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This February saw the publication of “Leaner and Greener”, a report by the Westminster Sustainable Business Forum into sustainable asset management in local government. Richard Grass of Colliers International, one of the sponsors of the report, reviews its key findings and charts the way ahead for Councils looking to improve the environmental performance of their property in the new age of austerity.

In a radically changed public spending environment, local authority asset managers face an enormous set of challenges in delivering estates that are financially, operationally and environmentally sustainable.

Property currently represents around a fifth of all local authority revenue expenditure which makes it an obvious area of opportunity for councils facing an average of 26% cut in funding over the next four years. Many of them have worked hard in recent years to reduce their estate footprints, but the scale of these cuts will require a rapid recalibration of what is an affordable amount of property for them to be holding.

At the same time the rapidly changing public service agenda, introduced through Total Place under the previous government, and now driven by place based budgets, localism, shared services and outsourcing will require the transformation of property portfolios to support new service delivery models.

Asset managers must continue to ensure that buildings contribute towards carbon reduction targets and in this they face a complex delivery landscape of regulation and incentives targeting both the supply and demand for energy. This includes the requirement for Energy Performance Certificates (EPCs) and Display Energy Certificates (DECs) for public buildings, Part L of the Building Regulations which sets a target of 25% reduction of CO2 levels in buildings from 2006 levels, and a zero carbon target for all public buildings by 2018. After a false start in the autumn, the Carbon Reduction Commitment Energy Efficiency Scheme has been recast in the Comprehensive Spending Review as a pure tax or levy and will add an estimated £200,000 per annum to qualifying organisations.

In suggesting how councils should be responding, the Leaner and Greener report highlighted a number of key themes:

- Improving data quality and asset mapping – it is clear that many councils still lack adequate information on their estates and the means to interrogate and analyse it effectively, although the report highlights some excellent examples of asset mapping by neighbouring councils in the interest of...
identifying opportunities to consolidate and collocate across boundaries.

Driving better space utilisation – Evidence for local government is lacking, but even before cuts in staffing, the average utilisation of office space was likely to be some way in excess of 12 sq m per person target set for Central Government. There is plenty of untapped potential for densification through re-planning space and adopting new ways of working.

Controlling demand – A “departmentalist” approach to holding and managing property prevails in many councils and militates against holistic asset management – the report recommends more centralisation of control, and the introduction of corporate landlord models and internal charges that bring transparency to the cost in use of property and incentivises departments to release surplus space.

Seeking out collaboration opportunities – the report urges more effective collaboration between councils and other public services on the sharing of back office services, and the creation of new front line service delivery hubs. The report recommends this be driven through joint asset management boards and the creation of pooled asset vehicles, although the latter may prove a very long haul and a political step too far for many authorities.

Investing in sustainable solutions - calculations provided by EC Harris for the report show potential cost savings of £190 per sq m per annum for a hypothetical retrofit scheme that improved a public buildings energy performance by 3 DEC bands, of which energy, water and CRC savings are shown to account for around £25-£30 per sq m.

In the best examples significant financial, operational and environmental benefits have been delivered through a single project. The report highlights the example of Southwark Council whose back office operations, dispersed across 20 different buildings, were successfully consolidated into a single new headquarters which achieved a BREEAM very good rating through a variety of sustainability measures including passive ventilation, a biomass boiler which meets 50% of heating requirements and exposed internal concrete frame which aids cooling. It also succeeded in delivering a hot-desking and flexible working solution on a 6 to 10 desk to staff ratio, an annual reduction in CO2 of over 1700 tonnes per annum, and running cost savings of over £3m per annum.

There are other exemplary projects of this kind, however the likelihood is that in the next few years the focus will be more on low cost, quick payback solutions and small to medium scale retrofits than on the kind of major long term spend to save projects as realisation values for surplus buildings are unlikely to support many major new build projects until the market recovers and the political risks associated with building “palaces for bureaucrats” will be considered too great by many authorities.

There are a number of incentives and financing schemes already in place for energy performance improvements and the funding landscape is developing from week to week. Whilst the latest Salix funding window is now closed, this year will see the introduction of the Renewable Heat Incentive and in 2012 the Green Deal financing scheme for energy efficient boilers and insulation in both domestic and commercial buildings. The London Development Agency’s Re Fit Pilot has invested £7m in 42 public sector buildings, generating £1m per annum energy savings and it has also established the £100m London Green Fund to invest in waste and decentralised energy projects.

The relative energy performance of property will be an important decision factor in which assets to rationalise. Whilst DECs provide a good snapshot of energy performance, technology enabled sustainability is where the market is heading and energy and carbon management software platforms for larger portfolios are available which can reduce time and cost of managing environmental data, assist with compliance and reporting, and help to verify the returns on investment for specific environmental initiatives.

To make properly informed decisions about the scope and timing of projects to improve energy performance, asset managers will need to become better informed on where the regulatory environment is heading, the real time energy performance of the buildings in their portfolios and how they can take full advantage of new funding options as the market continues to develop.

Richard Grass
THE SUFFOLK SCRIBBLER

About 20 years ago, whilst pitched up on some French campsite, I got talking to a bunch of middle-aged English caravanners all travelling together. They were hoping to drive on through Switzerland, Austria and Italy and eventually reach Yugoslavia. They planned to be away about 6 to 8 weeks.

“Are you going much further?” they asked.

“No,” I replied, “we’ve already been away 10 days and I have to get back.”

Their leader looked at me with wide-eyed horror. “You’re not really trying to tell me that you’re still working are you?” he said.

That’s the sort of off-hand comment that sticks in the mind for a long time like when on “Homes Under the Hammer” you see a kitchen just like yours dismissed with the terse comment, “Well this will all have to be ripped out for a start.”

But I am still working for a couple of days a week and attending the regular CIPFA Property AMP Network meetings mainly for the excellent Technical Updates delivered by David Bentley. I am often asked why but no one believes my very simple explanation.

