



# Placeshaping: A Toolkit for Urban Community Land Trusts

Edited by Community Finance Solutions  
at the University of Salford

**April 2008**



## Community Land Trust Urban Toolkit

### Community Finance Solutions, University of Salford

*This Urban Toolkit is one of the outputs of the CLT National Demonstration Programme and brings together all the information needed for putting in place a community land trust in an urban area. It is intended for use by communities, local authorities, housing associations, development trusts and others. It explains where a CLT might be the answer to the question “What is needed to enable lasting change?” and provides the policy framework, methodologies, examples and references needed to turn community engagement into community-led solutions.*

#### Acknowledgements

The views of the contributors are their own, rather than that of their sponsor organisations.

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#### Community Finance Solutions:

Community Finance Solutions (CFS) is an award winning independent research and development unit engaged in promoting and developing integrated solutions for financial and social inclusion, and community asset ownership. See [www.communityfinance.salford.ac.uk](http://www.communityfinance.salford.ac.uk)

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## **Common abbreviations used in this document**

<b>ALMO</b>	–	Arms Length Management Organisation
<b>CLT</b>	–	Community Land Trust
<b>DCLG</b>	–	Department for Communities and Local Government
<b>DTA</b>	–	Development Trusts Association
<b>EP</b>	-	English Partnerships
<b>HC</b>	-	Housing Corporation
<b>LAA</b>	-	Local Area Agreement
<b>LDF</b>	-	Local Development Framework
<b>LHC</b>	-	Local Housing Company
<b>LPA</b>	–	Local Planning Authority
<b>LSP</b>	-	Local Strategic Partnership
<b>RSL</b>	–	Registered Social Landlord
<b>SCS</b>	-	Sustainable Communities Strategy



## Foreword by Hazel Blears

This is a pivotal time for the way Britain does the business of government. Gordon Brown has called for a “reinvention of the way we govern,” a huge transfer of power away from the centre and towards the grass roots. This is music to the ears of everyone who believes, as I do, in giving people real influence over the decisions that make a big difference to their lives.

In my experience, there are few problems that communities cannot solve for themselves - if only you can unlock their talent and ingenuity. Change goes deeper when people can take control of it - rather than having it imposed on them. And there is no service that cannot be improved by the active involvement of local people.

Housing is no exception. Few services arouse such strong emotion: few have such an impact on health, wealth, and chances of success in life. It is no surprise, then, that there is a rich history of people taking responsibility for the places where they live - by becoming neighbourhood wardens, setting up tenants’ associations, or even taking over day-to-day management of their estate.

Community Land Trusts (CLTs) are part of the same story. CLTs come in a range of shapes, sizes and legal models, but at their core they share a common purpose: to provide community-controlled, affordable housing. They can supplement and complement mainstream affordable housing provision by housing associations. They can secure the long-term future of vital assets such as open spaces, local shops and meeting halls. And they give communities a way to take greater control over their own future.

CLTs are already a reality in several places. Some have been up and running for decades. But it is time to re-examine how new CLTs can deliver in a modern context.

The Housing Corporation has been working with Community Finance Solutions at the University of Salford to assist fourteen pilot CLTs across the country - seven in urban areas, seven in rural. The pilots have received technical support and guidance from the University. Many have also had the support of local housing associations.

This toolkit draws on the experience of the seven urban pilots, as well as other existing trusts in urban areas. It brings together vital information for anyone planning to establish a CLT in an urban area. It explains the policy framework, gives examples of working projects, and sets out some of the techniques that can turn a bright idea and the determination of local people into a practical success.

I hope that many people will find this Toolkit useful in their efforts to create CLTs and preserve the value of assets generated for use in perpetuity by the community, for the benefit of the community.

A handwritten signature in black ink that reads "Hazel Blears". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Hazel Blears MP  
Secretary of State for Communities and Local Government

# I. Executive Summary and Recommendations

## Executive Summary

**“Hold on. Hold out. Hold fast. Patience is genius.”**

**(George Louis Leclerc Comte de Buffon 1707-78)**

Social innovations by individuals and communities have frequently provided the foundations from which our great state institutions have grown. The State is adept at colonising change initiated by its citizens. This can be a productive relationship as the State supports the way that citizens themselves have decided how they want to live and improve their quality of life and the general wellbeing of society.

Such changes often take generations. Excepting the 18<sup>th</sup> Century Staffordshire Community Land Trust, CLTs have moved from a marginal idea proposed by some courageous communities and radical practitioners in the early 1990s to one that is endorsed by ministers on the floor of the House of Commons (on the Report Stage of the Housing and Regeneration Bill 2007) as an “exciting” idea about which they are “passionate”. Campaigners for greater recognition of CLTs will continue to argue that the passion does not yet extend to sufficient support to help bring CLTs into the mainstream of public policy, and to fill some of the self-evident gaps in the delivery of sustainable urban change.

This toolkit, based on the experiences of a range of urban pilot project proposals, demonstrates the diversity of need and opportunity with which these emergent CLTs are trying to deal. The promoters of these CLTs are not only “problem solving”, they are “problem defining”; asking “What is the question to which CLTs are the answer?”, by taking time to explore and understand the complexity of our towns and cities and what makes them work.

The toolkit contains three main elements, based on the needs of the participants in the programme:

- A narrative of the complicated and sometimes impenetrable policy landscape that has grown up around sustainable development and sustainable communities: an attempt to make some sense of the complexity and identify parts of the landscape that are particularly relevant to what CLTs are trying to do.
- A set of tools to help tackle some of the issues that have been especially difficult to make progress on.
- Stories about what they are trying to do, to illustrate the diversity and richness of their approaches, and the value that they can bring to complex urban renewal challenges.

Policy makers understandably seek out model solutions that can be easily understood and applied everywhere. The name is important as “community-led”, “land” and “trust” all have meaning and significance. Crucially, they indicate that councils and developers cannot just reach for a CLT off the shelf, and say “We’ll have one of those”; CLTs are the

outcome of a process in which communities will take a leading role, about the use of land, in a climate of trust.

In this toolkit, we have tried to characterise the main strands of what CLTs are, what they can do and what they need to help them work better, without pretending that simplification will be easy:

- CLTs have the potential to play a major role in managing urban change and connecting the process of physical change with the achievement of wellbeing outcomes in particular places, through the engagement of communities in the process, in individual and collective behaviour change, and retaining the intrinsic value of their assets for reinvestment in that place.
- There is a real need for more effective “agency”, and agencies at the local level to deliver the practical realities of “placeshaping” and making sustainable communities happen, through sustainable development and urban management
- There is an urgent need for new institutions to deliver genuinely affordable housing and retain permanently the benefits of affordability in particular places, related to employment and community integration and cohesion.
- New placeshaping institutions like CLTs, (and Local Housing Companies] will need to have explicit recognition of their special characteristics to enable them to work effectively, by:
  - Regulators, financial institutions and charities for access to finance;
  - Local authorities and Local Strategic Partnerships as partners in Local Area Agreements, and as contractors for placeshaping; and
  - Planning and housing authorities and staff – as well as the wider community itself - as legitimate bodies for delivering community benefits.
- There is a need for greater clarity and better advice about the use of public assets and their value as a positive and pro-active tool for investment by public bodies in the wellbeing of communities; removing the negative and misleading connotations of public interest “loss” and “undervalue”.
- There is a need for increased awareness in central and local government, amongst the built environment professions and landowners of the real impacts on land value and the development process resulting from the “new” post-2004 spatial planning system.

What has become apparent is that CLTs are not just another model; indeed their very diversity defies easy categorisation. CLTs are an important way of thinking about how land and property assets, particularly those already in a public interest ownership, can be used more effectively for community benefit; “a Grosvenor Estates for the people”.

The quotation from the Enlightenment philosopher Buffon, which is the title of this Executive Summary, suggests that, through dogged persistence and effort in the places recorded in this toolkit and elsewhere, patience will ultimately be rewarded.

## **The National CLT Demonstration Programme**

The National CLT Demonstration Programme, funded by the Housing Corporation and Carnegie Trust UK, has aimed to establish CLTs in urban and rural areas, and to develop the capacity of housing associations to support them. In relation to the urban pilots, the programme has:

- Appraised 12 potential projects and held two urban practitioners' workshops in May and February 2008;
- Helped to develop cross-party political support;
- Developed proposals for a legal definition of CLTs for inclusion in the Housing and Regeneration Bill 2007;
- Developed proposals to overcome the conflict between a CLT's objectives and the provisions of the Leasehold Reform Act 1967 through amendments to the Housing and Regeneration Bill 2007;
- Urged government to make Community Housing Grant available to CLTs through the Housing Corporation;
- Facilitated the practical involvement of 6 housing associations;
- Proposed that a Facilitation Fund of £5m be established for CLTs;
- Provided contributions to the Quirk Review's first annual review and comments on the CLG's draft Local Authority Asset Management Guides in draft;
- Organised, with New Start magazine, a CLT National Conference in April 2007 and a forthcoming event in April 2008 at which this report is to be launched.
- Promoted the ongoing use of the CLT website and portal;
- Supported individual project teams to develop their capacity as pioneering CLTs.

Summaries of the work of the pioneering CLT schemes are set out in section 5. This is very much work in progress and the details contained record the position as at the end of March 2008. The current position is that the urban strand of the National CLT Demonstration programme is still an early stage of investigation and experimentation, compared with the rural strand where a number of CLTs are now building and new CLTs are being established.

## **Next steps**

Both the policy and operating environment in urban areas is complex necessarily so because the spatial scale is significantly larger, and the resources, risk and accountability arrangements of a different order. There is also active change in progress, with a new Planning Bill and the Housing & Regeneration Bill currently in Parliament. Whilst this toolkit has tried to reflect as much of this change as possible, there will be significant new features in the policy landscape, later in the year 2008 after this phase of the programme is complete. A proposal to continue the work is being considered by the Housing Corporation's as part of its Transforming Estates theme of the Innovation and Good Practice programme 2008. It is likely that the programme will be moved to be the responsibility of Ofteant.

In the meantime, it is hoped that Community Finance Solutions will be able to maintain the Community Trust portal [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk), and provide continuing updates and access to open source material related to both the rural and urban toolkits.

The recommendations which follow reflect ongoing priorities and an agenda for action for continuing work to enable CLTs to become mainstream institutions in regeneration and for promoting sustainable development and sustainable communities.

## **Recommendations**

In the detailed recommendations which follow, we have tried to strike a balance between the need for specific elements of additional State recognition and regulation, and the administrative and political support that will be genuinely enabling, and will unlock the spirit and energy of social innovation and enterprise that has emerged amongst the many active citizens and professionals involved in promoting CLTs.

### **Government: to support CLTs**

1. Recognise the role that CLTs can play in the delivery of PPS 3 compliant affordable housing, and therefore include in current legislation:
2. Adopt a legal definition of CLTs to remove barriers to fulfilling these roles:
  - Recognition by housing and financial regulators
  - Recognition by housing finance institutions
  - Recognition by local authorities and Local Strategic Partnerships
  - Avoid the exploitation of the “public interest” brand by planning applicants offering “community benefits” without effective community engagement and ownership.
3. Provide exemption for CLTs from the Leasehold Reform Act 1967 to safeguard a CLT's [and Local Housing Company's] ownership and use of buildings in perpetuity against leasehold enfranchisement by individual occupiers.
4. Recognise the role that collective ownership can play in improving access to assets and wealth, alongside individual home ownership initiatives, enabling communities and individuals to share increases in the value of their housing, and provide flexibilities and incentives in policy to enable this through the recognition already given to cooperatives and mutuals in the forthcoming Empowerment White Paper
5. Include advice in departmental guidance on the potential of CLTs and other community led organisations to make appropriate contributions to:
  - Placeshaping and spatial planning,
  - Neighbourhood governance,
  - The provision of permanently affordable housing,
  - The promotion of community cohesion, and
  - Adapting behaviours to climate change at community level.

### **Homes and Communities Agency [incorporating EP, Housing Corporation and Academy for Sustainable Communities]:**

1. Include CLTs, where appropriate, in its family of new urban finance initiatives, alongside Local Housing Companies and Local Asset Backed Vehicles, [with which CLTs have much in common] especially in its Transforming Urban Estates and Mixed Communities programmes.
2. Evaluate the potential for CLTs to be used at neighbourhood scale for long term asset ownership and stewardship in the regeneration of neighbourhoods and in new growth areas; including the local governance for the performance requirement of PPS 3 compliant affordable housing ie maintaining evidence based designated levels of affordability in perpetuity.

3. Learn from and develop earlier best practice in procurement of new development by the Commission for New Towns, in prescribing a range of dwelling types, forms of tenure, building procurement (eg self procurement) and affordability levels, (by reference to local incomes) in the disposal of all land.
4. Learn from and develop earlier best practice programmes, eg EP's Community Investment Fund, to align itself with local authorities in the post-Quirk Review programme of activities to support community led organisations that are promoting sustainable development and sustainable communities' objectives, with both revenue and capital funding.
5. Adopt best practice from existing Government backed community finance programmes, initiatives and organisations, eg Adventure Capital Fund, Future Builders, London Rebuilding Society, Development Trusts Association [DTA] to provide community led organisations with capital and revenue financial assistance, both grants and investment, and/or organisational and developmental support to secure:
  - Land and buildings for development; and
  - Public and private sector contracts for other placeshaping activities.
6. Extend the existing private sector Group Self-Build Revolving Fund to include CLTs, Co-Housing and self-commissioning building partnerships, with capacity to recycle funds for land purchase and development at least twice within each Comprehensive Spending Review period;

**Local Government Association (& Local Authorities):**

1. Advise and support the preparation of housing market studies to identify the characteristics of PPS 3 compliant affordable housing to be adopted in Core Strategies for Local Development Frameworks [LDF] and SCSs, the allocation of sites in Area Action Plans and designation of evidence based affordability levels to specific sites and in LAA targets.
2. Develop guidance for policy and good practice to ensure that political choices between maximising capital receipts from the sale of public assets and achieving wellbeing outcomes from the use of public assets are taken with the benefit of balanced, transparent and explicit professional advice.
3. Encourage the drafting of locally specific housing allocations and choice policies, for rented and shared ownership housing, that will enable CLTs and other similar organisations to play a full part in meeting a wide range of housing needs that also support community integration and cohesion, and the development and management of Mixed Communities.
4. Examine the forthcoming detailed CLG and RICS Guides on Asset Management to review the implications of evidence based policy on affordable housing in considering the best value uses of publicly owned assets, in corporate planning for budgets and operations by the council, and LSP partners where appropriate
5. Maintain a national register of disposals under the General Consent to monitor the type, scale and quality of projects to enable local authorities and central government to review its operation from time to time, and jointly with the Improvement and Development Agency [IDEA], the Planning Advisory Service, and English Partnerships' Advisory Team for Large (Planning) Applications [ATLAS] to disseminate best practice to local authorities, LPAs, government departments and community support organisations eg DTA, Community Development Foundation [CDF], Urban Forum, Planning Aid etc.

6. Consider the potential of CLTs in metropolitan areas, and areas subject to Multi Area Agreements, to hold land on behalf of a number of public land owners that serve housing markets that cross administrative boundaries but can still focus on placeshaping roles at local level.

**Royal Institution of Chartered Surveyors:**

1. Work with Communities and Local Government [CLG] to issue further formal guidance to members on the impact on valuation practice of achieving sustainable development and sustainable communities through the post-2004 spatial planning system.
2. Organise and publicise more effectively targeted pro bono/reduced fee support to community led organisations promoting sustainable development, through Business in the Community's Pro Help Groups, and the DTA's Consultants' Panel, especially on valuation, asset management and acquisition.

**Royal Town Planning Institute:**

1. Encourage CLTs to join the Community Planning Network, and to provide linkages to the other networks eg Politicians in Planning, Housing and Regeneration Networks, to facilitate wider debate of the potential role of CLTs in spatial planning and placeshaping.
2. Ensure that the regional Planning Aid advisers are aware of the special needs and opportunities of emerging and established CLTs, and that Planning Aid is effectively promoted in areas where CLTs are or may become active.

**Housing Associations, including National Housing Federation:**

1. Recognise that supporting CLTs might be a way of reconnecting with communities and offsetting the effects of growth and mergers
2. Develop an enabling role to support CLTs financially and with technical advice in roles that are complementary to mainstream housing associations in affordable housing provision
3. Develop their placeshaping role which they are often well placed to deliver using CLTs as the mechanism to bring the community within the regeneration team and to bring together local interests and stakeholders into a common framework
4. Encourage CLTs to join the NHF and play an active role in its activities, nationally and locally, and develop services and benefits to meet their needs.

**Oftenant:**

1. Consider the case for CLTs to be able to adopt Assured Shorthold Tenancies as an appropriate form of tenure which balances the need to provide sufficient security of tenure to tenants and protects the integrity and value of the housing assets.
2. Work with charitable trusts, foundations and private finance providers to ensure there is a sufficient supply of finance for CLTs, as part of its statutory duties as currently defined in the Housing & Regeneration Bill.

**Charitable Trusts, Foundations and private finance providers:**

1. Work with Oftenant to ensure a sufficient supply of charitable and mainstream commercial loan finance for CLT activity
2. Continue to provide bespoke support to CLTs, with advice, grants and loans.

### **Voluntary and Community Sector Organisations and national agencies:**

1. Review existing guidance and support programmes to community led organisations to ensure they are relevant to the needs and potential role of CLTs in affordable housing and placeshaping.
2. Form effective networks, specifically by the Community Development Foundation, the DTA and Urban Forum [which are supported with public funds], with the HCA and CLG Community Cohesion teams to ensure a joined up approach to supporting and enabling CLTs and similar community led organisations, that coordinates and makes best use of all available sources of technical advice and financial assistance.
3. Take advantage of the consultation on the forthcoming “Empowerment” White Paper to review the opportunities of community led organisations to participate more effectively in the Government’s Placeshaping and Spatial Planning agenda, and to make representations that build on the recognition given in the Government pre-publication paper to cooperatives and mutual property owning organisations.

### **Government: to clarify or amend planning and affordable housing guidance:**

1. Provide new guidance to Local Planning Authorities [LPAs], the Regional Development Agencies [RDAs] and Homes and Communities Agency [HCA] on the development of evidence based policy, performance requirements and the enforcement of planning conditions and SI06 Agreements, to ensure greater consistency and compliance with the PPS 3 definition of affordable housing
2. Recognise in policy the need for permanently affordable “intermediate market” ownership and rented housing to meet the needs of particular places, to compliment and supplement nationally standardised affordable housing products which tend to be “transitional”, providing affordable housing as a stepping stone to full ownership eg First Time Buyers Initiative and HomeBuy.
3. Clarify for LPAs when the provision of affordable housing in the new planning system, and in the context of Sustainable Community Strategies [SCS] and Local Area Agreement [LAA] targets and contracts may now be treated as a planning condition rather than the subject of a SI06 Agreement, and where there are advantages in doing this.
4. Update the General Consent 2003 for the sale of public land owned by local authorities, to include land owned [now or in the future] by the HCA and RDAs and partners in Local Strategic Partnership [LSP], and to reflect the impact of the Planning and Compulsory Purchase Act 2004 and the Local Government and Public Involvement in Health & Sustainable Communities Acts 2007.
5. Review the public asset management strategies, and Government accounting Rules of other asset owning Government departments, eg Defence, Transport and Health, to align them with the wellbeing objectives of local government, as a key central government enabling activity under the Central Local Concordat.
6. Streamline and simplify the procedures for small and medium sized disposals covered by the new General Consent, with a standardised appraisal template and methodologies for evaluating non-monetary benefits and wellbeing outcomes.
7. Develop a joint guidance statement with the Local Government Association on these methodologies, to support the preparation of Sustainable Community Strategies that fully reflect the value of publicly owned assets to placeshaping; that can be used by community led organisations and any public body to ensure transparency and consistency of practice across the country, and to speed up community assets transfer transactions [by avoiding the need to reinvent

procedures in every place, and though the adoption of nationally recognised, but not centrally controlled, protocols].

8. Issue new guidance, with RICS, on the valuation of public assets and the definition of “best consideration reasonably obtainable”, to reflect the impact of spatial planning objectives for the delivery of spatially focussed wellbeing outcomes on value.

## 2. Introduction: From “beyond the Fringe” into the mainstream

### Acceptance

***“We are committed to Community Land Trusts, and think they have real potential to help provide more affordable housing....Community Land Trusts are an exciting model.”***

Do you know who said this, and when?

If you are a keen follower of parliamentary proceedings, you’ll already know that at 2pm on January 10<sup>th</sup> 2008, Iain Wright, junior Minister for Housing made this very clear statement about Community Land Trusts [CLTs]. He was responding to a cross party amendment in the Commons Committee Stage of the Housing and Regeneration Bill to have a statutory definition for CLTs and to give the new Homes and Communities Agency [HCA] an explicit objective to promote CLTs.

For listeners to Radio 4’s Any Questions, you can now turn on the radio almost any Friday evening, and hear politicians and campaigners alike call on the magical properties of CLTs to salve almost any rural and urban housing ailment you care to mention. For activists who have been promoting the idea of CLTs for many years, this is clearly an important moment of change when an idea from the fringe has become mainstream.

This can be an uncomfortable moment, calling for changes of attitude, cultures and professional skills. Campaigning on the outside has to become engagement with all the stakeholders and interests who have hitherto been seen, not always with justification, as the sceptics, the gatekeepers, the obstacles to “progress”.

The established interests may be challenged by the practicalities and immediacy of “active citizenship” which encroaches on the comfortable and perhaps protected political and professional spaces they have occupied up to now. However, the “third sector” and social activists and entrepreneurs have an established and even venerable place as important and necessary actors in our national political life. They have been the pioneers for social changes and advancement that have then been adopted by the State and mainstream institutions; free schools, public libraries, the Probation Service, housing associations, family planning, and many aspects of modern social work and social care, are just a few of many examples.

Inevitably, though, acceptance by the mainstream brings the risk of compromising the very qualities and characteristics that made the idea special. New ideas can have a limited political shelf life if they are too complicated, contentious, and take too long to yield results. The risk of that happening can be reduced by having compelling strategic answers to the basic question...

***“What are the questions to which CLTs are the answer?”***

### Traditional tools of land ownership for the new tasks of modern urban management

The origins of CLTs are deeply rooted in our Feudal System of land ownership. Britain has a unique system that permits the enjoyment of multiple rights by many different owners of those rights, over the same piece of land, through leasehold and freehold tenures, building leases, rights in common land, countryside access, easements, rights of way, options, mineral extraction rights, sporting rights, and many more.

The first recorded CLT is more recent, set up by an 18<sup>th</sup> Century Act of Parliament in rural Staffordshire to protect small farmers against the Enclosures, and still in existence today. But, it is in the USA that CLTs have really taken hold, as autonomous community led and managed organisations, providing affordable housing or protecting rural land for conservation and employment, as a response to both unrestrained commercial activity and abandonment.

CLTs in the USA have developed the very simple device of separating out the speculative element of land value increase, by retaining the freehold for the benefit of the community, and leasing out the land and buildings to the occupier for their utility value as homes, and sometimes as workplaces. As with shared-ownership in England, resales are restricted to qualifying purchasers. However, the resale will be at a price that reflects the condition of the property and any improvements, and a limited element of equity appreciation.

There are many local variations in the resale formula, but the underlying principle is clear: the real value of the land and the power to regulate the use of the land in the long term public interest are vested in the community. To find out more about resale formulae and the substantial growth of CLTs in the USA, visit the authoritative site of Burlington Associates, a CLT consultancy, and the National CLT Network. [[www.burlingtonassociates.com](http://www.burlingtonassociates.com), [www.cltnetwork.org](http://www.cltnetwork.org)]

Here in England, CLTs are still in their infancy. The emphasis, especially in rural settings, is to increase the availability of (usually a modest amount of) permanently affordable housing in places where the relationship between local “normal” incomes and house prices are completely out of kilter and new supply is and always will be very limited. There is already experience of this being done with a mix of loans, grants, public subsidy, gifts of land and voluntary effort.

