications for membership would be subject to qualifications as set out in the report and would be subject to a joining fee (£40) and annual fee equivalent to retired membership.

The new class of membership to be designated "New Retired Member" was approved.

ACES' website

The Secretary provided a verbal update on matters relating to the ACES website. He referred to the invoicing system which was generated by the website and that there would be a high period of activity in December.

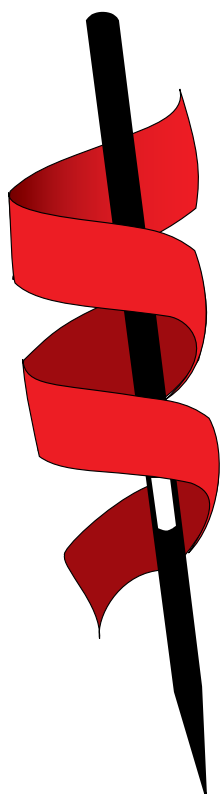
The Secretary reported that a full maintenance programme of the website was now in place and members were invited to suggest improvements they would like to see.

DLUHC/ACES Working Party

It was approved that Chris Rhodes and Neil Webster serve on the Working Party for 2021/22 [Ed – name change to reflect government departmental name changes].

Consultations

The Senior Vice President, Chris Rhodes, reported on a number of consultations throughout the year and specifically to the Right to Regenerate consultation, to which ACES had provided a comprehensive response.



'Why not use the ACES website for free* advertising of your job vacancies?

The ACES website Job Vacancies page (open to all) caters for member and non-member organisations advertising for public sector property posts.

The page gives a summary of the available post with the details of location, salary and closing date and provides a link to the organisation's own website for further details and application form etc.

The Job Vacancies page is currently available to ACES member organisations to advertise opportunities **at no cost**.

You gain direct access to likely candidates already working in the public sector property arena with the expertise and experience that you are looking for.

The new and improved ACES website enables advertisers to enter their vacancy details direct online and include their logo, website links and required details (subject to approval by ACES Secretary).

*The cost per advert for non-members is currently £100.00 for a maximum of 4 weeks' exposure on the ACES website; this is still excellent value!!

Contact the ACES Secretary, Trevor Bishop MRICS, at secretary@aces.org.uk for further information.

Members were reminded of the consultation page on the website where details of current and responses to past consultations could be found. Consultations will continue to be sent to all members to avoid exclusions and enable capture of valuable member experience and knowledge.

Officers of the Association

The following were approved as officers of the Association for 2021/22:

President	Chris Rhodes
Senior Vice President	Helen Stubbs
Junior Vice President	Vacant
Immediate Past President	Simon Hughes
Secretary	Trevor Bishop
Treasurer	Willie Martin
Editor	Betty Albion
Head of Engagement	Neil Webster
Hon Auditor	Wortham Jaques

Liaison Officers

The following were approved as liaison officers for 2021/22:

a	Compensation	Vacant
b	Valuation	Chris Brain
c	Rating and Taxation	Tony Bamford
d	Housing	Vacant
e	Strategic Asset Management	Lee Dawson and Jeremy Pilgrim
f	Commercial Asset Management	Andy Kehoe
g	Agricultural Asset Management	Vacant
h	RICS	Sam Partridge and Daniella Barrow
i	DLUHC/ACES	Neil Webster
j	Post Graduate Courses	Malcolm Williams
k	Health	Neil Webster
l	Regeneration	Gillian Boyle (after the meeting)
m	Branch Liaison	Vacant
n	Covid-19	Tony Bamford

Council membership

Following an online request for nominations, Keith Jewsbury was elected to serve on Council for 2021/22 representing Past and Honorary members of the Association.

Neil McManus and Daniella Barrow were approved as full members of Council for 2021/22.

The Secretary thanked Tim Foster, who had not put himself forward on this occasion, for his contributions to ACES Council over many years.

Honorary Membership and Fellowships

A nomination had been received to confer the designation of Honorary Member of the Association on Thomas Fleming. Thomas was a past president of ACES (2012/13) as well as a valuable member of ACES Council and had recently taken early retirement. The proposed Honorary Membership was approved.

A nomination had been received to confer the designation of Honorary Member of the Association on Keith Jewsbury. Keith had demonstrated exceptional service to the Association, most notably in his role as ACES Secretary and more recently his roles on ACES Council. Keith had stepped down as ACES Branch Liaison Officer at the meeting. The proposed Honorary Membership was approved.

A nomination had been received to confer the designation of Fellow of the Association on Jackie Sadek. Betty Albion presented the nomination, which was seconded by Chris Rhodes, and detailed the enthusiastic service and support that Jackie had given to the Association over many years. The recommendation to make Jackie Sadek a Fellow of ACES was approved.

Future meetings

The following meetings scheduled for 2022 were noted:

ACES Council	21 January 2022	Virtual Meeting
ACES Council	8 April 2022	Guildhall, London (subject to C-19 restrictions)
ACES Council	15 July 2022	To be confirmed
Annual Conference	15/16 September 2022	Sutton, London
Annual Meeting	17 November 2022	Cardiff City Hall

As no other business was raised from the floor, the meeting closed and was followed by the formal handover of the presidential chain of office to the ACES President for 2021/22, Chris Rhodes, who presented his keynote address and the announcement of the winners of the ACES Award for Excellence and the President's Award 2020 [Ed – see transcript of Chris' keynote address in this issue of ACES' Terrier].

ACES MEMBERSHIP

Trevor Bishop MRICS, ACES Secretary secretary@aces.org.uk

I list below the changes in membership between 1 October 2021 and 31 December 2021

New members approved

There were 10 new applications approved during the period:

First Name	Surname	Organisation	Branch Ref
Nick	Corrigan	Bridgend County Borough Council	W
Eirian	Jones	Cardiff Council	W
Giles	Parker	Cardiff Council	W
Peter	Woodley	Cheltenham Borough Council	HoE
Laura	Dutton	Cheshire West & Chester Council	NW
Katharine	Swan	Dumfries & Galloway Council	S
Tom	Fulton	Glasgow City Council	S
Tim	Wynn	Hartlepool Borough Council	NE
Philippa	Tranter	Valuation Office Agency	L
Christine	Dean	West Lancashire Borough Council	NW

Members transferred during the period.

One member transferred during the period.

First Name	Surname	Branch Ref
Thomas	Fleming	S

Resignations

The following 13 members resigned during the period:

First Name	Surname	Organisation	Branch Ref
Judith	Bayes	ACES Retired Member	HoE
Andrew	Bond	ACES Retired Member	NW
Sam	Hird	ACES Retired Member	NW
David	Williams	ACES Retired Member	SW
Tim	Hartley	Barnsley MBC	NE
Kathryn	James	Birmingham City Council	HoE
Matthew	Lazar	Birmingham Community Healthcare NHS	HoE
David	Roberts	Cabinet Office	L
Andrew	Playfer	Cheshire West & Chester BC	NW
Frank	Hughes	Renfrewshire Council	S
Simon	Kelly	Royal Borough of Greenwich	L
Helen	Bristow	Rushmoor Borough Council	SE
Chris	Kench	Valuation Office Agency	HoE

Membership

Summary of current membership at 31 December 2021:

Total Membership	
Status	Number
Full	223
Additional	64
Honorary	35
Associate	27
Retired	37
Total	386



Chrissie is the Head of Conduct Standards at RICS. She led the project to review the Rules of Conduct. Before joining the Standards team, Chrissie was Head of Conduct in RICS regulation, where she managed the teams investigating complaints against members and firms and making decisions about whether to take disciplinary action. Chrissie has worked for a number of professional and regulatory bodies, including those for teachers, psychologists and solicitors.

Sara has over 20 years' experience in the built environment and is currently Babergh & Mid Suffolk District Councils' Corporate Manager for Strategic Property. A chartered commercial property surveyor and a chartered manager, she has experience of all aspects of commercial property in both private and public sector management. She also has a strong interest in diversity, inclusion and social mobility, especially encouraging the next generation from the widest talent pool into choosing surveying as a career. She is Secretary of ACES Eastern Branch and Council member.



RULES OF CONDUCT Launch of new RICS Rules of Conduct

Chrissie O'Rourke corourke@rics.org and Sara Cameron BSc Hons FRICS CMgr MCMI AIWFM sara.cameron@baberghmidsuffolk.gov.uk

Chrissie outlines the new Rules of Conduct which come into effect on 2 February 2022, and ACES' member Sara summarises how helpful the Rules will be to public sector surveyors operating in their communities.

On 11 October 2021, RICS published new Rules of Conduct for its members and firms. The new Rules replace the existing Rules of Conduct for Members, the Rules of Conduct for Firms, and the Global Ethical Principles, with effect from 2 February 2022.

The RICS Rules of Conduct are one of the most important ways that we provide confidence to clients and the public that RICS members and firms act competently and ethically. The new single document provides a clearer simpler framework to show the public what to expect from a RICS member or firm.

The new Rules were developed with the involvement and advice of RICS members and regulatory, compliance and legal professionals. We also held a public consultation on our proposals and we have published an [analysis of the consultation responses](#). There are five Rules based on ethical principles. These are supported by example behaviours, to explain what compliance is likely to involve, and an appendix of professional obligations to RICS.

Our new [webpage on the Rules of Conduct](#) includes links to training materials, including a free online CPD module, and the recording of a webinar which answered members' questions about the new Rules.

There are some important elements of the Rules that we would like to highlight in this article.

The Rules apply to all members

The Rules of Conduct apply to all RICS members including student and trainee members. They also apply to members who advise the organisations that employ them, as well as those who provide advice to external clients. This is reflected in the introduction, which explains that the references to "clients" in the Rules should be read as including anyone to whom the member is providing a professional service.

They reflect existing good practice

We know that members and firms worry about an increasing regulatory burden. There have been no changes to the underlying ethical principles for the profession. The Rules organise the principles into a simpler framework, and the professional obligations in the appendix were already present in the existing Rules. The example behaviours reflect what most of our professionals and stakeholders tell us have been important to them for some time – including encouraging diversity and advising on sustainability [Ed – see also the article on the new Red Book proposed changes on sustainability in this issue of ACES' Terrier]. The Rules will help members and firms identify good practice and find any gaps where they could improve, but

most will find that they are already acting in accordance with them.

The Rules encourage positive behaviours to meet current challenges

One of the most important changes to the Rules is the requirement under Rule 4 to encourage diversity and inclusion. This reflects the importance to RICS of building a profession in which everyone can thrive as themselves, and clients and the public are confident they will be treated fairly and respectfully.

There are also example behaviours under Rules 3 and 5 which highlight:

- the importance of members' expertise in advising their clients about the sustainability of proposed actions
- the need to understand the risks of technology and to protect and properly use data; and
- the expectation that members will speak up when they see wrongdoing and support others who do so.

They reflect the complexity of professional practice

Many people only think of the Rules of Conduct as a tool to be used in considering complaints, but they also support our

professionals in making the many complex and balanced decisions they face regularly. The introduction to the Rules makes it clear that members are expected to do what is reasonably possible to comply with Rules and exhibit behaviours. We have also published [scenarios](#) explaining how the Rules can be used in some common practice dilemmas.

In particular, we have considered issues that can arise when members are advising decision makers who are trying to balance economic limitations with environmental and social outcomes. We have also thought about how the new Rules apply where decisions are likely to be challenged by protesters based on the public interest. This emphasises the importance of proper professional advice being available even where projects are controversial; while also noting the possibility that a professional may have to speak up where behaviour is illegal or seriously harmful to the public.

What it means to us the Strategic Property Team, Babergh & Mid Suffolk District Councils

We're living and working through a period of sustained uncertainty. We've seen erosion of trust in institutions and professionals at every level, so this latest refresh of the RICS Rules of Conduct provides a really robust, current and easy to understand foundation that will help us

protect the public and the profession.

These new rules of conduct focus on what's most important for the public, for stakeholders, for clients – the case study examples are excellent and really demonstrate the decision making required for issues of the current day from social media, data breaches and sustainable advice. This really helps members turn the dial to reflect current expectations in the widest sense and futureproofing our standing as property professionals.

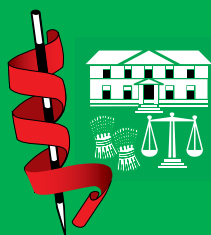
The biggest thing is how the new Rules set out a framework of the rules and provide clear examples – something which can apply to both public and private sector alike.

It's also really encouraging to see our profession embed diversity further into our Rules of Conduct, to ensure a fair and inclusive profession which supports all surveyors regardless of their background or differences.

Most councils have declared a climate emergency and as property professionals, having new expectations in respect of advice on sustainability issues helps us in advising and acting in the most sustainable and effective way for our councils, residents and localities.

ADVERTISING IN ACES TERRIER

The Terrier is a good way to get your company known to public sector surveyors. ACES represents the chief estates officers and their staff, who are the property, strategic asset management and valuation professionals in public sector organisations throughout the UK. Membership includes the range of local authorities, the Government Office, fire, police and health authorities and the Valuation Office Agency.



	4 x The Terrier plus website	The Terrier single edition
Full page	£2300	£800
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BIODIVERSITY NET GAIN

What the emerging BNG market means for you

Kieron Gregson Kieron.Gregson@carterjonas.co.uk and Mark Russell Mark.Russell@carterjonas.co.uk

In the first of a series of articles in this issue of ACES' Terrier, Kieron and Mark outline BNG legislation. The Environment Act transforms biodiversity net gain from a concept to a mandatory requirement. How will it affect developers and landowners?

Kieron joined Carter Jonas' Planning Team in 2012 and is an Associate Partner with over 10 years' private-sector experience, working for a range of clients from individuals and small developers, to large institutional landowners. Kieron is adept at managing large multi-disciplinary project teams and this forms a common element of his day to day work.

Mark is a Partner at Carter Jonas with over 25 years of property experience in the rural and strategic development fields. He also leads the firm's Natural Capital group which is considering detailed products around biodiversity net gain, carbon trading and ESG related projects, as well as how current clients (both private and institutional) can maximise the environmental value of their landholdings.

In recent years, biodiversity net gain (BNG) has soared up the political agenda. The Environment Act 2021 obliges developers to demonstrate at least a 10% net gain in biodiversity for all sites they build.

The act will ensure the planning system supports and protects the natural environment. Planning applications in England will now be subject to pre-commencement conditions for developers. To fulfil these, they will need to assess the type and state of habitat at the site of the proposed scheme.

A planning condition attached to the permission then obliges them to submit plans to enhance biodiversity by at least 10%. These plans must result in a measurable improvement in biodiversity across the development and maintain it for at least 30 years.

Where a 10% increase cannot be achieved on site, developers can improve biodiversity on other land. Alternatively, they could pay for an improvement off site or buy statutory credits to pay for the creation of new habitats. The act states that enhancement schemes may be enforced through s106 obligations or conservation covenants.

Metrics and mechanisms

Biodiversity Metric 3.0 measures losses and gains resulting from development

and clarifies how landowners and developers measure the BNG units for the habitats they create. The biodiversity change is calculated by reference to the Biodiversity Metric, which uses a number of calculations to assess the biodiversity created by moving from one land use to another across a set area.

This update modifies and refines metric 2.0. Among other changes, it simplifies condition assessments and changes the way woodland and intertidal habitats are assessed. It adds sections allowing advanced or delayed creation or enhancement of habitats post-development, introduces a GIS integration data tool, and streamlines the process for calculating BNG on smaller sites. It also confirms that developments progressing under the former metric should continue to do so.

BS 8683, meanwhile, sets out requirements for designing and implementing BNG. While not covering the provision of BNG, it offers a framework to show that a project has followed UK-wide good practice from design to legacy.

The requirements in the Act, for developers to demonstrate at least a 10% net gain in biodiversity for all sites they build, will be phased in over a 2-year transition period. The move to a mandatory system should, in theory, provide a more



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streamlined and transparent approach. However, most developers, building owners and managers are still not sure how it will work in practice.

Although details are still emerging, biodiversity credits and conservation covenants will be central to the new system. The conservation covenants will ensure that the natural benefit in a BNG plan is secured on the relevant site, binding the land in an agreement indefinitely.

The act also sets a preference for biodiversity enhancement on the site itself. Therefore, developers planning off-site BNG need to show that on-site options have been exhausted.

How off-site BNG might work

Where on-site BNG is not possible or financially viable, developers could partner with farmers and landowners who have scope for off-site provision. A farmer might, for example, take land out of arable production and create woodland or a wildflower meadow.

Natural England is developing a register of land used for BNG. This public document will enable users to connect every site with the development to which it relates. As well as ensuring transparency, this will minimise the risk of the same parcel of land obtaining BNG credits for more than one scheme.

Where offsetting is not achievable through private agreements, the government will allow developers to pay into a central fund. This will be used to finance larger-scale, nationally important biodiversity projects.

To administer the new policy framework, local authorities will require specialist advice on ecology, biodiversity calculation, valuation, verification, and site management. Advice will likewise be needed on implementation options and

ongoing management. Trusted verification bodies, such as The Land Trust, will then be used to manage schemes over the 30-year period [Ed – see following articles on practical possibilities].

BNG: opportunities and considerations

Commercially, those who own and control land can benefit from the supply of biodiversity units. A range of bodies are expected to offer donor sites, including local authorities, wildlife trusts, farmers and private land and property owners.

Those who can provide such sites in a local plan period will be in a strong position to help developers offer off-site BNG. Sites could be designated for biodiversity net gain – similar to the process of land being designated as a Suitable Alternative Natural Greenspace, which is greenspace that is of a quality and type suitable for use as mitigation to offset the impact of new residential development.

Some schemes are already being pursued. For instance, agricultural land, and some areas alongside both road and rail infrastructure schemes, are being converted into a variety of parks, sustainable urban drainage systems, gardens and wildflower meadows.

As well as having a positive environmental impact, green spaces boost mental health and well-being. People living in towns and cities are therefore prepared to pay a premium to live near such spaces. Research by the Office for National Statistics in 2019 found that houses and flats within 100m of public green spaces are on average £2,500 more expensive than those more than 500m away. So perhaps even for developers looking to maximise profits, a development being green may actually increase values.

A more recent study from the Land Trust aimed to quantify on a national scale the value added to properties near the charity's sites. It finds that house prices are uplifted by an estimated £394 near trust-managed green space. Public support for nature also means many developers are aware of the reputational value of mitigating environmental damage, and of demonstrating how new schemes can enhance biodiversity.

However, mandatory BNG will invariably create complications and costs for developers, in terms of money and time. If the 10% uplift is to be achieved on site, this decision may affect the number of dwellings built which could even affect the feasibility of the schemes themselves. Off-site donor sites then need to be purchased or leased. Additional costs for maintenance and management or a reduction in the net area that can be developed will all have an impact.

In a rapidly changing market, and with so much detail still to be confirmed, it is not easy to know what to do now. Assessment of the development proposals against assets owned or planned will enable developers, landowners and land managers to consider the question of on-site or off-site viability at the outset.

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ACES

The Terrier

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Liz puts forward compelling arguments (if we needed them) for planting more trees, including estimating their financial value. She links her arguments to the Environment Act 2021 requirements, but believes the market isn't yet ready for 'sustainable capitalism'. However, Liz does present a case study which shows commitment is developing and outlines other developing initiatives.

CARBON SEQUESTRATION

The mathematics of trees and the cost of carbon sequestration

Liz Nicholson Liz@nicholsonsgb.com

Liz is a Director of Forest Canopy Foundation, alongside her role as Managing Director of Oxfordshire based landscape and forestry company Nicholsonsgb. Liz is working hard in the woodland creation and woodland restoration arena in an endeavour to mitigate climate change.

Trees are the skyscrapers of nature, sequestering carbon through photosynthesis to produce huge biomass towers up to 60m tall. As humans fight for land resource, we cannot ignore the massive three-dimensional opportunities offered by trees in the UK.

Only 10.1% of England is planted with trees against Europe's 35%. The government aims to plant 7,000 ha p.a. in England, where we currently plant just 2,000 ha p.a.

Why the interest in trees?

Trees are the BEST land use for carbon sequestration. On average, trees in lowland deciduous forests sequester 450 tonnes of CO₂e per ha over 100 years. No other land use comes close to this level of carbon capture. Despite lacking data on soil carbon in forests, estimates suggest that planting trees may also significantly increase soil carbon capture. For example, it is estimated that an additional 1.4 tonnes of CO₂e is sequestered p.a. when trees are planted on arable land.

Let's talk money and trees.

Carbon

The value of carbon in above ground biomass can range between £6,500 and £8,500 per ha over the first 30 years of tree

growth. An additional value of £1,900 per ha for the same growth period may be added if soil carbon is included in the equation (based on UKA carbon pricing).

Timber

We import £7.5bn of wood products into the UK against exports of £1.5bn. With a move to eco-building and sustainable materials, more wood will be used in construction as concrete and steel usage diminishes. This also provides a positive carbon substitution effect.

Ecosystems and Biodiversity

Following the enactment of the Environment Act 2021, there will be a mandatory requirement from 2023 for all development in England to demonstrate a 10% net gain in biodiversity. Under Natural England's Biodiversity metric (v3.0), it is likely that well designed and managed native broadleaved woodland could deliver in the region of 2.0 biodiversity credits per ha. The market for biodiversity offsets is still maturing, but with the value of biodiversity credits likely to be in the region of £10-15,000 per credit, this could offer further benefits of around £20,000 per ha, for new woodlands.

Air Filtration

In 2018, 1.3m tonnes of air pollutants were removed by nature – we estimate that trees

Cost of woodland creation

Income		Costs	
Grant – England Woodland Creation Offer (EWCO)	£8,800 per hectare	Project management, tree establishment and maintenance to year 30.	£24,000
EWCO Supplements – not always eligible	Up to £3,200 per hectare		
Carbon income at £19 per tonnes	£3,420 per hectare		
Total (max.)	£15,420	Total	£24,000
Project Shortfall	£8,580 (MIND THE GAP!)		

give a benefit of £1,800 per ha over 30 years based on healthcare costs avoided.

Water Volume

Water storage for flood prevention is expensive but woodlands can act as natural flood defences. It is estimated that UK woodlands can provide a flood prevention benefit worth £2,642 per ha.

Water Quality

Moving from intensive agriculture to no input forestry inevitably improves local water quality. As phosphates are extremely expensive to remove from water, it is easy to recognise the financial benefits.

Community Benefits

It is estimated that UK woodlands save £185m p.a. in mental health costs, which equates to £1,718 per ha over 30 years. Education benefits from woodland in East of England are estimated to be £1.23m p.a.

Landscape

Planting trees around developments can boost the value of houses in the area. It is estimated that this could be up to £226 per household p.a.

That's a lot of numbers and at Forest Canopy Foundation (FCF) we estimate the financial benefits of trees add up to more than £50,000 per ha planted over 30 years.

But who will pay?

Let's drill down to what is important – deciduous forests cost £24,000 per ha to

establish and maintain for 30 years in a lowland England context.

Carbon in woodlands is currently being traded at £19 per tonne through the Woodland Carbon Guarantee (WCaG) scheme.

The current financial situation for UK woodland creation is summarised in Table 1. Carbon is one of the few assets with a market structure. Assuming 180 tonnes of carbon is sequestered over 30 years, based on the Woodland Carbon Code (WCC), carbon prices need to be in excess of £67 per tonne to make projects viable. Therefore, the true cost to offset carbon in Lowland UK deciduous forests where trees are maintained, and squirrels controlled, is £60 – 80 per tonne based on today's grant structure.

The way forward

To achieve prices anything like these levels, the FCF is brokering deals with corporates which have an environmental, social and governance (ESG) focus. Carbon units are being sold as 'CANOPY CARBON' – carbon sequestered in a scheme providing a broad range of natural capital benefits.

We appear to be far from developing mechanisms to value all units of nature benefit; without putting a price tag on nature units, the human condition seems not to allow humanity to take responsibility for the damage we have caused.

I had a muddy New Year's Day walk with an investor, where I urged him to ask the boardrooms of all prospective companies about their detailed ESG commitments and carbon plans BEFORE he invested

- he was emphatic that the "market" is not ready for such chat. Nik Gowing of Thinking the Unthinkable endorsed this finding, signposting me to the case of the downfall of progressive CEO Emmanuel Faber by profit-led activist shareholders - the marketplace is not fully ready for sustainable capitalism.... yet.

There are glimmers of hope though and I would like to showcase a thought leading corporate which put ethics BEFORE profit and has led the way in this marketplace.

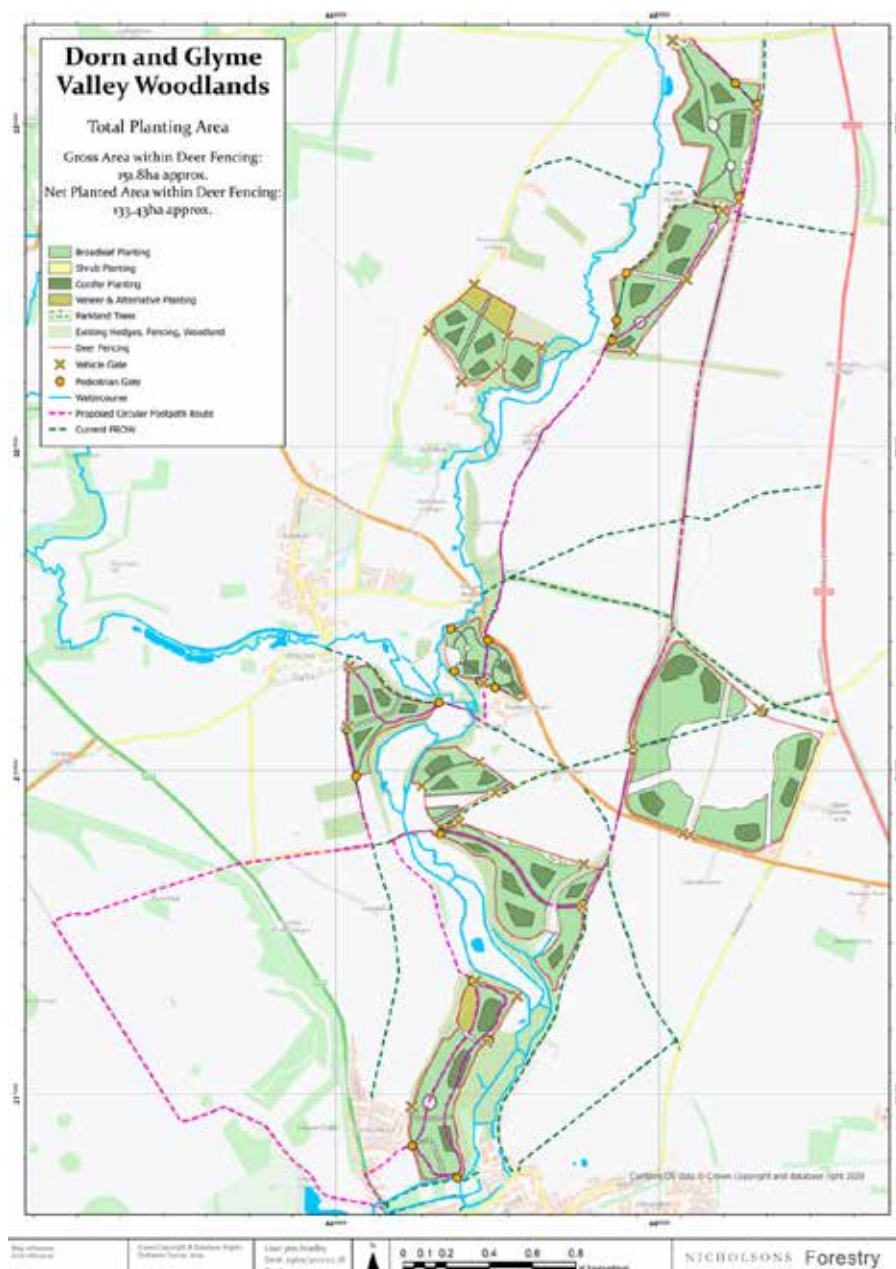
Project case study: Dorn and Glyme Valley Woodlands, Blenheim Estate

Blenheim Estate has committed poor arable land, most suited to forestry, to a scheme working in partnership with corporate investor Morgan Sindall Group. Morgan Sindall Group has invested in CANOPY CARBON under FCF giving a broader ambition, including a high level of specifically defined community engagement commitments, alongside sequestering over 22,000T of CO₂e.

The Scheme

- 135 ha of planting
- Planted on sloping Cotswold brash soils - grade 3b or poorer
- 9 woodlands
- 85% broadleaved trees.

The Benefits



- 22,000 tonnes of CO2 sequestered in the first 30 years
- Reduction in soil erosion into the Dorn and Glyme rivers, avoiding silting up the Blenheim Lake
- Reduced nitrate and phosphate inputs
- Reduced run off
- 15.5 km of new public access
- footpaths connecting with existing networks
- Increased connectivity, giving better wildlife corridors
- A mosaic of habitats within the designed woodland, enhancing biodiversity
- Significant soil carbon sequestration

- Reduced air pollution
- Connectivity to existing woodlands
- Enhanced amenity of the landscape in an extensive arable belt
- The development of a forest school site.