When I work I get up at 0610 hours and leave home at 0710 to be logged in and ready for work by 0730 hours. When I don’t work I don’t have to get up at 0610 hours and, in contrast, it’s so much more enjoyable.

When I attend the CIPFA meetings I hear David expound on the latest shiny new initiatives giving more and more power (to frustrate) to Members and the Public eg Assets of Community Value and Community Right to Challenge and am just thankful that I am no longer involved. Mind you I often think someone is copying a former local government minister who enjoyed two careers involved with local government. His first self-styled involvement was “bringing local government under control” through the imposition of more and more bureaucratic controls, ie red tape. His second career was “freeing local government from unnecessary red tape” mainly by dismantling many of his aforesaid bureaucratic controls.

Finally I’ve just come across two interesting quotes that I will pass on to you now. The first is a John Wayne quote. “Courage is being scared to death but saddling up anyway.” I think that is my first John Wayne quote and it’s a good one.

The second is also American. In 1864, during the American Civil War, General Sedgewick peered pompously over the parapet at the enemy some distance off and uttered the immortal words, “The couldn’t hit an elephant at this dist……………”

That is similar to that farming expression relating to poor marksmanship “He couldn’t hit a cows a** with a banjo.” Does anyone know the origins of that one?

Somebody Better Get Down There and Explain Offside to Her

Just in case some readers have been in a coma for the past few months this was the opening line in a dialogue conducted by the then 2 leading Sky Sports presenters when they noticed, belatedly, that one of the referee’s assistants (the term for many years was linesman) WAS A WOMAN! The conversation was not broadcast but recorded and secretly handed to the press.

The 2 presenters were fired and are now in a position where their antediluvian views are unlikely to be either heard by or offend anyone ie they are presenters on radio’s Talksport.

Unfortunately the tape released to the media failed to include this additional dialogue.

Somebody better get down there and explain offside to her and while you’re down there:

- Explain offside to the defensive units of both teams neither of whom seem to understand the rule when an attacker gets through and scores.
- Explain offside to the attacking units of both teams neither of whom seem to understand the rule when an attacker is penalised.
- And although it’s probably a waste of breath give the Managers a run down on the rule too, particularly the grey haired old gent with the red face who is already practicing repeatedly jabbing his wristwatch with his index finger.
- Explain to the Spanish International that it is not sufficient for him to just sit down in the penalty area to be awarded a penalty – and no, he cannot have a ball boy ready to come on with a warm dry towel for him to sit on next time to save muddying up his shorts.
- Explain to the foreign players that FIFA have now ruled that snoods are not to be worn in July and the wearing of woolly gloves at any time really is highly suspect especially if not attached to a piece of elastic going up one sleeve and down to the other glove.

What Financial Crisis? This One!

In the last column, in recalling my time on County Management Team and experience of dealing with cut backs, I did suggest that having tried initially to suggest to Members the least disruptive method of implementation we then moved on to clarifying the extent of “savings” required and then advising, somewhat satirically, “to put this in context, this is equivalent to, for example, cutting out all winter highway maintenance or closing all old people’s homes.”

Well, either local Members have been reading my column or, more likely, those Management Team papers of 20 years ago, as here in Suffolk their opening shot at generating the required savings currently, in addition to massive staff redundancies, is to sack all lollypop persons, get out of the old people’s homes business, close every fifth public library, cease to support speed cameras (that the press have told us repeatedly are just a licence to print money) and close an Ipswich Park’n Ride that took years to establish.
A far more “courageous” package, as Sir Humphrey would put it, than we could ever have suggested, even in our most satirical dreams.

In addition, and presumably to assuage some of the hurt felt by the Park’n Ride closure, it is also intended to consult on a multi million pound scheme to improve the town centre dual carriageways and roundabouts “to make them work better.”

How to Get On in Villages

One of John Betjeman’s earlier poems “How to Get On in Society” is the inspiration for this piece. At junior school we memorised a lot of poetry but little in the way of explanation was offered. It was only much later that I came across John Betjeman, probably as the amiable old gent on TV doing programmes about suburbs, railways, and what he called “Goff” ie golf. Then it wasn’t too long before I fell head over heels for Miss Joan Hunter Dunn, furnished and burnished by Aldershot sun. And

“What strenuous singles we played after tea,
We in the tournament,
You against me.”

His “How to Get On in Society” was originally set as a competition in Time and Tide the objective being to include as many references as possible to the then modern fads of society eg “Phone for the fish knives, Norman, As Cook is a little unnerved.” You get the idea. My how times have changed.

Having lived in a pretty Suffolk village for the past decade I have watched with interest how incomers, usually rich incomers, conduct themselves in the belief that this is how to become popular and influential. Hence “How to Get On in Villages. Had I the skill I should have done it in verse and it would have begun “Email the fish and chip shop Norman, Oh Dear the broadband is down again etc.” However

How to get on in villages; if your situation permits these are actions to take straightaway, or as soon as the garden trampoline is in place.

- Fence into your property some well loved and well maintained local feature eg the pond on the village green. Remember you will be better able to afford the legal costs than the Parish Council when this is disputed.
- If a public right of way runs along side your property re-fence the boundary in the style of a POW camp and, if possible, hire a demented Alsatian to run up and down the boundary to put people off.
- If there is a public footpath across the front of your property park the 4-wheel drive on it; hire one if necessary. Only ever move it to do a mega shop but only at Sainsburys. Never take reusable bags, always buy enough to fill at least 20 pristine new carrier bags and leave the tailgate open for at least 30 minutes so all can see the opulence.
- Buy a pedigree dog as a pet. This must cost 350 guineas as a minimum but this makes a good after dinner conversation point, at least until house prices begin to move up again. But beware dogs have some very unsanitary habits and so are best kept in a shed as far away from the house as possible and only brought out, briefly, to impress.
- Two children, one of each, are also a useful as after dinner conversation points. But these too have some very unsanitary habits and so the same tips on care and maintenance apply.

The Suffolk Scribbler
The Case of the Overriding Covenant

Peter Briggs, Neelam Dhupar and Chris McClure.