## The potential scope of CLT activities

It is difficult to be concerned with just affordable housing. Wider issues affecting wellbeing and quality of life: employment, public space and local amenities, recreation, renewable energy and many others will crowd in. There is therefore a much bigger picture into which CLTs can naturally fit:

- ***The regeneration of rural areas***  
In the continuing economic and social after-effects of BSE, the Foot and Mouth epidemic, Blue Tongue and in response to changing patterns of rural land use, there are both the need and new opportunities for interventions to provide more affordable housing, reengineer traditional farm based businesses, and make use of redundant buildings and land that have important landscape, ecological and practical value. [For more on rural solutions, see the companion rural toolkit “Then We Will Do It Ourselves”, Community Finance Solutions, April 2008.]
- ***The regeneration and transformation of urban social housing estates***  
In redevelopment schemes, and the Decent Homes/Communities work of housing associations, Voluntary Stock Transfer Associations and Arms’ Length Management Companies [ALMOs], communities are demanding a bigger stake in deciding the future of their neighbourhoods. They will often see themselves as owners, both literally and figuratively, and as joint leaders and partners in local regeneration strategies, expecting to capture and retain locally the investment returns from the rising value of land in their neighbourhood, to meet their expectations of benefits for them, and not just for incomers. Tenant led initiatives are now a standard part of the Local Authority Stock Options process and the new regulator Oftenant will have a much stronger focus on tenant wellbeing and standards of services to tenants.

- ***The managed renewal of obsolete and unsustainable mixed tenure housing***  
 Where ownership is fragmented, there needs to be a means for pooling ownerships to provide better security for private borrowing, and for releasing trapped equity through redevelopment and intensification of land use. Areas affected by post-industrial disinvestment commonly hold large numbers of absentee landlords, and elderly owner occupiers with insufficient cash or collateral to modernise and improve the energy efficiency of their homes. Some Victorian and Edwardian inner city terraces have been the focus of recent Housing Market Renewal programmes. Periodically, as now, the market will re-stimulate demand, but this cannot mask the underlying problems with investing in obsolete and unfit building fabric, and the consequent risks to health and the quality of community life.
- ***The stewardship of public space and land management***  
 The reputations of neighbourhoods are made and broken by what happens in and to public space, often as result of the anti-social activities of young people, who are stigmatised as a “problem” The ownerships and the responsibility for the delivery of public services to these areas are often highly fragmented, with inevitable consequences as destructive forces exploit the weakest link. There need to be answers about “who is in charge” of these spaces. That person or body must have the capacity to engage with young people and be effective managers of public places and space.
- ***The voluntary pooling of land to increase the rate of housing supply***  
 In both brown and green field development, there are few mechanisms or incentives to enable land to be assembled more quickly for development. The Joseph Rowntree Foundation’s Centenary Report “Land for Housing” [2004] proposed that landowners should be rewarded for pre-empting state intervention through costly and time consuming compulsory purchase procedures. They should be able to enter into Voluntary Land Value Enhancement agreements with each other and in public private partnerships that would help the timely delivery of infrastructure, and affordable housing. Most current Government interventions on housing are trying to tackle this fundamental challenge of speeding up the supply of all new housing.
- ***Stewardship trusts for new settlements, urban extensions and Eco-Towns***  
 In the realisation of the Sustainable Communities Plan for the Growth Areas, there has been a ready assumption that a generic model of community trusts can assume many of the functions of caring for new places, delivering services, owning income producing assets, owning and running sustainable utility operations. The Town & Country Planning Association has recently published a worksheet on the role of community trusts in Eco-Towns. This may be a response by largely rural districts unfamiliar with running urban services, and seeking to devolve responsibilities to self contained bespoke service delivery body. Alternatively, community trusts may be an innovative attempt to provide attractive new forms of civic engagement for the early adopters coming to live in a new place. There are huge opportunities for developing imaginative approaches to local governance and service delivery. Equally there are potentially devastating risks, both to the community trust brand and the quality of life in new places, unless these trusts are properly equipped and resourced, and fully supported by all the statutory services with a coherent long term placeshaping plan. Community trusts are not a cheap option that can be left to struggle with a superhuman and complex task with a portfolio of secondary property assets to rely on. Like the Milton Keynes Parks Trust, they can be a flourishing social enterprise, playing a major role in the economic, environmental and social success of the city.

## **What have CLTs to do with high level Government policy?**

The significance of CLTs for urban settings is that nearly every strand of central Government

policy and local government action is now permeated with a focus on neighbourhoods and communities, often at very local levels of activity. The ongoing reforms of Local Government, Planning and Housing policy and practice reinforce trends in community engagement, wellbeing and cohesion over the last decade.

The year 2007 culminated with the Callcutt Review of Housebuilding, the Placeshaping Agenda, the Central Local Concordat, new Local Area Agreements, the embedding of Sustainable Community Strategies in the spatial planning system and the refocusing of local authority testing from the Comprehensive Performance Assessment to the Comprehensive Area Assessment: testing the capacity of local government to deliver wellbeing outcomes in definable places.

In the first quarter of 2008, the Government has published its intent to reshape the political agenda on community engagement, with a new White Paper later in the year, to be called “Empowerment”. A refreshed framework for regeneration will replace the National Strategy for Neighbourhood Renewal. New proposals for regional government and planning are contained in the Government’s response to the Treasury’s Sub-National Review of Economic Development and Regeneration.

What all these policy developments have in common is the search for new institutional forms for local governance and practical action in neighbourhoods that will capture the interest and commitment of citizens with a continuing interest in the well being of their area. Community led organisations are often at the forefront of this activity. Through control of land, and with clearer legal structures and financing arrangements, CLTs can provide communities with more powerful tools for meeting local needs and serving and protecting the interests of those communities over the long term.

## **What has the Feudal System to do with CLTs?**

It may seem a quaint anachronism in the context of making 21<sup>st</sup> Century cities work better. However, feudalism described not only legal and financial relationships about the ownership of land, but also social relationships and reciprocal rights and obligations between people.

Much of the current debate about city living, regeneration, sustainable development and communities, community cohesion and the future of housing in this country revolve around our attempts to recreate this kind of social contract between the State, its agencies, and individual citizens. CLTs effectively bring together the capacity for citizens to work and live together, in a socially active setting that is grounded in highly traditional and sound systems of land and property ownership and management. The supreme challenge of adapting to climate destabilisation and change will only be met by communities learning together how to adjust their behaviours in the places where they live and work. For this, there need to be new institutions of social change in places. Maybe there is more to be learnt from the Middle Ages than we imagine.

## **And Now?**

However, this toolkit is concerned with now:

- The public policy context in which CLTs can thrive
- The practicalities of setting up a CLT today,
- The experience of pilot CLT projects
- Recommendations for the future of CLTs, and
- Resources for more detailed information and advice

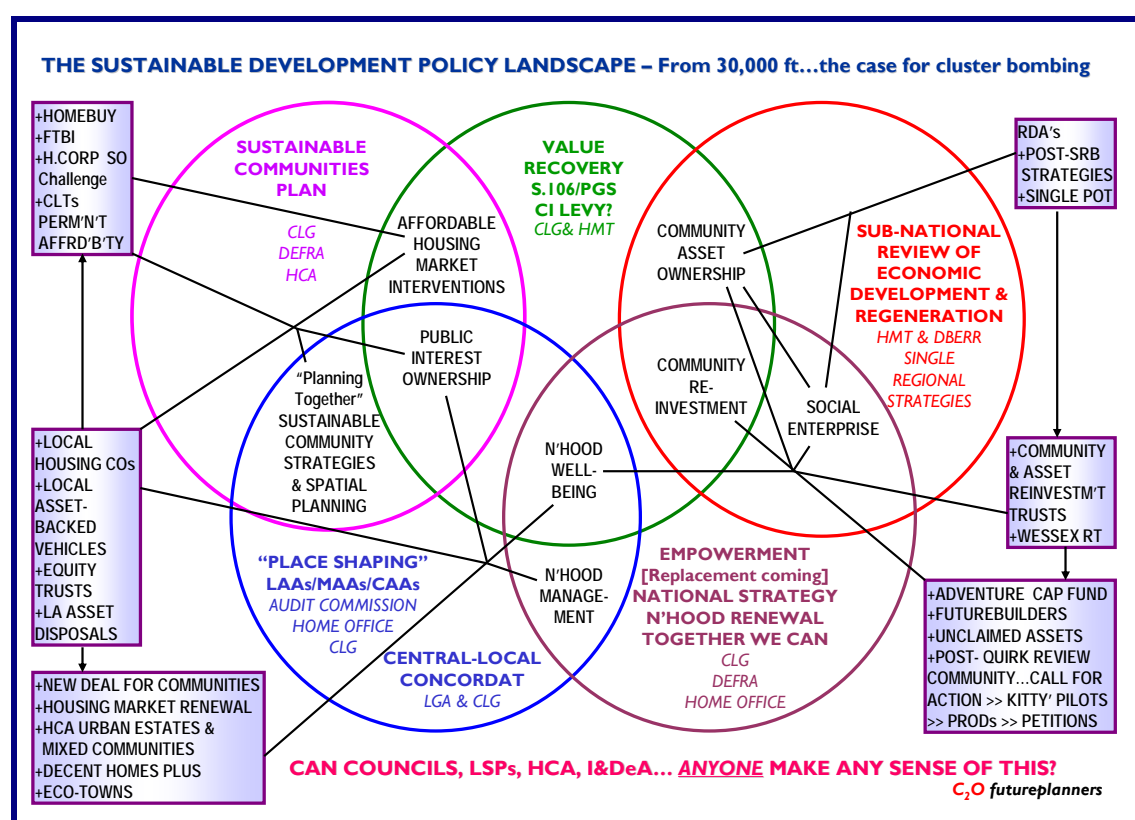
### 3. The Policy Landscape for CLTs

#### 3.1 Sustainable Development and Sustainable Communities – Trying to join it all up

##### Managing complexity

What is Sustainable Development? That’s a “meaning of life, the universe and everything” type of question. The answer “42” (for those readers who are word perfect in Hitchhikers Guide to the Galaxy) is about as good as it gets in terms of understanding and making sense of the range of policies and initiatives that are currently on offer.

If you look at the policy map in the “Olympic circles” below, you can see just how complex and overlapping they are.



There are pros and cons about this richness and complexity. Try to make CLTs fit every part of the landscape, and you will stagger under the weight of trying to please everyone. Choose the most appropriate part of the landscape as your territory, focus on that, but understand what the connections with other areas of policy, and you should prosper. This guide is intended to help you recognise the key policy drivers that are likely to impact on your plans and aspirations.

The most recognisable and visible peaks in the landscape are:

- **Sub-National Review of Economic Development and Regeneration**  
Probably the most powerful driver to reorganise regional government and spatial planning to encourage stronger economic growth and increase the supply of new housing, particularly where more affordable homes are needed to underpin economic growth. The Governments’ response to the Treasury’s proposals in Summer 2007, and the consultation paper on its implementation are now published in “Prosperous Places: Taking

Forward the Review of Sub-National Economic Development and Regeneration [CLG and BERR March 2008 – [www.communities.gov.uk](http://www.communities.gov.uk)]

- **The Central-Local Concordat**  
A new agreement signed between local and central government, enshrined in December 2007 to define the right and responsibilities of each level of government, and to emphasise that “Councils...have a responsibility to do all they can...[to promote community wellbeing...] with the presumption that powers are best exercised at the lowest effective and practical level” [CLG and Local Government Association Dec 2007 - [www.communities.gov.uk](http://www.communities.gov.uk)].
- **The Placeshaping agenda**  
More formally called the Statutory Guidance on Creating Strong, Safe and Prosperous Communities, it describes how new Local Area Agreements will focus the efforts of all mainstream service providers to deliver their wellbeing outcomes with regard to the need of particular places and the people who live and work there. [CLG forthcoming 2008 – [www.communities.gov.uk](http://www.communities.gov.uk)]

### Keeping updated

This landscape is changing all the time, The CLT Portal [[www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk)] will contain periodic updates of key policy developments; but CLT promoters will need to keep themselves regularly updated by directly following up the main references in this toolkit.

If you are promoting an urban CLT or working with promoters, the following sections aim to help you understand:

- What you need to know about these topics
- Why they are relevant to CLTs, and
- Where you can find out more.

The main topics covered in the next sections are the convergence of arrangement of national policy frameworks for sustainable development and communities

- Planning Reforms
- Local Government Reforms
- Housing & Regeneration
- Community ownership of assets
- Housing affordability

## 3.2 Planning Reforms: From Land Use to Spatial Planning

### Fundamental change...which we do not yet fully understand

Planning systems in the UK are in transition. Broadly, this transition can be described as movement from what was traditionally described as ‘land use’ planning, towards what is now described as ‘spatial’ planning. These simple words represent a significant change in the way government and the planning profession think of the process of planning and how communities and stakeholders in planning policies and outcomes have to engage and work with each other. Furthermore, this transition is by no means secure. There are still significant numbers of stakeholders in planning who do not yet fully understand what it entails and how best to play their part in obtaining its benefits.

### Roots of change

The main drivers for planning reform proceed substantially from the social, economic and environmental changes that have been happening across most globalising societies in the late 20<sup>th</sup>

and early 21<sup>st</sup> centuries. Planning had been conceived as a post-war instrument to direct resources to development need in a rational and efficient manner. By the mid 1980s, planning in most western democracies was undergoing a crisis of legitimacy and effectiveness.

Land use planning as embodied in England in the 1947 Town and Country Planning Act had lost much of its rationale and engagement. The system had initially been an adjunct to broader national economic and social planning, underpinned by the decision making of nationalised industries and infrastructures. It had had to become the only significant means of bringing community vision to bear on decisions about the future of spaces and places.

But as the emergence of free markets and privatisation swept away the vestiges of the post-war socialised economy, planning became increasingly focussed on the mediation of land use conflict, to the exclusion of its powerful capacity to make and deliver public visions for communities. If the political message that there was no such thing as society was correct, there was no need for planning to articulate high level strategies, or act directly to bring about outcomes. It could focus simply on land use – mediating those land use conflicts that must be resolved in the interests of efficient market operation, but that the market does not resolve well itself.

Land use planning reached this condition during the 1980s, in substantial part because of a collapse in the social legitimacy of more proactive and directive strategy making and implementation in the public interest. After 40 years experience of the post-war planning model, many communities and stakeholders had been left disillusioned, from multi-national corporations to those experiencing substantial social and economic disadvantage and exclusion.

Large scale clearances in the interests of social regeneration were seen as damaging to the communities that it was initially designed to benefit. Major infrastructure projects were delivered to meet society's economic needs, but without sufficient regard to their social, economic and environmental outcomes. The physical products of planning – places and spaces – were often seen as being of poor quality and lacking a sufficient sense of place and human scale. Community stakeholders felt disempowered, whilst those with the greatest interest in a strong, directive and delivery-focussed vision for planning, had a vested interest in keeping its focus so limited. The negative outcome of all this was seen as the planners' 'fault'.

### **The challenge of sustainable development**

However, as the closing years of the 20<sup>th</sup> century faced humanity with the substantial challenge of delivering sustainable development and most particularly responding to climate change, it had become clear that markets alone would not, and probably could not deliver the necessary visions or actions for change.

A return to central state co-ordination of the economy could not be the answer: the future global society would enable financial and intellectual capital to migrate across the globe and there would be significant incentives for private entrepreneurship and innovation. In such a society, there would need to be an increasing emphasis on partnership and agreement, to ensure that the substantial resources of private capital were aware of opportunities for positive change. This would have to be supported by communities, and then assisted towards the delivery of outcomes, measured as positive improvements to the sustainability of places and the communities that occupy them.

Similarly, those communities experiencing social and economic exclusion saw the potential for planning to deliver improvement. A new culture of 'place making' and 'place shaping' had to emerge; one that closely engaged with communities' own sense of place and future vision. In short, planners had to stop being technocratic managers of change, and start to use their considerable professional skill and insight to help communities to regenerate through the realisation of their own visions. If planning was to adopt a newly empowered, co-ordinating and

delivery role, the time was ripe for its reinvention. Land use planning was dead. Spatial planning was born.

### **What is Spatial Planning?**

In setting out its vision for planning in 2001, the Royal Town Planning Institute first used the term 'spatial planning' to encompass these twin activities:

- the management of the competing uses for space, and
- the making of places that are valued and have identity.

These activities focus on the location and quality of social, economic and environmental change.

Spatial planning operates at all the different possible scales of activity, from large-scale national or regional strategies to the more localised design and organisation of towns, villages and neighbourhoods. It is the consideration of the special nature of place and scale that makes it spatial, as distinct from purely focused on land use. It affects everyone, making policies setting out visions for places and making decisions about matters ranging from the location of major new transport or energy facilities and employment development, through to the development of new shops, schools, dwellings or parks needed by local communities.

Spatial planning supports our ongoing use of the environment to maintain or enhance what we value; from the integrity of the atmosphere to limit climate change, to the provision of wildlife habitat; from the identification of global cultural heritage to locally valued townscapes. It maintains the best of the past, whilst encouraging innovation in the design and development of future buildings and neighbourhoods to meet our future needs. It aligns the planning of space with the provision of services needed to care for places. [See Marilyn Taylor's section on Placeshaping in 3.3 on Local Government Reforms below.]

### **Legislative changes 2004-08**

By 2004, government in England had adopted this vision into its own view of planning, as underpinned by the Planning and Compulsory Purchase Act 2004 and subsequent policy guidance. Planning Policy Statement 1 [PPS1] explains that '*Spatial Planning goes beyond traditional land use planning to bring together and integrate policies for the development and use of land with other policies and programmes which influence the nature of places and how they function*'.

However, the changes are by no means complete. Reforms in the Planning Bill 2008 include:

- The establishment of a new national policy tier to guide investment in and the development of infrastructure at the highest spatial scale
- A Community Infrastructure Levy as a new, transparent and equitable means of obtaining financial contributions from the development process to support the regional, sub-regional and local infrastructures that are needed to support sustainable communities.

Mechanisms such as Multi Area and Local Area Agreements [MAA/LAAs] continue to develop and will be further integrated with statutory plan-making, providing the foundation stones of more robust partnerships to deliver better outcomes for communities.

### **Why is this so important?**

If there is one key direction that needs to be understood and maintained in planning reform, it is the concept that spatial planning is about the quality of outcomes. Land use planning lost its relevance to communities and hence its power to deliver change as it became ever more focussed on the means, the process, as opposed to the destination. Planning cannot lose sight of process, as communities must feel that they have been fairly and properly engaged.

However, people's motivation to engage in planning processes will only be maintained if they see that the processes really work and real and tangible improvements do actually happen. They must feel they have a real stake in making change happen in the places they live and work, and in ensuring they go on working, and changing, when change is needed. The challenge for spatial

planning is its capacity to build partnerships to deliver the better outcomes demanded to adapt communities at all spatial scales to their more sustainable future.

**Rynd Smith, Director of Policy and Communications, RTPi**

## 3.3 Local Government Reforms

### Place-shaping – joining up service delivery and planning

The planning reforms described in Section 3.2.1 are part of wider reforms underway in the relationships between central and local government. Central government wishes to decrease prescription from the centre, and provide greater scope for local areas, through local government working in partnership, to determine their own best solutions to address its own place-specific priorities.

There are a raft of changes coming into play during 2008 which are of great importance to those interested in local decision-making and community empowerment. For an overview of all these changes, see the draft Statutory Guidance: ‘Creating Strong, Safe and Prosperous Communities’ (CLG Nov 2007) [[www.communities.gov.uk](http://www.communities.gov.uk)].

The government wants to see strengthened local leadership through local government – not just of its own directly-delivered services, but of all the services that it delivers in partnership with others and which impact on the quality of life for local citizens.

In the new **Local Government Performance Framework**, the Audit Commission’s previously fragmented approach to service inspection is being combined into a new process called **Comprehensive Area Assessment [CAA]**. The CAA will measure the prospects for local areas across all the 198 Indicators in the new framework, covering the priority tasks for:

- Health,
- Community safety,
- Children and young people,
- Exclusion and inequality,
- The local economy
- The provision and availability of affordable housing, and
- Environmental sustainability.

The government has therefore introduced a new **Duty to co-operate** for statutory organisations to work together in partnership through **Local Strategic Partnerships [LSPs]**, which will now be formally convened by the host local authority. Their main task will be to produce a **Sustainable Community Strategy [SCS]** and its delivery plan, the **Local Area Agreement [LAA]**. The table below shows the main characteristics of each of these elements:

Local Strategic Partnership (LSP)	Sustainable Community Strategy (SCS)	Local Area Agreement (LAA)
<p>LSPs are not statutory bodies, but bring together the public, voluntary, community and private sectors to co-ordinate the contribution that each can make to improving localities. Their key roles are:</p> <ul style="list-style-type: none"> <li>to be the 'partnership of partnerships' in an area, providing strategic co-ordination and linking with other plans and bodies established at the regional, sub-regional and local level</li> <li>to produce a Sustainable Community Strategy and to agree and implement a Local Area Agreement (the delivery plan for achieving the Sustainable Community Strategy)</li> </ul>	<p>The Sustainable Community Strategy (previously without the prefix 'sustainable') is prepared by local authorities through the Local Strategic Partnership and should:</p> <ul style="list-style-type: none"> <li>tell the 'story of place' and set out a 10-20 years vision</li> <li>set the strategic direction for economic, social and environmental well-being</li> <li>be based on robust, evidence-based needs informed by community aspirations</li> <li>can include housing and homelessness strategies</li> <li>give a clear lead to other relevant policies and strategies, particularly the LDF Core Strategy</li> </ul>	<ul style="list-style-type: none"> <li>3-year delivery plan for SCS</li> <li>delivery contract between central government and local government and its partners (signed by the Secretary of State)</li> <li>each LAA will have no more than 35 negotiated priorities chosen as priorities from the National Set of 198 Indicators</li> <li>targets set in the LAA will be the only targets for <u>quantified and specific</u> levels of improvement</li> <li>delivery of the LAA targets involves both mainstream spend, and resources from Area Based Grant (a 'single pot' of non-ring-fenced grant from central government)</li> </ul>

There are two really important strategies which local government prepares for its area, which are the 'top-shelf' ones you need to know about. These are:

- **Sustainable Community Strategy** as described above; and
- **Core Strategy of the Local Development Framework** (LDF – see box below explaining what the LDF is).

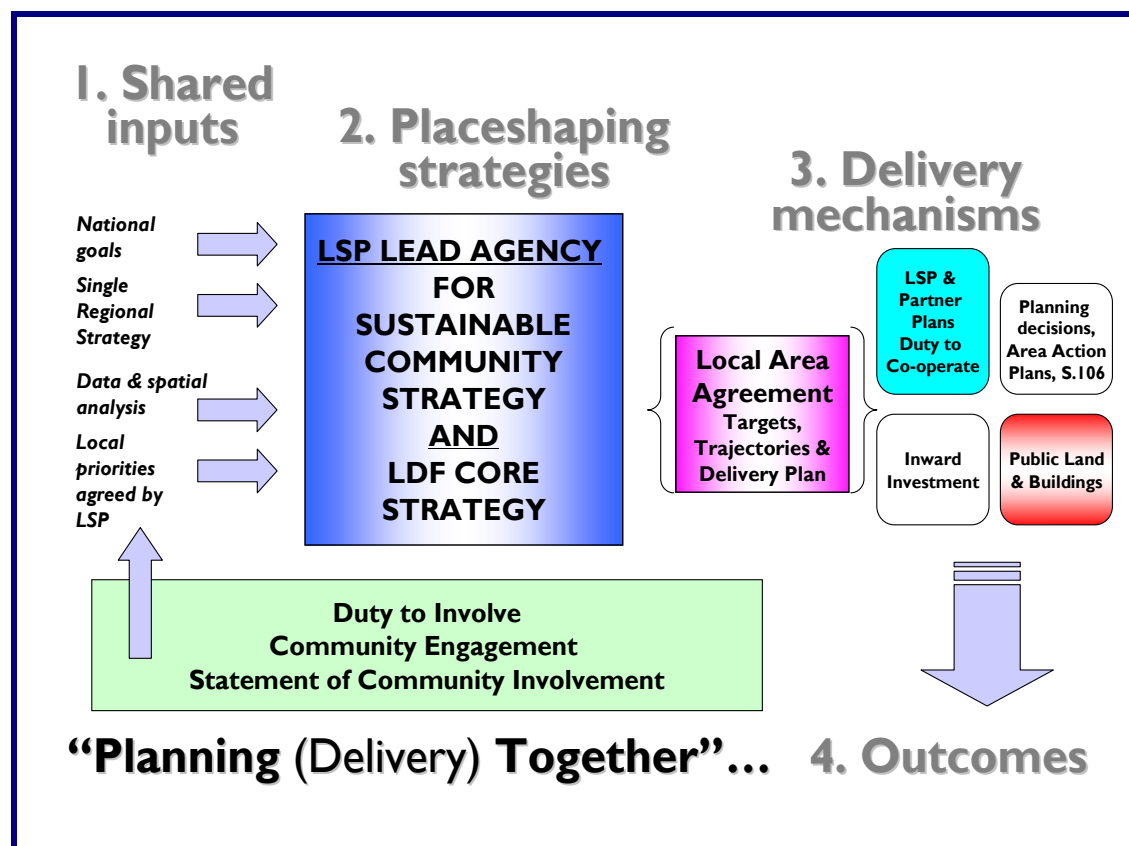
#### Local Development Framework (LDF)

The LDF is not one document (as the former Local Plans were), but a more flexible system often described as a 'folder' of different policies and plans, developed over different timescales as set out in the **Local Development Scheme** which is part of the LDF – go there if you want to know what the timetable is for preparing the various documents which form part of the LDF, and include:

- the **Core Strategy**, which sets out the spatial vision for the local area in response to the SCS (taking account of national, regional and other local plans) and the views of citizens and local stakeholders in the planning system;
- the **Statement of Community Involvement** (SCI) which sets out the ways in which citizens and stakeholders will be consulted and engaged in developing and delivering local planning policy (and which should ideally be part of an LSP-wide Comprehensive Community Engagement Strategy);
- **Area Action Plans** which provide detailed planning frameworks for particular issues (such as promoting *mixed communities* or employment areas) or for areas of major change such as housing renewal, regeneration or growth areas, conservation etc.