The Mechanism

The vehicle to bring these themes together is the not-for-profit Forest Canopy Foundation. FCF is a cooperation of 15 independent forestry companies, certified as Expert Providers, offering excellence in the delivery of woodland creation in the UK, from planting through to full establishment. The first step was to engage with Grown in Britain, with a clear purpose to offer a metric that could measure benefits in natural capital silos in the creation of new lowland woodland. This collection of benefits is called "canopy" woodland.

Grown in Britain is an independent verifier that audits the expert providers, the scheme, and the ongoing delivery.

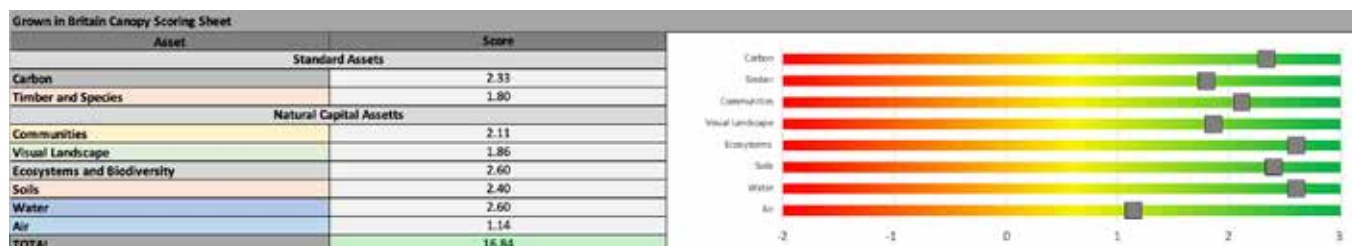
What is blended finance?

Blended finance attracts commercial capital for projects that contribute to sustainable development while providing financial or social returns to investors.

A Visionary Corporate

Morgan Sindall Group understands that landowners will not invest in schemes for nature recovery unless the maths are right. Prices under the current WCAG do not facilitate the change that is required. John Morgan, Chief Executive at Morgan Sindall Group, along with his Sustainability and Procurement Lead, Graham Edgell, were keen to invest in the UK where their emissions are produced. They respect that woodland creation, and most importantly, ongoing management to get the best results, costs more than the England Woodland Creation Offer grant and that the currently low carbon prices will facilitate.

Grown in Britain Canopy Metric





Why would a corporate invest?

Morgan Sindall Group has led on sustainable building practices by sharing data with the Carbon Disclosure Project to reduce its emissions as holistically as possible, only offsetting the unavoidable residual.

The company has chosen the UK to offset any residual tonnes, with the belief that you should offset and benefit the communities where the carbon is emitted. Morgan Sindall Group is one of the founding members of Grown in Britain, and firmly believes that we need to move to a space where we grow our own timber in the UK for the construction industries of the future.

Grown in Britain recognise the need for good silvicultural practice throughout the lifetime of the woodland. This includes weed control for early establishment, rabbit, deer and grey squirrel exclusion, and good thinning and silvicultural practices throughout the lifetime of the crop. Landowners who plant trees today are growing a timber crop, in conjunction with all the associated benefits that well-designed and established woodland are known to provide.

John Lockhart, chairman of Lockhart Garratt and Non-Executive Director on the Forest Service's Board, says: "It has been excellent to see FCF and the sector

working in close partnership with the Forestry Commission to bring forward such a flagship project. The combination of effective regulation, high quality design and implementation, landowner and investor support is leading the way in developing a model that can demonstrate the real opportunities for landowners keen to embrace environmental land use change as a business opportunity."

Future goals

This FCF pilot scheme is engaging in extended research to develop the natural capital marketplace, which includes:

- Monitor soil carbon before planting
- Monitor air quality throughout the Blenheim Estate and establish correlations with tree planting
- Monitor nitrates and phosphates in river water
- Drone monitoring of sequestered carbon as the trees grow
- Baseline studies of biodiversity to calibrate biodiversity net gain
- Exclusive use of plastic free shelters.

The commitment from the parties involved has facilitated a large scale agri-environment project that will open countless opportunities for others to follow in an uncertain market that is now more accessible.

Land opportunities

FCF recognises the importance of selecting optimal land parcels for woodland creation, taking nature connectivity, existing habitats, and land potential into account. The organisation firmly believes that our national food security is a priority, and they actively select parcels of land that are more marginal for food production. Much of this land historically has been propped up by European aid and with Brexit; the government is looking at a new infrastructure under the Environmental Land Management Scheme. This "waiting" while policy is developed is causing widespread stasis in landowner commitment to move into the natural capital space.

But we must not forget that there are many landowners in the UK that are not primarily farmers. One of the Directors of FCF, Justin Mumford, is Managing Director of land consultancy Lockhart Garratt in Northamptonshire. John Lockhart has

been working in collaboration with DEFRA to consider the opportunities offered by our large national vacant and derelict land (VDL) portfolio. This land categorisation, which encompasses operational and historic landfills, mineral sites and areas of restored land, is estimated to extend to more than 300,000 ha in England alone. Following research in continental Europe, we are learning new technical strategies for sealing off landfill, for example with a bio layer, which in turn will allow for tree establishment. Not only will this technique reduce the far more damaging methane emissions, but will allow tree planting projects for further above and below ground carbon sequestration. FCF is currently looking at 2 parcels of land under the VDL classification for tree establishment projects.

What of rewilding?

It seems an easy solution and the Knepp Estate has certainly developed a romantic and remarkable case study in Sussex. We have studied the carbon chapter of the rewilding story and have learned that we do better to plant and manage our woodlands

if carbon sequestration is the priority. For a model natural regeneration project, the WCC models predict the scheme will sequester 80.3 tonnes of CO₂ per ha by year 25. In contrast, a model artificial woodland creation project primarily composed of broadleaf trees with a small proportion of conifer, is predicted to sequester 194.8 tonnes of CO₂ over the same period. Carbon yields may be even higher if the proportion of productive conifer is increased. With mass imports, planting woodlands and maintaining existing woodlands gives us a golden opportunity to grow our own timber needs and create a sustainable future.

Who controls Biodiversity Net Gain funds?

Early suggestions that BNG funds which will be collected and distributed by planning departments of councils may allow us to facilitate spending these funds wisely in the woodland creation sector locally. FCF, certified by Grown in Britain to ensure rigour and quality, has national provision and would be able to secure woodland creation projects that respond to the needs of each planning authority. Provided that

it can be effectively integrated with grant funding and carbon income, at 1.5 BNG units per ha, this vital income, directed carefully into the forestry sector, would facilitate the planting of the ambitious government targets – result!

The 2017 UK Tree Charter following 800 years after Henry III Forest Charter pledges:

'Plant for the future. When we enjoy the company of a treasured tree or the beauty of a favourite wood, we often owe thanks to those with the foresight and confidence to invest in the future. We must show that same generosity of spirit, that same sense of hope for the future, and plant more now. Line streets with living greenery, let trees allow shifting colour into every life. More orchards for communities, more hedges for wildlife, more forests for timber and jobs. Nurture people's pride in their local trees and empower them to care for their future. Right tree, right place, bright future.'

Find out more
forestcanopyfoundation.co.uk ;
growninbritain.org



Alison is Fields in Trust's Policy Manager. Having worked for the organisation for the last 7 years, Alison's current role focuses on research about the value of green space to better inform policymaking, as well as overseeing our GIS data and insight activities. She led the commissioning, data analysis and report production for Fields in Trust's Revaluing Parks and Green Spaces research published in May 2018 and is responsible for the annual Green Space Index analysis. Alison previously worked in Sports Development for 2 London Boroughs, managing projects with a range of stakeholders and community groups.

URBAN GREEN SPACES

Urban green spaces – supporting people, places and planet

Alison McCann alison.mccann@fieldintrust.org

Alison last wrote in 2019 Spring Terrier about the 2018 research project to value parks and green spaces. Here she emphasises the continuing vital role urban green spaces make to health and wellbeing. "If these much-loved local assets are to continue to deliver so many advantages, they need to be recognised, resourced and protected for the long term." Alison outlines some recent initiatives for long-term protection.

There are few public assets that work as hard as parks. Urban green space contributes to prosperous placemaking, community health and wellbeing and local climate action. Yet parks and green spaces

are rarely fully funded for the outcomes they deliver; they are also unevenly distributed across the country and are often vulnerable to loss for building development. As we emerge from the pandemic, and reflect



on the outcomes of COP26, protecting the future of our parks and green spaces should be a priority. Locking in the multiple benefits that multifunctional green space delivers for everyone, forever.

Parks and the pandemic

Parks and green spaces, as one of the only places to provide respite from C-19 restrictions, saw significantly increased usage and a new recognition of their value to our communities. Google mobility data shows the use of parks and public green

spaces were significantly up on previous years during summer 2020 (1).

There has been much research into the health and wellbeing benefits of parks and green spaces in recent years – at Fields in Trust our own report “Revaluing Parks and Green Spaces” (2018) (2) [Ed – see 2019 Spring Terrier] pointed to £111m p.a. savings for the NHS based on fewer GP appointments by regular park users. The pandemic has seen a fundamental shift in how we live, work and interact.

As we gradually return to a revised version of normality, there are many elements of

our reframed lives that are likely to continue. Local green space was central to our collective health and wellbeing during the pandemic, providing opportunities not just to exercise and reflect but crucially providing local, shared spaces to meet with friends and family safely. Looking forward there are many new habits formed during the pandemic, such as the relocation of social interactions into local parks that should be actively encouraged, for example meeting friends for a coffee and a walk, or hosting children’s birthday parties. The shape of our working lives is not likely to entirely return to a pre-pandemic state and as we adopt hybrid models for the long-term; people working from home are more likely to visit a park or local green space than those who travel to work (1).

Subject of an LGA (3) case study into park use during the pandemic, Rugby Borough Council protects many of its green spaces with Fields in Trust securing their community use in perpetuity. It was just one of many councils reporting that visitor numbers increased significantly during the lockdown period, even within the limitations of government guidelines, with consequent additional expenditure through extra litter collections and maintenance. This all had to be delivered with a smaller staff team as some were deployed to other front-line services or were shielding and unable to work [Ed – see Chris Worman’s articles in previous issues of ACES’ Terrier].

Broomfield Park, Enfield



Wildflower meadow, Bathurst Park, Lydney



This “double-whammy” of increased park usage, combined with a loss of income from pitch hire, café revenue and public events is discussed in the APSE report “State of UK Public Parks” (2021) (4). Yet, despite significant pressure on green space budgets, there was an almost universal commitment to keep the parks open and continue to provide the best level of service possible. Local green space continues to contribute to physical health, mental wellbeing, community and environmental goals – but has not seen funding commensurate to the delivery of these outcomes. If these much-loved local assets are to continue to deliver so many advantages, they need to be recognised, resourced and protected for the long term.

Climate change mitigation

Following the 2021 COP26 conference in Glasgow, it is more important than ever to recognise the role of parks and the wider natural environment in boosting air quality, supporting biodiverse habitats and mitigating the effects of climate change – an urgent crisis to which our urban green infrastructure can contribute solutions. Local authorities are the largest owners of urban green spaces and can make the most difference to both people and planet through the protection of local green infrastructure. The Climate Change Committee (CCC) report to government, 2019 (5) identified a decline in urban green space between 2001 and 2018, from 63%

to 55% of urban areas. They also note that as well as concerns over the decline in the amount of urban green space, access is not equal across the population.

The most recent CCC report to government in 2021 (6) recommends that an urban green space target should be introduced by to reverse this decline, ensuring towns and cities are adapted to more frequent heatwaves in the future, and that the DEFRA 25-Year Plan goals are met. The new Environment Act (England) 2021 is extensive and while there is lots of detail still to be determined, the Act does allow for long-term improvement targets

to be set in respect of any matter which relates to the natural environment, or people’s enjoyment of it. Fields in Trust is advocating for planning and other policy decisions, including asset reviews and land management strategies, to take account of the long-term effect on climate change mitigation or adaptation.

Contributions to wider social policy

The forthcoming year will involve more urgent policy discussion around a broad range of topics including planning,

Some council partnerships

We are very keen to work with civic leadership who recognise the value of local green infrastructure and support councils to maximise the contributions of parks to a varied mix of social policy goals. So, we are thrilled to have secured commitments to protect significant numbers of green spaces in partnership with local authorities over the last year including:

Liverpool City Council - which has committed to protecting all its parks and green spaces, guaranteeing the benefits green spaces bring to the community’s health, wellbeing and environment, forever.

Wrexham County Borough Council - recognised the value of its green spaces to the environment and will work with us to project its 10 country parks as part of its Carbon Net-Zero journey.

The City of Edinburgh Council - will protect more parks to guarantee that most residents will always live within a 10-minute walk of a protected green space.

At Fields in Trust, we are keen to work with further local authority representatives to ensure that our precious parks and green space assets are protected in perpetuity - for the benefit of local people, our places and the future of the planet.



Protection plaque, Priory Park, Hornsey

levelling-up and environmental impact - each of these policy areas need good green infrastructure at their heart. There is, therefore, a clearly articulated purpose for planning, land-use and estate management that delivers health and wellbeing benefits for local communities, as well as embracing climate change mitigation. It will need to involve everyone and there will need to be new collaborations formed and recognition about the importance of locality, which in turn supports sustainable communities. Strategic planning of green space location and landscaping can make the most significant difference to people and the planet: multifunctional green space delivering multiple advantages.

We know through our work with the No Place Left Behind Commission (7) that access to public green space is one element in the levelling up agenda. The Commission's report explores ways to improve the physical, social and environmental fabric of places and our green space data contributed to the findings.

There is a strong network of park and green space volunteering. The pandemic saw both an increase in interest in volunteering – with furloughed and home-working people able to commit more time, but also a more challenging landscape to engage communities in volunteering, with public health regulations preventing some activities and events from continuing. "Our Future Proof Parks" project with Groundwork and the National Youth Agency is supporting Friends of Parks volunteers to engage young volunteers to get involved to take pride and care in their local

environment and grow the next generation of community green space volunteering.

Protecting parks and green spaces – for good

But all these advantages are potentially endangered if parks and green spaces are not protected and able to ensure a longer-term contribution to multiple policy agendas. Fields in Trust protects recreational space with the landowner using a unique legal instrument called a "Deed of Dedication" (or "Minute of Agreement" in Scotland). Ownership and management of the land remains with the local authority or town or parish council, and the Deed is registered with the Land Registry, to prevent disposal. The land is therefore protected in perpetuity.

There are several other forms of protection for recreational land, including covenants, town and village green registration, and the planning process. However, even if a space already has one of these on it, a Deed of Dedication will strengthen the protection. Crucially, a legal process can overturn covenants and the protection can be lost. The planning process is time-limited and may be subject to change with a new political administration. But once protected with Fields in Trust, that land (or in very rare occurrences a replacement space) is protected forever.

At Fields in Trust, we initiated our "ParkXtinction" campaign to draw attention to the vulnerability of parks and green spaces which can be lost to building development without statutory protection

or other legal safeguarding. Launched during COP26, the campaign highlights the environmental contribution of parks and green spaces, in particular their carbon capture. Our data indicates that Britain's parks and green spaces capture approximately 402,000 tonnes of carbon annually, the equivalent of taking 320,565 cars off the road every single year. Benefits that would be lost if these green spaces are not protected.

Notes

1. Google (2020) COVID-19 Community Mobility Reports, Natural England – Monitor of Engagement with the Natural Environment www.google.com/covid19/mobility/
2. Fields in Trust (2018) Revaluing Parks and Green Spaces: Measuring their economic and wellbeing value to individuals www.fieldsintrust.org/revaluing
3. Local Government Association (2021) Rugby Case Study www.local.gov.uk/case-studies/financial-impact-covid-19-parks-and-green-spaces-rugby-borough-council
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5. Climate Change Committee (2019) Reducing UK emissions – 2019 Progress Report to Parliament www.theccc.org.uk/publication/reducing-uk-emissions-2019-progress-report-to-parliament
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Mark is the founder and Director of Shared Assets, a think and do tank that supports the management of land for the common good. He currently acts as an advisor to Defra and the Charity Bank on civil society issues.

Kim is Research Coordinator at Shared Assets. Mark and Kim coordinate Shared Assets' research work, strategy and thinking about how we measure our impact as an organisation embedded in the wider movement for land justice.

Rob is Project Officer at Sustain and an action researcher. He coordinates the 'Fringe Farming' project supporting peri urban agroecology in the UK. He worked as a researcher on 'Urbanising in Place', an international project exploring the potential for an agroecological urbanism.

FRINGE FARMING

Not so fringe: supporting peri urban farming

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Here the authors talk about peri urban lands – defined as zones of transition from rural to urban land uses located between the outer limits of urban and regional centres and the rural environment. The Fringe Farming project described here shows how these areas can be of much wider benefit to us all.

As recently as 50 years ago, market gardens ringed many UK cities, providing employment and fresh produce, making the most of productive soils and easy access to markets and labour. London's Lea Valley alone accounted for over 50% of the value of all English agricultural production in the 1930s, and in the 1950s was home to 1,300 acres of glasshouses producing high value perishable crops close to the populations that needed them.

Today our peri urban landscapes are dominated by housing, retail and leisure uses, our greenbelts are increasingly unproductive, and a centralised food system dominated by supermarkets means that farms and food businesses on the edge of urban areas are increasingly rare.

The Fringe Farming project led by Sustain, Shared Assets and the Landworkers' Alliance aims to reverse this trend by removing the barriers to the establishment of more peri urban farms, so delivering multiple social, ecological and economic benefits to local communities.

The project has worked with local food and farming partnerships in Bristol (Bristol Food Producers), Glasgow (Glasgow Community Food Network), London (Capital Growth), and Sheffield (SheffFood). Together we produced a series of city-specific action-planning events, place-based research, and policy briefings, alongside national-wide

practitioner forums, to co-create practical solutions and policy recommendations for taking action in the coming years, to increase the amount of food we grow on the urban fringe.

We have focussed on creating new opportunities for, and supporting the development of, agroecological farming. Agroecology takes an integrated and holistic approach to producing food, where ecological and social principles underpin regenerative systems that work to meet every person's right to access and produce healthy and culturally appropriate foods.

City projects

Each of the cities we have worked with on the project has existing examples of great practice that are ripe for expansion and replication:

Wash House Garden, Glasgow

In Glasgow, the Wash House Garden is an organic market garden and basketry workshop. They grow fresh local produce in their gardens that is then distributed to the community via their veg box delivery service. They also run workshops for locals to come to the farm and learn how to forage, identify edible plants, and how to cook with them, and aim to engage the

Wash House Gardens



community by providing nutritious food as well as teaching them the history behind agriculture.

Grow Wilder, Bristol

Grow Wilder is a 6-acre wildlife gardening hub, run by Avon Wildlife Trust, on Bristol City Council land. A range of innovative community food growing businesses are located onsite, and training courses, volunteering opportunities and seasonal celebrations help the wider community engage with growing and the environment.

Regather Farm, Sheffield

In Sheffield, Regather Farm is developing a 15-acre site to establish a market garden, orchard, polytunnels, beehives and an agroforestry project, and sell organic fruit and veg boxes across the city. They see the farm as part of a bigger effort to transform the local food system and make it more sustainable. Volunteering opportunities will soon be available at the farm, so more people can connect with the land and where their food comes from.

Organic Lea, London

Organic Lea is a workers' cooperative growing food on the edge of London. They have a veg box scheme, offer practical support to local community groups and schools which want to start growing food, and run a number of different accredited courses and traineeships on horticulture and other land-based skills. They have used the Farm Carbon Calculator toolkit to show their activities result in over 11 tonnes of carbon sequestration annually, largely as a result of their work to improve the quality of the soil on site.

Each of these projects, and many more across the country, demonstrate how the systematic approach of agroecological farming creates multiple social and ecological benefits in peri urban areas. These include:

- Increasing access to regionally produced, nutritious, culturally appropriate foods
- Generating goods and services that are locally traded supporting community wealth-building
- Securing new investment in the land and assets through grants, loans, community shares and crowdfunding for capital improvements
- Providing jobs and training in a regional economy
- Offering access to green space, outdoor learning and nature connection in urban environments
- Supporting community development through community-owned and managed resources, events, and volunteering
- Creating opportunities to develop the circular economy by diverting organic waste to composting
- Sequestering carbon through farming approaches that work with natural cycles and build healthy soils, creating 'carbon-sinks' and helping retain rainwater and mitigate against surface water flooding
- Increasing biodiversity through companion planting and integration into agro-forestry and edible woodlands.

These benefits and public goods can support local, regional, and national



government to meet existing targets on climate change and biodiversity by using regenerative farming methods. They support a green economic transition by creating new training opportunities, new green jobs and collaborative economies that connect the urban and the rural, and support a resilient Covid recovery, by creating reliable short supply chains and developing new community hubs and green spaces providing health and wellbeing activities, and opportunities for nature connection.

In each city we have worked with local stakeholders, including representatives from local and regional government, to co-create action plans to support existing peri urban farming initiatives and create opportunities for expanding farming in the urban fringe.

In January we will be publishing a report setting out our learning and recommendations from the first year of this work. These include a number of policy recommendations for national and local government.

National policy

There is much that government could do to help, and ideas are outlined in the next paragraphs.

Small farms (less than 5 hectares) should be eligible to access the new Environmental Land Management Schemes (ELMS) so that peri urban agroecological growers can receive payments from the production of public goods.

Provision of start-up grants for new entrants, to provide assistance with capital costs and revenue support. This could be through blended finance as peri urban agroecological farms are well placed to be able to repay loan finance, as well as benefit from non-repayable grants.

Protecting peri urban land that has Grade 1 or Grade 2 soils to prevent development and enable their retention for food growing.

Support the expansion of council owned farmlands and growth of land trust arrangements, where the government provides long term and low interest loans to agroecological land trusts to purchase land.

Local authority policy

There is much that councils could do to help, and ideas are outlined in the next paragraphs.

Food strategies need to focus on production as well as consumption and diet. They should be informed by collaborative mapping of local food cultures and heritage, aiming to ensure land, resources and training are equitably distributed, to promote production of foods that are culturally appropriate to local communities.

Planning regulations should be changed to include a specific category for community gardens, smallholdings and agroecological growing sites, to ensure they are protected in the same way that high value natural habitats are.

Increase the supply of land available for agroecology in urban fringes by reviewing

the use of existing public farmland and considering converting underused golf courses, bowling greens, plant nurseries or vacant land etc – provide at low cost for community food enterprises in acknowledgement of wider social, economic and environmental benefits.

An emphasis on equitable opportunities and leadership in food and farming should run through all local authority food strategies and actions, including access to land, infrastructure, routes to market, and training.

A further key issue hampering local food growers accessing land for local food growing is the lack of practical, useful, consistent and accessible information about council land holdings.

The Fringe Farming project has received for a second year funding from Farming The Future, which will focus on working with each city to implement the action plans developed during 2021. It will also include events to share the learning with other towns and cities which have not participated in the work to date.

To get updates about the publication of the first year report and any future Fringe Farming events sign up to the Shared Assets newsletter at www.sharedassets.org.uk/contact or the Sustain newsletter and www.sustainweb.org/email/



STEWARDSHIP AND PLACEMAKING

Stewardship-led regeneration and placemaking: the key to levelling up

Gail Mayhew gailmayhew@hotmail.com

Gail, Managing Director of FuturePlaces, is a place making and property consultant and was appointed as Commissioner on the Building Better, Building Beautiful Commission in January 2019.

She is a member of the New Anglia LEP Building Growth Group and was on the board of ADAPT at the UEA. She advises Urban Catalyst on its Purfleet Town Centre project to build out a new high street, a creative industries district including TV/film studios and 2,800 new homes, and advises clients across the public, voluntary and private sectors on place making, regeneration and high streets.

She is the co-author of the RIBA Future Places Report and is a Design Council Built Environment Expert advisor. She worked on the corporate strategy team at English Partnerships, and previously with Charterhouse Estates, DEGW, Morgan Grenfell Lawrie, The Burrell Company and Ove Arup.

In my own little way of publicising alternatives to the to mainstream development, Gail introduces a new initiative – FuturePlaces - working with a council on a project to drive stewardship-led regeneration on a number of sites. I hope to follow this project as it develops. Gail invites other local authorities to follow this stewardship lead.

Regeneration is high on the agenda of local authorities across the country. As the economy recalibrates post-lockdown, it is clear that the challenge of levelling up is a shared one: in some places focussed on bringing new economic opportunity and infrastructure to left behind places, and in others to maximise their 'place potential' to serve a new economic geography emerging across the UK, with digital working here to stay and quality of life becoming an ever greater driver of business and individual locational choices.

FuturePlaces is a new placemaking company created by Bournemouth, Christchurch and Poole (BCP) Council, driving stewardship-led regeneration to bring a new impetus to delivering essential infrastructure, public realm and design quality to developments across the conurbation. Set up to engage with the local and national development and investor community in new ways, we also look forward to accelerating delivery and leveraging investment to support our vision for BCP as an outstanding south coast 'city by the sea'.

The stewardship approach

The stewardship approach puts placemaking and social value at the heart of the development and investment process. Through adopting robust and ambitious placemaking and design quality standards, a patient approach to returns on land value, married with the attraction of long-term investment, greater financial value can

also be secured in the medium/long run. BCP is leading the way in demonstrating how a public sector entity can adapt the stewardship ethos to the regeneration and placemaking context to secure a range of social, environmental and quality of life benefits, in addition to financial returns, and therefore demonstrating value for money in the broad sense.

Through shifting the emphasis from value extraction in the short term, to value creation – economic, social, and environmental – the FuturePlaces' approach aims to show how ESG requirements can be met at the whole place level of scale. This is becoming increasingly important as investment funds shift towards the adoption of green and social value criteria in investment decision making and should not be limited just to the greening of the fabric of building stock and road design. FuturePlaces is working with Knight Frank to demonstrate how the adoption of a stewardship model and longer term patient capital approach can provide value for money, which in turn can yield both better returns overall and support place making and design quality, and the delivery of a more sustainable mixed use urban footprint (see ref at end), which has been supported by evidenced based financial appraisals. We are adopting the Stewardship Kitemark (www.stewardship-initiative.com/initiative) on a pilot basis across our projects to test this as a standard for ESG compliant placemaking [Ed – see also articles in 2020 Spring & Winter ACES'Terriers].

Based on historic precedents which helped deliver some of the most popular historic inner urban areas around the UK, the stewardship approach has begun to be adopted by many greenfield land interests. BCP is in the forefront of applying this emerging approach to the municipal context, to help unlock transformational developments and stalled sites across the conurbation. This is levelling up in the widest sense and as such, it is a process which lies at the centre of our plans for Bournemouth, Christchurch and Poole.

The portfolio

FuturePlaces' initial portfolio consists of 14 significant regeneration sites with a combined gross development value in excess of £2.8bn, encompassing community assets, leisure, retail, public realm, hospitality infrastructure, and importantly, new homes. A critical issue at BCP will be finding new mechanisms to close the affordability gap in a location where there is increasing pressure on price through

post C-19 inward migration, and securing investment into economically driven development to secure new jobs, business investment and growth, to deliver new opportunities for people and businesses and close the opportunity gap.

The stewardship-led approach

The stewardship-led approach we are taking needn't be limited to here on the south coast. Harnessing the power of local communities with the commitment of the local authority to secure genuinely regenerative development, coupled with patient investment to deliver ambitious, high quality places, can be extended to other local authorities to drive positive change nationally. Adopted more widely, this approach could be a crucial factor in the government's levelling up agenda, which is bold in its stated ambition, but which needs actions and clear cut mechanisms to match the intent - if it is not to become just another political slogan that failed to be acted on.

At the heart of the stewardship proposition is a challenge to align interests at the earliest stage. In other walks of life, we can see that where clear goals and the ambition to achieve them are shared, almost anything becomes achievable. The levelling up agenda throws down a gauntlet to the property industry to consider how it can meet the goal set by government on one hand, and by communities on the other, to make better places around the UK to the benefit of all. In creating FuturePlaces, BCP has recognised the role that local authorities can play in bringing a new alignment of interests together.

BCP FuturePlaces can be an example for what can be achieved to build back better elsewhere. Others should follow www.bcpfutureplaces.co.uk.

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Alexandra is Head of Public Sector and a Partner at Carter Jonas, and a member of the Commercial Board. She has a long history of public sector property consultancy and leads the Consultancy & Strategy team, where she provides strategic advice to both public and private sector clients, focusing on the delivery of solutions to business needs through estate change.