The North East Branch has now extended its Student Prize Award Scheme to include Sheffield Hallam University. The giving of these awards is seen as a way of raising the profile of ACES with local universities and as an opportunity to promote the role of the surveyor in the public sector.

The Sheffield Hallam University Student Prize is to be awarded annually to a group of students in relation to a coursework project undertaken as part of the Applied Valuation module during their final year of studies for the RICS accredited BSc (Hons) in Real Estate.

The winners this year were Peter Briggs, Neelam Dhupar and Chris McClure.

The brief for the project was to form a group with two or three members and present a poster at the end of the first semester reflecting one or more "issues" in relation to Applied Valuation.

Half of the marks for the posters are from peer assessment, the other half of the marks are awarded by a team of tutors/examiners. It is hoped that a representative of the North East Branch will be able to join the judging panel in future years.

The winning poster for 2010/11, which cannot be reproduced for copyright reasons, was in the style of a well known comic book character and his adventures (with his dog), involving the proposed redevelopment of Marlinspike Hall via a CPO. Hergé would have been proud of the script which went as follows:

**The Adventurer:** Have some faith Dog, just visualize what we are going to do for the local community.

The Adventurer receives a letter from the dominant owner reminding him of the precedent set in 'Water Utilities v. Oxford City Council and another, (1999) 1 EGLR 167'. He's demanding a 'ransom payment' of up to 50% of the affected land to remove the covenant! If that fails, he'll try an injunction against the use of the site. It's a good job that the professor is here to explain.

**The Professor:** Let me explain:

**THE ISSUE** - Judge Rich QC held that the express wording of Section 237 only justifies overriding such rights during the construction phase and not permanently for the use of the site. Once the construction is over, the covenants and easements are revived.

**THE SOLUTION** - In the form of the Planning Act 2008, the decision in the 'Thames Water' case is to be reversed by making it clear that Section 237 applies to any use of land as well as 'the erection, construction or carrying out or maintenance of any building or work on land'.

Upon learning of this our intrepid heroes set out on a mission to learn more about the Planning Act 2008 and the amendments it proposed. No mountain is too high or danger too great to stop their search! They travel to the ends of the earth until finally a breakthrough comes!

**The Adventurer:** That's it as of the 6 April 2009, Section 194 and schedule 9 of the 2008 Act will insert a new subsection (1A) into Section 237 of the 1990 Act to specifically allow 'use' in breach of restrictive covenants and rights (where the land has been acquired for development purposes). Instead of a ransom payment or injunction, the dominant landowner will generally be limited to statutory compensation reflecting the reduction in value (injurious affection) of the benefiting land.

**The Adventurer:** let's go and tell our architect Captain H and get this show back on the road.

**The Captain:** Fantastic, just visualize what we are going to do here and imagine the benefits!

**BENEFITS TO THE DEVELOPER**

- Developments do not have to be designed to avoid covenants and other rights.
- Reduction in the funding institutions assessment of risk.
- No need to approach the Lands Tribunal to remove the covenant from the site.

**BENEFITS TO THE WIDER PUBLIC**

- Social and economic benefits due to the higher certainty, lower legal costs and developments being completed quicker.

**BENEFITS TO THE OWNER OF THE RIGHTS**

- Compensation, not just during the construction phase but for the depreciation in value of the land as a consequence of the overriding.
THE END

Whilst the quality of the winning entry may be a little lost in the raw script, and it may not make the silver screen it showed innovation and imagination and visually outlined the subject in an amusing way.

The North East Branch would like to thank Sheffield Hallam University for providing the opportunity to work with them and to Peter, Neelam and Chris for their work and we hope that they enjoy their prize and wish them every success for the future.

John Read

REVIEW OF COVERED MARKETS FOR BUSINESS RATES

Jim Gallagher

Jim Gallagher is Unit Head of the Specialist Rating Unit for the North of England, responsible for overseeing the valuation of a broad range of complex properties for the purpose of business rates. He is also responsible for co-ordinating the current review of markets across England and Wales.

The Valuation Office Agency (VOA) is in the process of reviewing the assessment of various covered markets across England and Wales for the purpose of business rates. The objective of the review of around 90 markets is to ensure that these properties are treated in a consistent and fair way.

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innovation through partnerships
In most cases the outcome of the review will be a change from a single rating assessment for the whole market to separate assessments for individual stalls and stores. This will create around 6,000 separate rating assessments with rates liability falling directly onto traders rather than the market operator.

These significant changes that began to take effect from January 2011 were preceded by lengthy discussions with the National Association of British Market Authorities (NABMA) and the National Market Traders Federation (NMTF). In addition, stallholders and market managers have had advance notice of proposed changes to their market to allow for discussions around the exercise as whole and proposed individual assessments. During a key early step in the process, market managers were asked to supply the VOA with details of rents and service charges in respect of their markets to supplement information of this kind already held.

VOA representatives have attended a number of open forums with local market traders as well as regional meetings with NABMA and NMTF representatives to explain what is happening and answer questions.

The decision to separately assess market stalls is, broadly speaking, based on whether the stalls are sufficiently permanent in nature to be capable of forming separate rating entities or “hereditaments”. If they are, the next step is to determine the correct level of value for the purpose of business rates.

**Rating Case law**

The main case that dealt with the unit of assessment for market stalls and stores was Brook (VO) v Greggs PLC & Others (1991 RA 61) which considered the assessment of the Arndale Centre Market in Manchester. Although each case turns on its own facts, many of the findings in Brook that signalled separate assessment of stalls are common to other covered markets. These are set out briefly below.

The market contained 128 stalls and 32 stores. The stallholders each had exclusive use of their stalls during the time they were in occupation, but the council had control over access and egress to the market and hours of trading to the extent necessary for the proper function of the market as a whole. As far as the terms of occupation were concerned, the Tribunal preferred the actual facts of occupation to the right of extinguishment contained in any lease or licence. On this point, 38 of the stalls had been in the same occupation since 1978 which demonstrated that occupation of the market as a whole was not transitory in nature.

