

ACES TERRIER

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

VOLUME 29 ISSUE 1 SPRING 2024



ACES

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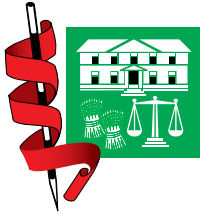
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ACES TERRIER

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

EDITORIAL

Betty Albon editor@aces.org.uk

Welcome to the 2024 Spring Terrier.

And it really does feel springlike. We're promised 21 degrees in East Anglia today, but I can't quite believe that.

We have another full issue of ACES' Terrier, with a range of articles covering topics of the day. One of the strengths of ACES is sharing and networking. I am very pleased to report that this issue features two case studies from our members at the Welsh Branch. Please consider writing if your authority has a project which our colleagues can learn from.

Other hot (literally) topics include articles on net zero and biodiversity net gain, both of which impact on our work and environment. There are a whole range of professional articles too.

Sara Cameron is true to her word, with her first feature as #PresidentOnTour in her campervan. She is under way in her commitment to meet as many members and colleagues during the year, as well as attending virtual and in-person conferences and seminars. And finally, there are several articles to help our colleagues setting off on the road to becoming chartered surveyors.

Please share ACES' Terrier with colleagues - in hard copy and online www.aces.org.uk/library/.

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Cover photo: Central staircase of County Hall, Matlock, courtesy of Derbyshire County Council.



NATIONAL COUNCIL

Notes of ACES Council Meeting held on 19 January 2024

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

This meeting was a hybrid meeting and the face-to-face element was held at The Guildhall Offices, London, courtesy of the City of London. Twenty six members attended the meeting in person or remotely, making the meeting quorate.

Detailed reports on the majority of these topics are published on the ACES' website www.aces.org.uk.

Matters arising

None arising.

President's report

The President, Sara Cameron, reported on her activities since the last meeting. It was a fairly quiet period of time since the AGM, although lots of invitations to meetings were coming in and filling up the diary. The President referred to the various meetings she had attended including a number with RICS, Eastern Branch and Avison Young, and plenty more were in the diary for the next few months [Ed – see President on Tour report in this issue of ACES' Terrier].

Secretary's report

The Secretary, Trevor Bishop, reported on matters arising during the period since the last Council meeting. He provided the latest statistics on membership which showed a healthy increase in membership numbers over the last 12 months, during which we reached the milestone of over 400 members, which had not been achieved for several years [Ed – see Membership report to follow].

The Secretary noted that the Treasurer and he had had detailed discussions

recently on the acquisition of a new invoicing system, with a view to making things less time consuming for the Secretary and this would be reported for approval at a later date, preferably before the next bulk membership invoicing.

The Secretary referred to the successful ACES National Conference in York in September 2023, and feedback from members on attendance, again referring to time, distance and cost as influential factors. Mention was also made of the National AGM held in Edinburgh in November. Special thanks were extended to Graeme McGartland who helped enormously with the arrangements.

Finally, the Secretary confirmed the appointment of Alan Richards as Junior Vice President for the Association.

Financial matters

The Treasurer, Chris Hewitt, presented his report on the financial position of the Association.

He tabled an updated management accounts document which showed a Statement of receipts and payments together with a Statement of financial position. He talked through the single page format which looked at the last six months so far this financial year. As previously reported, the overall picture was healthy with a good mix of income and expenditure, strong financial reserves, and a good net surplus from operations, although there was still significant reliance on the SAM Diploma income.

The key headline coming out of the report in this format was that the income from subscriptions, Corporate Membership and

the SAM Diploma exceeded the operating and other costs in the last six months, albeit that some expenditure items were outstanding. It was noted again that nearly a third of the Association's total income was derived from the SAM Diploma course.

Reference was also made to the production of the 3 to 5-year Financial Strategy. It was noted that the Business Plan drives the financial strategy and this needed to be revisited to determine what the Association's priorities were for the future. The president agreed that a task finish group needed to be established to look at this. Neil Webster and Willie Martin volunteered.

Report of Head of Engagement

The Head of Engagement, Neil Webster, talked through his detailed report on matters arising during the period since the last meeting.

He updated Council on the Public Sector Forum with the Estates Gazette, which was a good outward facing initiative and looking for good examples from members of public/private developments; a call to arms from members for good examples of public office developments that have been part of regeneration schemes; the next away day under the FACES initiative, and other events that are being arranged where member assistance is being sought – volunteers were requested.

Neil also made reference to the social media work he was leading on, with the President, by default, our social media guru for the time being. Neil put out a request to members for ideas for future resourcing of the social media management role as it was considered worthwhile for the organisation.

Consultations

The Senior Vice President (SVP), Dan Meek, was not able to attend the meeting but the President advised that Dan was working on a rural consultation and that he would report further on this in due course.

ACES' Terrier

The Editor reported that the latest edition of ACES' Terrier had just gone to printing but she had nothing further to report at the present time.

Core Management Team

The Secretary reported that the Core Management Team (CMT) had met a few

days previously to discuss items to bring forward to Council.

The following actions and decisions had taken place requiring endorsement or approval of Council:

AGM 2024

The SVP had given good early consideration to this event and it was proposed that London should be the location and probably RICS HQ where a previous AGM had been successfully held. He will make contact with the London Branch for assistance and ultimately then approach the RICS for cost indications for approval of Council.

Data management

CMT noted that the Association held significant data on members and other organisations and individuals. The Association needed to comply with GDPR across all its databases, and other records, including information held by the ACES branches; achieving a single, well managed central database should be the ideal target. In this context, the Secretary, Treasurer and Head of Engagement were tasked with exploring improvements in our data management system to ensure continuing compliance, security and member accessibility to their records.

Social media

The person appointed to look into our social media operation was no longer available and CMT confirmed it was appropriate to re-appoint a person to continue the work.

Future invoicing

In view of the inefficiencies of the current invoicing systems, particularly for membership subscriptions, CMT agreed that the Treasurer and Secretary should continue to explore a new invoicing package to cover everything we do, for subsequent approval.

Secretary's workload

The Secretary had reported to CMT his increasing workload and had started to look at individual packages of work that could be put out to an "assistant secretary". The most obvious element of work that could be done autonomously was Conference Co-ordinator (a previous role suggested) and CMT authorised the secretary to develop this further and particularly, to ensure, where possible, that "double counting" was avoided.

Council endorsed and approved the actions taken by CMT.

Corporate membership

Discussion took place on this item which had been raised at the AGM in Edinburgh. Broad discussion raised a number of questions. It was noted that the resourcing had been made difficult in the absence of a dedicated Sponsorship Officer. The Head of Engagement undertook to prepare and circulate a more detailed report on corporate membership ahead of the next Council meeting.

It was re-affirmed that an additional officer was needed to pick this matter up, working with the Head of Engagement.

Annual Conference 2024

The President advised on the latest position. The primary location is intended to be Norwich and the President has made enquiries of a number of venues. Initial conversations have been held with speakers and Corporate Members and the theme is focussing on 'Decarbonisation and Net Zero'. Discussions are also in hand with the Eastern Branch in terms of support and presentations on their ACES Awards for Excellence successes in 2023.

The President is also particularly keen to include the FACES cohort in the event.

The format is likely to be a one-day conference event, formal dinner the night before, and an informal evening meal on the conference day to close.

ACES' Awards for Excellence 2024

Discussion took place on encouraging members to submit entries to the RICS awards, in order to raise the profile of the public sector, and as a precursor for submissions for the ACES awards this year. It was also noted that social media (primarily LinkedIn) was being used to promote the 2023 winners and again prompt ideas for 2024 submissions. It was also understood that the SVP was considering further extending the range of awards for the AGM in 2024.

Asset management in the public sector

Malcolm Williams updated members on the SAM diploma, which continued to go very well, with the help of the ACES

members carrying out the presentations in a professional manner. At the time of writing, 182 students will have taken the Diploma Course to date.

Discussions are ongoing with CIPFA to broaden the market for the SAM Diploma Course and look at modifications of the course to capture different levels of learning. Contact is also being made with the NHS to understand its needs and consider a new offering of a similar course, and one that is not already being provided to the NHS.

RACES/Homes for older people

The Secretary reported that while some tentative interest had been expressed in taking over the iHope initiative, a volunteer was still being sought from the membership. It was noted that the proposal remains to establish a task team to take this on rather than an individual. It was considered by the President that someone from FACES could assist with some research on iHOPE and the Head of Engagement agreed and suggested the Award for Excellence winner as a possibility.

Co-ordinators, branches and external working groups

Liaison Officer and Branch reports were received, and these have been published on the ACES website for the information of all members. Once again, thanks went to the Liaison Officers for their efforts in producing detailed and topical reports which are appreciated by members, and to the Branches for submitting reports on their activities.

It was noted that it was still early days with regard to the Liaison Groups that had now been set up and how these would work together. The Secretary will pick up this matter.

Daniella Barrow provided information on liaison with RICS and said that relationships continued to improve with new personnel at RICS. Key areas being addressed with RICS are the Public Sector Forum, early engagement of people into surveying, healthy buildings, and diversity, inclusion and sustainability. Following the appointment of Marcus Perry as Branch Liaison Officer, it was proposed to share details of branch meetings with RICS so that they can tap into them through regional contacts.

There was a general agreement around the table that relationships with RICS had improved particularly at the regional level. There was an expectation that better engagement with the RICS would lead to tangible benefits for members and the public sector in general. The President, Daniella and Neil will continue to feed back on this, particularly following the Public Sector Forum.

Chris Brain gave a verbal update on valuation matters and the Treasury consultation on non-investment valuations in the public sector. This proposes some changes to balance sheet valuations. It was agreed that Chris would ask members to respond to this in association with the revised CIPFA code later in the year. Ellen Atkin from the VOA offered to liaise with Chris at an early date as the VOA had recently been doing work on the consultation.

A number of Branch updates on key matters were provided at the meeting and late entries were added to the main report. The status of missing reports did indicate that some branches needed more help than others and Marcus Perry was on the case.

The President thanked the branches for their reports and verbal updates as appropriate which always gave interesting insights into things going on in the regions.

Future meetings

ACES Council Meeting	26 April 2024	Birmingham
ACES Council Meeting	12 July 2024	Preston
Annual Conference	19 September 2024	Norwich
ACES Council Meeting	16 October 2024	Online Meeting
Annual Meeting	15 November 2024	London

Any other business

Daniella Barrow referred to The Public Sector Challenge on 6 September which involves scaling the “Yorkshire Three Peaks”. The event was in support of Cancer Research. It was considered good for ACES to put together a team and a number of volunteers tentatively raised their hands [Ed – details have been circulated]

Andrew Stirling referred back to changes to the constitution. He felt more mention should be made of the many initiatives introduced by the Association over the last few years. Immediate Past President, Helen Stubbs, confirmed a membership review was in the pipeline, particularly as a result of the developing FACES initiative. Changes to the constitution were likely to take place in stages by way of an iterative approach.

Helen also agreed to aim to bring “terms of reference” for a membership review to the next Council meeting.

Neil Webster advised that because so many issues were being looked at presently, we should put together a forward plan to ensure items that impacted on other matters, such as the constitution, were dealt with in the correct order and subject to a timetable, culminating in major decisions at the AGM.

ACES MEMBERSHIP

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

I list below the changes in membership between 1 January and 31 March 2024.

New members approved

There were 14 new applications approved during the period:

First Name	Surname	Organisation	Branch Ref
Vanessa	Case	Blackburn with Darwen Borough Council	NW
Abi	Marshall	Cheltenham Borough Council	SW
Mark	Perris	Hertsmere Borough Council	E
Matthew	Trewartha	High Peak Borough Council	HoE
Stephen	Edgar	Lexica	L
Alan	Zierler	London Borough of Barnet	L
Karen	Still	Network Rail	E
Louise	Beeby	Newcastle-under-Lyme Borough Council	HoE
Simon	de Whalley	Office of Government Property	L
Sana	Gabriel	Peterborough City Council	E
Andy	Kent	Stockport Metropolitan Borough Council	NW
Graham	Tombs	Torbay and South Devon NHS Foundation Trust	SW
Daniel	Morris	Torfaen County Borough Council	W
Ben	Colman	West Midlands Combined Authority	HoE

Members transferred to past membership

Two members transferred to retired membership during the period.

First Name	Surname	Organisation	Branch Ref
Kevin	Joyce	ACES Associate Member	L
Nick	Philpott	Cabinet Office	L

Resignations

The following 4 members resigned during the period :

First Name	Surname	Organisation	Branch Ref
Robert	Perkins	ACES Retired Member	HE
Bob	Entwistle	ACES Retired Member	HE
Jane	Pocknall	ACES Retired Member	L
Robert	Vaughan	ACES Retired Member	HE

I also, sadly, have to report the passing of ACES member David Mitchell in January this year. David worked for the Scottish Government and will be sorely missed by family and colleagues [Ed – see obituary in this issue of ACES' Terrier].

Membership

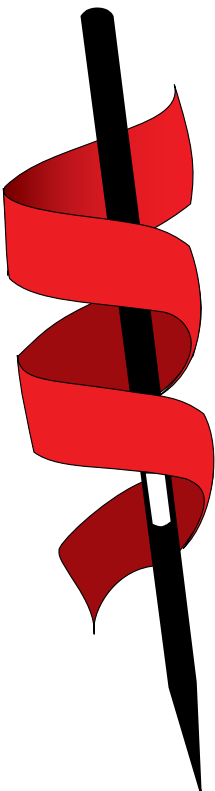
Summary of current membership at 31 March 2024:

Total Membership	
Full	243
Additional	81
Honorary	36
Associate	20
Retired	35
Total	415

Trends

This quarter sees a bounce back to a new high from the previous peak of 412 members in 2023. Typically at this time of the year, the dispatch of the bulk of membership invoices in mid-December has resulted in some resignations for the usual reasons. However, it is pleasing that the number of new members joining this quarter has far exceeded the number of resignations.

It should be noted that the current level is in the context of a number of members who have still not paid their subscription and who may have to be expelled from the Association in the absence of action to address arrears.



'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.

OBITUARY – DAVID MITCHELL



David's property career started off in Dumfries with the Forestry Commission in 1980. David fondly talked about his days there, where he came to know the forests so well that when there was a major orienteering championship, he completed the course faster than any of the professional athletes!

David later joined the Edinburgh Valuation Office Agency, where he went from cadet Valuer, who cleaned out and lit the fires in the office, to Team Leader for Scotland. When David became Team Leader, he insisted that anyone who was doing inspections in Edinburgh near Burton's Biscuits bought a few bags of biscuits from the factory shop for team meetings.

In 2013, David took a temporary one-year secondment to the Scottish Government and having quickly made himself a valued member of the team, ended up staying for 10 years. He was extremely passionate about his work and while at the Scottish Government, he provided advice across the organisation on property related matters. David had a vast knowledge of property matters and was generous with his time and, when asked, was happy to share his knowledge with others.

Throughout his career, David was particularly keen at helping graduate surveyors pass the RICS Assessment of

Professional Competence. Many members owe much to David, who supported them as a supervisor and counsellor for the APC; and as an APC assessor and chair, he maintained high but fair standards, ensuring the next generation of surveyors would be as dedicated to the profession as he was. In addition to that, David supported the RICS as a member of RICS Scotland National Board, RICS Valuation Professional Group Panel (PGP), RICS Public Sector Valuation PGP and was also a member of the Scottish Agricultural Arbiters & Valuers Association Council.

David loved living in Edinburgh and regularly went to museum exhibition openings, opera and ballet, and he always knew which event to attend to get a free drink! He was a long-suffering Hibee and anyone wearing the slightest hint of maroon would jokingly be asked to go home and change. He loved going for meals with his wife, Steph, and his children. David was a dedicated family man - husband, proud father of three, and grandfather.

David was refereeing a shinty match the weekend before he went into hospital in November. He had a short illness and passed away peacefully on 15 January 2024. He will be dearly missed by all his friends and colleagues.

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



The Terrier

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PRESIDENT ON TOUR

Sara Cameron President@aces.org.uk

It's been a productive few months since Edinburgh and the handover from Helen to I. It was a special day seeing a female to female Presidential exchange, one that was repeated 2 months later at RICS where Ann Gray handed over to Tina Paillet.

As I write this, we've had International Women's Day and Women's history month and I am so proud to be in a position where not only can I celebrate the inclusivity of our sector, but I can be a positive role model. I have been reflecting on who has worn the ACES chain of office before me. ACES first female President was Jill Bungay, in 2001/2002, followed by Betty Albon in 2005/06, Heather McManus in 2011/12, Daniela Barrow in 2016/17, and Helen Stubbs in 2022/23. I am really proud to be following their lead, and of course our male allies and past Presidents, even more proud that this shows that the public sector was leading the way more than a decade before RICS elected its first female President.

The theme for this year's campaign for International Women's Day was 'inspire inclusion' and it is something that speaks to my core values because when people are included, they have a sense of belonging, of being relevant and feel empowered. Collectively we can then be real change makers, not just in our places and built environment, which we do everyday, but in our professions, with our people and communities. I was honoured to be the sole UK and only public sector surveyor to take part in the RICS Podcast on 8 March. My parting message was that we need to be bold to move to more inclusive representation. So, I ask myself what more can I do to lower the ladder and help others rise?

As I said in Edinburgh, I will be visible and accessible and keen to engage on

the socials, at events and networking opportunities. And boy have there been opportunities! My first event after becoming President was at RICS at the end of November for the panel discussion 'Transforming the public sector'. This was an interesting panel, heavily skewed the vast scale of transformation needed in the central government estate, but it was an incredible opportunity to not only learn what challenges and opportunities there is in the combined estate, but to be able to put the local front and centre to the conversation.

Over the last few months, Neil Webster and I have been working with Jackie Sadek on the EG's Public Sector Forum; you may have seen the meet the team piece in the EG on 15 March, as this work ramps up to UK REIFF in May.

The RICS has recommenced its Public Sector Forum which Neil and I were invited to on 6 February. The group photograph features front row - Lynda Rawsthorne, Cabinet Office; Sara; Alan Whitelaw, GPA;



RICS Public Sector Forum



Local Authority Property and Estates Conference



Loch Linnhe, near Fort William, Scotland



Simon Corben, NHS; second row - Lara Newman, LocatEd; Tomi L, RICS; Rob Addison, Cabinet Office; Sybill Taunton, RICS; Jonathan Easthope, Cabinet office; third row – Neil: Clare VOA; Carl von Reibnitz, MoJ; back row - Sarah Noble, RICS; Jon Berry, VOA. It all feels very positive for greater collaboration and deeper understanding between heads of profession across the sector. I'm definitely looking forward to following these conversations up over the coming months.

I recorded another podcast, this one with 'the truth about local government'; attended GovProp24; and even managed to dial into the first webinar from ACES and Local Partnerships and speak with FACES at the 'ask the experts' teams call from my campervan during my 1,400-mile, 24-day trip back to Scotland.

Most recently, I've just got back from Manchester where I gave a plenary talk and chaired the FACES panel at the Local Authority Property and Estates Conference. I was so impressed with our FACES colleagues, Sebastian Berry estates surveyor at Chorley Borough Council, Robbie Metcalfe Chartered Surveyor at Blackpool Council, Josef Eckert apprentice quantity surveyor at the Defence Infrastructure Organisation, and our guest George Bissett, a graduate planner from Enabl. I loved the pledge that Dave Sweeney led at the end of the conference, where 120 delegates agreed to *'further develop our partnerships in public and private sector to help sustain our future work and to continue to support and manage each other'*. I add my own personal pledge to continue to be visible and push the ladder down to those in their early careers so that they can be part of the conversation and part of the solution.

The following day I joined Alice Stacey from DLUHC to discuss office transformation and relocations and workplace trends with ACES and Local

Partnerships on the second webinar for Offices for Good.

Being a roving President, #PresidentOnTour, has given me time and space to think, and I realise that while working full time and dealing with everything life has thrown at me in recent years, I've spent most of my time reacting rather than being able to be strategic. So, I am super grateful for the thinking space "vanlife" is giving me, especially as I plan our next conference to be held in Norwich in September.

As I plan ahead, I've been thinking that regardless of how our organisations are structured to deliver asset and property management, one thing is clear that we as property professionals have to take a corporate approach; not only do we have to understand and action corporate goals, we have to understand how property and accommodation needs from our services impact on the whole and how delivery can be achieved. Central to this is a duty for us to collaborate and lead net zero outcomes for our estates.

It starts with our strategic asset management plans, ensuring that we've considered the strategic and policy

context, have the right dataset or a plan to achieve it, have access to the right commercial and innovative skillsets to give our clients oversight, and assurance and aid robust decision making. I've been thinking about some core issues, being data and the climate action scorecards, adaptations needed, and the developing skills sets we need to have to rise to the challenges ahead. There is of course much more to strategic asset management through the net zero lens, and we will consider this when we gather in Norwich.

I am now busy planning my trips to meet you in your branches. I will be coming to the North West Branch CPD day at Haydock Racecourse on 9 May, Welsh Branch in Swansea on 14 May, and Rural branch in Coventry on 16 May. I'll be touring as much of Wales as possible before these meetings. Then it's up to Leeds for my first visit to UK REIFF, where Offices for Good and the working in partnership manifesto from the Public Sector Forum are being presented. I'll be in touch soon to organise visits to North East, Heart of England, South West and South East. I can't wait for the road trips and the conversations!



Threkeld, Cumbria

NET ZERO SCHOOL REFURBISHMENT

Pen Y Dre High School net zero carbon refurbishment

Morgan Sindall (Project Managers) David.Evans2@morgansindall.com

Lisa Emerson, ACES member at Merthyr Tydfil County Borough Council, kindly procured this article from contractors Morgan Sindall, which undertook the works to refurbish an existing high school to achieve net zero carbon operational targets, while at the same time providing an alternative source of electricity to the local hospital. This case study complements the NZC new build school at the Vale of Glamorgan also featured here.

Redesign

The Pen Y Dre refurbishment was a Sustainable Communities for Learning Band B project in its design phase when Welsh Government introduced its Net Zero Carbon policy, mandating all new build and major refurbishments meet Net Zero Carbon (NZC) in operational targets. This project was not initially affected by this due to the business case approvals already secured. However, Merthyr Tydfil County Borough Council decided to return to stage 2 and redesign

the project to meet Zero NZC requirements. Welsh Government agreed that the project would act as an example of lessons learned for future projects.

The challenge

- Pioneering - no lessons learned to work from as it is the first NZC school refurbishment in Wales
- Difficulties - 1970s building with poor insulative and thermal properties





- Cost - demonstrating value for money regarding NZC refurbishment compared to NZC new build
- Live school - the school remained live during the process
- Construction - working with the goal of retaining as many building elements as possible to support embodied carbon savings
- Existing Grid - National Grid unable to take back large volumes of photovoltaic (PV) generated electricity.

The approach

As the Welsh Government did not make specific mandates about how to achieve NZC, the Pen Y Dre project team had a blank slate to work from. They began with a whole life carbon approach looking at operational energy and embodied carbon. This led them to the implementation of a fabric first approach in order to improve the thermal performance of the building.

An environmental specialist was employed to give appraisals throughout the process and support with the decision-making around the different materials that would be used on the refurbishment. Considering the specialist's recommendations, as well as exploring the

statistics around potential carbon savings from a range of scenarios, the project finally ended up with a net zero carbon refurbishment, with air source heat pumps and photovoltaics. This gave the lowest whole life global warming impact output.

The energy dilemma and partnership opportunity

Air source heat pumps (ASHPs) are known to be energy hungry so the team needed to find a solution that would not result in increased energy bills for the school. They found the best solution to be a PV array system of around 4,500 square metres of PV panels which would provide the energy needed to run the ASHPs. However, in the summer, when the school would be closed, the PV system would be generating more energy than could be used or returned to the national grid.

This presented an opportunity to work alongside the local hospital, located next to the school, which used high levels of electricity but did not have the capacity for PV panels. Therefore, the Pen Y Dre Refurbishment team at Morgan Sindall has worked with the local authority and local NHS Trust to make plans to install a private wire from the school's PV array across to the hospital, enabling the hospital to use the school's excess electricity.

Lessons learned

- A structural condition survey should be undertaken on all existing buildings considering a NZC retrofit to establish viability
- Take a whole life carbon approach
- Evaluate energy consumption from the outset - continually challenge and refine
- Take a site-wide approach to energy management
- Develop a decentralised energy strategy/private wire connections
- Implement lessons learned from Phase 1 to future phases
- Post occupancy evaluation per phase to inform the building usage for future phases.

The project

Project: South Point Primary School

Project Partners:

Client: Vale of Glamorgan Council

Sponsor: Welsh Government

Project & Cost Managers: AECOM

Contractor: ISG Construction

Architects: Stride Treglown

MEP: McCanns and Partners

Project Start:

September 2020

Completion:

December 2021

Operational:

January 2022

NET ZERO NEW SCHOOL First net zero carbon school in Wales

Learning and Skills Team, Vale of Glamorgan Council

Lorna Cross, ACES member at Vale of Glamorgan Council, kindly obtained this article from the council's Learning and Skills Team, which has procured the first net zero carbon new school build. This case study complements the NZC refurbished school in the Merthyr Tydfil area also featured here.

Project description

South Point Primary School, formerly Llancafarn Primary, is the first new net zero carbon school in Wales. It is a flagship project as part of the Sustainable Communities for Learning Programme, acting as a pilot scheme for the Welsh Government, demonstrating how the Low Carbon Delivery Plan and Wellbeing of Future Generations (Wales) Act 2015 can sustainably shape and enhance the built environment.

The Vale of Glamorgan Council is committed to tackling climate change. The

integrated design team developed a net-zero carbon (NZC) design, aligned to UK Green Building Council and London Energy Transformation Initiative (LETI). Proven as an inspiring learning environment, incorporating future-proof elements has reduced energy demand and maximised renewables to reduce carbon consumption and greenhouse gas emissions, with remaining emissions offset, neutralising the school's environmental impact.

The school was constructed in 2021 when the nearby Llancafarn Primary School was relocated to Rhoose in the Vale







of Glamorgan. The new, BREEAM 'Excellent' school sits on a sloping, coastal site at the heart of a new residential development.

The community school includes habitat areas, grass pitches, soft landscaping, multi-use games area (MUGA), onsite parking with electric charging points, cycling shelters and vegetable gardens.

The north-south orientated building benefits from a highly insulated envelope, paired with renewable technologies to provide an exceptionally sustainable, modern school.

The key sustainable objectives for the development were to:

- Optimised lessons learnt from the delivery of our standard building model by maximising renewable and energy efficient technologies, such as maximising photovoltaic (PV) panels, inclusion of on-site battery storage, switching from gas to air source heat pumps
- Ensure careful consideration of sustainable materials which have low embodied energy and are easy to construct and maintain, also ensuring the circular economy is considered and maximising natural day lighting
- Increase the on-site biodiversity through a number of means such as wildflower planting, raised planters, and rain gardens all supporting the Sustainable Drainage Strategy
- Reducing the operational energy used – areas such as catering were explored to ensure their delivery could be met within the building, but the need for energy to deliver was minimised, which was

achieved through careful selection of equipment

- Providing a tailored Social Value Plan, integrating principles from The Well-Being of Future Generations Act 2015 for the creation of a long-lasting legacy with the local community
- Ensure we meet the end user requirement and help pupils understand net zero carbon and its importance.

Project Outcomes:

- To ensure the building is achieving net zero carbon in operation, rigorous monitoring is being undertaken through an extensive network of metering and sub-metering
- During 2023, the installed PV panels generated 114,736 kWh, reducing the reliance on the grid and energy costs
- QR codes are provided on wooden plaques around the school, acting as teaching aids for pupils, which educates them on their net zero carbon school, its development and its carbon impact
- In-use net-zero carbon has been achieved through taking the fabric first approach by looking to improve the thermal properties of the external walls and roof through careful material selection to achieve the required U Value under the LETI guidance, exceeding the standard U Values set out in current Building Regulations through additional insulation, preventing air gaps/leakages, sealing all penetrations, and controlling solar gain/loss

- The building fabric was based upon the Passive Haus design, with modelling demonstrating that energy demand can be maintained at 65 kWh/sq m p.a. and heating demand can be reduced to 15kWh/sq m p.a.; 70% of the roof profile of the school building uses solar panels, and air source heat pumps provide heating delivered by an underfloor heating system to the school.
- On site battery storage – when at full capacity, the battery storage provides the required energy resource to energise building elements such as the alarm system, emergency lighting, servers, fridges and the like overnight with no input from the grid, reducing the building reliance on additional energy source
- The creation of the school building is focused on both educational and community use to ensure that the facilities provided can be accessed by a variety of people, including access to quality green open space
- Improving ecological value was an important consideration to ensuring the sustainability of the build and further improve educational outcomes for the school. The implemented landscaping strategy included creating a habitat area for locally native flora, to promote biodiversity, and to be used to educate the pupils on ecology
- In terms of waste from the site, 100% was diverted from landfill during the project construction.



Ben boasts 16 years in energy asset development, having served at notable firms like Arup, ESB, and Lightsource, and has experience across technologies such as energy storage, biomass, onshore wind, nuclear power, and more. Over the last 6 years at AMP, he's spearheaded the development of flexible assets, initiating 300MW+ of distributed gas and energy storage across over 60 distinct projects.

ENERGY STORAGE REVOLUTION

The energy storage revolution and its role in net zero

Ben Wallace ben.wallace@ampcleanenergy.com

Ben shows that the energy storage revolution means: "with this, we can finally see a system without the need for fossil fuels." He outlines opportunities for public sector estates to be involved.

The demand and supply gap

"Net Zero by 2050" had the potential, like many political fads often do, to be much lauded, and then just as quickly forgotten. But net zero has proven resilient to political change, and while the upcoming election will see the speed and cost of the net zero transition become a much-kicked political football, net zero is here to stay.

Achieving net zero however, is perhaps the greatest challenge of our generation. As a society, we will have to reflect hard on the price we are willing to pay to decarbonise our heat, transport, and electricity systems.

Of the three, electricity is by far the easiest to decarbonise, with the growth of low carbon sources of power growing at an astonishing rate over the past 10-15 years. In the UK, that has predominantly been by on and offshore wind, and to a lesser extent, utility scale solar installations.

In fact, such is the speed of progress, that by 2050 National Grid predicts for as much as two thirds of the time, Great Britain might be producing more renewable electricity than we need. The problem, however, is that the demand for electricity and the supply of weather dependant renewables do not always match. Therefore, for up to a third of the time, when the sun isn't shining and the wind is not blowing, we will need to rely on other technologies to plug the gap. Until very recently, that gap has been entirely filled by burning natural gas.

However, we are at the start of a new energy revolution – an energy storage revolution - where we can now store excess renewable electricity and shift it to times

when it's not sunny or windy. With this, we can finally see a system without the need for fossil fuels.

Energy storage is indeed a very broad family of technologies. It includes pumped hydro, compressed air storage, gravity systems, to name but a few. But in the UK and globally, the meteoric rise in energy storage is coming in the form of Lithium-ion batteries.

Energy storage - jargon busting

In the UK, the growth of lithium-ion battery energy storage systems (BESS) has been incredibly swift. In December 2023, Renewable UK reported the total BESS development pipeline had increased from 50.3 gigawatts (GW) to an astonishing 84.8GW, while only 3.8GW have so far become operational. If GW is not a familiar matrix, for context, the peak winter demand for the whole of GB is around 45GW.

Indeed, the energy storage sector has a sense perhaps of a dot.com bubble, but all evidence so far shows that the bubble is not yet ready to burst, with new schemes popping up all over the country.

The overwhelming majority of BESS constructed so far have been large (multi-megawatt and multi acres) projects that connect at higher voltages. These projects have provided a range of ancillary services (also known as balancing services) to National Grid. There are too many of these services which are also complex in nature to fully explain here, but what they have provided is excellent returns for early movers in this space (<https://www.nationalgrideso.com/industry-information/balancing-services>).



However, the size of the balancing service market is relatively small, and increasingly BESS are looking to generate revenue through energy arbitrage. As the ‘fuel’ for a wind turbine is free, the cost of generating electricity on windy days is very low. BESS are therefore able to buy electricity both at low prices and low carbon intensity, and store that electricity for later when either the amount of wind falls, or the demand for electricity grows. At this point the price of electricity spikes, and the BESS empty their systems, having made the difference between the low buy and high sell price. The other significant benefit here is, in doing so, BESS reduce the need to burn fossil fuel, optimising our use of renewable energy and saving carbon.

As well as ancillary services and arbitrage, BESS make money from the capacity market. This is a contract with National Grid to provide power during times of system stress – and ultimately designed to prevent national and regional power cuts. Most BESS systems will access each revenue stream and the mix of income is often referred to as “revenue stacking”.

There is however one further revenue option for a new kind of battery – localised flexibility contracts. While large BESS projects are supporting the net zero transition, what these very large schemes that connect transmission level (high voltage) cannot do, is address the ever-growing problems with our low voltage networks – the last few meters of the electricity network that supplies most homes and business.

Here, cables and substations built throughout the 20th century are struggling with the weight of change as we see heat pumps, air conditioning units and the increasing rise of the electric vehicle, demanding more and more electricity through equipment that is at bursting

point. Distribution network operations (DNOs) (such as SSE, National Grid and UK Power Networks), have until recently, had very little option but to upgrade this infrastructure, the costs for which are absorbed by bill payers and causes disruption with road works.

In an attempt to avoid this, DNOs are looking for small, localised BESS schemes to help out, and will provide contracts to BESS schemes embedded in our towns and villages, much like the battery box projects being developed by my company AMP Clean Energy.

Behind the meter

So far, the focus has been on BESS projects that connect directly to either the distribution (low voltage) or transmission (high voltage) networks. There are also opportunities for “behind-the-meter” installations. These BESS tend to be much smaller and are installed to integrate with the electricity network of an existing building, often combined with existing rooftop solar installation. Behind the meter projects focus on reducing the electricity bills and carbon emissions of an existing building.

Energy storage - opportunities for public sector estates

Energy storage represents a potentially significant opportunity for public sector estates to generate revenue, reduce costs and support the net zero transition. The opportunity falls into 3 categories:

- Lease revenue
- Cost avoidance, and
- Owner operator.

All three contribute to saving carbon.

The easiest and lowest risk opportunity of the public estate is lease or sale of property to third parties for the construction of a BESS project. This can vary widely, from very large 500MW schemes occupying multi acre plots on long term leases. Rents can vary significantly, but expect anything between £1,000-£3,000 per MW installed. But caution is advised; selecting a partner that has experience and a track record is vital. With such a large pipeline of projects in the UK, and often delays of 10 years or more for new electrical connections, we are likely to see a lot of BESS developments fall by the wayside.

As well as the bigger schemes, you can also (it’s not an either) work with a smaller distributed BESS operator such as AMP’s Battery Box project. Here rents are closer to £5,000/MW on a small footprint, high volume number of sites.

Cost avoidance will be focused on behind the meter solutions which will try and reduce energy spend, and for the large part, I would expect the public sector to self-fund these solutions. When paired with solar, they are likely to offer very appealing returns on investment, especially with falling lithium prices since a spike in early 2023.

Lastly, some authorities may consider the option of self-developing and operating BESS schemes, a follow-up to what has been some very successful solar developments. But this option is high risk, and the operation and commercial risk associated with BESS schemes is a far cry from the heavily subsidised simplicity of solar projects. While some may navigate this risk, I would suggest for many the risk profile is not suited to non-specialist energy owner operators.

Conclusion

Energy storage and lithium ion has already penetrated our lives with the advent of the smartphone. But its role in our collective future is now far greater than enabling family calls and Candy Crush marathons. Increasingly the future of a decarbonised electricity sector is intertwined with the successful evolution of a mature energy storage sector which will be a key facilitator of net zero, and also help suppress electricity prices and give the UK more energy independence.

With this comes a huge opportunity for the public estates sector, but one that will not wait - so now is the time.

Does your estate hold the key to net zero?



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COUNCIL HQ REPURPOSING Not just your regular County Hall

Brian Thompson brian@realestateworks.co.uk and
Richard O'Neil Richard.ONeil@hlmarchitects.com



Brian and Richard outline the not inconsiderable challenges and opportunities of repurposing the extensive and historic Derbyshire County Hall headquarters, and providing new net zero offices for staff.

'In this breathless world of ours, when at any moment a fantastic tomorrow may obliterate all our yesterdays, when nothing is certain except change, we owe a debt of gratitude to the man who, all unknowingly, founded this oasis of refreshment in a world of which he never dreamed.'

The steepest tramway on public roads in the world linked Smedley's establishment and other hotels 'up the hill' with the train station and town centre below.

After being requisitioned during WWII, the hotel never re-established its foremost position and attraction – it was acquired by Derbyshire County Council in the 1950s and has been its County Hall and headquarters since.

An extract from the biography of John Smedley written 70 years ago ("John Smedley of Matlock and his Hydro" by L du Garde Peach, 1954) points towards something rather special. That special creature was a 300-bedroom hydropathic hotel in the town of Matlock on the edge of the Peak District National Park, dating back to 1853. At one time, there were 25 privately run spa hotels in the town, creating a powerful magnet for health tourists travelling from across the UK and beyond.

Challenges

The complex of buildings extending to over 25,000 sq m is centred on the impressive Grade II South Block within which are located the Council Chambers, key committee rooms, and fantastic relics of the past such as the central staircase and wide panelled corridors (see cover).