Alexandra undertakes option appraisals, financial modelling, estate strategies, property asset management plans and the preparation and delivery of HM Treasury Green Book compliance Business Cases for a range of clients, the majority of which are within the public sector. Over the past few years, she has also worked on various joint venture development procurement projects for local authority clients.

TOWN CENTRE REGENERATION

Could public sector services revolutionise regeneration?

Alexandra Houghton Alexandra.Houghton@carterjonas.co.uk

Alexandra suggests there are many opportunities for local authorities to be at the forefront of diversifying services in town centres. "What this big idea needs is an organisation to take the lead, with a vested interest in bringing town centres back to life: the local authority."

Changes in the commercial market over recent years, particularly in the retail and office sectors, have been well documented. The loss of anchor tenants and a structural shift in the way we shop, with nearly 30% of retail transactions now taking place online, continue to make a mark. In the office sphere, survey evidence suggests there could be a five-fold increase in flexible

working by 2025, compared with pre-pandemic levels. This move to increased hybrid and remote working models means that, for some businesses, offices are becoming a positive choice, not a necessity, with overall demand for offices expected to decrease as a consequence.

While this decline will be partly mitigated by employment growth and perhaps

the impact of the Levelling Up agenda, with increased funding announced in the Budget, the focus is undoubtedly turning to quality: space for collaboration, communication and health and wellbeing being central components.

These changes are having a fundamental impact on our high streets and towns - with the loss of footfall a key issue. However, where there is change, there is opportunity.

Some initiatives are focusing on the health sector having more of a presence in urban centres – the premise being around high levels of demand for healthcare, and a significant oversupply of retail units [Ed – see conference summary and full article in 2021 Autumn Terrier]. But why should the healthcare sector lead the charge? Could local authorities now step in and make a difference; could they be the centrepiece, while also delivering services in a different, more effective way?

The concept of service delivery ‘all under one roof’ is not new. There are the obvious civic services that local authorities provide, but they are also instrumental in delivering community provisions, libraries, leisure, health, social care, and the need to meet housing targets. Why couldn’t these be consolidated into multifunctional space alongside the health sector in urban locations? This would represent localism at

its best. There will always be examples of where the campus-style ‘county hall’ model works, but often this is not located in the heart of the community.

There is also a fundamental shift in how the public sector delivers services. They are becoming more streamlined and efficient, primarily due to financial pressures, but also increased demand. There is a need to change, and this presents an opportunity to be at the centre of the regeneration agenda.

The first step is to undertake a service-led review – the difficult bit – to understand who can occupy with whom and which services will benefit from town centre locations, because it might not work for everyone. There are, of course, complexities around separate tiers of government providing different services, but a unitary model lends itself well to this initiative, and One Public Estate projects prove that it can work.

There will always be a motive to move: a piecemeal estate perhaps, assets in the wrong locations, poor quality space, or the possibility to raise a capital receipt and generate revenue savings. Operational services co-locating can have its challenges, but a service-led review can start to unlock it.

Local authorities often own land or sites in strategic locations which are

increasingly important to regeneration and renewal. Our sense in the market is that deals are being agreed at more realistic levels than previously, so town centre sites are becoming viable and the low borrowing rates (for now) may lead to potential opportunities for acquisition – if the business case stacks up. Significant due diligence is needed and even in stronger markets, piecing together these strategies in town centres has been lengthy and complex – not least due to the patchwork of ownerships.

Surely though local authorities – or even wider public sector service delivery hubs – can become an effective anchor for a scheme, while also delivering services more effectively through collaboration, integration and modernisation – putting the public at the centre of that experience.

What this big idea needs is an organisation to take the lead, with a vested interest in bringing town centres back to life: the local authority. The need for change in service provision, the need for change in town centres and the need for us to keep up with the changing way we live and work, creates a compelling opportunity for the public sector to be at the centre of the regeneration agenda.



Clare is a director in the Savills commercial research team and has written extensively on themes within the regional office markets. She has written articles looking at the key ingredients to a happy and productive workplace, as well as pieces on themes such as wellness diversity and flexible working. She also presents at a number of industry events.

AFFORDABLE WORKSPACE

A solution, not a problem

Clare Bailey CBailey@savills.com

Clare here proposes that councils need to step in, both through their planning and estates roles, to make available affordable workspaces at low or no rents to entrepreneurs. Some case studies of London boroughs lead the way.

Providing affordable and interesting workspaces is crucial to ensuring that cities such as London are at the forefront of the tech and creative industries, and therefore a draw for national and international talent.

With small and medium-sized enterprises leading much of London’s future innovation and enterprise, the availability of affordable workspaces is key. However, in order for this

to be achieved, local authorities need to step up and act as catalysts for change. The past 5 years have seen a growing number of local authorities introduce affordable workspace policies in some form, these mostly being aimed at securing subsidised premises from major office schemes (see map). However, affordable workspace operators cannot always afford to take on

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space in new buildings, even at reduced rents. The rent reduction is not enough to offset the increased costs associated with occupying a new building, especially business rates, service charge and upfront Category B fit-out costs. What is left is a sizeable 'affordability gap' between the rent a developer needs to maintain overall viability and what an affordable workspace operator can afford.

With affordable workspace often defined as workspace that has a rental value below the market rate, generally 80% of the market rate or less, the costs are often still too high for start-ups and micro and small businesses, which are often operating on miniature budgets. New-build commercial space is not always the right fit in the effort to create affordable workspace. While well intended, affordable workspace policies may inadvertently mean that even less supply comes forward, as the policy requirements depress office scheme values, further reducing viability when competing with residential proposals. In

fact, no single organisation can achieve the creation of affordable workspaces on its own. The creation of such spaces requires joined-up thinking and a willingness to work together. Councils need to collaborate with local businesses, business associations and workspace providers to identify the businesses that will be key occupiers for the affordable workspace.

More buildings are constantly being built to meet demand, yet we are not using our existing building stock to its full potential. What if we take these existing buildings and re-evaluate how they are used, ensuring they are used to their full potential? Local authorities are uniquely placed to act where the market cannot or will not provide the right types of workspace. There are obvious benefits to local authorities taking this approach – it is a low-risk way to encourage job creation that can tie into wider regeneration strategies, while bringing in revenue and engaging with small businesses. If offering space rent-free, councils often expect providers to renovate

properties or commit to social goals such as training or community engagement.

As local authorities take on a more active role in development through joint ventures and development vehicles, they are also looking at other ways to get the best value from their assets, and this includes underused council owned properties such as offices and libraries. In most cases, local authorities act only as landlords, commissioning operators to manage the workspaces. If local councils are serious about responding to the climate emergency, they should update their policies to prevent the demolition of buildings that, with some creativity, can still be used productively.

Generating long-term economic value by unlocking underused and often dilapidated existing space and using a wider variety of existing commercial buildings is a viable alternative. In London alone, there is an estimated 6.5m sq m (70m sq ft) of otherwise empty space which could be used in this way. Essentially, we need

Principal Place



proactive local authorities that recognise existing resources and create mechanisms to support new programmes, which will have a direct impact on the local area and job creation post-pandemic.

Peppercorn rents pave the way for change

Islington Council has a unique approach, using the planning process to help prevent an 'affordability gap'. Through its policy, the council negotiates with developers to provide affordable workspace at a 'peppercorn' rent for a minimum of 10 years, and sometimes in perpetuity. The provision of these spaces is secured through a s106 agreement with the developer. The council then appoints an affordable workspace operator to deliver a series of well defined social value outputs instead of paying rent. This includes activities such as: business mentoring in the wider local area; apprenticeships; employability programmes for local residents, especially

for women, Black, Asian and minority ethnic communities, and residents with disabilities; business support; developing local supply chains; provision of childcare; and community engagement. This ensures that local people, businesses and communities benefit centrally from this investment.

Islington council has already secured nearly 4,000 sq m (40,000 sq ft) of affordable workspace in commercial developments, predominantly in the south of the borough, which will be let to local entrepreneurs and start-ups at genuinely affordable rents.

Plough Yard, part of the wider Principal Place development in Shoreditch, and home to Amazon's UK headquarters, will be leased to Hackney Council at a peppercorn rent until 2045, with an additional £100,000 developer contribution towards fitting it out. The agreement is part of the council's mission to make Hackney's economy open, accessible and inclusive. To achieve this, the council intervenes to ensure that new developments benefit the borough's

existing residents and businesses and that Hackney remains the creative heart of London, enabling businesses to start up and set up alongside larger businesses. It is planned that the building will also host monthly council-run Hackney Business Network events.

Developers should also work closely with the right provider from early on in the development process, to ensure the space is of a suitable size, location and standard for their needs. Developers should build on the local economic fabric to make sure the space is successful. Islington Council, for example, has chosen Outlandish, a digital agency that builds tools for positive social impact, to run Space4 in Fonthill Road, Finsbury Park, where a new generation of tech co-ops will contribute social value by hiring and training people from the area.



Nigel is a Partner in the Public Sector team at Knight Frank and has 20 years' experience working with public sector bodies to establish and deliver PFI contracts.

PFI EXPIRIES

There is no time like the present to plan for your PFI expiry

Nigel Badham Nigel.Badham@knightfrank.com

With the first PFI contracts now starting to expire, and another 196 due to end by 2030, Nigel explains why this is the best time for public authorities to start considering their exit strategy. As these contracts begin to expire, there is no person better placed to offer advice and guidance on the best estate strategy for the years ahead. "Ultimately, PFI expiry without an adequate plan in place presents a significant risk to the continued delivery of public services and value for money."

The UK's Private Finance Initiative (PFI) programme was launched in 1992 by John Major, and was expanded significantly by the Blair Government some years later. This procurement policy was aimed at

creating partnerships between the public and private sectors, whereby private firms were contracted to design, build, finance, manage and maintain public facilities and infrastructure over a long-term concession.

Since the scheme's launch, over 700 major public sector projects have been delivered – which together have a combined capital value of £57bn. Despite this, the programme has been highly controversial. So much so that in October 2018, the then Chancellor Philip Hammond confirmed that the government would no longer use PFI contracts to fund public sector projects.

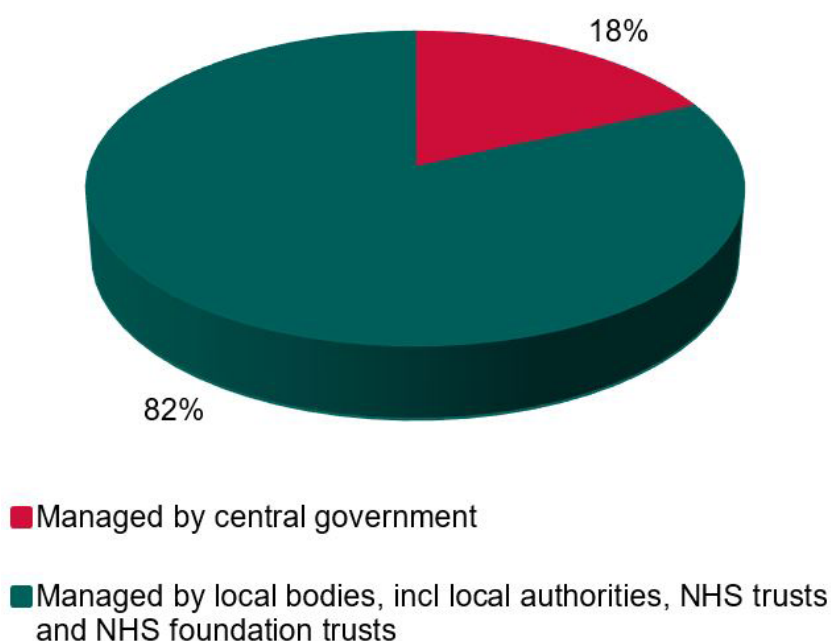
However, with most contracts lasting a minimum of 25-30 years, early PFI projects are only now beginning to reach their expiry date, while many more schemes will continue to operate for years to come.

What are the risks?

In April 2021 Sir Robert Naylor, who was the Chief Executive of University College London Hospitals NHS Foundation Trust until September 2016, told the Health Service Journal that some NHS trusts risked sleepwalking into costly disputes with PFI providers as these contracts begin to expire. Other public services such as acute and social care facilities, libraries, prisons, courts, schools and leisure facilities all face similar risks.

Only 18% of PFI projects are managed by central government, while 82% of the

Central/local split



Source: Extracted from 'HMT Current Projects as at 31 March 2018'

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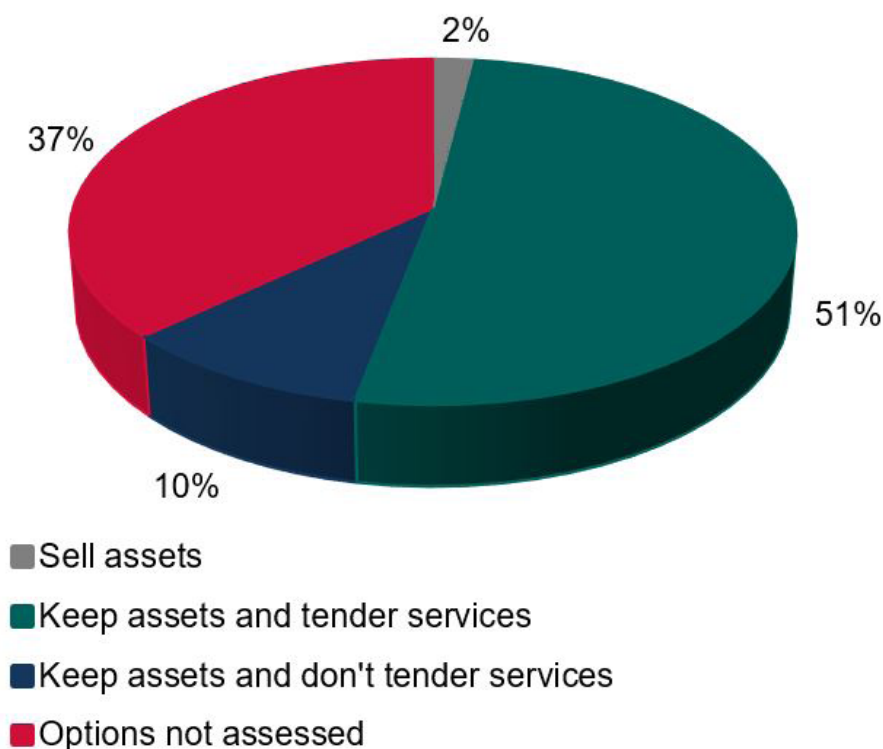
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Expected treatment by public bodies of assets and services post-expiry



Source: Public Finance article 8th June 2021

projects fall under the control of local bodies – including the likes of public authorities and NHS trusts. The issue with this is that central government departments, which are very familiar with handling big and complex contracts, will easily be able to scale up and manage the process at expiry of the PFI contract.

For the other 82% of projects managed by local bodies, however, the picture looks very different.

Some may not even be aware that assets within their estates are currently managed under PFI contracts. Indeed, in a recent survey by the National Audit Office (NAO) about the expected treatment by public bodies of assets and services post-PFI contract expiry, 37% of respondents said they had not yet assessed or considered their options – one possible reason being because they were not aware they had a scheme currently managed under a PFI contract. Regardless of this, it is unlikely that many will have the resources or necessary experience available at a local level to understand and manage the process of expiry.

If a PFI contract is allowed to expire

without adequate preparation well in advance of the expiry date, there is a significant risk the public may fail to receive vital services for a period of time.

Local bodies might find they are handed back a property that may no longer be required, is outdated or is in poor condition, which will require significant amounts of money and resource to be maintained.

The other risk is that the services that are associated with maintaining and managing these buildings cease to be delivered on the day of expiry. PFIs typically include the delivery of multiple services, from planned and reactive maintenance, helpdesk support, catering, pest control, security, cleaning, grounds maintenance and waste management, to utilities procurement, insurance, health and safety and energy management. Without these vital services, buildings such as hospitals and schools would be unable to function.

Ultimately, PFI expiry without an adequate plan in place presents a significant risk to the continued delivery of public services and value for money.

How do I prepare for a PFI expiry?

In the Infrastructure Projects Authority's (IPAs) 'Expiry Health Learnings Report', it says: "PFI contracts provide significant public services including schools, hospitals, social care services, waste services, roads, housing, prisons and military capabilities. As such, it is vital that these contracts are effectively managed through their life to ensure the public gets the services they need and for which they are paying. This is equally important at expiry where significant value can be protected through effective expiry management."

Because of the risks involved if PFI schemes go unchecked, the IPA and NAO now require all contracts to receive a 'PFI Health Check' 7, 5 and 3 years ahead of expiry – to establish the project's readiness for expiry and to provide advice to the authority on how to improve readiness. The health check involves a review by the IPA of key project documentation and a structured interview with the contracting authority.

In December 2022, the IPA published its initial analysis of the first 52 PFI Expiry Health Checks completed in 2021/22 (this equates to about 70% of the projects expiring between 2021 to 2027). The IPA rated the projects on a red/amber/green basis, depending on the project's readiness for expiry. Worryingly, 19 of the 21 projects expiring before the end of 2024 were rated amber or red.

There are currently 196 PFI contracts due to expire between 2022 and 2030 – all will need similar health checks and a proper strategy put in place to determine how and by whom the assets are managed and maintained after expiry.

What is the right strategy?

A forward-looking estate strategy should be one of the key determining factors in deciding how to proceed; several important questions will need to be answered to determine this strategy. Firstly, is the asset still required to deliver the services? Many of these assets were built and delivered several decades ago, and the way public authorities provide services to local people may have changed drastically in that time. This leads on to the second question: does the asset meet current and future requirements? Could there be an opportunity for the authority to raise capital on the asset? And finally, if the asset is being transferred back into local control, does it meet the 'Handback Criteria'?

Is the asset required?

Addressing each of these questions in turn, I'll firstly look at how we determine whether the asset is required to deliver the services post-expiry. Delivery models have changed dramatically over the 25-30 years since these facilities were designed and built, and the way they are now used has changed significantly – something that has only been accelerated by the recent pandemic.

As an example, services such as GP appointments are now frequently carried out remotely using voice or video links, calling into question the need for large primary care facilities. This assessment needs to be part of a wider estate strategy review and plan and can involve other local public sector bodies, for example, using the One Public Estate approach.

Our Geospatial team can carry out complex mapping of localities across the UK, to determine how services are being used by various demographics. If the asset is no longer required post-PFI expiry, options appraisals can help public authorities understand and consider their options. This includes redevelopment, disposal or leasing to a third party – all of which could provide income generation.

Does the asset meet current and future requirements?

This leads on to the second question: if the asset is required, does it meet current and future requirements? This can include suitability of floor plans and layouts, technology and energy efficiency and how the asset fits into a wider zero carbon agenda. For example, under the contract the private sector partner may be obliged to replace an existing gas boiler on a like-for-like basis. However, it makes sense to use that budget to take the opportunity to replace with a more environmentally friendly system, such as air-source heat pumps.

There may well be an opportunity for the authority to raise capital and generate revenue on these assets. Developing a lease/leaseback structure to release up front premium in exchange for a longer term lease on the asset could be one option. Arranging leasing deals with third party occupiers, deal structuring and fund raising can all also be provided at this stage.

A business case can be developed for all of these options to help inform the wider strategic estate plan. Asset surveys will also play a part in understanding if a major



reconfiguration is needed, and if there are more cost-effective alternatives. Equipment and technology will be analysed to ensure it is up to date, and the asset will be reviewed to ensure it is compatible with the public authority's low or zero-carbon agenda. If upgrades are needed, such as installing air source heat pumps and electric car charging points, funding options can be provided to help inform the strategy.

Does the asset meet 'Handback Criteria'?

If the asset is being transferred back into public authority control, it must meet the 'Handback Criteria'. When a PFI contract was signed 25-30 years prior, it would have stipulated the condition the asset needed to be in at the time of expiry. Early schemes were not as rigorous in their detail on this point compared to later schemes, meaning PFI expiries occurring over the next 5 years will require a lot of negotiation. We can support by liaising with legal advisors to review the contract documents and carry out condition surveys of the assets – which will include reviewing and reporting back on maintenance records and annual plans, warranties, and lifecycle cost plans. If the facility does not meet the Handback Criteria, we can support with the procurement of rectification works.

Once the Handback Criteria is met and the asset comes back into the control of the public authority, they can choose to manage and maintain the building themselves, or procure a private sector organisation (or organisations) to manage and maintain the building under a new facilities management contract. This procurement process can be lengthy, involving drafting and negotiating contract documentation, agreeing scopes, budgeting, condition surveys, General

Data Regulation Protection and Transfer of Undertakings Protection of Employment considerations.

Failure to allow enough time to plan for either of these scenarios could result in the public sector having to extend the existing PFI contract while a longer-term solution is found – a short-term solution that would not provide value for money.

What happens next?

Helping local bodies assess their needs and prepare for their PFI expiries will require a range of experts across several different specialisms. Knight Frank's in-house multi-disciplinary team can offer much of what has been explained in this article – from reviewing contracts and carrying out a health check on the asset, to providing advice about redevelopment, capital raising and revenue generation, as well as post-handback support. For specialist legal, technical and financial services, Knight Frank has created a collective of trusted, external advisors that provides public authorities with a "one-stop-shop" when it comes to managing their PFI expiry, and takes the hassle out of planning for the future.

With 196 PFI contracts due to expire by 2030, and many local bodies unaware that there are PFI-managed assets currently within their estate, there is no better time to start considering your exit strategy.

With proper planning and a solid estate strategy in place for the years to come, local bodies will be able seamlessly to deliver essential public services and perhaps even discover they are able to turn their PFI-managed schemes into successful capital-raising or income-generating assets that will deliver long-term commercial opportunities for years to come.



VIABILITY AND INFRASTRUCTURE LEVY

Reform of the planning system – A necessity?

Andrew Jones andrew@bps-surveyors.co.uk

Andrew outlines the considerable weaknesses with the current system of viability appraisals, including resourcing, training and education. But is the proposed new system of a fixed Infrastructure Levy the answer? Andrew tests his theories with empirical data taken from BPS' own case studies, and suggests strongly that "any levy and threshold combination would inevitably result in lost housing, with the biggest loss being in affordable housing delivery."

Andrew is a chartered surveyor with almost 30 years' post qualification experience and has worked extensively with a wide range of public bodies, government agencies and local authorities. He is a member of DLUHC's Expert Panel advising on changes to the NPPF and PPG in respect of viability.

He founded BPS in 1999 and the company now provides development viability advice for more than half of London's boroughs and a further 20 unitary, district and borough councils. Andrew's background is in development and some of the company's early clients included several of the major housebuilders. However, to ensure an impartial position, BPS no longer works for developers.

BPS' geographical coverage extends over much of south east England. Work includes a wide variety of development types, from schemes under 10 units to the largest development of more than 1,200 homes; in capital value terms, that is schemes in excess of £1bn, down to under £1m.

Reforms or more problems?

Following the publication of the government's controversial Planning White Paper in August 2020 there were outcries concerning the loss of democracy involved. This factor, coupled with the projected impact of the now notorious algorithm setting rogue housing targets, provided prospects for a sizeable backbench revolt and persuaded the Prime Minister to hand the hot potato to Mr Fix It, Michael Gove, who then called time out for a rethink.

It would be reasonable to think that with concerns about the ongoing economic impact of the pandemic and emerging problems following Brexit, not to mention recent by-election results, the government would be tempted to stay clear of further controversy and ditch planned reforms. After all, most people would see little impact in their lives of changes to the planning system, not least because of the time lag this would have in showing any positive results on housing delivery, even assuming there were some. Not so, Ministers have indicated that refined proposals will be published in the spring, which will be aimed at streamlining the current planning system (they may even publish the consultation findings before then!). It is generally accepted that the system is not without fault, but will these new reforms generate more problems than they solve?

One of the original White Paper proposals which generated limited apparent controversy was the notion of a fixed Infrastructure Levy to replace the existing negotiated s106 Agreements. This levy would replace all existing planning obligations with a flat charge rate on all development, with the proceeds to be spent according to the requirements of the local planning authority (LPA), its ostensible aims being to provide clarity to developers about the cost of planning obligations and to increase the level of overall contributions.

Versions of a new look levy have been sent to various consultees to test out its apparent workability. This raises two questions:

- What is wrong with the current system that needs fixing and could this perform better than a levy?
- Will the levy provide a clearer and more productive basis for securing planning obligations and housing delivery?

The current system

There are significant grounds for criticising the current system, which is reliant on viability testing to determine the affordability of obligations. However, its chief benefit is that testing ensures the level of obligations reflects the specific characteristics of each development. Crucially, this ensures no

Graph 1: % affordable (excluding 100% affordable) v GDV



development is prevented from coming forward by the scale of these obligations.

The government has highlighted uncertainty, complexity and the potential for applicants to play the system as arguments for a levy delivering more benefits. However, should surveyors shoulder much of the burden for generating uncertainty and complexity?

Like any comparatively new market (of almost 2 decades) where there is demand, advisors have mushroomed to provide viability advice to both LPAs and developers. A significant number of these advisors are not surveyors; and it is interesting to note how slowly the RICS has moved to acknowledge such an important area of work and even to recognise viability testing as a surveying activity. Indeed, the RICS has stated that despite our practice undertaking hundreds of valuations of properties worth amounting to £ billions every year which have significant social, economic and environmental consequences, our work in this sector does not constitute formal valuation advice, although it is still bound (unlike others in this sector) to follow Red Book principles. It begs the question - what these our numbers actually constitute?

The profession has been very slow in recognising the primacy of government guidance over other objectives, with the latest RICS Viability guidance finally issued in 2021, and for the first time fully aligning in this respect. The consequence is that surveyors have fuelled uncertainty and conflicting notions of how viability should be tested. In so doing, surveyors have not adequately differentiated our services in accuracy or professionalism to planning professionals and developers alike, and have therefore failed to dominate the sector as might have been expected. There remains a

wide range of competence and care applied to work in this sector, both within and outside the profession.

For example, our practice regularly receives reports purporting to offer valuations of land and property which fail to include basic information such as site area, floor area, tenancy schedules, assessments of condition, photographs etc., let alone analysed comparable transactions. Imagine if such reports were sent to a bank for lending purposes!

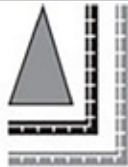
Although the RICS has brought in a checklist approach to set some standards, there appears little or no appetite for review and enforcement. Little wonder then that RICS accreditation is not seen as the mark of quality it should represent. This is not to say that much of the work isn't fully professional, but the range and quality is considerable.

In many cases, there are also considerable gulfs of opinion between advisors when looking at even quite narrowly defined valuation inputs, much of which rests on the interpretation of planning guidance. Although the 2018/19 changes to National Planning Policy Guidance (NPPG) have tightened the parameters for disagreement, there is still a wide range of

interpretation, no doubt fuelled by the considerable cost of planning obligations and the desire to promote competing outcomes.

Consequently, viability is often contested and the costs of doing so for developers are often much less than the cost of the obligation, so worth contesting. The range and scale of differences in opinion often leave planning officers and decision makers baffled as to who to believe. This confusion is also matched in many cases by the Planning Inspectorate which has issued many conflicting decisions. Arguably a more professional, impartial and evidence-led approach would serve all parties better, but while there are few effective checks and a sizeable component of the advice is provided from the unregulated sector, there currently seems limited likelihood of improvement.

Unfortunately, this uncertainty and apparent confusion in the viability process simply serves to convince government that the delivery of planning obligations is best dealt with through some other means than viability testing. Are we doing ourselves out of a role where we could and should add value to our clients and communities?



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The role of the Planning Inspectorate is occasionally questionable where judgements are required to be made between often polarised surveying opinions. It is also common in some quarters for appeals to be used to provide a platform to hunt for useful precedents, through attempting to secure Inspector backing to points which might prove useful on other cases, but which have little legitimacy. This can be achieved by exploiting the limited training and understanding of many Inspectors in this role.

LPA's themselves are also a key factor in limiting confidence in the present viability process. A large number of LPA's, not unreasonably, seek to pass the costs of viability testing reports back to the applicant. In so doing, a surprising number hand the decision on the appointment of the LPA's advisor back to the applicant. Given that this is often a contentious process with considerable financial, social and economic consequences at stake, it seems astonishing that the source of advice relied on by the LPA is chosen by the applicant and speaks much of the weight and understanding given to the advice received.

So, in summary there are considerable weaknesses with the current system including resourcing, training and education. However, despite these issues the process does deliver and is capable of flexibility but certainly could benefit from improvement, but should it be abandoned in favour of the levy?

Will a levy work?

The levy would be a substitute for all current

planning obligations. Two critical factors to its operation would be the threshold scale of development which would attract the charge, and scale of the charge itself.

Current indications suggest that the draft levy would be set locally as a means of better reflecting the "typical" market conditions at a local level. However even locally set rates could not reflect the unique circumstances of every development. The potential consequences of the levy could result in the following:

- a. If the threshold for applicability excluded "small lower value developments", many authorities could lose contributions that would otherwise be generated
- b. Equally, even a moderately ambitious levy could prevent less viable sites coming forward, therefore limiting the overall housing supply. A moderate levy would also cap higher contributions from more viable sites. Therefore, its only benefit would be to extract contributions from developments which LPAs had accepted (without testing) as non-viable.