By bringing these two strategies together, it is now possible to join up, really for the first time, the process for setting longer term objectives for the area, both for physical change and development, and for the way public services will be planned and delivered. Giving services a much clearer spatial focus is new, and many agencies will find it hard to adapt, being used to thinking of their services as generic across their whole area of responsibility.

Both strategies are now critical in setting priorities for delivery through the LAA. The diagram below shows the big picture of how the system works; or is supposed to.



In practice, collaboration between LSPs and the planning process has been slow to develop. This diagram comes from “*Planning Together – A Practical Guide for LSPs and Spatial Planning*” (CLG and RTPI January 2007) [[www.communities.gov.uk](http://www.communities.gov.uk)]. It was designed to help planners and LSP Coordinators understand the new systems better.

The roll out of the new spatial planning system has been very varied, both in its timing, with some areas more advanced than others, and in the degree to which **Local Planning Authorities** are grasping the scale of the change in their role and responsibilities.

Initial emphasis is often on the Core Strategy, but Area Action Plans must be seen as of growing importance. This will be particularly true for Growth Areas and areas of deprivation where a spatial planning approach is required to achieve a balanced mix of social, environmental and economic wellbeing outcomes as part of the physical change.

The Core Strategy will be essential to provide the evidence base for achieving these outcomes in particular places, the burden of which will fall on both public and private landowners through the AAP. This is the most relevant arena of operation for community led organisations, as partners with councils and LSPs.

**Marilyn Taylor, principal of Marilyn Taylor Associates, and author of “Planning Together” [CLG/RTPI 2007]**

## Empowerment

Within this new framework for local government, there is a growing emphasis on **community empowerment** and the role of local councillors as leaders in their communities. A White Paper on this is planned for summer 2008

[[www.communities.gov.uk/publications/communities/communityempowermentactionplan](http://www.communities.gov.uk/publications/communities/communityempowermentactionplan). ]

Many local authorities are currently focused on the establishment of Ward or Area Committees, led by local councillors, to oversee arrangements for new mechanisms such as:

- **Local Neighbourhood Charters**, agreements about local services,
- **Participatory Budgeting**, where local people are involved in identifying priorities for local budgets, and for
- **Improved partnership working** with community organisations, including the transfer of land and buildings to community ownership and management. See the section on Community Assets in 3.5 below.

Much of this agenda for community empowerment is focused on improving place-management, eg. community safety, cleansing and environmental issues and on front-line service delivery. However, there will be many who argue that planning decisions and issues, particularly for access to more affordable housing, are likely to be just as important in determining whether people feel they really can have influence.

A new **Duty to Involve** will come into effect on 1<sup>st</sup> April 2009, requiring all best value authorities (except police authorities) to inform, consult and involve representatives of local people in the planning, design and delivery of their services; when, where and how they consider it appropriate.

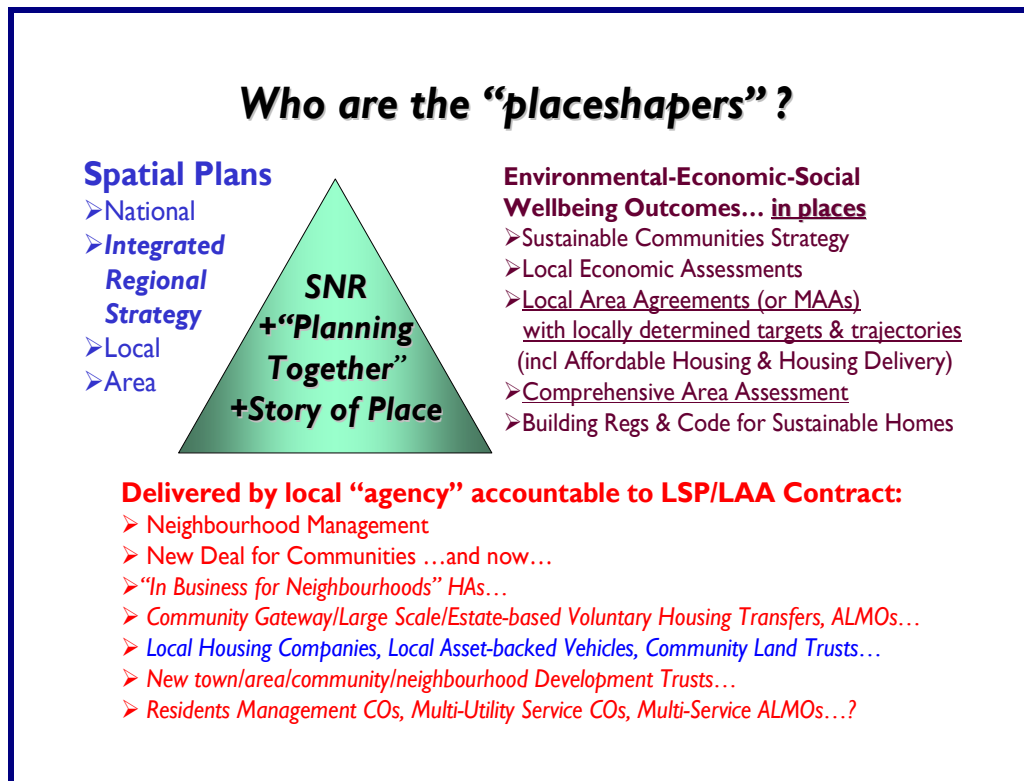
Arrangements for doing this are likely to be co-ordinated most effectively through the LSP through the preparation of a **Comprehensive Community Engagement Strategy**. This in turn should be linked to the 'Statement of Community Involvement' in the LDF. The Audit Commission will be assessing the quality of engagement with local communities as part of the new CAA referred to previously.

Finally, the wider duties of local councillors in promoting well-being and in advocating for the needs of their communities are being strengthened through new **Scrutiny Powers**, enabling them to cover all local services delivered in partnership with local government (except for police authorities). The same scope also applies to the proposals emerging about the new '**Community Calls for Action**' through which any local councillor can refer a local matter affecting his or her ward to the appropriate overview and scrutiny committee.

**Marilyn Taylor, principal of Marilyn Taylor Associates, and author of "Planning Together"**  
[CLG/RTPI 2007]

## Delivery of sustainable places

In all the guidance and new policy, what seems to be missing so far is a clear understanding of where the "agency" required to deliver spatially focussed wellbeing outcomes actually comes from. What are the organisations on the ground with the presence and organisational capacity to manage the processes of physical change and take responsibility for the planning and delivery of wellbeing outcomes? Who will the LSPs turn to, to do the necessary joining up at very local level?



In the diagram above, based on the Sub-National Review proposals for the new systems to be in place by 2010, we suggest that there are many kinds of regeneration and housing based organisations that are already “there” in neighbourhoods. Equally, there are new types of asset backed organisations emerging, alongside new kinds of bundled public service and utility organisations. In the next section, we describe what is happening in housing and regeneration policy.

### 3.4 Housing & Regeneration Policy

#### “Ends and Means: the future roles of Social Housing in England”

In February 2007, Professor John Hills of the London School of Economics published this report for the Government [www.communities.gov.uk]. It provided an analysis of the challenges facing social housing and a detailed assessment of current policies. It is still being considered as a basis for reform, especially on the relationship between worklessness and housing.

Professor Hills identified four themes as key directions of travel for future policy:

- Increasing the attention given to the existing stock and tenant population
- Supporting mixed incomes within existing communities
- Supporting livelihoods, mainly around worklessness and helping people into work
- More housing choices for both prospective and existing tenants, such as making ownership initiatives or private rented housing available.

He identified that the quality of social housing is usually significantly higher than tenants with low incomes could afford in the private sector, but that there is still some tenant dissatisfaction with the accommodation, the neighbourhoods, and the landlords.

A significant proportion of current tenants actively prefer to be social tenants. Even if they had a choice, a third of housing association and nearly 40 per cent of local authority tenants would choose the same landlord. More than 40 per cent of each would choose some form of social housing.

Much social housing is now let to people in the most need. Only 32% of tenants are employed. Recent policy initiatives such as Local Housing Allowance, Choice-Based Lettings and preventing homelessness have improved choices for people in housing need.

Social housing tenants move significantly less between homes than people within the private rented sector, and more than 80 per cent of those living in social housing today were also within the sector ten years ago.

John Hill went on to make a series of recommendations for debate about:

- Dealing with worklessness, including the 'poverty trap' where the benefit system makes it difficult for families to lose so much income when they start in low paid work, and the 'housing trap', when the different forms of funding for housing and the costs makes it difficult for people to afford to move when their income increases slower than their housing costs
- Changing lettings policies so that in areas of social housing there will be a balance of incomes, levels of need, household types, and ages; with some additional priority for rented and shared ownership housing to people who are moving for work
- Changing the tenure mixes on estates by building for sale and/or selling some rented homes. RSLs could also buy in mainly owner-occupied areas for renting.
- Providing more types of shared ownership and shared equity to give people more stakes in their homes
- Providing ways of keeping higher income people on estates.
- Extending choice and customer focus to include reviews of tenants' changing circumstances over time to allow them to take up different parts of the 'offer' - facilitating staircasing up and down, or changes in rent levels in line with changing housing needs.

This debate, and the eventual outcomes, will be important for CLTs. Future local Housing and Sustainable Communities Strategies will need to reflect local needs based on good evidence, so that they can enable more choice in housing, especially on affordability and the need for a permanently affordable intermediate housing market, and not just transitional housing for people who will ultimately be able to afford full home ownership. CLTs can provide a means for managing these more subtly defined sectors of the market.

**Adrian Moran, Policy Manager, Housing Corporation**

## **Regulation: the role of Oftenant**

### **Setting up**

The Housing and Regeneration Bill proposes a new regulator for social housing, the Office for Tenants and Social Landlords (to be called "Oftenant").

Initially, its role will be to take over the Housing Corporation's registration and regulation functions for Registered Social Landlords [RSLs], also known as housing associations. It may also eventually take over the regulation of local authority housing, including that managed by ALMOs.

Registration will cover the not-for-profit sector, and the for-profit organisations, eg developers, that want to provide affordable housing, whether for rent or for low cost home ownership.

## **Powers**

Oftenant will be able to set standards for the management of social housing, including how needs are met, rents that are charged, maintenance services, opportunities for tenant involvement, and wider community engagement. It will also be concerned with the overall management and governance of the not-for-profit sector and the financial viability of the organisations. If there are failings in an organisation, the regulator has a wide range of powers to correct the deficiencies, including some drastic intervention powers for very serious problems.

The National Housing Federation is concerned that some of these powers of intervention and direction will put at risk the independence of the sector, and place RSL borrowing on the public sector balance sheet. Debate is ongoing.

## **Relevance of regulation to CLTs and others**

The new system of registration and regulation is important for CLTs as it also ties in with future investment. The current investment role in housing carried out by the Housing Corporation will be transferred to the new Homes and Communities Agency.

The powers of the Homes and Communities Agency to give financial assistance are wider than the Housing Corporation's. However, if it puts any money into a scheme for affordable housing for rent, at the end of the development period, it must be owned by an organisation that is registered with, and therefore regulated by, Oftenant.

The levels and types of regulation for small organisations are not yet known, but it could reflect the Housing Corporation's systems whereby smaller organisations have much lighter regulatory requirements. There are attempts to have a legal definition of CLTs included in the Bill.

Fees will probably be charged for registration and regulation.

**Adrian Moran, Policy Manager, Housing Corporation**

## **The Housing Green Paper 2007**

In July 2007, the Government published its long awaited Housing Green Paper, setting out the Government's housing vision and what it is willing to fund:

- **Accelerated housing growth**, with 3 million new homes by 2020
- **Ten new eco towns**, each one varying in size from around 5,000 to 20,000 homes
- **New 'Growth Points'**, outside the south east and for the first time, including parts of the north
- **Public sector land**, increased amounts available for housing
- **Local Housing Companies**, 14 pilots enabling local authorities to build homes
- **Planning and Housing Delivery Grant**, formerly the Planning Delivery Grant, support for local authorities seeking to increase housing growth in their areas and re-use empty homes.

The Paper focused on the provision of new homes, but had very little to say on existing communities, regeneration investment and homelessness.

For more information on the National Housing Federation's [NHF] response to the Green Paper please download the following link:

<http://www.housing.org.uk/Uploads/File/Policy%20briefings/nspo2007rs14.pdf>

**Jenny Harris, Policy Manager, National Housing Federation**

# The Housing Corporation's National Affordable Housing Programme 2008-11

## Programme size

In February 2008, the Housing Corporation announced the start of its largest ever investment programme. The £8.4 billion National Affordable Housing Programme [NAHP], covering 2008-11, will be matched by Housing Associations' plans to raise £12 billion of private borrowing and funds they generate from internal subsidy or activities such as developing for sale.

The NAHP will provide at least 155,000 new affordable homes in the next three years, almost double the number of affordable homes compared to 2006-08. More than 100,000 of these will be for affordable rent, and more than 50,000 for affordable sale through HomeBuy initiatives.

For the first time, funding could be made available to ALMOs, local authority special purpose vehicles, and Co-Housing and CLTs. Private developers have also received allocations.

## Regular Market Engagement

The £3.3 billion spend announced in February is 38% of the budget of £8.4 billion across the three-year programme. A new element in this programme is 'regular market engagement' for housing providers, who will be able to apply for grant at different points throughout three-year timespan. The first additional bidding round has already been announced, starting in April 2008.

## Programme Targets

The other NAHP targets include:

- **Efficiency**  
New affordable homes for rent are costing 8% less grant per home than in 2006-08, and for sale are costing 12% less grant per home.
- **Tackling overcrowding**  
Larger family homes will rise to 30% of homes for social rent in 2008-09, compared to 25% in 2006-08, and will rise further to 33% in 2010-11.
- **Environmental sustainability**  
Level 3 of the Code for Sustainable Homes [[www.planningportal.gov.uk](http://www.planningportal.gov.uk)] is the new baseline standard, with more than 9% of schemes exceeding this standard. All new publicly funded homes must be zero carbon by 2016.
- **Rural homes**  
Over 10,000 rural homes in settlements of less than 3,000 people are planned, more than double the number achieved in 2006-08.
- **Lifetime Homes**  
36% of the homes funded by the new allocation will reach Lifetime Homes standards, compared to 18% in the 2004-06 programme and 23% in the 2006-08 programme. This quality includes ease of wheelchair access, turning circles, easy reach of electric sockets etc. [It has just been announced that Lifetime Homes will be a requirement in all new social housing from 2011.]

As the NAHP is the major source of finance for new housing, CLTs will need to keep up to date with changes in systems, standards and other requirements if they need to access funding. The Homes and Communities Agency will take over the management of the NAHP in due course.

Information on the NAHP and standards can be found on the Housing Corporation's website [www.housingcorp.gov.uk](http://www.housingcorp.gov.uk) in the "Investment" section. Two key documents are the Pre-Prospectus and the Prospectus, with the other associated documents setting out the details of applications and processes to be followed.

**Adrian Moran, Policy Manager, Housing Corporation**

## **The role of the National Housing Federation**

The National Housing Federation (NHF) represents 1,300 affordable housing providers in England. Most of its members are small, local housing associations including co-operatives, traditional almshouses, community-based sheltered schemes and regeneration organisations alongside the largest not-for-profit housing providers. It is a broad and diverse membership which together provides over 2.4 million homes for 5 million people.

The NHF welcomes CLTs as a new delivery model that can help provide homes to people in housing need, and is very pleased to have its first CLT member, in January 2008. The NHF can help ensure CLTs have a smooth road as they move from the research and development stage into a fully operating housing provider.

The new CLT, from the St Just community in Cornwall, has found that NHF membership includes reduced companies liability insurance, household insurance products for tenants (one of the only products on the market to include flood risk within its terms), the latest updates on housing policy, best practice governance arrangements, tax advice and access to the Social Housing Pension Scheme. More details on the NHF website <http://www.housing.org.uk>  
**Jenny Harris, Policy Manager, National Housing Federation**

## **Housing and Regeneration Bill 2007** **The Homes and Communities Agency**

In January 2008, the Department for Communities and Local Government [CLG] announced further details of the new Homes and Communities Agency [HCA], being established through Part I of the Housing and Regeneration Bill 2007

### **Responsibilities**

The new agency will be led by Sir Bob Kerslake, and will be instrumental in implementing the government's plan to deliver three million new homes by 2020. This is the overriding priority of Ministers and the Prime Minister. The HCA will also play a key role in the development of ten "eco-towns". The shortlist of locations was announced in April 2008

For the first time, a single organisation will bring together the responsibilities for the land and finance to deliver new housing, regenerate urban estate, and provide community facilities and infrastructure. The aim is to reduce bureaucracy and improve efficiency in the housing system. It will have to work closely with local councils to support them in their wide range of housing, regeneration and community work.

The HCA is expected to begin work in April 2009, although there are plans to start some activities from November 2008. It will integrate functions from the existing English Partnerships, Housing Corporation, the Academy for Sustainable Communities and some growth area and regeneration delivery functions from the CLG.

HCA will have responsibility for provision of new affordable housing funded by social housing grants – specifically in areas including Milton Keynes, Ashford, London Stansted, Cambridge, Peterborough, and the Thames Gateway.

The agency will also take on responsibility for the delivery of social sector decent homes, including Arms Length Management Organisations (ALMOs), and large scale voluntary transfers (LSVT).

Finally, the agency will also assume control of housing Private Finance Initiatives (PFI) for new

supply, mixed communities, capital investment on homelessness, hostels and specialist supported housing

### **Outputs to Outcomes**

Traditionally, both EP and the Housing Corporation have been accountable for primarily numerical targets. Work is currently underway to develop an accountability framework for delivering wellbeing outcomes in partnership with local authorities and LSPs. This will require a significant change in culture and work practice in the early stages of project planning to create stakeholder agreements about the delivery of outcomes. The framework will be aligned with the Local Government Performance Framework.

### **Programme priorities**

No details about the shape of its new programmes have been announced. However, EP has recently set up a new directorate for Strategic Land, which includes the Urban Finance Team that have been working on supporting the 14 Local Housing Company pilots, and looking at new longer term investment models for enabling growth area regeneration projects, as alternatives or complimentary to grant and gap funding. It is also likely that a significant part of the programme will be focussed on the transformation of urban estates, both public sector and mixed tenure areas.

## **Housing and Regeneration Bill 2007**

### **The role of housing associations**

#### **Public Land for Affordable Housing**

The operating context for CLTs is very similar to the one facing housing associations, sharing common values in their response to evidence of local housing need. They both seek to buy land and commission a high-quality design and build process. They both want to make sure that the financial framework is right for each individual development scheme; one that can work in both a falling and rising housing market.

This is where the role of CLTs becomes fundamental, with its objectives of permanently holding the value of the land out of the market, for the benefit of existing and future generations. Albeit in modest amounts, it can safeguard the affordability of housing, for “their place”, by protecting it against speculative and inflationary land and house prices, and ensuring affordable housing goes to those who really need it.

The NHF has argued for the Bill to clarify how the HCA will be able to dispose of its land to promote the wellbeing of local communities, so that its members can increase the amount of new housing that is genuinely affordable.

#### **Increased scope of regulation**

There are signs in the Bill that the independence of housing associations, and potentially CLTs, could be undermined through increased regulation. The NHF is campaigning to ensure not-for-profit organisations providing affordable housing, are able to work without the extra burden of increased regulation hampering their operation as a social business.

The Government has already compromised on some aspects of the draft legislation and the NHF continues to press the Government to ensure that the social enterprise ethos of housing associations is enshrined on the face of the Bill.

## **Leasehold Enfranchisement**

One good sign for CLTs in the new Bill is the clarification of the Commonhold and Leasehold Enfranchisement Act. While this mainly impacts on rural CLTs there are also parallels for urban CLTs. [For a note outlining the legal ramifications, please contact Lucy Thorneycroft at the NHF: [lucyt@housing.org.uk](mailto:lucyt@housing.org.uk) ]

## **Progress of the Bill**

It is intended that the Bill will complete its passage through Parliament by the summer 2008. Progress of the Bill itself can be followed through the reports of the debates in the Houses of Commons and Lords [<http://www.publications.parliament.uk/pa/pahansard.htm>]. Many of the key issues will also be covered on CLG website [www.communities.gov.uk](http://www.communities.gov.uk) ; in the weekly Inside Housing magazine published each Friday and at [www.insidehousing.co.uk](http://www.insidehousing.co.uk) ; or the NHF's latest Housing & Regeneration Bill Bulletin at [www.housing.org.uk](http://www.housing.org.uk).

**Jenny Harris, Policy Manager, National Housing Federation**

## **Local Housing Companies**

### **Pilot programme**

Local Housing Companies [LHCs] are one of the joint venture models outlined in the Housing Green Paper in July 2007, to increase the supply of affordable housing, in which local authorities can play a leading role by contributing public land.

A pilot programme was launched in November 2007. English Partnerships is leading new research into financial models for LHCs and supporting the 14 local authorities taking part in the pilot: Barking & Dagenham, Bristol, Dacorum, Harlow, Leeds, Manchester, Newcastle, Nottingham, Peterborough, Plymouth, Sheffield, Sunderland, Wakefield, and Wolverhampton.

### **Joint Venture**

The LHC model is a joint venture between the public and private sectors, with local authorities 'investing' land in the development process and private developers and other investors providing funding to an equivalent amount. The joint venture will be jointly owned with a 50:50 split, or 51% by the private sector and 49% by the public. Both organisations will share the risks and benefits, such as any uplift in land values of the development process.

### **Benefits**

The LHC approach will strengthen local authorities' position at the centre of the development process, and provide a range of opportunities for investors and development partners. In doing so, LHCs will also increase the supply and range of new homes, helping to meet government aspirations to build 3 million new homes in England by 2020. Around 50% of all new homes built by LHC will be for affordable sale and rent.

### **Policy impacts**

The basic model of an LHC has many similarities with CLTs in that public land is contributed as part of the public sector investment in order to facilitate the provision of affordable housing. Most are concerned with new housing supply. The long term financial structure for LHCs will vary from place to place.

One of the most advanced pilots, at Barking & Dagenham, has grown from the council's earlier plans for a Local Housing Trust to undertake a series of major estate renewal projects. Current proposals are looking closely at how the LHC becomes a "placeshaping" organisation that aligns the delivery of physical change at a neighbourhood level with the long term delivery of wellbeing outcomes, integrated into the commissioning of services through the LSP.

## Progress

It is hoped that the first LHCs will be in place in 2008 and that development activity on the first projects will commence during 2009/2010. Further information and guidance to the pilots will be published the first half of 2008.

## Existing Homes: The Decent Homes Standard

The Government set a target in 2000 that all social housing should reach the 'Decent Homes Standard' by 2010. About 3.6 million homes were identified, and current estimates are that 95% will be achieved by the date.

A Decent Home must meet the following: basic criteria:

- It meets the current statutory minimum standard for housing
- It is in a reasonable state of repair
- It has reasonably modern facilities and services,
- It provides a reasonable degree of thermal comfort.