Physically, stalls were set on raised plinths and constructed with a metal alloy framework, some had metal shutter doors, some were open and others were fitted with canvas blinds. Each stall had its own electric light switch and power point, with individual meters. Some stalls had water supply and a sink depending on the trade. The main entrance to the market, secured by roller shutter doors, opened at 9:00 and closed at 17:30. Traders had rear door access half an hour before, and one hour after, opening.

Some markets clearly fit within the parameters of the Brook case, whilst others do not. The latter are typically made up of trestle tables, erected on market day, let out on an ad-hoc basis and then cleared away when the market closes. This does leave some markets in a half-and-half world with a permanent stall element and a trestle table element with temporary stalls. Where this happens, the permanent stalls fall to be separately assessed and the remainder would be assessed for rates as a single “residual” hereditament.

**Understanding Market Stall Rents**

Having determined what is to be valued the next question is at what level?

Valuations for business rates are expressed in terms of rateable value (RV) which is an estimate of the open market annual rental value of a property at a common valuation date; for the current rating lists, this date is 1 April 2008. As market stalls are almost always rented, there is no shortage of rental evidence available. However, schedules of rents on markets need careful adjustment and analysis before that data can be used to arrive at the RV.

What this review shows is that many different approaches have been taken by market operators to arriving at stall rents. These range from a global price per stall, or a price per square metre, to a price per linear foot of display space plus an overall price per square metre. Some markets vary rents for location within the market reflecting footfall, others have less discernable patterns.

In some markets rents are regularly reviewed, in others they are not. There are examples in some markets of a long-standing practice of new let-outs having rents fixed at 110% of the rent charged to the previous stallholder (regardless of how long ago that was). In other cases rents appear to have remained static since the time each stallholder moved into the market. There are also wide variations in terms of the basis of occupation from weekly licences to 3 or 5 year tenancies.

Further complications can arise where markets have a number of void units which may be let at nominal rents to the adjacent stallholders or offered to new “starter” businesses with staged increases over the first year.

Typically what is described as the stall rent is rent plus a substantial service charge element. The service charge has to be stripped out to identify the actual stall rent. Although some stall rents are transparent, others are not, meaning the service element has to be estimated, informed by data gathered on other similar markets.

**The Rent/Rates Equation**

Having determined that a market hall should be split into separate assessments on each stall, and having gained an understanding of the makeup and pattern of rents, the next factor to consider is the “rent/rates equation”.

The accepted rating valuation approach to a market treated as a single assessment would be to consider a receipts and expenditure approach as a means of arriving at rental value. This is usually expressed as a percentage of gross receipts. The percentage applied varies, but typically is around 30%. As the receipts element from markets that makes up the gross income is primarily the rents stallholders pay, the resultant
RV for the market assessed as a single hereditament will inevitably be less than the sum of all the assessments if stalls are valued on an individual basis.

If no further consideration was given to this issue, stallholders rated separately would face bills of perhaps up to 3 times higher than their share of the rates burden on a market hall in a single assessment (ignoring any rate reliefs).

However, the “rent/rates equation” as it is known comes into play at this juncture. This “equation” is based on the concept that tenants are less concerned with the amount of rent or with the amount of rates (and other service charges) they pay than they are with the combined figure, i.e. the total outgoings. In other words, if tenants’ rates bills increase they will want to pay less rent and if their rates bills go down they may be prepared to pay more rent.

Therefore in the case of separately assessed market stalls, the valuer will need to consider making a downward adjustment to the actual rent in the knowledge that the level of rates payable will increase when the market is split. In arriving at that adjustment, some consideration should be made as to the extent to which the landlord and tenant would share burden of an increase in rates. The landlord would be unlikely to completely offset an increase in rates paid by the tenant with a commensurate reduction in rent. Neither would the tenant, if faced with a substantial increase, be prepared to shoulder the whole cost. This is a complex area and any adjustment is a valuation judgement which turns on the actual facts in respect of each market.

Having unravelled the issue of rent and the “rent/rates equation”, and applied this to individual stalls, the valuer will consider whether the final answers look reasonable for that particular market. As far as possible, the RV per stall should reflect the pattern of rents passing on that market. Overall levels of value should be tested against those in the locality and other on nearby similar markets, some of which may have had separately assessed stalls for many years.

When the VOA have undertaken this exercise and notified market operators and stallholders - in advance of changing the rating list - of the proposed assessments, there have been instances where new information has been supplied which has resulted in revised assessments.

**Small Business Rates Relief**

For many stallholders in England, the change to a separate assessment on their stall has actually meant a reduction in their overall cost of occupation due to Small Business Rate Relief (SBRR). In Wales, SBRR is available, but operates in a slightly different way. Up to 30 September 2011, relief for those in both England and Wales with rateable values of less than £6,000 is set at 100%, with tapered relief between £6,000 and £12,000. This is a temporary increase in the levels of relief which have previously been set at a maximum rate of 50%. However this relief is only in respect of a single assessment, so stallholders with a number of stalls would only benefit in respect of one of them. SBRR is administered by local authorities, not the VOA.

This issue makes it critical for the VOA to have correctly identified what constitutes a single hereditament, the unit of assessment. This is not always black and white and in some cases the correct unit of assessment can only be determined following an inspection. Generally however, if two or more stalls are contiguous and run as a single operation they would form as single assessment. If they are separated by an aisle, or even further apart, they would be likely to form separate units of assessment.

**Challenges Facing Local Authorities**

Where market assessments have changed from a single assessment on the whole to assessments on individual stalls the local authority will, in most instances, be faced with revisiting the service charge which will include an element for business rates based on the market as a whole. This is quite a task, especially on larger markets containing several hundred stalls.

Stallholders will expect a speedy response from the local authority as they will see an element of “double-counting” where their service charge is unaltered. However, unravelling the appropriate amount to reduce the service charge by, and from when, may be problematic. The service charge may, for example, be charged in arrears. The local authority may also have to revisit the terms of tenancies that are currently inclusive of rates.