To test these potential conclusions, we have looked back at a range of applications reviewed by our practice, focussing on a representative sample of 68 randomly selected fully viability tested projects, all of which have secured planning permission since mid-2018, (post changes to the NPPF and NPPG). They have a total Gross Development Value (GDV) of £2.54bn. The sample includes schemes across 9 London Boroughs (both inner and outer) and 7

councils elsewhere in the South East.

The sample schemes provide for a total delivery of 7,720 residential units, of which 1,730 (22%) are identified as affordable housing units. The sample consents have all been assessed in accordance with the current NPPG. Therefore, they are all fully compliant with NPPG requirements in respect of benchmark land value following an existing use value (EUV) plus approach, or in a few cases, an alternative use value (AUV) approach.

This is important because if the levy was to be set at a level which could not viably be supported by the development, a developer would only have two options to ensure the scheme could be delivered, as there would be no scope to reduce the scale of the levy though virtue of viability, these options being:

- a. To pay less for the site (this is unlikely using EUV or AUV)
- b. To take a lower profit.

The impact of the levy has been tested on these sample schemes by using different levels of affordable housing delivery as a proxy to model the impact of the levy, noting that other development contributions are relatively small in development cost terms, in comparison to affordable housing provision.

Setting a levy threshold, how would scale of development impact the level of planning obligations?

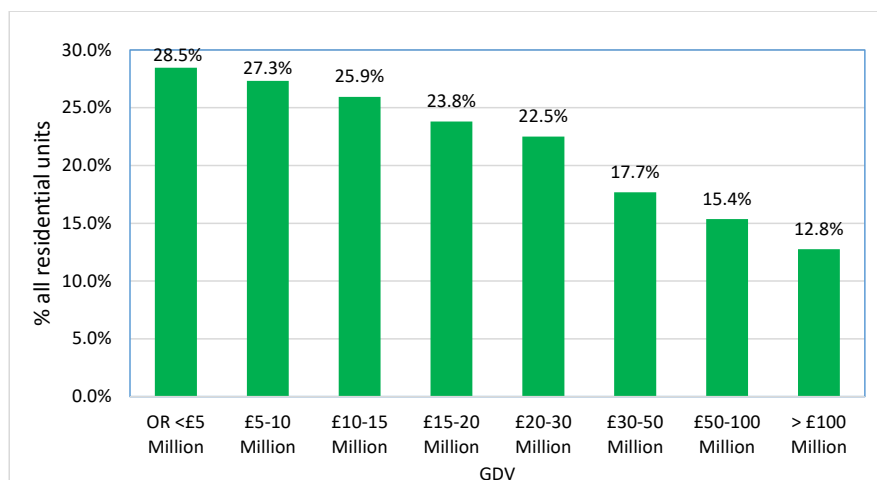
Each consented scheme within the sample has an identified GDV and an associated level of affordable housing delivery. A range of GDV thresholds have been tested to see what impact this would have on affordable housing delivery. The assumption being that if a scheme is below the given threshold, it will not make an affordable housing contribution. If it is above it will deliver at the rate of the levy.

The Graph 1 (on page 37) shows the range of negotiated affordable delivery across the sample, ranging from 0% delivery to over 50%.

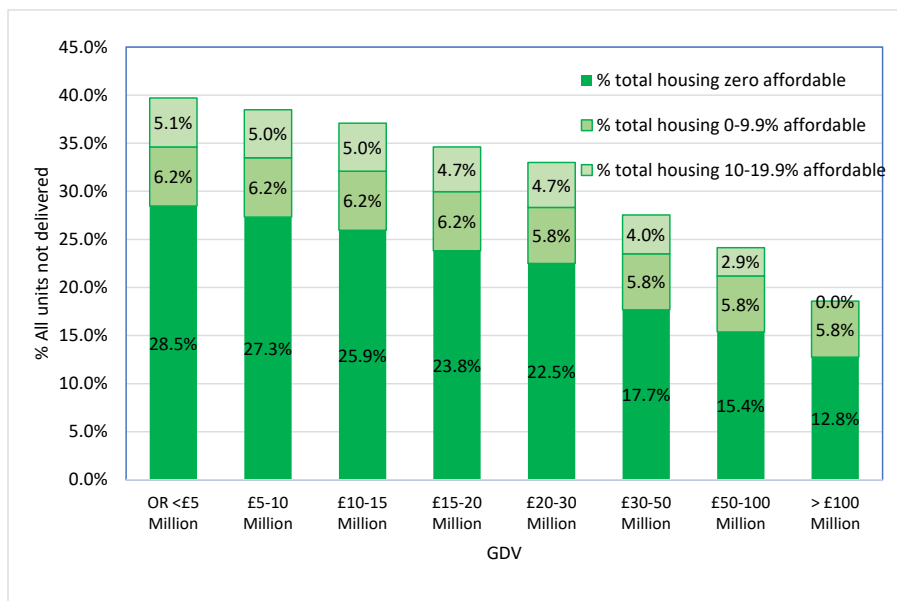
While the majority of schemes in the sample under £5m GDV (9 of 11 schemes) delivered no affordable housing, 2 delivered 14% and 34% respectively, meaning on average this group delivered 10% affordable. If the levy were to apply to only schemes with a GDV of £5m or above this quantum of affordable delivery would be lost.

The range of affordable delivery levels, and therefore scheme viability, over differing GDVs suggests that setting a threshold for

Graph 2: % of all residential units in sample not delivered at various thresholds of GDV as they were assessed as nil affordable schemes through the tested route (1212 units in 7 schemes)

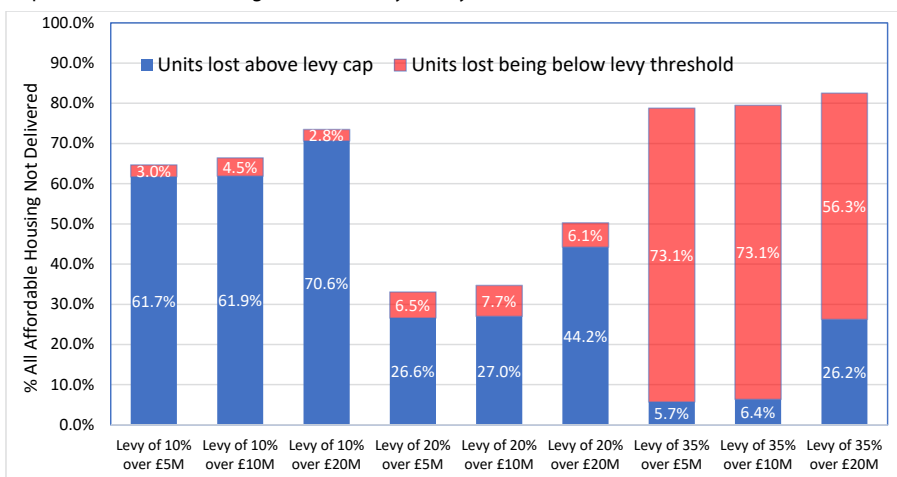


Graph 3: % of all residential units not delivered by GDV and % affordable



Graph 3 shows, for example, that if the threshold were set at schemes over £20m GDV, a total of 33% of all housing supply would be lost, of which 10.5% would have been affordable housing.

Graph 4: % affordable housing not delivered by % Levy and GDV



levy qualification is likely to be arbitrary as scheme scale appears not to be the determining factor on viability. For example, the highest affordable delivery in this sample (26%) was in schemes with a value of £15-20m and one of the lowest (20%) in schemes with a much higher average GDV of £50-100m.

Could the levy restrict housing delivery?

Noting the analysis uses an affordable housing delivery rate as a proxy for the levy, if the levy required, say, 10% affordable delivery, it is evident that schemes currently delivering less than this level through a viability tested route would not be viable. Developers would either have to accept a

lower profit or the development would not come forward. This inevitably would restrict otherwise viable developments from coming forward. The Graph 2 (opposite) shows the impact on the sample of all housing units lost at different scales of development (by GDV) using a modest 10% levy requirement.

Essentially the threshold for applying the levy would have to be set at a very high level of GDV to limit the loss of housing. The loss of housing is further increased when the levy is set at a more ambitious level of, say, 20%.

Graph 3 shows, for example, that if the threshold were set at schemes over £20m GDV, a total of 33% of all housing supply would be lost, of which 10.5% would have been affordable housing.

There is a further impact of the levy in

effectively capping contributions from more viable developments where higher contributions would otherwise have been delivered through the viability tested route.

Graph 4 highlights that at the lower potential levels of levy (10% or 20%) the main loss of affordable housing delivery is due to schemes being required to deliver less than they are currently able to (blue), while at a 35% levy the majority of affordable units lost is simply because many schemes are not viable at this level and therefore neither affordable or private housing will be delivered (red).

Concluding remarks on the data findings

In essence, higher thresholds will eliminate affordable delivery from smaller schemes. Conversely lower thresholds would eliminate housing delivery from more less viable sites. Lower levy rates would result in considerable lost affordable from more viable schemes, with higher levy rates resulting in loss of both housing and affordable housing.

In fact, any levy and threshold combination would inevitably result in lost housing, with the biggest loss being in affordable housing delivery. This appears to be a direct conflict with the stated aims of government in introducing the levy. The notion that delivery from untested schemes would bridge this loss is unproven.

Is it likely that locally set levy rates would be low, noting that current local plan affordable housing targets set by many authorities often exceed the apparent viability of most developments in practice. High rates could simply represent a cliff edge for non-delivery for many currently deliverable sites.

To avoid the inevitable problems with a levy, this is perhaps the time when surveyors need to show they can make the current system more professional, transparent, workable and accountable and better than the alternative proposed.



Rob is an Associate Director in Lambert Smith Hampton's Planning, Development and Regeneration team, based in its London office. He has over 10 years' experience as a planning professional, working across a range of sectors including residential, industrial, commercial and mixed use development. He leads on major development proposals, including tall buildings, build to rent schemes, and strategic, referable applications in challenging political and economic environments.

FIRST HOMES

A new government initiative

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Rob leads us clearly through the government's new First Homes initiative, highlighting the differences and implications of this flagship, as against previous starter homes rules.

The new model s106 agreement for the government's new flagship 'First Homes' policy was published in late December, which should be used by local authorities and home builders in preparing s106 agreements that deliver First Homes through developer contributions. This includes First Homes Exception Sites.

With some of the 'transitional arrangements' for plan making and decision making ending on 28 December 2021, now is a good time to revisit the First Homes requirements and better understand what implications this will have on decision making and plan making moving forward.

A recap of First Homes – what are they and who is eligible?

As of 28 June 2021, National Planning Policy expanded the definition of affordable housing to include First Homes and, subject to transitional arrangements from 10 November 2021, at least 25% of affordable homes delivered should constitute First Homes.

What are First Homes?

As detailed in the PPG, (Paragraph: 002 Reference ID: 70-002-20210524) First Homes comprise a form of affordable housing which:

- Are discounted in perpetuity by a minimum of 30% against the market value (higher discounts of 40% or 50% are permitted to be enforced by local plans and neighborhood planning groups where there is evidence to support this)

- They are to be prioritised for first time buyers, however specific additional eligibility criteria may be set by a local authority
- The first sale price of the home must be no higher than £250,000 (or £420,000 in Greater London). Plan makers are able to set lower caps where deemed necessary and supported by evidence.

These differ from superseded starter homes which were just a 20% discount, and also, a First Home is to remain discounted in perpetuity, unlike the 5-year discount on starter homes.

Who is eligible for First Homes?

The following criteria have been established for who can purchase a First Home, and it should apply at all future sales:

- Must be a first time buyer with a mortgage or purchase plan for at least 50% of the purchase value
- Must not have a combined annual household income greater than £80,000 (or £90,000 in Greater London)
- It is to be the primary residence and not to be purchased for commercial gain (it may be let for up to 2 years).

However, it is arguable that these eligibility requirements fail to recognise regional pay disparities, and so it is likely that additional criteria such as lower income caps or key worker status will be applied by the local authorities, so that those in need are able to access the homes.



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	Rural Exception Sites	Entry Level Exception Sites	First Homes Exception Sites
Introduced	2012 NPPF	2012 NPPF	May 2021 Announced Written Ministerial Statement / Introduced June 2021
Extant?	Yes	No – Replaced by First Homes exception sites in June 2021	Yes
Homes Provided	Affordable Housing – market housing sold at a discount of at least 20% below market value	Entry-level homes suitable for first time buyers	Homes for first time buyers at a minimum discount of 30%
Size limitations	5% of existing settlement or 1ha	5% of existing settlement or 1ha	“proportionate”
Market housing allowed	Yes ‘a proportion’ is permitted where there are viability constraints	No	Yes ‘a proportion’ is permitted where there are viability constraints
Evidence required	Evidence of an ‘identified local need’	Evidence that the authority-wide needs are not being met	Evidence of authority-wide need
Eligibility requirements	Determined by the Local Authority	Determined by the Local Authority	First time buyers, with a mortgage for at least 50% of the purchase price, and a household income of less than £80,000 (or £90,000 in greater London)

The table provides an overview of the 3 types of Exception Sites:

Exception Sites

As set out in the Written Ministerial Statement (WMS) of 24 May 2021, Entry Level Exception Sites Policy detailed at paragraph 71 of the 2019 NPPF, will be replaced by the First Homes Exception Sites.

First Home Exception sites should deliver primarily First Homes and can be on unallocated land but not in the green belt, national parks, designated rural areas, or AONBs. Local planning authorities are to support the development of First Home Exception Sites unless the need for such homes is already being met within the local authority's area.

This criteria has 3 points of note:

- Firstly, like the existing Rural Exception Sites, First Home Exception Sites can include market housing where required to ensure the viability of the site; however the exact proportion of what is acceptable remains vague
- Secondly, unlike the superseded Starter Home Exception Sites, the size of the site is no longer fixed by policy which previously stated no more than 5% of the settlement or 1ha; now it is a judgement on what constitutes ‘proportionate’. It is not yet known whether “proportionate” refers to the size compared to the existing settlement, or if it is with reference to the level of affordable housing need
- Thirdly, unlike the existing Rural Exception Sites, First Home exception sites are not required to identify a local

need. However, as the size of the site needs to be ‘proportionate’, it is likely that a study is required to determine the level of affordable housing need, and thereby what is proportionate.

The GLA response

In July 2021, the GLA published its “First Homes Practice Note” to guide LPAs in London on the assessment of the new tenure in housing and mixed use schemes. The practice note advises how local authorities should approach the issue of First Homes – while also giving indications on how the GLA will assess future schemes in relation to this matter.

Lambert Smith Hampton has spoken to officers at the GLA and within boroughs on current schemes in the planning system; we believe the practice note treads a cautious line, recognising its existence but also warning of the pitfalls of including First Homes. The practice note states:

“First Homes is a material consideration for decision makers to take into account alongside policies of the Development Plan...” and “It does not alter the position of the Development Plan as the starting point for decision-taking”.

The practice note reads more positively than the Mayor’s previous consultation response to First Homes, but is not enthusiastic. We do not believe the GLA will encourage the inclusion of First Homes in schemes, but will give it material weight when assessing applications.

Lambert Smith Hampton thoughts

The introduction of First Homes requirements represents a step-change in affordable housing policy made by the government that seeks further to address the increasing issues of the population to access the property ladder.

However, even several months into the policy requirement, there remains numerous unknowns regarding First Homes Exception Sites, namely: what proportion of market housing is permitted on Exception Sites, what constitutes ‘proportionate’ in size, and how the need for affordable homes is justified. All of these are likely to require additional supporting evidence to be submitted in parallel with any application to justify their inclusion.

Finally, it is of note that the April 2015 ‘Starter Homes’ initiative led to zero homes being built, in spite of the £192m of spending on remediating land, in main due to the government’s failure to enact the necessary secondary legislation which was required for developers to be able legally to deliver starter homes. Therefore, it is interesting that despite the announcement of First Homes and First Homes Exception Sites in a WMS in May 2021, there has been no update to the 2021 NPPF published in July 2021, which is required for First Homes to be part of National Planning Policy.

Clearly it is too early to understand the impact that the introduction of First Homes will have on the delivery of affordable housing, but we will be monitoring the uptake with interest over the coming months.



Donna is a Property Advisor at CIPFA, chartered surveyor and registered valuer. She has some 25 years' experience in the property industry, including local government, where she headed property teams and was responsible for overseeing the preparation of annual capital accounting valuations. Donna is a member of the South-West Branch of ACES.



ASSET VALUATION - SUSTAINABILITY

Sustainability and ESG - The new Red Book proposed changes

Donna Best Donna.Best@cipfa.org

In the first of two articles, Donna gives valuers a resume of the new requirements for assessing sustainability and ESG for asset valuations – something which is widely adopted in the private sector, but largely new for the public sector. Her second article which follows covers IFRS 16.

What's new?

From 31 January 2022 the RICS Standards (Global Red Book) is set to introduce some changes relating to sustainability and environmental, social and governance (ESG).

Mandatory valuation technical and performance standards will determine that "valuers should collect and record appropriate and sufficient sustainability and ESG data" and, wherever appropriate, the relevance and significance of sustainability and ESG matters should form an integral part of the valuation approach and reasoning supporting the reported figure.

VPGA 8 'Valuation of real property interests' will also include additional material on sustainability and ESG issues. In particular, where appropriate and in order to comply with best practice in reporting, "valuers should:

- *Assess the extent to which the subject property currently meets the sustainability and ESG criteria typically expected within the context of its market standing and arrive at an informed view on the likelihood of these impacting on value, ie how a well-informed purchaser would take account of them in making a decision as to offer price*
- *Provide a description of the sustainability related property characteristics and attributes that have been collected*
- *Provide a statement of their opinion on the relationship between sustainability factors and the resultant valuation,*

including a comment on the current benefits/risks that are associated with these sustainability characteristics, or the lack of risks, and

- *Provide an opinion on the potential impact of these benefits and/or risks to relative property values overtime".*

At a time when local authority valuers are already being subjected to increased scrutiny from their auditors, and while grappling with the implications of the new IFRS 16 Leasing standard [Ed – see Donna's other article on IFRS 16 in this issue of ACES' Terrier], at first sight this may appear to be a little daunting. However, do not despair! Bear in mind that while it's expected that valuers should have a working knowledge of the various ways that sustainability and ESG can impact on value, our role will remain that of assessing evidence from market analysis and reflecting the market rather than leading it.

Some definitions

While there's not yet a universally a recognised definition of sustainability, the Red Book Glossary says

"Sustainability is, for the purpose of these standards, taken to mean the consideration of matters such as (but not restricted to) environment and climate change, health and well-being and corporate responsibility that can or do impact on the valuation of an asset. In broad terms it is a desire to carry out activities without depleting resources or having harmful impacts".

The proposed definition for ESG in the Red Book update 2022 is:

"Environmental, social and governance (ESG) – The criteria that together establishes the framework for assessing the impact of the sustainability and ethical practices of a company on its financial performance and operations. ESG comprises three pillars: environmental, social and governance, all of which collectively contribute to effective performance, with positive benefits for the wider markets, society and world as a whole. Although ESG principally refers to companies and investors, ESG-related factors are also used to describe the characteristics and, where relevant, operation of individual assets. It is used throughout these standards in this context".

The practice of sustainability financial reporting is now widespread in the private sector. In the public sector, it is very much in its infancy, and there is a need to catch up. When the time comes, the sustainability data held and collected by valuers in relation to an authority's property holdings will no doubt feed into any financial reporting framework adopted.

Signposting to sources of assistance

The RICS Guidance note 'Environmental risks and global real estate', effective from 1 December 2018, provides a good source of advice in relation to areas such as environmental law, and in particular, reporting of environmental considerations. It also provides a 'property observation checklist' for identifying potential environmental issues. The checklist is a great starting point for inclusion in our site inspection practices.

The RICS Guidance note: 'Sustainability and commercial property valuation' is a particularly helpful starting point when you come to integrate sustainability factors into your valuation work. (Note: Please be aware that changes to the document are currently being considered and that the consultation closed 26 November 2021). The new edition will be titled 'RICS guidance note Sustainability and ESG in commercial property valuation and strategic advice', 3rd edition (2022) and will provide guidance on the identification, assessment and impact of sustainability and ESG issues for commercial real estate valuations.

The new edition is set to alert us that for valuations undertaken for regulated purposes, such as financial reporting, valuers

are likely to be particularly scrutinised on the evidential basis for assumptions around sustainability and ESG.

It's well worth obtaining a copy of the existing guidance in the meantime, in particular for the sustainability checklist provided at Appendix A. Again, a helpful starting point when beginning to think about the information you will collate at the inspection and investigation stage. There are also some examples as to what valuers should consider in reviewing and using the data gathered.

Valuation of specialised operational property

Consider too the commitments the client authority has made in relation to zero carbon targets. Around 75% of authorities have now declared a 'climate change emergency'. This is informing policy and asset management strategies. Might these impact on your DRC valuations when costing modern equivalent assets? Is there a need to ensure that sustainability features and standards would need to be incorporated above and beyond current planning requirements? This could include ambitious Leadership in Energy and Environmental Design or BREEAM credentials.

And what about obsolescence? As legislation and ESG requirements ramp up, along with disincentives like taxation which penalises emissions and inefficiency, this is increasingly going to speed up the obsolescence of existing stock. If you're not already, it's highly recommended that valuers start to work with your building surveyors to understand current condition, planned works, what can be done to improve efficiency, and the costs involved in creating more efficient buildings.

In summary

The anticipated new edition of the RICS Valuation Standards will reflect the direction of travel in our bid to keep the global average temperature to 1.5°C, by bringing all greenhouse gas emissions to net zero by 2050. The question is, where to start in relation to this new and expanding area? As a starter for 10, my advice would be:

1. Start collecting sustainability and ESG data NOW
2. Agree within your valuation team how, in what format, and where this data will be recorded

3. Agree any necessary changes to the terms of engagement with your client/ chief finance officer
4. Consider if there are any changes required to your valuation templates and reporting formats
5. Expand your knowledge on sustainability and ESG matters
6. Work closely with building surveyors to tie-in compliance costs with value (and be aware of planned capital expenditure and new-build specifications and costs).

The Red Book changes will be effective from 31 January 2022 and so there is still some time to prepare and help ensure you're ready. Good luck!

Further reading

RICS Sustainability and Commercial Property Valuation, 2nd edition:

<https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/valuation/sustainability-and-commercial-property-valuation-2nd-edition-rics.pdf>

RICS Environmental risks and global real estate:

<https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/environmental-risks-and-global-real-estate-1st-edition-november-2018.pdf>

CIPFA Evolving Climate Accountability:

A Global Review of Public Sector Environmental Reporting: <https://www.cipfa.org/protecting-place-and-planet/sustainability-reporting>



Emily is JLL's technical expert on ESG risk for valuations across the European, Middle East and African markets. As a registered valuer and an ESG expert, Emily is unique in the market for her combined background in commercial valuation and sustainability consulting. She is part of the RICS's Expert Working Group on Sustainability and Valuation, and an author to the RICS's updated guidance on incorporating ESG into valuation methodology.

VALUING NET ZERO

Valuing Net Zero & ESG in real estate: ESG is now fundamental to investor decision making

Emily Chadwick Emily.chadwick@eu.jll.com

Emily outlines the effect of sustainable buildings in adding value: "JLL has calculated that even based on a significantly higher capital outlay to achieve more sustainable credentials, the internal rate of return for a Net Zero office retrofit in the capital may achieve a return profile over 100 basis points higher than a less sustainable retrofit."

With the rapid expansion of Environmental Social Governance (ESG) criteria for investment and the rising number of ESG funds, 'doing nothing' means the value of your asset – no matter where it is or what type – will likely be impacted by long-term sustainability challenges.

What was once a 'tick-box' criteria for investment has now become a fundamental and in-depth consideration for investment committees for real estate's biggest investors. The pressure is mounting from capital and debt markets, tenants (in the office sector in particular), and legislators, leaving investors little choice but to adapt as quickly as their peers or lose out to them over the coming years.

JLL expects that building values will further deviate from standard metrics, more than any other historical decade, due to this unprecedented shift.

In a global JLL survey in 2021, 43% of investors already had a Net Zero or Race to Zero target and a further 28% were planning to announce one within 12 months.

This means that by mid-2022, over two thirds of the major global real estate investors will have immensely challenging targets to achieve to decarbonise their portfolios. This

will affect the buildings they are willing to buy, their cashflow assumptions and capital expenditure plans when pricing purchases, their strategies for standing stock, and their divestment timelines.

JLL has already seen evidence in the UK of aggressive pricing where a building can be easily adapted to highly sustainable standards, with expectations of associated higher rents and occupancy, and price chipping where significant costs are necessary to keep a building relevant to tenants and investors in terms of ESG credentials.

Net Zero buildings are still exceedingly rare, but there is a pipeline over the next 5 years. As a new generation of highly sustainable buildings begin to transact, particularly in a market where investor portfolios are rebalancing to lower carbon stock and the supply of these buildings is restricted, premiums are likely to emerge.

Consistent standards for ESG are lacking

A major challenge for the industry comes from the sheer variety of targets, certifications, and definitions that real



estate owners are working to. Net Zero Carbon can be considered in operation, construction, or over the building's whole life – to date the focus has been on the former. Even then, the standards for operational efficiency vary, or may be entirely absent for some real estate sectors.

Existing building certifications such as BREEAM and LEED (Leadership in Energy and Environmental Design) consider more than energy efficiency but don't necessarily correlate with a Net Zero position. To add to the complexity, UK legislation tied to Energy Performance Certificates is efficiency focused, but is currently based on predicted consumption based on specification rather than accurate in-use measurement (albeit in-use disclosure is expected for offices over 100 sq m in upcoming UK government proposals).

ESG criteria are of course more varied than carbon alone, and JLL expects continued focus on buildings' resilience to climate change and 'healthy' features that encourage the wellbeing of occupants. The social impact of real estate is also rising up the agenda – a simple example of this already affecting investment decisions is heightened scrutiny on the nature of tenants' operations.

The plethora of ESG criteria, certifications

and targets make implementing an ESG focused real estate strategy complex, and isolating impacts on real estate values even harder. However, the direction of travel towards healthy, resilient, low carbon buildings is clear, and harmonisation of certifications, targets, and legislation will emerge over time.

How to Value ESG

As experts in value and risk, JLL has produced extensive thought leadership on how valuation methodology must adapt to the changing face of real estate as ESG risk is increasingly measured. JLL is taking a sector by sector approach to assessing the impact of ESG on value, as key stakeholders and even legislation currently vary in approach by sector. Evidence of the impact of ESG criteria on value is increasing month on month, and JLL expects that these fluctuations will continue to be measured by standard, familiar methodologies.

Discounted Cash Flow (DCF) methodology can adapt assumptions that relate to income, exit yields, capital expenditures, voids, financing, and discount rates for all building types. Cash flows, which reflect the net income over the hold period, can illustrate

how investment in sustainable buildings makes sense both ethically and financially. DCF is the most suitable methodology to reflect ESG, given its ability to illustrate explicit assumptions at key milestones – such as cost implications of legislation changes, for example – over the hold period.

The RICS released an updated global guidance note on Sustainability and ESG in commercial property valuation and strategic advice (3rd Edition) in December 2021, to which this author contributed as part of the expert working group [Ed – see article in this issue of ACES'Terrier]. This, in combination with more explicit requirements to examine and tie ESG metrics to value in the Red Book from 31 January 2022, illustrates changing best practice for all valuers.

JLL's 2021 paper "Valuing Net Zero & ESG for Offices" identifies how different inputs in a DCF valuation are likely to be impacted by ESG strategies over the coming years. A summary of the analysis is set out below.

- **Income:** Rental income will be influenced by a limited supply of appropriately specified buildings and increased demand from tenants with ESG requirements. JLL research indicates that there is already an impact on several office markets, where the most sustainable specifications are resulting in premium rents; or discounts to prime rents, are occurring where sustainability credentials are not in line with market expectations. With tenant Net Zero commitments also on the rise, the demand for highly sustainable space is expected to increase
- **Capital expenditure:** Developing or retrofitting a more sustainable building will, in most cases, cost more to build than a less sustainable office. Estimates for additional capital expenditure vary and are dependent upon building type, design, and efficiency. However, if this results in higher demand from occupiers, higher rents, lower void rates, and savings in operational expenditures, then the enhanced sustainability of the building should mitigate the initial higher capital investment
- **Occupancy and voids:** At the end of leases, tenants either renew or the space is remarketed. According to JLL research, well-specified spaces fitted out to meet both sustainable



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and wellness criteria lease up quicker than standard offices. This may also be true in other sectors where rental differential is yet to be proven but where sufficient choice of stock is available, a more sustainable building is more likely to let and stay let

- **Finance:** Geared returns can enhance performance through using debt to either acquire or fund the retrofit of a building. An increasing number of green loans are also being made available, which results in lower finance costs where sustainability-related key performance indicators are achieved, resulting in a lower cost of debt and enhanced returns
- **Discount rate:** The discount rate applied to the cash flow reflects the risks associated with the achievement of a business plan in relation to the building over the hold period. Less sustainable buildings will inherently have a higher discount rate, whereas more sustainable buildings will prove less risky and bring lower discount rates
- **Exit yield:** The exit yield adopted in a DCF reflects the quality of the building

and the estimated average weighted unexpired term remaining on the lease at the time of the exit, which relates to a hold period normally reflected in the business plan or a standard assumption of either 5 or 10 years. It also reflects the market's assessment of the long-term net income growth. If a building does not track the leading market standards, then the exit yield will be higher, resulting in a lower value at the end of the hold period.