When not enjoying the thrill of writing business cases for the alternative use of public sector HQs, Brian is to be found advising on a Place Pilot, preparing a regional OPE strategy for England's largest programme area, working up an asset strategy for a 'secret squirrel' government agency, and researching shared property services across the public sector.

Working with both public and private sector organisations spanning multiple sector typologies Richard provides strategic design advice to optimise property and asset performance. Richard has a particular interest in creating sustainable and innovative design solutions that contribute to the wider built environment, place making and social value agendas.



Internal corridor



Internal hall



Open plan, flexible, team space has been difficult to create while preserving the unique heritage of the assets, and the enduring nature of hybrid working means simply that the supply of space will always exceed demand.

The high running costs, coupled with anticipated whole life costs including those of decarbonisation, add weight to the argument that ‘Do Nothing’ is simply not financially or operationally viable.

We were asked to help prepare a Strategic Outline Case in 2022 to identify the optimum long-term future for the complex and a financially sustainable solution to the council’s enduring space requirements. While the technical challenges alluded to above were very apparent from the start, the operational challenges were less obvious but still very real:

- The council recognised that the nature of the existing building impacts on behaviours. Cultural change will become a key outcome from delivery of the project
- Cellular accommodation (bearing in mind the building was designed as a hotel) acts as a constraint to effective collaborative working for the council’s headquarters staff
- Recruitment and retention challenges are ever-present and the quality of the accommodation at County Hall is holding back the ambitions of the council
- The County Hall complex does not

present an image of the council as dynamic and innovative whereas a modern, flexible and energy efficient building would be much more in tune with the reality of the organisation.

With an increasing demand for core services (particularly social care for adults and children) and limited scope to cut costs or raise additional revenue, sharper focus has been placed on the County Hall project as one that can help the council address its financial challenges while simultaneously delivering many dividends.

Opportunities

Matlock and the wider Derbyshire Dales communities are characterised by a heavy reliance on ‘public administration’ jobs - over double the national average - according to Office for National statistics data. Providing economic resilience for the locality is seen as a critical outcome.

Meanwhile, tourism and economic data point very clearly towards a shortfall in quality hotel accommodation. Our research also identified a demonstrable under-supply of managed space for small businesses, studio space for the creative sector, and performance space.

And the pipeline for new homes is insufficient to meet demand in what is a fantastic location to work, live and enjoy life.

Bearing in mind the council’s long lineage and connection to the site, it has committed to retaining its headquarters in Matlock. With a site extending to over 8ha, we feel there is a solution that balances value for money considerations with

the protection and enhancement of the heritage value of the existing buildings.

“We want to give County Hall a new lease of life that will capitalise on the special nature of the historic buildings and the uniqueness of Matlock being on the fringe of one of the UK’s most popular tourist attractions – the Peak District.

Our vision for County Hall involves transforming the current buildings, and the fabulous landscaped setting into a world class hotel and venue coupled with spaces for local businesses, new homes for local people, a revitalised Winter Garden, and opportunities for the community to hold events, meet formally, or simply just to convene.” (Councillor Simon Spencer, Deputy Leader, Derbyshire County Council)



External stairs



View over the Winter Garden

substantiated by the market when we embarked on a soft market testing exercise during the summer of 2023.

A new net zero carbon office on site for the council will be carefully located and sensitively designed. Our initial estimates are that CO2 emissions from a new office could be 90% lower than existing emissions – with a huge financial saving over the appraisal period!

There are great opportunities to deliver biodiversity net gain across the whole site, and the sustainability credentials of the scheme can be enhanced by developing sustainable transport links between the site and the town centre, bus station and train station. This could extend to the creation of a ‘mobility hub’ with full support for active travel options.

Last but by no means least are the substantial Gross Value Added benefits – nearly £60m at the Matlock level and almost £150m across the region.

Links to key council policies

Alignment of the County Hall project to policies, strategies and initiatives of the council is fundamental to securing buy-in and ensuring that the project is seen as relevant.

Evolution of the business case

The Strategic Outline Case identified a short list of deliverable options along with a preferred option. Through the Outline Business Case carried out during 2023, we reviewed, validated and further analysed the short-listed options, with support from a wide range of specialist sub-consultants – planning, transport, economic impact assessment, property market, sustainability, mechanical and electrical, and cost management.

conversion of the two main blocks to provide new homes and a hotel where management has the vision to capitalise on the special value of the location, the building and their heritage. The Winter Gardens will be refurbished to reinstate their former glory and the council will remain on site. We believe scope also exists for well-designed new homes on part of the site currently devoted to car parking.

Our professional opinions on the optimum future use of the complex were

“What have we learned from the project to date? Strong and consistent leadership from the client is fundamental, there is nothing wrong with measured and calculated risk-taking, and you (as an advisor) must truly believe in the vision otherwise the project risks being treated as just another one on the list.” (Brian Thompson – realestateworks)

While the obvious ports of call were documents such as the Council Plan and

“Repurposing council historical assets to create vibrant mixed-use destinations whilst meeting local authority challenges and future core office requirements can unlock significant long term socio-economic and environmental gain. Fostering considered and ambitious vision is the agent for change.” (Richard O’Neil – Director HLM Architects)

The Outline Business Case has concluded that the preferred option, by some margin, is a mixed-use scheme centred on the





aim is to ensure that what is brought to the market in 2025 is deliverable, viable and meets an untapped demand:

- Validating the required scale and specification of the council's new core office requirements
- Engaging with Derbyshire Dales District Council as local planning authority, and Historic England – we want to de-risk the opportunity by securing outline consent
- Maintaining engagement with the market – we will build on the soft market testing from last year to reiterate the offer, to build interest and explore potential commercial structures
- Exploring funding opportunities along with scope to secure grants
- Determining the optimum timing to bring components of the overall scheme to market.



Needless to say, we are also capturing more on the rich life history of the site. We know from our engagement with the market to date that potential partners of the council genuinely want to capture that added value, because it makes business sense but also creates a virtuous circle linking the future with the past.

Perhaps the social activities in the re-purposed County Hall will be a tad more comprehensive than the typical options that characterised the Victorian and Edwardian eras at Smedley's:

'A little billiards, and perhaps a decorous rubber of whist: bezique probably, and patience certainly. Now and again, some gentle music, and even occasionally an attempt at amateur theatricals of an innocuous nature.'

its Carbon Reduction Strategy, the Cultural Framework deserves special mention. There are touchpoints with each of the framework's five pillars:

- Derbyshire Hothouse – the project will support the creative industries sector by providing studio space within a wrapper of business support
- The Derbyshire Story – the County Hall complex has a rich history and only exists because of the vision and entrepreneurial spirit of a local businessman and philanthropist
- The New Market Place – in a sense, the project is about place-making but at multiple levels: the immediate environment of the complex, the town of Matlock and the wider region
- Shine a Light – the project ticks the box for being a signature project

with a truly unique cultural offer and venue in the form of the Winter Gardens, capable of supporting a programme of events 12 months of the year

- Collective Derbyshire – the solution for the County Hall will be integrated with proposals (emerging from a One Public Estate review) to convert the Town Hall in Matlock into a multi-agency hub, enabled by Derbyshire Dales District Council rationalising its space within the building. The 'collective' aspect of the project also alludes to the fact that the hotel and venue will open their doors to the community, performing artists and others.

Now what?

As ACES Spring Terrier goes live, we are embarking on various actions in parallel and in collaboration with the council. The

Editor note: Collaborative Property Services – ACES-endorsed survey

Brian is coordinating a SurveyMonkey online survey on Shared Property Services. He is undertaking a parallel survey with the Scottish Heads of Property Services and has received a good representation.

Readers are encouraged to complete the survey, following the link

<https://www.surveymonkey.com/r/9S5V2Y8>



DEVELOPING SCHOOL LAND

Development of school land and the delivery of successful outcomes

Kevin A Foster MRICS kevin.foster@located.co.uk and Will Attlee MRICS Will.ATTLEE@Located.co.uk

Kevin and Will outline clearly the process to be followed to develop school land, for new schools and disposal of surplus land, highlighting useful sources of government guidelines – and LocatED’s own practical publication.

Kevin has nearly 30 years of experience working in property development, having managed his own development business, acted as a consultant to various property companies, and for 12 years as a Director of Jones Lang LaSalle. During this time, he has been involved in a number of major regeneration projects across the UK, including New Street Station and Bull Ring, Birmingham and King’s Cross, London. Kevin has also worked extensively with the public sector, helping to structure several public and private joint ventures.

As Development Director for LocatED, Kevin takes a lead role in delivering a portfolio of mixed-use projects, securing new sites for schools in partnership with the private sector, and including schemes which will deliver new housing and other uses.

Will is Head of Estates Efficiency and Net Zero at LocatED, providing real estate and development expertise to schools, the DfE, local authorities and other responsible bodies. Will has over a decade of property and development experience, delivering complex mixed-use schemes on behalf of public and private sector clients. Before joining LocatED, Will worked in private practice and advised landowners, investors, and occupiers on a broad range of property related matters.

Education bodies are increasingly looking at how to ensure that their estates are being used as efficiently as possible. While there are a number of funding streams and programmes to support this objective, changing demographics and property needs create opportunities for land disposals. To assist the sector in navigating the process and ensuring successful outcomes, LocatED has recently published advice aimed at individuals and bodies with responsibility for, or an interest in, education buildings and land, when considering development opportunities.

Smaller, better, greener

The English school estate, at an estimated 50,000 ha., represents one of the country’s single largest land holdings. Ownership across the estate is disparate, with the Secretary of State holding less than 1% and the remaining land split between local authorities, multi academy trusts, diocesan boards of education and other education trusts.

The Government Property Strategy 2022-2030 sets out the ambition for a smaller, better and greener government estate and these principles are applicable to managers and owners of schools, where using land more efficiently can create opportunities to save money, invest elsewhere in the estate and deliver on decarbonisation ambitions. This is of

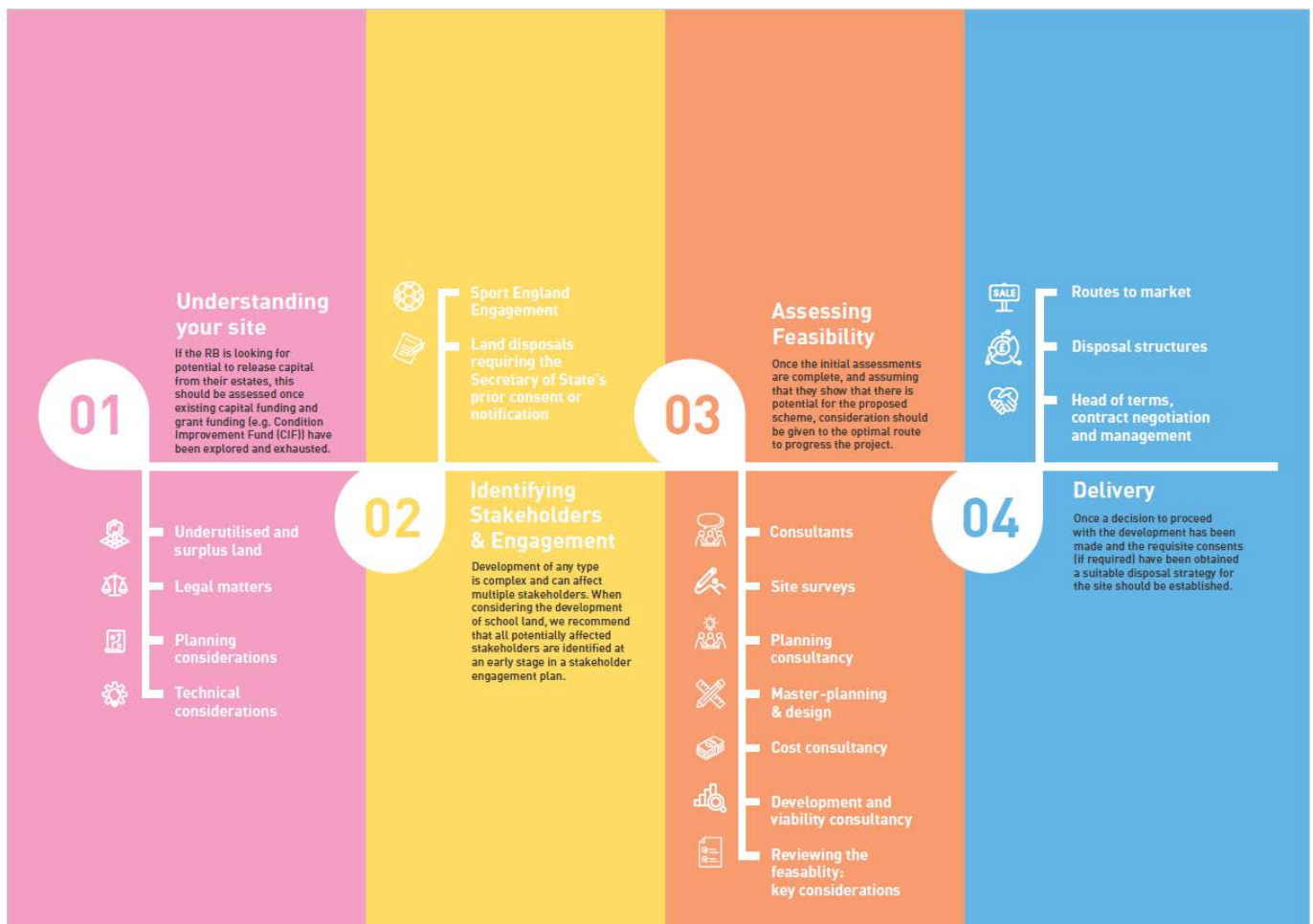
course all part of a good estate strategy, for which guidance already exists in the form of the DfE’s Good Estate Management for Schools publication.

However, development and disposal of land is a complex process, involving various areas of overlapping legislation, potentially significant financial commitments and specialist expertise. LocatED’s remit includes providing advice and support to help owners of education land in the public sector to solve complex project challenges and with this in mind, we recently published advice aimed at achieving successful outcomes.

Embarking on the journey

Development and disposal of land rarely happens quickly, if ever, and like any long journey, preparation is key to arriving safely at the intended destination, at the time anticipated, and hopefully within the budget set aside at the outset. At the start, landowners should make an honest assessment as to whether sufficient expertise exists within the leadership team and identify a project manager to lead on and be responsible for the day-to-day delivery of tasks.

Consideration should also be given to whether appropriate governance structures are in place and if a specific project board or steering group should be established. Finally, the funding of,



and accounting treatment for project expenditure should be considered and any requisite approvals secured before entering into any spending commitments. The more complex the project, the greater the importance of establishing both appropriate governance structures and an experienced project delivery team.

It is easy at this stage for projects to build momentum; promises may have been made, albeit unintentionally, and resources committed to making things happen. The greater this momentum builds, the harder it will be to stop, so early challenge to the desirability and deliverability of a project should be encouraged. With finite resources and limited time, education bodies should consider carefully whether there are alternative ways of achieving the same outcomes, such as through existing funding programmes. Bodies should also consider if their time and resources could be more productively used elsewhere. Such challenge and consideration of the merits of a project at an early stage will create a more robust business case for those projects that do proceed beyond the concept stage.

One stage at a time

Having decided to move ahead, it is a good discipline to break the journey down into a series of stages. These provide opportunities for pause and reflection to ensure that the overall objective remains achievable, to consider an alternative route if necessary, and to manage the level of expenditure.

Most projects can be defined by four key stages, described broadly as follows, and illustrated in the graphic:

- Stage one - understanding the site
- Stage two - identifying and consulting with stakeholders
- Stage three - assessing feasibility
- Stage four - delivery.

Understanding the site

While it is often the case that managers of education land have a good understanding of the extent of landownership, the details are not always clear, and in many cases, there will be a range of ownerships, rights and restrictions. Developing an early understanding of the legal title and ensuring freeholders and others with

ownership rights are supportive of any proposals provides a sound foundation for moving forwards.

Alongside this, an early engagement with the local planning authority to establish the status of the site in planning terms will help inform the future strategy regarding applications for changes of use and/or representations to the local plan process.

The Department for Education has a statutory role in the disposal of education land and a useful starting point is the area guidelines for playing field land at existing schools, as set out in the DfE guidance note [Involving the Secretary of State in land transactions](#).

This is non-statutory guidance setting out how and when to involve the Secretary of State in transactions involving school land. An initial estimate of the potential quantum of surplus land can be calculated by comparing the school's actual site area with the areas set out in the area guidelines. The document sets out how these areas should be calculated.

While an assessment against the guideline areas will give an indication of the 'mathematical' surplus, it is important

to consider the actual and potential usage of the land in question by both the school and if applicable, the local community. These assessments should be undertaken in conjunction with DfE and the local education authority forward planning teams, to ensure consideration is given to future pupil projections.

Working with stakeholders

Consideration should be given as to the best time to engage different stakeholders. Prior to engagement, the reasons for undertaking the project and its benefits should be clearly articulated. Given the sensitive nature of developing school land, an assessment should be made that there is a reasonable likelihood of the project commencing, prior to engaging wider stakeholders. Consultation should be meaningful and early enough to give stakeholders the opportunity to input into the evolution of the project.

Schools sit at the heart of local communities and they should form a key part of the early consultation process. Alongside the school community itself and the parents and governing body, consultation should extend to other local groups, such as sports clubs, who may be affected by the proposals. Information obtained from stage one may identify site trustees or church bodies with an interest in the wider site, who should be consulted, even if the land earmarked for disposal is not necessarily within their remit.

Sport England should be consulted on the possible loss of playing fields. Its role is to protect and enhance all playing pitches and resist the loss of any playing fields unless specific exemption criteria can be met. The definition of what constitutes playing field land is broad and advice should be sought from Sport England where necessary.

The disposal of publicly funded education land requires the Secretary of State's prior consent (or in some cases notification to the Secretary of State). This includes both playing field land and non-playing field land (e.g. buildings).

Different rules apply depending on who holds or controls the land, the nature of the proposed transaction, and the type of land involved. Engagement with the DfE's Land Transactions' team allows an assessment of early-stage proposals and the opportunity to provide advice in advance of a need to subsequently submit a formal application for consent to dispose of land.

Feasibility

To ensure a comprehensive feasibility study is completed, a suitably qualified professional team should be identified and appointed. To reduce the project team's resource requirements, consideration could be given to appointing a single multidisciplinary consultant.

In addition, a multidisciplinary consultant will be able to advise on, and commission relevant surveys that will inform the design and procure any additional specialist consultancy as required. The project team should be mindful of its statutory obligations regarding the procurement and appointment of consultants, and should work with its procurement advisors, to identify a suitable route to procure the relevant services. Prior to appointment, confirmation should be sought that the consultancy team has suitable experience to deliver the project.

The range of services required will depend upon the nature of the project and specific specialist advice might be needed on matters such as heritage and flood risk, if relevant to the site in question. In most cases, the following core services will be required:

- Planning
- Masterplanning and design
- Costs
- Development and viability.

Once the feasibility study is complete, consideration should be given to whether there remains a strong case for progressing the project further. Care should be taken to ensure that the potential land receipt is sufficient to cover the cost of any proposed school improvement works, with a contingency to allow for future inflation. Consideration should also be given to the key project risks and whether suitable mitigation strategies have been identified.

Delivery

Once a decision to proceed with the project has been made and the requisite consents (if required) have been obtained, a suitable disposal strategy for the site should be established. This should be prepared by working closely with the consultancy team. The preferred route will be established as part of the feasibility study and should take account of the need to secure value for money at the same time as managing the risks.

Advice should be sought on the best route to market. This will depend on a number of factors including the market demand, the nature of the project and partner being sought, alongside the timing and financial requirements.

The disposal structure will need to reflect the complexity of the project, market conditions, risk appetite and the need for financial certainty. An experienced surveyor, with knowledge of the local market and experience of the type of development proposed, working alongside a suitably qualified legal team, should be able to provide appropriate advice and assurance.

Arriving at your destination

There are numerous examples of surplus school land being used to deliver substantial benefits to local communities and improve the quality of learning environments. The journey to get there will not always be a smooth one and sometimes changes in direction or ambition are needed to ensure a successful outcome.

Education bodies and landowners should take advantage of the advice that exists and seek out opportunities to talk to advisers and other schools who have delivered similar projects.

LocatED is an arm's-length body to the Department for Education. It exists to provide advice to schools, multi-academy trusts and other educational bodies to help them solve complex property challenges; secure sites for new schools at the best market price; manage sites held for schools; deliver school-led mixed-use developments; and help to decarbonise the school estate.



Rita is a well-established and high-profile local government governance and regeneration specialist. Having worked in-house within local government, Rita has a valuable insight and understanding of local government issues. She is able to provide solutions-oriented advice into areas of which are strategically important to the market.

Rita was the national lead for housing and regeneration for Lawyers in Local Government and was shortlisted for in-house solicitor of the year category at Law Society Awards. Rita is also a member of the Law Society Property Section Committee.

BROWNFIELD PLANNING

The 'brownfield presumption' - problem solved?

Rita Bange RBange@trowers.com

Rita explains that the Levelling up department has recently completed a consultation exercise on the proposal to clear hurdles for developers of brownfield sites. Below she outlines some of the challenges for public sector landowners to unlock sites.

As part of its long-term plan for housing, the Department for Levelling Up, Housing and Communities announced on 13 February 2024 that every council in England will be told that they will need to prioritise brownfield residential developments, be less bureaucratic and more flexible (for example as to guidance on the internal layout of developments) in applying policies that stop housebuilding on brownfield land. The bar for refusing brownfield plans will be made much higher for those big city councils who are failing to hit their locally agreed housebuilding targets. A public consultation on these proposals ran until 26 March. But what are the issues to consider?

What is brownfield land?

In the context of planning, Annex 2 of the National Planning Policy Framework defines previously developed land (alternatively known as 'brownfield land') as 'land which is or was occupied by a permanent structure, including the curtilage of the development land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure'. Common brownfield land might include redundant industrial sites and transport facilities but expressly excludes residential gardens.

Brownfield challenges

The government's proposals would mean planning authorities in England's 20 largest cities and towns will be made to follow a 'brownfield presumption', if housebuilding drops below expected levels.

Councils play a critical role in bringing forward brownfield sites using statutory powers and strategic oversight to support revitalisation in their areas. However, the brownfield presumption may not address the obstacles councils face when trying to bring forward brownfield sites for redevelopment. They are:

Planning

- The desire to redevelop brownfield sites for housing is not consistent with how the planning system works. Many developers find the planning system difficult and slow. Once the process is started, pre-development costs can escalate (environmental and flood-risk assessments, community facility assessments, and infrastructure assessments, etc)

Funding

- Councils may have access to funding to help towards costs for remediation; however funding will usually be conditional on clawback or spending deadlines which may be difficult

for the council to agree. Access to funding can be bureaucratic, time consuming and protracted. Funding assistance for brownfield remediation must be streamlined

- From a developer's perspective, obtaining finance may be challenging. Brownfield redevelopment generally has higher upfront capital costs. Unlike an investment facility where a lender can expect to see reports evidencing that remediation works have been successfully completed, with development finance, the developer will have yet to carry out these works as they will be funded from the loan monies. The funder is going to want to see evidence that the developer has approached and costed the remediation risk properly

Expensive and complex remediation

- One of the biggest challenges is the cost of clean-up and remediation. Depending on the level of contamination, it can be expensive and time-consuming to clean up a brownfield site and make it safe for redevelopment. In response to the consultation, the RICS makes the point that there is a lack of government funding to support making brownfield sites safe for re-development. Where there is more

contamination than expected and/or remediation costs are higher than projected, often this is reflected in a reduced land offer by the developer to the local authority

Location

- Brownfield sites are often located in previous industrial areas of a town or city, meaning that unless development comes as part of wider regeneration, it is unlikely to produce viable yields and/or be attractive for development. The location of sites often means there is no accompanying transport infrastructure, shops, schools, and healthcare facilities etc. Regeneration is about social, economic, and physical renewal. Creating new homes on brownfield land does not necessarily create a community or a good place to live

Perception

- Public perceptions can be another concern. The public may feel uneasy about occupying homes on former brownfield sites, so managing this perception is key, especially if a site had a long-established prior industrial use. However, brownfield land is considered politically more acceptable than green belt development

Protracted procurement processes

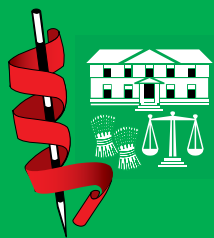
- Developers understand that there will be a requirement for a procurement process and expend time and resource to take part. However, developers will be disincentivised to take part in procurement processes that are protracted, especially if the council is asking the developer to accept financial/environmental risk.

Brownfield public sector land can be invested into via joint-venture agreements with developers to encourage housing development. This already happens, but with so much public sector brownfield land ripe for development, there is scope to help speed along this process.

Brownfield development is a hot topic of conversation, and the brownfield presumption may be welcomed by many and seen as a positive step to unlock complex sites for regeneration. However, it is only one piece in a complex housing puzzle. Unlocking brownfield sites will take more than the brownfield presumption.

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Charles is Head of Development Partnerships at the global property consultancy Knight Frank. He specialises in the delivery of large-scale development projects across the UK with a particular emphasis on long-term value creation and community value. His overarching ambition is to get Britain building homes that people are proud to live in.

HOUSING POLICY

Founding housing policy on sound economics

Charles Dugdale charles.dugdale@knightfrank.com

Charlie stresses the importance of simple, well-conceived policy measures and the need for a renewed emphasis on delivery in partnership with the private sector. "Is policy founded on sound economics with a clear strategy or is it tinkering with little thought to the market distortion it causes?"

We need to be honest about the challenge at hand. References to a 'housing crisis' mask the real challenge facing people. People can go to an estate agent and find homes to buy or rent – it's just that they cannot afford them. Language is important, so let's call it what it is – an 'affordability crisis'.

Seven points about the market

Policy has tinkered with the housing development sector but seemingly without a practical appreciation of the economic fundamentals and without clarity on the intended outcome. Here are seven points I believe need to be better understood:

1. Private enterprise will not over-supply the market:

A housebuilder's commercial incentive is to maximise the number of sales without over-supplying a housing market. They are generally seeking to maximise their return on capital within the shortest possible timeframe, so it would be an inefficient use of capital to build homes that remain unsold. If the intended outcome of policy is to encourage housebuilders to over-supply their markets to improve affordability, then I'm afraid we need to think again.

2. The market for new homes is adequately supplied:

Housebuilders always tell me they could build faster if they could sell more. They

are very skilled at matching the pace of delivery to the rate of sale. If every housing development site in the country is balancing supply to demand, we can be confident that the supply of new homes accurately matches the demand for new homes. I am sure these comments will raise some quizzical eyebrows of those living in city centres, National Parks, and other restricted areas where supply is inherently constrained. Yes, supply is constrained in large parts of the country, but demand moves to areas of perceived value and prices adjust to reflect local imbalances. My point is that – taking the national housing market as a whole – and given that almost all housebuilding sites have capacity to increase production to respond to greater demand, we can expect that supply will continue to adequately meet the national demand for new build housing.

3. Planning reform will not increase delivery:

Planning is far from perfect, and the system is 'high risk' for applicants due to the slowness of local plan preparation, indefinite timescales for planning determinations, and the volatility of planning decision-making. Planning requires significant investment in systems, technology, resource, and skills.

However, don't be fooled into thinking an efficient planning system will necessarily increase the number of new homes sold each year, because housebuilders will still be delivering



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Edinburgh New Town was stewarded by the Town Council with a coherent delivery strategy structured in partnership with private sector builders and shaped by James Craig's 1767 masterplan.

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Contact our team:



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to demand (see points 1) and 2). More sites would come into production and offer more choice, but each site would likely build out slower than it might have otherwise as demand would be spread more widely. This is not to say planning reform won't bring benefits. A more efficient planning system would be cheaper and less risky; less cost and risk mean more value available to be captured as infrastructure and affordable homes.

4. The price of land does not underpin house prices:

I often read that greedy landowners insisting on high land values underpins unaffordable house prices, but this has no economic basis. Perhaps I can liken the economics to a cow and a pint of milk. The price of milk is not determined by the cost of a cow. It works the other way around: farmers in a cattle auction are predicting what they can sell milk for, what it will cost to rear the cow, and therefore what they can reasonably pay for the cow and still make a return. The price of the cow – just like development land – is what's leftover when everything else is taken into account. According to the Knight Frank Land Index, the price of development land is no higher today than it was in 2011.

5. There is less land value uplift with planning than you think:

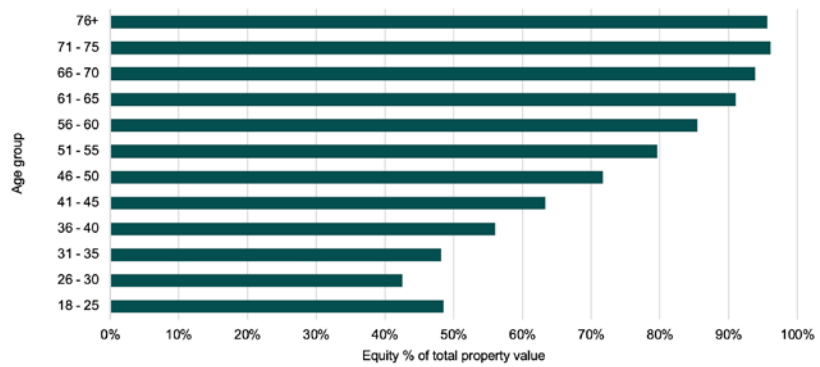
You may have heard of agricultural values of £10,000 per acre and development values of £1m per acre, and this breeds a false narrative that the grant of planning permission realises a 100x uplift in value. This misses the point found in the small print - that the development value assumes the land is serviced, which has a highly variable and usually very significant cost. In an urban extension or new settlement context, the cost of servicing land might be £0.9m per acre... this is where all the value really goes, and the business of achieving a viable development scheme, let alone a beautiful one, is far more stretched than people think.

6. Flatted development needs investors:

Developers of blocks of flats are funded by construction finance that, more often than not, needs to be covered by pre-sales of flats. This is where the off-plan investor came in. The numbers worked because investors could get tax relief on their mortgage interest payments, and they

Equity value in housing

Value of equity in owner-occupied housing as a percentage of total by age category (England & Wales)



Source: Knight Frank

performed a critical function in funding development. A narrative emerged that these buy-to-let investors were blocking homeowners, which convinced the then Chancellor to taper out mortgage interest tax relief to undermine the investment rationale. This didn't open opportunities for homeowners because it's not possible to occupy a flat that isn't built. Instead, the collapse of the domestic buy-to-let market has dramatically reduced the supply of flats to rent and has forced developers to find investors overseas.

7. House prices are more a function of the past than the present:

So embedded are the economics of supply and demand in our thinking that we forget that it's the accumulated equity in the market that supports the price that people can afford to pay for a home. In the chart you can see how all this equity is getting stuck in the older demographic cohorts.

If we want younger generations to afford property, we need policy that liberates the equity in housing to trickle down through the demographic profile. Unfortunately, this is not happening, largely due to

stamp duty. As Paul Johnson (director at the influential Institute for Fiscal Studies) eloquently put it, stamp duty *"is among our worst and most damaging taxes; it gums up the housing market, keeps people who don't need them in houses that are too big for them, thus reducing the supply available to growing families; and it serves to reduce labour mobility"*.

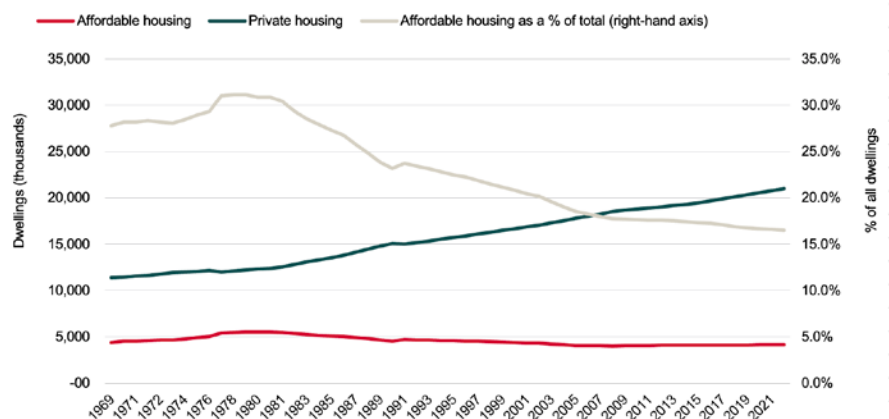
These seven points taken together raise some important questions about policy. Is policy founded on sound economics with a clear strategy or is it tinkering with little thought to the market distortion it causes?

No easy answers

To all you who just want to be able to afford a home, I'm afraid there are no easy answers here. Housing targets, planning reform, land value capture, and taxing investors may all sound appealing, but they are unlikely to make a sufficiently significant impact to improve the challenge at hand – the affordability crisis.

As we have seen in point 7), it is the accumulated equity in the housing market which allows the market to afford a given

Dwelling Stock by Tenure in England



Source: Table 104, Gov.uk



The author at Welborne



Chesterfield Village centre

price point. We can trace this back to 1963, when a new era of a property-owning democracy was ushered in when a tax on imputed rent was removed. Successive chancellors have conveniently let prices rise, fuelling consumer spending and economic growth, safe in the knowledge that the affordability bomb would go off on someone else's watch.

We can now see that this was fundamentally unsustainable and has pulled up the drawbridge on the next

generation. While we can now better understand the errors of the past, we cannot unwind them without eroding past economic growth. Perhaps we must accept we are where we are.

With a heavy heart, sound economics has persuaded me that private property is likely to remain unaffordable for many if not most, but I think we can do more, and we must. The ability to live in a secure home is a foundation of a household.

The importance of affordable housing

I worry that we have forgotten how important affordable housing is as a core pillar of our housing policy. In the late 70s, affordable rented homes represented over 31% of the total dwellings in England. 45 years on, there are fewer in total and represent just 16.5% of the total dwellings. Right-to-buy has helped families into home ownership, but the affordable homes have not been adequately replaced and subsequent generations are insufficiently catered for.

The role of the state

The private sector can play a part in the provision of an affordable housing market but, in my experience, there is insufficient viability in development to support infrastructure provision, as well as sufficient affordable housing. A degree of state sponsorship is necessary.

Development Corporations are being seen as an effective tool for government to devolve funding and planning powers to accelerate delivery. Some of my brilliant colleagues have done a lot of the thinking behind these, and I believe that government has an important role. Central and local government can bring their powers to enable the private sector not to frustrate it.

Enabling long-term thinking

My final thought to leave you with is that we should not underestimate the value of long-term thinking in development. Many of the best examples of good quality development have occurred because a landowning interest has stewarded them. Edinburgh Town Council led the development of Edinburgh New Town and there are rare examples such as Welborne in Hampshire emerging today, but these are the exception rather than the norm [Ed – see 2023 Autumn Terrier].

My experience tells me that there are many more that could be enabled through some simple, well-conceived policy measures founded on sound economics... and the right advice along the way!



Ian is National Land Director at Leaders Romans Group, where he works closely with LRG's planning and design consultancy, Boyer.

CONTRACTUAL CONTROLS CONSULTATION

The contractual controls on land consultation and its relevance to landowners

Ian Barnett ibarnett@lrg.co.uk

Ian outlines the implications of adopting the proposal to provide greater transparency on contractual control agreements such as option agreements on land. There is certainly room for spoilers to frustrate the local planning processes. "Perhaps the government's aim of achieving greater transparency, while commendable and an important facet of our democratic planning system, is directed at the wrong stage in the process."

The Department for Levelling Up, Housing & Communities has recently closed (20 March 2024) a consultation on the [Contractual controls on land](#).

The outcome of the consultation will be of particular interest to landowners and developers because it changes the way in which information about land ownership can be accessed and could

significantly change the early stages of the local plan process – the point at which landowners can put forward land for future development.

The concern is that the change could fuel anti-development sentiment among local communities to the detriment of landowners. As such, it also raises questions about how public engagement on potential development could be managed more effectively.

The aim of the government's consultation is to provide a reliable and accessible source of information for communities, developers, and other stakeholders, at an earlier stage in the land sales and development process. It would even apply to land which remains as farmland, as it would include a range of forms of potential land sales, such as options agreements.

A national dataset

Under new regulations (to form Part 11 of the Levelling Up and Regeneration Act), a national dataset would be created, comprising the 'what', 'where', 'who' and 'when' of contractual control agreements. The government's stated objective is to promote transparency by providing a reliable and accessible source of





information for communities, developers and other stakeholders.

Currently, public engagement on land which may be sold for development usually begins when the land is put forward for allocation in the local planning authority's local plan. At this stage, the landowner's intention to develop and ultimately sell their land is made known and the local community is encouraged to comment through the local plan process. Prior to this stage, however, changed intentions are not required to be made public.

Opportunities for community conflict

Many of us in the land industry are concerned that members of local communities may lobby landowners and campaign with the intention of stalling land sales and stopping housing from being built.

At this very early stage in the development process – when the land sale

is first discussed but the site does not have an allocation in the local plan - proposals and other consultation documents are not yet available and the local community is unable to comment meaningfully. The change would encourage those fundamentally opposed to development to get involved in the process – but any objection at this stage would fall far short of meaningful engagement. Instead, it could potentially stir unnecessary conflict between the landowner and the local community – where, if more detailed development proposals had been available, the community may have been supportive.