The rent/rates equation considered above in arriving at a hypothetical rent for rating purposes will also pose the difficult question “if rates go up should rents come down?”. This is very much a matter for individual authorities to consider along with their responsibilities for SBRR, Empty Property Rates and other reliefs as appropriate.

**What Next?**

Whilst reviews of this kind are not popular with market managers or stallholders, the exercise has been aided by the extensive discussions that have taken place before, during and after the valuation process for each market. The VOA will continue to engage with ratepayers or their representatives at any time to explain what we have done and why, and seek to ensure the rating list is fair consistent and correct.

Jim Gallagher
The Public Sector Consultants
for Local Government

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LOCALISM FOR LOCAL SHOPS

Christopher Pratt and Mike Riley

As Councils look to raise capital, reduce debt and are urged to show new ways of cutting costs, King Sturge Finance LLP (KSF) has focussed on developing a methodology to release value from and increase the efficiency and attractiveness of the local shops held within Council property portfolios.

What is the local shopping market?

The local shopping sub-sector of the retail market caters almost exclusively for local communities and tends to serve a limited catchment area. Local shopping is focused on suburban parades in major urban centres and villages. It can also include niche retail areas in city centres, serving local or specialist needs.

An important distinction from the traditional high street is that local retail tends to lack comparison shopping. In contrast, it caters for top-up, meal solution and distress purchases. It is characterised by comparatively small unit sizes and a high proportion of independent traders.

Local shopping is set to benefit from a number of demographic trends including the ageing population and the drive towards creating a greener society. Local shops provide ageing consumers with an opportunity for social interaction. Green issues are forcing everyone to think carefully about car travel and congestion and road charging schemes are likely to favour the local shopping market.

The market value of the sub-sector is estimated at around £20 billion, equivalent to around 15% of the overall retail market. The local shopping market has traditionally been the preserve of the smaller, often locally based investor. With little competition from institutional or larger property companies, the market is highly fragmented and underdeveloped and the professional approach to asset management provides Local Shopping Reit Plc (LSR) with opportunities to generate above average returns for shareholders.

Local authority holdings

A number of Councils own significant portfolios of retail parades and individual units that fall into the local shopping category. These assets (yes, they are assets not just a management headache) require active day to day asset management and continual investment to keep them in a leasable state. It is a sector that experiences a high turnover of tenants and long void periods if not managed prudently by a strong management team.

We are currently in discussion with Councils that recognise the benefits of releasing capital, harnessing specialist resources and assessing the potential options to either dispose of their secondary retail portfolios or more specifically to create joint venture partnerships with LSR.

‘Local independent retailers are the backbone of UK shopping and with our joint skills will be able to flourish even in these more challenging times’ – Mike Riley, Joint Chief Executive, Local Shopping REIT.

LSR is the leading owner of local retail property throughout the UK, principally investing in local parades and neighbourhood venues for “top-up” shopping. LSR is the only REIT focused on investing in local shopping retail property and, since its formation in January 2005, has established a leading position in the local shopping sector.

LSR has built up a close network of over seventy professional property advisors, each agent employed is a recognised expert in their local market. The management team engages and monitors agents’ performance against established and rigorous standards, ensuring optimum rents, minimum void periods and good looking parades that work as part of the wider mix of community uses.

The concept could be of interest to a number of public sector bodies as they are put under pressure to create additional capital. There are a number of benefits from creating a partnership venture of this type:

- the opportunity to generate capital receipts from assets that, although not necessarily surplus, are not central to continuing to meet the Council’s service delivery objectives;
- the ability to retain a degree of control over the portfolio in areas where the Council feels it has a continuing responsibility for stewardship (tenant mix and rental levels, for example);
- the introduction of specialist tenant and asset management services, based on national retail sector expertise – thus freeing up internal resource and potentially transferring any key staff whose knowledge and experience of the portfolio is key to its on-going management; and
- injecting the funding and therefore creating the opportunity to accelerate maintenance, refurbishment and replacement programmes, where appropriate.

We are aware that, often for historic reasons or because shops are within the curtilage of local authority housing estates, many Councils’ retail assets are held wholly or substantially within the Housing Revenue Account (HRA). Although the rules surrounding how Councils may use receipts generated within the HRA might well be relaxed in the future, we believe that the General Consents would already apply, allowing a Council to dispose of commercial property held within the HRA at market value.

Although it is possible that a 50% clawback to central Government might currently be required, this can be offset
against the Council’s capital allowance for expenditure on affordable housing. Any potential pooling liability could also be avoided if the receipt was ring fenced for affordable housing or general regeneration purposes – indeed we see the potential to introduce capital investment into the retail assets once transferred and working closely with local authorities this can kick-start wider community development or other benefits.

The opportunity

Working closely together, LSR and King Sturge Finance have identified three approaches to the potential transfer of a Council’s retail portfolio, each of which exhibits different attributes concerning generation of capital receipts, retention of control and the ability to share or diversify risks. The principal benefits of each approach can be summarised as follows.

Outright sale of the retail portfolio

This option is the simplest approach and releases the maximum capital receipt to the Council at the point of sale. It also transfers all risks of ownership inherent in the portfolio to the successful purchaser but leaves the Council with no say in the running of the portfolio and no further right to revenue or capital receipts.

The capital receipt might allow the Council to justify the loss of revenue and controls in value terms but the wider issues concerning surrender of stewardship responsibilities and the potential public relations impact may be important to the Council.

In this scenario, the Council’s ability to demonstrate best value is best secured through an open market sales process. The Council would be able to stipulate any un-priced objectives as part of the disposal process and these could be justified in best value terms under s123 of the Local Government Act.

It is likely that an outright sale would be the quickest option to implement and would generally be the least expensive to document and transact.

Creation of a local partnership

The creation of a partnership of this nature is complex but the underlying principles are now well tested for public-private joint ventures and have been implemented successfully by other local authorities, albeit to serve different purposes.