**Local Authorities** have had to consider their options and draw up strategies to ensure that their homes will meet the standard by 2010. There are 4 options:

- **Stock Retention**, where the local authority has the finance to do the improvements themselves.
- **Arms Length Management Organisations**, where following consultation with tenants, they can transfer the management and repairs to an ALMO which will not own the homes, but will ensure the work is done. It is proposed that in due course, the management and maintenance of the homes will pass back to the local authority. However, other options are now being examined by the Government
- **Registered Social Landlords**, where, following a ballot of tenants, they can transfer the ownership of the homes to a RSL [registered with the Housing Corporation]. The RSL borrows private finance to improve the homes.
- **Private Finance Initiative** under which they can negotiate an arrangement to have the management and improvements, and subsequent maintenance, to be carried out on a long lease, under the PFI supported by Government subsidy. After the lease period, often 20 to 30 years, the homes pass back to the local authority.

**RSLs/Housing Associations** have been bringing their properties up to the Decent Homes Standard through internal finance and further borrowing of private finance.

**Private Sector owners** have a target for 70% of non-decent homes occupied by vulnerable residents to be improved by 2010. 'Vulnerable' is defined as families with children, and people in receipt of long term means tested or disability benefits. Other problems in the private rented sector can include poor management by landlords, Houses in Multi-Occupation [HMOs], and overcrowding. Local authorities have responsibilities and powers to deal with these issues.

**Adrian Moran, Policy Manager, Housing Corporation**

## Decent Homes and Sustainability

The basic Decent Homes is just that...basic. As the programme has gone forward, both government and housing providers have been aware of the need to have higher and longer term

aspirations for sustainability. The Government published 'A Decent Home: Definition and guidance for implementation' in June 2006 to update their policy. [[www.communities.gov.uk](http://www.communities.gov.uk)]

When applying the standard, landlords are required to consider:

- it is a **minimum** standard
- wider Mixed Communities objectives
- regeneration programmes
- long term demand for the stock
- environmental sustainability

At this stage, there are no specific policies for dealing with standards in existing homes following the Decent Homes Standard. However, as much of the stock is not energy efficient, raising the insulation and heating efficiency is likely to become a priority to help meet the national targets for reducing carbon dioxide output, and adapting to and mitigating climate change.

Government does now wish to encourage social housing tenants to explore new options for the future ownership and management of their homes. As the standard applies to all social housing, it will apply to property managed by another social landlord such as a tenant-led RSL, a Community Gateway Association (which is controlled by the tenants), or a CLT.

New ways of owning and managing social housing should be part of the approach to creating and maintaining mixed communities.

**Adrian Moran, Policy Manager, Housing Corporation**

## What is a “Mixed Community”?

The Government wants a mixed communities approach to create better outcomes for the most vulnerable in society, and sustainable communities for all. How mixed communities are developed will depend on the local context; but they should aim to:

- attract and retain households with a wide range of incomes
- have good quality housing in attractive environments with access to good local schools and retail/leisure facilities and other services such as health
- have a mix of housing size, type and tenure
- attract and retain households with choice
- have strong local economies and contribute to strong regional economies
- be well connected to employment opportunities through neighbourhood design, transport and job access services
- provide access to other economic and social opportunities for all residents enhancing their life chances
- have high quality housing and neighbourhood management
- have low levels of crime and provide support services for vulnerable people and families at risk
- have a strong housing market that matches the wider economic area, and
- attract and utilise private sector investment.

The Government has a pilot Mixed Communities programme [[www.renewal.net/mc](http://www.renewal.net/mc)] for large urban estates of social housing, where there are symptoms of multiple deprivation amongst the residents, such as unemployment, poor health and low educational achievements. There is no special money for the pilots. They have to use the financing arrangements that already exist. The Housing Corporation is using part of its Innovation and Good Practice Programme 2008-10 developing new ideas on how to bring about change in smaller areas with the same issues.

**Adrian Moran, Policy Manager, Housing Corporation**

## Transforming urban estates

### The last twenty years

Government policy has a continuous thread of investment in urban estates since the 1960s. The connections between the physical aspects of housebuilding and refurbishment and the wellbeing aspects of living on estates have had a less consistent policy history. Periodically, new government programmes have sought to remake that connection.

The past 15 years, since the end of the Estate Action programme in 1994, have marked what is probably the longest period in post-war history in which there has been no sustained policy direction about the task of transforming urban estates and managing a process of contextual urban change in the parts of cities that evidently do not work very well.

This section provides a thumbnail sketch of the different strands of policy that describe a trajectory from “just” housing to Neighbourhoods:

- **Estate Action**  
Started in the late 1980s as a programme to deal with the space around the home, community safety and environmental improvements, aligning investment with improvements in housing. Government gradually ratcheted up its policy objectives and the scope of the programme to Comprehensive Estate Renewal Projects, with requirements to involve residents in decisions about the projects and housing management, attracting private finance, introducing more tenure choices, enabling local employment related to the project, with a full option appraisal process to help make choices between refurbishment and redevelopment. It ended in 1994, though many of the latter projects had 10 year plus programmes.
- **Housing Action Trusts**  
Introduced through the 1988 Housing Act as comprehensive estate renewal programmes of about 10 year duration, fully funded by central government in exchange for temporary transfer of ownership to a HAT. Most residents voted for a permanent transfer to bespoke housing associations at the end of the renewal process. Government funding was reduced in later years, requiring the introduction of transfer associations to complete some of the HATs with private finance. Some of the most successful, for example Waltham Forest, Stonebridge and Castle Vale in Birmingham, were notable for their emphasis on social and economic development, and setting up legacy bodies or trusts to continue to support local regeneration.
- **Single Regeneration Budget**  
Followed on the end of Estate Action, but was more focussed on social and economic development, bringing together funding from a number of Whitehall departments through the new Government Regional Offices. It supported only a handful of major estate renewal projects, mostly in London; almost as an afterthought for Estate Action to pick up projects already in preparation.
- **Voluntary Transfers**  
After the initial whole stock transfers, mainly by non-urban authorities in the 1990s, the Government expanded the programme to cover individual estate transfers to housing associations. The Estate Renewal Challenge Fund provided gap funding for estates with negative values. The Community Gateway model was devised to enable some transfers to be undertaken by resident controlled housing associations. The debt financing mechanism and promises to residents about future rents restricted projects to refurbishment of estates in moderate condition, with very limited resources available for regeneration.

- New Deal for Communities**

Were introduced shortly ahead of the National Strategy for Neighbourhood Renewal in 1998 by the incoming Labour Government. The emphasis was on securing improvements in public services to close the gap between these neighbourhoods and the norm; as measured by centrally determined targets and indicators. Thirty nine community controlled bodies were given approximately £50m each to spend over 10 years. A significant number came to realise after a number of years that lasting change also required a significant physical change and housing renewal and tenure diversification, mostly of local authority estates. However, securing the necessary political support and finances have taken time and the process of housing renewal for many will stretch on long after the formal end of the programme. New Deal for Community programmes like Shoreditch, (Hackney) Ocean Estate, (Tower Hamlets) and Devonport, (Plymouth) are considering or have set up CLTs as part of their legacy arrangements to continue their regeneration and housing renewal work.
- Housing Corporation Mixed Communities and Transforming Estates**

Aims to pick up earlier policy themes, and to go beyond the basic fabric upgrades of the Decent Homes Standard. There are no special financial arrangements, and insufficient structured learning from the experiences of earlier programmes, even though many of these produced schemes that were highly innovative and have stood the test of time. The Housing Corporation's Innovation and Good Practice Programme 2008-11 has a Transforming Estate theme which will be taken forward by HCA and Oftenant.
- English Partnerships**

Has taken on a growing role in enabling local authorities to tackle some very large estate renewal projects in partnerships with house builders and housing associations: particularly with problematical non-traditional forms of construction, such as the Ferrier estate in Greenwich and with heritage buildings at Park Hill in Sheffield and Robin Hood Gardens in Tower Hamlets. Research into ways of financing LHCs may open up new ways of financing large estate renewal, and there are suggestions that a significant part of the HCA's new programmes will be focussed on urban estate transformation.

### **Learning what to do next...**

What many of these initiatives have had in common is the search for a recognisable institutional form and financing mechanism to enable regeneration and what we would now call placeshaping activities to continue after the grant support has ended, and the interest of politicians has passed onto the next political initiative.

Community led trusts have been seen as an obvious choice, but there have often been barriers to gaining the necessary acceptance of the Treasury for the transfer of publicly funded assets, and from local politicians to devolve local responsibility. The new political agreement in the Central Local Concordat, the work of the Quirk Review on Community Assets [see section 3.4 below], and the possible role of the HCA in enabling local authorities may open up new possibilities for CLTs and other community led bodies to play a more important role in the care of their communities and neighbourhoods.

## **3.5 Community ownership of assets**

### **Local Government Reform**

In May 2007, the Government announced a six point action plan to challenge councils to maximize the transfer of public assets to communities to make services more responsive and empower communities. CLG's "*Opening the Transfer Window: The Governments Response to the Quirk Review*"

[\[www.communities.gov.uk/index.asp?id=1510746\]](http://www.communities.gov.uk/index.asp?id=1510746) forms an integral part of the Government's Planning and Local Government reforms, (described in more detail in 3.3 above).

The implementation plan includes:

- **£400,000 challenge fund for councils to pilot asset transfers to communities**  
Quirk's team will monitor the community benefits and public satisfaction with lessons from the 20 pilots learnt spread around the country.
- **Access to £30m Cabinet Office Community Assets Fund**  
distributed by the Big Lottery Fund, to support community-led organisations in refurbishing, owning and running buildings transferred from local authorities.
- **New guidance to all local authorities**  
to help them proactively identify all assets that community organisations could run.
- **Promotion of powers for residents to call for assets to be devolved.**  
Residents will be able to raise issues through a Community Call for Action, Petitions and appeals to the Secretary of State through a Public Request to Order Disposals (PRODs) to direct councils to transfer assets.
- **New training programmes for communities and local authority officers**  
to build the management skills necessary in community organisations and encourage culture change in local councils.
- **Greater collaboration between financiers**  
to maximise leverage from existing and new investment in asset-based development.

Ministers maintain that community assets ownerships can promote a greater sense of community, and that there was evidence from Best Value Performance Indicators that where local people are directly involved in running local services, both public satisfaction and quality rises.

Underpinned by safeguards to ensure good management, local authorities have powers to sell or lease assets for as little as than £1 where it is clear it is for the good of the community. They can compulsorily purchase derelict property, require landowners to clean up sites that are adversely affecting the local neighbourhood.

The New Deal for Communities programme was the first step in the Government's drive to empower communities and improve the quality of life in deprived areas. This was followed by the Local Government White Paper and then the Local Government and Public Involvement in Health Act 2007, which now gives citizens and communities a clearer voice, and greater freedom and powers to local government through an extended community call for action, greater scope for creating parish councils and enabling councils to make and bring into force byelaws.

### **The Quirk Review's findings**

Quirk's Review *Making Assets Work* [\[www.communities.gov.uk/index.asp?id=1510515\]](http://www.communities.gov.uk/index.asp?id=1510515) had found that there are no substantive barriers to prevent councils transferring assets into community management or full ownership. Powers already existed for this, but the report found that many were not fully aware of them, or were not using them to full benefit. Therefore a change in culture was required so that every community had the chance for more active citizenship, a greater role in running services and owning assets, and improving wellbeing in their communities.

The implementation plan is currently being reviewed by a reconvened Quirk's Review, both to review progress and maintain the coalition of partners to continue momentum, with the intention to publish a further action plan this year.

Issues relating to the valuation of public assets, the operation of the General Consent 2003 under which local authorities may sell assets at an undervalue for community wellbeing purposes, and local authority asset management strategies are covered in more detail in Section 4.5 below.

## 4.0 Urban tools

The tools contained in this chapter have been developed in response to the requests of the participants in the demonstration programme. In many cases, they are work in progress, both in developing the knowledge base, and in responding to a changing and uncertain policy landscape.

There are references to the CLT portal site [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk). This site will contain an electronic version of the toolkit, and material will be updated periodically as new information becomes available from programme participants and the editing team at Salford University.

## 4.1 Community Land Trusts – The Basics

- What is a CLT?
- How does it work?
- Is there a legal definition?
- When might a CLT be appropriate?
- Are there overlaps with other types of body?

### What is a CLT?

CLTs are established in communities to acquire fixed assets and then hold them in perpetuity for local use.

In *Community Land Trusts: A Practitioner's Guide [Housing Corporation /CFS 2007]*, the defining characteristics of a CLT are described as:

- a mechanism for acquiring, developing and holding land and property for the benefit of present and future generations in a defined locality or community;
- promotion of resident involvement to build a strong base for community action;
- not-for-profit;
- an “asset lock” which can capture, preserve and enhance the value of transferred public and private assets, public regeneration investment, value derived from the use of planning policy instruments, gifts and endowments; and
- flexible use of the assets for maximum community benefit, purposes which are often related to the provision of affordable housing, especially ‘intermediate market’ housing for working residents on low to moderate incomes, and affordable rented housing, but also include local or social workspace, community enterprises and cultural, recreational, environmental, farming or conservation objectives;

Conceptually, the structure of the CLT is simple. By separating the ownership of the land from the ownership and use of the buildings, structures or activities on it, it aims to limit the effects of inflationary and speculative land value increases on the affordability of homes and workspaces and services in local communities. In practice, the legal position may be rather more complex.

### How does a CLT work?

In summary, CLTs work by enabling occupiers to pay for the use of buildings and services at prices

they can afford, while the value of land, subsidies, planning gain and other equity benefits are permanently locked in, on behalf of them and future occupiers, by the CLT.

The CLT approach is that land is acquired directly by the CLT and then, usually, (re)developed for the long-term benefit of the community. The CLT is involved in holding and controlling assets and in controlling their subsequent use in perpetuity.

By retaining ownership and a degree of control, CLTs have the potential to make community-based housing and workspace projects affordable. There are a number of models under which CLTs can provide or facilitate affordable housing. These range from leases and equity sharing mechanisms to rental models aimed at enabling tenants to build up equity for a future part-purchase and long term rent only..

In every case the essence is that as a community improves, values increase, a significant portion of the increase in value (or equity growth) should stay with the CLT and not become private profit, or leave the area. This does mean that people who live on land owned by CLTs will not benefit as much as full owners occupiers might from rises in house prices. Instead, part of the equity gain is shared with the community and recycled for the use of future beneficiaries.

With regard to non-housing assets, there are a number of mechanisms that can be used. For example, shops/workspaces can be granted business leases on low rents to enable start-ups to develop their businesses with rent reviews which provide for increases at appropriate times, profit sharing arrangements and turnover rents.

CLTs are intended to be enduring community based institutions such as almshouses which have existed for hundreds of years, and are integral the quality of life and identity of communities and their neighbourhoods. To be operationally sustainable, it will mix and match its capital transactions with the need to maintain its revenue solvency on a day-to-day basis.

However, to kick-start the CLT, it will need to secure an interest in land at a price which enables it to secure its borrowing for development, and achieve a substantial increase and surplus of open market value over cost when (re)developed.

## **How does a CLT acquire its equity interest in land?**

Acquiring an equitable interest in land is probably the most difficult task that a CLT will ever have to undertake. After that, everything gets much easier!

Circumstances where landowners may be persuaded to transfer or sell include:-

- ***Transfer of under-utilised public assets***  
Assets currently owned by Government and its agencies, and by local authorities or other public sector bodies, for example former hospital sites, brownfield and farm land can be transferred to a CLT specially set up for the purpose. The CLT can then act as developer, perhaps in partnership with the private sector, to provide affordable housing and other social amenities, delivering benefits that meet local needs and priorities more effectively than sale to a private developer or a non-local housing association at open market value. [See further Section 4.5 on public assets.]
- ***Contributions from Section 106 Planning Agreements***  
Adopted Local Plans and the Local Development Frameworks generally include policies requiring developers to make appropriate contributions to local infrastructure costs, including a requirement that a proportion of the homes in a development should be affordable homes. In addition to affordable housing, this will include a 'shopping list' of

transport infrastructure, social and other amenities. A CLT could be a beneficiary through the transfer of land and buildings and/or a commuted cash sum. [See further Section 4.4 on definitions of affordability of housing in planning agreements and effects on land value.]

- **Transfer of the public realm**  
When there is a major development that includes new parks, community facilities etc. there can be a role for a CLT to adopt them by securing a transfer of ownership. To provide for its continued upkeep and services, the CLT may receive a dowry/commuted sum, or other income generating assets, but would also undertake incomes generating activities and charge residents and businesses for its basic services, whilst giving local people an opportunity to be involved in delivering and controlling the services.
- **Development of rural 'exception sites' for affordable housing.**  
Typically, the land value component of a new dwelling can be between 30-50% of open market value. Where there is proven local housing need, it is possible to negotiate an exception planning permission and capturing this value by the CLT will provide affordable rural housing. A willing landowner is required; someone who would not normally receive a planning permission, and who, instead of receiving a large capital gain, will be satisfied with a land transfer price close to its existing (probably) agricultural use value. CLTs can provide the guarantee that the land will never be sold for private gain (at the expense of the original landowner) and will retain the housing in perpetuity at a level of affordability that meets the needs of the local community.
- **Award of grant aid from public and charitable sources**  
CLTs, many of which will have charitable objects, are an attractive vehicle for the receipt of grant aid; particularly given their mandate to make community-based projects more affordable. They are also an attractive vehicle for locally based community investment finance opportunities, particularly where this can be achieved with the benefit of tax breaks etc.

Public sector landowners, when requested to transfer land, will need to be persuaded that there is an appropriate benefit for them. They will be concerned that, in making the transfer:

- the asset transferred will be properly developed for the purpose stated
- the people intended to benefit really do get the benefit
- the value of the asset is genuinely retained for community benefit and is not lost to private profit, and
- the asset is well looked after

There are thus a range of land acquisition mechanisms. These are not mutually exclusive, and in some situations, a CLT project will need to use two or more of these mechanisms. In addition, a CLT provides a vehicle for broadly based community involvement in land ownership and management.

## **Where will a CLT be appropriate?**

A CLT can help achieve many of these aims:

- Providing community leadership, support, engagement and control
- Protecting transferred or developed assets
- Taking responsibility for pro-active asset management for the benefit of a specified area into the future, both to generate income and for beneficial use
- Mobilising local knowledge and community contacts; and
- Promoting the delivery of sustainable development and sustainable communities.

A CLT provides a vehicle to put into effect the aims developed in a community plan or an aspect of a regeneration scheme. It enables the community to be closely involved in implementation and to contribute local knowledge and voluntary effort. Having been engaged in developing the asset, it then puts local people in a position, and a frame of mind, to steward it into the future.

“Placeshaping” is an important new idea in Government policy: a way of joining up the efforts of the public service providers, and integrate the planning of services for that place with plans for physical and environmental change. [See also Section 3.3 above.] Communities may well think this is just another new name for what they have always been trying to do; trying to make their neighbourhood work better.

Communities are natural spatial planners, as they experience, spatially, everyday the way their neighbourhood works or doesn't work, and the way that public services interact with the physical reality of places. Working through a CLT, with a specific concern for the use and stewardship of land, communities will have a special role in helping public authorities in shaping the priorities of a regeneration or growth area scheme. The active involvement of the community through a CLT may also help overcome some local opposition to change. Local people will be able to have greater confidence that change will be for the better, as they will be an active part of the change. They will have sufficient control or influence to ensure promises are kept. They will have a role in ensuring that local people will not be displaced through gentrification, and that local needs will continue to be met long into the future through resources that were created and retained in the area.

The legal form and rules will aim to create a balance between the aims of the community and public bodies, especially where public assets are to be transferred. The rules will describe the bodies or individuals who have share ownership, or the membership of different electorates, as well as “golden share” arrangements.

By providing a specified number of Board places for stakeholders, the community at large and future residents, the CLT can also be the means by which top-down and bottom-up approaches can be brought together. Stakeholders, such as local authorities and housing associations, which are used to overseeing large regeneration programmes, can ensure that the assets will be properly managed. The community can be sure that local needs are to the fore when the nature of the development is considered.

## **Do CLTs need a formal, legal or statutory definition?**

### **Community Finance Solutions working definition**

In their ongoing work of supporting the development of CLTs, Community Finance Solutions at Salford University has devised this working definition:

***“CLTs are locally based, not-for-profit organisations that own, lease or manage assets, such as land and buildings, through a trust which is democratically controlled by the community.***

***CLTs have a long term responsibility to use the assets and any value created for the benefit of the community and its neighbourhood.***

***By capturing land value in perpetuity, CLTs can provide long-term benefits, including affordable housing, business space and services to meet the needs of the locality.***

***CLTs can do this directly or by strategic commissioning or grant giving to third party agencies acting as project partners or contractors.”***

Community Finance Solutions

This is a useful shorthand way of describing what CLT is and does. It was developed into the fuller definition at the beginning of this section for an earlier Housing Corporation project. However, there is now a strong feeling that a formal legal definition is needed for a number of reasons:

- Regulators, financial and charitable institutions need greater clarity about the nature of the body to which they are being asked to lend or give money and support;
- Local authorities and Local Strategic Partnerships need to know more about the status and competence of community led organisations if they are to take a more significant role as partners in Local Area Agreements; and as contractors for placeshaping
- Planners and communities need to know that CLTs are legitimate bodies for delivering community benefits, and that developers will need to demonstrate that they understand what criteria CLTs will need to satisfy if they are offered as a community benefit in major planning applications.

In all these circumstances, there are important requirements for the integrity of the CLT brand to be maintained, and that CLTs are properly accountable both to their communities and investors, public and private, for their role in placeshaping and promoting sustainable development and communities.

### **Housing and Regeneration Bill 2007 definition**

This Bill is currently before Parliament and amendments have been considered including a definition of a CLT. The following amendment was tabled by Grant Shapps MP on behalf of the Opposition in the clause related to the objectives of the Homes and Communities Agency, suggesting that the HCA should have a duty to promote CLTs:

**New clause: Definition of “Community Land Trust”**

“Community Land Trust” means a non-profit organisation which is an industrial and provident society, a company limited by guarantee or other incorporated body whose governing instrument contains provisions to the following effect:

(a) the primary purpose of the organisation is to hold land and other assets in order to promote the social, economic and environmental sustainability of a specified local geographic community by providing or facilitating the provision of affordable or other sub-market housing or other community-based facilities and services;

(b) the organisation will not dispose of its land and other assets save in the furtherance of its objectives as set out in paragraph (a):

(c) the membership of the organisation is open to organisations which are located in or persons whose principal place of residence, work or business is located in the specified community the organisation is established to serve (although the organisation may have different classes of membership):

(d) over 50 per cent. of the governing body is elected by the members of the organisation:

(e) the organisation is accountable to the local community through annual reporting or otherwise, and is responsive to the local community’s needs and to representations made on its behalf: and

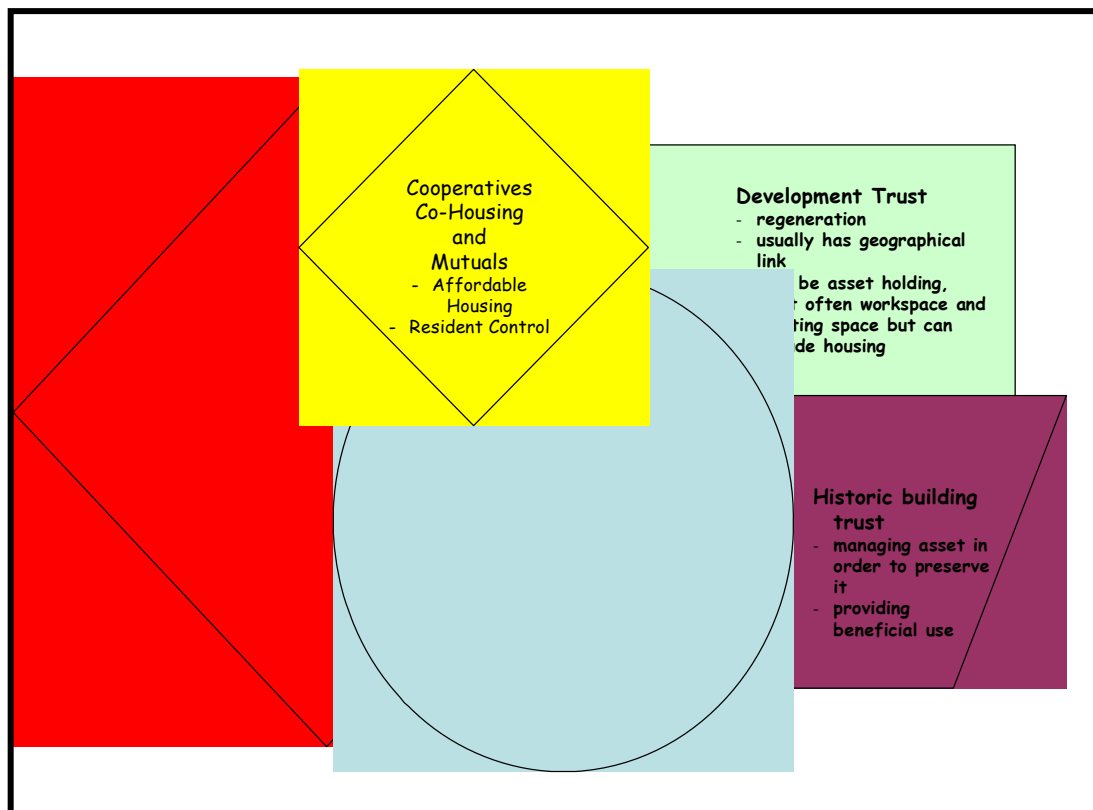
(f) it is an organisation established to help enable the community and those who live or work there to benefit from the land or other assets it holds.”