By applying current market movements to the above assumptions, JLL has calculated that even based on a significantly higher capital outlay to achieve more sustainable credentials, the internal rate of return for a Net Zero office retrofit in the capital may achieve a return profile over 100 basis points higher than a less sustainable retrofit.

Given the speed at which the real estate investment market is changing in terms of ESG strategy, it is likely that these differentials will increase leading in to 2022.

Valuation will be impacted by ESG as evidence comes through of liquidity and pricing being impacted by ESG criteria and legislation. Collecting and analysing data on ESG impacts and identifying

costs of upgrading stock will be of vital importance accurately to reflect value and risk going forward.

With corporates, investors, lenders and governments all committed to achieving decarbonisation targets over the coming years, it is in no doubt that the ESG agenda is here to stay and its impacts on value will only increase. While different real estate sectors will feel impacts at different speeds, for now the impact on the UK office sector is in sharp focus. Existing valuation methodology is capable of capturing these market shifts – as long as data on bidding trends, rents, occupancy, and costs are taken into account.



Tom is a sustainability consultant at Avison Young, advising both public and private sector clients across the ESG spectrum. He has over 8 years of experience working on sustainability-related projects and in providing strategic ESG advice across the property lifecycle.

NET ZERO CARBON

The impact and opportunity arising from Net Zero Carbon

Tom Malcolm Green Tom.Malcolm.Green@avisonyoung.com

Tom hopes to give a feel for where local authorities are at in tackling NZC and presents a useful legislation timeline. I'm hoping that this is an introductory broad piece, which ensures there are plenty of avenues to explore for future articles. Tom also wants to highlight that NZC isn't simply about improving our building stock and has the potential to be far more wide-reaching in its impacts on the industry as a whole.

The last few years have highlighted that Zero Carbon (net or not), means more to people (and business) than the term alone conveys. It is central to what we identify as ESG because it seamlessly sits within what each of those letters stands for (Environmental, Social and Governance). It has become so prevalent that it is now uncommon for it not to be a consideration under most topics within the real estate industry. So how are local authorities making it their mission and what does progress look like?

Let me begin with a quick recap of how 2021 played out in terms of net zero carbon and the built environment. Following the industry's general awakening in 2019 with the UK's commitment to eradicate its net contribution to climate change by 2050, 2021 saw a significant step-up in action and leadership on this front at both a national and global level.

In June 2021, the UK enshrined in law the world's most ambitious climate change target, aiming to cut emissions by 78% by 2035 compared to 1990 levels. This will bring the UK more than three-quarters of the way towards its 2050 net zero goals and is in-line with the independent Climate Change Committee's recommendations. To put this into perspective, the previous target was an 80% reduction by 2050.

With C-19 still posing an untameable global threat, the world's attention turned to Glasgow for the UN's climate conference, COP26, in November. An important action here was the launch of the UK Green Building Council's (UKGBC) Net Zero Whole Life Carbon Roadmap for the UK Built

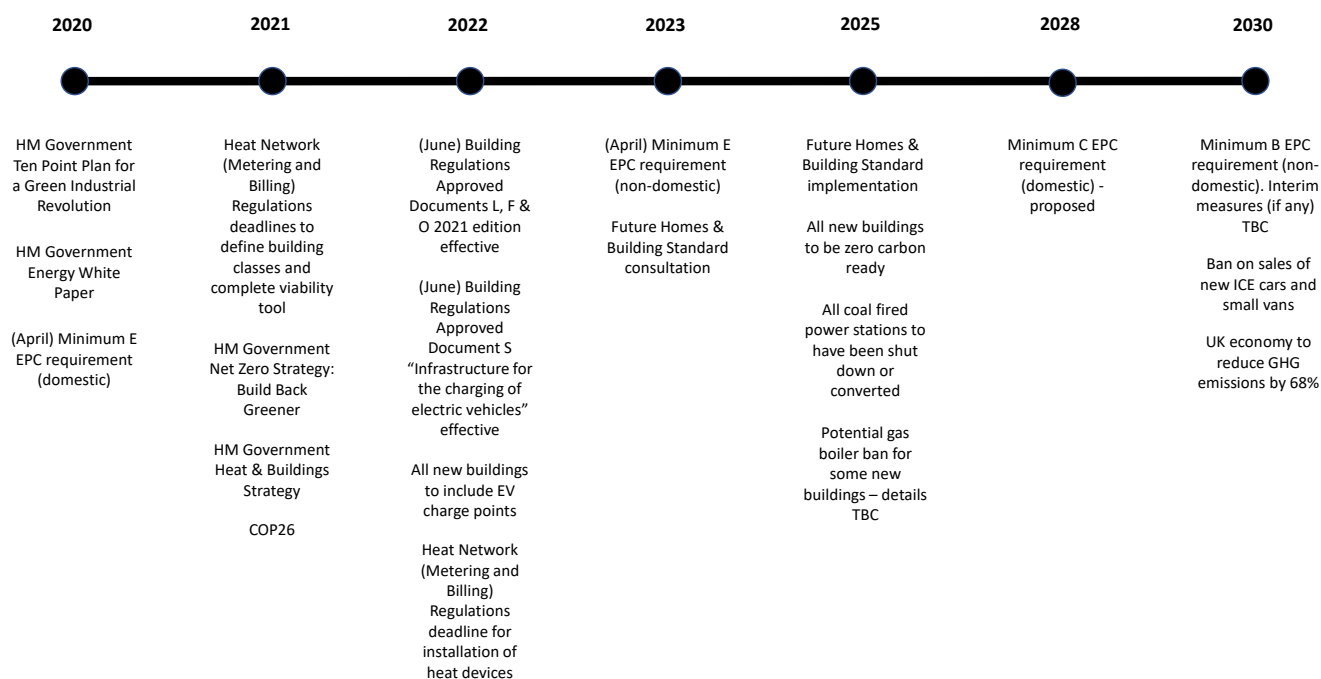
Environment, outlining actions required by the government and industry to achieve net zero carbon (NZC) across the sector by 2050. Ahead of this, in mid-October, the UKGBC also published guidance for local authorities on improving the sustainability of new commercial buildings in the form of its Commercial Playbook. A further useful guide, the Government Property Function's Net Zero Estate Playbook, a guide to decarbonising government property, was released in November.

UK legislation timeline

The timeline sets out some of the key known regulations, policies and actions which have either been enacted or are in consultation over the course of the "decade of delivery". Each of these have direct influence on energy efficiency and development in the built environment and we can expect more as the decade progresses. Tightening policy and regulations combined with national grid decarbonisation by 2035 are key to driving the shift to net zero across both the public and private sector.

What are local authorities doing?

In the last 3 years, against the background of global and national action, there has been a growing impetus from local authorities to act, with many electing to push harder and faster to NZC than national policy. Since 2018, local authorities have declared climate emergencies and set targets on



2 fronts. Firstly, a net zero carbon target for themselves encompassing their own operations and estates, and secondly, targets relevant to their jurisdiction. Typically, these targets differ (with a local authority's own target being more ambitious), but both are generally more progressive than national policy, treating 2050 as an absolute backstop.

Of 408 local authorities (district, county, unitary and metropolitan councils alongside combined authorities and city regions), 60 have yet to set a carbon neutral target. 350 local authorities have taken decisive action, with 313 of these having published a plan of some form. 25 local authorities which have not yet set a target have also published a plan towards NZC, indicating that not setting a more stringent target than national policy does not necessarily indicate complacency. The most common target date is 2030, giving the 56% of local authorities which have committed to then around 8 years left to establish how they are going to meet their targets and see it through. Only 21 local authorities (5%) have yet to set a national policy beating target and have not yet published a plan towards net zero carbon (see reference below).

The practicality of achieving versus the principle of setting a net zero carbon target is where the real challenge begins, where strategising becomes a necessary tool and theories are tested. Certain questions spring to mind. How do you implement a commitment and is it achievable? What changes need to occur to ensure a local authority can meet its set target, how is this

mandated and how is progress tracked? On top of this, against the backdrop and need of a local authority continuing its primary service provision while coping with typically increasing budgetary cuts and growing deficits, how can the transition to net zero even be considered, yet alone funded with limited assistance from central government? In short, is there a set methodology or blueprint which all local authorities can use to enable them to get to where they need to? And where will the investment come from?

Certainly, there are approaches that can be taken, common actions that can lead towards a common goal. However, finding a one size fits all approach across more than 400 organisations which all have different priorities governed by localised needs and responsibilities is never going to be straight forward and is unlikely to gain the best results. At Avison Young, we favour a tailored approach based upon specific needs and requirements which can be adjusted as necessary when conditions change.

An interesting, perhaps unexpected twist to the NZC agenda, is its application and commonality to everyone, in the sense of how it has been embraced. As a local, national, and global objective we (the community) see merit in not only sharing best practice, but in doing all we can to ensure mistakes and pitfalls are not repeated. To many of those working within what is rapidly becoming a mainstream part of the property industry, the opportunity for collaboration involving teams across the property lifecycle has never been greater. To

my mind this is a significant factor in opening the industry up to both new and existing talent from all backgrounds, as real estate embraces non-traditional pathways through its adoption of technology, shifting societal demands, response to environmental challenges and future proofing of the assets we already have. This is an opportunity aligned with net zero which should not be missed and one which local authorities can really lead on.

Clearly local authorities are engaged with net zero carbon. In many ways they are far more advanced and applied than their private sector counterparts. The real test is yet to come in the sense that those with the most ambitious targets are soon to be tested, and it's in the industry's best interests that they can be confident about their methodology and the actions they are taking.

In my next article on NZC [Ed – to be featured in a subsequent issue of ACES' Terrier] I will outline the typical process a local authority might go through to maximise its chances of a successful carbon reduction strategy (in the context of its buildings), and how success on this front can be measured, the problems which can be faced, what opportunities might typically arise, and some of the positive impacts (and co-benefits) which may result.

Reference

All figures taken from Climate Emergency UK's "[Climate Action Explorer](#)", with thanks to Kevin Frea.

ASSET VALUATION – IFRS 16 LEASES

IFRS 16 Leases – A valuer's perspective

Donna Best Donna.Best@cipfa.org

In the second of Donna's articles, this note explains the changes in accounting requirements from 1 April, mainly for lessees. Donna advises that it is not just an accounting issue, but can involve valuers.

Introduction of IFRS 16

The IFRS 16 Leases standard becomes effective for local authorities from 1 April 2022.

The principal change is for lessees: Whereas at present, only finance leases appear on the balance sheet, from 1 April all property leases will be shown on the balance sheet (except for short-term leases), recognising a right-of-use asset and the lease liability. The idea is that lease assets and liabilities will become more transparent on the balance sheet and that it will be easier to compare the finances of different organisations.

Many of you may have been led to understand that this is an accounting matter and that there will be no requirement for valuer input. The reason is that the CIPFA Code, although requiring that PPE is measured at current value, allows the use of the IFRS 16 cost model to be used as a proxy for current value. The model can be applied by deriving key information from the lease.

However, it is not always the case that the cost model will be an appropriate way

to measure leased-in assets and that the alternative 'revaluation model' will need to be used. This is most likely to apply where a market rent isn't being paid and leases for which there are not regular reviews to market rent. In these instances, a valuation undertaken by a valuer will be necessary. In addition, it is likely that even where the cost model can be used, finance colleagues may well request assistance from property professionals in helping to identify lease interests and key information.

Despite the rapid approach of April 2022, there is at present little information available as to the valuation approach and methodology to be used in measuring lease interests under the revaluation model, particularly for specialised assets. The RICS Public Sector Valuation Forum is working on an Insight Paper which is due to be published in early 2022. CIPFA is working on agreeing the treatment of mere licences used by schools for assets owned by religious bodies, though this is proving to be a complex issue.

In the meantime, there is much your

authority can be doing to prepare for IFRS 16, the main property related task being to identify all lease interests. This includes those hidden among service contracts and all nil consideration arrangements (both as lessors and lessees).

Whether in part owing to necessary deferrals and/or other priorities stemming from the pandemic, we're at risk of being caught off guard in relation to the implementation of the new standard. If your authority hasn't started preparations, it's time to start now.

Explore more

The CIPFA/LASAAC Local Authority Accounting Code Board Code of Practice on Local Authority Accounting in the United Kingdom (the Code) sets out the anticipated provisions in the 2022/23 Code in Appendix F

<https://www.cipfa.org/policy-and-guidance/publications/c/code-of-practice-on-local-authority-accounting-in-the-united-kingdom-202122-online>

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Michael is a solicitor who has specialised on property litigation and risk management for most of his career and is a strong advocate of a proactive approach to the management of commercial risks associated with owning and occupying property. Within his field of work, Michael has a particular expertise in relation to legal issues relating to telecommunications matters and property, for example, issues relating to phone masts. He also has extensive experience in relation to commercial property dilapidations claims. He regularly presents CPD seminars both in-house and for commercial CPD providers and he is also the founder of the LinkedIn Dilapidations Discussion Forum and Interest Group which has in excess of 2,500 members.

DILAPIDATIONS

Claims for damages for breach of contract

Michael Watson Michael.Watson@knightsplc.com

Michael here follows up on his first article on dilapidations, giving extracts from real cases to illustrate his points.

Background

In 2021 Summer Terrier I wrote an article looking at various aspects of dilapidations focussing on the nature of such claims and the fact that when we refer to dilapidations, we are referring to claims for damages which are properly recoverable at law as a consequence of alleged breach of contract.

The article concluded by recommending that for landlords and tenants, it is worth making sure that retained advisers are properly instructed from day one and understand that they may be required to present evidence to a court. As the saying goes: "If you want peace prepare for war".

Prepare for war

Another way of looking at dilapidations is as a well travelled road. It is a journey that many landlords and tenant travel, usually with the assistance of a guide – but in reality, the route is very well known. It involves the preparation of a schedule of dilapidations and then a response by the tenant. Each party sets out their position and then they engage in a process of negotiation. This process can in some instances drag on for years with little progress being made, but in many cases the parties do eventually reach a compromise, sometimes simply because they are ground down by the process and decide it is time to move on in life.

This process of haggling can enable parties to reach a position that they can live with, but often the outcome will involve little consideration of what the actual liability for damages is in relation to breach of contract. The reason for this is that dilapidations is a complex discipline with many varied aspects to consider, if one is going to look properly at what the legitimately recoverable damages might actually be.

Issues such as supersession may be

relevant. The landlord, as with any claimant, has a duty to mitigate tenant's losses. Damages may be assessed by reference to valuation expertise. There may be complex, and sometimes subtle, points of contractual interpretation that can have a fundamental relevance to the quantification of recoverable damages.

In many cases, these types of point can be brushed over because neither the landlord nor the tenant has any enthusiasm for the complexities that may be introduced by such issues – after all, complexity tends to increase expenditure on professional fees. Both parties are content to just haggle based on the schedule and to close matters off.

The relatively casual approach to preparation of claims may not be a problem providing the tenant plays along, but for landlords the difficulties can arise if the tenant will not engage.

Similarly, tenants often miss opportunities by just engaging in negotiating without undertaking a critical and forensic analysis of the claim purportedly being presented against them.

In short, landlords need to prepare their claims thoroughly and diligently and tenants need to be careful to test the veracity of claims they face. With regard to tenants, I would illustrate this point by referring to a case I was recently instructed upon, where the tenant was preparing to remove an industry sector-specific fit out before vacating their property and handing it back to their landlord. Upon being instructed, initial questions were raised as to why they were considering removing the fit out, to which the answer was because the landlord had served a schedule of dilapidations which included for removal (at some not insignificant expense) of the fit out. Further investigation indicated that the landlord's reasons for claiming for the removal of the fit out was because they wanted the

unit back in conformity of configuration to other units on the same estate. In short, their rationale for claiming for the cost of removing the fit out was based upon something they considered was reasonable to require, rather than any analysis of the contractual obligations of the tenant.

The point to be made here is that tenants need to be sceptical as to what is being presented and should scrutinise in detail each and every item claimed for.

Similarly, landlords and those who advise them do not know which claims will just be dealt with casually by negotiation and which claims will be subjected to intense and detailed scrutiny. The problem for landlords is that in relation to any particular claim, by the time it becomes apparent that the tenant is not going to play ball it may be too late. They may find that things have been written in presenting their initial claim that cause them serious issues if they need to take the matter to court.

That of course brings us back to once again to make the point that ultimately, if a tenant just tells the landlord to get lost then they only have two options: they can either forget the claim and move on, or they can take the matter to court. To be able to go to court they have to be able to prove their case and that in practical terms means putting their expert witnesses in the witness box, on oath, to give evidence to the court, and hope that their evidence is believed and the court orders damages to be paid. For the landlord to recover that which they are entitled to, their experts need to be credible. The problem for landlords, and many experts, is that when first instructed to inspect the subject property and prepare a schedule of dilapidations, neither the landlord nor the experts know whether that case will be the one that the landlord has to take to trial. If it turns out to be the one, and they have not prepared diligently from day one, then the landlord could be in trouble. Accordingly, they should prepare for war from day one.

For tenants, careful analysis of the presentation of the landlord's claim documentation and evidence very early on in the process may expose credibility issues that can be exploited later on. Again, from day one on receipt of a claim, tenants would do well to prepare their response on the basis that every element of it is going to be sufficiently credible when their expert witnesses come under intense cross examination.

Preparing for trial from day one does not mean that the matter will be more likely to go to trial, but rather it potentially enables a party to negotiate a settlement from a fully informed position, a position which hopefully is one of strength when compared with their opponent; of course, negotiating from a position of strength is generally advantageous in any context. If a landlord believes that their tenant will take them all the way to trial and the tenant is very well prepared, then they may think twice about fighting and may have to take any settlement the tenant is prepared to offer. A tenant who feels their landlord is likely to succeed at trial may have to take a settlement proposal rather than risk the potential adverse costs of going to trial and losing.

Credibility

For both landlords and tenants, success at trial (or convincing their opponent that they will succeed at trial) will depend upon the credibility of their expert witnesses and the evidence they are able to present. Their expert witnesses need to be just that – experts.

Unfortunately, very often expert witnesses make statements early on in the process that show them up to be anything other than expert. What might otherwise be innocuous statements in a schedule of dilapidations can come back to bite them in cross examination. In one seven figure dilapidations claim that went to a 2-week trial in the Technology and Construction Court, the landlord's expert witness in property letting was giving evidence. He took the oath and presented his expert witness report and then was opened up to cross examination by the QC retained by the tenant.

After around 7 minutes of cross examination, by asking a series of fairly innocuous questions of him, leading counsel put the question to him:

"You are not an expert in property letting are you?"

The answer that came back was "No".

This was a case that had been ongoing for 5 years. Ultimately the landlord had not received any satisfactory offer of settlement, so they had done the only thing left to them which was to issue court proceedings and put their money where their experts' mouths were. All the experts had prepared their reports, they had engaged in meetings and hundreds

of thousands of pounds were spent in preparing for the trial but when it actually came down to it, the landlord's letting expert was lacking in credibility.

Ultimately a party to a damages claim may find they have a determined opponent and they have a simple choice: they can either fight all the way to trial or sue for peace on the terms offered by their opponent. If their appointed experts lack credibility they may not have the choice in reality.

An expert witness must genuinely be an expert and they will have to establish their expertise to the court. Similarly, their client's opponent will be seeking to establish they are not an expert – and very often they do much to assist their client's opponent unwittingly.

Protocols and guidance

Generally, claims should be signed off in accordance with the Civil Procedure Rules pre-action Protocol (the Dilapidations Protocol).

On 1 January 2012, the Dilapidations Protocol was adopted as a formal pre-action protocol under the Civil Procedure Rules. The website of the Property Litigation Association (PLA) details the history of the protocol:

"The Dilapidations Protocol, a pre-action protocol by the Property Litigation Association, relating to dilapidations claims for damages against tenants at the termination of a tenancy, was first published in 2002, with the aim of preventing landlords exaggerating claims and to lead the way for early settlements without involvement of the courts.

The second edition, issued in 2006, aimed to reduce costs by recommending diminution valuations were considered just before the issue of proceedings.

The third edition, issued in May 2008, required the landlord's surveyor to sign an endorsement confirming, amongst other things, they had followed the protocol.

From 2008 to 2011 the PLA and the RICS worked with the Civil Justice Council to refine the wording of the Protocol ready for its adoption.

On 1 January 2012 the Dilapidations Protocol was adopted as a formal pre-action protocol under the Civil Procedure Rules."

The endorsement introduced by the third edition included reference to the Draft Pre-Action Protocol prepared by the Property Litigation Association.

The RICS helpfully provides a raft of guidance for those engaged in advising

on dilapidations claims, such as the RICS Guidance Note – ‘Dilapidations in England and Wales’, 7th Edition, September 2016.

The Guidance Note of course has full details of the requirements under the Civil Procedure Rules Protocol in terms of presenting and responding to a claim. It also includes the following warning:

“This is a guidance note. Where recommendations are made for specific professional tasks, these are intended to represent ‘best practice’, i.e. recommendations that in the opinion of RICS meet a high standard of professional competence.

In the opinion of RICS, a member conforming to the practices recommended in this guidance note should have at least a partial defence to an allegation of negligence if they have followed those practices. However, members have the responsibility of deciding when it is inappropriate to follow the guidance.

It is for each member to decide on the appropriate procedure to follow in any professional task. However, where members do not comply with the practice recommended in this guidance note, they should do so only for good reason. In the event of a legal dispute, a court or tribunal may require them to explain why they decided not to adopt the recommended practice.

Also, if members have not followed this guidance, and their actions are questioned in an RICS disciplinary case, they will be asked to explain the actions they did take and this may be taken into account by the Panel.

In some cases there may be existing national standards that may take precedence over this guidance note.

National standards can be defined as professional standards that are either prescribed in law or federal/local legislation, or developed in collaboration with other relevant bodies.

In addition, guidance notes are relevant to professional competence in that each member should be up to date and should have knowledge of guidance notes within a reasonable time of their coming into effect.”

Any expert witness acting in a dilapidations claim who endorses a claim as being prepared in accordance with a Draft Protocol that was superseded 10 years ago may find their professional credibility called into question by reference to the Guidance Note, which among other things requires them to have knowledge of the Guidance within a reasonable time of it coming into effect.

It is quite normal to see claims where corners are cut and the guidance is not followed, presumably because those claims are prepared in circumstances where the authors are confident they will never have to be tested under cross examination, but a failure to follow professional guidance can open up an attack on credibility.

Well-advised tenants will be looking for these opportunities from day one in order to work out how best to capitalise on them later on. However, very often tenants spend a significant sum with their own expert witness, having them “red pen” the landlord’s claim. While they may feel they have achieved a great deal showing their client how well they have done, in reality they may just have spent their time (and their client’s money) helping put a poorly presented claim in better order.

Credibility of experts in court proceedings is critical and if it goes wrong, it can go badly wrong. What this means is possibly a judgment that is very damning of the expert witness and which is a matter of public record.

By way of illustration, there follows an extract from a court judgment in relation to a lease renewal under the Landlord and Tenant Act 1954 which shows how the credibility of an expert witness can be critical (the name has been changed):

In direct contrast, I did not find Mr. Smith to be an impressive witness. He assured me that he had, as he put it, “read CPR 35 the other day” but then said he could not recall when previously he had last considered it. He prepared two reports, dated 10 August 2016 and 12 October 2016. Neither report was CPR-compliant. Practice Direction 35.3.1 sets out the requirements for an expert’s report; in particular, the need to provide details as to the expert’s qualifications. Save for the fact that I am told Mr. Smith has a BSc FRICS and is a Fellow of the Royal Institution of Chartered Surveyors, building services faculty, and is a partner of [firm], I have no more. I have no information upon which to assess his ability to act as an expert in this case. I refute the contention that a bald statement as to his professional qualifications suffices. However, that is not the only failure within the report. Mr. Smith referred to the wrong email re his engagement. It was only during the course of this trial that the right email was disclosed.

His significant failings as an expert were compounded by his oral evidence. I found his evidence most unsatisfactory. He attested to the truth of the two reports he had compiled

and the joint statement. However, he had to concede that, in all three documents, he had made a fundamental error. He said that he had excluded decoration in his reports because he believed that s18 of the Act applied, as opposed to s29. He said he had not corrected his error in the joint statement, as he was concentrating on the reinstatement aspects of the schedule. However, his explanation as to why he then attested to the truth of his reports, on oath, was, to quote Ms. S, “patently absurd” or disingenuous. He said that he thought he was attesting to their truth at the time, namely the time they were written. He was not asked to attest to the truth then but now, and was further asked if there was anything he wished to amend.

This error also affects his credibility. He was an engaged as an expert, and I concur with Ms. S’s view:

“To fundamentally misunderstand and confuse the statutory framework in which he is giving evidence undermines any suggestion that he is a reliable expert in this field”.

Conclusion

Whether landlord or tenant, claimant or defendant, anyone involved in a dilapidations claim would be well served to focus on the quality of the expert witnesses they retain and one of the first points to be clear about is the role in which professionals are appointed.

Ultimately, if a party does not have the support of properly instructed professional expert witnesses, then they do not have the ability to prosecute or defend the claim at trial if their opponent proves to be uncooperative or unresponsive. Faced with a well-prepared opponent who is ready to take them on, they may have to capitulate.

A failure to be diligent and thorough in surveying and collecting evidence can be costly later on. Similarly, a failure to follow professional guidance and the requirements of the Civil Procedure Rules can be detrimental in terms of credibility before the court.

Cutting corners in terms of preparation might appear to be a sensible cost saving measure where it is believed that a claim will settle, but can prove to be costly should this ultimately have an impact on credibility.

Again, it is worth repeating – if you want peace prepare for war.



Antony is a partner at European law firm, Fieldfisher, where he is Head of Real Estate and also heads the Property Litigation team. He deals exclusively with contentious (and potentially contentious) issues relating to commercial, mixed use and residential property. This includes dilapidations claims, rent reviews and other landlord and tenant disputes, real property disputes (including covenants, easements and ownership issues), development issues (including rights of light, party walls and boundaries), planning disputes and property-related insolvency issues.

Throughout his career, Antony has had a strong emphasis on public sector work, helping clients unlock value in their property portfolios and dealing with issues arising from public sector clients' ownership and development of their real estate holdings. Antony is a regular speaker at ACES conferences and other events and was recently made an honorary member of ACES.

LEGAL UPDATE

Big property cases of the last year

Antony Phillips antony.phillips@fieldfisher.com

Antony kindly agreed to expand on his presentation at the Online Conference in September, to give readers a commentary on relevant property cases in 2021.

I have sought to find the 'stand-out' property cases from the last 12 months, being ones that I think will most impact on ACES' members on a day-to-day basis. In doing so, I have found one noise nuisance case, 2 forfeiture cases, a break option case, and a case relating to service charge certification. I anticipate that all these issues are ones that members will come across in the course of managing their respective property portfolios and from which lessons can be learned.

Jones and another -v- Ministry of Defence (HC) [2021] EWHC 2276 (QB)

Facts:

The claimants in this noise nuisance case acquired land near a reservoir in 2003 to create a holiday and leisure park – planning permission was obtained for their plans and considerable money was spent by them in developing the site. While the claimants sought to make a go of the business, it was not a success and they sold the land 2016. The claimants blamed the failure of the business on the noise from jets flying into and out of nearby RAF Mona which, they contended, prevented the environment being one of peace and tranquillity that they had sought to create. Crucially, the claimants claimed that flight patterns and frequency had changed since 2007 (i.e. after they had acquired the land).

The claim was therefore for damages against the MOD for losses that the claimants claimed they had sustained by the disturbance, including the very considerable sums they had put into the business.

Held:

The Court applied the presumption of reality (see Lawrence -v- Fen Tigers Ltd [2014] UKSC 13) when considering the case and, in doing so, looked at the nature of the locality. While it was an agricultural area, there had been an RAF station there for many years and, as such, there was frequent aircraft noise.