Furthermore, concerns have been raised about local newspapers scanning the new database for recent options agreements, or protest groups using mapping tools to identify land which has changed hands, and to whom. Clearly there is little benefit in creating alarm for no reason.

I would like to think that I am wrong in assuming that the potential for development would necessarily result in

alarm and adversity – but sadly, the vast majority of development proposals and planning applications result in objections rather than support.

Perhaps the government's aim of achieving greater transparency, while commendable and an important facet of our democratic planning system, is directed at the wrong stage in the process. My belief is that meaningful engagement – that which is less adversarial and more collaborative – would come from strengthening community involvement in the local plan process.

It is regrettable that under the same government we have seen one prime minister (Boris Johnson) rallying his Party Conference by promising to spare party members the 'constant anxiety' of their 'immemorial view of chalk downland' being 'desecrated by ugly new homes'; another (Liz Truss) referring to housing targets as 'Stalinist'.

Conclusions

The urgent need to address the housing crisis can only be met if landowners, land promoters, developers and local communities can collaborate. Landowners are pivotal in the success of this relationship: some of the most successful and most popular developments are those with 'landowner legacy' at their heart.

Democracy has had an active role in planning since the first Town and Country Planning Act in 1947 and this should remain the case – but note that the Act concerns planning, not ownership (and certainly not potential future ownership).





Bryony is the Head of the Right to Build Task Force, a government supported organisation working with landowners, promoters and local authorities to help diversify housing supply through custom and self build.

A founding member of the Task Force, Bryony previously worked at Graven Hill, the UK's largest Custom and Self-Build development.

SELF BUILD HOUSING

Tipping the weight in favour of custom and self build development.

Bryony Harrington Bryony@righttobuild.org.uk

Bryony argues that recent Right to Build Task Force research has found that custom and self build produces homes that are more sustainable and contribute more in terms of local economic benefit than typical new build housing, also predominantly using SMEs.

Eight years on from the pivotal Right to Build legislation, the custom and self build (CSB) sector remains an outlier in terms of housing delivery, a situation not helped by the wider economic climate over the last five years.

The Self-build and Custom Housebuilding Act 2015 set the agenda for local authorities to host their own register of people wishing to custom and self build. This commenced in April 2016 with councils needing to have consideration for this demand data when fulfilling their housing and planning duties.

To promote good practice, the National Custom and Self Build Association (NaCSBA) <https://nacsba.org.uk> set up the independent Right to Build Task Force <https://righttobuild.org.uk> to advise councils on planning and delivery. This work is now funded by the Department of Levelling Up, Housing and Communities (DLUHC), putting the Task Force at the forefront of policy and practice.

Now in 2024 we are seeing many more local planning authorities with supportive CSB policy, with a few hero councils going above and beyond to facilitate sites.



Two of six self build plots, the result of a percentage policy by South Gloucester Council



However, over 50 authorities have, as yet, refused to engage with us at all, in spite of the fact that we offer free training sessions, financed by DLUHC.

It would seem that many local authorities remain unconvinced of the value of custom and self build, which is dogged by the misconception that the sector only delivers ‘Grand Designs’ style homes.

We do know that the average age of self builders is 55-64 (1), but these more equity-rich people will build regardless of the legislation. However, the drive to promote custom and self build is fundamentally about giving more people more choice. Diversifying the market using a range of approaches creates additional homes that would otherwise not be built, satisfying latent demand.

The benefits of owner-commissioned homes

There are many advantages of custom and self build, but in the context of a property strategy, the important thing to remember is that it diversifies the housing market, which can support build out rates in a declining market, a point made in the 2018 Letwin Review (1).

Naturally, the Task Force is well aware of the broader benefits of custom and self building, as it has the potential to deliver homes that the speculative market does not provide. For example, an owner-commissioned home allows people to create the space they need, tailored to their budget. This might be a well-designed, multi-generation home that gives residents

appropriate levels of independent living, and this might reflect their culture, provide a workable solution for aging parents or to accommodate grown children (and their families) who simply can’t afford to leave home or remain in the area where they were raised.

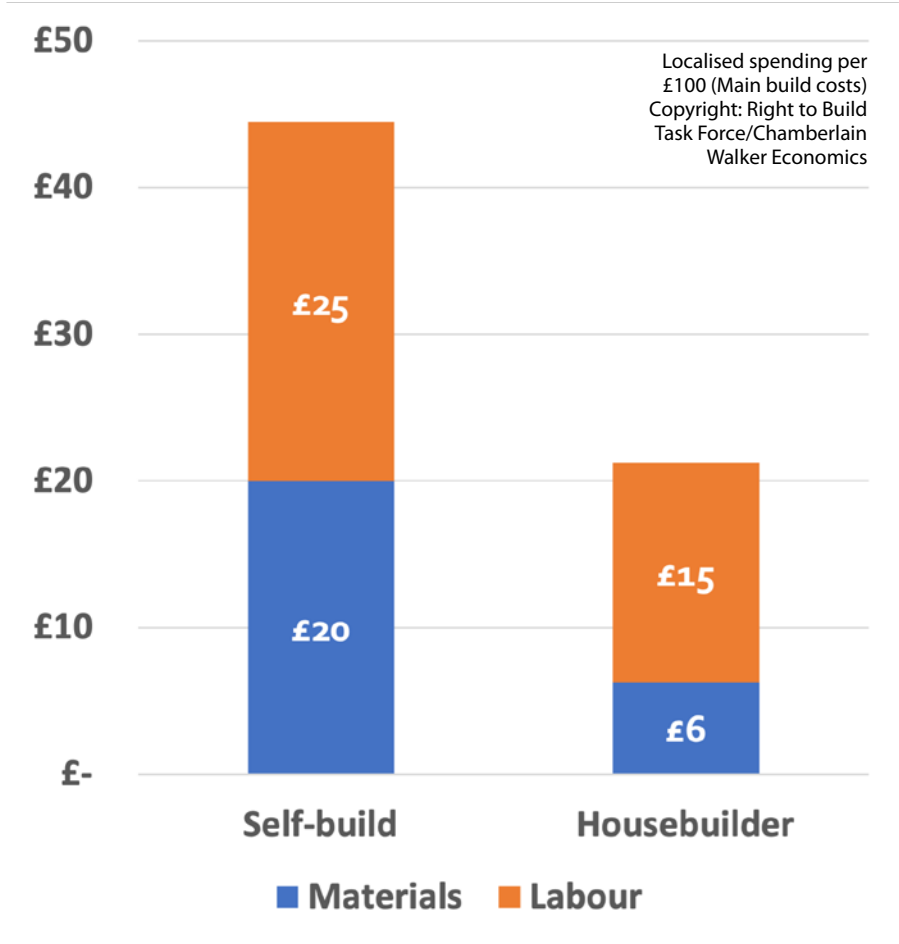
It might provide a comfortable and well-appointed home for an older couple

to downsize to, that is smaller but still with the spacious living spaces they are used to – and want – that accommodate family visits, pets or hobbies. Or it might provide multiple, functional work spaces in the home that go beyond a box bedroom, such as an office room with kitchenette and toilet to liaise with clients without giving them access to the entire home.

Or it might simply free people up to do some work themselves and use sweat-equity to bring costs down. And of course there are other wider benefits, such as offering a route to market for local small and medium enterprise (SME) housebuilders or meeting the requirements of building with beauty. Ensuring a mix of plot sizes and locations helps open this market to more people.

More sustainable homes, that give more to the local economy

Beyond these benefits, the Task Force wanted to test two specific areas that we knew anecdotally to be true, but the sector lacked robust evidence for. Namely, that custom and self build homes are more sustainable and that they feed more into the local economy than mainstream new builds.





Self build plots facilitated by LIVEDIN

Consequently, the Task Force commissioned Chamberlain Walker Economics (<https://cweconomics.co.uk>), the consultancy behind the economic analysis in the Bacon Review (2), to undertake this research. The results, published in the 'Custom and Self Build Market Report 2023/24' (available at <https://nacsba.org.uk/>), were impressive, providing the welcome empirical evidence that had previously been lacking.

The research examined data from five local authority areas, selected as they offered a range of locations and urban/rural classifications. Comparing Energy Performance Certificate (EPC) data demonstrated that the CSB homes had energy consumption that was between 8-42% less than comparable new builds, while CO2 emissions were between 7-43% lower.

This uplift in efficiency can be attributed to the fact that owner-occupiers invest more in their homes than a volume housebuilder does, which is creating units to maximise profit margins. What's more, self builders typically stay in these homes longer too, so they view this spend as an investment, although one that is tempered by their overall budget. The data is welcome evidence of the green credentials of CSB.

The research also used a model to assess local spend on CSB housing for materials and labour, in comparison to average housing in the same five areas, and the results were powerful. They demonstrated that CSB development doubles the beneficial local impact of mainstream housing in terms of localised spending and

employment opportunities. Using a model to assess spend, it found that CSB homes spent £44 in every £100 locally on labour and materials, as opposed to £21 per £100 for a mainstream housebuilder (see histogram on page 37)).

In terms of materials, this is because self builders and their contractors are more likely to buy locally than mainstream housebuilders, while they also rely heavily on local builders' merchants. When it comes to labour, many self builders are more likely to use local firms compared to mainstream housebuilders, not to mention the fact that some will do some of the work themselves to save money. Any spend then stays local in the pockets of tradespeople and SME businesses, rather than going to a national or international business. And even when the spend goes outside the area, it is usually channelled into specialist SME companies elsewhere in the UK.

Spreading the good news

All of this adds to a positive story for local economies that should add weight to any decision as to whether or not to incorporate custom and self build into a scheme.

Coming back to the work of the Task Force, these benefits help us in our work advising local authorities and other stakeholders about custom and self build practice, and are an important message for us to amplify.

Carefully worded support for CSB in local plans and policy is instrumental in facilitating more of these vibrant sites

to come forward, and balanced policy wording can secure a range of plot sizes, to make the model accessible to more people. But it also needs understanding from the range of stakeholders involved in housing delivery more generally, from estate managers to financiers.

Research into custom and self build housing

FINDING 1: CSB development produces more than a doubling of the beneficial local economic impact of mainstream housing, when labour and materials are viewed together. Based on a model tested against five areas with different rural/urban classifications and differing regions to create a robust set of illustrative data.

FINDING 2: EPCs provide a testable form of data that show empirically that CSB homes are greener than typical mainstream new builds. The data demonstrated reduced energy consumption of 8-42% lower, with CO2 emissions of 7-43% lower for CSB homes in the case study areas.

If you'd like to find out more about emerging good practice, have a look at our free online planning guidance or get in touch to see if we can help.

Visit www.righttobuild.org.uk for the Right to Build Task Force's planning guidance, or download a free 4pp summary of the 2023/24 Custom and Self Build Market Report at <https://nacsba.org.uk/>

References

Independent review of build out (Letwin Review) <https://www.gov.uk/government/publications/independent-review-of-build-out-final-report>

Independent review into scaling up self-build and custom housebuilding (Bacon Review) <https://www.gov.uk/government/publications/independent-review-into-scaling-up-self-build-and-custom-housebuilding-report>

NaCSBA/NSBRC Consumer Aspirations Survey 2023 <https://selfbuildportal.org.uk/news/consumer-survey/>



BUILD TO RENT

Planning viewpoint – In search of clarity

Mary-Jane O'Neill MJONeill@lsh.co.uk

Mary-Jane believes greater clarity is required from local planning policy, to provide developers and investors with more certainty around the prospects for BTR schemes; and to maximise their social and economic benefits. London boroughs provide illustrations and contrasts.

A lack of consistency

While Build to Rent (BTR) has grown in popularity as a means of providing high quality professionally managed homes and affordable Discount Market Rent (DMR) housing, the support provided by local planning policy is inconsistent. Lambert

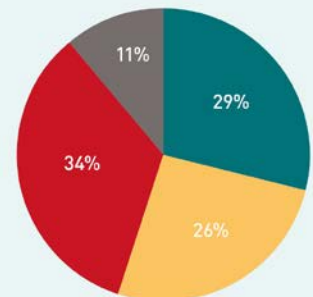
Smith Hampton (LSH) has explored trends in adopted, emerging and absent BTR policy across Greater London, which tends to act as precursor to wider national trends, to provide insight into what is needed from policy to give developers greater certainty around the delivery of BTR schemes.

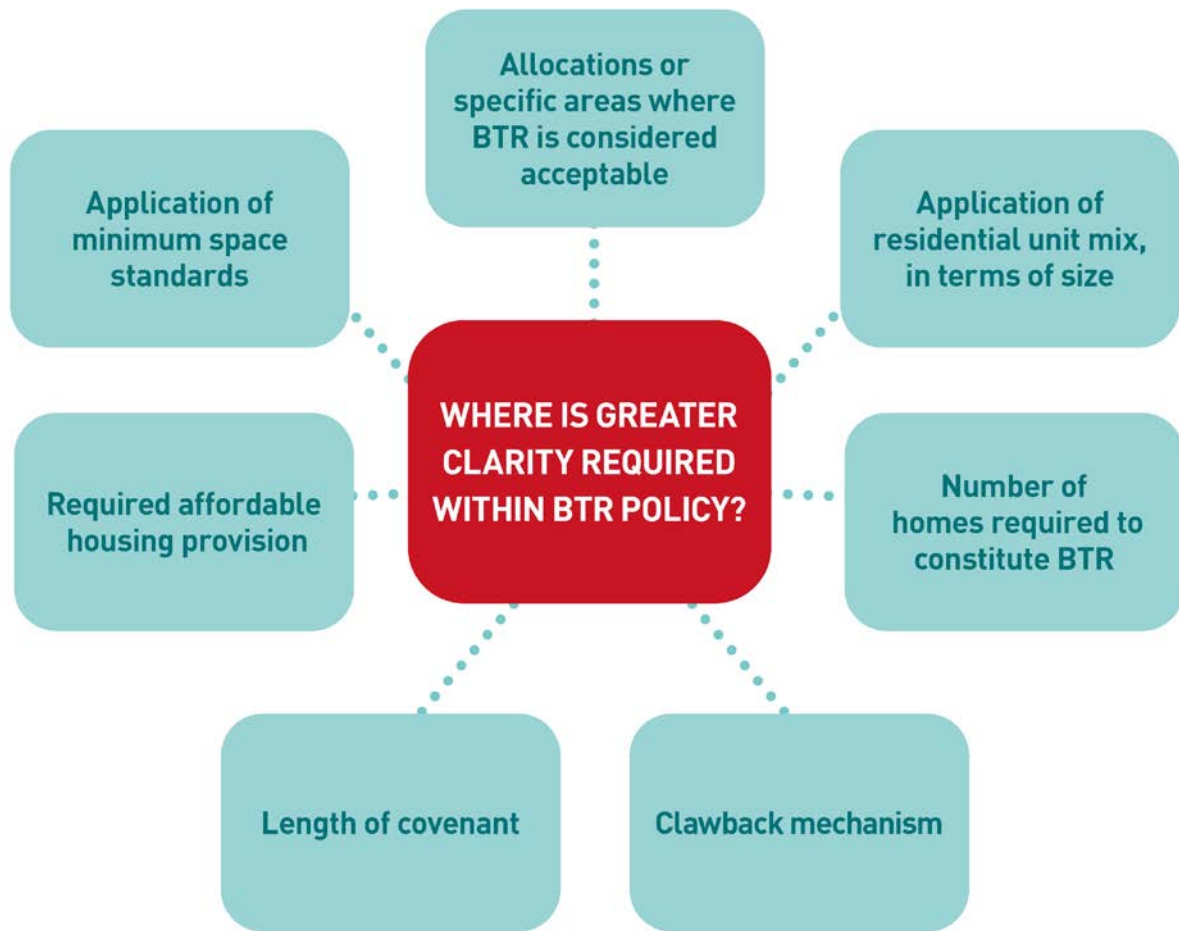
Mary-Jane is Head of Planning Consultancy (London & South) at Lambert Smith Hampton. She has over 20 years of private sector planning consultancy experience, working predominantly in London and the south of England, in all areas of the planning process, strategy and law, working on a wide variety of development schemes, planning inquiries and strategic land.

Over the last two decades, Mary-Jane has been involved in the planning and project management of large-scale major regeneration schemes, managing large consultancy teams, and working with public and private sector clients to develop strong working relationships with public sector authorities and consultees.

STATUS OF BTR POLICIES IN GREATER LONDON LOCAL PLANS

- BTR-specific policy within adopted Local Plan
- No adopted BTR-specific policy, but there is one within emerging Local Plan
- No BTR-specific policy or commentary within adopted or emerging Local Plan
- No BTR-specific policy within adopted or emerging Local Plan, but reference made to BTR in commentary





The national framework

The latest version of the National Planning Policy Framework (NPPF) was published in December 2023, but notably included no alterations to BTR policy; retaining the original definition, added in 2018, which confirmed that schemes built solely for rent are exempt from the 10% affordable housing requirement. However, the NPPF now also includes specific references to assessing needs for retirement housing, housing-with-care, and care homes, which are often rented products and could require more explicit local planning policy support in future.

Spotlight on London

The London Plan (2021) includes a BTR-specific policy, known as Policy H11, which sets out the criteria for proposals to qualify as BTR developments, while encouraging boroughs to set their own thresholds regarding the number of homes that constitute BTR and proportions of DMR homes. Policy H11 specifies that homes are held as BTR for a minimum covenant of 15 years, to ensure that they remain within the rental sector, but also emphasises the need to monitor

covenant periods and potentially increase them as the market matures.

The onus is on local planning authorities (LPAs) to determine the complexities of BTR policy for their areas, placing responsibility on accurate and informed local plan policies, as set out within National Planning Practice Guidance.

LSH has undertaken a review of planning policies across the London boroughs and development corporations to ascertain the existence and extent of BTR policy, including compliance with the London Plan. We have found evidential gaps in both policy and guidance, which could potentially result in BTR needs not being met.

Nearly half (45%) of London's planning authorities have no BTR-specific policy within their adopted local plans. This includes three (Bexley, Havering and Southwark) whose plans were adopted since the publication of the 2021 London Plan, but do not reflect Policy H11.

Where local plans do include BTR-specific policies, these predominately require compliance with Policy H11, with which major and referable schemes are required to accord. However, some plans provide additional detail, such as Brent's Local Plan (adopted 2022), which specifies

locations where BTR is acceptable and the size of development.

There are also some disparities in stipulations around covenants with, for example, Lambeth's Local Plan, requiring that BTR schemes are subject to covenants of at least 25 years, as opposed to the London Plan's 15-year minimum requirement.

Certainty required

We believe that greater clarity and guidance within local planning policy is required to ensure that BTR is delivered appropriately and where it is most needed to address London's acute housing shortage. The areas of BTR policy requiring enhanced clarity are summarised in the image.

Improved policy clarity would provide greater certainty to investors and developers on the acceptability of BTR schemes within particular areas, demonstrate LPAs' commitment and support to delivering appropriate BTR projects, and speed up the process of submission and determination of BTR applications.

This said, there is not necessarily an evident correlation between supportive or detailed planning policy, and the number



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of BTR schemes coming forward. Boroughs without specific BTR policies in their local plans include some, such as Tower Hamlets, Southwark and Croydon, that have seen relatively high volumes of development in the sector.

Local planning policy is just one factor influencing the location of BTR schemes, alongside market trends, politics and demographics. More detailed planning policy can restrict the locations where BTR is accepted within a local authority area, while an absence of policy may sometimes prove less restrictive to BTR opportunities.

Affordability provisions

A particular area of uncertainty, and a key challenge to BTR schemes, is affordability, as rents are typically higher than in the wider private rented sector. While guidance within the NPPF is broad and advises that affordable housing provision and type is to be determined by each LPA, Policy H11 of the London Plan is more prescriptive for BTR developments.

Most notably, it includes a requirement that BTR schemes deliver at least 35% affordable housing to follow the Fast Track Route through planning.

However, there is some inconsistency between local policies across London. In Hackney, for example, there is a specific target that 50% of homes in BTR schemes are affordable, subject to viability; while Lambeth's Local Plan provides additional clarification on what affordability provisions are required to qualify a BTR scheme for the Fast Track Route.

Among the more recently adopted and emerging local plans, such as Lambeth, Wandsworth and Merton, there is a general trend that the Viability Tested Route must be followed where the required affordable housing provision cannot be met. This suggests that, while not consistently applied across boroughs, there is a movement towards a greater commitment to securing affordable provision within BTR schemes in London, which we expect to be replicated to a certain degree across the rest of England.

Proactive policy needed

The NPPF and the London Plan support the delivery of a wide range of housing types and tenures, including BTR, to cater for and create diverse communities. A consistently proactive and tailored approach to BTR policy at a local level is, however, currently lacking, despite the NPPF and regional policy actively encouraging BTR-specific policies within local plans.

The areas of uncertainty identified must be addressed to increase confidence for developers and investors, and to maximise the social and economic benefits of BTR schemes within communities. At a time where housing provision, particularly affordable tenures, is a key challenge, a more joined-up, proactive approach within local policy will enable developers and LPAs to have greater confidence in BTR as a housing solution.

This viewpoint appeared in LSH's Build to Rent Report 2024.



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CONVERSIONS TO RESIDENTIAL

Repurposing, or maximising on a sale for the best financial outcome

Paul Johnston PJohnston@lrg.co.uk

Paul offers some advice for those needing to enhance value from existing property assets, by repurposing them for residential use. "While increased interest rates and build costs, along with other factors, mean that getting financing for property-heavy investments has become more challenging, conversions offer a great way of resolving that impasse."

Paul started his career in estate agency in the early 1990s. Prior to Leaders Romans Group, he was with Badger Holdings for 9 years as an Area Sales Director, gaining valuable experience in managing larger teams and diversifying into new areas.

Paul is now the Head of Corporate Sales for LRG. He provides a full sales and marketing service for many aspects including part exchange, chain break, probate, and asset management sales on behalf of several corporate clients.

Commercial property has historically been viewed as the more profitable asset class but more recently, residential property values have taken over. This is evident in the number of companies, across the board, converting commercial to residential property – from John Lewis investing in Build to Rent homes, to the many former office blocks that have been converted to residential units.

We deal with several such properties: an example of this is Peartree House, a former office block in Harlow, Essex. LRG recently purchased the 26 apartments and we are confident that with an annual yield of 6.58% it will resell very successfully.

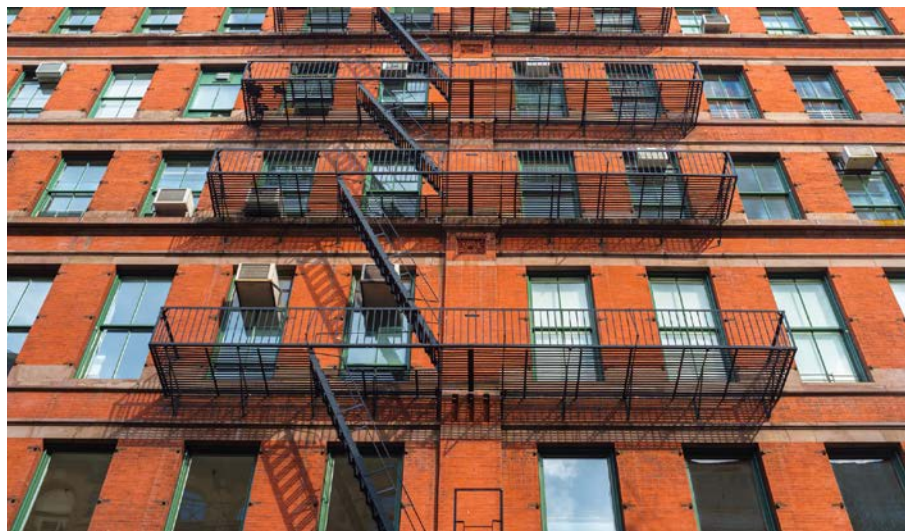
In the current market, many hotels are also choosing this option. Some do so because of straitened economic circumstances including increased capital

and operating costs, and changing consumer demand, but many do so as a prudent financial investment in a changing market.

Conversion into residential

The UK built fewer houses in 2022 than since the Second World War, according to an analysis by the Home Builders Federation. And with some significant blockages in the planning system (from issues of nutrient neutrality creating moratoriums across entire local planning authorities; to local plans being shelved due to political uncertainty), land for housebuilding is limited.

Both commercial office buildings and hotels can be well suited to residential use with very few changes required.





Our planning consultancy, Boyer, advises on seeking planning consent for change of use to residential, or doing so under Permitted Development Rights (PDR) (a planning route which is generally quicker and less expensive than a full planning application).

Full planning permission is required if a property owner wishes to make structural changes in converting a building for residential use. However, the relatively recent option of PDR can also provide permission for change of use without the need of a full planning application.

Both hotels and office buildings (some of which may have been originally built for residential use) are attractive, perhaps historic, buildings, ideally located in popular areas close to amenities. Hotels in particular often have facilities within the complex itself, which makes them potentially very desirable with potential homeowners.

Going down the planning route – whether a full planning application or change of use application - requires council support. In areas with a shortage of homes, this may be easier to achieve than in those in which the demand is for employment. The earlier you understand what you can achieve, what is viable and what the limits are, the better informed your outlook will be.

There are certain pitfalls to look out for. One is that residential units require

a good EPC rating, and especially with older buildings, the costs of conversion and upgrading to meet modern energy efficiency standards can be considerable.

The option to convert from commercial to residential use is increasingly popular with investors, as institutional investors increasingly see the benefits of residential over commercial investment.

Conversion to student accommodation

Another option is to convert an office or hotel building into student accommodation – another sector crying out for additional bricks and mortar: research cited by the Higher Education Policy Institute suggests that there is a current shortfall of 207,000 student beds in the UK, likely to rise to 450,000 by 2025.

Hotels, with their shared spaces and additional facilities, are particularly well suited to the co-living lifestyle sought by students. Also room sizes and the inclusion of en suites tend to be better suited to student accommodation than self-contained flats. This means that a conversion may be achieved through permitted development rights.

When considering conversion into student accommodation, city centre sites tend to be more desirable to operators than rural sites. The challenges include convincing the council that the scheme can

be managed in a way that won't impact on the existing community. It is generally easier to secure planning permission for student housing if an occupier has been agreed (ie, that the development isn't speculative), so if there's a nominal agreement with a university or college, you can demonstrate demand and have a greater chance of winning planning consent.

Conversion to later living accommodation

A further opportunity is to convert a building into retirement accommodation. The recently published Mayhew Review found that the property sector is failing to adapt to the impact of an ageing population, with only around 7,000 retirement homes being built each year, in contrast to the 50,000 new units needed annually. Given that the 65 + population is anticipated to increase to 17.2 million by 2040, there is clearly a significant demand and supply imbalance to be resolved.

Again, investors favour this use, because density is a key factor in the viability and profitability of any property development and with later living schemes averaging approximately 250 apartments, they are an attractive investment proposition.

With the exception of a few ramps, schemes such as these demonstrate that providing such a community does not require a structural re-think in the layout, but an attitudinal shift. Facilities such as lounges and clubrooms, staffing assistance, care packages, wellbeing suites, and 24-hour concierge are either already present in most suburban build to rent (BTR) schemes, or can be provided with little change to the built environment.

The UK has much to learn from the numerous successful later living schemes in Europe and the US, many of which form part of larger suburban BTR schemes - mixed-use developments not only for the over 55s but in some cases, innovative intergenerational living projects which both support the crisis in social care, while also boosting the supply of affordable housing.

Conclusion

While increased interest rates and build costs, along with other factors, mean that getting financing for property-heavy investments has become more challenging, conversions offer a great way of resolving that impasse.





Janice is a Visiting Professor in the Bartlett School of Planning at University College London. Janice was a Senior Adviser on local government at DCLG 2000-2005, having been Chief Executive of Rutland CC, Director of Technical Services at Woking, and Professorial Head of the School of Planning and Landscape at Birmingham Polytechnic.

Ben is Associate Professor in Spatial Planning and Government at the Bartlett School of Planning, UCL. His research interests centre on the relationship between state modernisation and the planning system in the UK. Recent work has included projects on devolution and spatial planning, planning for national infrastructure, the implications of office-to-residential permitted development, and local authority delivery of housing.

COUNCIL HOUSING RESEARCH

Local authority direct provision of housing: an update report

Professor Janice Morphet, BSc, MA, PhD, Dip TP FRTPI FAcSS j.morphet@ucl.ac.uk and Dr. Ben Clifford ben.clifford@ucl.ac.uk

Janice and Ben last reported in 2023 Spring Terrier the key findings of their 2021 tranche of research. In this fourth report based on their 2023 research, they identify what has changed in local authority initiatives for the direct provision of housing.

2023 research

In 2023, we undertook another round of our research to discover if local authorities were still providing homes and whether this had changed from our previous research in 2017, 2019 and 2021. We use the same methodology each time to inform our research – desk and direct surveys of 100% English councils, a series of round tables across England and some individual case studies.

Each round of research is funded by different supporters and in 2023, our research was funded by Willmott Dixon, Savills, the National Planning Forum and the Planning Officers' Society. Despite the period since 2021 being very difficult for all housing delivery by the public and private sectors, including housebuilders and housing associations (HAs), we found that the appetite for providing more homes directly by local authorities had increased. This has been driven by both the growing recognition that the housing required by a range of tenures cannot be provided through the planning system alone, and the increase in homelessness accompanied by the rising costs of temporary accommodation, which affects all councils whether or not they have a housing revenue account (HRA).

In total, we found that 94% of all English councils are now engaged in providing housing in some way – whether through direct delivery, taking on s106 homes, enabling others to provide housing

through the provision of land or funding, or through their own companies and joint ventures. This represents a steady increase since our first research in 2017.

Emerging trends

Tenure

Councils provide housing across a range of tenures including for sale and rent – at affordable and market rents. Some are providing shared ownership homes. We found that 14% of local authorities have now established their own housing associations (HAs), often alongside their HRA, as a means of obtaining more funding for housing provision. There is still a strong focus on the provision of affordable homes, with 76% of councils having this as a corporate priority for the council. In the desk survey, we found that many councils have increased their targets for directly provided homes although, given the recent increase in construction costs, these programmes have frequently been extended over longer periods.

Acquisition preference

While there is uncertainty about construction costs, most local authorities have turned to acquisition as a preferred method of increasing their stock. Councils have different acquisition strategies. Some are focussing on specific former right to buy properties in order to prepare for future estate regeneration projects. Others are purchasing street properties

for temporary accommodation, although those in this group have been confronted with existing private tenants being made homeless when the properties are acquired. These issues are now being managed through the purchase process, with existing private tenants being absorbed into council stock. Other councils are purchasing new homes from the market often at considerable discounts, using their own or Homes England funding to do this. Some councils are purchasing whole blocks.

Where s106 homes have been negotiated, housing associations are increasingly deciding not to take up their commitments, even where they may have been involved in schemes at the early stages of pre-application negotiations. Where the sourcing of housing associations is being left to the completion of new development, again it is increasingly difficult to find HAs that will take on properties on grounds of quality of finish, management and a move away from being a landlord for social housing. We have come across examples where HAs have been disposing of rented homes in high priced areas to cross subsidise developments elsewhere, further exacerbating the housing crisis in these areas. Where s106 homes are left, these have to be acquired by the council and we have been told of the shock of some officers when faced with poor quality homes that do not meet their council's requirements for room sizes, but which the council's planners have permitted.

Mechanisms and reviews

Councils are continuing to use a range of methods of housing provision including joint ventures (JVs) with housing developers, housing associations and other councils. As councils' experience increases, then this is accompanied by a diversification in the delivery methods being used. Where councils have their own companies, these are being used for a range of housing activity, including direct delivery, managing acquired stock, acting as a letting agency, managing stock across a range of landlords, and managing homes that have been bought as buy to lets to prevent them being lost to the local rental market.

Some local authorities are using joint ventures to develop their own municipal campuses and since 2021, there has been a more concerted effort by councils

to examine all land in their ownership. Some authorities limit the review of land holdings for housing to those sites included within the housing accounts. However, there is a growing practice of widening this, particularly where council owned sites can contribute to town centre regeneration.

There has been a growth in the use of land and buildings formerly used as magistrate's courts, schools, technical colleges, police headquarters, depots and car parks for housing. However, we have also found that there is frequently a major barrier in the use of council-owned sites where they have been developed by the council, in that the property teams need to meet income targets set by finance and wish to charge market price for these sites. There is no legal requirement to do so, and we have recommended that a broader cost benefit analysis view is taken across the council's functions and finances, to consider whether the income generated in this way is more beneficial to achieving housing delivery when with the costs of the provision of temporary accommodation and social support for the homeless are considered.

London boroughs and the regions

The level of activity in the London boroughs (LBs) remains the highest in England, despite the challenges of higher costs and land availability. The maintenance of the Mayor of London's support for 5-year Affordable Housing Programme (AHP) allocations continues to provide a platform on which other forms of housing development and activity are based. The 2023 research demonstrates that some LBs have increased their housing programmes in addition to other JV activity.

Outside London, with the exception of Cornwall, other local authorities have to apply for funding to Homes England on a scheme by scheme basis, which can take some time. Where the council may have issues with the Housing Regulator, as more are expected to do in the coming year following the introduction of inspection, they lose access to Homes England's AHP budgets. Homes England remains highly active in site acquisition for regeneration, although this land will not necessarily be used for housing.

New or retrofit/maintenance

One of the key emergent issues arising

in 2023 was of priority congestion within councils. With diminishing budgets, councils are having to consider whether retrofitting, maintenance or new build should take priority. 53% of local authorities responded that the need to address issues of fire safety, damp and mould in their properties was taking priority in budget allocations. On the other hand, in 2023, 41% of councils are providing some housing at advanced environmental standards, or designing homes so that better energy saving measures can be installed when the council has more funding, as in Sheffield. This is an increase from 27% in 2021.

Direct action

One of the major findings in the 2023 research is how councils are moving away from their reliance on s106 to provide affordable housing in their areas. 68% of councils have reported a range of measures beyond this reliance on the planning system to provide affordable housing and they are progressing affordable housing delivery in a range of additional ways. These include having a housing strategy with a specific housing action delivery plan which addresses housing development across the whole council. Some are actively supporting housing associations to acquire or develop more homes through enabling strategies. In addition to the initiatives in developing their own land, some councils are acquiring land for housing development either directly or with their JV partners. Some councils are targeting stalled sites in order to progress their development, while others have a programme of acquisition for empty homes. The range of actions undertaken in councils will depend on what options are available in their areas and their experience in providing and managing homes.

Key barriers

As in previous years, we asked local authorities about the key barriers to their provision of more homes. The availability of land was one of the top three barriers at 57%, down slightly from 59% in 2021; others said a lack of suitable sites at 56%, down from 60% in 2021. On the other hand, viability concerns had increased, from 47% in 2021 to 56% in 2023. Also, councils mentioned that the low levels of affordable housing grant available was a barrier to them providing more

homes. However, 95% of councils directly delivering homes are building on their own land, which is the same number in 2019 and 2021. 10% are using other public sector sites and for housing development, a lower figure than 13% in 2019 and 16% in 2021.

Despite all this activity, 50% of the council respondents in the direct survey were pessimistic about their ability to deliver more affordable homes in future, compared with 23% in 2021. This pessimism was mainly related to the economic conditions, labour shortages and costs of construction. Further, costs of borrowing had increased while grant levels had reduced. This also means that it is harder to cross subsidise to provide affordable housing than has been the case previously.

When the government removed the debt cap from the HRA in 2018, it was accompanied with an assumption that more councils would reopen HRAs. However, while a few have taken this route or are exploring it, the retention of Right to Buy for council homes has remained a major barrier to councils without an HRA, as 2023 research demonstrates. The recent media stories of the sale of the Norwich City Council's prize winning Goldsmith Street homes has reinforced this view. A second barrier to reopening an HRA has been the complexity of the HRA financial rules and the availability of finance officers who can operate them. These officers are highly sought after and most appear to wish to remain in councils with established HRAs rather than to join a council to create a new one. For this reason, councils are taking other routes such as establishing their own HAs.

Asks for a new government

As this is a general election year, we asked councils in the direct survey what asks they would have of an incoming government. Unsurprisingly, given the other results reported here, an increase in the grant funding was top of the list, closely followed by a removal of Right to Buy requirements and more flexibility on the use receipts if RTB is retained.

In order to meet climate change requirements, councils would like to receive more targeted funding for retrofitting homes to meet higher energy standards and deal with nutrient neutrality issues. In terms of borrowing, councils would like longer term fixed interest rates

in the borrowing available through the Public Works Loans Board. They would also like reform of the Compulsory Purchase Order rules on existing land values for acquisition. On planning, all councils wanted to have support for their planning departments and also for clarification on the introduction and operation of the Infrastructure Levy included in the Levelling Up and Regeneration Act 2023.

Conclusions

Overall, despite all these challenges, the 2023 research found increased council support and activity in the direct provision of housing, from politicians and officers. There was also an increase in partnership and collaborative working to provide more homes, particularly for affordable homes, which are again regarded as a mainstream council activity. While targets and programmes have increased, the level of delivery has not scaled up significantly since 2021, although there is an expectation of a return to earlier activity levels when market conditions improve.

While the priority congestion is acknowledged, where councils have strong leadership and commitment to provide housing across the council, more is delivered. On the negative side, we saw evidence of more silo working as departments want to hold on to diminishing resources. However, this acts against increasing housing delivery and the silos of planning, housing, property, regeneration and supported living need to be challenged by local authority leaders and their chief executives, so that internal competition does not impede the increasing housing delivery that councils tell us they want to achieve.