Despite the cross-party support for CLTs, Ministers are resisting a formal definition or any specific duty on the HCA to promote CLTs. They consider CLTs are just one of a number of ways of providing affordable housing, and that they will be considered by the HCA along with others as appropriate. The role of CLTs as placeshaping organisations has not been promoted in the passage of the Bill through the Commons.

It is possible that a further attempt to promote a legal definition will be made during the passage of the Bill in the Lords that will highlight the barriers to CLT growth by not having a definition, and the role that CLTs can play as placeshaping organisations. Part 3 of the Bill contains various Miscellaneous Provisions. This may be a more appropriate section of the Bill.

**Are there overlaps with other similar organisations?**

A CLT has similarities with a number of other similar organisations.



Asset-management, affordable housing, community control, place management and regeneration are all essential aspects of what a CLT does. These may also be aspects of development trusts, housing associations or historic buildings trusts, but not all these bodies will necessarily fall within the definition of a CLT.

### Development Trusts

- Tend not to tackle housing, but a number are now considering it;
- Vary in the extent of community involvement in governance;
- Are often based around asset management: but may be service focused e.g. employment and training; and
- May include agencies seeking to promote a particular agenda or sustainable development principles, eg. sustainable building and living at the Centre for Alternative Technology at Machynlleth.

### Housing Associations, Coops, Mutuals and Co-Housing

- Are primarily providers of affordable housing and housing services;
- May have place management aims and/or a specific geographical focus e.g. some smaller community based associations, cooperatives and almshouse trusts, or larger voluntary Stock Transfer Associations, but others don't; and
- May have subsidiaries delivering non-housing services or managing non-housing assets.

### Historic Buildings Trusts

- Are primarily concerned with the management and preservation of an historical or heritage asset;
- May manage asset for community benefit as a parallel or subsidiary aim; and
- Will rarely take on housing unless incidental to primary objectives.

### Urban Parish Councils

- Form part of the formal legal governance system
- Represent the community but the extent of active community engagement is variable
- May own or manage assets such as village halls, community centre, playing fields, public space, allotments and common land: none can own or manage housing directly.
- Will have had widely differing histories and ambitions to work actively to promote the well-being of the parish and parishioners. More active Parish Councils can now be accredited as Quality Parish Councils, and
- May play a greater role in the work of LSPs and the placeshaping activities with additional powers available through the Local Government and Public Involvement in Health Act 2007.

## **What are the reasons for considering a CLT?**

### **A useful checklist of reasons:**

- Community engagement
- Re-invigoration of civic life and practical involvement around real and worthwhile tasks
- Community control
- Secure the ownership of public and private land for local use
- Asset management
- Enlist local knowledge and community contacts
- Overcome “NIMBY”ism” by making the community itself the developer
- Focus on the needs and well-being of a defined community rather than a specific service or building
- Focus on placeshaping and place management, with an open agenda
- Bring together community, public sector, private and voluntary interests to deliver common aims
- Fear that outside bodies will not have community needs at heart
- Wish to retain assets for local use in perpetuity
- Promotion of sustainable development and sustainable communities
- Create a structure which public agencies can trust to hold and manage assets

### **Form follows function**

The legal form and rules will follow from deciding what the CLT promoters want to do; not the other way round. The aim is to create a balance between these aims, especially where public assets are to be transferred or public support provided.

## CLTs as part of group structures

- How could a CLT fit into a group structure, for instance that of a housing association?

### Why go into a group structure?

The reasons for setting up a CLT may include some which are in potential conflict; in particular:

- Engaging and involving the community, and providing it with control over assets which may enable it to move forward;
- Encouraging public bodies to transfer assets to the CLT by reassuring them that there are measures in place to prevent assets being lost in the event of mismanagement or unforeseen events.

Public bodies may look for additional protection and assurances that the use and benefits of public assets will not be lost. One way of achieving these two aims is to bring a CLT into a registered social landlord group) where the CLT board would maintain direct control over the CLT, but the parent RSL would have ultimate control of the board.

An important advantage of placing a CLT in a RSL group would be the reputation that the RSL sector has for being tightly regulated and therefore well managed, with well protected assets. RSL groups have also historically had non-RSL charities (and/or non-charities) within them and therefore are familiar with such a relationship and its benefits.

### Constitutional options

There are a number of constitutional options for the CLT, but the most common are for it to be constituted as an Industrial and Provident Society [IPS] or as a Company Limited by Guarantee. If the CLT were to be in an RSL Group, this would mean that:

- If the CLT was an IPS, the RSL would be the majority or sole shareholder; or
- If a Company Limited by Guarantee, the RSL could be the sole/one of the signed up members or guarantors.

There are also a number of different options for regulating the CLT's relationship with the parent RSL, which would depend on which constitutional form it had adopted. However, for tax and regulatory reasons, the parent RSL would need effective control. The RSL will have to comply with the Housing Corporation's Good Practice Note 11 [GPN 11 [www.housingcorp.gov.uk](http://www.housingcorp.gov.uk)], which requires that all group members of an RSL be constituted in compliance with the guidance, even if they are not themselves RSLs, particularly in relation to governance.

### Pros and Cons of group membership

Being part of group contributes to the assurance and financial strength derived from association with the RSL sector, but obviously has its limitations. These include regulations such as:

- The parent must have the right to appoint the majority and remove any of the board members;
- The board of the subsidiary must have one third independent members;
- There may be no amendment of the subsidiary's constitution without the consent of the parent.

Beyond these controls, the parent RSL could have the power to set policy, draw up annual and longer term plans and manage the organisation. However, the CLT board could reserve those powers to itself.

There are two ways of achieving sufficient legal control to satisfy GPN 11, and to avoid VAT on intra-group services:

- The parent RSL could be the majority or sole shareholder, in an IPS, or sole member, in a Company Limited by Guarantee, thereby controlling the voting membership, or
- The parent RSL could have control over the board by being able to appoint or remove all or a majority of the board members.

In practical terms, control of the CLT's board membership is more important than general membership control. The options include the following:

- The parent RSL could appoint a majority of the CLT's board from its own board;
- A majority of the parent RSL's board could be the same as the CLT's board, but with the CLT also having its own community election process for an allocated number of board vacancies, or it could accept nominees from designated community organisations for allocated vacancies; or
- The parent RSL does not appoint a majority of the board from its own board but simply reserves the right to appoint and remove board members.

In addition, the parent RSL could reserve certain powers on policy and direction, including the disposal of assets, for itself. RSLs are subject to a Consents regime, regulating the disposal of assets acquired with public funds or support.

### **Social Housing Grant**

Where a CLT needs Social Housing Grant [SHG], the Housing Corporation will now permit CLTs to apply for grant, but for the time being, the procedures for this are untested and it may be beneficial to do this through an RSL. A reasonably straightforward way is for the asset to be purchased or developed and held by RSLs initially, and later transferred to the CLT when the development has been completed and the grant has been paid and accounted for by the RSL. Having a CLT within the group structure might be particularly relevant in these cases to enable the RSL to feel confident about the transfer while preserving both independence and influence for the CLT

### **Contracts, Services and VAT**

It is common for organisations within an RSL group to become party to intra-group contracts, which detail the management of the relationship between the parent and the subsidiary and between the subsidiary and the rest of the group. The contracts would also distinguish what is the business of the group and what is the business of the subsidiary.

In addition, there may well be group policies with which the CLT would have to comply. Within the group, a CLT could buy services from the group, such as human resources or IT services, through a Service Level Agreement, which would attract tax advantages if within a VAT group (as above).

The CLT could also benefit if there were other charitable organisations within the group, as it may be possible for those charities to invest in the CLT if that would further their objects.

RSLs are able to borrow private finance at the best rates. A CLT group member could benefit from access to these rates.

Alternatively, the CLT could be a constitutional orphan, where it does not have a parent, but it would have a contractual arrangement with a RSL, such as a funding arrangement, or for the purchasing of services. This would not attract the advantages of a VAT group.

The contractual relationships that a CLT could have with the RSL as funder/service provider would still, if to a lesser extent, benefit from the positive reputation of the RSL sector and its regulatory regimes.

## 4.3 Service Level Agreements for CLTs and their partners

- What services might a CLT receive from an RSL or other agency?
- What form might a service agreement take?

### Range of services

CLTs might look for support from RSLs, other community trusts, secondary cooperatives or private sector service providers and consultants for a wide range of activities:

- community development support
- pre-development funding for architects fees and other costs which are at risk until the land is purchased
- advice on the choice and commissioning of an architect and other professionals, or preparing briefs for them
- full development management services, covering all or part of the purchase, design, tendering, site management and handover stages
- finance for development
- long term finance by on-lending funds raised for the association's own rented provision
- finance and administration services
- housing allocation policies and the ongoing implementation of these policies in relation to individual applicants
- lettings and part-equity sale sign-up procedures
- model assured tenancy agreements
- management of completed homes
- maintenance service for completed homes

### Model Service Level Agreements

A model agreement would cover all these options from which relevant elements could then be selected. A draft example model agreement can be found on our website

[www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk) in due course.

## 4.4 Affordable Housing: Policy and Valuation Issues

- how affordable housing is defined in Planning Policy Statement 3
- how this might be used to support arguments around valuation, tenure and meeting local needs

### Planning Policy Statement 3 Housing

The Government's Planning Policy Statement 3 Housing [CLG 2006] sets out the formal definition of affordable housing and affordability [PPS3 Annex B]. This definition should inform local authority housing and spatial planning policies that are specific to the needs of their area. The definition will be informed by a comprehensive evidence base, which surveys house prices, availability of land for development and of existing housing at different price levels, both for renting and purchase, and local incomes. [PPS 3 Annex C].

The Sub-National Review [Treasury and DBRR 2007] emphasises the need for housing supply to increase and to improve levels of affordability to support economic development.

### PPS3 Definition of Affordability

The definition includes social rented and intermediate renting and ownership. There are two key elements of the definition:

- **An Evidence Base** "...affordability must be...determined with regard to local incomes and local house prices"
- **Arrangements for Performance** "...to remain at an affordable price for future eligible households (Or) for the subsidy to be recycled for alternative affordable housing"

Both of these elements will have particular force in delivering wellbeing outcomes in the context of Placeshaping and Core Strategies that inform the LDF, Sustainable Communities Strategy and Local Area Agreement.

Assumptions that HomeBuy and the First Time Buyers Initiative affordable housing products will *de facto* meet the definition, (because they are described in national housing policy as affordable housing products), are unsound. They need to demonstrate their capacity to satisfy both requirements to be genuinely PPS3 compliant.

### The Evidence Base and Placeshaping

The need for particular types of affordable housing may be quite generic across a council's area, but they can also be quite specific to particular neighbourhoods or even parts of neighbourhoods, depending on the evidence available. In regeneration schemes, affordable housing needs are often particular to the population living in a well defined place. However, the spatial planning system, Placeshaping, the new LAA, and the Audit Commissions Comprehensive Area Assessment [CAA] will provide the context for applying this place specific approach more widely.

PPS3 is clear that local authorities should: "**Specify the size and type of affordable housing that, in their judgment, is likely to be needed in particular locations and, where appropriate, on specific sites.**" The CAA regime may well use its risk-based approach to assess whether the local policy framework is sufficiently robust to specify what is needed and that there are delivery mechanisms to ensure the required affordable housing outputs and associated wellbeing outcomes are in fact delivered, **and** safeguarded for as long as is needed..

Allocations of specific sites in this way would probably be done through the Area Action Plan process or by specific one-off decisions by a council, informed by the policies in the Core Strategy, and recorded as LAA targets.

The evidence base must be sound and contestable, and the burden of affordability must not be disproportionate. A landowner can contest the local authority's approach and force the local authority to acquire the site if it can be shown that the site is blighted by the local authority's actions.

It is possible that the Placeshaping arrangements will provide a more robust and place specific approach to allocations and definitions of affordable housing. This improved policy environment will be able to support a local authority's actions, or provide the context for communities to initiate their own affordable housing projects that are relevant to their specific needs and intentions to deliver wellbeing outcomes for their community.

### **Performance and Placeshaping**

This is more problematical. There are few recognised means of ensuring that homes stay affordable over time, and that when staircasing of shared ownership properties takes place that receipts are recycled locally. Resale covenants can be applied to both private and RSL provided affordable housing. Receipts can go back to the RSL who may reinvest in that district or even that location. However, it is widely observed and believed that receipts go back into a general RSL pot for reinvestment in affordable housing. This may well not be as place specific an approach as it now ought to be in the context of Placeshaping and the new LAAs, and the need to demonstrate spatially focused wellbeing outcomes.

Enforcement is a major issue for local planning and housing authorities. Resources are limited, and the administrative arrangement and process are often not well understood by planners. The lack of mechanisms with a local and sometimes small scale focus to provide for local accountability and the ongoing care of specific places is major barrier to getting the best and the longest lasting outcomes from the current planning-led approach

### **The role of CLTs**

CLTs are institutions of local accountability and responsibility that can satisfy both the key criteria of affordable housing. They aim to:

- Provide homes that are affordable to people who need or want to live in area for employment to promote and sustain community cohesion and integration
- Preserve those levels of affordability permanently through intermediate housing market products, ensuring that uplifts in value are retained and reinvested "in that place" for the benefit of that place and its community.

### **S.106 Agreements or planning conditions?**

Is a S106 Agreement always the right place for setting down affordable housing requirements? Where the combined effects of the LDF and SCS, and their Core Strategy define quite clearly what type of housing is required to achieve evidence-based wellbeing outcomes in a particular place on a specific site, these are intrinsic to the nature of the development proposed, and could be, ( but are not often) dealt with as planning conditions.

S.106 Agreements are more commonly used as affordable housing has more usually been thought of as a district wide requirement, and thus something that must be provided and without which the planning permission should not be given. Placeshaping can change this perception and approach.

There is anecdotal evidence from the demonstration programme participants that, in some areas, through the lack of expertise and resources, the process of drafting s106 agreements adds

considerable delay, as well as cost, to the implementation of the consent, and that once completed no action to enforce the agreement is ever taken. Planning conditions may have advantages in these circumstances.

The lack of effective regulation of the delivery of PPS3 compliant affordable housing has undermined government's ambitions, and has allowed landowners and their advisers to ignore and devalue the government's intentions. Unpublished research on best practice is S106 agreements, [Sheffield University for CLG 2006/7], showed significant improvements since last reviewed earlier in the decade. There is still scope for greater rigour.

### **Affordability and Valuation**

The level of affordability required will have a direct impact on the value of the land; usually to reduce the expectations that a landowner might have quite reasonably had under the pre-2004 land use planning system, but which may be quite different under the spatial planning system. For private landowners, this may seem unreasonable. For a public land owner, this change in thinking about value should be well understood and be reflected in its own policies and asset management strategies. Further advice on valuation issues of public assets follows in Section 4.5 below.

## 4.5 Public assets as investment in communities- Best Value and Public Asset Management Strategies

- disposals by local authorities under s123 of the Local Government Act 1972
- guidance from ODPM on the basis for disposals, relating this also to RICS valuation guidance
- disposal of housing land
- some issues affecting disposals by Government agencies
- examples of transfers to provide community asset and how they were justified

### Introduction

This section covers a series of complex issues which are the subject of current changes in legislation and new guidance to local authorities:

- Housing and Regeneration Bill 2007
- The Quirk Review –ongoing follow up work
- CLG and RICS Local Authority Asset Management Guidance – detailed advice forthcoming 2008
- The “Placeshaping” Statutory Guidance – forthcoming 2008
- CLG “Planning Together 2” – anticipated?

We have tried to provide an overview of the key elements of the issues in the following sections:

- Current Policy Priorities
- Local Authority Asset Management Strategies and Guidance
- Disposals under Local Government Act 1972 including the General Consent (England) 2003 and the “wellbeing test”
- Housing Land
- Disposal by Government Agencies including European Rules
- Best Value Examples

We have concluded that various aspects of the rules for the use of public assets are now either out of date, are confusing or could be more helpfully framed by current and emerging policy than they are.

In a concluding section, we have made a proposition that draws together a number of themes from this section for a new General Consent. The scope of the proposition is ambitious and wide ranging. Whilst it may not be practical to introduce it in exactly the form suggested, the proposition describes those issues that we feel are in most need of attention, and so may be a useful guide to policymakers and practitioners for future policy development and the promotion of individual schemes.

### Current Policy Priorities

#### Government priorities

The Government encourages all public bodies to dispose of surplus and underused land and building to raise income for government activities and to bring them into more beneficial use to realise policy aims.

Almost by definition, therefore, local authorities have to manage the tension between meeting annual targets for funds raised through the disposal of assets in order to achieve balanced budgets, and achieving other policy outcomes through the exercise of their statutory and discretionary powers, including wellbeing powers. That must be recognised as an essentially political choice. This section focuses on technical aspects of the rules that can clarify the political decision making process.

### **Current powers and policies on community asset ownership**

The Government recently produced this list in its response to the Quirk Review:

- “A General Consent (England ) 2003 for local authorities to sell property at less than ‘best consideration reasonable obtainable’, or to lease at less than market rent, to improve the environmental, economic and social well-being of the area, up to a limit of £2m difference.
- Local authorities have compulsory purchase powers, which can apply to derelict private property.
- The Secretary of State has discretionary powers to direct local authorities and certain other specified public bodies to dispose of their interest in land and buildings, in response to a request from a member of the public. The aim of this is to deter public sector landowners from holding on to vacant land or derelict buildings unnecessarily. This power, known as Public Request to Order Disposal, or PROD, is not currently well known or used.
- Local authorities also have a discretionary power to require landowners to clean up 'land adversely affecting the amenity of the neighbourhood'.
- The Treasury revised its guidance to funders in 2005, so that clawback provisions (of public grant use to buy or build community assets), while protecting public funding, do not prevent organisations from using their assets to promote enterprise and generating a surplus to promote their sustainability.
- Charitable foundations can by law disburse funds to organisations which are not charitable, but which are promoting community benefits, such as those constituted as Community Interest Companies. This is not widely known amongst local community groups.”

### **Disposal does not mean “loss”**

One of the key issues raised by participants in the demonstration programme was that disposals of public assets for community wellbeing purposes were often described in highly negative terms. Language implying “loss”, “less than” and “undervalue” were loaded with meaning that hindered positive and creative thinking about what was intended by the promoters of the scheme, and by officers and Members keen to support the project. This has and can lead to overcautious and conservative approaches to valuation that have then acted as an obstacle and sometimes a permanent barrier to the project happening.

At the request of the demonstration projects, we have therefore attempted to portray the nature of asset disposals as a positive action for investment in the wellbeing of places and communities; as an essential part of the Government’s spatial planning policies and expectations of local authorities and LSPs in fulfillment of their powers and objectives. The Central Local Concordat 2007 is a powerful and unequivocal statement of what is intended and expected

A presentation on this topic will be made at the National CLT Conference in April 2008. Called “Disposal does not mean loss and ‘free’ land isn’t”, the PowerPoint is available at [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk). Copies have been made available to members of the Quirk Review Team. [See Section 3.5 on Community Assets for more detail on the Quirk Review and follow up work.

## Local Authority Asset Management Strategies

One of the results of the Quirk Report has been a review of public asset management policies. In January 2008, the RICS published new Public Asset Management Guidance. This is a very wide ranging general good practice guide.

In February 2008, CLG published an England specific document “*Building on Strong Foundations: A Framework for Local Authority Asset Management*”. To accompany it, nine short guides are being prepared jointly by CLG and RICS to be published later in 2008.

The leaflets will cover the following topics:

- Overarching strategy document: Sustainable Communities and property assets
- Transfer of assets to community ownership and management
- Procurement and Commissioning
- Making the right choices
- Value for money
- Measuring Asset Management Performance
- Improving the experience for citizens and businesses
- Place shaping
- Tenanted non-residential property

As they are only in draft, it is not possible to comment on the detail. However, we are able to say that the guides:

- **do** reflect the new spatial planning and Placeshaping agenda;
- **do** make the “best value” and “wellbeing” context much more explicit;
- **do** emphasise the importance of local authorities using their corporate management structures to give additional importance to asset management, and integrating the use of assets into service planning and spatial planning objectives and action plans;
- **do** give advice on how to balance the need to generate receipts for other activities and achieve policy outcomes through the positive use of assets, whether by themselves or through partners; but they
- **do not** currently deal with the formal valuation of assets.

A revised Local Government Capital Finance Guide is currently in draft, and will reflect the general content of these guides.

In later sections, we deal further with valuation and provide a basic step by step guide to the process of making the case for disposal of a public asset at a value that properly reflects its intended use.

## Disposals under Local Government Act 1972

### Primary and secondary legislation

Local Authorities have a very wide power under the Local Government Act 1972 S.123 to dispose of land in any manner they wish for “the best consideration reasonably obtainable”. It was designed to give local authorities as much flexibility as possible, and was drafted at a time when the relationship between central and local government was much more permissive than it became subsequently and is now. The Quirk Review and others have noted that local authorities have

generally taken a very narrow view of what they are able to do. Much central government guidance and responses to this finding have been to simply restate that the powers are sufficiently wide to do almost anything that a reasonable authority is likely to want or need to do, and that there is thus no need to change it. It cannot be made any more permissive than it already is

The Government recognises that there may be circumstances where a local authority considers it appropriate to dispose of land at an “undervalue” to achieve its objectives. The General Disposal Consent (England) 2003 issued by ODPM (predecessor to Department of Communities and Local Government) provides a General Consent, removing the requirement for local authorities to seek a specific approval from the Secretary of State when disposing of land at an undervalue in circumstances where:

- The undervalue does not exceed £2 million, and is less than £10m in total in any year; and
- The authority considers the disposal is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of people “resident or present” in the whole or any part of its area; what is now commonly called “the wellbeing test”.

Dating from 2003, the Consent and ODPM Guidance on the well-being powers state that Authorities should, where appropriate, have regard to their Community Strategy, and the wellbeing powers introduced in the Local Government Act 2000. The recent and ongoing Planning and Local Government reforms [described in Sections 3.2 and 3.3 above] have developed very considerably the scope and significance of these administrative arrangements and policies which are now central to everyday local authority and LSP activity.

### **Interpretation and application**

When disposing of land at an undervalue, Authorities must therefore remain aware of the need to fulfil their “fiduciary duty” and be accountable to local people. It is for the Local Authority to decide whether a disposal meets these criteria or continues to require specific Secretary of State’s consent.

Section 123 applies to land held for most local authority functions, except for disposals of land held for housing purposes within the Housing Revenue Account, (governed by the Housing Acts), and for planning purposes, (governed by planning legislation). Land held under powers deriving from the Planning or Housing Acts would need to be appropriated (where it is reasonable and lawful so to do) before the new Consent could be used. Other specific consents/processes may be required for disposal of land held for particular purposes e.g. charitable land, schools, statutory allotment land, playing fields or open spaces.

Local Authorities must be able to demonstrate that they have acted reasonably in agreeing undervalue transactions. They should obtain the view of a professionally qualified valuer as to the likely amount of the “undervalue”. Legal advice may need to be obtained on the question of whether the disposal is capable of falling within the terms of the Consent. The Government advises that it may be useful for a Council to keep its appointed auditor informed of any legal advice it receives and the proposed action it wishes to take.