“Partnership investment along these lines allows public sector partners to extract capital up-front and still participate in future returns, without exposure to the full risks of investment and development” - Chris Pratt, Managing Partner, King Sturge Finance LLP.

In simple terms, the Council would transfer its retail assets to a newly formed vehicle and the value of the assets would comprise the vehicle’s equity. LSR (as private sector partner) would pay the Council a sum equivalent to 50% of asset value for a 50% shareholding in the vehicle. The Council would then own 50% of the joint venture and hold cash equivalent to 50% of the value of the assets/vehicle. The vehicle would have no further interest in the Council’s cash receipt.

From work we have already undertaken with potential Council partners, we can demonstrate how introducing debt to the joint venture further enhances the capital returns to the Council, especially on transferring assets at the commencement of the joint venture.

The vehicle would operate as a joint venture with the two shareholders having equal levels of control over the on-going management of the business (day-to-day management of the portfolio would be the responsibility of LSR).

The structure allows the partners to participate equally in the risks and rewards of property ownership, with each partner bringing its specialist skills and resources to the partnership. The Council effectively swaps full ownership of the assets for 50% of the asset value at the point of transfer and then receives investor returns over the life of the partnership from its remaining 50% stake. A mechanism to allow the future transfer of interests (either between the partners or to third parties) would be built into the LLP’s constitution.

Creation of a multi-portfolio fund

In November last year, Property Week ran an article talking about the establishment of a Real Estate Investment Trust (REIT) specifically targeted at holding local authority local shopping joint ventures. Although we think the opportunity for realising this is some way off, this option is an iteration of the local partnership model above and could be deliverable if based around the creation of a number of two-partner joint ventures, along the lines described above.

The REIT solution, holding a number of like minded and funded projects, would broaden the base of the assets within the partnership and therefore diversify risk and spread the public sector bodies’ investment to a broader, more valuable, portfolio, containing assets over a wider (possibly national) geographical area – whilst still retaining local control and management.

Using this structure, the positioning of benefits for future public sector investors should be much easier to achieve and additional transactions quicker and easier to deliver, as new investors would be buying into an existing and proven structure.

Christopher Pratt and Mike Riley
LOCAL INFRASTRUCTURE DELIVERY

Richard Holmes

Richard is an Associate with Nabarro LLP and looks at the various options. The views expressed were valid as at 14 March 2011 when the article was written.

Although the Comprehensive Spending Review 2010 set out a programme of public sector cuts it also focused on investment in infrastructure and in particular there was a commitment to provide support for local infrastructure projects.

The Comprehensive Spending Review 2010 was followed by publication of the National Infrastructure Plan 2010 where the Government fleshed out its proposals and initiatives to enable local infrastructure proposals to develop.

In this article we look at the three main Government drivers for delivering this local project infrastructure:

- Tax Increment Financing;
- Regional Growth Fund;
- Local Enterprise Partnerships;

We look at the background to these three initiatives, what issues have arisen since the publication of the National Infrastructure Plan in October 2010, and what does the future hold for these Government vehicles for delivering local project investment and infrastructure.

TAX INCREMENT FINANCING

In the National Infrastructure Plan published in October 2010 the Government announced that it would introduce new borrowing powers to enable authorities to carry out tax increment financing (TIF) and this was further developed in the White Paper Local growth: realising every place’s potential issued in October 2010 which argued that these new powers will allow local authorities to borrow against predicted growth in their locally raised business rates to fund key infrastructure projects, which will further support locally driven economic development and growth.

What are TIFS?

The principle behind TIF is a simple one – local authorities and local businesses can fund upfront public investment in an area by borrowing against expected increases in property tax revenues resulting from the development. Over the allotted period the extra funds generated by the development are then ring-fenced until the debt is paid off. In effect it is a financing tool designed to forward fund key infrastructure improvements and works by deploying the future tax gains of those improvements to finance the infrastructure itself. For example, when a public project such as a road or a school is built there is an increase in the value of the surrounding real estate, and as a result this often attracts new and additional investment in the area.

The Treasury may enjoy the wider fiscal benefits of the scheme – higher stamp duty revenues resulting from rising property values, higher income and corporate tax revenues due to more economic activity, and a lower health, security and benefit costs as the community enjoys the social benefits of regeneration. The full increased revenue from business rates in the designated area will also be available to the Treasury after the funding costs for the infrastructure has been paid off. These increased tax revenues are the ‘tax increment’. The United States has long used TIFs where it has been hugely popular with cities as a tool that has enabled them to tackle urban blight.

So where does the upfront funding come from to pay for the infrastructure and redevelopment? This can be provided from a number of sources including:

- Bonds: the local authority issues bonds secured against the projected tax increment;
- Local Authority-funded: the local authority borrows to provide the initial capital and then repays its borrowing from the actual tax increment;
- Developer-funded: the developer borrows to provide the initial capital and the authority reimburses the developer using the actual tax increment which the developer uses to repay the borrowing. This method shifts the risk from authority/Government to the developer.

Issues

So far so good but before we get carried away thinking this is the answer to local authority regeneration prayers there are a number of issues to be considered:

- enabling legislation – this will be required to set out the local government powers and criteria for TIFs;
- timescales - it can take up to 20-25 years to repay the debt issued to pay for the project;
- there is a risk that the actual tax increment generated by the redevelopment does not achieve the projected tax increment;
- the uplift in business rates predicted to be achieved through a development may not be ‘additional’ – businesses may leave one area to move into the new scheme area thereby taking their business rates out of one local authority’s coffers and into another’s;
- setting up TIFs and their ongoing administration could lead to additional bureaucracy and allocation of resources for the local authority as well as increased demands to supply public services to the area at a time when public sector funds are already stretched;
- the scheme could transfer a disproportionate level of risk onto the local authority;
the planning system – hardly an aid to rapid infrastructure development in recent years – may mean that TIFs will take a long time to come to fruition;

- Government has indicated that only local authority funded TIFs will be allowed which means many schemes identified by the private sector as unlocking TIF funds may not be realised.