References

Desk survey 2023

<https://www.ucl.ac.uk/bartlett/planning/news/2023/jul/new-report-local-authority-direct-provision-housing-england-2023>

Full research report 2023

<https://www.ucl.ac.uk/bartlett/planning/news/2024/jan/fourth-report-local-authority-housebuilding-launched>



Charlotte joined Carter Jonas in September 2018 as part of its Strategic Planning team based out of the firm's London headquarters, One Chapel Place. She is adept at advising on planning projects from the inception stage through to delivery, and has experience across the breadth of the real estate sector, having worked on commercial and mixed-use projects in the South East.

WORTHWHILE MEANWHILE USES

Productive and social uses of assets awaiting development

Charlotte Hutchinson Charlotte.Hutchison@carterjonas.co.uk

Charlotte illustrates how important meanwhile uses can be while land and buildings are awaiting permanent development.

Despite the Letwin Independent Review of Build Out largely exonerating the development industry of 'landbanking', developers are all too often criticised for leaving prime sites dormant behind hoardings.

Context

But as those reading this will know, delay in progressing a development is often not the choice of the developer: it is the unfortunate result of a range of issues. Letwin identified market absorption as the main reason for delay; and other issues, then and now, have concerned planning hold-ups, a construction industry staff shortage and a difficulty of obtaining building materials. More recently, the problem has been exacerbated by planning moratoriums on nutrient neutrality and electrical capacity, and local planning authorities stalling on decision making due to political uncertainty.

If the gap between the developer's commitment to a site and the first spade in the ground has grown, it is rarely at the behest of the developer, whose *raison d'être* is to develop.

And this is demonstrated by Carter Jonas' clients up and down the country who are compensating for unavoidable delays in the most positive way possible – creating worthwhile 'meanwhile uses' on development sites.

The evolution of meanwhile uses

A meanwhile use is the short-term use of a temporarily empty building or site

which is awaiting redevelopment, or has a permission in place which is yet to be implemented. In London, meanwhile uses have been utilised for over 10 years – from Flat Iron Square, Bankside's popular food, drink and event destination, to King's Cross' striking art installation and natural swimming pond Of Soil and Water. It was the UK's first ever man-made natural swimming pond, whose aim was to provide visitors with a relaxing vantage point in an urban location.

At Elephant and Castle, Lendlease introduced its highly successful Mercato Metropolitano at a disused paper factory. It gave new food and beverage businesses the opportunity to 'incubate' in a purposely designed new business hub. This concept proves highly successful and can be seen in cities across the country, allowing owners to test the market for their business ideas without committing to the ongoing cost of rent and business rates as is usually necessary. Ultimately those who may not have done so otherwise are given the opportunity to start a business.

The social value of such spaces is now being recognised. Say, for example, someone who enjoys cooking for their family and friends and sees a gap in the market for their food. They may wonder if they could turn their interest into a viable business. Initially they may take on a market stall, moving into a semi-permanent space within a dedicated meanwhile space with other vendors. This would attract footfall and then, with the reassurance that the food is popular, they may open a restaurant. It's a good news story all round!





Co-working spaces

Meanwhile uses in Cambridge

On the outskirts of Cambridge, Richard Seamark of Carter Jonas is working with U+I on the regeneration of a former water treatment works. The 47-hectare site, part of the wider Cambridge Northern Fringe East - will eventually host over 5,000 homes, office/lab and employment space and a new district centre, which will include a mix of retail, hotel, community and leisure, education and public spaces.

U+I's vision for the area is to 'draw on the innovative Cambridge environment and create a socially and economically inclusive, thriving, and low-carbon place for living

and working' and to 'create a distinctive new part of Cambridge that will offer an amazing quality of life and respond to many of the challenges of the 21st century'.

In line with this philosophy, U+I is looking to fully embrace the concept of using meanwhile uses. The benefits are wide-ranging as Richard explains: *'The size and complexity of the project will require development in phases, offering the opportunity to bring forward meanwhile uses that help provide early activation. The site lies adjacent to two of the more deprived wards in Cambridgeshire, and the use of meanwhile uses that offer social value can provide*

support to those areas of need.' Foodbanks, charity shops and workspaces for arts groups have all benefitted in this way.

Separately, Richard's team has worked with homelessness charity 'It Takes a City' to address the growing problem of homelessness in Cambridge, specifically in providing emergency accommodation during the pandemic. Carter Jonas provided its planning services to enable the consent of six modular homes which were built off-site by social enterprise partner New Meaning Foundation and installed on an under-utilised parcel of land on Newmarket Road in Cambridge. While consent is temporary, it provides an important solution to a very significant housing challenge in the area until a longer-term, permanent solution can be found. As Richard explains, *'Landowners and developers of large consented or allocated strategic sites are invariably pleased to provide an interim solution where land reserved for later phases of development could be made available on a shorter-term basis until that development phase is ready to commence. The same is true of Green Belt sites, where a landowner might have longer-term ambitions for Green Belt release or a Local Plan allocation, but the reality of delivering development for the intended purpose might be still many years away.'*

Meanwhile uses and social value

The social value of such initiatives is plain to see. Beyond that, the development benefits in many other ways. The establishment of a new business hub or market which enables local residents to experiment with business ideas can result in the final scheme providing the spaces that those businesses need as they grow. Similarly, by providing a community arts or sports facility, a market or food hall, the developer is effectively 'testing the water' for a permanent use of this type – a very effective form of market research. Furthermore, simply maintaining a presence locally and engaging with the local community can help foster a good relationship locally, providing a positive start to a public consultation exercise.

Whatever the reasons for awaiting permanent structures to be delivered, there are many better ways to use a potential development site than hide it behind hoardings – with benefits to the community and developer alike.



NET ZERO CONSTRUCTION Focus on NEC Option X29 (Climate Change)

Patrick Cooney Patrick-Cooney@birketts.co.uk

Patrick gave a virtual presentation to ACES Eastern Branch late 2023 and kindly agreed to write this article, to help members to understand net zero requirements for construction contracts.

Patrick is a Partner in the Construction and Engineering team at Birketts. Bringing 15 years of experience to the firm, Patrick is experienced in advising on all forms of development documentation, including the full range of industry standard form building contracts. Patrick has worked with a broad range of clients but has particular experience of advising public sector clients on the use and administration of the NEC (New Engineering Contract) suite.

Background - net zero commitment

The government has committed to achieve net zero by 2050 and after the High Court ruled in 2022 that the government's proposals were not sufficient to achieve this, it published its 'Powering Up Britain' strategy in March 2023. The Department for Energy Security and Net Zero was created, responsible for delivering the commitments of the Net Zero Growth Plan and the Energy Security Plan.

The [Energy Security Plan](#) aims to double the UK's electricity generation capacity and a full decarbonisation of the power sector by 2030. Key points:

- Offshore wind - Reach 50GW of capacity by 2030, using floating turbines which can be deployed in deeper waters, thereby capitalising on greater wind speeds
- Solar - Reach solar energy target of 70GW by 2035 by establishing a taskforce and a solar roadmap to incentivise the additional deployment of ground and rooftop solar
- Nuclear - Target for nuclear capacity to be increased to 24GW by 2050. Advance the delivery of new nuclear projects via the funded Great British Nuclear
- Hydrogen - Production can be scaled up over the coming decade aspiration of 10GW. The government hopes

that this will unlock up to £11bn in private investment and support over 12,000 jobs by 2030. The government has established a £240m Net Zero Hydrogen Fund. It can be green, blue, grey, black, pink/purple/red (!)

- Timber - Roadmap to detail how the government aims to increase the use of timber in construction across the UK
- Electric vehicles - Government mandate will apply from 2024 which will require manufacturers to sell a rising proportion of electric vehicles before the 2030 ban on petrol and diesel engines
- CCUS - Carbon Capture, Usage and Storage. Increasing investment in CCUS infrastructure. The 2023 Spring Budget committed £20bn to the development of CCUS.

NEC Option X29

In terms of how the construction industry is contributing to the global commitment to drive down carbon emissions, the NEC was the first drafting body to introduce specific clauses on climate change, with its Option X29.

The JCT (Joint Contracts Tribunal) has an optional clause on sustainable development and environmental considerations (supplemental provision 8) but this is much less detailed and focussed than X29.

Option X29 was published in July 2022 and according to the NEC, Option X29 will be used to “tangibly demonstrate carbon reduction initiatives on future builds across the construction sector”.

Key concepts

The key concepts introduced by X29 are the Climate Change Requirements, the Climate Change Plan and the Performance Table.

And to reflect the fact that employers and contractors are often now required to disclose their climate change credentials, Option X29 also includes a clause that allows information relating to climate change to be disclosed and publicised to others.

Climate Change Requirements (CCRs)

The Climate Change Requirements are part of the scope. They can be requirements relating to the works themselves or the way in which the Contractor provides the works.

In terms of what the CCRs might cover, the NEC Guidance Notes suggest they could include levels of recycling, the use of renewable power on-site or electric vehicles, reducing waste generation and designs which reduce carbon emissions.

A failure to comply with the CCRs is a defect so must be corrected at the contractor’s cost.

And anything that could adversely affect the achievement of the CCRs is something that triggers the need for an early warning.

Climate Change Plan

The Climate Change Plan sets out the contractor’s strategy for achieving the Climate Change Requirements. It is in effect the contractor’s statement of intent.

Unlike the Climate Change Requirements, the Climate Change Plan is not part of the Scope so if the contractor fails to comply with it, that would not constitute a defect requiring remedy.

The form and content of the Climate Change Plan can be included in the Climate Change Requirements.

Performance Table

The Performance Table sets out performance targets linked to incentives to encourage the contractor to meet those targets, which can be positive or negative.

X29 therefore overlaps with Options X17 (low performance damages) and X20 (KPIs) so the NEC recommends it is not used in conjunction with these options.

The NEC guidance notes recommend that each performance target should be capable of objective measurement and suggest that the use of subjective phrases such as to the employer’s “reasonable satisfaction” should be avoided.

The guidance notes also give examples of the issues the performance table could address, for example the subject matter, the target, unit of measurement, and date when performance is measured.

The contractor is required to report its performance against the Performance Table targets at regular intervals and the table is not part of the Scope, so a failure to achieve the stated targets is not a defect. However, a failure to achieve a target could trigger a negative incentive.

It’s also worth noting that where X18 is being used (limitation on liability), any amounts paid by the contractor under X29 are excluded from the X18 cap.

Benefits of X29

- Attractive to occupiers and lenders who will have their ESG goals
- Staff recruitment and retention - working for a company that is actively trying to protect the environment will be attractive to employees

- Positive PR – delivering projects which protect the environment
- A building with green credentials that has been designed to be energy efficient will attract a premium price
- Wider social benefit - with corresponding obligations being passed down the supply chain, the use of Option X29 will help to mitigate the impact of construction on the environment.

Birketts’ view

As the NEC itself has pointed out, X29 is not a solution in itself, but it provides a collaborative mechanism for addressing climate change and mitigating the impact of construction on the environment.

The key practical point is that the Climate Change Requirements will need to be clearly drafted so that they are measurable and achievable but not so onerous that they will deter bidders or lead to an excessive risk premium. In particular, employers should be careful that the Climate Change Requirements do not amount to a fitness for purpose obligation which would be uninsurable.

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BIODIVERSITY NET GAIN BNG: Here and now

Edward Long Edward-Long@birketts.co.uk

Edward presented this comprehensive summary at a recent ACES' Eastern Branch virtual meeting, and kindly agreed to follow up with this article. He explains the raft of regulations and other complex statutory requirements, drawing attention to possible practical issues for developers and public sector planners and landowners.

For the last five years or so, since the publication of the Environment Bill in 2019, planning lawyers such as myself have been banging the drum about the introduction of mandatory Biodiversity Net Gain (BNG) and telling everyone who was willing to listen that it was just around the corner... Well, it is finally here. On 12 February 2024 the requirement to deliver BNG in connection with planning applications made on or after that date came into effect. This article provides a brief explanation of what BNG is, takes a deeper dive into the raft of regulations (1) that have been introduced to support BNG, and then provides some thoughts as to potential sticking points in the system and how we might see things unfold in the next few months.

What is BNG?

At its most basic level, BNG is a requirement that development leads to a measurable increase in biodiversity, as compared with the pre-development value; the driving aim behind which is to leave nature in a demonstrably better state post-development.

BNG has been a feature of planning policy, both at a local and national level for a few years, but it is only now that it has been put on an England-wide statutory footing by the passing into law of the Environment Act 2021 and the subsequent regulations made under that Act. These have introduced a new Section 90A and Schedule 7A into the Town and Country

Planning Act 1990 which, along with the regulations, create the statutory framework that creates the requirement to provide BNG, establishes the exemptions to this requirement, provides for a register of biodiversity gain sites and sets out how the requirement will apply in the case of developments delivered in phases.

As a result, most new development applied for after 12 February 2024 (subject to some exemptions set out in detail below) will need to demonstrate a net-gain of at least 10%, when assessed against the pre-development biodiversity of the site. The requirement to deliver this will (in most cases) be secured by way of a planning condition in the following terms:

Development may not be begun unless—

- a. a biodiversity gain plan has been submitted to the planning authority, and
- b. the planning authority has approved the plan.

For a LPA to discharge the condition, it must be, among other things, satisfied that the biodiversity gain plan provides for BNG of at least 10%.

How is the gain assessed?

To provide for a standard approach England-wide for the assessment of biodiversity gains, a statutory metric has been introduced by which the biodiversity value of a site is to be assessed. It is

necessary to engage the services of a 'competent person', such as an ecologist, to undertake the assessment and use the metric. The metric calculates biodiversity value of a site in terms of 'biodiversity units' and also provides an indication of how many units are required to be delivered to replace any biodiversity lost as a result of the proposed development and provide the required 10% gain.

In certain circumstances it is possible to use a simpler, Small Sites Metric (SSM); however the use of this is limited to development that is not "major development", as defined in the Development Management Procedure Order (2). It is also not possible to use this where: the habitats on site are not provided for by the metric; the site includes priority habitats (subject to a small number of exceptions); there are habitats or site protected by statute on the site; or there are European protected species present. A benefit of using the SSM is that government guidance indicates that you may not need to retain the services of an ecologist to undertake the survey and associated calculations.

How can the gain be provided?

There are three ways to provide BNG. The first of these is to provide habitat enhancement works onsite (i.e. within the planning application redline); the second is to provide the habitat enhancement works offsite (either on a dedicated site for the development or alternatively by obtaining units from a third-party supplier) and the third is through the purchase of government issued credits. It is anticipated that in most cases, the required BNG will be secured onsite or through a mixture of onsite and offsite works. Where offsite biodiversity is to be relied upon, this will need to be appropriately registered on the Biodiversity Gain Site Register.

Government credits are to be very much a last resort. To apply to purchase these, developers will need to demonstrate why other options are not available. They will also be priced above market rates and will be subject to a spatial multiplier of two, which means that you will require two government credits in circumstances where a single biodiversity unit local to the development site would have sufficed.

At application stage

As would be expected, planning applications are to be accompanied with information to assist LPAs in determining whether BNG applies to the development proposed by that application. Applicants will be required to include a statement as to whether or not the applicant considers the BNG requirement applies to the application, and if not, why not. Where the applicant considers that the BNG requirement does apply, the Development Management Procedure Order provides details of the additional information that is required to be submitted (3). This includes a baseline survey of the application site, details of any irreplaceable habitats on the site, and confirmation of any works that may have been undertaken which engage the statutory anti-avoidance provisions.

Exemptions

A number of exemptions from the requirement to provide BNG have been allowed by regulation. The one which appeared to be the most significant of these was an exemption in respect of small sites, but this expired on 2 April. While it had been badged as giving smaller developers time to get to grips with the system, the delay in introducing BNG meant that it was introduced only around seven weeks later than the requirement for large sites. It is not clear how much benefit this will have been.

The further exemptions are as follows:

- Developments that impact less than 25sqm of habitat (which is not priority habitat)
- Developments that impact less than 5 metres of linear habitat (which is not priority habitat) e.g. hedgerows
- Certain self build and custom build applications where: no more than 9 dwellings; site area no larger than 0.5 hectares; exclusively self build or custom build as defined in s1(A1) of the Self-build and Custom Housebuilding Act 2015
- Biodiversity gain sites
- Development forming part of or ancillary to the high speed rail network.

There is an obligation on the Secretary of State to review these exemptions at least every five years and it is reasonable to

expect that these exemptions might be altered or expanded as the system beds in.

Anti-avoidance: Works which have damaged a site's habitat value

To avoid landowners being tempted to undertake works to sterilise the biodiversity value of an application site prior to an application being made, there are two key statutory protections. First, where any works have been undertaken to the site on or after 30 January 2020, without the benefit of planning permission, that have had the effect of lowering the biodiversity value of the site, the baseline for assessing the BNG requirement is to be taken as the biodiversity value before those works were undertaken. Second, where works have taken place on or after 25 August 2023 with the benefit of a planning permission (other than the permission applied for) that have lowered the biodiversity value of that site, and the development to which that planning permission relates has not been completed, then the baseline biodiversity value is to be taken as the value before those works were begun.

Irreplaceable habitats

The regulatory framework for BNG recognises that certain habitats are considered, in planning terms, to be irreplaceable. At present, those habitats mirror those identified in the NPPF (4). There is an expectation that steps are taken to reduce the impact of development on those irreplaceable habitats. Where that is unavoidable, such habitats are to be disregarded for the purposes of the BNG calculation and instead bespoke compensation for the loss or damage of these habitats will need to be agreed with the relevant planning authority. Where any such habitats are to be retained on site and improved, these improvements are capable of counting towards the required BNG for that site.

Development to be delivered in phases

The regulations recognise that for phased developments, it will not be possible to identify the BNG delivery in respect of the entire development from the outset. As such, phased planning permissions will

not be granted subject to the planning condition set out earlier in this article, but subject to two planning conditions. The first of these conditions will require the submission and approval of an overall plan for the development, which will establish a framework for the delivery of the BNG across the site, and the second will require the approval of a biodiversity gain plan for each phase prior to the commencement of that phase. This plan should also track progress towards the delivery of the overall BNG requirement of the site.

Offsite BNG and the Biodiversity Gain Site Register

For offsite biodiversity gains validly to count towards meeting the BNG requirement of the site, these need to be allocated from a registered biodiversity gain site. To become a registered site, it is necessary for that site to be (a) eligible to be registered and (b) have an application for that registration accepted by the registrar. The conditions for eligibility are:

1. there must be an obligation under a s106 Agreement or Conservation Covenant to carry out habitat enhancement works
2. an obligation to maintain the habitat enhancement works for at least 30 years post completion of the biodiversity
3. an obligation to monitor habitats on the land for the maintenance period
4. the habitat is made available for allocation to one or more developments for which planning permission is granted
5. the land is in England; and
6. the conservation covenant or s106 Agreement has been registered on the local land charges register.

Where applications are successful, a biodiversity gain site will be assigned a unique registration number. Allocations of the biodiversity units created on the gain site must be recorded on the register against the gain site, and it is this allocation that will be required to secure the discharge of the biodiversity gain condition, where offsite units are to be relied on.

Biodiversity gain sites: potential barriers for landowners?

To deliver the quantity of BNG that will be required to support development moving forward, at a price which is attractive to developers, it is likely that a significant number of biodiversity gain sites will be required to account for shortfalls in onsite delivery. To do that, there will need to be willing landowners coming forward to do so. While we are aware of several sites coming forward, we consider that the following factors risk delaying, or even reducing the number of sites that may come forward:

- The extension of agricultural property relief to include land managed under environmental schemes is not due to be introduced until April 2025. Many landowners are likely to delay until they have this certainty
- The appetite of lenders to consent to charged land being restricted in this way is not yet clear. There is an argument that land tied up as a biodiversity gain site will have little realisable value for a lender, particularly if the generated units have been sold up front
- With certain transaction types, there will be disparity between when the money is realised (i.e. upfront) and the costs incurred (spread across the entire management obligation). This is somewhat different to the yearly turnover of costs and income normally occurring in farming.

Teething troubles and looking forward

To date, we've seen a few teething troubles that may lead to some delays in progressing sites subject to the BNG requirement. These include:

- Limited reason for LPAs to enter into s106 Agreements for biodiversity gain sites, particularly where there is no guarantee that the BNG units generated will be applied to development in the LPA area
- Resource constraints in LPAs are likely to limit the ability of LPAs to quickly enter into and monitor s106 Agreements
- An apparent shortage of qualified ecologists to undertake the required

surveys and apply the metric to proposed development sites

- A limited uptake of bodies wishing to become Responsible Bodies capable of entering into conservation covenants. This will increase the pressure on LPAs to enter into s106 Agreements as the only other route to secure offsite BNG.

Looking forward, it is now a game of 'wait and see'. As the first sites start to receive planning permissions subject to the BNG condition and developers seek to discharge those conditions, it will quickly become apparent where any wrinkles and delays in the system sit. It can only be hoped that as and when these become apparent, the government of the day is able to move quickly to resolve these to ensure that the nation's ambitious development targets are met.

References

1. Seven separate statutory instruments
2. The Town and Country Planning (Development Management Procedure) (England) Order 2015/595
3. Article 7
4. Blanket bog; lowland fens; limestone pavements' coastal sand dunes; ancient woodland; ancient trees and veteran trees; Spartina saltmarsh swards and Mediterranean saltmarsh scrub



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CONSERVATION COVENANTS

Andrea Newman andrea.newman@mills-reeve.com

Andrea's article follows on neatly from Edward's summary of statutory biodiversity net gain requirements. She gives a very clear rundown of key features and processes, which are designed to preserve and enhance natural heritage.

Content

Conservation covenants are private voluntary agreements, which exist by virtue of a statutory framework. They were introduced into law by the Environment Act 2021.

Here, I summarise the key features of conservation covenant agreements, the process for creating them, the process for removing or changing them, and we flag potential issues to be mindful of when dealing with land that is affected by conservation covenants. I also summarise the eligibility criteria for becoming a responsible body.

The impact of conservation covenants is set to be wide-reaching and their advent presents an excellent opportunity for landowners to preserve the natural or heritage features of land, and to ensure that future landowners observe the same environmental responsibilities. They provide the opportunity for long-term ecological land management, and the rich habitat development that comes with sustained preservation. In this context they will be an important means of securing biodiversity net gain obligations.

Conservation covenants run with the land, whether they are positive covenants (ie obligations to do something) or restrictive covenants (ie commitments not to do something).

Accordingly, conservation covenants and the agreements that embody them

have the potential to extend far beyond the intended scope of original contracting parties. These covenants might create expensive, significant and potentially indefinite legal obligations binding land, potentially limiting its use in the long term.

What are conservation covenants?

Conservation covenant agreements are agreements which set out an obligation to conserve either the natural or the heritage features of the land being burdened. They must meet two essential criteria:

1. they must be for the public good; and
2. they must have a conservation purpose.

The 'public good' requirement is broad: the covenant must be of benefit to the public. This does not mean that the public should have access to the land - the parties are free to decide this.

The 'conservation purpose' also has a broadly defined remit. It could mean that the covenant aims to conserve the natural environment, resources or setting of the land. But it also could mean conserving certain buildings or architectural or archaeological features, or the setting of the built environment, for the public interest. Protecting, restoring or enhancing

the environment would all meet the requirement of conservation purpose.

Who can create conservation covenants?

Conservation covenants can only be created between two types of party:

1. landowners: this could be the owner of the freehold title, or leaseholders with more than 7 years to run on a lease; and
2. a 'responsible body': this could be one of three types of bodies:
 - a local authority
 - a public body or charity, where at least some of its purposes or functions relate to conservation, or
 - a private sector organisation, where at least some of its main activities relate to conservation.

What kinds of obligations can conservation covenants create?

Given that conservation purpose is broadly defined, the kinds of obligations that such covenants can impose are also potentially wide-ranging. Examples include:

1. Management obligations: to manage land in a particular way to conserve habitats for rare species
2. Improvement obligations: to improve a habitat that is a priority for conservation
3. Financial obligations: to secure income and funding for conservation activities, or to provide payments for ecosystem services and for biodiversity net gain.

In practice, such obligations could take shape in a number of ways. A positive management obligation might be to maintain woodland on an estate and allow public access; a restrictive management obligation could be refraining from using pesticides on native flora.

Management obligations may in turn be supported by financial obligations: for example, an environmental charity might be obligated to a landowner to manage habitat by specific methods for the long-term conservation of land, in return for a one-off endowment sum or for periodic payment.

Additional obligations: landowners and responsible bodies

Responsible bodies are likely to have the greater share of administrative obligations.

First, the responsible body must ensure that, before entering into the covenant, the landowner is made aware of potential long-term implications of the covenants and has sought legal advice. Secondly, they must register the covenant on the appropriate Land Charges register and submit an annual return. Thirdly, they must monitor and record the performance of the landowner's obligations. This will likely encompass regular inspections or surveys of the condition of eg conservation features. Finally, it is the responsible body which has to comply with any other relevant legislation and to consider relevant guidance when the conservation covenant is being created for a specific purpose, e.g. to secure biodiversity net gains.

A responsible body must notify the Secretary of State if the organisation's circumstances change, especially if it no longer has conservational purposes, functions or activities.

Landowners must make sure that the conservation covenant meets the two essential criteria but also ought to monitor any activities which the responsible body has agreed to.

New owners of land subject to conservation covenants take on the liability for existing or past breaches. Depending on the covenant, this liability could be significant and will be a matter for careful consideration with appropriate specialist advice.

What is the process for creating conservation covenants?

The landowner and the responsible body must:

1. decide on the conservation outcome for the public good, and agree terms
2. set out the terms in an agreement, making it clear on the face of it that it is a conservation covenant
3. execute the agreement as a deed; and
4. register it on the Local Land Charges register.

Defra guidelines suggest that both parties should engage with local stakeholders,

such as representatives of Natural England and Historic England, and review applicable government and local nature strategies. The covenant should be designed in consultation with the local conservation priorities and schemes.

What must the agreement include?

The agreement must specify what the parties will do to conserve the land. It must include at least one of:

1. Restrictive obligations: things the landowner will abstain from doing, such as using fertiliser on hay meadows, or planting trees on archaeological sites
2. Positive obligations: things that either the landowner or responsible body will do, such as planting a flower-rich meadow
3. Permissive obligations: things the landowner will allow the responsible body to do on the land.

There may also be other ancillary obligations, such as those that provide for financial support for the covenant, or for regular inspections.

Further operative terms will provide the detail of:

- The duration of the covenant
- Any payments to be made, and their frequency
- How to terminate early (a break clause)
- How to make permitted changes to the covenant
- Monitoring process
- Dispute resolution provisions
- Any restrictions on the responsible body transferring the covenant, and the types of responsible body that it may transfer to.

Habitat management obligations will often be contained in a separate management agreement, allowing for greater flexibility to update these, often by reference to an evolving plan in line with changes in local conservation needs, or new management technologies.

How long will the covenant last?

The agreement will state how long the covenant is to last. If the intended duration of the covenant is not specified by the agreement, it will last indefinitely for a freeholder, and until the end of the lease for a leaseholder. Duration is an especially important consideration for complying with other obligations – eg a covenant used for biodiversity net gain must run for 30+ years.

Once registered, the conservation covenant will be legally binding for successors in title. Do note that the obligations on future freehold owners and tenants differ in extent. A future freeholder will be bound by all obligations, while a tenant of a lease for 7 years or less will only be bound by restrictive and related ancillary obligations.

If a responsible body subsequently becomes the owner of the land, they will continue to be bound by the obligations assumed in their role as responsible body.

Enforcement, flexibility and termination

Parties entering into a conservation covenant should consider including dispute resolution mechanisms in their agreement at the outset (eg mediation provisions). If there has been a breach of the covenant which cannot be resolved, court proceedings can ensue. The court may issue an injunction, make an order or award damages.

Conservation covenants may be varied or ended by agreement, provided that the appropriate legal formalities are observed. First, both parties must agree to the amendment or termination, and they must not be varying the covenant such that it no longer has a conservation purpose, or is no longer for the public good. Second, the variation or termination agreement must also be executed as a deed, and must specify the relevant land, obligations, and the legal interests of the parties.

It is important not to overlook related obligations. If a conservation covenant agreement secures biodiversity gains in relation to a planning permission, the parties must make arrangements for another mechanism to secure the biodiversity gains for the remaining duration of the agreement.

If the parties cannot agree on a change, they can refer the dispute to the Lands

Chamber of the Upper Tribunal. This should be viewed as a last resort because of the potential expense and uncertainty of outcome.

Once a conservation covenant has been updated or amended, the responsible body must also update the Local Land Charges register.

What about existing rights and restrictions?

Conservation covenants should be designed to work in conjunction with matters affecting the land in question, as they will not override pre-existing rights or restrictions. These include statutory rights, private property rights, planning restrictions, common land rights, and statutory designations (including SSSI, local nature reserves, listed buildings and scheduled monuments).

Landowners may risk enforcement action if they cannot comply with both the conservation covenant and pre-existing rights or restrictions.

It should be noted that if a conservation covenant cannot be complied with due to a future statutory designation, that would provide a defence for a future breach of covenant.

Ability to transfer a conservation covenant

Landowners may not transfer the responsibility for their covenants, as they bind the land.

Responsible bodies can transfer their contractual obligations, unless the covenant agreement stipulates otherwise. It might be necessary for a responsible body to transfer a covenant if their organisation is due to be removed from the responsible bodies list, or if another body has become a more suitable steward of the land.

If a transfer is permitted, provided that the parties can agree terms, the transfer from one responsible body to another can be documented. The transfer agreement must deal with all the existing obligations held by the responsible body, as well as the benefits it receives, and again must be executed as a deed by both the current and the future responsible body. The current body is responsible for updating the Local Land Charges register.

If there is more than one responsible body that is party to the covenant, either

body can transfer their own part of the covenant. They must transfer their own full set of obligations.

Landowner's consent is not required unless the landowner has already specified this control in the making of the covenant. If the landowner is concerned about financial obligations being met by the responsible body, then they should ensure that the covenant contains appropriate restrictions on selecting potential transferees.

Who can be a responsible body?

An organisation whose operating base is in the UK can be a responsible body. Defra make it clear that an organisation that wishes to be a responsible body must have its main activities and its people to deliver conservation covenants located in the UK.

I have already listed above those organisations which can be a responsible body. For an organisation to remain a responsible body, they must continue to meet the criteria and will have to be able to provide evidence that it has an operating base in the UK that allows it properly to carry out its conservation covenant functions.

What are the financial criteria to be satisfied?

Defra will check the financial eligibility of an organisation seeking to be a responsible body. This means there will be a check that the organisation has:

1. a UK bank account
2. a secure financial situation; and
3. adequate internal fiscal and administrative control for long term financial viability.

These checks may consist of looking at:

- Whether the organisation has received government funding
- Past grant funding allocations, and how the organisation used the money
- Any late financial reporting in the organisation's filing history at Companies House
- Insolvency etc. history over the prior 5 years
- If the organisation been subject to a Charity Commission inquiry in the prior 3 years.

What operational capacity and capabilities are required?

The organisation must have the capacity and capability to manage and enforce the types of covenants expected to be entered into. Therefore, Defra must be satisfied that it has:

1. Expertise – this means having access to ecologists or agronomists relevant to nature conservation or the equivalent for heritage conservation, and surveyors for any land-related aspects
2. Workforce – the organisation must have a structure and capacity that will allow it effectively to deliver conservation covenants, work collaboratively with landowners to achieve successful outcomes, and monitor and evaluate projects
3. Contingency planning – it will be necessary to show capacity to plan and develop contingency measures for unplanned changes
4. Monitoring and enforcement – the organisation must be able to monitor compliance and take action to address breaches of agreements
5. Dispute resolution – this means showing a track record of resolving disputes or proposed processes for dispute resolution
6. Structures and governance – the organisation must have clear structures and governance that ensure it can effectively report and escalate issues, as well as identify, mitigate, and escalate conflicts of interest; and
7. Track record – the organisation must have a proven track record for environmental or heritage responsibility, where available.

If an organisation is successfully designated as a responsible body, it must continue to meet the criteria for being one. If the organisation's circumstances change and it may no longer meet one or more of the criteria, Defra must be notified. Failure to notify would mean that Defra may remove the organisation from the list of designated responsible bodies.

Next Steps: Application form and annual return

The application form to be used to apply for an organisation to become a designated responsible body can be found at: <https://www.gov.uk/government/publications/conservation-covenants-apply-to-become-a-responsible-body>.

Annual returns are due by 31 March each year. The annual return must report on:

1. the total number of conservation covenants the organisation holds
2. the area of land covered by each conservation covenant; and
3. any necessary additional information about the organisation's covenants to help Defra evaluate whether conservation covenants are an effective tool, such as whether they are for nature or heritage conservation purposes; their location; the type of habitat they aim to maintain or enhance, if applicable; and progress towards delivering conservation outcomes, highlighting any successes.

What happens if an organisation is removed from the list of designated responsible bodies?

Defra has the power to remove an organisation from the list of designated responsible bodies, if it no longer meets the relevant criteria, no longer operates, or it requests to have its status revoked. In that case, the organisation will no longer have any liability in relation to any conservation covenants, and the Secretary of State for the Environment will automatically become its custodian. As custodian, the Secretary of State can either look for another responsible body to take on the conservation covenant, or decide to take on the role of that responsible body permanently.

While the Secretary of State remains a custodian (but has not permanently taken on the role of the responsible body), it is not liable for fulfilling the obligations of the responsible body. It is, however, able to enforce the obligations of the landowner, amend the covenant in agreement with the landowner, and exercise any other powers the former responsible body previously held under the conservation covenant.

Useful links

[Getting and using a conservation covenant agreement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/conservation-covenants-apply-to-become-a-responsible-body)

[Conservation covenants: criteria for being a responsible body - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/conservation-covenants-apply-to-become-a-responsible-body)

[Conservation covenants: apply to become a responsible body - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/conservation-covenants-apply-to-become-a-responsible-body)



BNG AND HABITAT BANKING

Some practical challenges

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In this third article on Biodiversity Net Gain, Lucy and David approach some knotty issues in connection with the practical application of BNG requirements, mainly from the viewpoint of the local authority.



David is a land agent, consultant, and member of the Natural Capital team at Carter Jonas. Prior to this, David was Head of the Property Services function at Northumbrian Water for over 25 years. As part of that role, he helped develop the organisation's thinking around corporate natural capital accounting and biodiversity net gain, including how this link into their corporate property strategy and wider business goals.

David was also involved in major projects such as the Abberton Reservoir expansion scheme, increasing its water level by 3.2 metres, so creating an additional 15m litres of freshwater storage. The scheme required careful environmental consideration being within a SSSI, Special Protection Area, and Ramsar Site.

Lucy is an Associate in the Rural Team at Carter Jonas and part of the established national Natural Capital Team seeking to maximise opportunities for clients in this fast-developing market for Environmental Services.

The morning after the night before...

It's 9am on 13 February, the day after the glorious twelfth when mandatory Biodiversity Net Gain (BNG) came into force. You have just opened your inbox to discover an email from your manager enquiring as to how your plans for utilising the authority's land for habitat banking are progressing. Members are starting to ask questions about redirecting the income from BNG to support local services and public good. Unfortunately, after all the delays, it hasn't been your priority, and you haven't got very far and begin to panic.

Luckily, you recall an article in the last ACES publication which details some thoughts around how to approach this and the practicalities of BNG on local authority land. You dig it out and read this.

BNG has the potential to deliver multiple benefits such as additional income, helping to facilitate wider improvements in the natural environment, and supporting the growth agenda. However, it is far from straightforward; this article provides some of the noteworthy considerations.

Who to involve

When thinking about using authority land for BNG, be wary first and foremost that it is not just a land use issue. To understand and maximise the potential opportunities, it is essential to consult with colleagues across the council in planning and development, parks and countryside, ecology, commercial, sports and playing fields, and finance departments.

It will perhaps be somewhat surprising to find out how many of these departments have policies for land use which may well be impacted both positively and negatively by your

search for sites across the portfolio to use for BNG. Once you have assembled the internal stakeholders, there is then a need to address external organisations; either to establish their appetite for collaboration, or identify how they may or may not be impacted by the creation and/or enhancement of new habitats in the locality. Stakeholders may include neighbouring and/or combined authorities, including those in the same or adjoining National Character Areas (NCAs), Wildlife Trusts and other environmentally motivated bodies, as well as local communities who may benefit from engagement in the respective projects.

Localised planning policies

Consideration needs to be given as to the impact and opportunity afforded by local planning policies.

As stated in a Built Environment Committee Report as at September 2023, at the heart of the BNG inquiry was the interaction between two government policies: a drive for development - particularly of housing - and the promotion of new infrastructure; and a commitment to protect habitats and halt the decline of species. This will no doubt be a dichotomy faced by many local planning authorities (LPAs) at a regional scale also.

LPAs may be able to influence not only the application of the hierarchy, encouraging the mitigation of biodiversity loss in the first instance, but the type and location of any significant enhancements, taking into account other policies to support biodiversity including Local Nature Recovery Strategies (LNRS). For example, developments of scale may be required to include a minimum amount of accessible green space.