In terms of the steps that the MOD had taken to minimise noise and disruption, the Court held that reasonable steps had been taken to do so. In terms of the increased aircraft frequency between 2003 and 2016, the Court held that had not been sufficiently material to give rise to a claim. So the claim failed.

Take-aways:

The learning points from this case are that, when dealing with a noise nuisance case, it is always worth bearing in mind the words of Thesiger LJ in Sturges -v- Bridgman [1879] when he said, a century and a half ago, that: "*what would be a nuisance in Belgrave Square would not necessarily be so in Bermondsey*". Whilst Bermondsey may have changed radically since then, the principle still holds true - it is necessary to look at the use, nature and character of the locality in question to assess whether an activity amounts to a nuisance. In this case, while it was an agricultural area, it was a rural area where the peace had long been interrupted by aircraft noise.

Faiz and others -v- Burnley Borough Council (CA) [2021] EWCA Civ 55

Facts:

The facts of this Court of Appeal forfeiture case date back to 30 October 2019 when the landlord served a s146 Law of Property Act notice on the tenant of a café for breach of the alienation provision (unlawful subletting). Such a notice being one that required the tenant to remedy the breach (in so far as it is capable of being remedied), failing which the landlord threatened to forfeit the tenant's lease.

On 4 November 2019, the landlord sent the tenant a revised invoice for insurance for the period to February 2020 (which had originally been sent on 26 September 2019) and, on 22 November 2019, the landlord purported to forfeit lease for the breach specified in the s146 notice.

The issue in the case was whether, by sending the revised invoice, the landlord had waived the right to forfeit. A waiver can occur where the landlord does an act which is consistent with the continuation of the lease (or, put another way, inconsistent with the lease being forfeit). In this case, the tenant claimed that a demand for insurance rent after service of the s146 notice was such an act.

The issue for the court was whether the relevant date was the date of the original invoice (before the s146 notice) or the date of the revised invoice (after the s146 notice). If it is the latter, then the right to forfeit was waived; if the former, there was no waiver.

Held:

The Court of Appeal held that the revised invoice was not a fresh invoice but, instead, merely an indication that the landlord was willing to accept payment for part of the period covered by the original invoice. As such, there was no acknowledgement of existence of lease and therefore no waiver.

Take-aways:

The take-away from this case is hugely important for all landlords. Where a breach is known about (or should have been known about), and if the landlord wants to forfeit the lease, great care must be taken not to do anything that might waive the right to forfeit. Once waived, the right to forfeit for that breach is lost. Typical acts

of waiver are the demanding or accepting rent, but any other act that treats the lease as continuing will also be an act of waiver.

Keshwala and another -v- Bhalsod and another (CA) [2021] EWCA Civ 492

Facts:

Another forfeiture case and another Court of Appeal decision, this time relating to relief from forfeiture.

There was a 20-year lease with 10 years unexpired. On 13 September 2018, the landlord forfeited the lease for non-payment of £500 rent. It did so by peaceable re-entry. As in every case where a landlord forfeits a lease, the tenant has a right to apply to get the lease back by making an application for relief from forfeiture. The court has a discretion as to whether or not to grant relief. The speed in which a relief application is made is one of the factors that the court will take into account in deciding how to exercise its discretion.

In this case, the tenant waited nearly 6 months before applying for relief from forfeiture – it applied on 26 February 2019. So the issue was whether the application was made with “*reasonable promptitude*”.

Held:

At first instance in the County Court, the court held that the tenant had waited too long before making the application for relief, so no relief was granted. In the High Court on appeal, the court held that relief should be granted. However, the Court of Appeal agreed with the County Court and held that a delay of nearly 6 months before making the application was not an application made with reasonable promptitude and, as such, no relief was granted and the lease remained forfeited.

Take-aways:

If you are a landlord, you must bear in mind that, when forfeiting a lease, the tenant always has a right to apply for relief from forfeiture and such an application may be made many weeks or even months after forfeiture took place. So that creates uncertainty for the landlord and creates a risk that, if it re-lets in the meantime, that deal may be undone. If you are a tenant that wants your lease back after forfeiture, you must be prepared to remedy the

breach (in this case paying the sum due) and make your application for relief from forfeiture promptly.

Capitol Park Leeds plc -v- Global Radio Services Ltd [2021] EWCA Civ 995

Facts:

This case is one of many recent cases involving a tenant's option to break a lease early under a contractual right in the lease to do so. Such breaks are regularly challenged by landlords seeking to keep their tenants 'on the hook'. Given that conditions of a break are construed strictly, many attempts to challenge breaks are successful (i.e. if all the conditions are not strictly complied with).

In this case, the tenant's break option was conditional on the tenant giving vacant possession of the “*premises*”. The *premises* were defined in the lease as including fixtures. Before the break date, the tenant stripped out some fixtures, as well as removing all chattels. The landlord challenged the break on the basis that the premises (as defined) had not been returned to them (as some fixtures had been removed). So the issue was whether the removal of some fixtures frustrated the break.

Held:

The High Court had held that the removal of the fixtures meant that the tenant had not returned the premises (as part had been removed) and, as such, had not given vacant possession of the premises. However, the Court of Appeal overturned that decision and took the rule back to the conventional definition of vacant possession, being that the premises must be:

- Free of people
- Free of chattels
- Free of third party interests.

Take-aways:

This is yet another reminder of the fact that, if a tenant wants to effect a break, extreme care must be taken to comply with all of the conditions. Even a condition as innocuous looking as 'vacant possession' can be tricky to comply with. This is an area where specialist advice really must be taken to help manage the process.

Sara & Hossein Asset Holdings Ltd -v- Blacks Outdoor Retail Ltd [2020] EWCA Civ 1521

Facts:

The lease in this case included a provision whereby the landlord's agent was required to certify the service charge amount being charged. This duly happened, but the tenant was not happy with the level of charged and challenged it through the courts.

The landlord argued that its agent's certificate meant that both the scope of the charges and the level of them were final and binding and the tenant had no right to challenge the service charge on either basis. The tenant contended that the certificate was not binding either where sums were not in scope or where the amounts were excessive.

Held:

The High Court held that the agent's certificate was conclusive as to the amount incurred, but not whether the sums were in scope. However, the Court of Appeal found that the certificate was conclusive both as to the amount and scope.

Take-aways:

Service charges are often a bone of contention as between landlords and tenants, but yet they are often not given much attention at the heads of terms stage when a lease is being agreed. Particularly if you are a tenant, proper scrutiny should be given to the service charge provision to ensure that you are properly protected in the event that excessive sums are

being levied. As a landlord, you will want to ensure that you can recover all sums properly expended, so your focus will be to ensure that the service charge provision is comprehensive and well-drafted.

Conclusion

The past year has not just been about C-19 (albeit that it has dominated the property narrative in much the same way as it has impacted on so many other parts of our lives), but there have also been several other issues rehearsed in recent cases. As always, if you need any advice on any of the issues referred to above or on any other real estate matter, please do get in touch.



Chris spent nearly 25 years working in local government, involved in estate management and strategic asset management. Having moved on to CIPFA in 2003, Chris has been delivering property consultancy and training across the public sector. In 2019, he established his own consultancy, Chris Brain Associates, and he continues to support the public sector with property consultancy and training throughout the UK, in strategic asset management, organisational efficiency, and asset valuation.

Chris is a member of ACES and is ACES' Valuation Liaison Officer.

ASSET MANAGEMENT

5 signs that you are rubbish at asset management

Chris Brain FRICS chris@chrisbrainassociates.com

Never one to mince his words, Chris lays it on the line in no uncertain terms – the heading says it all.

With over 2 decades supporting local authorities in the development of their property asset strategies, there isn't much I haven't seen. Whatever your problems are, there is a pretty good chance I have witnessed it elsewhere. I rarely encounter 'new' problems.

I sat down recently, to think through some of the bigger issues that my clients were experiencing before I started working with them. The purpose of this was to see if I could come up with a top 5 list of problems.

I concluded, though, that people might not necessarily be interested in a list of problems. I thought some more. What if I turned things around and instead of a list of problems, I could create a list of symptoms. After all, that's what we do when we have a health issue. We go see the doctor and describe our symptoms. We tell them where

it hurts. We tell them what we can't do that we used to be able to do. Or we tell them what others can do, that we can't.

That's how this article came about. This is my top 5 list of symptoms of failing at asset management. It will not tell you how to remove the symptoms. That's another article [Ed – I'll hold you to that]. Maybe more than one article, thinking about it [Ed – even better!].

What use is a list of symptoms, you ask, without the cure or treatment? It is useful because it enables you to begin the process of self-diagnosis. The simple truth is, the more of these symptoms you are experiencing, the worse the state of asset management in your organisation. The deeper and more engrained are the challenges you face with the strategic direction and management of your property portfolio.

1. Turf wars

This symptom manifests itself through internal disputes over property issues. It could be disputes within or between property functions, where these are fragmented or operate in different directorates within the organisation. Or disputes might occur between service managers as they compete on what should happen to a particular asset, or how that asset should be used. Either way, these are 'turf wars'.

Such turf wars rarely become as extreme as taxi wars or ice cream wars, although I guess some might get close to it. What they do though is sap the energy of the organisation, with too much effort being spent trying to smooth relationships instead of build relationships.

2. Ignoring the elephant in the room

Different organisations may have a different elephant, but most will have one.

For some it might be property repairs backlog. For others it might be achieving net zero carbon. In some organisations there may be a collective belief that the organisation simply has too many assets. Maybe your organisation is one where services decide which buildings they occupy, and how. Or perhaps your organisation is one where the strategic governance machinery spends too much time on detail and parochial matters, taking its collective eye off property strategy.

If you have an elephant you will know about it, because it is the one thing that you are hugely frustrated by. It will be the thing that everyone ignores, because it just seems too difficult to do anything about. It is not discussed, and sits hidden in a closed box somewhere.

3. Us v Them

If you suffer from this symptom, then what you see is a cultural difference in the perception of the property portfolio.

One example might be how the property team thinks compared to how service managers think. There could be a misalignment, with the estates team being blinkered by the financial imperative, and the achievement of rental income and capital receipts, or shiny redevelopment projects. The property team is focussed on doing deals, rather than delivering value, and this is what

prioritises its work programme.

Service managers on the other hand are interested in delivering efficient and effective services, supporting people and supporting neighbourhoods. If the property team isn't aligned to that, service related property projects can be given a back seat and not viewed as being as important as the things that generate money.

Another example might be where the maintenance or hard FM team has a work programme based on technical need, not what spend will bring the greatest benefit strategically. The team focuses on technical priorities rather than strategic priorities, and there is little engagement with the strategy team. This might display itself by an organisation deciding to dispose of an asset a short period after spending lots of money on repairing the roof.

Alternatively, you could experience situations where a new or newly refurbished asset isn't performing as well as was expected, in terms of its suitability for its function. This might be because architects and designers have concentrated on their personal design preferences and what they think the internal client wants, rather than engaging on need.

4. Making the same mistakes over and again

"Insanity is doing the same thing over and over and expecting different results" is a quote often attributed to Albert Einstein. The irony of the quote is that quantum physics demands that scientists do the same thing over and over again, to see what the different results tell them.

When it comes to the management of a local government property portfolio, repeatedly doing the same thing is only good, if each time you do it, there is a positive result. Time and again, organisations making repeatedly bad decisions, and fail to learn from them.

An example might be the repeated pattern of organisations buying or constructing new property assets. This is often done without any adjustment to maintenance budgets and not necessarily divesting themselves of the asset it replaces.

Sometimes, such new assets are created for political reasons, when there is already an asset within the property portfolio that could perform the function perfectly well.

Another example might be the repeated salami slicing of maintenance budgets, year after year, and expecting the condition of the property portfolio not to deteriorate.

5. Safety and compliance issues

The problem with premises safety and compliance issues is that they are often invisible. They often only surface when something disastrous happens, like an injury, death or building component failure. All of a sudden there is the realisation that you had a problem. And of course, the problem is not that latest incident, but the environment that allowed it to happen.

The circumstances that led to that single incident might mean that for some time you had been operating a cigarette paper away from multiple other incidents. But being incident-free doesn't mean things are okay.

This particular symptom needs an element of enquiry. It is not as easy to spot straight away. One simple way to uncover whether you have this symptom are random spot checks at some of your premises, getting someone to role play being a contractor sent along to carry out some works. Try it. You might be shocked by what you learn.

Summary

There you have it. My top 5 signs of failing asset management. If you have put a tick against all 5, things are not good for you and your organisation.

Maybe you are lucky and you got away without ticking any of them. If you did, then you will be in an elite band of organisations that have a better grasp on strategic property asset management than many. But don't feel too smug and self-congratulatory yet. These are simply my top 5, and there are of course a whole range of other potential symptoms of weak asset management that you could be displaying which I have not mentioned here.

I suspect a high number reading this article will have been able to tick at least one. If you have ticked any of them then there is some work to be done. You have at least begun that self-diagnosis process, which is often a first step to making a positive change.



Paul is head of Trowers' subsidy control team and a partner in the firm's Public Sector Group. He has 28 years' experience of advising the public sector on subsidy, property, regeneration and commercial transactions, including a period as a local authority's interim Director of Legal and Governance.

SUBSIDY CONTROL

Subsidy control's impact on land dealings

Paul McDermott PMcDermott@trowers.com

Paul alerts readers to the pending subsidy control legislation which replaces state aid in Great Britain.

1 January 2022 marked the first anniversary of subsidy control replacing state aid in Great Britain. The Subsidy Control bill is due to become law this year and will underpin the relatively new system in UK law. Subsidy control, much like state aid, applies to land dealings where the public sector acquires or disposes of a land interest. The 2 systems are similar though not identical.

Subsidy control seeks to ensure that the state does not use public resources to give an advantage to a business or enterprise (this can include not-for-profits engaged in market activities). The public sector paying more than the market value for a land interest or receiving less than a market value when disposing of a land interest/charging rent would both be unlawful unless there is an exemption/justification.

Unlike state aid the subsidy exemptions/justifications are based on compliance with subsidy control principles rather than a set of written 'block exemptions' which previously permitted state aid to be given in certain defined circumstances.

The public sector must now assess which policy objectives are being furthered by a subsidy measure and confirm the measure is efficient in achieving the desired outcome. The public sector must also be satisfied that the measure is not prohibited under World Trade Organisations rules nor any UK trade agreements. The UK government has stated that it prefers the new principle-based system as this gives the public sector greater flexibility (compared to block exemptions) to respond to market failure or to deliver national/local priorities. No doubt this is true, though smaller

public sector organisations may lack the knowledge/expertise to be confident about undertaking the related assessments.

English law regulates the disposal of local authority land primarily through s123 of the Local Government Act 1972 and sections 32 and 34 of the Housing Act (for 'housing land'). S123 incorporates the concept that a council should dispose of most land interests for the best consideration that can reasonably be obtained and though this may equate to a market value, in subsidy control terms, it does not automatically do so. For instance, it won't equate to a market value if the authority is relying on a general consent under Circular 06/03 and/or the value of a voluntary contribution has been taken into account. Short term arrangements are also excluded from the best consideration requirement as is the acquisition of property interests.

Where a land transaction, would under subsidy control, mean that a local authority is deemed to have given a subsidy to an economic actor then it will be necessary for that authority to undertake the subsidy control principles assessment, even if the transaction would be permitted under sections 123 or 32 (or their related consents).

The pending Subsidy Control legislation will place a legal duty on public authorities to respond to pre-action information requests about subsidy awards within 28 days of a request being made. Further, authorities will be incentivised promptly to publish awards on the UK subsidy control database as this then time limits (in most cases) a legal challenge being made

about that subsidy to within a month of publication. Though this will benefit public bodies (compared to the much longer challenge period of state aid) it is likely to result in a wave of pre-action information requests being made about public sector property transactions. Having the subsidy

control assessments recorded and the information to hand will assist councils to deal with these property-based requests.

Subsidy control does not apply to non-economic activity - i.e. a reduced rent for letting out a community hall to a voluntary group is unlikely to be

subsidy. When enacted, the bill will also confirm that economic organisations may receive up to £315,000 of subsidy over a continuous 3-year period (from all sources) which rises to £725,000 for organisations delivering services such as social housing or social care.

ELECTRIC VEHICLE CHARGING

Can we keep up with growing demands for charging?

Robert Burke robert.burke@cluttons.com

Robert draws our attention to some of the growing issues with charging electric vehicles and says local authorities have a part to play: "Local councils need to work with landowners, to develop a strategy to ensure there are enough public charging points in the right locations to alleviate any charging or range anxiety. They also need to engage with Internet service providers, to guarantee that every newly installed charge point is connected and provides live data to potential users..."

Are electric cars already passé

Much has been written about electric vehicles and their charge points. It is a subject which has become popular with technical journals, broadsheets, and tabloids alike. Views and opinions range from the obvious - if not almost rather dull - to the virtually science fiction! As I write this, we are being encouraged to view electrically powered vehicles already as somewhat passé in certain circles. There is talk about hydro power among other options. Is this like the Beta max video - obsolete before it really gets going? Surely not (And here is why).

The electric car has struggled with battery capacity and cost; they are still a considerable outlay; as well as the much-publicised lack of charge points. However, a couple of things at least are certain:

1. Cars are here to stay - they might be driverless, as the Milton Keynes football team are experimenting with, and they may look like something out of "Back to the Future", but they are here to stay

2. Fossil fuel is not a long-term option by which to power them. In fact, one only needs to start the car early on a frosty morning or walk past a queue of traffic to sense what, maybe we have been slow to accept as a species - the noise and smelly emissions sit ever more uncomfortably.

Fossil fuels were useful for many years, prior to the technology advances that have enabled us to consider other options. A bit like the way caves were a great shelter and home before we were able to deploy other alternatives. However, electric vehicles (EV) need electricity - much of which is still generated ultimately by fossil fuels.

The government appears to disagree with any speculation that electric vehicles have already come and gone.

The government has now published its response to the electric vehicle consultation, which closed 7 October 2021 and new regulations will likely introduce requirements that:

- New individual homes with on-site parking are to have an EV charge point

- Residential buildings undergoing major renovation that will have more than 10 on-site parking spaces (after the renovation works) are to have at least one EV charge point for each dwelling, with associated parking and cable routes in all spaces without charge points (to allow retrofitting of charge points at a later date)
- New non-residential buildings with more than 10 on-site parking spaces are to have at least one charge point and cable routes for one in 5 spaces
- Non-residential buildings undergoing major renovation that will have more than 10 on-site parking spaces after the works are to have at least one charge point and cable routes for one in 5 spaces.

The government will not introduce the proposal for one charge point in all existing non-residential buildings with more than 20 parking spaces, acknowledging that a more tailored approach is needed. These new requirements, likely to be run through the building regulations regime, could, reportedly, deliver an additional 145,000 charge points. Developers are being forced to implement these and other environmental enhancements.

EV charging will be the technology of today (if not tomorrow)

The fact is the electric vehicle market in the UK is gaining momentum and the popularity of electric vehicles is steadily growing. Plug in cars now account for over 10% of UK car sales (Source: autocar.co.uk). With this comes the necessity that electric vehicle users are supported by a reliable and frequent network of electric vehicle charging points.

Wherever these points are located, landowners looking to install charging points on sites should act now. Ofgem has confirmed that it is confident that it can support future charging requirements, although we also hear about instability in the grid. We are seeing, "Smart Grids", and micro grids to balance demand and acquire local energy security. This may reduce the need for distribution upgrades in the short term, although ultimately upgrades are likely to be required.

Every substation throughout the UK, used to step down electricity drawn from the grid to

a lower voltage that can be fed into a property, has a limit on their power output. This means that regardless of the number of users at any one time, there is always a cap on the amount of power available to share among them. Therefore, at peak times you might experience lights flicker or even blackouts.

As every electric vehicle charge point represents an additional user, then it is easy to understand why the industry is concerned. The energy needed to support future demand may be available at a national level, but it cannot be guaranteed at a local level. At least not without costly investment in upgrading the energy infrastructure. We are going to see a race to install and grab the power first to avoid the potential cost of the upgrade. This could further commoditise electricity and help to drive up prices. It is also easy to see well funded proactive developers buying up this potential, but this could be something that local authorities consider as well.

Where is public EV charging needed?

The UK is currently the second largest market in Europe for the purchase of electric vehicles (Source: The Guardian) with more than 500,000 new electric vehicles registered in the 5 months up to the end of May 2021 (Source Nextgreencar.com). With the sale of new petrol and diesel cars and vans banned from 2030 and the sale of new hybrid vehicles following only 5 years later, an increase in the demand for charging infrastructure is inevitable. Add to this that over 40% of the population, a figure which increases in urban areas, is unable to charge at home then the number of EV users reliant on public charging is going to increase dramatically in the foreseeable future.

Public charging models

Two charging requirements are:

Recharging

This can take up to 12 hours depending on the rate of charge. When planning locations for customers to charge it needs to be somewhere they are expected to be for a substantial length of time:

- Workplace: employees can be parked at work for an average of 8 hours a day and could use charge points at work to allow them to completely charge their battery

- On-street: allows residents to charge up, often overnight, outside their property even if they do not have a driveway or the ability to charge at home
- Near home: these could be locations that are used alternatively during the day (potentially as top-up locations) and would otherwise sit empty overnight. For instance, a car park could provide an opportunity for local residents, with no access to home charging, to use these locations to charge overnight and walk to collect their car the next morning.

Top-up charging

This can range from 30 minutes to up to 2-3 hours. Although this type of charging can of course be done at all the charge point locations above, there are sites where only top-up charging is suitable due to what is co-located there.

- Destination: this could be a shopping centre or tourist destination where visitors are naturally kept busy for several hours
- En-route: these locations need to be carefully designed so that they offer enough variety and attraction for visitors to spend a couple of hours.

Investment and strategy need to drive demand

Building a national network of reliable and accessible EV charge points is crucial, not only to support the growing popularity of electric vehicles, but also to drive the adoption on further, which is important to help combat climate change. With over 78% of respondents to a recent YouGov survey agreeing that the charging network is currently not adequate, charge point locations cannot be left to chance. Local councils need to work with landowners, to develop a strategy to ensure there are enough public charging points in the right locations to alleviate any charging or range anxiety. They also need to engage with Internet service providers, to guarantee that every newly installed charge point is connected and provides live data to potential users so they can be sure the charger they are driving to is working and available.

Future proofing your charging locations

As charging technology improves, both at the charge point and reception on the car, the reliance on slow chargers at home will be supplemented by readily available fast chargers at convenient locations nationally. The charging anxiety experienced by some potential users will diminish as the charging network evolves, and journeys can be planned with multiple options for rapid charging points en-route.

Finally, it would be useful to look at connectivity in the context of electric vehicle charge points, perhaps something which is not immediately considered. Charge units for public use will need to be connected not just to the grid, but also to the internet, so that payment can be made, use and charge controlled and monitored, bookings made and breakages reported.

Cluttons LLP has recently commissioned

a You Gov survey seeking views from 2,000 consumers, 500 councillors, 100 MPs and 100 IT decision makers. This has provided some cutting-edge insight.

The government is aware of the need for the UK to keep up with front runners and has set a target of 85% gigabit capable coverage by 2025 with 5G coverage across the majority of the UK by 2027. In reality, the current status is that 63% of premises can access gigabit broadband. More than 92% have 4G coverage from at least one mobile operator (Source: CBI and UK government). In addition, 73% of consumers agreed that installing further broadband and mobile infrastructure and equipment across the country is vital for its social and economic advancement (Source: YouGov and Cluttons – excludes respondents who selected “don’t know”). This is particularly important at local authority level and the survey showed that respondents wanted councils to speed up

roll out. A key will be greater collaboration between local authorities, businesses and providers, together with developers, to influence the connectivity future – pushing on initiatives and opportunities such as the demand for electric vehicles in new developments.

In addition, the rising cost of petrol and diesel at the pump, currently the highest it has ever been, and increasing concern over energy security, will surely speed up the grid improvements and the power of EV. However, it is going to be interesting to see how the grid balances demand with a variable supply often hit by weather, cloud cover and lack of wind as we have seen this year, as well a reduction in the use of source fossil fuels. We are likely, perhaps, to see more domestic solar panels powering EV charge points, particularly if authorities continue to be slow to react.



REMOVING HIGH PROTESTORS

Safely working at height

David Asker property@hceggroup.co.uk

David here gives us more insights into the range of situations for evicting protestors – this time, those demonstrating at height.

David is an authorised High Court Enforcement Officer with over 35 years' experience in specialist evictions and enforcement. He is the director for corporate governance and compliance at The Sheriff's Office and regularly works with the National Eviction Team, both companies being part of High Court Enforcement Group.

He has a wealth of experience in dealing with high profile enforcement operations and has planned and led operations to remove demonstrators from complex locations, including St Paul's Cathedral (OCCUPY!), Admiralty Arch, Parliament Square, Bexhill-Hastings by-pass, nuclear power sites and numerous fracking sites, including Balcombe.

Many of the evictions we work on involve the safe removal of protestors who have put themselves in a high, and often precarious, situation.

They might have made a makeshift tower and climbed on that, or got onto the roof of a building, or, frequently, climbed up and made shelters in trees. In virtually every instance, they have placed themselves at risk, partly to make it harder for our team to remove them.

Identifying hazards at height

But remove them we do. The hazards we look out for when planning how to do this include:

- Injury caused by a fall from height
- Injury caused by falling objects

- Injury caused by violence on the part of the protestors, such as weapons and projectiles thrown or dropped from height
- Environmental hazards on site.

Removing protestors at height safely

The objective is to plan and prepare for all eventualities and manage the situation, and not to panic the protestors with unexpected actions which might cause a fall or other injury by their sudden reaction. We operate under a safety-oriented “no surprises” policy.

Here are the ways we ensure everyone's safety – the protestors', our operatives' and anyone else in the vicinity - when working at height:



Training

Training and relevant hands-on experience are essential – all our team members are trained and certificated to IRATA level 3 (Industrial Rope Access Trade Association).

PPE and equipment

Our team members use the correct, currently certificated equipment which is checked every time that it is used to enable them to work safely at height, and safely to remove protesters from locations at height.

These are not usually rescue operations, since the protesters do not wish to be rescued or removed!

The team always uses personal protective equipment, certified and checked to all the current standards, such as gloves, safety boots and helmets, eye and limb protection, anti-particulate masks and ear defenders.

Communications

Our operatives are also set up for communications with the protesters, usually through mobile phones, plus two-way radio

to communicate with the rest of the team on site. Where we can, we prefer to talk the protesters down, rather than remove them.

Specialist equipment

All the specialist climbing equipment our operatives use is checked daily, weekly and before every use, and everyone works in a team of at least two people.

Controlled access

We check the area we will be working in and secure it so that no one unauthorised or untrained may enter.

First aid

On site we have registered first aiders and carry first aid kits. We ensure that we have identified safe locations where access can be gained by emergency services' personnel and vehicles, if required.

Safe descent

When we are ready to remove a protester and lower them to the ground (where this is the only route down), we will ensure they wear a safety harness. If they have their own access lines, we may allow the protesters to use these if they are safe, but always under the direct and close control of our at height team.

Need more information?

If you have a site where you think you may attract protesters – or already have protesters on site – do get in touch and we can advise you on next steps.



Jon is a Director at Planning & Design Practice Ltd. He is both a chartered town planner and a full member of the Institute of Historic Building Conservation, with a specialist interest in the conservation of historic buildings.

HERITAGE CONSERVATION

The benefits of heritage conservation

Jon Millhouse jon.millhouse@planningdesign.co.uk

Jon gives compelling arguments why heritage buildings should be cherished.

Why conserve heritage?

There are 400,000 listed buildings, 10,000 conservation areas, 1,600 registered parks and gardens, and 18 World Heritage sites in England. Our planning policies are designed to protect our built and cultural heritage. But why? Does this stand in the way of social progress and economic growth? Does keeping draughty old buildings in use fly in the face of our aspiration to tackle climate change?

The conservation movement started in the late 19th century and gathered pace through the 20th century, a reaction perhaps to the widespread loss of historic buildings to wartime bombs and post war 'improvements'.

Certainly, as a society, we are enthralled by our heritage. A whopping 75.8m visits

were made to 725 historic visitor attractions in 2018/19 (Historic England 2019). Heritage provides a sense of familiarity, stability and permanence in our ever-changing world. Historic places tend to be unique and distinctive, and consistently attract people to live, work and play. But they are capable of delivering more than just a warm, fuzzy feeling. There are tangible economic, social and environmental benefits to be gained from the conservation and restoration of our historic environment.

Historic England tell us that the heritage sector is worth £36.6 bn annually to the UK economy, supporting 563,509 jobs, and contributing more than the aerospace, arts or defence sectors (Heritage Counts 2020).

I have seen first hand the contribution which can be made when an under-used and unloved historic building is imaginatively reused, for example helping to obtain listed building consent to convert the disused former Derby central post office to a buzzing city centre office hub.