## **Terms of the General Consent 2003**

### **The Basic Formula and Terms**

The basic valuation formula, taken from the RICS Red Book on Valuation Standards [RICS Books 6<sup>th</sup> Edition January 2008 [www.ricsbooks.com/redbook](http://www.ricsbooks.com/redbook)] in UK Practice Statement I Appendix I.5 Valuation of Local Authority Assets is  $D = UV - (RV + VC)$  where:

- D= Undervalue or Discount
- UV= Unrestricted Value
- RV= Restricted Value
- VC= Voluntary Condition
- When D= <£2m General Consent applies
- When D= >£2m Specific Consent required

eg Discount = UV £10m – (RV £8m +VC £1m) = £1m...is covered by the Consent

**Unrestricted Value** is for the most valuable possible use of the land ie:

- **Best consideration reasonably obtainable...**
- **... expressed as a capital sum,**  
ie rents and benefits in kind capitalised, monetarised benefits, and non-monetary judgments
- **...for the use that maximizes the consideration...**  
ie may be different from the use for which the land is actually being sold

**Restricted Value** is for the use which is actually proposed by the authority and the purchaser ie:

- **Best consideration reasonably obtainable...**
- **...expressed as a capital sum**
- **...for the use for which it is actually being sold...**
- **...and reflects the effect on value of any Voluntary Condition**

**Voluntary Conditions:**

- **Do include any condition that the Council chooses to impose**
- **Do not include any condition that arises from statutory duties or discretionary duties eg wellbeing powers... which must therefore be reflected in the Unrestricted and/or Restricted Value**

### Difficulties with definitions

We have identified a number of issues that need clarification by Government, mainly to reflect the changes in policy, practice and interpretation since 2004 that may affect the Consent, as written in 2003.

The three main issues are:

- **The difference between Unrestricted Value and Restricted Value**  
Where a Core Strategy, (and all the policies and agreements that flow from it eg SCS, LDF, AAP site allocations, LAA targets, choice of LGPF Indicators etc) are capable of describing both use of the site and the intended outcomes of development ie what spatial planning is supposed to do, then the potential differences between Unrestricted and Restricted Value may be much less than might have traditionally been considered the norm, under the pre-2004 land use system.

#### Theoretical Case Study

A city council undertakes housing market studies across all its neighbourhoods. It decides, on the evidence, that people, who cannot afford full home-ownership and will not be eligible for social renting, should be enabled to live in a neighbourhood where house prices, supply and incomes are all out of balance, to be near essential employment, for community stability and cohesion.

The Council decides to sell its own land in that area for a nominal £1, so that the new

homes are affordable at specified income levels. The Council will also ensure through the purchaser of the site that any future purchasers of the homes can buy at a similar entry level price. This is permanently and genuinely affordable housing, fully compliant with the Government's definition of "affordable housing" in PPS3, ie not transitional housing as may be the case with conventional HomeBuy and First Time Buyers' Initiative.

This would be the "best consideration reasonably obtainable", taking account of the evidence-based policy objectives which determines the site use. As there is no other permissible use for that site, that is the market value. There is no other real or theoretical alternative development for say executive homes with minimalist affordable housing, which might have been considered a legitimate Unrestricted Value in the past.

From this theoretical (but commonly found in practice) situation, we suggest that:

- There is no Restricted Value, as the Core Strategy for SCS and LDF have described the only type of development permissible on this site.
  - The principles apply to any proposed use, not just affordable housing, where a site could or should be used to deliver required policy driven and wellbeing outcomes
  - This interpretation should not be applied loosely as it will depend on the robustness of the evidence and its specificity to individual sites in the location where the need has been identified
  - Many professionals and politicians are still more familiar and comfortable with the pre-2004 planning system, suggesting that more guidance is required from government and professional bodies to modernise interpretations and practice to support current policies.
- **Voluntary Conditions**  
In the current policy context, we have been unable to identify conditions that local authorities might choose to impose that are not already covered by its statutory and discretionary powers, particularly the very wide ranging wellbeing powers. We recommend a review of the scope of Voluntary Conditions, and that if they no longer serve any essential function then they should be removed from the calculation of the consideration and undervalue.

In their current form, they are misleading, and it is clear that many think the Voluntary Conditions are part of the reason for the undervalue, rather than being part of the "best consideration reasonably obtainable".

- **Best Consideration Reasonably Obtainable**  
There is confusion about what can be reckoned as a legitimate part of the consideration. The presumption is that a consideration should be in cash, but in **any** transaction, where the parties agree, **any** "best consideration reasonably obtainable" can include **any** proportion of:
  - Cash
  - Monetarised value of benefits that can be measured in capital terms
  - Benefits that cannot be measured or are hard to quantify, "but are nonetheless real". ie outside political and professional comfort zones

The new CLG Asset Management Guides contain a number of suggestions about how to deal with the more difficult aspects of evaluation and appraisal of quantifiable and non-quantifiable non-monetary factors. We have suggested that CLG provide clearer guidance for a single and simple template that can be used by local authorities, valuation professionals and promoters of community asset transfer projects alike, that can be

adapted to local circumstances but around which national best practice experience and professional guidance can be developed.

For more complex and risky projects, we have suggested that the Price/Quality Standards and Treasury Green Book Economic Appraisal process used by English Partnerships represents a best practice model that could be used more widely.

(As an annex to this section, we have included recommendations for a new General Consent linked to the Housing & Regeneration Bill 2007 which would clarify all of the above but, while complex, the powers to transfer assets are in place and can be used as they stand.)

## **Housing Land**

Local authority owned housing land can be disposed of under S.32 of the Housing Act 1985 with the Secretary of State's consent. A General Consent was published in 1999 allowing disposal to RSLs in return for nomination rights.

The General Consent 2005 also allows land to be transferred at less than market value to assist in the provision of privately rented housing. Cl.11 of the Appendix to the Consent allows financial assistance and gratuitous benefit to be provided to RSLs, including disposal at less than full market value.

Local authorities can also provide small amounts of grant for the provision of rented housing, both to private landlords and RSLs at up to £3 per head of population per annum under section 25 of the Local Government Act 1988.

## **Disposal by Government agencies**

### **English Partnerships [Homes and Communities Agency]**

The "best consideration reasonably obtainable" for English Partnerships [EP] is currently the market value subject to its contract conditions and Price/Quality Standards, which aim to achieve what, might reasonably be described as wellbeing outcomes, and an economic appraisal base on the Treasury's Green Book economic appraisal.

The Price/Quality Threshold ensures that all intending purchasers of EP land have met the standards required before their financial offer for the site is considered. This places all tenderers on an equal footing in relation to standards. The latest versions of the standards are described in English Partnerships' Quality Standards: Delivering Quality Places" November 2007 and cover:

- Design and Construction
- Environmental performance
- Place management
- Community engagement
- Measures to encourage and support sustainable living

### **Operational priorities for government asset owners**

As with other public bodies, EP needs to balance its cash requirement to fund its operations and the use of land value as investment in quality and wellbeing outcomes.

Where it has bought land from other public bodies, such as NHS Estates and Defence Estates, it may be bound by the terms of the transaction to achieve a minimum price for any land sold on and to pay over a proportion of any value uplift. This reflects these government bodies' overriding interests to sell assets for the most cash return to finance operations. They will have limited or no

responsibilities to promote wellbeing. However, we suggest that the new spatial planning environment could more usefully describe what should happen on these sometimes large and significant sites. It is the responsibility of the spatial planning system to give spatial expression to SCSs, and the achievement of associated wellbeing outcomes ie to reflect Government's overarching policy objective in Planning Policy Statement 1 that sustainable development is the underlying principle of planning.

## European Rules

All disposals of public assets need to comply with European Commission State Aid rules. These currently exempt disposals for the provision of affordable housing.

## Examples

To help develop common practice, CFS is keen to continue to collect examples which illustrate methodologies used in agreeing undervalues or disposing of housing land to provide permanently affordable housing that will be PPS3 compliant. These examples will be available over time on [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk). Readers are invited to submit their own examples to [j.aird@salford.ac.uk](mailto:j.aird@salford.ac.uk). The following provide some initial examples

### 1. Step by Step guide to a “Placeshaping” sale of local authority land

This approach has been devised to work with the situation described above in the Theoretical Case Study. It reflects the CLG and RICS Asset Management Guides currently in draft.

This is for an affordable housing programme, making highly focussed interventions in specific neighbourhoods, where the local authority is considering a programme of disposals of council land to a CLT to develop PPS3 compliant affordable housing.

#### **Steps to be adopted by the Local Authority and CLT working together:**

- **Tell the Placeshaping “story of place”** ...What should this place be like? What are we trying to achieve here? What kind of housing do we need and why?
- **Gather the Evidence**...citywide neighbourhood housing market studies identifying specific needs/affordability-incomes thresholds on context of incomes, house prices/housing costs and supply in particular places.
- **Confirm the Policy**...a joined-up approach to integrating physical proposals and wellbeing outcomes, ideally expressed in or enabled by a Core Strategy which informs both LDF and SCS, and enables the Council as LPA and asset owner to adopt a more robust and consistent approach to securing PPS3 compliant affordable housing, in both planning applications generally and in the use of its own assets “in that place”.
- **Agree the Administrative Context**...how the policies will be promoted and delivered through current or planned LAA contract outputs and outcomes, planning conditions, s106 agreements and other partnership/contract arrangements...and related to the selected nationally and locally monitored Local Government Performance Framework Indicators. How this project or programme will contribute to the delivery of required outcomes.

- **Learn from the Option Appraisal, Risk Analysis and Valuation...** this needs new standard templates for quantitative and qualitative evaluation, to encourage consistent practice, and facilitate action. Methodology to include multi-stakeholder engagement and dialogue on objectives, option appraisal and shared understanding about the basis of valuation to be adopted, and factors to be taken account of in valuation: all proportionate to scale and risks in project/programme.

A good precedent for this approach is the Pink Book, a bespoke Treasury Green Book methodology, for Estate Option Appraisal on the DOE/DETR Estate Action Programme 1987-94.

This step should be the core part of the CLT's own Business Plan process, including a supported organisational and project development process if needed; similar to Adventure Capital Fund approach.

- **Commit to the Delivery Plan...** who makes it happen, how and when, and what are the risk management arrangements?
- **Accept the need for Accountability...** for performance in relation to sale contract or lease terms and covenants, s106 agreements, LAAs etc for delivery of outputs, outcomes and long term stewardship of place and partnering with Council/LSP in continuing long term relationship to promote wellbeing.
- **Adopt the Learning and Skills Plan...** commitment to action learning and continuous policy review on project, best practice and experiential feedback to partners in city, and wider public and knowledge stakeholders eg LGA, IDEA etc.

In this process, there must be the scope and flexibility for projects to be generated by a top-down corporate management planned approach in which the authority is commissioning the CLT as provider, as well as a bottom-up approach from the CLT responding to a unique opportunity to meet need. Both are equally legitimate if framed by policy and supported by evidence.

## 2. Achieving environmental targets

London Borough of Sutton agreed to sell land to Peabody Trust for the BedZed sustainable housing scheme at 20% below open market value. The discount was justified by the community well-being arising from a development based on sustainable development principles to reduce CO<sub>2</sub> emissions, increase the supply of renewable energy etc

## 3. Community benefit

Lancashire County Council disposed of redundant schools at Springhill and Scaitcliffe in Accrington for nil consideration, to newly formed local community associations. The schools are now run by Springhill and Scaitcliffe Community Associations to provide meeting rooms, space for community and child-care activities and offices for community organisations.

## 4. Affordable housing

Local authorities have frequently sold land to RSLs for affordable housing using the General Consent 1999 at less than best consideration reasonably obtainable, justified by the value to the community of the affordable housing. Numerous examples are available, including Leeds and

Sheffield City Councils, and North Devon District Council. Generally, such disposals require a decision by the Cabinet or equivalent decision-making body of the local authority.

#### 4. Public sector capital receipt v. affordable housing for key workers

In the health service, hospitals in the area are incurring substantial costs in paying agency staff or paying existing NHS staff through the “bank”, an internal agency system to undertake additional hours because sufficient staff cannot be recruited.

	Salary	NI/pension	Incl. NI/pension	
<b>Employed</b>	£	£	£	
Newly qualified (Mid-Grade D)	18,000	3,349	21,349	
Experienced (Mid-Grade E)	20,000	3,789	23,789	
<b>Agency</b>	£/hour		Cost (35hrs/44 wks)	Extra cost
Newly qualified	£22		33,880	12,531
Experienced	£25		38,500	14,711

The income received from the sale of NHS land for a 2-bedroom home on one site studies was approx. £41,500. There would be a saving to the NHS after just 4 years, if the provision of an affordable home enables a permanently employed nurse to be recruited instead of relying on agency or overtime rates.

Similar arguments will apply in teaching and in the police.

#### 5. Asset Enrichment Ratio [AER]

By working with the community, a public body (e.g. a local authority, English Partnerships, a Regional Development Agency, or Government Department,) can reach agreement on a type of development which relates closely to community needs and hence receives their support; which in turn enhances the monetary value of the site for the authority and generates a greater community benefit.. These examples should also show savings in time and cost in the process of securing planning permission.

- **High Bickington, Devon**

Devon County Council decided to sell some of its county farms including Little Bickington Farm, valued at £0.25m at present use value.

The community was offered the chance to say how they would like to see the site used. A community planning exercise proposed 10 social rented homes, 2 open market HomeBuy, 17 intermediate market homes under community (CLT) control, 6 homes for outright sale including the existing farmhouse, 1,000m<sup>2</sup> of workspace, a community centre, a new primary school and a community woodland.

Disposal to the community for these proposed uses enhanced the land value to £2.6m, for a development which the community might have opposed had they not been in the lead.

Of this £2.5m, £1.0m was to remain as a cash receipt; £0.5m provided a site for the required new primary school and £1.0m was consideration for the provision of the affordable homes, workspace and community building.

Devon CC increased the value of its asset by a factor of 10 and the size of its potential cash receipt by a factor of 4; AERs of 10 and 4.

This scheme did not proceed in its original form as, after planning permission was granted by the local authority, it was called in by the Government Office and refused after a public enquiry. The loss of various potential grants has meant that in the revised scheme, Devon CC are prepared to commute more of their potential cash receipt into consideration for community benefits, so the AER principles will still be applied.

- **Shoreditch Equity Trust**

Refurbishment of a large estate in Hackney would have delivered social housing at Decent Homes standards. Instead, the Trust and LB Hackney designed, in consultation with residents, a redevelopment scheme at a higher density which re-provides the same amount of social housing but adds additional private homes which help to finance the whole project and diversify the social mix in the area. Tenants will be offered a choice of a new rented or part-ownership home, as well as options to be move elsewhere.

The scheme delivers:

- The same amount of social housing but to Code for Sustainable Homes rather than Decent Homes refurbishment standards
- A better social mix, bringing into the area people on higher incomes to help generate enough income to make local shops and amenities viable
- New housing for sale on a brown-field inner city site
- Reduced costs through cross-subsidy

The overall package was also made possible through close involvement and consultation with the community for a scheme which might otherwise have been opposed. English Partnerships have recently become involved in supporting the project and developing the financial model for a major development that will last for at least a decade, and well after the life of the New Deal for Community programme which was the catalyst for the Equity Trust.

## **6. “Post-Quirk” Disposals**

Since the Government’s response to the Quirk Review report, twenty one local authorities and community groups have been piloting the recommendations. Many transactions are still at the negotiating stage. Details of the lessons learnt will be available later in 2008 and links will be posted on [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk).

## **Annex to Section 4.5: Proposition for a New General Consent**

The following proposition has also been sent to the RICS and RTPI Policy Teams working on the Planning and Housing and Regeneration Bills 2007.

### **Need for greater clarity**

The context for this proposal is the Commons’ Committee Stage discussion, Jan 08, on Sections 10 and 50 of the Housing & Regeneration Bill about new powers for the Homes and Communities Agency [HCA]. It concluded with an undertaking from the Minister to bring back proposals for a new General Consent for the HCA. There was some confusion in the debate over the terms on which HCA and local authorities could dispose of assets that reinforces the need for much greater clarity and simplicity, as well as some unpacking of myths and misunderstanding that have grown up around the way the valuation process works.

## Need for updating

A new General Consent is needed to update the wellbeing context in which the General Consent 2003 was drafted. This is now simply out of date and insufficiently comprehensive.

There needs to be new guidance generally on the use and investment worth of public assets, grounded in the post-2004 spatial and sustainable community planning regimes, and “placeshaping”. The research in 2006-7 for RTPI and CLG by UCL and Deloitte in “Effective Practice in Spatial Planning” revealed the extent to which the new planning system is not understood in central and local government and government agencies, and its recommendations for more guidance and skills development across government are still being considered and acted on.

## Two Level Consent

The new General Consent should have two specific elements:

- ***For LAs, LSP partners, RDAs and HCA in relation to “community assets”***

These will need to be defined in relation:

- Firstly, to the kind of assets originally envisaged in 2003. This was essentially a de minimis provision to enable relatively small transactions to pass without undue process. However, it is clear that people look to the Consent 2003 for much wider guidance on the disposal of public assets than was originally intended, mainly because there isn’t anything else; and
- Secondly, to [small/modest scale] community led affordable housing projects, on terms that might also include the draft statutory definition of CLTs, and the forthcoming Matthew Taylor Rural Planning Task Force proposal to redesignate “rural exception sites” as “community housing sites”, especially where public land is also available or acquired for that purpose.

These should be explicitly aligned with Community Calls to Action/PRODs/Local Petitions, as well as the bigger planning and placeshaping agenda which should apply to all parts of the General Consent.

The quantum of “undervalue” permitted should be reset at an appropriate level, and then index linked to ensure it is not eroded by administrative inaction once the general principles have been adopted as policy.

- ***For LAs, HCA, and RDAs in relation to the use of larger public assets,*** especially development land, [including assets (to be) compulsorily purchased] for public interest purposes, and to achieve wellbeing outcomes, where, within the context of the combined LDF/SCS Core Strategy, LAA contract, LGPF Indicators, comprehensive asset management strategy, etc, authorities may dispose of public assets at less than “best consideration reasonably obtainable”.

The policy context should be sufficiently robust to the District Auditor and Treasury the confidence that assets are to be used to best possible effect, and strike a balance between raising revenue to pay for government activity through receipts and achieving public policy outcomes intrinsic to the assets.

The Consent could be used an important incentive to LAs and LSPs to ensure that the Core Strategy is embedded in the SCS and LDF, and can demonstrate a clear understanding of the Planning Together principles ie. Public bodies would be excluded from the Consent, and be marked down in inspections if they did not.

The quantum of “undervalue” could be set at a higher level, and then index linked. In

HCA's case, the level of EP's delegated authority from CLG for spending on any single project is currently £10m, but it is understood that the new chief executive wants it increased. EP's procurement and tendering practice of using contract conditions and Price/Quality Standards, (which aim to achieve what might reasonably be described as wellbeing outcomes) and a rigorous Green Book economic appraisal are the kind of process that the MPs and Minister were searching for in their debate.

For local authorities, there are no obvious precedents for a higher level of delegation, though the Central Local Concordat 2007 provides the context for setting a higher figure.

It would be best to have a single limit for all public bodies, but with a condition, say, that Local Authorities that have not reached a 2 Star or above Best Value inspection on Asset Management would have to call on HCA to advise or manage the disposal process; similar to or as part of its ATLAS advisory/support functions.

Additionally, where land is subject to a "partnership" deal in which the public body retains an [equity] interest, the undervalue may be only be capable of being determined by the final financial outturn of the project, so there should be scope for an undefined undervalue, subject to a cap; all of which will in any event be open to scrutiny by the National; audit Office [NAO]. For example, some Local Housing Company Pilots are on complex neighbourhood scale regeneration projects that will last 15 years plus. Business Plans will be have to be segmented to reduce risk, as well as being capable of responding to unknown and unpredictable market conditions over the lifetime of the project. So, some flexibility is essential.

### **Learning, feedback and review**

The administration of the Consent should ensure that basic details of all transactions are held "centrally" as a guide to best practice and exemplar approaches, as well as a tool for periodic strategic review by CLG of the effectiveness of the policy. The LAA , CAA and other inspection processes should ensure adequate monitoring and scrutiny of value for money, local performance and accountability.

### **Alignment and joining it up**

**The most important purpose of this Consent would be to align LAs, RDAs [in their new post Sub-National Review role] and HCA and clarify and harmonize their roles and shared responsibility in the exercise of wellbeing powers and the promotion of sustainable development.**

### **Positive use of assets and disposal as investment**

The Consent should also reframe the valuation approach as a positive strategy for investment, grounded in evidence based policy, rather in the current negative/more traditional valuation terminology that was developed for one-off transactions. It should advocate rigorous adherence to a small number of specific valuation terms that should be used consistently, and with a clear set of standard definitions. [Many of these have to be inferred in the General Consent 2003 circular] eg market value, best consideration reasonably obtainable, unrestricted and restricted value, and undervalue.

### **Changed valuation culture**

We have suggested the effect of spatial planning and other recent policy developments may make much of this vocabulary redundant. Plan-making bodies will need to be especially rigorous in their approach to evidence based plan making and designation of sites for particular "placeshaping" purposes, and to avoid unnecessary challenges by private landowners that their sites are being blighted by unreasonable requirements.

### **The value of having “a duty to promote sustainable development”**

We do not think that Housing and Regeneration Bill S.2, which defines the objects of the HCA is sufficiently strengthened by the new Report Stage sub-clause (d): “to contribute to the achievement of sustainable development in England.” Because the Agency will also have planning powers, much clarity and weight would be given to the Agency’s purpose, policy position and authority by making this “a duty” that fully reflects the intentions of Planning Policy Statement 1.

New RDAs will also have dual regulatory planning and investment/delivery functions; so the risk of their new regulatory roles being undermined or devalued must be avoided by ensuring the responsibility of the “duty” becomes the dominant cultural driver of professional behaviours in these bodies. The role of plan-making bodies, which can also dispose of assets for wellbeing purposes, will require careful attention.

## 4.6 Housing affordability and allocation policies

- What does “affordable” mean?
- How can the CLT make sure it has an allocation policy that enables it to house those it has been set up to help?

Where the motivation for establishing a CLT relates mainly to the need to meet particular housing needs, critical outcomes for the CLT will be that the housing provided is affordable by the households identified; and that they have access to it through an appropriate local housing allocation policy. As discussed in section 3, both national and local policies have strands directed at diversifying tenure and retaining households with more disposable income in an area in order to help maintain services and infrastructure, and enable local employers to continue to operate.

### Affordability

As a rule of thumb, the proportion of income spent on housing costs needs to be no more than 25-30% of gross household income or 30-35% of net income. This is a crude measure as families obviously have more outgoings than single people, while child benefit, working families tax credit and local rent allowance all have to be factored in.

As one possible starting point, the National Minimum Wage is £5.52 per hour, £10,046pa for a 35 hour week. With two members of a household working 35 hours per week, income could be £20,092. Often one works part-time or not at all so this figure is less easily achieved and gross household incomes around £15,000 are quite common.

The median individual wage in England in 2007 was around £23,000 in the private sector and £28,000 in the public sector.

Registered social landlords receive capital support in the form of social housing grant for new homes in order to be affordable to charge rents which are below market rents. Some 70% of housing association tenants are not in work and 100% of their rent costs is met by benefit so housing association tenants are supported with both capital and, for at least 70% of them, with revenue.

Tenants in the private sector may qualify for Local Housing Allowance. The payment is based on household circumstances and on the geographical area. Typical figures are shown in the table below: this is based on some examples rather than a full survey across England and there may be areas with allowances both above and below these ranges:

Size required	Weekly allowance
1-bedroom	£90-£105
2-bedroom	£120-£130
3-bedroom	£135-£155
4-bedroom	£190-£210
5-bedroom	£250-£300

It is arguable that provided rents are below the Local Housing Allowance figure, they are “affordable”. However high rents create a “poverty trap” Housing allowance is withdrawn at 70p for every extra £1 earned and other benefits such as working families tax credit or local council tax benefit may also be similarly tapered. While a rent of £150pw for a 3-bedroom home may be affordable through the receipt of housing allowance, a household may see little difference in their

net income after housing costs whether they are earning as little as £12,000 or as much as £20,000 as the benefits gradually taper away. They only escape from this “trap” and start increasing their net income when their income becomes enough to meet the rent without benefit.