Recent Carter Jonas research found that 3 LPAs (or 1.0%) have adopted a policy denoting a percentage net gain higher than 10%, while 17 (or 5.6%) have such a policy emerging through their local plan review. This is an increase of 33.3% from the previous research (data to Q4 2022). Most LPAs with BNG policies (either adopted or emerging) over the 10% statutory requirement call for 20% net gain, either for some or all new developments. Two LPAs, Kingston Upon Thames and Tower Hamlets, have even more ambitious policies emerging which require a minimum of 30% net gain.

When demanding a net gain of more than 10%, the LPA will need to evidence the local need and any impacts on viability for development.

The strategic objectives of the local plan also need to be considered, as utilising authority land to supply biodiversity units may be able to support the delivery of other targets of the plan. Examples of this include the provision of specialist habitat such as 'Open Mosaic Habitat' to facilitate the redevelopment of brownfield sites and/or supplying fractions of a biodiversity unit at a low price, to enable the development of small sites that would otherwise be unviable; supporting SME developers.

Localised policies could also be utilised to formulate the planning application procedure, including processes around validation and pre-application boundaries. The current guidance requires a Biodiversity Gain Plan to be submitted no earlier than a day after the permission is granted; however, the local authority could well require information in advance of this, and you should correspond with planning colleagues in this regard.

What is the local market

When considering BNG, it is important to contemplate the law of demand and supply within the private marketplace and the role of the local authority within that. For example, the extent of LPA and indeed NCA boundaries could impact upon the availability of land for off-site biodiversity gain within the locality of a development site. The interplay of demand and supply could well mean that developers must seek off-site delivery outside of the immediate LPA boundaries, subject to localised planning policies and subsequent pricing of biodiversity units within the immediate marketplace.

The Spatial Risk Multiplier within the

Statutory Biodiversity Metric essentially increases the number of biodiversity units required off-site where these are being supplied in a neighbouring LPA and/or NCA or further afield. Largely urban conurbations with limited rural land are likely to have a lack of supply for off-site biodiversity units within the immediate locality, which could result in premium prices and biodiversity units in a neighbouring authority becoming more viable for the respective developer.

This may mean that you might have more requests for biodiversity units to offset impacts a long way from your administrative area and outside the area of your LNRS. Equally, some Biodiversity Gain Plans may look to purchase off-site biodiversity units in neighbouring or further afield authority areas. Consider whether your members would be approving of that and consult with your planning department about policies that could be utilised to guide such decisions.

These nuances are likely to come to the forefront now that BNG is mandatory across England and transactions are beginning to occur and operate within the statutory framework.

Practicalities of establishing habitat banks

Under the Statutory Biodiversity Metric, biodiversity units must generally be traded on 'like for like' or 'like for better' principles, referencing the distinctiveness rating that is attributed to different habitat types. This is based on distinguishing features including species richness and rarity, the extent to which the habitat is protected by designations, and the degree to which the habitat supports species rarely found in other habitats.

In determining the type and quantity of habitat units that may be required in future, it will be important to consider the extent of pipeline development and allocations within the local plan. It will then be a case of identifying sites that are ecologically able to deliver the required habitat units, and are accessible for ongoing management and maintenance purposes.

The question of access raises itself for a second time when considering the proximity of the public to any potential habitat bank. The juxtaposition between public access and environmental enhancement is not a new one; the habitat health of any bank created may well be inconsistent with the provision of

access to nature and the wider wellbeing benefits to communities. This inevitably depends on the ecological sensitivities of a site and likely human impact, or indeed that of domestic pets. It will be a question as to the authority's respective priorities and consideration as to other competing land uses.

This competition is also not to be underestimated. Consider how it will be perceived politically to establish habitat banks, and whether development or food production may be viewed higher on the agenda. If the authority's portfolio is largely tenanted, it will also be important to consider the appetite of occupants for engagement and as to whether there are any delivery models in which tenants could participate. Re-obtaining vacant possession of long-term tenancies may not be the best marketing strategy, but collaborating with tenants may facilitate a diversified income stream for both parties in a turbulent time for agriculture.

Intermediaries

LPAs which develop habitat banks on council-owned land will not be able to sign a legal agreement for its maintenance with, in effect, themselves.

Alternatively, as opposed to a s106 agreement, a conservation covenant can be entered into with a responsible body, of which there are currently around five, who will monitor the bank [Ed – see Andrea's detailed article in this issue of ACES'Terrier]. This positive covenant would run with the land and avoids the authority becoming conflicted.

Consideration should also be given to use of a special purpose vehicle to separate the creation of habitat banks into a different entity, which can then enter into s106 agreements with the LPA. This also reduces any perceived conflict from a potential regulator of the BNG condition also providing off-site biodiversity units.

There may be other options, such as unilateral undertakings; however these have been less explored to date.

Management of monies

The habitat bank will need to be managed and monitored for a minimum period of 30 years. Contrastingly, payments for biodiversity units could be received upfront depending on the agreement structure. It may be a sensible approach to ringfence and invest the revenue in a



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financial model, so that the monies can be drip fed over the course of the term.

Even with a relatively small habitat bank, there may well be receipts in excess of a £1 million and a considerable number of transactions to manage. Consider whether the authority's finance and property management systems are equipped to deal with this potential quantum and where the maintenance money will be secured, so that its availability is guaranteed in the future.

In order to be successful, one of the key

things to perfect is the cost model. If this is sufficiently robust, you will be able to develop a pricing model for your units that will be competitive in the marketplace, as well as providing a good return. Thus it is vital that the right departments are involved with this from the outset.

Conclusion

The new legislation and Planning Practice Guidance assigns considerable weight

to LPA discretion at different stages throughout the BNG process. Adoption of an overarching, strategic approach to the new condition is therefore crucial in order to incorporate all of the wider considerations and maximise this opportunity across the authority's portfolios.

It's a lot to take in and digest and you're relieved to have remembered the ACES article. You grab a coffee and begin to draft a response to your manager.



Mark is Senior Property Consultant at CIPFA. He has a background as a public services auditor, advisory and consultant. He set and led the government finance and accounting team for one of the Big4 and then led on property/infrastructure for a consultancy. Mark is an accountant, but over the years has developed commercial, projects and property/infrastructure experience. Our clients find it helpful that Mark can "translate" between front-line services, property teams and finance.

Mark has worked on property asset challenge and strategies for the MoD, the Government Property Agency and, more recently, London Boroughs, and several UK councils. He has worked on property business cases for MoD, Glasgow City Region, the Mayor of London/Greater London Authority, Network Rail and numerous NHS bodies. Mark is a leading business case practitioner and trainer.



ASSET CHALLENGE

Mark Williams Mark.Williams@cipfa.org

Mark outlines the facets of the asset challenge process developed at CIPFA, for operational and commercial assets.

The asset challenge process

As part of the recent strategic asset network series of events, our property consulting team shared the approach they use with councils on asset challenge.

Asset challenge is an increasingly important area, given the financial pressures faced across the sector. However, in our view, the shape of a council's estate should be driven by front line service needs and service user needs. In recent years, accelerated by the pandemic and post pandemic ways of working, these needs have changed significantly. Therefore, as part of our asset challenge approach, we would seek to understand the council wide context, the service strategy, and the asset data; we would then engage with the services, potentially alongside the council's property team, in order to discuss current and future property needs. It is helpful that the wider CIPFA team has a strong understanding of the full range of council services and of future delivery models.

The RAG approach

During these workshops we use our well-established red, amber, green

(RAG) approach to consider a sample of properties against 10 attributes. These attributes span whether a property is indeed front-line/accessed by the public; its suitability; current utilisation; any particular sensitivities around its use; its tenure; does it have alternate market value; its condition, including day to day running costs and capital spend requirements; and finally, whether it can achieve the desired energy efficiency standards.

A red rating suggests a property is not accessible, not suitable, poorly utilised, has good alternate value, high running costs, and capital requirements, etc. A green rating means that the property fulfils the council's requirements.

From the RAG rating approach, it is then possible to characterise properties as potentially retain (green); dispose of (red); repurpose (red); or in some cases we have seen a need for further acquisitions. We stress that this RAG rating approach is a "tool in our CIPFA property consulting toolkit" and that other asset challenge methodologies are available. Also, decisions should not be made solely on the basis of this RAG rating and that a good practice, proportionate business

case should be developed to further assess the options and decide on the recommended course of action to put to seniors/approvers.

We have a parallel RAG rating approach that covers investment/commercial properties, which considers some alternate attributes such as whether it is within the council area, any socio-economic benefits from holding the asset, the yield, and how long and secure the tenancy is.

Finally, it is worth noting more generally that CIPFA sees business cases as a decision-making framework and way of documenting decisions. This means that the business case and business case development process is very important. Where there have been failures as a result of poor decision-making, this links with issues with the business case process. Given this, there is currently DLUHC funding available to councils for both

business case training and wider property training for officers.

CIPFA Property is busy, hence we are currently recruiting. Our work covers issuing guidance, delivery training, running network events and property consulting jobs.



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.

CORPORATE LANDLORD MODEL

Making a success of corporate landlord model implementation

Chris Brain FRICS chris@chrisbrainassociates.com

Chris takes a practical look at the key matters to consider in the successful adoption of a corporate landlord model, based around his own experience of what can go right – and wrong.

Corporate landlord models (CLM) are the in-thing, the latest thing to take a grip in local government, as local authorities struggle with financial pressures, decisions around strategic property, and decisions on what their future strategy for their property portfolio should look like.

Much has been written in recent years about what a corporate landlord model is, or isn't. This article is not going into that. This article will focus on some of the key ingredients of making sure the adoption of a corporate CLM actually takes hold. What things will help make a success of the transition to a CLM and the implementation of a CLM. What things will hold you back. What things will catch you out later on down the road if you don't think about and plan ahead.

This is all based on my experience working with local authorities in recent years on CLM model design and implementation. I hope you find it useful, especially those who are considering

adopting a CLM model for the first time. If you already have a CLM model in place or think you have, or have part of the CLM model in place, maybe some of the issues that I raise might be helpful to you in analysing where things perhaps have gone wrong for you. They may help with an understanding of why CLM hasn't maybe delivered some of the benefits that you hoped and dreamed that it would.

Key determinants

One of the big things with CLM models is making sure that there is senior management buy-in. If your directors don't have a full understanding and appreciation of what CLM is and don't agree with the principles of it, then you really will be unable to take their teams and their service managers with you on this journey. And if you can't get your directors to understand CLM benefits, you're also going to struggle to achieve strategic decision making by

them and by your politicians, because having the support of your corporate management team is going to be fundamental to taking members with you on this new model. Any new CLM brings about changes in the way decisions get taken and where decisions get taken. There has to be that acceptance of that change by politicians.

Secondly, CRM can be obstructed by confusion within the existing property team, however it's structured currently. It may be aggregated as one service, or it may be in parts scattered around the organisation. Part of CLM for you might well be bringing that together into one property team.

But confusion about who does what with property now, even among property professionals, can create some problems for you later on. It's really important to be clear at the outset of the journey, who exactly within property does what, and identifying any overlaps.

There needs to be clarity to which part of the property function does what within the organisation, because you need to establish that before you start reaching out across the organisation to start identifying property activities that are taking place elsewhere. You have to be able to communicate who does what and who's going to do what in your new CLM. Sorting that out is a prerequisite for any CLM.

Pace is crucial

The third area to consider is when to begin this CLM journey, with caution not to move too soon. If you move too soon with CLM, before the organisation is ready, it can kill it dead in the water. You have to create the environment where the principles are allowed to be appreciated, the seeds of change planted, and creating space where these are allowed to grow.

A great deal of work needs to go in before you just launch a CLM on an organisation. You have to work to identify issues that have come up and issues you faced in the past, decisions that maybe have gone wrong or scenarios you find yourself in that you really shouldn't have been in. You need to think about how having a CLM model in place would have made things so different, identifying those examples, those case studies, and beginning that work with people on helping them to appreciate it doesn't have to be like this.

As well as not moving too soon, you must not move too fast. It's very easy once you have the principles of CLM agreed by the organisation to move rapidly to the new model without really thinking about the steps in the process. This is especially the case if you're currently working with or wrestling with service delivery failures within the property team. CLM will amplify any existing weaknesses, and the model will soon be undermined if you're not providing a good property service now, or haven't in the recent past.

If you're not careful, CLM will take the blame for future flawed decisions or lack of ability to support change, because the property team isn't functioning well. This could be some elements of the in-house team. It could be a failing contractor which results in poor service in terms of responses to repairs or that sort of thing. If you move too fast before you can sort these things out, then some people will eagerly tell you that they told you CLM wouldn't work. And it won't be the failure of CLM, it will be the failure of elements of the service the property team provides which weren't sorted out before you transition to the new arrangement.

Capacity

Transitioning to the new arrangements means making sure there's capacity to do what the new CLM model is going to do and where it's going to sit. There must be capacity within the property team to take on new responsibilities and new activities that the CLM represents. If you fail to match resources to promises then you're doomed to failure. This is a lesson that many learn too late. They move swiftly to adopt to CLM without having the resources in place to deliver it, and to keep their promises.

CLM is fundamentally about making promises and keeping promises, so your promises need to be clearly articulated and written down. CLM works best when it is supported by service level agreements (SLAs) or memoranda of understanding (MOUs). This makes absolutely clear to everyone in the organisation, what the property team does, and what others do, so it's clear who's doing what and when will they will do it.

Any SLA or MOU contains your promises to your internal clients on what they will get under the CLM model. You must be able to keep those promises and bring clarity to your promises, which is

why capacity to deliver is so important. This might be especially the case with areas such as managing expectations around aggregated repairs budgets or maintenance responses.

Managing culture change

CLM represents a big change for those who make property decisions elsewhere in the organisation. But it's a big change for the property team too. And that mustn't be underestimated. There needs to be a change in the culture and the mindset within the property team, which must now start to think of itself both as the guardians of the property portfolio on behalf of the organisation, and at the same time internal property consultants for service managers, supporting them in meeting their asset requirements.

Getting CLM off the ground means selling the benefits. In most organisations, there'll be some pockets of resistance to the change because people are often resistant to change, per se. Even those not routinely resistant to change may see CLM as an erosion of some of their flexibility and control. Some will focus on what they are losing as a result of adopting a CLM, rather than what they or the organisation is gaining. That perceived 'loss' could be budgetary freedom; it could be the ability to manage their own capital projects; the flexibility to go off and lease in space; or the desire to decide which specific building their teams operate from. This kind of flexibility is clearly changed in any CLM model.

That kind of resistance, and its impact on implementation of the CLM isn't to be underestimated. Before you know it, 'exceptions' to CLM are agreed to. Too many 'exceptions' and you don't really have CLM at all.

Articulate the benefits

Your job in implementing a CLM is to articulate the corporate and service benefits. People need to appreciate that CLM comes as a single package, and it only really works if it covers everything. That's where the economies are delivered, and where liabilities and risks to the organisation are minimised. It's those kinds of benefits you have to articulate.

One important ingredient of a strong CLM is having a single source of truth, a phrase I hear people using more and more in relation to property data. No

CLM can function well without good and reliable information. Only with a picture of the whole with reliable data can good corporate property decisions be taken.

This doesn't necessarily mean having a single data repository, which can be in itself very difficult to achieve. More that there should not be multiple systems with duplicated versions of the same data. Where data is held in multiple systems, which can happen for operational need, the core data set should be identified and protected, with any subsidiary data system routinely refreshed by core data updates.

The governance model

First and foremost, CLM is a governance model. Many focus their attention only on operational property decisions and lose sight of the need for a strong corporate governance model to support property decision making. This demands a strong property board with the right people on it that appreciate their strategic role. It also means not allowing that board to get embroiled in day to day operational matters. Clear terms of reference and a hierarchy of boards and working groups is invaluable.

The governance model must have clarity on where responsibility sits for decision making. Too often those implementing CLM forget to review the organisation's scheme of delegations. This is a critical part of the governance model and ideally one where decision making sits as low as possible in the organisational hierarchy.

CLM will result in changes to where decisions get taken. Some decisions may at the moment be by service managers, and that may well have to change. But not every service is the same, and your SLAs or MOUs should reflect this. CLM will not always be a one size fits all model. While you should rightly be protective of key principles and key strategic decision making, some decisions may sit best with a service head in one case, and with the property team in another. CLM is about getting the right balance, and making sure your model reflects service nuances.

Communications

This brings me on to people. Don't forget the people. It's easy to get caught up in the purpose of CLM and concentrate on getting the model right and forgetting the impact on those people. Aggregating

property activities and centralising decision making is bound to result in activities moving from one part of the organisation to another. This is almost inevitable. Depending on your starting position, pre CLM, this may well result in in such a movement of activities that people may have to move between teams or to a different directorate.

Rarely would I expect to see job losses during CLM implementation, and in most cases you will require more staff capacity, not less. But most people will not have been through a CLM transformation before and they will be anxious and fearful for their job and livelihood. You do well to acknowledge this from the start and make sure you manage these emotions with information. Needless to say, making sure HR and staff side representatives are aware of what's happening, and when, is vital. All this requires really good communication. Any CLM implementation project must have a communication plan. It must involve communication to all parts of the organisation including members, directors, service managers, and right through to those potentially impacted by operational property decisions, especially those who may be impacted in terms of their roles or parts of their role.


In the lead-up to designing your CLM, doing your research is really important. The changes brought about by adopting CLM will rely on good research, especially of finance and procurement data. If you fail to do thorough research, particularly in these two areas, you will potentially leave gaps in the CLM which could expose you to cost, risk and inefficiency later on. Good research is really, really important.

Finally, like any big change in any organisation, introducing a CLM is a project. Like any project, it needs managing as a project with a proper project plan, a project sponsor and a project manager.

Having this in place will help you with so many of the other issues raised earlier in this article. Particularly with your communication plan and taking people with you.

The issues raised in this article come from my experience, which may differ from the experience of others. I hope it's been helpful to summarise some of the key areas where implementation of CLM can go wrong, and give you some tips, if CLM is something your authority is looking to introduce in the future.

Maybe you've already started on the journey. Maybe you think you've completed the journey, and are reflecting on why not everything went to plan. Wherever you are in the CLM journey, I hope my reflections are of value to you.



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HIDDEN HOUSING VALUE

Unlocking London's 'hidden value'

Paul Wellman paul.wellman@savills.com

Paul uses data analysis to investigate what factors most influence house prices in London. He then identifies areas which have 'hidden value' and the greatest potential for housing value uplift.

Paul is an Associate Director within the Residential Research & Consultancy team at Savills. His focus is on creating bespoke reports for a broad range of clients across the UK, helping inform them to make better decisions through the use of data. Areas of expertise include development, mixed-use and large-scale regeneration, purpose built student accommodation, and co-living. Paul also sits on the BPF's Co-living 'working group committee'.

In addition, Paul presents at a wide range of events and authors thought-leadership articles and publications.

What contributes to the value of residential property? The list is endless and most elements, unfortunately, are extremely difficult to quantify and isolate. For example, proximity to green space and schools, ceiling heights and natural light all contribute in various ways.

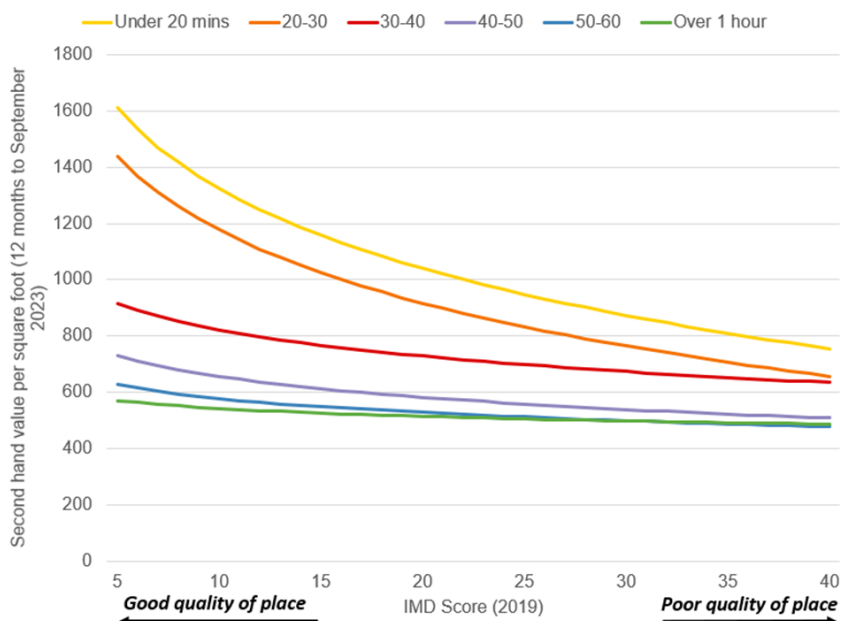
However, two quantifiable key attributes have a profound impact on what people are prepared to pay for their housing. They are proximity to central London employment hubs and quality of place. In a nutshell, areas with shorter travel times and vibrant, well-served communities command higher house prices.

Connectivity and quality of place

Improving travel times is clearly difficult and mostly out of developers' hands. However, improving the quality of place is very much within the control of those bringing forward development sites, and particularly those delivering large regeneration schemes where there is potential for significant transformation.

But the potential for uplift isn't the same across London. Locations closer to central London have higher potential values than those with longer travel times, with a clear step change for locations within half an hour.

Source: DLUHC, HM Land Registry, TfL, Savills using TravelTime, *using the latest Index of Multiple Deprivation score as a proxy for quality of place: 30 equating to poor and 10 equating to good.



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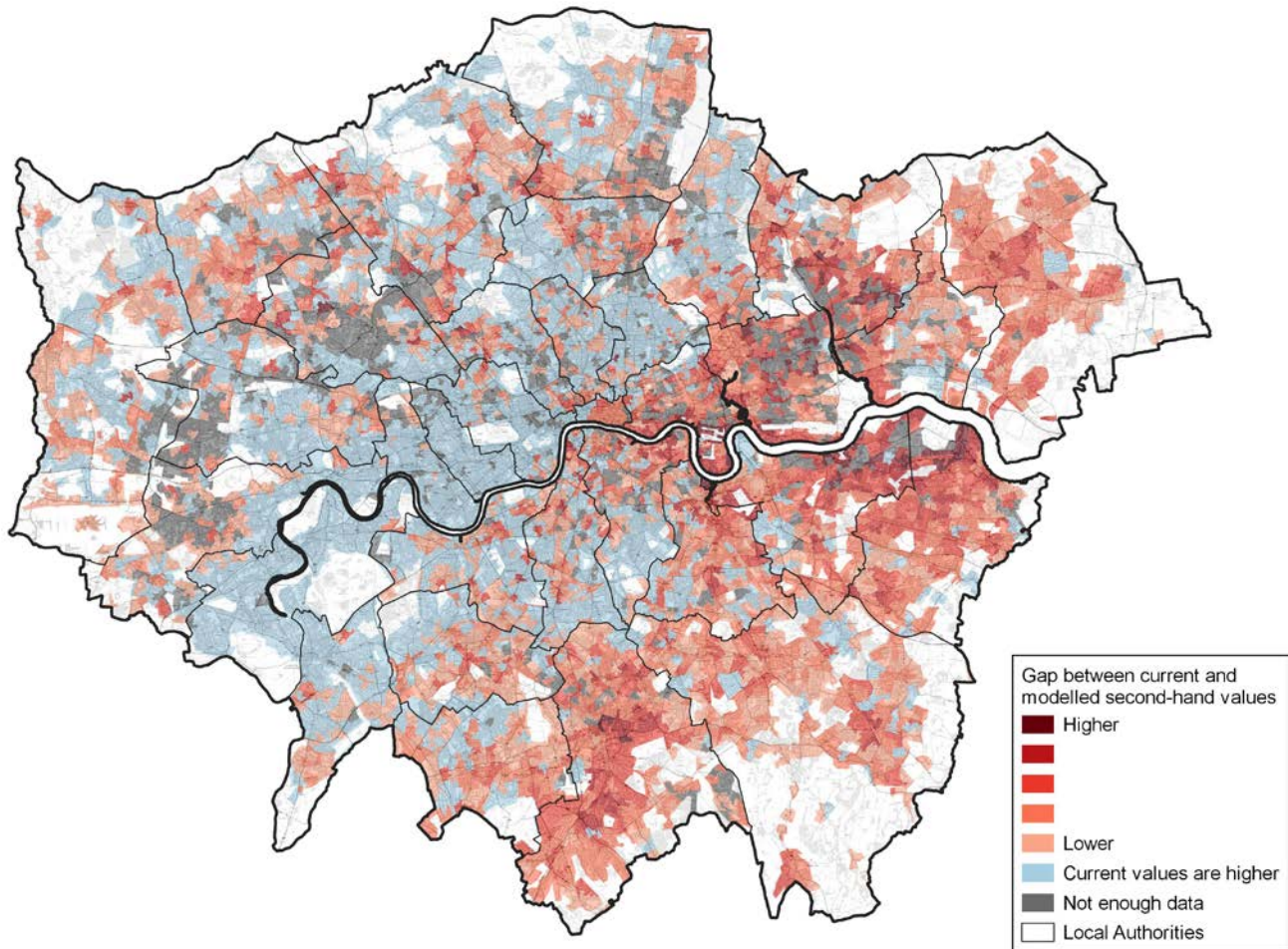


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For instance, as the graph shows, median values between 20-30 minutes of central London go from £765 per square foot in a location with a 'poor'* quality of place, to £1,177 per square foot, an increase of 54%, where the quality of place is 'good'. The same change in quality of place for locations between 50-60 minutes of London is just 16%, from £499 per square foot to £578 per square foot.

The million dollar question

So where are the areas with the greatest 'hidden value' and therefore the greatest potential for value uplift? The map analyses all 4,000+ micro locations across London. Areas in dark red have the greatest 'hidden value'. Here, current values are much lower than the average values seen in areas with similar characteristics of travel times and quality of place. These areas tend to be found in East and South East London. Areas

in blue have values that are currently at or above those found in similar locations and therefore likely have limited potential for value uplift.

The relationship between commuting times and quality of place shows the art of the possible in terms of value ceilings, alongside a large number of areas in which there is the potential to close the gap, where precedents prove what is possible and show what 'good' looks like.

What does good look like?

There are a number of traits and characteristics defining schemes that have turned 'ok' locations into 'good' locations. These are found in development designed to help create a curated and appealing public realm. This includes safe, secure and legible routes connecting through the site and the wider area; streetscaping prioritising pedestrians; an aspirational

food and drink offering; health facilities, shops, pocket parks, meeting places and play areas.

In short, value lies in a well-connected, well-served community.



Paul is Director of Consil UK. He has been a chartered surveyor since 2002 and was national head of building consultancy at GL Hearn from 2006 until the business was sold in 2015. Paul served on GL Hearn's Main Board from 2011-2015. He is a leading neighbourly matters adviser and has specialised in this area since 2000.

RIGHTS OF LIGHT

Brief guide to protecting your assets in relation to rights of light and construction access

Paul Smith paulsmith@consiluk.com

Paul kindly agreed to write this article after an ACES member suggested an article explaining how compensation for loss of a right of light and other similar impacts created by a large-scale neighbouring development are calculated. Paul had recently negotiated a large settlement for the member's employer.

Given the readership, I have focused on how ACES members can protect their estates and financial interests when development is planned of neighbouring properties. I focus on two main areas: rights of light and construction access.

Rights of light

A right of light is an easement and is the right to receive sufficient natural light through a defined aperture. Such apertures are generally windows; however, rooflights and doors can also acquire rights, the latter only if its primary purpose is to admit light into a building. There is no right under English law to sunlight, a view or a vista. These rights cannot be acquired as easements. The law applies in Northern Ireland and Wales. There is a form of rights of light in Scotland, although this is completely different to the English form and can generally only be enjoyed by different parts of the same building i.e. when it is proposed to extend or redevelop part of the same building. This is not covered by this article.

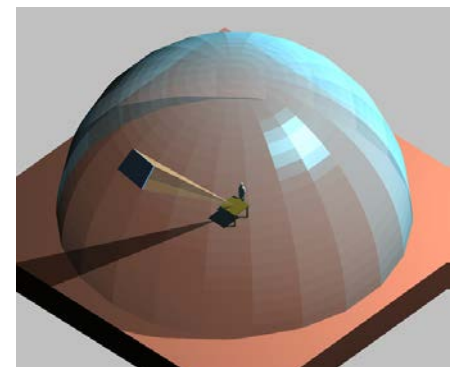
Acquisition

The most common form of acquisition is by long user i.e. once an aperture has been opened overlooking neighbouring land and has enjoyed sky visibility over that land for 20 years, a right has been acquired under s3 of the Prescription Act

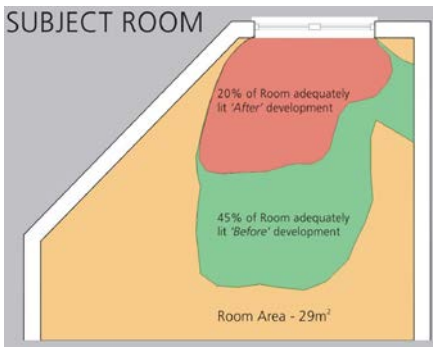
1832. Rights can also be enjoyed by new buildings if there is sufficient coincidence in the location of the apertures in the new building and the former building on the site. Another method is by implied grant or reservation. This method is less common and occurs when a parcel of land is sold and the vendor retains the title of an adjoining piece of land. Any windows in the building sold with the land will acquire rights of light unless expressly reserved in the conveyance.

Assessment

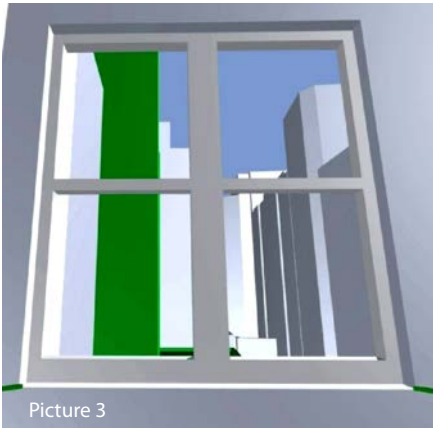
Case law has determined that apertures that have acquired right of light are only entitled to "...adequate light for the ordinary notions of mankind". This is the amount of light given out by a one-foot candle over one square foot. The amount



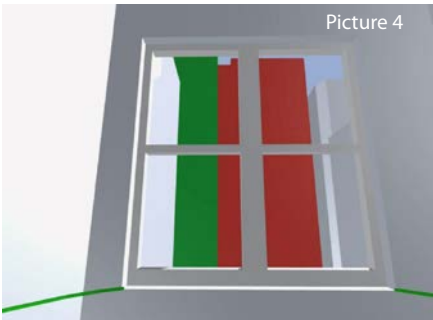
Picture 1 - Sky dome measured at working plane i.e. desktop height



Picture 2 - Existing and proposed 0.2% sky-factor contours



Picture 3
Sky visibility through a window - existing & proposed conditions



Picture 4

of sky visible through a defined aperture will determine the amount of luminosity at a point within a room. Therefore, the easement of light is directly related to the amount of sky visibility, which is measured on the working plane (the level of a table-top, which is taken to be 850 mm).

The one lumen of light per square foot equates to 1/500th of a standard uniform dome of overcast sky in December, which equates to 0.2% sky-factor (see Picture 1). The consultant evaluates on plan a contour where 0.2% of the sky-factor exists at the working plane level within a room. Firstly, in relation to buildings which currently exist opposite the window being analysed, and secondly a new contour is drawn taking account of the new buildings which are proposed to be built opposite the subject window (see Picture 2).

The method of preparing the drawings showing the sky-factor contours are known as Waldram diagrams, after their inventor, Percy Waldram. The production of these diagrams is a complicated process which is now undertaken by CAD software to produce three-dimensional models of the existing and proposed buildings and their surroundings. Specialist software is then used to calculate sky-factor contour drawings for the subject rooms so that the area of each room lit to an adequate level can be measured in both the existing and post-development conditions. This method then indicates the amount of area over which the diminution in light to the intensity of one lumen occurs, and this figure can then be put into a formula for assessing the loss in terms of monetary value.

If less than 50% of the area of any given room has visual access to the minimum amount of sky dome at working plane level, then an unreasonable interference has occurred, and a nuisance exists. This is known as the "50/50 rule" and has been referred to as the 'grumble point'. However, the test is based on a 1920s industrial standard, does not distinguish between different types of use, and is not a rule of law. In the case of *Ough v King* [1967] the judge decided that, even though more than 50% of the room area of concern still received adequate light after the adjoining development was completed, the developer still caused a nuisance for which the neighbour was entitled to a remedy. In the case of *Deakins v Hookings* [1994] the judge indicated that, with residential properties, 50% could be considered as only a bare minimum and that where possible, a higher percentage of 55% should be maintained.

Where a room is already lit to less than 50% of its room area any further reduction is considered to be an injury.

This method of assessment is still used as an industry standard; however, there are alternative assessment methods available such as radiance. The radiance test takes into account internal and external reflected light and gives a more realistic assessment of the level of light within a room via the calculation of daylight factor levels. Often a radiance analysis produces similar results to the sky factor test; however, when the adjoining property and proposed development are far apart, the results may differ.

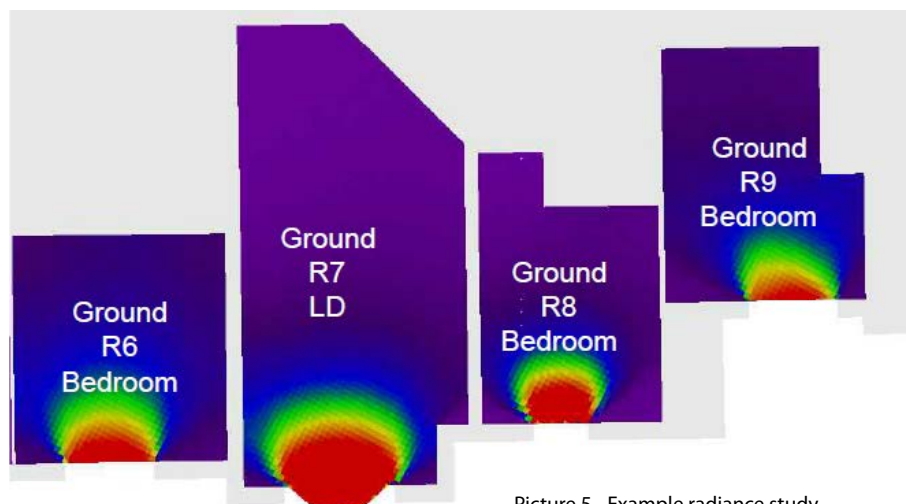
Remedies for interference

If a neighbour can prove to the courts that they have a right of light and that right has been subjected to unreasonable interference by a proposed development, then there are two legal remedies available: an injunction or damages.

If an injunction is sought it will be one of two types:

- Prohibitory – To stop a building being erected, or
- Mandatory – To have the obstruction removed.

Both injunctions can be sought in two separate forms: interlocutory or permanent. An interlocutory injunction requires the neighbour to give a cross-undertaking in costs to the developer. This is because if the application is granted it will stop the design and construction process of the developer's development. As such, the developer will be incurring costs. If the court decides that the application for an injunction was not appropriate, then the court could force the neighbour to pay the developer's costs.



Picture 5 - Example radiance study

It has been clearly emphasised in several cases that the law does not favour the idea of a developer being able to purchase the rights of light acquired by the neighbour's building. This will usually result in the developer redesigning the envelope and massing of the proposed building and/or approaching the adjoining owner to, via rights to light consultants, agree on a suitable level of compensation as a remedy for the injury. Only a developer who is convinced of his own legal position, or alternatively chooses to ignore the law, would proceed with a development which may injure the rights to light of a neighbouring property without having regard to the legal rights and remedies available to a neighbour.

Compensation

Where compensation is agreed as being an appropriate remedy, the amount is calculated by reference to the area of loss between the before and after contours once the Waldram Analysis has been completed. Rights to light consultants usually weight the base loss according to where it occurs within a room. Loss within the first quarter of the existing adequately lit area (i.e. the 'front zone' or very serious loss) is given a weighting of 1.5 times the base loss. The next quarter, (i.e. the '1st zone' or serious loss) is given a weighting 1.0 times the base loss. The next quarter, (i.e. the '2nd zone' or fairly important loss)

is given a weighting 0.5 times the base loss. The last quarter (i.e. the 'makeweight zone' or not very important loss) is given a weighting 0.25 times the base loss. A similar approach to that used for valuing retail property.

Adding these weighted areas together give what is called the equivalent first zone (EFZ) loss. It is this EFZ loss (rather than the base loss) that then forms the basis for calculating compensation figures.

Rights to light compensation is typically based upon the diminution in value that will be caused to the affected property as a result of the proposed development. When dealing with commercial property rights to light, surveyors generally adopt a traditional valuation approach using the following formula:

Area x value x YP = base 'book value'

where,

Area = the area of EFZ light loss

Value = (an appropriate portion of the current market rent that reflects the value of the direct natural light)

YP = appropriate Year's Purchase multiplier (i.e. the inverse of the current market yield for the property).