Our economy is diversifying. Tourism and visitor spending is increasingly important. Historic places are being used creatively to fulfil this demand. At Planning & Design Practice we have helped clients deliver a wide variety of creative reuse schemes from tree house retreats at Callow Hall, Ashbourne, to a gin distillery and car museum at Alderwasley Mills, Ambergate, to a sheep's milk creamery at Crich.

But value to society is not of course measured only in financial terms. Heritage has the potential to deliver many social benefits too. According to Historic England, arts and heritage social prescribing has demonstrated a high return on public



Tree house retreat
Image courtesy of Wildhive Callow Hall, Ashbourne



Derby central post office



investment through health benefits. People who visit heritage sites are 2.76% more likely to report good health than those who do not, and are consequently less likely to require the use of healthcare services.

Elvaston Castle

I am currently part of a team aiming to fulfil the economic potential of Elvaston Castle, Derbyshire, through a restoration and redevelopment scheme which will sustain the country park estate's long-term future, bringing new uses, events and activities, inward investment and jobs.

Elvaston has huge potential to improve the physical and mental health, and cultural well-being of the thousands of potential visitors who live close by. The redevelopment scheme aims to open up hitherto inaccessible parts of the castle and reach out to hard to reach groups in deprived wards in nearby

Derby through events and improved community engagement.

And what about environmental impacts? Many heritage sites have huge potential for rewilding, tree planting and biodiversity enhancement, something which will become increasingly important as the new Environment Act takes effect in the coming years. At Elvaston we are utilising the country park estate to introduce new hedgerow planting, wetlands, wildflower meadows and woodlands.

Thermal performance

Improving the thermal performance of poorly insulated buildings is another huge challenge we face as a society. With Britain having the oldest domestic building stock in Europe, it might be reasonably assumed that we are ill prepared to meet the challenge of reducing our energy needs

in order to tackle climate change. But before we embark on a programme of mass replacement of historic buildings with more energy efficient ones, we must consider the problem more holistically. Think of the embedded energy in an older building and the energy needed to construct a replacement. Older buildings have often proven themselves to be adaptable and durable through time. A replacement building - if short-lived and needing to be replaced again in a few years' time - will not save carbon in the long run.

We are increasingly learning how to improve sensitively the thermal performance of older buildings: that must surely be the priority. I often encourage clients to reuse and improve older buildings where possible, even if their first instinct is to demolish and replace. When the decision is taken to restore and re-use an older building, it is seldom regretted. One such example is Oaklands, a Victorian villa in the Strutt's Park conservation area, Derby.

The national planning policy framework tells us that the purpose of the planning system is to achieve sustainable development, and that sustainable development can be defined as having 3 strands, economic, social and environmental. Heritage conservation and restoration can achieve all of these, and so is a worthwhile endeavour in my book.



Kevin is a London based public sector surveyor.

PROPERTY FINANCING BONDS

Tapping the sterling bonds markets

Kevin Joyce nevskyuk@gmail.com

Kevin is a regular contributor to ACES'Terrier, and is currently tracking the UK sterling bonds markets, where bonds issues relate to urban regeneration and property development financing. He outlines some of the benefits of bond issues.

New funding sources

Local authorities are generally considered by investment markets to be high quality borrowers and since 2015, half a dozen city councils and borough councils have accessed the sterling bonds markets to raise new finance for city or town centre regeneration, new property development, operational sites consolidation, or other purposes. Whereas most of these bond issues have been made through private placements, Aberdeen City Council has taken a different route and raised £370m through an index linked public bonds issue, at a margin of 1.25% over gilts, with a maturity date of 2054 (1).

The purpose of Aberdeen's issue, which achieved an Aa2 credit rating award, is to finance an infrastructure capital programme designed to anchor the city's status as a Global Energy Hub, help with diversification from a traditional oil and gas economic base, and attract world class businesses to Aberdeen. Projects include a comprehensive city centre masterplan, a new exhibition and conference centre, new school and housing developments, roads construction, digital enhancements, and other projects to act as catalysts for economic growth (1).

Interestingly, key considerations in the city council's decision to opt for bonds finance rather than alternative methods of finance included this option which delivers the lowest net present cost of debt service over the term, the repayment profile of the bonds complementing Aberdeen's

existing debt maturity profile, and the bonds offering a better inflation hedge with projects income than the next best option, Public Works Loan Board financing (2).

Additionally, the option was sufficiently flexible to allow a 3-years' repayment holiday arrangement to be built in, to match the exhibition and conference centre construction period, during which time the asset would not be generating an income stream to meet repayment obligations. A further attraction of the public bonds issue is that the bonds can be traded on the secondary market, thereby opening up a potential opportunity for the city council to buy back its own debt at a future date (2).

Bonds financing sums raised by councils, though, have been dwarfed by the levels of bonds financing being raised by major UK housing associations. As a general rule, these new issues typically are heavily oversubscribed as investors' current appetite for quality sterling paper consistently outstrips supply, which has persisted even during periods of economic turbulence brought about by the global coronavirus pandemic.

The advent of environmental, social and governance (ESG) investing, has also stimulated market interest in an emerging type of bond - the sustainable bond. A housing association, for example, might look to issue sustainable bonds to say, finance the construction of energy efficient affordable homes, thereby meeting both social and environmental investment objectives. Each sustainable bonds issue needs to be supported by a Sustainable Financing Framework, setting

out the basis for identifying, selecting, verifying, and reporting on projects eligible for the financing.

As ESG investment globally is now turning into a multi-trillion-dollar market, market regulators have introduced rules to help identify risks of greenwashing, a practice involving the sustainability credentials of an investment or activity being overstated. The International Organisation of Security Commissions, which includes securities watchdogs in Europe, the US, Latin America and Asia, has published 10 recommendations in this

regard for its members (3).

In recent months, one of our leading national housebuilders and a well-known UK REIT have both successfully brought 10-year inaugural sustainable bonds issues to the markets, raising £400m and £350m respectively. The order book for one issue exceeded £2.2bn, and the order book for the second exceeded £1.8bn. Whether these issues open the floodgates for other private sector developers to follow suit remains to be seen, but would seem likely if the experience of housing associations should repeat itself.

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Jen is a chartered surveyor and co-founder of Property Elite, providing training and support to RICS APC, AssocRICS and FRICS candidates.

PUBLIC SECTOR SURVEYING CAREERS

Interview viewpoints

Jen Lemen BSc FRICS

Jen outlines the results of recent interviews with public sector personnel and illustrates advantages and disadvantages of a career in surveying in the public sector.

Did you know there are over 4,000 property professionals working in the public sector, including central government, local authorities and the wider public sector?

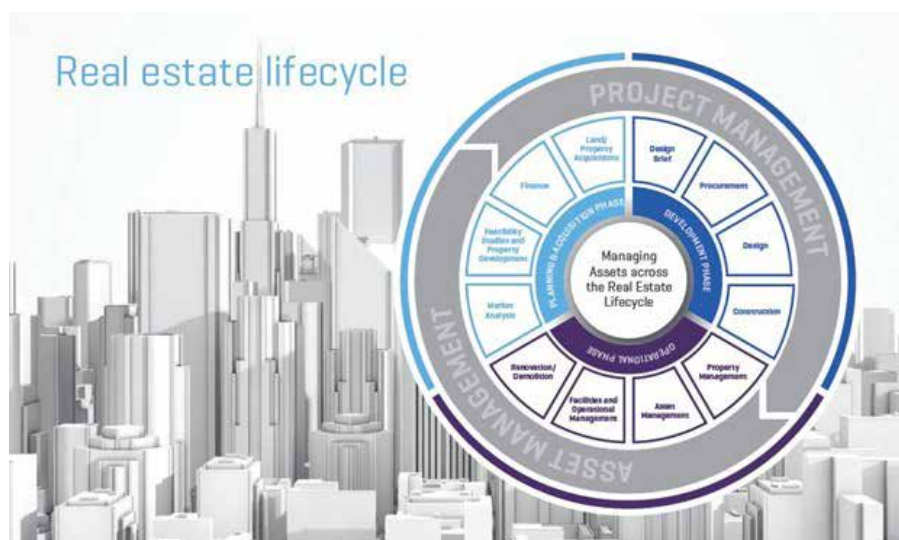
Did you also know that the government occupies around 2% of the total UK land area, with a total value of around half a trillion pounds and with annual estate running costs of over £20bn?

Surveyors in the public sector are involved in all aspects of the property lifecycle (RICS 2021); from the inception of a new development through to demolition of an obsolete building.

In an April 2021 article in Property Week, Dr Janet Young, Government Chief Property Officer, made the following statement emphasising the importance of public sector surveyors:

'It is our job to make sure the 300,000 public buildings across the UK support delivery of the best possible public services. And with public service reform accelerated by the pandemic, there has never been a more exciting time to work in government property.'

Property is increasingly being recognised





as an enabler of prosperity and a lever to create jobs and economic growth, particularly as we deliver the government's infrastructure and net zero ambitions, helping to kickstart the economy following the pandemic.'

The key aim for all public sector surveyors is to make property better. This involves improving capability and achieving government property objectives efficiently and effectively. There are many ways that this is done, including being sustainable, building new public service infrastructure, improving workplace quality, and managing the whole building lifecycle.

Current feelings

To find out more about the current state of surveying in the public sector, we spoke to a number of surveyors at various stages of their careers.

We asked them 5 questions, which we have summarised in the diagrams.

Diagram 1

One surveyor responded that: *'the council paid me a full 5-day a week salary and allowed me a day a week to complete my studies. On the odd occasion I was also able to complete college/university work in the office (if my workload permitted). I never had any intentions to attend university and obtain my degree, let alone charterhip. I genuinely wouldn't be where I am now without those at the council who inspired and helped me in those early years.*

The benefits came from having a vast array of different people around me to learn from. I had shadowing opportunities with building control, corporate property and the planning department. I was able to meet a vast variety of people such as local councillors, senior members of staff, directors, social housing tenants, the travelling community, MPs, community leaders and so on.

Another benefit was in the early years, prior to 'hot-desking' you were surrounded by surveyors that had been there 30+ years.

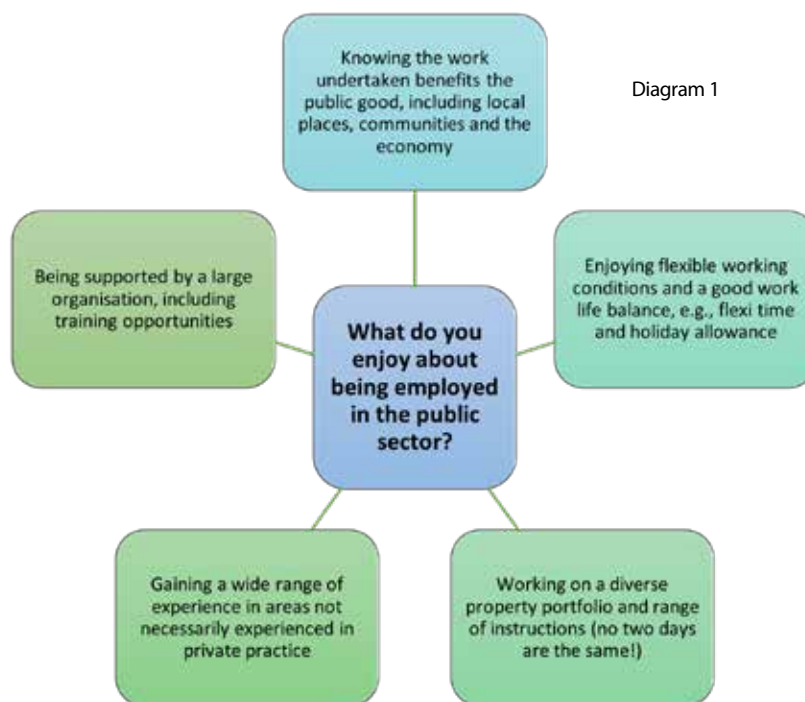


Diagram 1

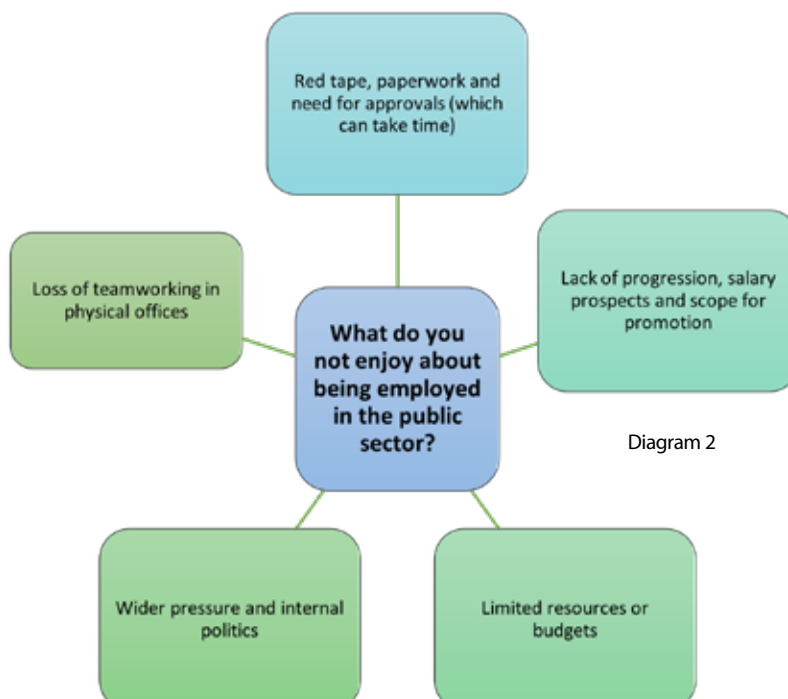
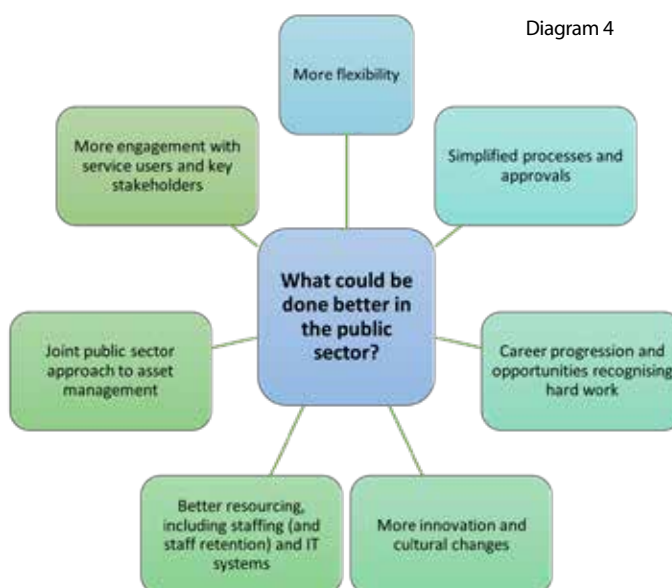


Diagram 2

Diagram 3



Diagram 4



They had all been in my position starting out and worked their way up. It was great to be among and learn from them - there was a great sense of team.'

Diagram 2

It was interesting that no respondents commented that they wished they had a more niche or focussed role on one area of practice. Almost all commented that they enjoyed the diverse range of work and asset types dealt with.

Diagram 3

One respondent commented that: *'I always tried to conduct myself in a professional and helpful manner but there were instances of verbal abuse, threats and ridicule. I remember once I had a tenant inches from my face when I told him his house was suffering from condensation and not rising damp as his 'builder' friend had diagnosed. There was almost an acceptance that you could be spoken to that way because you were a local authority employee.'*

This is worrying and a clear indication that the health and safety and wellbeing of our surveyors needs to be a primary concern.

One of the respondents had recently left the public sector for private practice: *'I started to realise that I had reached a level within the local authority and that without promotion or change, I was not going to develop any further as a surveyor. I was watching friends around me gather increasing experience in a range of surveying activities and I felt like my scope was reducing.'*

There were specific projects that I had made it clear to my managers that I wished to be involved with to develop as a surveyor. However, projects were being given to external consultants to design, manage and deliver without the opportunity to get involved.

I was also well underway in my RICS APC and there were clear areas of knowledge and experience lapse with the core competencies, such as contract administration. The authority had in place contracts managers that undertook that function for example. I knew that if I wanted to pass my APC I needed to move and be around chartered surveyors.'

Diagram 4

One respondent commented that: *'there*

was such a high turnover that it impacted upon relationships and the projects being delivered. People were viewing roles as short term which mean that the best case scenario for the local authority was not being achieved.'

Conclusions

In conclusion, we all have a lot to learn from the public sector – both positive and negative. We have all had to adapt quickly to new ways of working during the C-19 pandemic and this has necessitated innovation in how we work. Flexible working is the new norm, and we are seeing IT systems being improved rapidly.

There are many advantages to a career in the public sector, although with all things, there are some downsides and we have clear areas for improvement. New challenges will no doubt arise in the coming years and the public sector will continue to react and provide a high quality service that benefits our communities and the public good.

Diagram 5



Branches News

HEATHER HOSKING, LONDON BRANCH

Meeting held on 1 October 2021

Unfortunately it didn't prove possible to meet in person as the branch couldn't find a venue with sufficient capacity, as many property owners/managers are still operating social distancing regimes. The executive committee will review before our next meeting in January.

16 members and guests attended. Chris Rhodes, chairman of the branch, welcomed everyone, including the guest speakers.

Presentation – The future workplace – Public and private sector trends in London

Philip Booth and Mark Sambridge of Cluttons gave a very interesting presentation and answered questions on the trends in the return to the office, comparing the public sector and private sector approaches. They also discussed the way that office use is changing, with decreased desk provision, increased collaboration space, and some "quiet" space, and the emergence of the "hybrid" approach to working from home and attending the office. In addition to the effects of the pandemic on office use, they also touched on the other emerging issues that are affecting the way that offices are used, such as changes to technology, data use and analysis, digitisation and environmental, social and governance considerations.

ACES National Conference planning 2022

Chris advised that London Branch colleagues have been liaising with the proposed venue to progress arrangements.

A number of companies have expressed an interest in sponsorship and in giving presentations, which will be followed up.

CPD

Ideas for topics were requested. It was suggested that the chief executive of the GPA, Stephen Boyd, might be prepared to speak at a future meeting or at the annual conference. A site visit for 2022 could be to the government hub in Canary Wharf.

Exchange of information

- A member asked whether authorities were planning for the up to 50% increase in energy prices that is expected
- A council has recently acquired the freehold interest in a shopping centre. This will provide regeneration opportunities
- A council's civic centre is being restacked to accommodate more staff, using agile working arrangements with 50% desk provision
- The GPA will be looking to work much more closely with local authorities and will be making government hub accommodation available for use by local authorities. Government is looking to vacate 53 buildings in London and will possibly look to use outer London accommodation to provide touch down space for organisations which are being located in the regions. The London hubs are in Canary Wharf and Ruskin Square, Croydon. A second hub is being built at Ruskin

Square, which will predominantly be used by the Home Office

- One authority is looking to return to the office and is developing a protocol/strategy for this. The offices are open to those who wish to use them
- A further council is encouraging staff to attend the office but is not being prescriptive and is using a risk assessed approach. There has been a comprehensive review of the accommodation requirements of different teams to enable the assessment of future needs
- Parts of 2 boroughs fronting the Thames had been affected by flooding caused by very heavy rainfall in July, with flooded basements, resulting in M&E infrastructure damage. The councils have asked representatives from Thames Water to attend public meetings to explain the causes/issues
- One council has had 500 Afghan refugees placed in the borough, which has put pressure on schools and social services; another council had provided accommodation for the collection and distribution of goods for refugees.

Date of and arrangements for the next meeting

The next meeting on 3 December will be held face to face. Once a venue has been agreed, Heather will circulate details to branch members.

CHARLES COATS, RURAL BRANCH

Rural Branch held its first face to face meeting for 2 years at the National Agricultural Centre at Stoneleigh on 18 November. 18 attendees were present, including representatives from 12 councils. The meeting was largely taken up with 3 important presentations and subsequent

in-depth discussions on the following major initiatives.

First, Henry Leveson-Gower from DEFRA provided a detailed update on progress in constructing the long awaited New Entrants Scheme. Branch representatives have been working closely with DEFRA

on fine tuning its provisions, but actual implementation, and with it the tantalising prospect of significant funding, cannot as yet be confirmed formally. The scheme is designed, in part, to enable council farms estates and tenants to access funding to restructure estates and provide pump

priming resources, to both encourage greater access to tenanted opportunities within council estates, and to facilitate greater onward and upward mobility onto private estates.

Second, Graeme Willis, CPRE, provided an update on the joint Shared Assets/New Economics Foundation/CPRE research project which the branch has contributed to as a member of its Steering Group. The final report is now ready for publication, and a launch event is being arranged [Ed – Graeme has promised to report on this in a full article for a future issue of ACES' Terrier]. This review will greatly contribute to the ongoing debate about the future role and function of council owned farm estates and neatly complements the DEFRA initiative.

Last, Suzy Russell from the Community

Supported Agriculture Network gave a short power point presentation highlighting the work her organisation gets involved in, the objective being to explore the scope for small community based agricultural ventures being established on council farms. The presentation was well received, and it was agreed the potential for collaborative working on this interesting initiative should be explored further.

The usual "Round the Patch" session took place after a short buffet lunch, always a useful opportunity to catch up on new initiatives and activities taking place on members' estates and to discuss matters of prevailing professional interest.

At the conclusion of the meeting, Charles Coats advised that he proposed to step down as Branch "Manager" (secretary,

treasurer and general factotum). Having been a member of the branch, and its predecessor the Counties Branch, for some 35 years, he felt it was time to pass the baton on to someone else, but warned he still intended to attend future meetings to keep an eye on proceedings! Charles was warmly thanked for all his work and advice and was rewarded with a presentation of 2 bottles of scotch to help him through the dark winter months [Ed – my thanks to Charles too for all his hard and consistent work over the decades – and as President of ACES in 1998/99].

NB. Subsequent to the meeting Dan Meek, NPS Devon, has agreed to take up the joint role of secretary /treasurer to the branch.

ALISON HEXT, HEART OF ENGLAND BRANCH

AGM 4 November

There were 11 members present at the virtual AGM.

The Heart of England Branch held its AGM on 4 November. The meeting started with a talk from Mark Gorry, Design Manager for Burroughs and Richard Bruton, Major Projects Director for Alun Griffiths Contractors, on the Southern Link Road Extension in Worcester. The talk covered the design work, the process and negotiations pre and post CPO for the scheme. It covered the challenges of

relocating a national grid pylon about a year before the scheme could commence, crossing a navigable river, extending a highway onto Registered Common Land and an historical battleground (The Battle of Worcester) and all the processes each of those relatively non-standard activities required. This was before the snow and floods arrived and before C-19 hit the country. The scheme is due to be completed in 2022 within the originally proposed time frame.

At the AGM following, Kevin Moore of Worcester City Council was appointed

Chairman and Philip Colledge of Mansfield District Council as Vice Chair. Alison Hext agreed to remain as Secretary. However no one was willing to be proposed as Treasurer, even with an Honorarium, and as Richard Allen had advised this was to be his final year as Treasurer, it was agreed that he request the National Treasurer to manage Heart of England Branch accounts. The Branch thanked Richard for all his years of service and for continuing beyond his preferred date to step down.

The next meeting is 3 February 2022.

GERRY DEVINE, WELSH BRANCH

2021 - What a finish to a year!

ACES Welsh Branch Conference 2021

Just 4 weeks after our last branch meeting, we held our ACES Welsh Branch Conference on 14 October, this time as a virtual event. This event, very ably organised by Branch Chairman, Geoff Bacon, as the Branch Secretary was unavailable at the crucial time, provided a day of valuable, topical and interesting CPD delivered by a variety of speakers from the UK Government, Welsh Government,

RICS, Compulsory Purchase Association (CPA) and firms of solicitors. Topics included Places for growth, the work of the Government School of Property and the Welsh Government Land Division, the International Building Operations Standard, dilapidations, property disputes and C-19, key issues in dealing with land development and utilising compulsory acquisition successfully. The presentations were recorded by Geoff and, with thanks to Trevor Bishop and Marcus Macaulay, they are available on the Webinars page on the ACES website (<https://aces.org.uk/webinar-recordings/>). The quid pro quo in getting

Gary Soloman from the CPA was that Geoff was then invited to speak at the CPA Wales Conference on 6 December, a presentation which he delivered admirably, while raising the profile of ACES in Wales.

ACES Welsh Branch AGM and Ordinary Meeting

Fast forward another 5 weeks to 17 November when we held the Welsh Branch AGM. In his Chairman's progress report, Geoff said that while he had started his chairmanship with some apprehension, he had thoroughly enjoyed his year in office

and was very pleased indeed to report that at the previous week's AGM, ACES' President, Simon Hughes, had made his President's Award to the Welsh Branch as ACES Branch of the Year. There being no other nominations for the post (who would want to live up to a year like that?), Geoff was unanimously re-elected for another year. Tony Bamford had indicated his wish to step back from his joint vice-chairman (for North Wales) role in the branch as he now had taken on other ACES roles as Valuation and Rating Liaison Officer as well as his Covid-19 Officer role. The branch decided to revert to the traditional single vice-chairman and Clive Ball was re-elected. It was noted Clive's role as Head of Property, NHS Wales Shared Services Partnership - Specialist Estates Services, covers all of Wales [Ed – also the winner of the 2021 ACES' Award for Excellence]. There being no other nominations for Branch Secretary or Treasurer, Gerry Devine was re-elected.

The next branch meeting is planned for 16 February (virtual), with a Branch Conference again planned for early October. It was noted that the national AGM is likely to be held in Cardiff on 17 November, so the branch AGM date may be changed to coincide with that.

Our winter ordinary business meeting immediately followed the Branch AGM. Among the apologies received was Sam Rees of RICS Wales who had so generously given us of his time, not only for our meetings throughout the year but also for our Branch Conference and we are very grateful to Sam for his support for ACES in Wales. The meeting included items on ACES matters (including RACES), CLAW (Consortium of Local Authorities in Wales) matters, Welsh Government and Ystadau Cymru (Welsh Estates) matters, discussions

on achieving net zero carbon and a presentation by Data Cymru (formerly Data Unit Wales) on Measuring Performance with a view to re-introducing Performance Indicators (PIs). The consensus of the attendees was that PIs should be relevant and meaningful as an aid to progress, not an end in themselves, which had seemed to be the case with previous PI rounds.

Chris Brain then delivered 2 hours of informative and to-the-point CPD covering, as is now usual, a wide spectrum of topics. He started with local government finance, including the struggles of some local authorities in these difficult times, moving on to accounting standards, taking in the consultation on revised Prudential and Treasury Management Codes, before speaking on to new EUV guidance from RICS. He then looked at some aspects of the C-19 impact and noted that Evaluate/ Locate had shown Wales as the top of the UK nations in their Vitality Index scored on the basis of 96 economic metrics. He looked at the prospect of councils selling off offices as many staff continue to work from home or, as here in Wales, from remote shared hubs. The next topic was regeneration, where he looked at the Town Centre Toolkit published in Scotland, the UK Community Renewal Fund which replaced EU Structural Funding and 'Future Places', a new 'placemaking' company launched by Bournemouth, Poole and Christchurch Council to take forward stewardship-led regeneration projects [Ed – see introductory article in this issue of ACES'Terrier]. Finally, there was, of course, climate change after COP 26 and what it means for Wales, including flood risks and a look at the investments required to fund the climate mitigation measures, such as various electric vehicle charging infrastructure initiatives and policies [Ed –

see article on EV charging in this issue of ACES'Terrier].

There is no doubt we are living in very changing and challenging times and we look forward to our ACES meetings in the coming year, as we discuss how to deal with these challenges.

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The Terrier

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David was Head of Asset Management at CIPFA for over 20 years but has recently 'semi-retired' and moved to live in the Scottish Highlands north of Inverness. If you are interested in his photography website and 'Grumpy' travel guides, they can be seen at <https://davidjbentleyphotography.com/>

You may even be tempted to stay at his Bed and Breakfast which can be viewed at www.cuillichmill.co.uk ; if it's any comfort he assures me that he is not responsible for cooking the breakfasts.

BENTLEY MEMOIRS

The Grumpy Guide to a life in asset management – Part 2

David Bentley bentleybunch@icloud.com

By popular demand – surely somebody enjoyed Part 1 – here is the second instalment of the unabridged memoirs of an intrepid quantity surveyor, turned asset management lecturer (I think that's what he was).

We left the last instalment like all good thrillers on a bit of a knife edge, with our reluctant hero in imminent mortal danger and seemingly no chance of escape. OK, possibly a slight exaggeration, we were just about to talk about a new millennium accompanied by a new government initiative called the Single Capital Pot. Not quite hanging over a precipice while clinging to a burning rope with a crocodile infested river far below, but probably as close as you will get to it in the world of asset management [Ed – what about the damsel in distress tied to the railway line, with a steam train fast approaching?].