Successive Governments have failed to develop policy on whether it is better for them to invest more capital grants in housing so that lower rents can be charged; or to rely on rent support mechanisms like LHA. Capital housing spending declined sharply from 1990 onwards and only began to increase significantly again in 2001. As a consequence spending on housing revenue support has now reached £20billion whereas capital spend is around £5billion. In 1987 revenue spend and capital spend were each £5billion. For those not earning, the Government must pay their rent. It should be a simple financial decision for them whether this best achieved by paying the debt charges or allocating capital grants. For those in work, the nature of the revenue support and the availability of “affordable homes” is much more of a critical issue. For those earning up to around £35,000, it matters very much what their housing costs are as they want to be in a position not to be reliant on benefit so that any extra income is not offset by lost revenue support. This implies a need for very clear Government policy on rent and affordability: none has ever existed.

Mortgage payments do not qualify for benefit except that income support becomes available on the interest only of a mortgage up to £100,000 in the event of qualification for income support as a result of unemployment.

Government schemes to help people afford home ownership on lower incomes have focused on meeting a percentage of the purchase price with a capital loan, often 50% or 25%, in the hope that the purchaser can afford the rest. The loan is recovered when the property is sold.

Professor Peter Ambrose, Visiting Professor of Housing Studies at University of Brighton has estimated non-housing costs for a couple with 2 children in London as £334pw. To be affordable, he argues that rent plus housing costs must be less than income and he estimates therefore that £135pw is the maximum level for an affordable rent (total outgoings of £334+£135 = £469pw):

	£pw	£pw
<b>Gross weekly income (at London Living Wage £7.20 per hour)</b>		<b>392.40</b>
less: Income Tax	36.78	
less: Nat Insurance	20.06	
less: IT + NI		56.84
Net income after IT and NI		335.56
plus: Child Benefit		31.35
plus: Tax Credits and Childcare Tax Credits if applicable		102.36
<b>Net weekly income</b>		<b>469.27</b>

For a single person earning £270pw plus £31.95pw in tax credits, he estimates outgoings at £103.66 giving an affordable rent of £145pw. For a couple with 2 children with one part-time earner on 17 hours a week, only £35pw can be afforded and there is inevitable heavy reliance on LHA.

### **CLT affordable housing: Part-equity**

While CLTs may aspire to help anyone in their area who has a need to live there (and from the community’s viewpoint, who need to be housed if the area is to flourish), they will inevitably find it difficult to provide homes at a cost which is affordable without subsidy by those with no income at all or with a very low income. This sector of the population is the main focus of housing association support and it is often those in work but on incomes around the average whom CLTs are especially keen to support and retain who may struggle to qualify for social housing as their

housing circumstance – living at home, not necessarily with children, in expensive private rented homes – may not give them priority..

Part-equity provides a real opportunity to tailor solutions to individual salaries, as opposed to the crude approach of making the house available at 50% or 75% of open market value. If applicants are expected to buy a share related to their means, each home will, on the definition used, be affordable.

As discussed above a part-equity home will be affordable if it enables the household to meet its housing costs and have enough income left for everyday expenses. This might ideally be a detailed calculation such as Professor Ambrose has attempted but the rule of thumb used by lenders of 3.5 times (or more recently up to 4 times) the main earner’s salary plus the second earner’s salary should also serve. The tables below show both what 27.5% of net income and 32.5% of gross income represent, as well as the weekly cost of a mortgage at “3.5+1”.

Salary (£)		10,000	14,000	18,000	22,000	26,000	30,000	34,000
As % gross income	27.50%	£53	£74	£95	£116	£138	£159	£180
Net income after tax/NI (single person)+		8,585	11,345	14,105	16,865	19,625	22,385	25,145
As % net income	32.50%	2,790	3,687	4,584	5,481	6,378	7,275	8,172
Affordable weekly housing cost		£54	£71	£88	£105	£123	£140	£157

Percentages adopted could vary from 25-32.5% of gross income and 30-35% of net income.

Salary (£)		10,000	14,000	18,000	22,000	26,000	30,000	34,000
Affordable mortgage (£)	3.5	35,000	49,000	63,000	77,000	91,000	105,000	119,000
Partner earning 50% (£)		5,000	7,000	9,000	11,000	13,000	15,000	17,000
Including partner (£)		40,000	56,000	72,000	88,000	104,000	120,000	136,000
Weekly mortgage		£63.06	£88.29	£113.51	£138.74	£163.96	£189.19	£214.41

Again a 4x multiplier could be considered; or a multiplier based on 2-2.5 times sum of both salaries

From the above it can be seen that homes might be on offer at £60k-£120k to meet the probable range of local incomes

Normally part-equity schemes will not include a rental element but if the CLT thinks this is desirable it can be calculated on the remaining equity e.g. if a £60,000 share is purchased of a home worth £150,000, a rent may be paid on the £90,000 retained by the CLT. If this is 1% the rent would be £900pa, £17pw or at 0.5%, £8-50pw. Any rent obviously must be seen as part of the housing costs and the total of rent and mortgage should come within the affordability target. If rents are above 1% of retained equity, the difference with the open market will be eroded making the scheme potentially unattractive...

Devising an affordable scheme thus depends on having a good understanding of local household incomes and savings; adopting a policy on what is affordable; and requiring purchasers to buy a share that relates to their income and savings.

The scheme will of course only be viable if the total equity sales equate to total costs. If not the catchment area may have to be widened to bring in some on higher incomes which will mean a lesser focus on local needs but this is an acceptable compromise if the scheme can then proceed.

### **CLT affordable housing: Rent**

The same calculations set out in the above tables apply to rented homes.

Rents should also be 67%-80% of the LRA maximum, partly to provide some margin for increase if the CLT's income falls short and partly – in effect for the same reason - to provide any lender with additional security.

From the LRA table above and the affordability table, it can be seen that a typical 2-bedroom home should be available at £80-£120pw and a 3-bedroom home at £100-£140pw to be affordable, depending on local income information, costs and other local circumstances.

### **CLT affordable housing: Mutual home ownership**

Mortgage costs remain constant unless interest rates change (or unless the loan involves a reduction in interest charges in the early years). Rent however rises with wages growth, with a typical assumption that this might be the retail prices index +0.5% or +1%. Mortgages may thus involve greater initial pain but the household budget becomes freer as income rises: rents tend to stay more same percentage of wages unless work circumstances change but are slightly more affordable at the start.

Low start mortgages can be devised for CLTs providing rented homes where payments rise annually with inflation (index-linked mortgages) or where in the first year, interest only is paid with capital repaid from a rising rent role.

CDS Co-operatives' Mutual Home Ownership proposal aims to achieve affordability by making residents, at the same time, mutual owners of a housing co-operative owning an equity stake in the property (the CLT owns the freehold and the remaining equity) and tenants of the MHO Cooperative paying rents. Their rents repay debt; and the property value rises. When they leave they can take with them, as mutual owner, a share in debt repayment and a (partial) share in the appreciation based on what they have paid in. ([www.cds.coop/document\\_store/Doc156.doc](http://www.cds.coop/document_store/Doc156.doc))

Transaction charges are also minimised as there is no leasehold interest, only a tenancy agreement to be passed to the next resident. A collective mortgage can also be more flexible; may be cheaper; and could be 100% of cost where individuals may struggle to secure a 100% mortgage on part of the value.

The MHO model allows rents to be tailored to be affordable to individual incomes in just the same way as is possible with part-equity. Each resident is required to pay a rent based on their income not based on the size of the home alone: and when they leave the stake they have accumulated is greater or smaller depending on their payments, just as it would be with part-equity.

### **CLT affordable housing: Permanent affordability**

In order to meet PPS3 requirements, housing should be permanently affordable. Many of the low cost home ownership initiatives undertaken in the past have not been. Even where receipts from staircasing have been fully recycled, this has rarely been in the locations where the housing was provided originally.

### *The problem*

Over the last decade, house prices have risen three times faster than wages. Part-equity and shared ownership homes, including key worker homes have as a result become unaffordable at the first resale. A £60,000 mortgaged share in a property valued at £100,000, bought at the end of 2001 on a household income of £17,000, became worth £120,000 at the end of 2007. An income of £34,000 would be needed to buy this yet average incomes over the 6 year period have risen around 30% to ~£22,000. So the home has become unaffordable and no longer meets the needs of the community. In these circumstances shared ownership has added to the bad experience of the right to buy in rural communities: affordable homes on land provided through local effort and initiative on precious green field land has benefited the individual purchaser but left the community yet again in decline, with the affordable homes it needs.

### *Limiting staircasing*

If residents buy further shares in their homes and the receipts this provides are not re-invested in other property so as to offer lower part-equity shares, the properties may become unaffordable. The right to refuse to allow further shares to be bought is therefore an important part of the CLT part-equity lease.

Equally there are arguments for and against allowing residents to extend their homes. If all homes become 3- or 4-bedroom, it helps retain the same households in the community but affordability is reduced when the homes are sold. The CLT needs to be able to balance these two objectives.

### *Linking value to wages*

One way of preventing this happening again would be to limit the growth in the value of the purchaser's share to a percentage of property value growth, say 50%, as is done by CLTs in the United States. Another perhaps better and more predictable basis for valuing the individual's share would be to tie the growth in value to the nationally published Average Earnings Index (AEI). The value of the property would thereby be decoupled from short term property value growth but would keep pace not just with inflation but with economic growth..

The mechanism is simple: the lease states how the property is to be valued on re-sale and what proportions of any revised value accrue to the part-equity owner and to the community land trust.

In theory, property values should over time remain in a relatively constant relationship with wages and it is arguable that over time the two values will re-converge. But using the earnings index provides for steady growth rather than the step-wise growth – with downward corrections – of the house price index.

The part-equity owner still benefits from debt repayment and steady growth in value of 2-4%; and will still be able to leave with a significant, albeit reduced, equity stake for their next purchase. Compared to paying rent, this still represents an attractive option.

### *The arguments*

The arguments for this arrangement are in summary:

- ***There is a need for permanent intermediate market housing.***  
There is now a very large disparity between home ownership and social rent and very little in between. Shared ownership is not seen as a permanent tenure yet there is a need for something permanent in the intermediate market. If shared ownership homes can both staircase to 100% ownership and have a value which is linked to property values not

the wages of those on average incomes, it will not remain permanent affordable and will have to keep being renewed.

- **Landowners and planners need to be reassured** that affordable homes built under exception planning permission or departures or as an affordable housing quota remain available - for community as well as individual benefit.
- **It works in the USA.**  
Resale formulas typically restrict the growth in the value of the purchaser's share to 25%-50% of the growth in property prices. The American CLTs can point as a result to permanent affordability with the homes still meeting the needs of the equivalent income groups into the future: and have also shown that people are still moving into owner occupation. (See report at <http://www.nhi.org/policy/SharedEquity.html> pp103-4 which illustrate how part-owners secure equity from principal and a share of rising value and at p112 which points to the low percentage of part-owners (19.8%) who returned to renting – compared to 53% of first-time buyers more generally – despite receiving only a 25% share in the growth in value. In the USA not only have mortgage providers have been able to accommodate this restriction within their economic model but the CLTs there have shown that using this approach does not stop people moving on to full ownership.
- **It should be more stable and would actually reduce risk.**  
Property prices have recently fallen back by 10% or so and might fall further. In the early 2000s they rose three times faster than wages. In the end, there should be a relationship between wages and prices and a long term graph shows that a relationship has been maintained in the past, but heavily masked by short term variations. If the value of what the part- owner has bought and mortgaged rises with average earnings, not property prices, there is almost no risk of negative equity. There is arguably more risk that if the mortgagor gets into arrears, the rising value of their asset may not be enough to enable the mortgagee to recover their loan in full: but the value of the asset will still rise. The mortgagee should in any case not be relying on increases in value above the rise in wages: this is after all what led to the sub-prime problem.

#### *Lenders' response*

Lenders have all been very helpful and responsive: but so far have refused to consider granting mortgages where value is linked to AEI in this way. The proposals enable permanent affordability but is not usable until lenders agree to support leases made on this basis.

#### **Allocation policies**

CLTs in their “place-making role” are often seeking to undertake a degree of social engineering:

- to enable young people to afford to stay in an area as they move into employment and form independent households
- to enable people with limited equity to stay in an area despite a major regeneration scheme which might otherwise make the area unaffordable
- to provide a greater mix of tenures to increase the overall disposal income available in an area to support local services
- to make sure those securing jobs in an area can also afford to live in it; and hence also to help support the businesses, public sector institutions and voluntary organisations located in the area and enable them to remain.

The housing allocation policies they wish to adopt will therefore not be based on housing need alone but will also include criteria related to the need to live in the area because of employment, family connection or past connection.

There are examples of such policies available on the CFS website for rural areas. None have yet been developed for urban areas but similar criteria are likely to apply and these documents provide useful background.

Local housing authorities (LHA) may find a CLT's wish to adopt a different allocation policy challenging. There have been lengthy arguments around resident qualifications for homeless people and there have been housing organisations that have sought to select residents to exclude those with greater needs for social support leaving the local authority (or local RSL) with higher management costs. CLTs need to avoid the accusation that they are seeking to exclude some people but it is inevitably the case that a focus on the "intermediate market" implies a greater proportion of people in work than the 30% in housing association homes, and a greater proportion able to afford mortgages given the focus on part-equity.

Including criteria other than housing need alone in housing allocation policies is a surprisingly challenging concept but several CLTs have successfully worked through a set of criteria with their local housing authority and reached agreement. With a clear set of criteria around who the CLT is trying to house and why, and using the rural models referred to, it should be possible to arrive at a policy which is supported by the LHA and made to work in partnership with them.

## 4.7 Open source legal documents plus regular updates

- the options for the legal form of a CLT
- examples of
  - o section 106 agreements
  - o allocation agreements
  - o leasehold disposal terms
  - o tenancies

The table below lists the legal documentation that has been prepared for community land trusts, mainly for rural ones but the documentation should be applicable in most contexts. The aim is to provide this information on an “open source” basis for adaptation as required. Legal advice will often still be needed in applying the document to a local situation and it is not possible to rely on the legal advice given to another body.

### Governance

CLTs need a legal form to provide them with a “legal personality” to act in buying and developing land. Shareholders, members and Directors need to be protected with limited liability. The assets held by the CLT need to be seen to be held securely and the legal form needs to prevent assets being used or realised for purposes other than those set out in the CLT’s objects (“asset lock”).

The rules which have been developed include examples of both Industrial and Provident Societies (IPS) (1) and charitable companies limited by guarantee (CCLG) (2). Objects have been drafted which in some cases list all possible activities (2a) which are intended also to be drafted as required by the Charity Commission; and in other cases to provide a more holistic, community well-being aim (1b).

There are examples of both types of organisation (1b and 2b) where different memberships are defined each with the right to nominate and vote for Board members (e.g. the community at large, stakeholders such as the local authorities and tenants/leaseholders of the CLT).

The IPS at 4 provides a low cost route to raise funds from share investments through a prospectus, to support the organisation’s objects

Shoreditch Equity Trust and Great Places Community Equity Regeneration Trust (CERT) are specific models developed by these organisations which are not available as open source documents but details can be obtained from the contacts shown.

The option of a community interest company is discussed briefly in 6. In general advice seems to have been that a CIC, although it specifically includes an “asset lock” is not a particularly helpful model for a CLT and is more suitable for a not-for-profit social business seeking to raise share capital. This may change however with experience of using the model.

Significant changes are in prospect in the law as it relates to charities with a charitable incorporated organisation (CIO) as a further option (see [www.charitycommission.gov.uk/registration/charcio.asp](http://www.charitycommission.gov.uk/registration/charcio.asp)).

### Section 106 agreements and Allocation policies

The examples referred to are from rural situations but

- the definition of affordable housing

- the “cascade” process of meeting local needs
  - the exclusion of a mortgagee in possession from having to comply with the affordable condition (in the case of the Holsworthy agreement but not the West Dorset)
- are relevant in urban situations too.

### Tenancy and leasehold agreements

Only a limited number are so far available with the others in draft at the time of production of this document. However the documents are listed together with the CFS contact and they should be available from late spring 2008.

Document	Drafted by	Client	Contact
<b>GOVERNANCE</b>			
<b>1. Industrial and Provident Society</b>			
(a) Open membership Multiple objects “Constitutional custodian” rule gives extra power to local authority in event of rule changes	Trowers and Hamlin (TH)	High Bickington Community Property Trust (HBCPT)	<a href="http://www.highbickington.org/hbcpt">www.highbickington.org/hbcpt</a>
(b) Model rules available at reduced cost via CDS Three defined membership categories “Well-being” objects	Bircham, Dyson and Bell (BDB)	Gloucestershire Land for People Devonport CLT Limited	<a href="mailto:stephen.brown@cds.coop">stephen.brown@cds.coop</a>
(c) Model rules available at reduced cost via LfP Includes CLT promotion	Wrigleys	Bishops Castle CLT Welsh CLTs Cornwall Community Land Trusts	<a href="http://www.landforpeople.co.uk">www.landforpeople.co.uk</a> ; Jonathan Brown: <a href="mailto:jonathan@landforpeople.co.uk">jonathan@landforpeople.co.uk</a>
<b>2. CLT Company Limited by Guarantee</b>			
(a) Limited membership model	TH	Holsworthy Community Property Trust	<a href="mailto:pam.johns@coodes.co.uk">pam.johns@coodes.co.uk</a>
(b) Potential for community, stakeholder and resident memberships	TH	Buckland Newton CLT (BNCLT)	<a href="http://www.communitylandtrust.org.uk">www.communitylandtrust.org.uk</a>
(c) Applications for charitable status	TH Cobbetts	HCPT BNCLT	<a href="http://www.communitylandtrust.org.uk">www.communitylandtrust.org.uk</a> <a href="mailto:jaird@salford.ac.uk">jaird@salford.ac.uk</a>
<b>3. CLT Umbrella Body – Industrial and Provident Society</b>			
(a) CLT acting across as county or sub region with local CLTs as members	Wrigleys	Land for People Cornwall CLT	<a href="http://www.landforpeople.co.uk">www.landforpeople.co.uk</a> ; Jonathan Brown: <a href="mailto:jonathan@landforpeople.co.uk">jonathan@landforpeople.co.uk</a> Alan Fox: <a href="mailto:alan@crha.org.uk">alan@crha.org.uk</a>
<b>4. Community Assets ‘investment’ IPS to raise money from community</b>			
(a) IPS with rules enabling share prospectuses to be issues to raise funds from the community	Lester Aldridge Towers of Taunton	Wessex Reinvestment Society	<a href="mailto:Alison.ward@wessexrt.co.uk">Alison.ward@wessexrt.co.uk</a>

## 5. Other models

- |     |   |          |                            |   |
|-----|---|----------|----------------------------|---|
| (a) | Community Equity Trust  |          | Shoreditch Trust           | Stephanie Saulter<br><a href="mailto:Stephanie@shoreditchtrust.org.uk">Stephanie@shoreditchtrust.org.uk</a> |
| (b) | Community Asset Reinvestment Trust  |          | Great Places Housing Assoc | Peter Bojar<br><a href="mailto:Peter.bojar@greatplaces.org.uk">Peter.bojar@greatplaces.org.uk</a>           |
| (c) | Guidance Notes on choice of governance (mainly covering IPS and CCLG options) | Wrigleys | CFS; Land for People       | <a href="http://www.communitylandtrust.org.uk">www.communitylandtrust.org.uk</a> - CLT toolkit "exhibits"   |

## PLANNING

### 6. Exception site section 106 Agreements

- |     |                              |                                    |                            |  |
|-----|------------------------------|------------------------------------|----------------------------|--|
| (a) | Torridge District Council    | Ashfords 18-19 Square<br>Holswothy | Holswothy CPT              | <a href="mailto:pam.johns@coodes.co.uk">pam.johns@coodes.co.uk</a> |
| (b) | West Dorset District Council | Cobbetts                           | BNCLT                      |  |
| (c) | Ribble Valley DC             | Cobbetts                           | Brabins Trust/Chipping CLT | <a href="mailto:ian.moran@cobbetts.com">ian.moran@cobbetts.com</a> |
| (d) | Purbeck DC                   | Cobbetts                           | Worth Matravers CLT        |  |

## TENURE/DISPOSALS

### 7. Housing Allocation Statements and Documentation

- |     |   |  |  |   |
|-----|---|--|--|---|
| (a) | Housing Allocation statement and frequently asked questions |  | Torridge DC/<br>Holswothy<br>Community<br>Property Trust   | CFS website<br><a href="mailto:pam.johns@coodes.co.uk">pam.johns@coodes.co.uk</a>     |
| (b) | Allocation statement  |  | West Dorset<br>District Council<br>/Buckland Newton<br>CLT | CFS website<br><a href="mailto:richardbonnie@fsmail.net">richardbonnie@fsmail.net</a> |

### 8. Guidance document on tenure options

	Trowers and Hamlin		CFS website <a href="mailto:idoolittle@trowers.com">idoolittle@trowers.com</a>
--	--------------------------	--	---

### 9. Part-equity leasehold flat disposal

- |     |  |                    |      |  |
|-----|--|--------------------|------|--|
| (a) | Equity purchase lease including pre-emption clause | Trowers and Hamlin | HCPT | <a href="mailto:pam.johns@coodes.co.uk">pam.johns@coodes.co.uk</a><br>Joseph Acton: <a href="mailto:jacton@trowers.com">jacton@trowers.com</a> |
| (b) | Equity mortgage                                    | Trowers and Hamlin | HCPT |  |

### 10. Part-equity disposals

- |     |   |             |      |  |
|-----|---|-------------|------|--|
| (a) | (Requested) Freehold house disposal which | Trowers and | HCPT | Not yet available – contact <a href="mailto:j.aird@salford.ac.uk">j.aird@salford.ac.uk</a> |
|-----|---|-------------|------|--|

	allows for the collection of a rent charge	Hamlin		
(b)	(Requested) Equity mortgage which allows for the collection of an equity mortgage appreciation formula	Trowers and Hamlin	BNCLT	<a href="mailto:sjbendle@tiscali.co.uk">sjbendle@tiscali.co.uk</a>
(c)	Resale covenant	Cobbetts	BNCLT	
(d)	(Requested) Part-equity leasehold sale via a Declaration of Trust	Cobbett's	Various CLTs	
	(Requested) Part-equity leasehold sale with restricted staircasing	Cobbetts	Various CLTs	
<b>11. Tenancy documentation</b>				
(a)	Tenancy 'Plus' assured shorthold agreement	Trowers and Hamlin	HBCPT	David Venner: <a href="mailto:david@highbickington.org">david@highbickington.org</a>
(b)	((Requested) 20 year assured tenancy rental agreement giving tenant repairing responsibility but an equity stake on leaving	Cobbetts	Various CLTs	Not yet available – contact <a href="mailto:j.aird@salford.ac.uk">j.aird@salford.ac.uk</a>
<b>12 Mutual Home Ownership</b>				
(a)	Mutual home ownership model	BDB	CDS Cooperatives	<a href="http://www.cds.coop/document_tree/view_a_document.asp?section=public&amp;ID=156">www.cds.coop/document_tree/view_a_document.asp?section=public&amp;ID=156</a>

### Web addresses for solicitors

[www.bdb-law.co.uk](http://www.bdb-law.co.uk)

[www.cobbetts.com](http://www.cobbetts.com)

[www.lester-aldridge.co.uk](http://www.lester-aldridge.co.uk)

[www.trowers.com](http://www.trowers.com)

[www.wrigleys.co.uk](http://www.wrigleys.co.uk)

## 4.8 Business Planning

- some suggestions around the content and format of a business plan

### Business Plan Outline

A business plan will probably need to:

- set out the project aims or, in more detail, the target group of people or organisations it is intended to provide for; and why
- describe the main partners and supporters and how they relate to each other
- refer to the physical, political and social circumstances in which the proposal is being developed including some analysis (e.g. strengths, weaknesses, opportunities, threats – but there are a number of other ways of presenting these issues)
- set out the options and why a particular one is to be chosen
- describe the proposal to be implemented and the strategy for implementation
- demonstrate that this chosen option will meet the identified aims
- demonstrate that the strategy adopted has a good chance of success
- describe how the project is to be taken forward and what the pre-conditions are for success in terms of persuading or engaging other partners
- show where the resources might come from
- analyse the risks
- discuss the alternatives and options
- define a timescale
- summarise the next steps
- provide all the necessary financial analysis to back up the main body of the document in appendices

There will be elements which are needed and which are also common to many of the urban schemes in the pilot study: how to build the organisation itself; how to engage the community in running it; and how the proposal fits into a wider regeneration strategy.

Some elements will be very project specific although the ground covered may be similar. Other elements may be able to draw on a template spreadsheet which can illustrate the options or use a standard basis for development risk assessment and minimisation.