**The future**

The TIF concept has been widely used in the United States to finance regeneration plans and TIFs if successful can lead to increased regeneration and long term benefits. The appetite of local authorities to use this form of infrastructure development is increasing and illustrated by a number of proposed schemes including:

- Edinburgh – the UK’s first TIF scheme to regenerate the Leith waterfront obtained provisional approval in September 2010 and involves the investment of £84m in infrastructure whilst the additional business rates are anticipated to be in the region of £310m over the next 25 years;
- North Lanarkshire and Glasgow are working towards TIF schemes in relation to Ravenscraig New Town and Buchanan Galleries Shopping Centre respectively;
- Leeds – this regeneration is focused on the Aire Valley, a 400ha brownfield site earmarked for 8,000 homes and employment space. The local authority says that an initial infrastructure investment of £250m could raise and extra £900m in business rates over 30 years;
- Birmingham – the local authority has identified a £318m funding gap across three projects which could be filled through TIF borrowing. The three schemes are a tram scheme between Wednesbury, Brierley Hill and Stourbridge; a public transport interchange in Wolverhampton; and the regeneration of the former MG Rover car factory in Longbridge.

However, as we have shown, there are a number of issues which need to be considered when establishing TIFs and locally developed schemes should undergo a robust approval process. Although legislation still needs to be put in place to allow the schemes to go ahead, areas that have Local Enterprise Partnerships should be using this forum now to enable businesses and local government to discuss and develop effective TIF proposals that have the necessary economic development focus to allow swift approval. TIF increasingly looks like an idea whose time has come – offering the potential for investment in economically critical infrastructure projects, without the need for upfront tax increases, providing it can be structured to deliver the best economic outcomes. The Department for Communities and Local Government announced in its Structural Reform Plan November 2010 that the expectation is that TIF powers and retention of business rates will be introduced in July 2011 with TIFs being introduced locally in April 2012.

**REGIONAL GROWTH FUND**

In the June 2010 Budget the Government announced that it would set up the Regional Growth Fund and the National Infrastructure Plan 2010 confirmed that this discretionary £1.4bn fund would operate for 3 years between 2011 and 2014. Its purpose is:

- to stimulate enterprise by providing support for projects and programmes with significant potential for creating long term private sector led economic growth and employment. In particular it will help those areas and communities that are currently dependent on the public sector make the transition to sustainable private sector-led growth and prosperity.

The above statement on the Department for Business Innovation and Skills website reflects the Government’s belief that many areas of the country for far too long have been dependent on the public sector for the provision of employment and driving economic growth. The Government sees the Regional Growth Fund in conjunction with area based Local Enterprise Partnerships as the key to driving the growth agenda forward.

The bids for funding will be accepted over three rounds and the Government envisage a mixture of bids from private bodies and public private partnerships with the expectation that Local Enterprise Partnerships, which are discussed later in this article, will play a key role in coordinating bids across areas and communities. The first round for bidding for funds closed on the 21 January 2011.

**Issues**

- The first thing to say is that although the figure of £1.4bn appears to be a substantial amount of money, compared to the budgets of the Regional Development Agencies and other targeted regeneration funds of the past it is small. But as the only central government funding likely to be available for regeneration over the next few years it has taken on an added significance. The first round, which closed on the 21 January 2011, saw over 450 applications worth over £2bn for the first £250m tranche of funding many of which are over the minimum bidding threshold of £1m. This indicates that the fund will be significantly over subscribed with many schemes not being approved and makes grim reading for local authorities and businesses already grappling with big spending cuts in their towns and cities.

- The minimum threshold of £1m may mean that many small and medium sized enterprises will be unable to bid for funding whilst other commentators have suggested that a plethora of bids of only £1m or slightly above could spread the jam too thin with little impact on creating jobs.

- The Regional Growth Fund initially appeared as a major opportunity to maintain momentum on large transport and regeneration projects, which had fallen out of the Regional Development Agency programmes. However analysis of the bidding process for the first round confirms that very few existing transport schemes with goals, for example of reducing congestion, improving interchange, delivering environmental improvements or enhancing social mobility would be prioritised – or even eligible. Indeed in March 2011 Phillip Hammond, Secretary of State for Transport, expressed his disappointment at the number of bids received in relation to transport particularly given that the Department of Transport contributed one third of funding for the Regional Growth Fund to support “local transport schemes that unlock sustainable growth”. It is clear that the focus of the Regional Growth Fund is very firmly on job creation in the private sector, targeted towards areas with currently high
Thirdly commentators suggest that the areas of the North East, North West and Yorkshire are likely to provide the best background match for Regional Growth Fund objectives rather than the relatively affluent south. Whilst many may argue that this is a reasonable position to take other commentators have raised the argument that areas, particularly those in the south, which have already been successful in creating private sector jobs should be given further funding to create further private sector jobs.

The involvement of the Department for Communities and Local Government means that housing schemes such as Housing Market Renewal Pathfinders can be eligible which further reduces the pool of funds available for infrastructure development.

**The future**

It is clear that the Regional Growth Fund has nothing like the funds that the Regional Development Agencies had to invest. The current economic climate means that there is unlikely to be any significant increase in the value of the fund over the next 5 years which means that local authorities and business developing bids will need to have fully developed and robust business plans with a heavy emphasis on job creation to stand any chance of their proposals being approved for funding by the Regional Growth Fund. One of the key organisations through which bids will be delivered is Local Enterprise Partnerships.

**LOCAL ENTERPRISE PARTNERSHIPS**

In the summer of 2010 the Government announced the abolition of the Regional Development Agencies in favour of Local Enterprise Partnerships (LEPs), partnerships between local authorities and local businesses which are charged with promoting economic development and private sector jobs growth. As of now 31 LEPs have been announced by the Government although it should be noted that many areas of England, including Lancashire and large areas of the South West do not have a LEP. At the same time we have a situation where some local authority areas are covered by two LEPs: for example, York is part of both the Leeds City Region LEP and the new York and North Yorkshire LEP.

The White Paper Local growth: realising every place’s potential gave more details of the structure of these organisations.