In the end the millennium bug thingy passed seemingly without major incident and minus the requirement for a ginormous fly swatter. We did however get the wheel, the dome, the bridge, the stadium, the forest, the 'Seed Bank', and numerous other projects up and down the land which were given an encouraging millennium moniker. When local authorities in England were required to submit 'Asset Management Plans' to the regional Government Offices in that same year, I was somewhat disappointed that they weren't also embraced by this whole new confident world aura. I think 'Asset Millennium Plan' or even 'Millennium Asset Plan' sound much more exciting and futuristic.

What was much more exciting, however, was that we set up a new 'Strategic Asset Management Planning Network' in partnership with the Federation of Property Societies to support the initiative. I still have a copy of the original business plan prepared as I pitched the idea to the

powers that be within CIPFA. My initial presumption was that the world would need the network for about 2 years; after that everyone would be au fait with all that was required to be done and we could move on to something new and even more exciting. Twenty-one years later and the network's still going strong. OK, it's changed its name and C-19 has pushed it towards virtual events, but it's still there supporting practitioners around the UK. My initial totally inaccurate 2-year prediction probably explains why I gave up quantity surveying so quickly in my career.

The new network meant 30 extra events per annum to support, and we endeavoured to locate these as close as possible to public transport. I do generally enjoy travelling by train, but I'm not sure why I always get to sit close to someone whose sole objective is to tell everybody else in the carriage what their business is, at the same time as competing in the 'I've got the loudest voice in the world competition.' The most memorable was a woman who worked in telemarketing, informing a new colleague on how accomplished her sales techniques were. That in itself was especially riveting, but when she moved on to the office gossip detailing the personal details of all the staff, from manager down to the youngest junior, the whole of the train was just captivated. I think some people missed their stops just so they could hear more. In the end, I felt I knew Mike personally and he seemed like a thoroughly decent chap, but I don't think I would have wanted to meet up with Darren (you can't trust him as far as you can throw him evidently). Finally

in case you would like to know, Louise was doing really well on her diet, and although Dawn could seem a bit 'bitchy' at first, once you get to know her, deep down she really is OK. All very useful stuff really.

On another occasion I was sitting in the quiet coach on the 5.30 am train to London next to a guy who didn't really need his phone to talk to his colleague who was 20 miles away. It wasn't the most interesting of conversations, but just in case you wanted to know, Steve was on track for doing all the SIPS on the FOS's, whatever that means. I was concerned for Jack however, who was said to be 'on a greasy pole' and 'on his bike' at various points in the conversation. I spent the rest of the journey trying to work out what SIPS and FOS's could possibly be and also picturing Jack on his bike while balancing on a greasy pole.

I have to hold my hands up, however, and admit I am not always the aggrieved party in these train/noise incidents. I was once sitting in a quiet coach and accused of 'enthusiastic rustling' of my newspaper by a lady sitting opposite. She then promptly fell asleep and snored at the volume that would rival a jet coming into land until we reached our destination. A few weeks later I was told my typing was overly aggressive and irritating. I spent the remainder of the journey trying to type as gently as possible as I had a report to finish while the gentlemen next to me kept

tutting every time I failed to accomplish a totally silent keystroke.

Moving back to work type things, the requirement to submit Asset Management Plans (AMPs) to government was somewhat short lived but interesting and 'fun' while it lasted. For the first year there was no limit on pages and so government offices were inundated with numerous 'War and Peace' length AMPs which they were required to read through and assess. The assessment was excessively time consuming (and in the main less interesting that the original War and Peace) so the decision was made to introduce a maximum AMP length of 20 pages for the following year's submission. Local authorities were then faced with the dilemma of how they could contain so much impressive asset management goodness in a miserly 20 pages. The solution was simple - to add plentiful pages of appendices which some government offices dutifully delved into, while others simply stopped reading after the 20-page limit was reached. So, for the 3rd year, to make it abundantly clear, the 20-page limit was again imposed, but this time with a clear statement that no appendices would be taken into account. This however didn't deter some of the most enterprising asset managers, who promptly reduced the font size in their documents to as little as '6' (I kid you not) and submitted on that basis. This not only resulted in many assessments of AMPs being carried out with the aid

of a strong magnifying glass, but also allegedly resulted in a targeted advertising campaign by Specsavers aimed specifically at civil servants. Fourth time lucky and the government decreed a 20-page limit, no appendices and minimum 10 font. They also gave some helpful chapter headings to ensure they received all the information that was required. The result was that they received hundreds of documents structured in the same way, with the key differences being in the names and figures that were included. Some looked a bit too similar with at least half a dozen (to my knowledge) who hadn't changed all the references to the original council they had 'borrowed' their document text from. Some practitioners even admitted to me that most of their own figures were a complete work of fiction as the real information wasn't available to them. The aim for many was about passing an exam, rather than developing a document that might actually be of some use. Possibly a good job therefore that the government at the time didn't look for any more detailed evidence.

The next episode (if there is one) will hopefully move on to the exciting days of Comprehensive Area Assessments and possibly even the new changes the Coalition Government brought in. I might even cover the infamous bingo incident of Durham, but that's a possibility for next time.



Simon started his career in the commercial field, moving to private practice in 1983. In the mid-1990s he joined Great Yarmouth Borough Council and in 2006 moved to Waveney District Council and retired in 2018.

MORE MUSINGS

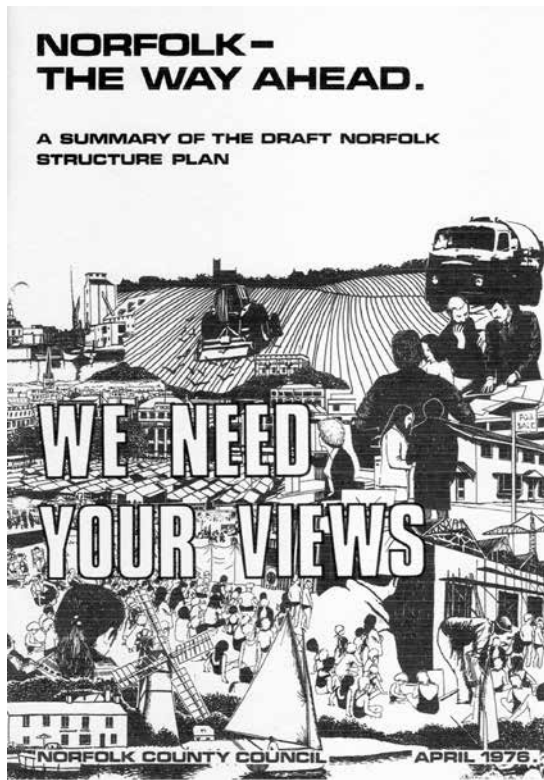
Planning is for people!

Simon Eades

Since I stopped working almost 3 years ago, I have spent some of my time sorting out the myriad of papers that I have retained over my professional career. Many of these papers were my course notes from my time at Trent Polytechnic in the mid-1970s. I kept these as my career developed but, as time went on, these notes became of less value; it was interesting to take a second look but the vast majority have been recycled.

However, for some reason, I did not throw out 2 pieces of planning coursework completed in my second year. Why I did not is a mystery but, in a quiet moment, just before Christmas, I sat down and read them again for the first time in 40 years.

We had several planning lecturers and, indeed, the polytechnic had a separate town planning department and we had the benefit of its expertise. However, the 2 lecturers who set these assignments were



NORFOLK - THE WAY AHEAD.

A SUMMARY OF THE DRAFT NORFOLK STRUCTURE PLAN

EMPLOYMENT & INDUSTRY

The recent population growth in Norfolk has been associated with an increase in the number of employed people. Whilst the agricultural labour force has declined the number of those employed in manufacturing and services has increased greatly. The Structure Plan must assess the rate of employment growth that is appropriate for Norfolk, in the light of national economic considerations and conditions within the county, and the optimum distribution of new employment growth.

Although (as with population) the Structure Plan cannot, generally, directly affect employment growth, it can

indirectly influence its location.

New industrial development will take place in the towns, although workshop scale industries will be encouraged in villages. The towns selected for the active promotion of industrial and commercial development are Fakenham, North Walsham, Swaffham, Diss, Downham Market, East Dereham, Great Yarmouth and Thetford. There is also provision for industrial development in Norwich, King's Lynn, and several other smaller towns, although special policies are designed to achieve slower growth in the long term in Norwich and King's Lynn.

HOUSING

Existing housing land allocations and planning permissions allow for substantial residential development during the Plan period, but further allocations will be necessary in some areas to accommodate the population increases expected. The policies provide for the bulk of new residential development in the towns selected for significant employment growth, although provision is made for considerable development in most of the small towns and some of the larger villages.

There are permissions which represent a commitment to

new housing in a large number of villages but in villages other than those specified, further permissions for new housing estate development will generally not be allowed. Applications for new houses outside towns and villages will be allowed only in exceptional circumstances. These policies are designed to ensure that new residential development is not scattered at random throughout the county, but is generally guided towards those locations where employment growth is also expected and where services can be provided economically.

FIG 2: SETTLEMENT & COMMUNICATIONS



COMMUNICATIONS

The maintenance of an efficient transport system in Norfolk is essential to the success of Structure Plan policies. Increasing ownership and use of cars by an expanding population has led to pressures on the county road network while rail services have been withdrawn and bus services reduced.

The main issues concern the priorities for expenditure to improve communications within the county, and the appropriate balance between expenditure on roads and public transport. Further issues arise as to how much should be spent on communications in the major urban area as opposed to the small towns, on inter-urban roads, or on rural roads.

Investment priorities will be determined on the basis of a hierarchy of routes consisting of 'Trunk' roads, 'Strategic principal' roads and other 'tertiary' roads, with trunk roads and strategic principal roads being given the highest priority for continued improvement. This means that the following bypasses and relief roads will receive high priority: North Walsham, Downham Market and Wroxham (bypass), Calster, Aylsham, Bungay, Beccles, Horstead (bypass), and the completion of the Norwich Outer Ring Road.

Highway improvements, traffic management and bus priority schemes will be implemented in Norwich, Great Yarmouth and King's Lynn.

In the 1980's priority will be given to the major road works proposed in Norwich and Great Yarmouth, with the provision of other bypasses depending on the amount of money available. The Government will be asked to adopt the following order of priority for investment in trunk road improvements:

1. East Dereham and Downham Market Bypass
2. Swaffham Bypass
3. A17 Improvement
4. A14 Improvement
5. A14 Improvement
6. Norwich Southern Bypass

SERVICES

Policies are designed to ensure that new development proceeds in accordance with the provision of community services, such as education, and that these services are maintained at a viable level.

The County Council will implement, as soon as resources allow, a phased reorganisation of schools to provide a pattern of first schools, middle schools, high schools and sixth form centres.

New housing development will be related to this pattern and will be phased in accordance with the provision of schools. For example, large scale residential expansion will be allowed where the full range of schools exist, and housing estate development will be closely co-ordinated with the location of middle schools.

The health authorities will be encouraged to plan investment in health facilities in the settlements selected for major growth by the Structure Plan.

HOLIDAYS & RECREATION

The holiday industry makes an important contribution towards the economy of the county, but in recent years holiday developments along the coast and in Broadland have led to problems, particularly traffic congestion, over-loaded services and over-intensive use of sensitive areas.

The policies will restrict any major new holiday development (including caravan sites) on the north and east coasts, but will allow small developments for touring caravans at selected inland sites. Also, in the long term, some new development south of Hunstanton could be feasible, if improved roads were provided. An improved information service is proposed so that holidaymakers, tourists and day visitors fully appreciate the county's heritage and are guided towards unspoiled sites.

There is an uneven distribution of recreational facilities in Norfolk and the Plan places emphasis on increasing the capacity of existing facilities, co-operating with various organisations in the provision of facilities and creating prime policies which discriminate positively in favour of those with low incomes.

Any investment in multi-purpose sports facilities and for countryside recreation will be concentrated around the major urban areas. Further use for recreation will be made of existing water areas such as old gravel pits. New water areas will be created in conjunction with mineral extraction who will be required to provide for the recreational after-use of workings where there is potential for this.



3

of the residential development of the area. The examination of the historic Ordnance Survey plans allowed a comprehensive picture of the development of the area over time. The housing was well established by the publication of the 1881 OS plan. Many houses identified at that time were still there when we inspected in 1976. The general impression was that this was a prosperous area – tramlines were evident just

polytechnic. The brief was to take a detailed look at a small area and identify the development constraints that had dictated the development over time, reviewing available historic documents and assessing what might happen in the future, taking note of current plans that were available in 1976.

It was an inner city area of Nottingham. It had undergone a lot of redevelopment and intensification of land use over the last 100 years. The purpose of the study was to investigate the growth of the area and to determine the direction of growth and future land uses over the next 10 years.

The seminar group was split into groups and assigned different tasks to seek as much information as possible.

Once each group had carried out their investigations, we were required to exchange our information so that each member could write a detailed report on the area, using all the information collected at the early stages.

The land was open fields prior to the Nottingham Enclosure Act 1845 and the passing of this Act led to the start

outside the area in question leading into the city centre. The prosperity of the area was confirmed by the larger residential plots toward the north of the area, close to the Forest Recreation Ground and the Arboretum and to the separate Nottingham High Schools for Boys and Girls [Ed – Simon's transporting me back to my youthful memories of walking round my home city].

The professions of the residents, identified in Kelly's directory, also confirmed the prosperity of the area but, over time, the range of occupations became more varied as the profile of the area changed.

In essence, when we moved forward to 1976, there were 3 distinct areas. Some groups carried out detailed roadside surveys and in certain situations were able to inspect vacant properties. It was evident that each had their own problems and difficulties, highlighted by a decline of amenities and the lack of a community spirit. This was not unique and could be replicated in any major town or city. What we were trying to do was to try and suggest some solutions which may or may not work. We had determined that some work was already in place and it did start to focus and direct our thoughts.

The council had already started an extensive programme of modernisation. The area under review formed part of the Burns Street Area Report which identified

the major problems as overcrowding, furnished lettings with a high number of single occupancy, and a high level of male unemployment. The majority of the housing was owned either by the council or by a housing association. Both were heavily involved in the programme of bringing the properties up to standard and to a great extent this was succeeding.

The middle section of the study area was a school, built in 1973, and it was clear from a discussion with the head teacher that he saw the school as a community facility for the area, and potentially beyond. However, this was proving difficult although the head teacher did detail what opportunities there were for the children. He outlined his expectations, but admitted that he could do very little without the assistance and support of the local education authority (LEA).

The southern section was almost exclusively industrial, although there were some houses that were of poor quality. The intention at that time was to clear the infill housing to allow additional space for industrial development. It had good communications to adjoining areas.

In looking at the whole area, we came to several conclusions. Some were based

on what we saw, and others were based on what we felt could happen if some efforts were made in the local area. We were encouraged at the efforts being made by both the council and the housing association to make improvements to the local housing. It was enlightening talking to the head teacher and to hear his proposals for his improvements, but it was clear that the support of the LEA was crucial.

We concluded that the area would survive and develop if support was forthcoming from all sides. There was clear direction in respect of the housing but as far as the rest of the area, it was obvious that this would be a difficult journey, but we felt, as a group, that there was the will to succeed.

The assignment was completed some 46 years ago and the conclusions reflected the position at that time. I did not include any photographs in my report – a mistake at the time. When I read the report again over Christmas, I looked at Google to see what has actually happened. The housing and the school remain in place; the land identified has the alternative use of student accommodation!

The second assignment was to select

an urban area – which could be a village – and write a 3,000 word essay or a “more elegant solution” being “the extensive use of sketch plans/maps and a maximum of 1500 words.”

The final section of the assignment was to project the future development to, say, year 2,000 (well the assignment was set in 1976!):

- a. As you think it is likely to be
- b. As you think it ought to be.

In April 1976 Norfolk County Council issued the Norfolk Structure Plan: “Norfolk – The Way Ahead” which demonstrated what the council hoped would form the programme of development over the future. I chose the village of Acle – a place that I have known all my life and a place that played a part in my professional career.

I set out the historic foundation of Acle – a settlement of 1,575 according to the 1971 census and located on the River Bure between Norwich and Great Yarmouth. Acle was established by the time of the Norman Conquest, and it was quite enlightening to review the detail of the historical development of the



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town. While the historian saw Acle as a prosperous town based on the commercial development of the river, the expansion did not materialise but the situation of the town as the centre of an agricultural area and an increase in local government helped to consolidate it.

I concluded that Acle was at the crossroads of development. For the town to develop, I felt that there must be a bypass constructed to ensure that huge lorries to and from Great Yarmouth did not pass through the village. Norfolk County Council had recognised this requirement and a line for the proposed bypass was accepted; it was identified as Priority No 5 in the Road Priorities in the Norfolk Structure Plan. Some road improvements had taken place and took some of the traffic out of the centre, but this only had a partial effect as it had no influence on the north and west of the village. However, until the bypass was built, there would

only be limited development opportunities as the sewerage facilities were already stretched to the limits: there was no available capacity.

My conclusion in 1976 was that Acle would stagnate until the bypass was built, which would lead to the enhancement of the village. Hindsight is a wonderful concept. The bypass has not been built but some minor road improvements have taken place in the vicinity. It is also interesting to note that some other major road works identified in the Norfolk Structure Plan have been completed, perhaps at the expense of Acle, but Acle still retains its prominent position at the centre of a predominantly agricultural area.

Unlike the Nottingham assignment which, apart from Google, I have not revisited since 1976, Acle is a place of which I have many fond memories. When I drove to Great Yarmouth for work, I went through Acle twice every day! Some days

the journeys were uneventful but others involved some traffic delays.

I had several instructions in Acle over the years, including time spent in my first year on the adjacent Lower Bure Marshes using a dumpy level, to assess the required levels of the drainage ditches to assist in the free flow of the water levels. My first property management instruction was a trust owned multi-let property in the high street. It was an old bank building and the tenants included a chartered planner who went on to become a firm friend when I worked in Great Yarmouth and Lowestoft, and a chartered surveyor who was leaving a practice in Great Yarmouth. The irony is that he returned.

Has Acle stagnated? I do not think so, but I have no doubt that the bypass would have helped. However, I think that it holds its own at the moment; but time will tell.



For 50 years until retirement Dave practiced as a surveyor in Lancashire and Cumbria, becoming a Fellow of the RICS and working for the Department of the Environment, Lancashire County Council, South Lakeland District Council and the NPS Group. During that time, he wrote articles on surveying topics and work experiences which allowed him to introduce some controversy, humour and the odd bit of fiction. <https://davidlewisogson.wordpress.com>

HERDWICK TALES Pilot of the Fells

Dave Pogson

Selwyn is Property Services Manager for the fictional Herdwick District Council. From January to June 2001 his daughter Lisa is temporarily working in mainland China. Communication is difficult so he stays in touch by sending her an e-mail once each month. He tells her about his work and the people he encounters during it.

From: dad@user.freemove.co.uk
To: Lisa345@hotmail.com
Date: 16 May 2001 20:22
Subject: Herdwick Tales

Hello Lisa.

How are you getting on with the language barrier in China? I know that all your students are learning English from you and presumably they have some existing understanding, but I'm aware that you do not speak Mandarin. Presumably you have an interpreter assigned to you? There's not much call for other languages in Herdwick district apart from in the summer when the Japanese tourists arrive. They come to experience the Walter Winster Town Trail and to see his exhibition in Shepdale Museum and to enjoy the Herdwick Visitor

Experience up the Shepdale Valley. Who would have thought that a Herdwick dialect poet would have achieved such a following from as far away as Japan and such a long time after his death? It's something to do with his writing being the inspiration for the 'Save the Planet' movement.

I did pick up a few phrases of Japanese from that 1980s TV series 'Shogun'. Is Chinese anything like Japanese? They live in roughly the same part of the world so you'd think that they'd have some commonality of language. But I suppose it's probably as similar as VHS was to Betamax. Oh sorry, you probably don't know what Betamax was. Take it from me that they were the same but also very different.

Anyway 'Shogun' was a brilliant series and I was really pleased when you bought me that VHS cassette one Christmas so I

A PICTORIAL GUIDE FOR WALKERS
BY
SELWYN (THE PILOT OF THE FELS)

FOOTPATHS AND FELS OF HERDWICK DISTRICT

VOLUME ONE



PRINTED BY THE HERDWICK GAZETTE

could view it again (and again and again). Richard Chamberlain, an American actor played Blackthorne, the pilot of the first English ship to reach Japan in the 17th century. I could understand what he was saying as his Japanese was delivered with a western accent. So phrases like...

'Wakaremasu' (I understand)

'Konnichi wa' (How are you?)

'Hai' (yes)

'Sayonara' (Goodbye) and

'Nane mo' (It's nothing)

... were easy to comprehend. However, the only phrase that I could understand spoken by the Japanese actors, because of their rapid speech and accent, was ...

'Domo anjin-san' (thanks Mr Pilot).

'Pilot' resonated with me because of the nickname 'Pilot of the Fells' that the Herdwick Gazette had applied to me when they'd published my fell-walking guides. I can't see the Japanese word for 'pilot' being

much use to me in the streets of Shepdale or even if I ever visit Japan. I certainly wouldn't want to recognise it if I'm flying to Tokyo and the stewardess rushes down the aisle of the plane shouting some Japanese phrase that includes the word 'anjin'. That might be worrying.

Jim, the Senior Committee Clerk and Eric from Finance and I were having a lunchtime pint in the Tug sometime last summer, as we do very occasionally :-). There was a party of Japanese tourists also having lunch, after first checking out the historic spot on the pavement outside the pub where Walter Winstanley had met his untimely death. One of them asked me, in perfect English, for directions to the museum. I told him how to find it and really hoped that he'd thank me for my helpful directions with 'Domo anjin-san' so that I could impress him with 'Nane mo' and flabbergast Jim and Eric with my

language skills. However, the Japanese guy just said 'Thanks' in English and wandered off before I could even bring my phrase to mind.

Now I practice my phrases at work, so I'll be ready next time. The principal engineer from the Architecture and Design Group has grown a small goatee beard and looks just like that Japanese actor that plays Mr Miyagi in 'The Karate Kid' film. Whenever I visit his office, I put my hands together and bow and say 'Konnichi wa, Miyagi-san'. He rolls his eyes and moves his hands in circles as if showing the Kid how to clean his car and then gives me his variation on Mr Miyagi's famous line 'Wax on, wax off', except that his is 'Wax on, p*** off'. That requires no translation.

Perhaps those phrases aren't much use to you in China, so I won't mail the VHS cassette to you. Maybe you should try watching Chinese TV instead while you're over there. You might pick up a few useful phrases. Just a suggestion – please feel free to ignore it.

I had a really good day today but managed to cause a bit of a panic in the office. After a recent health and safety initiative I'd had a whiteboard fixed to the wall by the main office door. Then I'd told all the property services staff that they had to write all destinations and expected return times against their initials on the board each time that they went out on site, so that those in the office could check on them if they didn't return on time; just in case they were lying dead or injured somewhere. Well would you believe it, being a brand new system, I totally forgot to log my own movements on it today? So no-one knew where I was for all of the morning.

I'd gone to one of my favourite places; the basement under Shepdale Town Hall. It's a wonderful place: it's warm from the heat of the boilers and quiet, with no windows and no telephones. The council's leases and deeds are stored there in one room behind a steel vault door. Another room has my historic estates files stored on timber racks. Those files are like my children. I gave life to many of them and helped them grow into maturity before waving them off to the store like teenagers going off to university. I can't get the same feeling about copies of my letters being held on the computer, even if I could get Steve and Kurt from IT to install the new PCs – Easter has been and gone and I'm still waiting.

Other groups also have store rooms

in the basement, but staff rarely visit so there's no-one to bother you. I just love it down there in that underground world. Old Arthur, the guy that trained me as a surveyor when I was a youth, introduced me to its magic. Once in 1973, we spent weeks down there splitting up the old Shepdale Municipal Borough Council deeds between the new county and district responsibilities ready for local government reorganisation. It has an old map table for spreading out large documents and a battered leather Chesterfield armchair that I can sit in to read them. It's far quicker to go there myself than wait weeks for the solicitors to answer questions about property titles. They got so fed up with me moaning at them about delay in the days when I worked for Shepdale MBC that they gave me the spare key to their vault door. I just wish that Steve and Kurt could have downloaded Arthur's memory onto a hard drive before he retired. He really knew his way around the basement contents. One day I hope that Farah will say the same about me.

The only problem is that the warmth and quiet in the basement does tend to make me want to nod off, which I did for an hour just before lunchtime. I don't feel guilty as the council owes me many hours of unclaimed flexitime which I write-off every month. However, the staff expressed concern about my unrecorded absence on the whiteboard when I got back. I just told them the truth - that I couldn't remember anything from walking from my office towards the whiteboard this morning on my way out, until my recent return just before lunchtime, so 'I must have been abducted by aliens'.

I was in the basement for two reasons. The first related to a case where I will have to give evidence in Lanchester County Court. A couple of years ago there was an accident outside the public toilets in Winander town centre. A woman tripped over the edge of a manhole and broke her hip. She is claiming compensation for damages. The council's insurers want to defend against the claim. I have to give evidence as property manager about my group's regular recorded maintenance inspection regime, to say that we knew about the manhole, had it on a list of items to check, and had ticked it as not defective and in need of repair. Of course, we have no such formal recorded maintenance inspection regime. The building surveyors just go and look every month and issue

works orders for repairs that they notice on that visit, rather than record items that don't need fixing. When nothing needs doing, there is no written evidence of any visit. So I was in the Treasurer's store room in the basement trying to find copies of old travelling expense claim forms as evidence of how regularly my building surveyors visited the premises before and after the accident. Who will compensate me for the likely nosebleed by travelling over the district boundary to visit Lanchester for a battering from a fancy barrister?

My second reason was to research a deed relating to some open space land on the top side of Shepdale. A developer wanted to widen an access over that land via an existing narrow trackway, to build houses on his land below the council's open space land. I marvel at those old copperplate handwritten deeds – land colour-washed pink owned by the council, rights of way coloured brown, land benefitting from the rights coloured blue, all preserved forever on linen. The sale prices are in pounds, shillings and pence; linear measurements are recorded in yards and feet; areas are in acres, square yards and square feet. Some are in roods and perches. The youngsters like Farah struggle with those imperial concepts, but it's the world of my early training before metrication, where I am king of all I survey.

I checked the width of the track coloured brown on plan with the 6-inch wooden imperial scale ruler that has lived in my inside jacket pocket for the last 3 decades. I smiled when I confirmed that the track coloured brown on plan was nowhere near wide enough to accommodate a standard housing estate road or permit visibility splays at its exit, and looked forward to extracting a ransom from the developer under the Stokes v Cambridge ruling. We haven't had one of those jobs for a while and Farah will enjoy the negotiation once we've got her a metric plan to work from.

The day just got better and better. I left the office after lunch, having noted my intentions on the whiteboard – I couldn't use the aliens' justification twice in one day or it might undermine my credibility - and went for a pint and a mutton pie with Jim and Eric in the Tup. After lunch I strolled up town in glorious sunshine to inspect the open space, measure the access width, take a photograph of it and enjoy the spectacular view across Shepdale's rooftops to the distant hills, while I planned my next fell-walk in my head. On days like

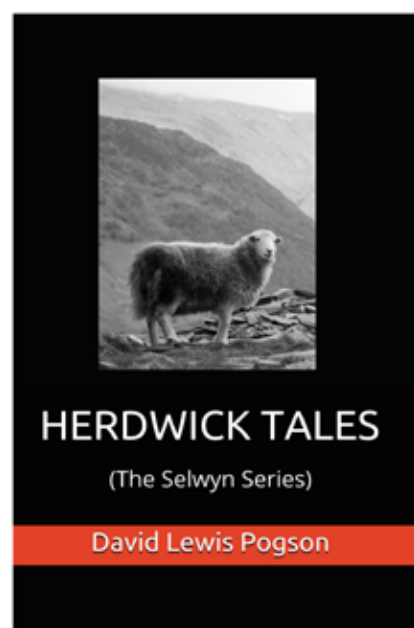
these I think that I should pay the council to let me work there. It really doesn't get any better.

Do you recall me mentioning in my last e-mail the fight between the two councillors in the corridor of Shepdale Town Hall? It's started a political trend. All this evening's TV news headlines feature John Prescott, the Deputy Prime Minister, punching a protester who threw an egg at him in Rhyl. Where Herdwick leads the world follows. At least JP connected with his swing. It could signal the end of democracy as we know it, but the entertainment factor would increase dramatically.

The only cloud on my horizon is the need to take your mam to the hospital for some tests next week. She will tell you all about it in her e-mail. She doesn't seem unduly worried and there's nothing you can do to help. Try not to worry about her. We'll all just have to wait for the results. She'll let you know more when we know more ourselves.

Write soon.

Ed – Dave has assembled his collection of short stories in 'Herdwick Tales'. Please contact Dave direct.



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