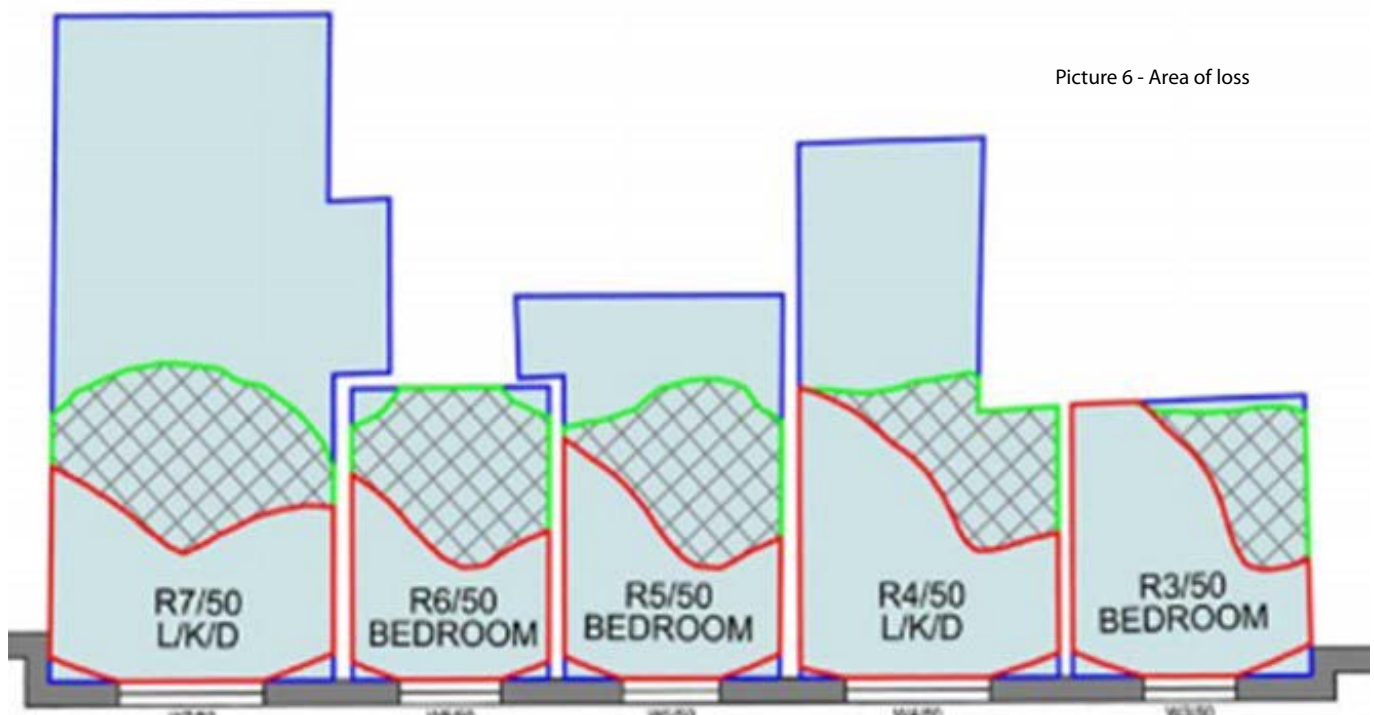
This method of valuation is slightly different to that used for investment purposes, in that the rental figure attributable to light is unlikely to be large and is generally taken as a uniform figure over the building. Most rights to light consultants would usually take a maximum

value of £5.00 per sq. ft. for property in London as a portion of the rent that relates to light.

In addition, where losses might be regarded as technically actionable, it is usual to offer a financial inducement over and above the "book value" of compensation to recognise the negotiating position of the injured party, and also to reflect the costs that may otherwise be incurred if the matter was pursued through the Courts. This case law 'enhancement' can then be added to the book value as a multiplier of between one and four times, depending on the extent of the injury. In any event, compensation is calculated based on a freeholder in possession. Where tenants have the benefit of rights of light under the terms of their lease, then the monies are divided among them, having regard to the unexpired term of their lease and the date of the next rent review.

Below is an example of how the compensation could be calculated, together with a figure showing the light loss to a neighbouring property. The area of loss is shown hatched in Picture 6.

- Area loss – weighted (Equivalent Front Zone)
- Value of light per sq. ft.
- Yield
- Enhancement of 'book value'



Picture 6 - Area of loss

Example

EFZ = 900 sq. ft.

Value of light = £5 sq. ft.

Yield = 5% (20 YP)

Book Value = $90 \times 5 \times 20 = \text{£}90,000$

Enhancement - 3 times = $\text{£}270,000$

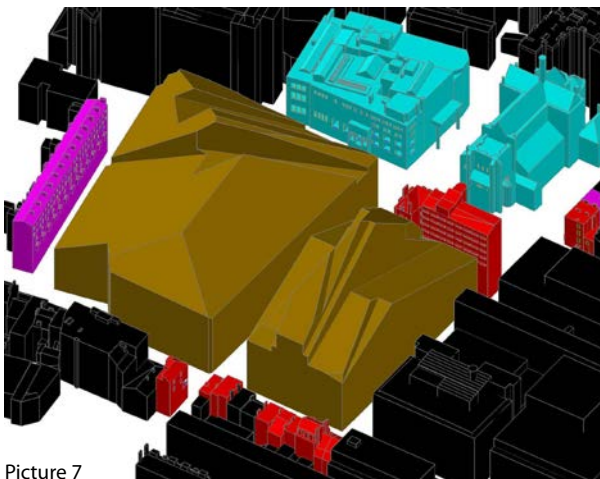
- 5 times = $\text{£}450,000$.

A further method of assessing compensation based on a share of the profits in the element of the proposed scheme which causes the rights to light injury is also regularly invoked following the Tamares (Vincent Square) Limited v Fairpoint Properties (Vincent Square) Limited [2007] case. In the Tamares case, the judge suggested that a third share of the profit would be reasonable and not sufficiently high to put off the developer from proceeding with the development.

A share of the profits might, at first impression, seem more attractive to a neighbour. However, the division of the notional profits needs to be considered and the apportionment that the developer shares should not be so high to put the developer off constructing the offending element i.e. it needs to reflect the fact that the developer is taking all the risk in undertaking the development and should take a greater proportion of the profits. It also needs to consider the number of claimants. As can be seen from Picture 7, the share of the notional profits may need to be shared by several claimants in the surrounding buildings.

Construction access

The need to obtain access to neighbouring properties - either over them in the air or on neighbouring land and buildings - is becoming more prevalent a feature of development in the cities and towns of the



Picture 7

UK. Access to neighbouring land can be required for several purposes including:

1. Erection of temporary scaffolding on or oversailing neighbours' land
2. Use of cranes that oversail neighbours' airspace
3. Erection of protective hoardings or screens for security, safety or other purposes
4. Temporary erection of structures to support or retain buildings
5. Ground anchors to temporarily retain land
6. Access on foot or for vehicles for personnel to different parts of the development site
7. Subsoil investigations.

Unless access is granted by statute, then any form of access or any form of entry to a neighbouring owner's land is a trespass.

Access under statute is limited to the following:

1. Party Wall etc. Act 1996 - access is granted under s8 for certain works under the Act including demolishing and rebuilding party walls, cutting away footings, raising or demolishing a party fence wall and certain excavations
2. The Access to Neighbouring Land Act 1992 - this Act is designed to provide access to neighbouring land for the purposes of executing what the legislation refers to as basic preservation works. These include maintenance, repair, or renewal of any part of a building or structure, clearance and repairs of drains, sewers and cables; works to cut back and fell hedges, trees and shrubs and the filling in or clearance of any ditches.

The rights granted by statute are limited and provide only minor assistance to developers looking to demolish buildings and redevelop land. The law in this area is quite straightforward and does not favour developers. The most common legal remedy for trespass is a

prohibitory injunction. Neighbours are not obliged to grant permission for access to their property and if a neighbour does choose to grant such rights, they can be subject to whatever conditions they choose and can require the payment of a consideration. Such considerations are not limited to any market rates and, in some instances can result in significant payments being made.

Access agreements are usually negotiated by specialist surveyors and, in some instances are regularised in a deed agreed by lawyers.

Points to remember and actions to take

1. Monitor planning applications near your estate and object to any that you think might affect your rights of light. This has been shown in case law to strengthen your position when it comes to any applications to the courts and will also assist in any negotiations
2. Similarly, scrutinise any party wall notices and consider whether as a consequence of the works construction, access might be needed or whether your rights of light could be affected by the proposals
3. Light obstruction notices - these are a means to interrupt the 20-year rights of light prescription period and should be acted on immediately. Some developers will use them to attempt to extinguish existing rights
4. Take advice early
5. Protect your position. Do not say (in open correspondence) that you will accept compensation or consideration for rights of light or construction access
6. Ensure you obtain reciprocal rights as part of any agreement for rights of light or construction access
7. Ensure you inform your insurers early of any construction access over your land and buildings and that the developer meets the cost of any increases in premium.

Consil provides a planning and development monitoring service to ensure our clients are able to identify these issues as early as possible and take the appropriate action.



SERVICE CHARGE ISSUES

Commercial service charges – Avoiding disputes

Andrew Morley andrew.morley@BellrockGroup.co.uk

Andrew outlines existing service charge standards and the reasons why there may be contentious issues, commonly in lease drafting and shortcomings of some managing agents.

Andrew is a chartered building surveyor and former chairman of the RICS Branch Division. He ran a building consultancy until co-founding Property Solutions Limited in 1992 as a specialist service charge consultancy. Andrew was Managing Director of Property Solutions when acquired by Bellrock Property & Facilities Management Limited in 2016 and is now Head of Real Estate, which comprises the UK's leading commercial service charge consultancy and a property management team.

Andrew has a breadth of experience embracing construction, service charge consultancy, audit and accounting. He has acted as an expert witness in relation to professional negligence claims, building disputes, service charge disputes and as a quantum expert in a High Court case, and has participated in various forms of alternative dispute resolution.

Background

Service charge is the aggregate of the various costs incurred by a landlord in delivering services to a building or estate, and in turn payable by tenants. It is a not-for-profit cost.

Typically, the range of services is diverse, from utilities and energy supplies to security, repairs, maintenance and hard and soft FM. The obligations pertaining to service charge are set out in lease agreements and upon which the management and administration of service charge is based. While the RICS Professional Standard, Service Charges in Commercial Property (effective from 1 April 2019) sets out mandatory requirements for RICS members and regulated firms, and sets standards for the wider industry, it does not override the provisions contained in leases.

However, service charge remains one of the most contentious aspects of commercial property occupation, often leading to escalated engagement, irrecoverable management time, alternative dispute resolution, and litigation. This is damaging to the landlord/tenant relationship and both parties' interests.

In the UK, the risks of occupation typically sit with tenants and there is at least a perception that all of the costs incurred by a landlord are recoverable. That is one of the reasons why the UK has attracted so much inward investment and why disputes are more prevalent than in Europe or America.

Unlike residential service charge, there is no overriding legislation governing commercial service charge. While there are no plans to create such legislation, it is my view it could offer real benefits and bring about much needed transparency and improvements in management practice, which to date the RICS Professional Standard has failed to achieve to any real extent.

Bellrock publishes academic research (1) annually on cost benchmarking and compliance metrics for both the retail and office sectors - the Service Charge Operating Reports (SCOR). From this research it can be seen that improvements with mandatory compliance metrics have been slow and disappointingly limited. This is despite the RICS' attempts through the Standard to galvanise the industry. An update of the Standard is currently in development, and I hope that the consultation process does not dilute the more rigorous standards that are needed.

So, why is commercial service charge so contentious?

There are several key factors which I shall focus on in this article. Firstly, there is no doubt that managing large multi-tenanted, often mixed-use buildings is complex and requires not only clearly drafted leases but also systems, processes and management skills appropriate for a diverse range of issues.

There is no standard commercial lease and no set of universally accepted service charge terms. It is not uncommon for leases held in respect of the same building to contain conflicting terms or definitions. Lease drafting often lacks an understanding of the practical implications of the relevant provisions, or can be sufficiently vague that practitioners interpret provisions differently or draw on well established (but evolving) case law to assist interpretation. Here lies a note of caution.

A few lease drafting examples would include reference to plant and services exclusively serving demised space which may be connected to common services, subsequently compounded by the definition of conducting media. Funds, whether reserve, sinking or depreciation funds are another issue, lacking definition and sometimes compounded by a landlord being able to make undefined provisions, or provide for future anticipated expenditure ('The use or abuse of funds') (2).

It is unusual for leases to prescribe the accounting treatment of such funds, the term over which a fund is calculated or beneficial interests, etc.

Generally, leases should aim to be clear, comprehensive and avoid alternative interpretations. They should endorse and require compliance with the RICS Professional Standard, prescribe degrees of transparency and disclosure, and provide for dispute resolution.

Because of conflicting interests between asset management and property management, landlords often require leases to provide more control and push back on prescriptive compliance with the Professional Standard. The solution must combine improved lease drafting with a management philosophy predicated on quality open-book management practice. To that end, should managing agents not enter into a contractual duty of care to both landlord and tenants, perhaps assisted by a new RICS Professional Standard on commercial property management practice?

Turning to property management, there is much room for improvement. Bellrock's SCOR reports are testimony to that. However, it would be wrong to suggest that it is universally poor, but I cannot identify any beacons of best practice.

Part of the problem emanates arguably from core training and the diverse range of skills required, an area where RICS can perhaps influence education, but with a

medium-term aspiration to improve the quality of surveyors within this specialism.

Managing agents are always reluctant to disclose their property management agreements, which falls short of my open-book view. I have seen a number of practices evolving, with agreements providing for layers of additional costs such as procurement or FM which traditionally were a fundamental part of the property management function and fee. The correct move away from percentage fees to fixed fees has fuelled this trend, together with the delegation of property management activity to building management staff. As a result, the total cost of management must now be examined carefully.

While a good building manager is vital for a well-managed building, many are responsible for the services supply chain management including the posting of costs and purchase orders. Regrettably, some building managers have little or no accounts training and, in some instances, no access to the supplier contracts governing the supply chain. A further trend is for building managers to advise on year-end accruals, reportedly bypassing property management accountants. This is extremely concerning. As a result, in some instances the property management fee appears to represent very poor value for money and when questioned on how fees have been calculated, there is typically no evidence of how the cost has been built up.

Service charge reconciliation certificates only set out key service costs, even if adopting RICS cost codes. Full cost information is contained in the year end transaction list which underpins a certificate. These should be available to tenants or their advisors, but agents are reluctant or unwilling to disclose them. Very few leases provide for this level of disclosure.

There remain significant issues with property management accounting. These include significant discrepancies, incorrect accrual accounting and, in some instances, false accounting. Funds are often poorly or incorrectly managed, particularly where service charge caps are in place. Funds and caps do not mix.

Funds also have specific accounting requirements as I mentioned earlier, but should also be reported at year end and preferably within a service charge balance sheet. I am hopeful this will be embraced by the upcoming second edition of the Professional Standard.

Now that ESG is a key topic, combined with the carbon agenda and the potential polarisation of the market, even greater care is needed with lease drafting. Landlords must engage with tenants openly as the need for asset driven energy improvement initiatives will benefit tenants to different degrees, depending on occupation and residual lease terms.

Concluding remarks

In reality the prospect of overriding legislation is unlikely. Neither do I see a move to establish a more independent managing agent role with a shared duty of care in the short to medium term. The emphasis needs to be on lease drafting and meaningful engagement between landlords and tenants through pre-lease due diligence, disclosures and much improved standards of management practice during the lease term. I am hopeful that the next iteration of the RICS Professional Standard will go some way towards this, but will the wider consultation constrain this?

To close, some of you will note that I have not commented on standards of service charge audits or accountants' reports about which there is much to be said. Something for another day! [Ed – noted].

References

<https://www.bellrockgroup.co.uk/scor-service-charge-research/>

<https://www.bellrockgroup.co.uk/the-use-or-abuse-of-funds/>



2023 RATING REVALUATION

Estate management priorities for the 2023 rating revaluation

Julian Crowley Julian.Crowley@glhearn.com

Business rates tax is complex, and directly impacts upon the cost of occupation. Julian shares his insights on the priorities for public sector estate management for the 2023 Rating List, and how to start stepping through your 'to do' list.

Julian is Business Rates Director at GL Hearn. He qualified as a chartered surveyor in 1992 and has specialised in business rates since that time. He has had a particular emphasis with public sector clients, acting for numerous NHS Trusts and five London Boroughs, the instruction on one of the latter lasting 30 years, until he changed employment in 2022. He has appeared at Valuation Tribunal on numerous occasions, at The Upper Chamber of the Lands Tribunal twice (once on behalf of a London Borough), and prepared an expert witness for a case at the Court of Appeal.

Business Rates basics

Business Rates is a tax on the occupation of a commercial property. If the property is vacant, the liability falls to the landlord or owner. Business rates liabilities are calculated using a formula based upon the estimated rental value of the property, creating a Rateable Value, multiplied by the annual rate poundage, which can be subject to a change according to inflation. The Rateable Value is set by the Valuation Office Agency, a division of HMRC, and rates bills are issued by billing authorities. Each country within the United Kingdom has a slightly different system.

Rateable Values are calculated on a specific valuation date, known as the Antecedent Valuation Date, which, in England and Wales, is two years ahead of the start date of the new Rating List, known as the revaluation. The current Rating List commenced on 1 April 2023 and is based upon values set on 1 April 2021. This Rating List will run until 31 March 2026, and there is due to be a Revaluation on 1 April 2026, based upon values set on 1 April 2024.

Spring Budget and the changes in relation to business rates

The Chancellor's recent Spring Budget did not make wholesale changes to business rates, though there was an important change contained in the supporting documentation.

Section 44a Applications: The Empty Property Relief reset period will be

extended from 6 weeks to 13 weeks from 1 April 2024 in England, meaning that a property has to be occupied for a period of 13 weeks before being eligible for empty rates relief. The government will also consult on a "General Anti-Avoidance Rule" for business rates in England. It has published at Spring Budget a summary of responses to the Business Rates Avoidance and Evasion consultation.

There has also been a conclusion reached with regard to the outstanding cases on NHS hospitals which are largely or entirely constructed of Reinforced Autoclaved Aerated Concrete. The VOA and the agent involved have agreed that a 37.5% allowance should be applied to the value of the affected areas. However, this will not be applied from the commencement of the Rating List, but from the date when the remedial works started in earnest.

Applying build costs to the 2023 List

With negotiations underway on the appropriate build costs to be applied to the 2023 valuation figures for public buildings, it is commonly acknowledged that property occupation costs have increased significantly in recent years. The Valuation Office Agency has reflected this by increasing the costs applied to local authority schools, from £1,650 p sq m to £2,100 p sq m.

It is acknowledged that costs have increased substantially in recent years. However, it can be argued that this increase can at least partially be attributed to the need to comply with carbon zero factors – a school constructed now will be built to a far higher specification than one constructed even 5 years ago, and consultancy fees will have increased hand in hand. It can therefore be argued that instead of one all-encompassing cost for ages of schools (to which an age and obsolescence allowance is applied), a dual rate of costs would be applied, one for the modern builds, and one for the older constructions. It should be noted that costs are continuing to increase, and the rates applied to the 2026 Rating Revaluation figures are likely to be far higher than for 2023.

Business rates and schools

Business rates are charged on most non-domestic properties, including schools. Currently, 80% mandatory rates relief is applied to academies, voluntary-aided schools and foundation schools. The majority of Special educational needs and disabilities (SEND) schools also receive full relief because they make provision for children with a disability. In addition, under the [Local Government Finance Act 1988](#), local authorities are permitted to grant relief against the business rate liability to certain charitable and non-profit organisations. Local authorities are able to offer discretionary relief for local authority maintained schools in their area.

Local authorities receive core funding for business rates through the national funding formula, which the government uses to calculate allocations for state-funded schools, and pay business rates to councils themselves. This means the costs for local authority-maintained schools' and academies' business rates are currently covered by the department and there is no disadvantage to state funded schools from paying full rates, or advantage from receiving rates relief.

The changing face of our libraries

It has been well reported that the number of visitors to public libraries has been in decline for a number of years. This has resulted in the closures of facilities, the sharing of facilities

with other local authority functions, and the relocation of library facilities to other types of property. The Valuation Officer Agency has acknowledged these changes, and so will recognise that they will influence the valuation of library facilities. Added to this, very few new buildings have been constructed in recent years, meaning that there is very little evidence on which to base replacement build costs, and there is the possibility that the age and obsolescence allowances should be altered.

Public toilets

The Public Lavatories Act 2021 provides 100% rates relief for separately rated public toilets. From 1 April 2020, 100% rate relief is available to occupied properties in the rating list described as 'public lavatories/conveniences'. This provision will apply in both England and Wales. The zero-liability calculation will apply only to hereditaments that consist wholly or mainly of public lavatories, so it will not, for example, apply to public lavatories in a public library, nor to publicly accessible lavatories in other hereditaments such as hotels or restaurants.

Car parks

Car parks occupied by a local authority for its own use will be valued on a rentals basis, with reference to rents within the vicinity. Where a car park is run for paying customers, the Valuation Office Agency may value the property with reference to rents, or on a profits basis. The correct approach is dependent on individual circumstance.

When vacant, most properties will get a 3 or 6 month rates free period, after which full rates will be paid. However, for land only, no rates are paid when vacant, and this should be considered on surface only car parks.

Energy Performance Certificates

As part of the government's 'Green agenda', there was due to be a requirement for all commercial properties to have at least a 'Grade B' EPC Certification by 2025. However, the decision to remove that requirement will come as a relief to landlords and occupiers alike.

Research shows that had the change

been implemented, as few as 14% of commercial properties would have been compliant. A need for swift and extensive investment would have been required and following on from that would be an inevitable impact on rental income. It is likely that the cost of any improvements would have to be passed on to tenants, leading to increases in rent which would in turn have a knock-on effect of raising Rateable Values which are based on what a property would let for, should it be available on the open market.

The alteration has now been delayed, provisionally to 2030. This is not yet a firm commitment and with a general election looking likely for Autumn 2024 (if not sooner) perhaps ushering in a new government, clarity is in short supply.

However, should the proposal remain at the 2030 date, this will mean that its impact, from a business rates perspective, will not be felt for many years and certainly not in the current, or next, revaluation.

Summary

With a complex system, and appeals taking, in many cases, over two years to complete, it is recommended that robust rating advice is taken in relation to the 2023 List Rateable Values, in order to ensure that assessments are fair and correct.

GL Hearn has 100 years of experience in managing complex and diverse portfolios for clients, minimising the cost and reducing the burden of business rates. We are the UK's oldest and largest business rates consultancy, currently responsible for verifying over £2bn p.a. of rates liabilities. It is part of WSP.



Patrick joined Knight Frank in 2022 as an analyst focusing on environmental and rural systems and analytics. He provides a unique skill set leading to fresh perspectives in Knight Frank rural, supporting rural agents in bespoke research projects.

Patrick grew up in South Africa on a farm in the Drakensberg mountains and completed an Honours degree at Rhodes University. He majored in environmental science and geography, with a focus on remote sensing (GIS) and landscape analytics. He moved to the UK in 2019 and worked as an estate manager at Spye Park in Wiltshire. In 2021, in order to better understand rewilding, Patrick worked as a PHD research assistant at Knepp Wildlands, helping to measure the natural capital benefits of rewilding at one of the UK's pioneering projects.

DATA ANALYTICS

The essence of insight

Patrick Dillon Patrick.Dillon@knightfrank.com

Patrick outlines an innovative approach to targeting markets for a Sussex vineyard business. The Research Analytics team is leading in work that uses novel analytical approaches, combined with access to various datasets, to tailor the analysis to rural businesses' needs. The case study illustrates "the importance of bespoke and targeted analysis to adapt to a complex rural economy and identify new opportunities to ensure the long-term success of businesses."

Helping rural businesses compete

A silent revolution is unfolding in Britain's rural landscape. From traditional upland farming and small rural enterprises to large estates and eco-tourism hubs, this is having a profound impact on the countryside. Much of this can be attributed to shifts in policy, the removal of European grants and a shifting climate, which is pushing rural businesses to innovate and diversify, all the while maximising income from environmental improvement schemes.

This new landscape is challenging for anyone involved. Pressures on farmers and rural businesses came into the spotlight recently in March, with farmers having their say by driving their 7-tonne John Deere tractors through the streets of London to get their point across.

This pivot for many businesses within the rural landscape reflects trends in the dynamic urban market, where needs and demands change constantly. However, with rural businesses only recently being pushed into more unsteady waters, there is a significant gap in the decision-making infrastructure and business analysis from which urban-centric industries have accumulated over decades. This disparity constricts rural businesses' strategic agility, leaving them sluggish in an increasingly unstable economic environment.

To address this gap, we are leading in work that uses novel analytical approaches combined with access to incredible datasets to tailor the analysis to rural businesses' nuanced needs, providing insights that were once beyond reach. This means businesses are not just adapting to change, they're anticipating it with a deep understanding of what's informing those decisions.

A vineyard case study

The key to this is the human element. When the owner of a Sussex vineyard first approached us, there was a keen interest in what the client termed "your artificial intelligence demographic profiling tool". However, I mentioned that while we employ AI tools and have colleagues writing the book on ethics in AI for industry, the core of our analysis is driven by human intelligence. This human-centric approach ensures that our insights are not just numbers and trends but contextualised, meaningful, and actionable.

The vineyard in Sussex acts as a good case study, as the Southeast of England is one of the fastest growing wine regions in the world. Faced with increasing competition and the need to boost cellar door sales, the winery came to us looking

Figure 1

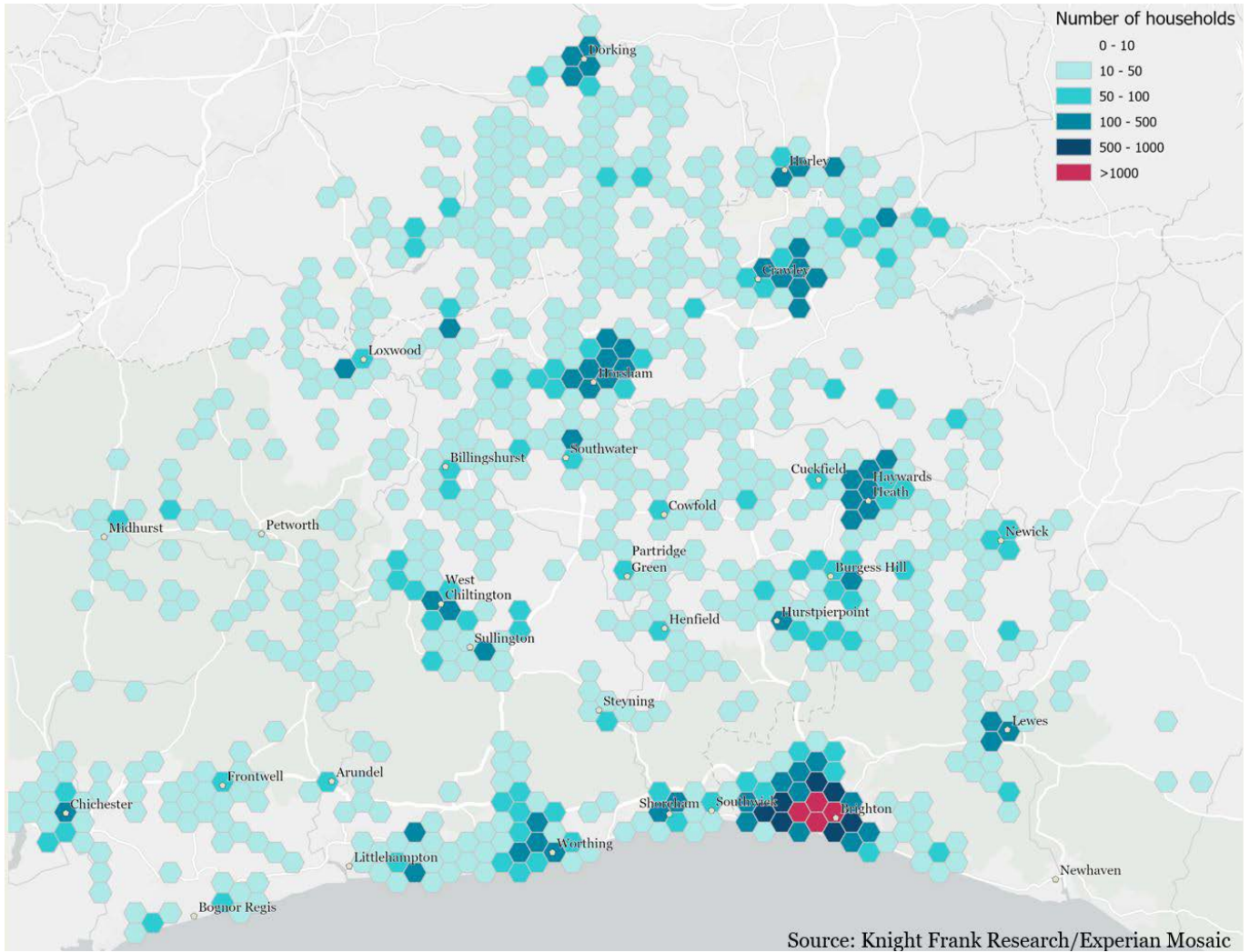
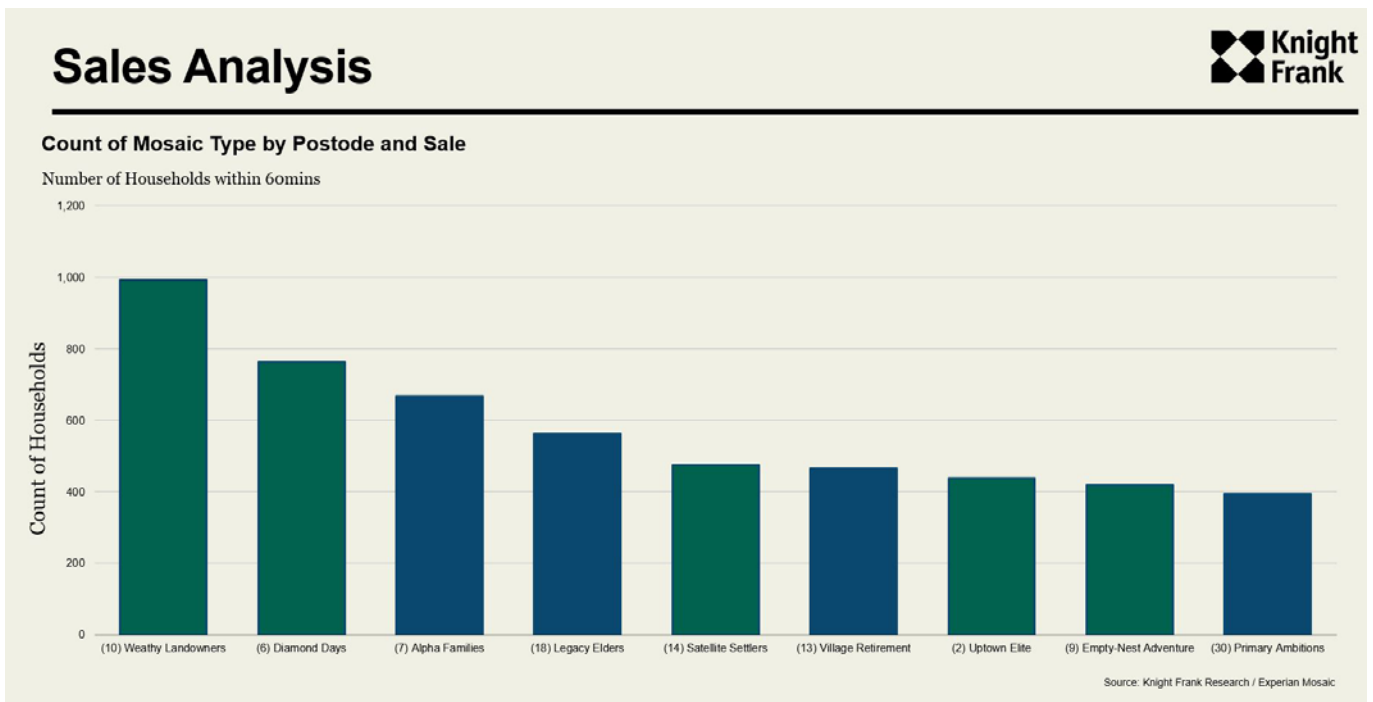


Figure 3



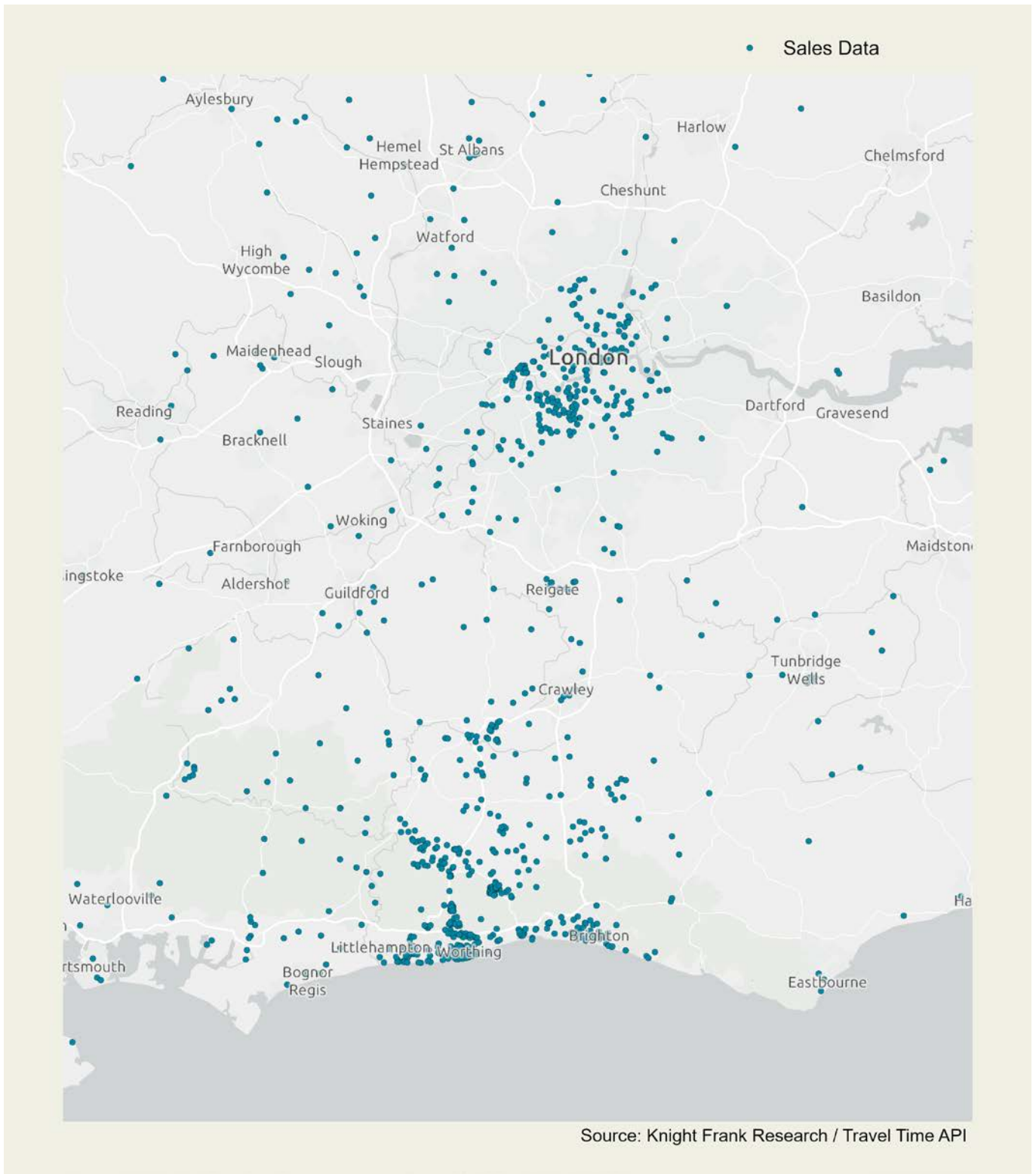
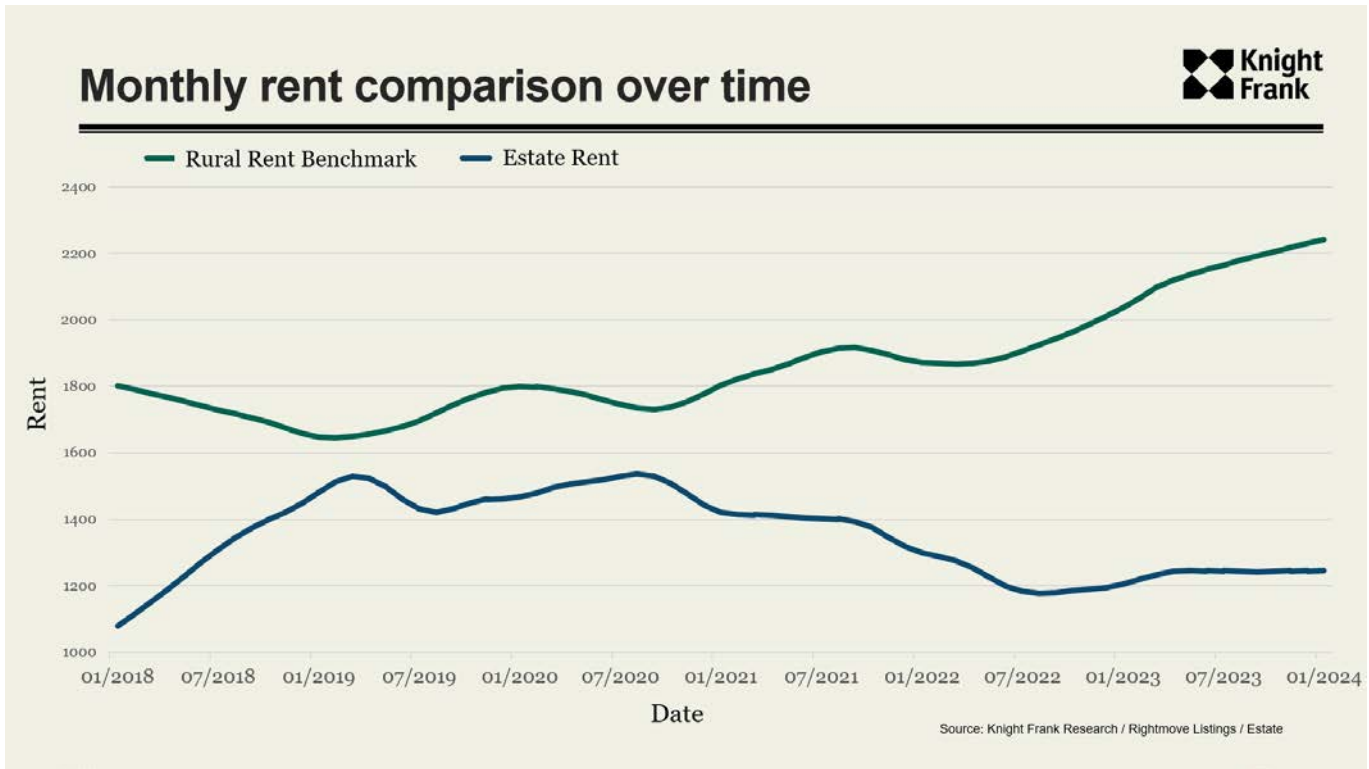


Figure 2

Figure 4



to understand their target market and potential customer base to help them make a data-driven marketing strategy. We started with fundamental inquiries like “what do you constitute as local?” and “what would you most want to know about your business if you could know anything?” These questions set the stage for the answers to the following: “how many potential customers are there?” “where are they located?” and “who are they?” Without context and asking the right questions, it is impossible to go beyond a generic analysis.