### A Model Business Plan

A model for the Buckland Newton rural CLT is available on the CFS website at [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk)

### Checklists

Some useful checklists from the Shoreditch Trust which they used in preparing their Equity Trust model:

#### **Step 1: What do you know?**

- Current number of households on site
- Household sizes
- Current tenure distribution:
  - Tenants

- Leaseholders
- Other
- Area incomes
- Planning guidance for area
  - How dense?
  - How high?
  - What range of uses?
- Demand level for more homes
- Available infrastructure
- Value of the land

**Step 2: What can you (reasonably) estimate?**

- Cost of decanting tenants
- Cost of buying out leaseholders
- Cost of demolition
- Cost of construction
- Cost of new infrastructure
- Potential grant funding from public sector
- Timescale for buyout, decant, demolition, construction, repopulation
- Interest rate on development debt financing
- Rental rates for housing
- Market rates for housing
- Lease rates for commercial premises
- Interest rate on private mortgages (market and shared-equity sales)

**Step 3: What do you need to find out?**

- How much money do you need to pay for the costs of development?
- Does selling less equity to meet your affordable homes target leave you short?
- Can your rental income cover the shortfall?
- Is the ratio of the debt financing you need to the equity you have acceptable to your funding partner?
  - 60/40
  - 70/30
  - 80/20
- Can your development be financially viable without sacrificing your affordable homes target?
- Are you retaining enough equity and/or generating enough surpluses to be sustainable in the long term?

### **Financial modelling**

A financial model will be at the heart of the business plan. Those prepared by Great Places Housing Group for their Community Equity Regeneration Trust in Bolton and by Shoreditch Trust for the Shoreditch Equity Trust provide complex examples which the authors may well be willing to share. Contact:

[Peter.bojar@greatplaces.org.uk](mailto:Peter.bojar@greatplaces.org.uk)

[Stephanie@shoreditchtrust.org.uk](mailto:Stephanie@shoreditchtrust.org.uk)

Community Finance Solutions has supported the development of business plans for a number of CLTs. A model spreadsheet is in preparation: contact [j.e.powell@salford.ac.uk](mailto:j.e.powell@salford.ac.uk)

## 5.0 Case Studies - Community Land Trusts in practice

### 5.1 Hartlepool – Link to 5 Housing Renewal Projects

**Project driver** – Hartlepool Housing (Voluntary Transfer RSL) and community organisations including New Deal for Community

**Legal structure of CLT** – To be decided

**Summary of project** – Neighbourhood regeneration, including redevelopment of RSL/former council owned and obsolete private sector stock in mixed tenure areas, interventions with absentee landlords, anti-social tenants, abandoned properties; aim to create attractive new streets of mixed tenure housing, and more pro-active community place management of streets of new and retained housing; and working with young people.

**Key features**

- Purchase of abandoned/private rented/poor owner occupied housing
- Demolition and redevelopment of obsolete social and private housing
- Advice on maintenance and other support to marginal owners
- Purchase in market while values still relatively low and retain value uplift from regeneration

**Proposed tenure/s**

Affordable/intermediate home ownership

**Support and funding**

Funding from Tees Valley Livings Market Renewal Partnership (Housing Market Renewal Fund), Single Housing Investment Pot, Objective 1, and a bid for Housing Corporation Northern Challenge funds is to be determined. Partners include Hartlepool Borough Council, Hartlepool New Deal for Communities, RSLs Guinness and Endeavour, as well as residents' groups in Bellevue and North Central Hartlepool.

**Next steps**

- Completion of design and planning brief to inform procurement of private sector developer partner to facilitate redevelopment.
- More detailed scoping of legal structure of CLT and how this integrates with broader regeneration project and retention of affordable housing in perpetuity.

**Contact**

Colin Wilson, Director of Regeneration, Housing Hartlepool [Colin.Wilson@HousingHartlepool.org.uk](mailto:Colin.Wilson@HousingHartlepool.org.uk)

## 5. 2 Grange Community Trust, Gosport, Hampshire

**Project driver** – Portsmouth Housing Association

**Legal structure of CLT** – Gosport Development Trust an existing Company Ltd by Guarantee.

### **Summary of project**

The Rowner estate is a former married quarters estate built for the Royal Navy in the 1950s. Since its disposal by the MOD in the 1980s, a combination of public and private refurbishment and redevelopment programmes have upgraded much of the built environment. However the estate has remained relatively deprived and consequently, starting in the 1990s, community and economic development projects, supported by SRB funding, have been targeted at increasing skills and access to employment, developing community resources such as Surestart and youth facilities, working with young people and promoting community engagement.

The remaining unimproved village centre complex and surrounding area is now due for redevelopment by the Rowner Renewal Partnership, whose members include English Partnerships, house builder Taylor Wimpey, Portsmouth Housing Associations (PHA), Gosport Borough Council and Hampshire County Council. The partnership has created an investment package to demolish about 500 private and social housing homes and build about 750 new homes and retail facilities. The Grange Community Trust will build on the existing community infrastructure and the Rowner Renewal project to create a long term locally run asset based organisation for the continued improvement of the community.

### **Key features**

- The redevelopment will be phased over 7 years, the first step being to build on empty land and as new homes become available re-house residents from the areas scheduled for demolition. From there the project will follow the same pattern building new homes for residents before their own properties are demolished.
- At least 30% of the new homes will be affordable housing available through PHA. The association already has a substantial portfolio of new and refurbished properties on the estate.
- PHA has also been instrumental in the recent past in creating community capacity on the estate through intermediate labour market schemes and in establishing a community centre. PHA is keen to build upon these initiatives as part of its contribution to the Rowner Renewal Partnership.
- It is proposed to enhance the role of Gosport Development Trust by prioritising its work as a local community-led asset owning institution. This could include physical property assets that are supplementary and complementary to the affordable housing provision of PHA, seeking to retain affordability for local people in the long term. This could include retail, community services and co-operative and shared equity homes. The Trust will promote engagement by all parts of the local community and could take on a role in the management of the environment.

### **Proposed tenure/s**

Ownership of freehold land and retail premises. Co-operative home ownership, equity share ownership, renting.

### **Support and funding**

CFS have helped increase the knowledge of PHA staff through networking opportunities.

### **Next steps**

- Completion of the constitutional changes and stakeholder/ community consultation to form the new Trust
- Approval of business plan and confirmation of start up and social enterprise funding

### **Contact**

Geoff Phillpotts, Community Regeneration Manager, Portsmouth Housing Association  
[create@phagroup.org.uk](mailto:create@phagroup.org.uk)

## 5.3 Headingley, Leeds – creating a mixed market

**Project driver** – Community Development Trust

**Legal structure of organisation** – Industrial Provident Society

### Summary of project

The issue of studentification in the area of Headingley in Leeds prompted the creation of Headingley Development Trust (HDT). The high number of students has caused a demographic imbalance and driven out the families which are needed to sustain local schools, food shops etc. Headingley Development Trust have set up a number of projects aimed at recreating a sense of community and are now looking at addressing affordable housing issues.

The Trust are proposing to form Headingley Homes (HH) to promote the provision of affordable homes of which there is an acute shortage following the sharp rise in prices by some 150% in the early part of the decade. This represents a rise six times higher than wage rises. The aim is to bring 100 affordable homes into use within 5 years and establish HH on a firm basis as a community-led housing provider for the future. They have had the donation of a 3 bedroom property which will be managed by HH and rented to a local family.

### Key features

- High number of students leads to loss of cohesion and of sustainability and creates problems with noise, anti-social behaviour and lack of facilities.
- New purpose-built student accommodation is leading to some student properties in Headingley becoming difficult to let.
- Developers could meet their affordable housing quota offsite by transferring student houses to a CLT. The Trust proposes refurbishing the homes and selling them onto families at affordable prices (or letting them at affordable rents).
- A local housing association has given their support and agreed to manage the rented properties on behalf of the CLT and to provide a development agency service.

### Proposed tenure

Aim is to promote home ownership so homes would be for part-equity sale although they could look at some social rented if affordable without Social Housing Grant.

### Support and funding

CFS have provided Headingley Development Trust with a business plan for HH. Funding for acquisition and refurbishment of properties will perhaps come from commuted sums for offsite housing as part of a developer's planning obligations under a section 106 agreement.

### Next steps

- Finalise the development/business plan for HH to demonstrate that the proposal is an innovative way of tackling a local housing issue
- Gain support of Leeds City Council for the proposal and for off-site provision of affordable housing requirement on new developments
- Sign off management agreement with Leeds & Yorkshire housing association
- Secure revenue funding to take the proposition forward

### Contact

Richard Tyler, Headingley Development Trust [richardt@headingleydevelopmenttrust.org.uk](mailto:richardt@headingleydevelopmenttrust.org.uk)

Peter Bevington [peter@peterbev.fsnet.co.uk](mailto:peter@peterbev.fsnet.co.uk) Website [www.headingleydevelopmenttrust.org.uk](http://www.headingleydevelopmenttrust.org.uk)

## **5.4 Cashes Green, Stroud, Gloucestershire – permanently affordable shared appreciation homes: Gloucestershire Land for People**

**Project driver** – Gloucestershire Land for People Ltd (GLP)

**Legal structure of CLT** – Industrial Provident Society for Community Benefit

### **Summary of projects**

1. GLP has worked with CDS Cooperatives Ltd to propose a 77 home scheme on a former hospital site in Stroud owned by English Partnerships (EP). The proposals are for 50 mutual home ownership houses and 12 social rentals, cross subsidised by 15 open market freehold homes. The scheme also includes community facilities - a health centre, allotments and greenspace.

First apparently accepted in June 2007, then turned down by EP/Department for Communities and Local Government (DCLG) in October 2007, GLP has repeatedly requested that the Value for Money Review requested by Minister Yvette Cooper be carried out. English Partnerships has put forward its own scheme, which would allow perhaps a half or a third of the land to GLP for CLT homes, with the rest being sold to recoup overage money.

2. GLP is also starting to develop small schemes in villages across Gloucestershire with a variety of rental and part equity tenures.

### **Key features**

- In the original Cashes Green June 2007 proposals, a Mutual Home Ownership Housing Society would lease the properties from GLP, with the aim of targeting households on a minimum of £16,000 pa.
- The model would contain an asset lock, and would recycle equity as well as manage common spaces and ensure community cohesion and development.
- GLP would lease community facilities to a wide variety of bodies within a site master plan, after extensive participative community events and planning.

### **Proposed tenure/s**

Cashes Green: Mutual Home Ownership, part equity, or similar but leaner model if less houses in scheme than 50.

Variety of part equity tenures in villages, though initial work suggests social rentals are the most needed.

### **Support and funding**

GLP has received support from Gloucestershire County Council, National Lottery Awards for All, the Tudor Trust and has secured a £70,000 grant for a two year Development Manager to get 3-6 CLT pilot schemes off the ground and develop a viable organisation.

### **Next steps**

- Negotiating with DCLG Ministers and Civil servants over removing the real blockages to Cashes Green development, developing transparent value for money methods for public land disposal and improving the scheme
- Trying to achieve common ground with English Partnerships on Cashes Green, without losing sight of the original vision
- Working with District Councils and communities across Gloucestershire to get viable schemes planned and implemented

### **Contact**

Alison Parfitt, Co-ordinator [alisonparfitt@phonecoop.coop](mailto:alisonparfitt@phonecoop.coop) [www.gloucestershirelandforpeople.coop](http://www.gloucestershirelandforpeople.coop)

## **5.5 Seedley and Langworthy, Salford – creating a mixed community**

**Project driver** – Community Development Trust

**Proposed legal structure of CLT** – To be negotiated

### **Summary of project**

Seedley and Langworthy is a Pathfinder area under the Housing Market Renewal programme. The Seedley and Langworthy Trust is looking for a long-term sustainable business solution to guarantee its future sustainability. It also wants to capture some of the wealth generated by the regeneration funding in perpetuity for the benefit of the community. As a result the Trust is in talks with a housing association about the opportunities for owning land or assets for community benefit. They have had the support of a government minister but so far the offer from the housing association has not matched their aspirations.

### **Key features**

- Currently the area has an over-supply of small two-bedroom terraces and there is a need for a greater mix of tenures
- Displacement of local residents, deprivation and lack of facilities are threats to community cohesion
- Pro-active and ambitious community group very keen to take a greater long-term stake in the community and promote community governance
- Housing association which manages around 200 properties in the area, has proposed the Trust become one of its subsidiaries. SALT is exploring all options at this stage.
- A real transfer of assets is unlikely at this stage

### **Support and funding**

CFS has acted as an 'honest broker' between the Trust and other parties, and stage-managed a dialogue between the housing association and the development trust.

CFS has also supported the Trust to network and develop its knowledge and understanding of urban CLTs. The housing association plans to use income from its assets to meet the Trust's immediate financial shortfall.

### **Next steps**

- Continued dialogue between the Trust, the housing association and the local authority to achieve more favourable terms for the community
- The Trust to take advantage of further learning opportunities on CLTs

### **Contact**

Gerry Stone, SALT Director [Gerry.Stone@salford.gov.uk](mailto:Gerry.Stone@salford.gov.uk)

## **5.6 Shoreditch, London – The Community Equity Trust: a model for urban renewal**

**Project driver** – New Deal for Communities

**Legal structure of CET** – TBC

**Summary of project** – The Shoreditch New Deal for Communities (NDC) area is largely comprised of council estates, on land which is intrinsically valuable due to its proximity to the City of London. After extensive research and community consultation, a Community Equity Trust was proposed as a sustainable, self-financing vehicle to lead the post-NDC regeneration of the area. The model will demonstrate how regeneration can be achieved by public asset investment and can result in sustainable cash flows, without the need for ongoing public subsidy.

### **Key features**

- The proposals include 1000+ homes, 20,000+ sq m of commercial space and £200m+ of investment
- Space will be mixed use, covering residential, commercial, retail, leisure and community
- Detailed financial modelling has taken place before publicly launching the proposals
- The CET will act as the property developer and will maintain an equity stake in all properties developed
- The CET will be democratically representative and transparent and have a tri-partite structure representing residents, public sector bodies and businesses.

### **Proposed tenure/s**

Multiple tenure types will be offered, including re-provision of social rented accommodation and a range of shared-equity sales. This will include a proportion of sales of 90% or greater (close to market value).

### **Support and funding**

It is envisaged the CET will attract grant funding from bodies such as the Housing Corporation and/or English Partnerships. The primary source of development financing will be debt raised against the equity value of the land. Staff at Shoreditch Trust have benefited from advice and learning events organised by CFS.

### **Next steps**

- Finalising proposals and putting them out to consultation
- Working with the local authority to identify appropriate site(s) for a CET pilot project.
- Putting finance in place

### **Contact**

Anna Eagar, Director of Housing and Urban Development, Shoreditch Trust  
anna@shoreditchtrust.org.uk

## **5.7 Anfield and Breckfield, Liverpool – Arena Housing Group: CLT in the city**

**Project driver** - Housing Association

**Proposed legal structure of CLT** – subsidiary

### **Summary of project**

Anfield and Breckfield is an inner city ward in Liverpool which is undergoing regeneration under the Housing Market Renewal Initiative. Arena Housing is the lead housing association in the area and plans to create a CLT subsidiary to manage 450 ring-fenced properties. They have created a dedicated CLT research post and arranged a fact-finding trip to the US for Arena staff and community representatives.

### **Key features**

- Aim is to create a housing mix and capture the benefits of housing market renewal in perpetuity for the community
- Housing association has initiated a solution and has the resources to make it happen
- Community engagement structures are already in place
- Proposals do not strictly match proposed CLT definition but aim is to eventually float the subsidiary as an independent entity

### **Proposed tenures**

- Introduction of permanently affordable home ownership as part of a mixed tenure including rented and shared ownership.

### **Support and funding**

CFS have helped to increase the project staff's knowledge base through networking opportunities. It is hoped to leverage in funding for the CLT through the housing association which will help speed the regeneration process.

### **Next steps**

- Agreeing a clear vision with all stakeholders
- Developing a model to recycle surpluses back into the community.
- Analysing the financial status of the ring-fenced properties
- Building capacity in the community so they can manage the assets themselves

### **Contact**

Udi Engelsman, University of Liverpool KTP Associate

Arena project manager [uengelsman@arena-housing.com](mailto:uengelsman@arena-housing.com)

## 5.8 Bolton – A community Equity Regeneration Trust

**Project driver** – A partnership between a housing association, local authority and two ALMOs.

**Legal structure of CLT** – A choice of Industrial and Provident Society, Company Limited by Guarantee or a Community Interest Company. It is likely that the CLT will be a subsidiary of the Great Places Group.

### Summary of project

The project is focussed on Union Road, Bolton which has been identified by the Council as one of the worst private sector areas in the Borough. The aim is to improve the residential offer by a mix of demolition, new build and refurbishment. As well as physical changes it is also proposed to create a Community Equity Regeneration Trust (CERT). This will harness the benefits of flexible home ownership to a model of community involvement/ownership that can exploit the growth in property values for the community and for individual benefit.

The benefits of the CERT model will be to: generate income from charges on leases; capture some of the benefit of increased value for the benefit of the next purchaser and the local community; and promote community governance.

### Key features

- The CERT is a community asset ownership model which will lock-in the growth in the value of the properties whilst retaining long term affordability.
- The CERT will be responsible for property repairs and neighbourhood management, as well as acting as a conduit for community asset ownership and management.
- The ownership of the newly created properties will be transferred from Great Places to the CERT following completion of the construction. Various equity shares between 20-80% at an average of 60% of value will be sold.
- The CERT will benefit from 'profits' generated from upward staircasing and other transactions in order to fulfil its role as community and environmental custodian.

### Proposed tenure/s

Promoting shared equity but only to include rental if affordable as part of the business model.

### Support and funding

CFS has helped to increase the knowledge of Great Places staff through networking opportunities. CFS has also contributed to the legal and financial aspects of the business case.

### Next steps

- Great Places bid for Housing Corporation NAHP funding in November 2007. The bid was unsuccessful due to issues of restricted staircasing, use of the Declaration of Trust lease and first tranche sales at less than 25%. These issues are currently being addressed by CLG and it is hoped that resolution will bring Housing Corporation support and funding.
- Community consultation started in January 2008. Further consultation will be undertaken when a response is received from the CLG to the issues referred to above.

### Contact

Peter Bojar, Great Places Housing Group 0161 447 5089 [Peter.Bojar@greatplaces.org.uk](mailto:Peter.Bojar@greatplaces.org.uk)

## **5.9 Ouseburn Valley, Newcastle upon Tyne – potential for live-work units using a CLT mechanism**

**Project driver** – Development Trust

**Legal structure of organisation** - Company ltd by guarantee

### **Summary of project**

The Ouseburn Trust owns a vacant property in the heart of the Ouseburn Valley in Newcastle. It is working on a proposal with a housing association for affordable live-work units. The Trust previously worked with a different housing association on a deal where the Trust leased the upper floors of its offices to the housing association, which are then rented to people with a range of support needs.

### **Key features**

- The Trust wishes to develop community-owned and led social enterprises which own assets for the benefit of the community.
- The Trust already owns buildings and now needs to generate long-term income sources that will help it to become self-sustaining.
- The Trust needs a development partner and is currently in negotiation with housing associations.
- The Trust has also developed an educational resource centre, artists' studios, and has plans for a combined heat and power plant to provide power to the workspace.

### **Proposed tenure**

Workspace leases and affordable housing for sale or rent.

### **Support and funding**

Funding is being explored. CFS have provided support in the form of advice and presentations to public meetings.

### **Next steps**

- The Trust have agreed a vision for taking forward the community-based housing provision proposals. The next step is to work on a detailed planning application in collaboration with the developer and with professional advisers.

### **Contact**

Peter Kay, General Manager [peter.kay@ouseburntrust.org.uk](mailto:peter.kay@ouseburntrust.org.uk) [www.ouseburntrust.org.uk](http://www.ouseburntrust.org.uk)

## 5.10 Hull City Council and innovative community-led regeneration

**Project driver** –Community organisations and Hull City Council

**Legal structure of CLT** – To be decided

### Summary of project

Delivery of Hull's four outcomes (earning, learning, healthy, and safe) and the 2020 vision through two strategic housing objectives:

- Building a Balanced Housing Market; and
- Building Stronger Communities.

All about ensuring physical transformation is matched with social regeneration.

### Key features

Tenant-Led Stock Options [TLSO] being developed for the following areas:

- North Bransholme: at Development Stage and the most advanced project. 'United Residents Bransholme area North' (URBaN) is considering their preferred option to enter into partnership with a Housing Association (as part of an existing group structure) to transform their neighbourhood of up to 1,500 homes.
- Thornton: at Feasibility Stage – 'Thornton For The Future' for a city centre estate of up to 1,400 homes
- Preston Road: at Feasibility Stage – 'Preston Road Tenants and Residents Association' for the New Deal for Communities area up to 1,600 homes.

The Council is also developing options to invest in long-term void Council housing with not-for-profit community and third sector organisations.

### Proposed tenure/s

Primarily social housing but will also include low-cost home ownership, outright sales at affordable prices, specialist housing to meet the needs of priority groups and eco-demonstration projects.

### Support and funding

TLSO programme is funded through the Housing Corporation Tenant Empowerment Programme (supported by CLG). Long term voids project will attract private investment supported by public sector funding and transfer of assets on long term lease arrangements.

### Next steps

- Completion of TLSO process
- Completion of projects to reduce all long term void Council-owned properties

### Contact

Jameel Malik, Strategy and Regeneration Manager, Hull City Council [jameel.malik@hullcc.gov.uk](mailto:jameel.malik@hullcc.gov.uk)

## 6.0 Useful Resources and References

### General

**Community Land Trust National Demonstration programme** [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk)  
Community Finance Solutions maintains an information resource for CLTs in England.

**Development Trusts Association** [www.dta.org.uk](http://www.dta.org.uk)  
Umbrella organisation for community development trusts.

**Building and Social Housing Foundation** [www.bshf.org](http://www.bshf.org)  
Carries out research into housing innovation.

**Burlington Associates** [www.burlingtonassociates.com](http://www.burlingtonassociates.com)  
Resources for CLTs in the US.

**National CLT Network** [www.clt-network.org](http://www.clt-network.org)  
US CLT network and CLT Academy.

**Department for Communities and Local Government** [www.communities.gov.uk](http://www.communities.gov.uk)  
Responsible for UK housing, communities and planning policy.

**National Housing Federation** [www.housing.org.uk](http://www.housing.org.uk)  
NHF represents 1,300 not-for-profit housing associations in England and campaigns for better housing and neighbourhoods.

### Regional support

**Land for People** [www.landforpeople.co.uk](http://www.landforpeople.co.uk)  
Land for People exists to help communities in Wales, Shropshire and the Marches become more sustainable, with an emphasis on building affordable homes for local people.

**Wessex Reinvestment Trust** [www.wessexrt.co.uk](http://www.wessexrt.co.uk)  
WRT helps communities in the South West of England become more sustainable through providing business and home improvement loans, and advising communities on setting up community land or property trusts.

**Cumbria Rural Housing Trust** [www.crht.org.uk](http://www.crht.org.uk)  
CRHT employs a regional CLT project worker and works with communities to address affordable rural housing needs.

**Cornwall Community Land Trust** [www.crha.org.uk/cornwall\\_community\\_land\\_trust.htm](http://www.crha.org.uk/cornwall_community_land_trust.htm)  
Cornwall CLT is a project run by Cornwall Rural Housing Association to promote CLTs.

**Foundation East** [www.foundationeast.org](http://www.foundationeast.org)  
A not-for-profit organisation operating in East Anglia, offering business and personal loans. Currently working on a CLT project.

### Publications

CFS (2007) **“Community Land Trusts: A Practitioner’s Guide”** Community Finance Solutions, Salford.

CFS (2005) **“Capturing Value for Rural Communities: Community land trusts and sustainable rural communities”**, Countryside Agency, Gloucestershire.

DCLG (2007) **“Department for Communities and Local Government Green Paper – Homes for the Future; more affordable; more sustainable”**. The Stationery Office, London.

DCLG (2007) **“Making Assets Work: The Quirk Review of community management and ownership of public assets.”** Department for Communities and Local Government, Wetherby.

DCLG (2006) **“Planning Policy Statement 3 (PPS3): Housing”** and **“Planning Obligations: Practice Guide”**, Department for Communities and Local Government, London.

Hart, Lorraine (2005) **“To Have and to Hold: The DTA Guide to Asset Development for Community and Social Enterprises”** DTA, London.