Our initial analysis (Figure 1 on page 78) uncovered that approximately 500,000 households lay within a 60-minute drive of the vineyard’s restaurant and winery, with a collective annual income of £25bn. 100,000 of these households had an income greater than £70,000, with 46,000 households being child-free.

Despite initial beliefs that most sales originated from London, the data revealed that only 16% of sales came from within 10 miles of London, while nearly half of sales revenue was generated within a 60-minute drive (Figure 2 on page 79). This challenged the vineyard’s idea of its primary market and highlighted the importance of its local market.

Next, we took the sales data from the local market and summarised the

demographics, revealing the profiles of their most frequent customers (Figure 3 on page 78).

Following the analysis for the Sussex vineyard, we carried out a broader analysis of the estate’s residential properties and developed a methodology to benchmark the rent against similar properties within a certain radius. We were able to show the estate how their rent was diverging from the average, which was due to their decision to protect the community and tenants following Covid, and the cost-of-living crisis, rather than increasing rents.

The Research Analytics team

Our Research Analytics team look to provide similar answers to some of the most challenging and complex questions bearing on the property sector. Consisting of Data Curation, Data Science, Geospatial and Innovation functions, the team combines multi-domain expertise to empower business partners to make sense of, and navigate, property market forces. This article and case study illustrate the importance of bespoke and targeted analysis to adapt to a complex rural economy and identify new opportunities to ensure the long-term success of businesses.



TELECOMMS REALITIES

The reality for public sector landlords

Will Jackson MRICS – wjackson@hubtelecoms.co.uk

Will is a chartered surveyor specialising in telecoms and works as a Senior Surveyor at Hub Telecoms.

Based in London but with public and private sector clients throughout the UK, Hub are telecoms consultants working exclusively on behalf of landlords. We are able to deal with any telecoms-related matters including new sites, lease renewals, rent reviews, upgrades, radio frequency and equipment audits, terminations, lift & shifts, structural reviews, and dilapidations.

We can also offer a full access management service, including the reviewing of risk assessments and method statements and health and safety documentation, to ensure compliance with relevant legislation, good practice and implementation of safe systems of work to enable our clients to focus on their core business.

Illustrated by disturbing images of poor practices, Will explains the unintended effects of the 2017 Electronic Communications Code, in terms of poor and sometimes unsafe installations and the unequal standpoints in law of landlords and operators: "It is the operator's position that public sector funds should subsidise their incredibly lucrative private businesses which turnover billions of pounds annually."

Introduction

The 2017 Electronic Communications Code, intended to streamline relationships between landlords and operators and increase the rollout of 5G throughout the UK, has unravelled into a series of unintended consequences. Contrary to the benefits envisioned by the government and predicted in the Department for Digital, Culture, Media and Sport's (DCMS) Impact Assessment, the outcomes have included a trail of escalating costs, hostile negotiations, controversial court decisions and an ever-looming threat for landlords.

Sites becoming more expensive for all parties

Far from the intended outcome of making sites more accessible for the rollout of modern communication technology, the Code has, paradoxically, made sites more expensive for the operators to acquire. Instead of cost reductions, the changes have inadvertently led to an upward spiral in the overall expenses of acquiring new sites and negotiating lease renewals at existing ones. Landlords, unwilling to be bullied into unfavourable agreements by the Code, operators and their sweeping statutory powers, are rightly holding their ground. This has resulted in protracted negotiations and increased agent and legal costs for both sides.

Even though the valuation methodology behind the Code heavily reduces rents payable, the associated costs of agreeing terms have skyrocketed. Landowners are no longer willing to overlook disagreeable terms of leases or poor behaviour by the operators in exchange for the derisory rents offered. In many cases, the rent being offered simply does not outweigh the headache for landlords in accommodating telecoms on their property.

The DCMS commissioned Impact Assessment included an independent analysis that included an estimate that rental payments to landlords would fall by 40%. While this may seem drastic to those who are not knowledgeable of the telecoms sector, I am afraid that this was actually hugely optimistic compared to the reality faced by landlords today. When the Code first became law in 2017, offers were swiftly made to landlords devaluing their sites by up to 99%, with offers as low as £50pa in exchange for landlords ceding all control of their property to the operators. This included the operators having the right to 24/7 365 days a year access with no notice and no supervision, having the entirety of a rooftop under their demise, and thus being able to install their equipment throughout the roof with no regard to health and safety, radio frequency or building structure concerns. Commonsense will tell you that this was



Equipment overhanging children's playground



Contractor leaning over a 12-storey rooftop without being attached

not deemed an acceptable or enticing proposition by the landlords affected, and the entire industry subsequently ground to a halt. It is the operator's position that public sector funds should subsidise their incredibly lucrative private businesses which turnover billions of pounds annually.

With an abundance of litigation having taken place in the preceding years (over 800 court cases, and counting, against less than 10 ever for the previous Code), the matter of valuation has been simplified by the courts. It amounts to a valuation table where sites are valued based on shared characteristics with previous rental values set by the courts. While this has helped the issue of valuations under the Code become unstuck in some cases, it has not sorted the issue completely, with landlords still suffering. By way of example, the value of a rooftop site is still less than 75% of what it once was under the previous Code and valuation methodology based on market value, rather than the "no-network" assumption surveyors must use under the new Code. This states that one must ignore the presence or use of telecoms when valuing a telecoms site (yes, you read that correctly).



Landowners standing their ground

One of the unintended consequences of the Code has been the reaction of landlords who, no longer willing to tolerate poor behaviour from the operators, are resisting unfair negotiations and making it clear that they will not be coerced into agreements that undermine the rights and interests of themselves and the public. This has also led to delays and animosity between landlords and operators throughout the sector due to the improper behaviour of the operators concerning (among other matters), health and safety, cooperation, access demands, upgrade requests, fire safety, site security and site cleanliness.

Whereas before when the larger annual rental income was being paid to landlords, many of these concerns were glossed over; now that the rents have plummeted, landlords are rightly no longer willing to put up with behaviour detrimental to their asset, whether this be a field full of crops or a residential skyscraper.

The Sword of Damocles

The Code was meant to bring clarity and efficiency to negotiations, but instead, it has become the thread by which the threat of legal action hangs over the heads of

landlords like the sword of Damocles. The Impact Assessment did not foresee this, and the Code has undeniably created an environment of apprehension and mistrust that permeates throughout the sector.

Operators have been granted incredibly powerful rights under the Code akin to compulsory purchase and can serve notices on landlords at will to change any part of an existing agreement that is holding over, or on a landlord whose land they wish to access for a new site. There is no way for the landlord to refuse the operator permission to access and assess the suitability of their private property through an intrusive survey called a Multi-Skilled Visit (MSV). Any Landlord who refuses or does not respond can have the MSV enforced on them by the courts.

If a site is deemed suitable, the landlord then cannot refuse to enter negotiations for a lease upon its property for a telecoms installation. A landlord may only remove an operator whereby a settled intention to redevelop the site can be proven. This can then be bitterly fought by the operator, who has the power and resources to apply to court throughout.

Such an endeavour can be too expensive for smaller landlords to even reach court. Given the operators are multi-billion-pound businesses, they can easily afford the tens of thousands of pounds needed

to reach the Upper Lands Tribunal, and so the threat of extortionate legal costs often leads to landlords kowtowing to their demands in order not to make a poor situation even worse.

Conclusion

As we assess the aftermath of the Code 7 years on, the intended benefits as predicted by the DCMS' Impact Assessment have been unequivocally overshadowed by unintended consequences. The costs have increased, negotiations have stalled, and the sword of Damocles hanging over landlords has created a hostile environment far from the initial vision.

Once negotiations are completed and the operator's equipment is installed, landlords then face a constant battle to ensure their property is not damaged, maintained safely, and kept in an adequate condition.

It is crucial to recognise that the Impact Assessment predictions and aims of the Electronic Communications Code 2017 have simply not worked in the real world. It has become so lopsided that for landlords the hassle and burden of hosting telecoms installations on their property has actually turned into a liability.



TRAVELLER EVICTIONS

Rent arrears and evictions from licenced traveller sites

David Asker property@hceggroup.co.uk

David sets out practical advice in removing travellers peacefully.

David is an authorised High Court Enforcement Officer with over 37 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.

Security of tenure

Travellers who live on public (local authority or housing association) or privately owned authorised sites are subject to council tax, rent, gas, electricity and other associated amenity charges in the same way as other residents.

On a licenced site, the pitch (the space required to accommodate one household) will be subject to a tenancy agreement and a code of conduct.

In 2008, following the case of Connors v UK (2005), the Mobile Homes Act 1983 (MHA) was amended by the Housing and Regeneration Act 2008, s318, to ensure that travellers living on local authority sites in England would have full security of tenure.

The Welsh Government introduced similar legislation in 2013, with Orders for Wales added to the MHA 1983 and Housing and Regeneration Act 2008.

When might a tenant be evicted

The tenant may be evicted from the authorised site if they breach one or more terms of their pitch licence, after being given notice of the breach and not having put things right within the reasonable time scale provided.

Breaches of the pitch licence may include:

- Failure to pay the pitch fees
- Antisocial behaviour
- Failure to maintain their caravan/mobile home
- Allocation of a pitch to another party
- Allowing others to join them without consent.

Tenants might also be evicted if the mobile home on their site is not their





main residence, or a court decides it is reasonable to make an eviction order.

The landlord will apply to court to end the tenancy agreement and then apply for a possession order – these are both usually applied for at the same time.

Enforcement of the possession order

The possession order may then be transferred to the High Court for enforcement by a High Court Enforcement Officer (HCEO) under a writ of possession.

The writ authorises the HCEO to clear only the land identified in the court order. Securing the land to prevent reoccupation is the responsibility of the local authority.

How and why eviction is different with a licenced site

Removing occupiers from a licensed site is fundamentally different from removing travellers in transit. Those in transit will be expecting to be moved on a regular basis and, in the main, accept this as part of the process.

On licensed sites, however, some occupiers will have been living there for a considerable time; some families have been established 20 or 30 years, even their entire life, and will not accept removal with such equanimity.

Local intelligence is key

Risk assessments and detailed operational planning are always an essential part of preparing for an eviction, never more so than when resistance, and potentially violence, are likely. Knowing the nature and complex dynamics of the particular site is an essential part of that preparation. Working with the police is essential on cases of this nature, ensuring resources are available.

Intelligence might include knowing about ongoing disputes and hostility between family groups on site, who the influential people are within that particular group, and who may be highly influential, and the likelihood use of barricades to prevent removal. Blockades we have experienced can include vehicles with flat

tyres in front of caravans, which then have children placed inside.

Leader of the site

The influencers of the community can support the objectives of the HCEO and their team, if they feel it is in their interest to do so. We had one instance where they told the family in question to stop their resistance and leave, which they did.

We worked on another site where we developed good rapport with the leader of the site and, after two weeks of negotiation, the occupiers moved themselves peacefully, which was a great result as the chances of violence had been very high.

More advice

If you would like to know more about the removal of travellers, whether from the roadside or a licensed site, please do get in touch.



Jessie is an Estates Surveyor at South Gloucestershire Council, currently working on developing a property strategy to manage the asset portfolio, while considering the alternative land use options and optimising benefits to the local community. She started her career in Knight Frank as a graduate surveyor, where she completed her APC training in Hong Kong and mainly worked on professional litigation support and advising landowners on planning and development feasibility. She relocated to Bristol in 2021 for her master's study, and rejoined the real estate industry in August 2023.

Jessie is keen to inspire the next generation of talents and actively contributing to outreach events to promote diversity and equality in the surveying profession.

MIPIM and FACES

MIPIM Challengers 2024 - Invest in our future

Jessie Leung

Jessie gives a personal view of MIPIM, which seems to be revamping its image. One indication is the MIPIM Challengers event, which Jessie took part in. She also updates readers on ACES' FACES initiative and the all-important issues of limited diversity in the real estate world.

MIPIM Challengers

'MIPIM', or Le marché international des professionnels de l'immobilier, is a four-day networking and exhibition event for the real estate industry taking place in Cannes, France every year in March. Although it is described as a 'global urban festival', I must admit to not having heard of MIPIM when I was working in Hong Kong, and naturally wasn't aware of the scale of the event, or variety in the background of delegates. I remember receiving an email from my Head of Services in October 2023 forwarded from ACES, that there is a new initiative at MIPIM 2024 called 'MIPIM Challengers', and wondering if I should give it a go as I have

just started working for 2 months in a new country for the first time. The programme is a new initiative that invites a group of young built environment professionals under the age of 30 to take part in the full event of MIPIM to 'challenge' the real estate industry, by making our case for solutions to the current urban issues.

Everything happened very quickly, from drafting my 600-word essay for the question *'What is the most crucial challenge confronting global urban development, and how can young professionals contribute to its solution'* within two weeks, to receiving the email that I was selected as one of the 15 Challengers in December (unbelievable





Our team in the Challengers workshop discussing and preparing our presentation

moment on a Friday afternoon working from home).

A MIPIM organiser arranged an exclusive masterclass for the cohort to learn about public speaking and presentation skills, hosted by UNESCO Ambassador Guila Clara Kessous, who is very charismatic and empowered us with her personal tips in overcoming the anxiety for public speaking. For me, it was even more special because English is my second language and the workshop boosted my confidence to present in the Challengers Conference on the third day of MIPIM, where we shared our ideas and had a panel discussion with Annette Kröger, Chief Executive Officer Europe of PIMCO Prime Real Estate, and Muyiwa Oki, President of The Royal Institute of British Architects (featured in the image).

The theme for our presentation is 'Retrofitting and cost of the road to zero'. Our team chose a name of 'RETRO' – Reimagining the Existing To Reach net 0 – to capture the message we wanted to bring to the audience. If only our world was built of Lego, we could replace old buildings with new ones and shift them around easily. In reality, we can only work with the existing fabric and avoid further wastage in the construction industry.

We made the case that the debate should no longer be whether to retrofit or not, but how to do it more efficiently as a team, engaging every stakeholder in

the process. The call for action is to upskill the entire workforce, from professionals working behind the scenes, to frontline workers with the technical skills for retrofitting. We need enhanced soft skills to persuade homeowners to retrofit, and this can only be done through building trust and understanding. It is time to invest in the people, which is the most important asset of real estate industry. It echoes with my personal submission of essay on heat management. In the UK, we have used too much effort to trap heat in the winter and then only realise the need to keep heat out in the summer under the extreme weather conditions brought by climate change. I think if we start to tackle smaller issues that affect our daily life imminently and focus on finding a simple solution, through retrofitting for example, then we can unlock the road to reaching net zero.

As I was the only person from South Gloucestershire Council at MIPIM this year, I received a few meeting invitations from businesses to explore partnership opportunities. Although I was more of a messenger than final decision-maker, it was an interesting experience to learn from their marketing skills. I have also met a lot of different people at the exhibition stands, understanding what they are doing in their respective roles to shape the built environment into a better place. However, the best people I've met is the cohort of

Challengers who come from very different backgrounds – planner from Wales, lawyer from Scotland, architects from Mauritius, Italy and France, engineer who worked on the Falkland Islands, researcher from Nigeria, and so on.

Going to MIPIM without a team can be daunting and lonely at times, but having the supportive and like-minded group who are also exploring an early stage of career has made the experience much more memorable. Apart from the pitching skills and innovative ideas within the built environment, I've learnt most about the significance of networking. It is beyond simply procuring a new business deal, but more about knowledge-sharing, communicating fresh ideas, and challenging each other against existing bias towards new practices. The Opening Keynote for MIPIM 2024 by former Prime Minister of Finland, Sanna Marin, was really inspiring when she talked about the value to be a front-runner and create new opportunities, despite the difficulty and uncertainty. The main message I have taken from MIPIM 2024 is never to stop learning from each other and be courageous to push the change.

MIPIM - Making changes?

When people heard about the new MIPIM Challengers programme, they were all surprised either positively or with a shred

of doubt. The stereotypical impression of MIPIM, which a lot of speakers have joked about, is that it's full of blue suits and white hair. Real estate is always a traditional sector and MIPIM has been struggling to rebrand itself to attract new visitors. There is a highlighted focus (almost overwhelming) on promoting diversity in the built environment sector in MIPIM 2024. You can find a panel discussion or breakfast event about diversity, equality and inclusion (DEI) in almost every stand on every day of the festival. I was asked to observe MIPIM first-hand and see if all the talks about promoting DEI are akin to 'greenwashing' and stay on a superficial level. I must agree some of the campaigns feel somewhat hard pushed, and the whole focus on DEI remains largely on a level for age and gender but not race, religion, neurodiversity, and sexual orientation. There were quiet room facilities available where I stayed to avoid sensory overload and noticed others using it as a prayer room, so there are some good efforts, but not enough has been done to promote all round inclusion.

Nevertheless, I appreciate the drive to make a change because as a huge event these commitments can make noise about the importance of gender equality. Even if tokenism might be at play, the female speakers actually get the platform to talk about what they are doing and make themselves a visible role model for younger professionals like me. I attended a talk on the second day about equality of opportunities in real estate, with a special focus on women empowerment. The speakers shared their career journey and how they have fought back in instances where they were dismissed due to their gender, or opportunities were passed over due to family commitments as a mother. It was inspiring about allyship from male colleagues and managers, breaking norms of gender roles and the importance of providing the 'hardware' and governance structure to support women practically.

Personally, I was never an ethnic minority in Hong Kong where I was born and raised. There were more female surveyors in my team, and I haven't substantially experienced negative examples of sexual discrimination at the workplace. It was quite a shock for me when I entered the property scene in the UK to realise the huge inequality in terms of population representation. Most of the time I do not feel being the odd one out, because 'we are all just doing our own job' right? However,

there are times when I wish things were different, because it is just not right to have such an imbalanced workforce. I have met a network of women in surveying who have provided great support and helped with my confidence to continue challenging the industry. We do career talks and workshops in schools regularly, to raise awareness of surveying as a career option and inspire girls to fully realise their interest.

Just like the MIPIM experience, there have been ups and downs in my recent work experience (7 months in!); none of it has been easy, but I am enjoying every moment. If I am honest, the most important thing I have learned in this journey, MIPIM, and at work, is about myself, my weak side, courageous side, and all the other newly discovered qualities of which I am capable. Overall, I am very grateful to take part in this new programme, giving me this challenging and refreshing experience, as well as getting to know every beautiful person I met along this journey. Their support and insights have made the experience so much more meaningful and fruitful. A special thank you to Neil Webster and Sara Cameron for their kind support in the months leading to MIPIM, preparing me for what to expect, and ACES for sponsoring my travel expenses.

Some may say that 'MIPIM is dead' or that it is no longer making great impacts for participants in terms of business development. I still see the value in building human connections in a relaxed environment (it was sunny and warm in South France: who wouldn't love it). Not all the conversations would lead to something meaningful, but as long as you met one person that changed your mind about a new technology or the way that the built environment should work, then the event was worth your while. All this comes with a caveat that the official MIPIM ticket is too expensive for the public sector to justify attendance if it was not fully sponsored, as in my case!

FACES and the future of property

'FACES' is a recent initiative to provide a centralised support to candidates enrolled on the Assessment of Professional Competence (APC) in the public sector, as well as those that are newly qualified and in their early careers. The objective is to foster advancement, create equality, and share

knowledge within a strongly connected group. As mentioned above, Neil who has supported me is leading on the initiative and proud of the latest achievements such as the APC Away Day and Ask The Expert session, both receiving very good feedback.

There is great value in engaging the next generation and supporting their career journey, not only to ensure continuation of a talent pipeline in the industry and have a diverse range of voices in the sector including policy-making aspects, but more importantly, because there is always something we can learn from each other. The junior members can share their opinions about the traditional approach and ways of working, while experienced members can pass on the valuable knowledge they gained over the years and reinforce the strong professional ethics in the industry, from providing APC support to mentoring on career progression. This will help build a stronger connection within the industry, in preparation for a more collaborative workforce in the sector.

Reverse mentoring is another option to foster trust and understanding and bridging the generations of professionals together. I think the most important thing is to stay open-minded and always listen and communicate with each other. There is value both in keeping tradition and adopting innovative ideas. If you're a senior member in the team, support the junior members in whatever way you can, give them opportunity to try, even if it's a small one – because it might end up leading to a bigger possibility. If you're a young professional reading this, it's normal to feel lost and have low moments at times, but remember you're not alone, grasp every opportunity you encounter, and be brave to take that step forward.

Although things have been changing slowly, from what I've experienced so far as a young professional, I am hopeful that we are making progress. There are a lot of passionate surveyors trying to challenge the industry and create new value. Let's work together and believe in our future. Invest in our future by investing in the people of property.



RICS SENIOR PROFESSIONAL ASSESSMENT

How professionals with increased responsibilities towards leadership, managing people, and managing resources can become chartered surveyors

Joshua is part of the RICS Global Engagement Team, whose role is to ensure enrolled candidates on all routes to membership understand the requirements of the RICS and are best prepared for the assessment. He is also the face and voice behind many additional resources for all enrolled candidates, including the RICS APC Challenge, Senior Professional Bootcamp, RICS Assessment Platform Training, counsellor training and 8-week plan for when preparing for the final assessment.

Joshua Haswell jhaswell@rics.org

Joshua here outlines an alternative route to becoming a chartered surveyor. He illustrates it with some case options.

The RICS is constantly reviewing all its routes to membership, to offer a fit-for-purpose assessment, which provides a more inclusive process for professionals with enhanced responsibilities who have progressed and are already supporting the next generation of professionals.

Traditionally, many professionals have understood that you would need an RICS-accredited degree and engage in structured training early in your career to progress your Assessment of Professional Competence (APC) as the only way to gain MRICS status.

For those looking to join or already enrolled on Senior Professional Assessment (SPA), this route was aimed to include the more diverse professional types: commercial managers, directors, project leaders, CEOs or managers across the built and natural environment, where applicants may have gained experience in some technical competencies earlier in their career and progressed to a management role without a degree or RICS accredited degree.

Vetting eligibility

Each SPA applicant must be able to demonstrate responsibility for:

- Leadership
- Managing people (level, numbers)
- Managing resources (extent, amount, type).

These characteristics are a key focus of the vetting and also the assessment process.

In addition, the following elements of a career may also be considered: position in the organisation structure; decision-making (level, impact); international dimension; client base (type, profile); recognition from peers, media, professional bodies, or industry stakeholders.

As part of the initial vetting stages, the applicant will also provide:

- Updated and completed career history
- Organisational chart showing your position and the direct staff reporting to you.



Including a 400-word professional statement on their senior profile on two bases:

- What you are doing? Reference the indicators to demonstrate your responsibilities and activities as a senior professional
- How you are doing it? Reference the behaviours to demonstrate your progression and impact as a senior professional.

Why this route is available

For RICS, ensuring the wider profession adheres to global standards to protect the public starts with management. Aspiring professionals will follow in the footsteps of those great leaders who have also worked to obtain professional membership with RICS.

The professionals in senior profile positions will also play a part in shaping the next generation, either acting as counsellors, trained assessors, or supporting the younger generation.

RICS designed the SPA to be completed within 6 to 12 months, to allow you as a professional to find pockets of time in your week to complete systematically. Many of the SPA candidates I have worked with have finalised everything required in 1-2 months, allowing plenty of time to submit and prepare for the final assessment interview to become MRICS.

How the SPA differs from the APC

The SPA is different from the APC; it represents your professional experience and ability, effectively showcasing your skills and knowledge as a senior. The most important change is awareness that those on the SPA may not currently be doing technical work, but will often manage others who do.

The SPA assessment, submission, and interview are all conducted to the highest standards. With a key focus on their experience on the pathway and the mandatory competencies, especially conduct rules, ethics, and professional practice.

The panel will decide if you are awarded MRICS broadly based on the weighting of:

- 50% senior professional competencies and senior profile
- 25% on the technical and mandatory competencies

- And 25% on ethics, rules, conduct and professionalism.

Other elements such as the professionally written submission, how you conducted yourself in the interview, and articulation of your experience, may also contribute to this weighing and decision.

Joshua, make it easier for me to understand!

"Most SPA applicants have all the information readily available, from their already detailed reports and projects in progress or completed. Now linking those project(s) to the RICS competencies is essentially the SPA submission done."

The SPA submission consists of three case studies of 1,500 words maximum:

- Case study 1 - covering a project that demonstrates your experience against the leadership, managing people and managing resources competencies
- Case study 2 - covering a project that demonstrates your experience against a minimum of two core technical competencies selected for your pathway
- Case study 3 - covering a project that demonstrates your experience against a minimum of two technical competencies (different from other case study) selected for your pathway.

In summary, you would, within each case study, provide and show evidence of:

- A brief overview of the key issues – to give context to your understanding of these issues and identification
- An account of your role/personal involvement – which will show the management, senior profile and role you played
- An outline of some of the problems you have faced and the experience you have used to resolve these – to show experience with the competencies and high level 3 requirements of being able to advise and recommend viable solutions
- A note of the outcome and successful delivery with emphasis on the role you played – showing your understanding, what you did and how you contributed to the project

- Provide evidence of your senior profile – further enforce your senior role, management, leadership, and decision-making responsibilities
- Your experience to the pathway and the mandatory competencies, additional understanding towards the pathways and core business skills
- Include ethics, rules of conduct and professionalism as a competency – to ensure you have grasped the technical understanding and need for this in your role.

The 3 case studies

When reviewing your projects, you must ensure you have a mixture of competencies relevantly selected as per your pathway guide requirements. You want to ensure there is no overlap of competencies, though, ethics, rules of conduct and professionalism can be used in each.

I recommend having a minimum of 5 and maximum of 7 competencies shown in each case study, to help show your range of experience towards the pathway.

Case study one – This is about the following:

- Leadership
- Managing people
- Managing resources.

As an example of this, since it's towards those senior characteristics, consider what else could reinforce but also show that you did it successfully. So you may wish to choose:

- Ethics, rules of conduct and professionalism
- Communication negotiation
- Health and safety
- Diversity, Inclusion, team working, or inclusive environments.

Case study two - Think about your job:

- What you mainly do
- Selecting a minimum of two core technical competencies
- One of these core competencies is to be written to a Level 3.

Then, your accompanying mandatory competencies

- Ethics, rules of conduct and professionalism
- Three to four other mandatory competencies.

Case Study Three - Reference to current projects:

- What you mainly do
- Selecting a minimum of two technical competencies (from either the core or

optional competencies list)

- One of these competencies is to be written to a Level 3.

Then, selecting other mandatory competencies:

- Ethics, rules of conduct and professionalism
- Three to four other mandatory competencies.

Final tips

When reviewing your projects, you want to ensure you pick projects or situations where the competencies do not overlap, although it can be the same project.

If you need additional help or support, you will find the RICS SPA Bootcamp series on the Online Learning Academy, with accompanying action items, workbooks and helpful examples.



Jen is a partner and co-founder of Property Elite.

RICS APPRENTICESHIPS

Apprenticeships in the property industry

Jen Lemen BSc (Hons) FRICS jen@property-elite.co.uk

Jen's article complements the previous one, and illustrates that there are several options to becoming a chartered surveyor.

Pathways to apprenticeship

Do you want to become an AssocRICS surveyor or a Chartered Surveyor, but you don't have an undergraduate or postgraduate degree? This could be your first foray into the property industry, or you could be looking at a career change later in life. Whichever applies, or if you sit somewhere in the middle, then an apprenticeship could be the answer!

Many public sector bodies run apprenticeship schemes, either for Level 3 Surveying Technicians or Level 6 Chartered Surveyors. The End Point Assessments for each of these is AssocRICS and MRICS respectively.

The Level 3 apprenticeship typically takes just over 2 years to complete, with apprentices gaining a Level 3 Diploma. The entry requirements are GCSE Maths and English at Grades 1-4 / A*-C (or equivalent).

The Level 6 apprenticeship takes either 5 years (with a BSc awarded) or 3 years (with a MSc awarded, if you already hold a non-

cognate undergraduate degree). The entry requirements for the BSc course include 96 Universities and Colleges Admission Service points (or equivalent educational achievement) or already being AssocRICS.

There are a number of different pathways for Level 3 apprentices to follow:

- Building Surveying Technician
- Commercial Property Surveying Technician
- Consultant (Professional) Project Management Technicians
- Consultant (Professional) Quantity Surveying Technicians
- Planning and Development Surveying Technician
- Residential Property Surveying Technician
- Valuation Surveying Technician.

There are a number of different pathways for Level 6 apprentices to follow:

- Building Surveying
- Quantity Surveying & Project Management
- Property.

These can lead to the following surveying designations:

- Chartered Building Surveyor
- Chartered Commercial Property Surveyor
- Chartered Minerals Surveyor
- Chartered Planning and Development Surveyor
- Chartered Project Management Surveyor
- Chartered Quantity Surveyor
- Chartered Rural Surveyor
- Chartered Surveyor
- Chartered Valuation Surveyor
- Corporate Real Estate Surveyor and Property Management Surveyor
- Residential Surveyor.

As an apprentice, for 20% of your paid time at work, you will be given time to learn, develop and study.

Benefits to apprenticeship

There are many benefits to being an apprentice, including:

- Gaining practical experience and industry-specific skills
- Not having any student debt
- Being paid while you are learning
- Building a network in the industry
- Job security and a defined career path
- Personalised learning, rather than a traditional 'student focussed' environment, which is not for everyone
- Credible, well-recognised achievement and qualification at the end.

Apprenticeships are not age dependent and they can be suitable for new industry entrants, as well as those looking to change career later in life.

By way of an example, the Valuation Office Agency currently offers apprenticeships at both levels, offering the following:

- Salary of £22,000 p.a. (Level 3) or £26,000 p.a. (Level 6), with additional pay in London
- Flexible 37-hour working week contracts
- 25 days of annual leave, increasing to 30 days after 5 years of qualifying service
- Contributory pension scheme.

I spoke to a number of current Level 6 Chartered Surveyor apprentices to find out about their experiences. I asked each of them four questions:

1. Why did you choose an apprenticeship?
2. What were the benefits of an apprenticeship?
3. What advice would you give to others considering an apprenticeship?
4. How has your career developed since finishing your apprenticeship? (if appropriate)

And some answers from Jaz, Greg and Matthew.

Jaz Pugh, Apprentice Assistant Building Surveyor, Jonathan Cornes Associates, Building Surveying at Salford University



1. When I finished my A levels at Moreton Hall during Covid, I was unsure what career path I wanted to pursue - a full university degree course wasn't appealing to me. I wanted to get stuck in and start a career, so I researched alternative routes and the Degree Apprenticeship stood out to me!
2. Because I wanted to start a career, the Level 6 Degree Apprenticeship seemed fantastic - I was going to work in industry, be paid, my degree is paid for, meaning no student debt at the end! It was a complete no brainer. The benefits are endless; it sets you up for life including a network of people for the future
3. My ultimate advice would be don't waste your time on a full university course - if you can do an apprenticeship in your discipline then go for it! It has been the most rewarding experience and it opens up so many doors for you. I've found that it has made me who I am today and I couldn't be more grateful for the opportunity
4. I finish my apprenticeship next December, but already my career has come on in leaps and bounds; I have a fantastic team by my side pushing me to do my best always and the end doesn't seem so scary anymore! I'm incredibly excited for what may be still to come in the future!

Greg Houghton, Assistant Surveyor, MOJ Property Directorate, Real Estate Management at University College of Estate Management (UCEM)

1. I started the apprenticeship when I was 30 and had previously had a number of other jobs unrelated to property. However, the built environment was something I had always had an interest in; the apprenticeship offered the opportunity to gain both a degree from UCEM in Real Estate Management as well a professional qualification through the APC
2. The ability to earn while learning was hugely beneficial and allowed for the apprenticeship to be far more accessible for me. In addition, I found developing knowledge and skills both



on the job and through academic study to be a great way to learn. I was able to learn the theory through my studies and then put what I had learnt into practice at work. I find I am able to learn much better through experience so an apprenticeship works perfectly for me

3. Firstly, that age is definitely not a barrier to undertaking an apprenticeship. I was worried that I was perhaps too old to be changing careers and returning to study, or whether I even had the capacity to learn. However, it quickly became evident that the apprentices within my cohort at UCEM were from all backgrounds and stages of life. Apprenticeships have no upper age limit and I would absolutely advocate for them to anyone looking to gain qualifications and develop their professional skills. Studying for a degree while also working full time is without a doubt a challenge. While you are afforded 20% of your working week to studying, there will likely still be a requirement to spend time during evenings and weekends studying too. However, if I ever felt as though I was struggling or needed advice, there was always someone willing and able to assist. I have found the surveying community to be remarkably supportive, so my advice would be to never be afraid to ask for help

4. The APC is the end point assessment for my apprenticeship which I am due to sit later this spring. While I couldn't yet comment on how my career has developed, I know that the apprenticeship has been invaluable in developing my skills, knowledge and behaviours that will stand me in good stead as a surveyor.

Matthew Burn, Property Valuer, Valuation Office Agency, Real Estate Management at UCEM

1. I chose an apprenticeship as I knew solely going to university wasn't the right option for me, particularly knowing that I could essentially get paid for it. I knew roughly the field I wanted to go into (surveying) and found that you could acquire degree apprenticeships in this area of work. This particular apprenticeship appealed to me because it would be a route that would give me both real life working experience, while also having that theoretical learning behind it as my degree is in real estate management, which is something I'd like to pursue as a 'side hustle', so to be able to work and get a degree was a no brainer
2. The benefits are so vast; as mentioned, you're able to gain real life working experience to build your knowledge and depth in the working world, while gaining that vital background knowledge of things you would only really learn in an educational environment. The mix of both is second to none in terms of deepening your understanding and experience in your chosen field. The fact that you can get a professional qualification and a degree without incurring any debts and while earning a wage is the biggest benefit
3. Jump straight in feet first. The trend is shifting in the modern day towards degree apprenticeships rather than straight university. You could do all the theory in the world, but nothing compares to the learning and experience you gain from actually doing the job
4. N/A as I am currently in my 4th year and so will have completed my APC in Oct 2026, granted I pass first time.

If you are interested to find out more, you can head to the following to find out about current apprenticeship opportunities:

- <https://www.ricsrecruit.com/>
- <https://www.gov.uk/apply-apprenticeship>

JACQUELINE CUMISKEY, EASTERN BRANCH

Secretary's Spring Report 2024

Eastern Branch continues to hold monthly virtual meetings, where members and guests are encouraged to attend. The meetings may include an invited speaker, or be opportunities for colleagues to discuss topics of practical interest.

We have started the year with 3 speakers:

18 January - Esther Round, Senior Associate and Biodiversity Net Gain Lead, Agriculture and Estates Team, Birketts LLP.

15 February - Julian Crowley, Director and Sean Keogh of GL Hearne who will give us a presentation on 2023 Rating Revaluation.

14 March – The Building Safety Act 2022 by Stuart Raven, Partner, Commercial Property (Ipswich) Birketts LLP.

Speakers generally agree to write a subsequent article for ACES Terrier.

The programme continues through to the summer.

On 22 March there was an open invitation for people to visit the ACES' award-winning retrofit property by Southend on Sea before it is let [Ed – see article in 2023/24 Winter Terrier].

The in-person Branch meeting is planned for April, with final details being made.

There are still some gaps in representation from councils in the Eastern region, but an effort is being made to identify and extend the invitation to join.

GERRY DEVINE, WELSH BRANCH

Spring Meeting – 14 February 2024

Following its AGM held as a 'live' meeting in November, the Welsh Branch reverted to online (or virtual) for its first meeting of 2024, held on Valentine's Day (or Ash Wednesday this year).

After the Chairman's welcome and the usual roll call (which revealed we had 38 online attendees), the Branch Secretary encouraged the members of this combined CLAW and ACES group to submit articles for the ACES Terrier, especially where awards had been won for achievements in the end of year CLAW and Ystadau Cymru conferences and awards in Wales [Ed – see two articles on net zero schools from Welsh Branch members in this issue of ACES Terrier]. He also provided feedback from the ACES Council meeting held on 19 January, noting that the success of the first cohort of GCSE in the Built Environment examination results in Wales seemed to have sparked interest in introducing the subject in England.

The Branch Secretary confirmed that ACES President, Sara Cameron, and Branch Liaison Officer, Marcus Perry, had accepted the invitations to attend our next meeting, which is to be a 'live' event, on 14 May, when we look forward to giving them a warm Welsh welcome.

Geoff Bacon and Jonathan Fearn provided updates on CLAW matters, reporting that, in addition to the five previously existing groups within CLAW, a new Housing group was being set up. Jonathan reminded us that the CPD at our meetings (see below) is sponsored by CLAW and that CLAW also provides

funding for research topics; this had been used in the past to produce asset management and valuation guidance for local authorities in Wales, and proposals for new research projects are currently sought.

Sam Rees, Senior Public Affairs Officer, RICS Wales, said RICS has new information on damp and mould, as well as retrofitting, which would be of interest to the new CLAW Housing group to assist with the required surveys of social housing, to ensure adherence to the Welsh Housing Quality Standards. On RICS Wales events, there was an upcoming meeting in Cardiff Bay to discuss cladding and valuations of high-rise flats, and this year's RICS Wales Conference will take place in Cardiff on 4 June.

Sam reported that from 6 April, all Building Control officers in England and Wales must be registered, but there is a severe shortage, with some local authorities at risk of having none at all. He also updated us on progress with the accredited degree course in Wales, noting that there is a growing interest in degree apprenticeships, following the success of the unique Network 75 (q.v.) scheme at the University of South Wales. The Chairman pointed out that we now have to ensure that there are sufficient work placements for these apprentices: a balance of students and placement places needs to be achieved and maintained.

Clare Phillips, Ystadau Cymru (YC) and Welsh Government (WG), advised that YC is dependent on just Amanda Mark and herself since Dr. Claire Bloomfield's retirement in December. They are forming

thematic groups around, e.g., asbestos, RAAC and building safety, with Welsh Government's Building Safety officer helping out, while a good link has been established with Constructing Excellence Wales; and the Community Asset Transfer group is also being re-formed.

Clare reminded all of the Asset Collaboration Programme Grant Scheme, noting that last year the capital was all used, but the revenue grants were not fully utilised, and urged all to not miss the opportunity this year. For WG, Nigel Thomas said that the Land Release Fund will be available again next year and reminded all that it includes buildings, targeting stalled schemes, with grants of up to £5m possible. Nigel provided an update on the replacement for e-PIMS, called InSite, being developed by PlanOn, a company with a track record in building management, saying it is due for release to UK Government organisations in the Spring but will not be available to other organisations until much later in the year. However, he warned users against over-dependency on e-PIMS as it is struggling on older technology and needs to be replaced soon.

Discussions moved on to valuation and estates and asset management matters, the main part of which was comparisons and contrasts of how the various property and estates and asset management teams in each local authority are structured, under which directorates they sit within their authorities, what areas of responsibility they have (e.g. estate management, energy, corporate

landlord, asset management, disposals, regeneration, rating appeals, etc.) (though none seemed to provide s106 development appraisals for planning colleagues?); how many chartered surveyors in each team, etc. There were some instances where property teams had been broken up, some even being split into different directorates, following political pressure and overall, there was a remarkable lack of consistency in team structures and composition across the various local authorities.

Secondary topics were of targets being set by finance teams for capital and revenue arising from property, with little understanding of property markets and property's lack of liquidity in the real world; and also finance-led audits of asset valuations, with similar lack of understanding of different valuation methods and their application.

CPD Session - Chris Brain

Chris again provided two hours of formal CPD, covering updates and news on the public sector across Britain; finance and finance in Wales; the impact of the financial cuts in England; commercialism and the fallout at Thurrock Council; asset management looking at the

dwindling numbers of public swimming pools; adapting buildings for an ageing population; 'greening' proposals frustrated by rapidly rising costs and a legal challenge to a county council's sale for £34m of land it had bought for £1 in 1985 for community use; flexible working and central government intervention in the trialling by a local authority of a four-day working week.

Chris went on to look at valuation matters, reviewing the proposals in the HM Treasury consultation (which had just closed on 16 February) on possible permissible indexation of asset valuations (noting that the CIPFA Code does not currently permit any form of indexation); CIPFA-LASAAC consultation proposals to address the local authority audit backlog including "simplifying the professional revaluation of operational property"; and then considered in detail a RICS paper on the impact of ESG on the future of real estate valuations.

Chris covered net zero carbon and air quality, looking at an LGA survey of the public on preparedness for the impacts of climate change (only 5% felt prepared) and the role of local authorities in air quality in locations such as Bath and Glasgow, as well as vehicle-emissions-based parking charges in Westminster (surely vehicles

have zero emissions while parked?).

On health and safety, Chris noted that while some schools badly affected by RAAC will be rebuilt and some others will get grant funding to remove RAAC, pupils are increasingly being taken out of schools affected by RAAC as parents with safety concerns move their children into neighbouring schools, thus impacting the funding of each school.

On Levelling Up (LU) funding, one county council is considering seeking a judicial review of how the government allocated the LU funding, following an admission by a former Levelling Up Minister that the rules had been changed after Round Two bids had been submitted. The council had spent £1.2m on submitting a second bid, subsequently disallowed because its Round One bid had been successful.

Finally, Chris reported that councillors in Ealing had approved a £150m plan to acquire housing to replenish its social housing stock, which had fallen by nearly 50% between 2011 and 2023, leading to 411 families living in B&B accommodation and a further 208 families living in hotels, at a cost of £50,000 per family per year.

A very interesting and informative start to the year; we look forward to more in similar vein.



Simon qualified as a chartered surveyor in 1980. He 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 (now East Suffolk Council). He retired in 2018.

MORE MUSINGS

Cricket and shopping parades

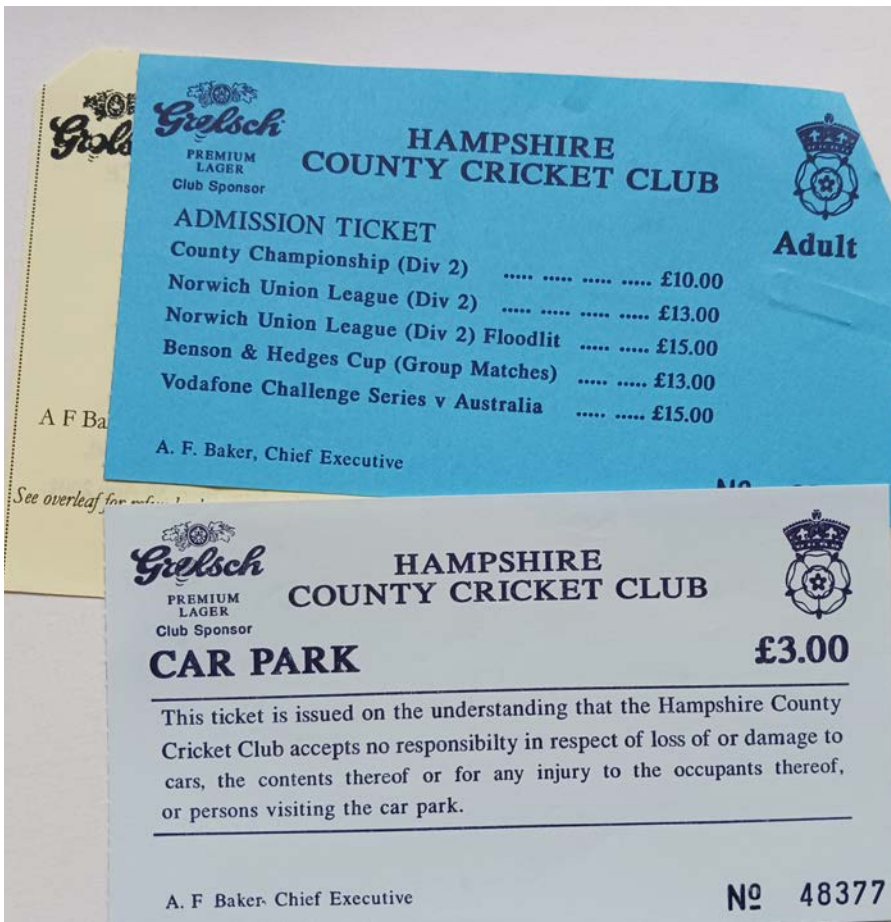
Simon Eades

Simon follows up his last article about cricket, along with some remarkable coincidences.

You do not always know where you are coming or going or where you are going to!

When I started these articles four years ago – the first one arriving in the Editor's in box – two years after she suggested that I could put some thoughts on paper – I had 40 years' experience and some memories to share but as time goes on, memory fades and it becomes more difficult to remember with absolute clarity.

I have kept a diary/journal since 1968 in various forms and completed it in different ways over the years. Sometimes I wrote an entry every night but more often I have spent an hour, normally at the weekend, reviewing the past week, recording what I had done, who I had seen, and what I was hoping to do in the immediate future. I have included press cuttings and other paper items including concert and theatre



You may wonder where this is all leading to? The simple answer is back to Southampton 40 years after my first visit! The more detailed explanation is a reflection of my knowledge that I learnt some 40 years ago still continues to play a part in my life.

Once I left NU I did not go to Southampton for several years, although I had the opportunity because my parents-in-law lived in Alderbury, a village south of Salisbury. They moved there in early 1982 from South Devon when my late father-in-law took up a bank manager appointment in Salisbury. I had recently become engaged to their daughter who had moved to Norwich to train as a midwife.

Salisbury was one of the locations of a NU local office and on a visit in late 1981, I took a photograph of the branch to which he had been appointed manager. However, he had not visited the branch at the time and, perhaps, this was not the most appropriate thing to do! On receipt, he said he now knew what it looked like externally before he made his first visit.

We visited Wiltshire regularly over the years and would explore the local area and further beyond, getting to appreciate an area of England that we did not know. However, we tended to go north rather than south and Southampton did not feature for several years.

In July 2001 we drove to Wiltshire from Bedford where our elder son was playing cricket for Norfolk. We stayed overnight in Aylesbury and arrived on the Friday afternoon. The following day I took him

programmes. When I started in 1968, I had no expectation that I would be still be completing regular entries 50 years later.

I have often wondered what I will do with the volumes as time goes on.

I could have been far more detailed in the content, but in many situations there has to be a line which could not be crossed. When I started in my first post as a Trainee Chartered Surveyor, the senior partner stressed the most importance aspect of the role was client confidentiality. Indeed, this came into focus many years later when I became an APC assessor and chairman.

The initial entries were slightly bland – “I went to Reepham to value a property” but I did not go into detail. Fifty years on, reading the entries still brings back recollections of initial inspections. I still remember reading the 40-page report of the first structural survey I did on in my first week of training in September 1973.

Whereas my first professional role was in Norfolk, my role as a management surveyor at Norwich Union (NU) meant I worked with others in the management of assets in the North of England and Scotland. After graduation, my geographical area of responsibility changed to South and South West England. The two principal centres were Plymouth and Southampton

and, to do the role successfully, there were many opportunities for travel. The properties managed were either NU offices – main branch offices in Southampton and Plymouth and smaller local offices in smaller centres - or investment properties let to tenants, where my role revolved around landlord and tenant or property management issues.





to the Rose Bowl, the Hampshire county cricket ground, to watch Hampshire play the Australian tourists. We went on the first day – Saturday – and this was Australia's first match since they won the Second Test Match at Lords, beating England by eight wickets. Hampshire fielded first and bowled the Australians out for 97 before the lunch interval. Hampshire clearly had the advantage and finished the day on 291 for the loss of three wickets. Robin Smith, the Hampshire captain, scored a century.

Newspaper reports indicated that the Australian team was resting five of their top seven players, but this did not limit the excitement. I have visited the cricket ground on several occasions but no match has been as exciting. Hampshire won the match on the third day by two wickets; this was Hampshire's first victory over Australia since 1912.

In 2004 my elder son started his last year at school and decided to read history at university. He weighed up all the possible locations and decided Southampton was his first choice. He was offered a place and in April 2005 he was invited to go and visit the campus. We stayed overnight in Alderbury and the following morning left for Southampton. He was learning to drive and he drove to Southampton. However, I had a mental moment as we approached the M27 and asked him to stop, reminding him that a learner driver could not drive on the motorway.

I told him not to worry as I knew where we were going. He was surprised – he knew he could not drive on the motorway – but at the fact I said I knew where we were going. He quizzed me as we drove along the M27 and I told him of my previous work in Southampton.

The day was extremely interesting. He was impressed with the university itself and the history department. When we finished, I took him on a tour of the city, showing him that my memory was still quite good. We went up one street and I was able to remember the names of some of the occupiers in the various shop units on the parade.

I was impressed by what I remembered! All those years ago I remembered one tenant chose not to accept the rent proposed and decided to refer the matter to the Court. This particular transaction was the last in the set of renewals and despite the evidence established in simultaneous negotiations, the tenant still chose to refer the matter.

In September 2005, my elder son started his degree and three years later he graduated. During that time I would visit him often when I was APC Assessing at Heathrow and Swindon. He decided to teach history and then spent the following year at Bath completing his PGCE qualification.

Then in September 2009 he returned to Southampton and took up an appointment at a school in the city. Three

years later he moved to Berkshire, staying there for two years before moving to North London. In 2019 he took up his current position in Kent.

By this time the younger son had qualified as a radiographer and after his first post in Poole, decided to seek a promotion and move to – you guessed it – Southampton. Once again I renewed my acquaintance with the M3 and M27, returning there several times over the last six years.

The visits have involved several moves of accommodation but he is now settled. I have not needed to rely on my navigation skills as both he and his fiancée have good local knowledge of the city and surrounding areas and we have relied on them. However, on a recent visit earlier this year I did have some spare time and I needed to buy a card reader to assist with retiring donations at a recent concert. I had seen one in Norwich and looked for the supplier's shop in Southampton. I was amazed to see that it was situated on the same road as the parade of shops I used to manage all those years ago. Could this be one of the units I used to manage? I would have to wait until the following morning.

I did not need to rely upon the Sat Nav except for the final approach, but once I saw the parade I knew it was one of the shops that I used to manage 40 years ago. There had been some changes: some occupations had changed, but there were still some familiar names. It was, and is, a street of mixed occupation and variety including several chartered surveyors and estate agents, some of whom I had visited years ago.

I did get my card reader and visited a coffee shop in the parade to put some thoughts on paper. It is of little relevance to me now whether the parade is still owned by Aviva – of which NU is now a part – but it was extremely refreshing to take stock and remind me of what I did all those years ago. As I said at the beginning, memory sometimes fades but once I was there some things came back.

I said that I thought I knew my way around Southampton! I left the parade and followed the roads into the city centre, but was photographed going along a bus lane and on my return home there was a request to pay a fine to Southampton City Council!

I will return to Southampton in the near future and will continue exploring. We will be visiting the New Forest for a wedding and, perhaps, I can retrace my steps to the Utilia Bowl to watch some cricket.



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 cuillichmill.co.uk; if it's any comfort, he assures me that he is not responsible for cooking the breakfasts.

BENTLEY MEMOIRS 'Down Under and property review'

David Bentley bentleybunch@icloud.com

David

UK public services in crisis

I think the Editor was expecting some stories from our Christmas and New Year visit to see our son 'down under' rather than some more serious observations. While I will include some pictures of Kangaroos or the like to placate her, even lapse into holiday reminiscences once or twice, for this edition, I thought I would go really off kilter and actually start with talking about work.

The one thing I really did notice in Australia was the standard of the public realm. Roads appeared to be well maintained, parks and open spaces neat, tidy, borders well planted, streets regularly cleaned, and refuse collection once a week for both general waste and recyclables. I think the family thought I'd got my priorities slightly wrong when we're at Bondi beach and I was raving on about lack of potholes and how well the local library was maintained. In contrast, and I don't think it's alarmist to say, in the UK we're facing a public service crisis. Frontline services rightly are prioritised, and we are struggling to look after buildings with increasingly inadequate 'patch and make do' budgets to maintain them. We saw three councils issue Section 114 notices in 2023, and a recent survey suggest there could be as many as one in ten of councils in 2024. As a consequence of the continuing financial squeeze, many public authorities are under increasing pressure to dispose of buildings in order to save both running costs and, generate capital receipts.

CIPFA recently ran a series of events on property challenge and while preparing the various presentation slides, I contemplated on the position we find ourselves in now, compared to those that greeted me when I first took up my post with CIPFA at the turn of the Millennium. 'Property Review' at that time was a routine activity. It was something we did on a regular basis to challenge the

property that we had, whether it was fit for purpose, and whether it was providing value for money. The pressures on us were very different, we tended to focus on service delivery issues, where buildings were located, and the potential for working with other public sector partners. Most authorities also had more data about the estate, so we could base our assessment and ultimate decisions on timely and comprehensive information. There was even a requirement to write the property review process and programme into our asset management documents.

Fly forward 20-plus years and it's all so different. Many are reactively reviewing property in light of the massive financial pressures weighing upon them. At the same time, the comprehensive data we had all those years back just isn't there, with many organisations cutting back on the resources associated with collecting such information. The results of this are that many are being forced to short termism, fuelled by financial necessity but backed up by inadequate data. I really do worry for the future.

Public buildings are part of our fabric, they give places identity and contribute to community social value. We have an election later this year and while I'm not hopeful there will be bucket loads of cash coming our way, I do hope a new government might prioritise public expenditure just a little more. Maybe I'm just trying to be optimistic, but I do wonder if it's worth holding out a little while longer with some of our decisions to see how public policy develops.

Licensing our B&B

Coming back closer to home, and Scotland introduced 'Small Term Let Licensing' on 1 October last year. It means that all small Bed and Breakfasts as well as Airbnb's have to get a licence to operate in the

future. Existing businesses can continue to operate until they hear one way or another and we're still waiting for ours. There was some thought that they might be cancelled, so I waited until the last minute to apply (along with seemingly everyone else) and Highland Council is currently working through the backlog. At the time of writing, I think they are up to about application number 2,750 with 7,600 in total on the books. Our application is somewhere around 5,700 so it could be a few months yet before we know. In the meantime, holiday bookings are coming in thick and fast, so I just hope the license result is positive. There's no reason it shouldn't be, but I've always been a worrier. I think Leila is half hoping we won't get a license at all and then we can put in

an application to emigrate and open a B&B in Australia.

Indeed, since we moved up to Scotland, we've started a regular habit of going to the beach on Christmas Day. While the cold temperatures and bracing winds haven't been conducive to swimming, maybe we'd just been turning a little bit Australian without even realising it. Christmas down under was no different and we packed our beach kit, sunnies, thongs (flip flops, before your imagination runs wild) and some homemade turkey sandwiches and set off for Palm Beach to the north of Sydney. I've subsequently found out it was the filming location for the fictional 'Summer Bay', used in the long running Home and Away series (presumably it's just called 'Home' in Australia?) I can't say I've

ever seen an episode so didn't recognise any of the locations or scenery, but I'm told it launched the careers of a number of famous actors including Chris Hemsworth, Heath Ledger, Dannii Minogue and Naomi Watts - none of which were present while we were there, but I was still hopeful a resident talent scout might still get in contact with me, recognising the potential on offer. Maybe the Editor will put in a good word for me [Ed – don't tempt me].

Photos 'down under'

David has sent me a set of photos from Australia and New Zealand, so please enjoy this montage.





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>

SELWYN – THE MIDDLE YEARS

The Fourth Musketeer (1994)

Dave Pogson

'The Selwyn Series,' 'Herdwick Tales' and 'Selwyn – The Early Years' that precede 'Selwyn – The Middle Years' were written specifically for ACES' Terrier. Each story was a self-contained episode in the life of a council property manager from 2001 to the present day and beyond, as he approached and enjoyed early retirement from the fictional Herdwick District Council. They can still be read in back-issues of ACES' Terrier, starting from 'The Final Vote' in 2017/18 Winter Terrier.

The characters often presented controversial and outspoken opinions on local and central government policy and practice. The stories were fictitious and occasional historical background details may have been changed to fit the chronology. The views expressed were those of the author, not those of ACES. The author offers thanks to former ACES member Martin Haworth (ex-Lancashire County Council) for contributing suggestions to help improve this series.

The Wandering Tup was packed with drinkers although it was still only late morning. Outside it was a pleasant late summer day and the street was busy with shoppers and tourists. Selwyn, the Property Manager of Herdwick District Council was sat with Jim, the Council's Senior Committee Clerk and Eric from the Finance Group, in the front window booth looking across at Shepdale Town Hall. They had helped themselves to a share of the roast lamb and mint sandwiches, mutton rolls and salad from the buffet provided by Arthur's family and each had a pint of Rampant Ram in front of them. Eric was leading the conversation.

'This is a bit early but I'm not complaining. It means that we don't need to buy lunch if we're stopping for a while.'

'It's strange, us sitting here, without Arthur. Even though it's been five years since he retired, I still miss him,' Selwyn offered, looking at Arthur's empty seat.

The others nodded in agreement.

'It's disappointing to think that he only had five years enjoyment of his pension after paying in for 40 years,' reflected Jim. 'I think I'll want a few more years than that before I go.'

'Yes,' Selwyn replied, 'I'll want as many years out of it as I pay in, when it's my turn. That seems only fair. So if I retire at say 60 after 40 years' service, I'll expect to live to be a hundred to get my contributions back.'

'It doesn't work like that I'm afraid,' said Eric. 'I know it sounds a bit sad but occasionally I examine the actuarial tables...'

The others laughed.

'... I can't help it, I'm an accountant. Besides, I was orphaned when I qualified in my twenties. Both my parents died within a short time of each other. So I have a bit of a personal interest in checking on my life expectancy.'

'That must have been hard,' said Jim. 'Was that around the time that you joined the council?'

'Yes. I've no relatives now and won't have unless I marry someone and that doesn't seem likely. However, it meant that I didn't really need to work. The pension, when I eventually get it, will be a bonus. My father was an accountant too and he was a shrewd investor, so they left me fairly well-off and with a mortgage-free house. That's why I don't push for promotion like you two. I wouldn't want to succeed my boss like you did with Arthur, Selwyn. I quite like working. I don't hate accountancy, despite most people thinking that it's a boring subject, but I don't want all the management responsibility and stress that goes with promotion. I just like trundling along doing what I enjoy doing.'

'There's a lot to be said for that,' echoed Selwyn. 'Being a manager is not all that it's cracked up to be. Coincidentally, I may have solved one of my stress-inducing problems recently. I've appointed a new Assistant Estates Surveyor. You know that the last one was a bit of a disappointment,



Image by Alexander Lesnitsky from Pixabay

to say the least. Well, his replacement will be joining us later and you're in for a pleasant surprise.'

'Sounds intriguing,' said Jim. 'Anyway, well done with Arthur's eulogy today, Selwyn. It was good to see the parish church packed to send him off and your words were very fitting.'

'Thanks. It was the least that I could do for Arthur. But what were you saying Eric, about actuarial tables?'

'I was just going to say that Arthur's demise, sad though it is, is really, if you look at it clinically, Arthur's way of helping us out with our pensions. He'd be the first to acknowledge the financial soundness of what I'm saying.'

Eric lowered his voice and continued.

'I can't shout this out with his wife visiting everyone in the room to thank us for attending the funeral today. However, it's just a matter of maths. If everyone paid into the Northshire Pension Fund for 40 years and we all lived to collect the pension for 40 years afterwards, then there wouldn't be enough funds available to cover the liabilities. The fund works on average life expectancies. A certain number of people have to die within a short time of retiring so that their pension stops early, and those savings are re-applied to meet the needs of those that live longer in retirement. So Arthur is one of those helping to maintain the balance of the funds for us eventually to benefit, for example, if you want to live to be 100, Selwyn.'

'Thanks for that Eric. I'm not sure that I'm comfortable with the knowledge but I'll accept your professional expertise on the subject. Really all I want to do is retire, live a long and healthy life, and claw back every penny that I've paid in. That seems like a fair outcome to me.'

'Who knows what the future holds for any of us,' said Jim. 'At least we were here to see him off. I like to think he'll be sat in some heavenly equivalent of the Wandering Tug, having a pint of Rampant Ram and swapping stories about Herdwick district with old Walter Winster.'

'And I hope that when I go, that either you, Jim, or you, Selwyn, will have some nice words to say about me, in the same way that you honoured Arthur today.'

'Don't worry Eric, you're still just a youngster. What are you – didn't we celebrate your 40th in this very pub not that long ago? You'll outlive us both. We'll probably be the ones boosting your pension in the long run, even though

you won't actually – or should that be 'actuarially' – need it.

Groans from Eric and Selwyn.

The item in the Order of Service for Arthur Croxteth (1924-1994) had introduced Selwyn to those who might not have known him.

'I'm honoured that Arthur's family have asked me to say a few words this morning. A few words are not enough to describe a fine man and a good friend. If Arthur had known that I was doing this he'd have said:

'You can only do your best. No-one can expect more than that.'

He often said that.'

Selwyn looked up from the lectern and scanned the congregation packed into Shepdale Parish Church.

'You've heard from others about Arthur's life. I intend to talk about Arthur as a surveyor.'

For 23 years I probably spent more time with him than most other people. Much of that time was spent in the offices at Shepdale Municipal Borough Council and later at Herdwick District Council, although, as many of you will know, our visits to the Wandering Tug accounted for numerous lunchtimes spanning both of those authorities. Over that time we developed a friendship that I valued highly.

I asked others at work what they thought of him. That everyone liked him was a universal theme. Some enjoyed his relaxed demeanour – Arthur being so chilled out that he'd fall asleep in the car when being driven to meetings. Others were grateful for the patience and kindness he'd shown when training them. His politeness and forbearance in dealing with difficult councillors or members of the public that most of us would have blown a fuse at was a hallmark of his character. Always the first to buy the ice creams when the summer heatwave finally arrived was fondly recalled. That he enjoyed a pint was mentioned occasionally.'

The congregation laughed at that last remark.

'However, the most common description that cropped up was 'professional'.

'Arthur was a professional, a true professional.'

But what is a true professional?

'Professional' is a curious word. We don't use it about most people. The modern dictionary definition is: "Someone engaged in a specified activity as one's main paid occupation rather than as an amateur."

But that could be anyone in any specialist, paid employment. I think what people really meant was something deeper, far more personal than that.

To most people, acting like a professional means working and behaving in such a way that others think of them as competent, reliable and respectful. Professionals are a credit not only to themselves but also to others. That was Arthur; he was the ultimate professional, providing steady, reliable and astute advice on all property matters at times of great change within the council. People knew that when they listened to Arthur, they could rely on whatever he said. Certainly I did.

Arthur and I go back to 1966, the year that England won the World Cup. I was still taking my A-levels when I visited Shepdale Town Hall to report some damage to a council building that I'd spotted while out walking on the fells. Arthur, or Mr Croxteth as I then called him, was the Borough Surveyor. He must have spotted something in me that perhaps no-one else would have noticed. It ended up with him offering me a job at the council. What's more, he saw my notes on fell-walking and took me off to see his friend at the Herdwick Gazette to talk about getting them published. I've always been impressed that a man of such high office could take the time to notice me and take a chance on a mere schoolboy on such a brief acquaintance. It was because he knew people. He was a remarkable judge of character. One of his many stock phrases, ones that I have adopted for myself over the years, includes:

'Half the skill of this job is about reading people.'

Arthur lived by that adage and applied it in every situation. I well remember the first time that I had to put that skill to the test as a young surveyor. He'd sent me to resolve a dispute over repairs to the Ulverpool Bank clock. His faith in my judgement, based on what he perceived as my ability to read character, was something that I will always appreciate. His words at the time...

'Selwyn you can only do your best. I think that you're right, so I'll back you whether it works or not,'

... filled me with the confidence to take a measured risk to get the right result. I couldn't have done it without his encouragement and support.

Another notable moment was when we concluded the negotiations for the relocation of the abattoir. That

encouragement and support was offered time and again as we worked together, right from taking me with him into the new Property Department in 1974, up to the time when he decided to retire and helped me to succeed him as Property Manager. I owe him so much.

As we were both surveyors, both local to the area and both committed to public service, we had a common outlook. Although older and more experienced than I, he never treated me as an inferior. He put up with my endless questions about procedure and practice with infinite patience while I was learning from him. As our friendship developed, I started to join him for lunch at the Wandering Tup. Jim and Eric followed on. We knew that within the council we'd acquired the nickname of the four musketeers. It amused Arthur that people saw us like that - as guardians of the council's interests - because that's exactly how Arthur saw us himself. All professionals working together representing three of the four pillars of the council - property, finance and democracy - we just lacked legal - all serving a common purpose.

It may sound odd to say this, but some of my fondest memories of Arthur stem from the time that we spent together in the town hall basement ... not everyone's ideal work location. It's where we keep our estates records and the council's property deeds. Just prior to Local Government Reorganisation, we set up camp down there to sort the deeds needing transfer to the new Northshire County functions, and sift through the deeds being transferred in from the redundant municipal, urban and rural districts. Arthur had the knowledge and understanding of what was required. But he also had enthusiasm for what might have seemed a relatively boring job. That enthusiasm transmitted itself to me. We were both quite sad when the task was over. It was deeply satisfying, working side by side, away from the distractions of other people and telephones, discovering the new properties that we would soon become responsible for.

People liked Arthur because Arthur liked people. He always took time to talk to them. An enormous number of people proved how popular he was by continuing to enquire after him when he retired. He seemed to know every farmer in Herdwick and they knew him. His local knowledge was very extensive. It wouldn't have surprised me if he'd also known every

field that they owned and every individual sheep that belonged to them. One of his other sayings that I've adopted is:

'There's no substitute for local knowledge, especially when you're negotiating.'

Arthur had local knowledge in abundance because he knew everybody. He was an excellent surveyor, a skilful negotiator and a highly effective dealmaker. However, as manager, he didn't have much time to enjoy using those skills. It's a sad fact of local government life that professionals move into management and away from what they do best. But Arthur was an excellent manager too. We had no disasters that we couldn't control, the budgets were spent to target, properties were maintained, and income and capital receipts grew steadily year on year to underpin the council's finances.

And as a leader, the staff liked and respected him, even when forced to make those difficult decisions about restructuring that impacted upon people's jobs and ultimately their lives. I never heard anyone blame Arthur for causing their problems, but I did hear many thanking him for resolving them ... because everyone knew that he applied the same standards to himself that he expected of them.

The Great Shepdale bell on the town hall struck one o'clock. Selwyn was watching the door of the pub. As an attractive young woman entered, he went to greet her. He guided her to the bar, bought her a bottle of water and steered her via the buffet, before bringing her over to the booth to join Jim and Eric.

'Jim, Eric, I want to introduce you to Farah. She's my new assistant and I expect great things of her. Farah, this is Jim, he's the Senior Committee Clerk and Eric is an accountant in the Finance Group. They are my two particular friends.'

'And his greatest allies in the battle against the Cardinals within the council. Plonk your bottle and food on the table Farah and please take that empty seat,' said Eric.

'The Cardinals?'

'It's nice to meet you. Don't take any notice of Eric's strange sense of humour,' said Jim. 'You'll get used to it. I'll translate for you in a minute.'

'Likewise,' said Eric. 'Have you just started today?'

'Yesterday actually, but Selwyn said that I should settle in first before trying to meet people in the council offices. It's so hard to

remember who everyone is and what they all do. But he said that it was important to meet you two as soon as possible.'

'It's always a bit strange at first but hopefully you'll come to like us. We don't bite. Wouldn't you rather have a proper drink?' Eric half rose from his seat as if to walk to the bar.

'Thanks very much, but no. I don't drink alcohol. I've nothing against it, and nothing against coming in pubs either, as you can see. It's just a matter of my religion.'

'Fair enough, although I think you'll find that the three of us rather like alcohol, especially at lunchtime. Where are you from?'

Selwyn provided more detail:

'Farah is from Shepdale so she knows the district well. She has an estate management degree from Lanchester University. She has worked in estate agency in Lanchester for 12 months and realises that there's far more to surveying than just selling houses. So she thinks, quite correctly, that she has more chance of passing her RICS Assessment of Professional Competence in 12 months' time if she varies her experience. She has a wish to work in public service and is not daunted by the prospect of slaving away for peanuts in local government for the next 40 years until the pension kicks in. Does that sum up your interview accurately?'

'Well not exactly but it covers some relevant points.'

They all laughed.

'She is also the most outstanding applicant that I have ever had the pleasure of interviewing. I think Arthur would be pleased with my choice.'

Has Selwyn told you why we're here today?' asked Jim.

'Yes, you're honouring the life of your old friend, Arthur, Selwyn's former boss. A great man so I've been told.'

'That's right, a great man and a good friend. It's a pity that you never met him. The four of us spent a lot of lunchtimes in here together until he retired. You're now sitting in his place. We'd hoped that Selwyn's last assistant would be the one to fill the gap left by Arthur. Sadly, it didn't work out that way. Hopefully, you'll become our fourth musketeer.'

'Ah! I get the reference ... the battle against the Cardinals within the council. All for one and one for all.'

'See - I told you she was outstanding,' said Selwyn.



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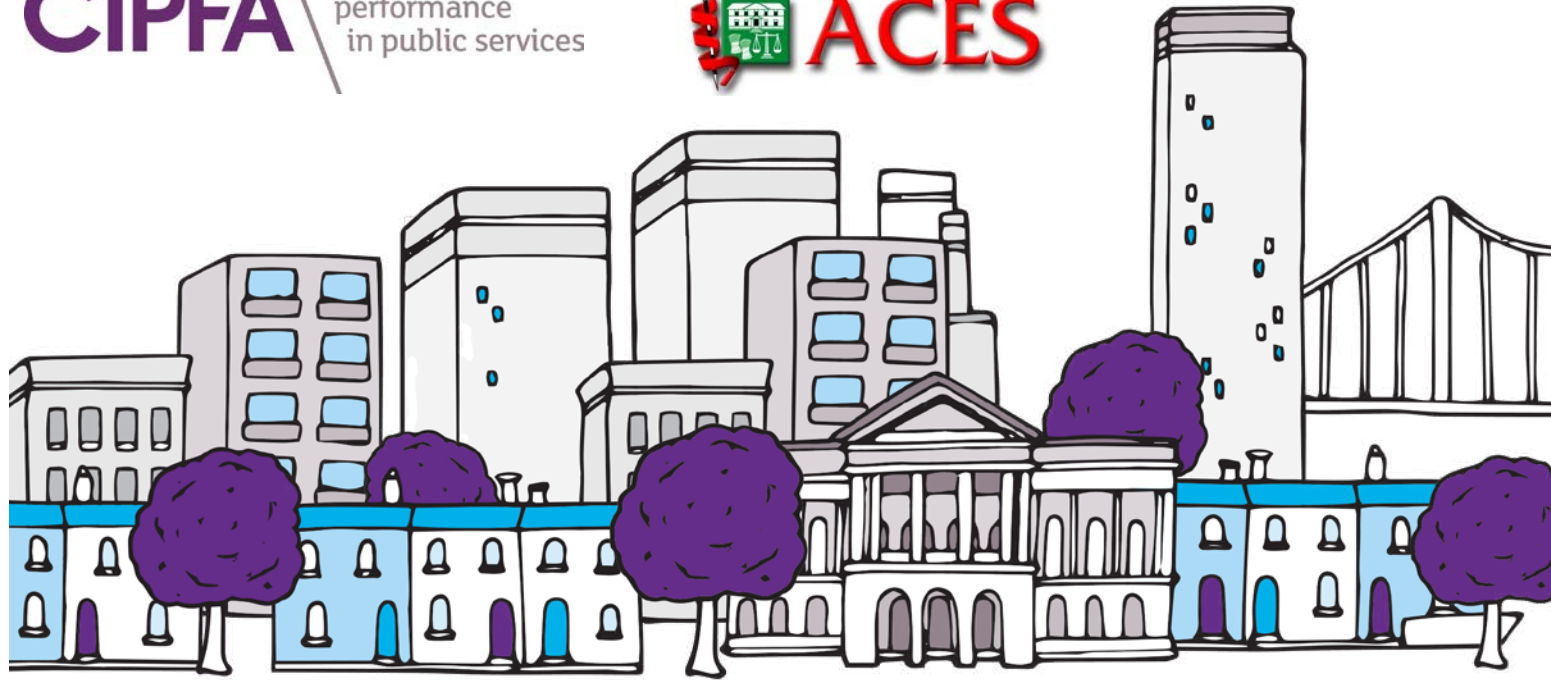
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For a copy of the course syllabus please contact Keeley Forsyth, Property Business Support Officer at keeley.forsyth@cipfa.org