**Structure**

The Government does not intend to introduce legislation to define LEPs but does emphasise that they will need to be sufficiently robust and accountable as well as flexible to meet the specific needs and circumstances of the local LEP area. Half the LEP board will normally be representatives from business and the constitution and legal status of each partnership will be a matter for the partners.

**Funding**

LEPs will be expected to fund their own day to day running costs – there will be no direct central funding. Government is encouraging LEP’s to consider how” they can obtain the best value for public money by leveraging in private sector investment”. However there is a LEP Capacity Fund of £4m spread over four years which will address gaps in intelligence available to the Partnerships, facilitate business engagement and interaction with Partnerships; or boost board capacity to prioritise actions which will support business-led growth and jobs within the Partnership’s area. The Government has invited bids with the first round closing on 31 March 2011, with a second round expected later in 2011.

**Functions**

The White Paper says all LEPs will provide clear vision and strategic leadership to drive sustainable private sector-led growth and job creation in their areas and suggest a possible range of function as follows:

- working with the Government to set out key investment priorities, including transport infrastructure and supporting, or coordinating, project delivery;
- co-ordinating proposals or bidding directly for the Regional Growth Fund;
- supporting high growth businesses, for example through involvement in bringing together and supporting consortia to run new growth hubs;
- making representation on the development of national planning policy and ensuring business is involved in the development and consideration of strategic planning applications;
- leading changes in how businesses are regulated locally;
- strategic housing delivery, including pooling and allowing funding streams to support this;
- working with local employers, Jobcentre Plus and learning providers to help local workless people into jobs;
- co-ordinating approaches to leveraging funding from the private sector;
- exploring opportunities for developing financial and non-financial incentives on renewable energy projects and the Green Deal; and
- becoming involved in the delivery over the national priorities such as digital infrastructure.

**Issues**

The establishment of LEPs has not been a smooth process with the former director-general of the CBI, Richard Lambert describing the way the Government went about creating them as a “shambles” and even the Business Secretary, Vince Cable admitting that the switch-over had been “a little Maoist and chaotic”. In particular a number of issues have arisen which has raised questions regarding their operation and effectiveness:

- Funding - LEPs will be expected to fund their own day to day running costs – there will be no direct central government funding allocated to LEPs and it is clear
that Government expects LEPs to obtain greater contributions from the private sector. However the lack of clarity with regard to the role of LEPs is unlikely to attract businesses to invest in running costs whilst local authorities are already under severe financial pressure with little spare cash. Lack of funding is a crucial issue and it is clear that LEPs are likely to require a degree of independent financing which will take time to develop on a sustainable basis. Without secure revenue funding LEPs will be unable to plan ahead, develop business initiatives and keep staff.

- Geography – the Government’s drive to create LEPs is based on the idea that local economic development develop around a ‘natural economic geography’ and a desire to move away from the artificial Regional Development Agencies and create something more relevant to business. However the list of LEPs already created suggest that the role and size of these LEPs may well vary from area to area which could have a substantial impact on the economic growth and job creation opportunities in each area. For example the extent to which the Solent LEP has or can develop proposals as opposed to the established working arrangements which have developed into the City Region Proposals in Greater Manchester, Leeds and Sheffield which have existing and historic levels of joint working between local authorities are huge. It suggests that to be effective size and scale will be important and that regional groupings should be recognised where there is a wish for them despite the government wanting to move away from this. For example in the South West there is currently only one LEP which covers Cornwall and the Isles of Scilly – maybe the aspirations of this LEP and Devon, Dorset and Somerset would be best delivered in a South West LEP?

- TUPE – it is clear that where Regional Development Agency functions are transferred to the LEPs staff transferring from the Regional Development Agencies to LEPs will be subject to TUPE. However the fact that LEPs are based on much more localised areas than the 9 former Regional Development Agencies is likely to create issues. Firstly it is not clear what functions all of the LEPs will take on, with the possibility that different LEPs will take on different functions, therefore Regional Development Agency staff could find themselves transferred to other bodies such as local authorities, outsourced agencies or new corporate bodies. Also what happens in areas where there is no LEP currently set up? Allied to this are potential funding commitments in relation to pensions as well as ongoing payments to staff.

- Regional Development Agency Assets – the Regional Development Agencies had substantial assets many of which are balanced off by liabilities. The White Paper sets out some clear principles about the disposal of these assets as well as identifying the Department for Communities and Local Government and the Department for Business Innovation and Skills as the key managers of the disposal. It might have been expected that some of these assets would transfer to the LEP or local authority as a first step for delivering economic growth. What is clear however is that that there will be no presumption of a disposal to a particular local authority or LEP. So the extent to which a LEP can rely on receiving any benefits from the disposal of an asset will be limited particularly as the Government is likely to consider the extent to which the asset could be used to reduce the deficit.

- European Funding – the Regional Development Agencies were responsible for the management and distribution of the European Regional Development Fund and as there is no clear mechanism in place for how or if LEPs would administer this there is concern that the UK could lose millions of pounds in European funding. The new delivery structure is set to be announced in the 2011 budget.

The future

The 31 LEPs now setting up their boards will have to focus on their role of delivering economic growth and increased employment whilst trying to sort out staffing arrangements, budgets and transfers of assets and liabilities of the old Regional Development Agencies. It will not be an easy or straight forward task.

It has to be said that LEPs have not had the most auspicious of starts and the process has been fraught with controversy. Whilst it is clear that there is a significant level of enthusiasm for a fresh approach to partnership between business and local government; and one which is based on a greater affinity for local economies among those participating, the jury is still out on the new partnerships. In particular for business the worry is that they have few resources with little or no central government funding and there is uncertainty over what their powers are. If LEPs don’t start to deliver or are seen as merely talking shops business is likely to walk away. The fact that some areas of the country are still not covered by a LEP suggests that there is uncertainty over their role.

LEPs do have the potential to offer a more dynamic approach to enterprise through local businesses and local government and for a greater say in local development priorities. However in order to do this LEPs need to have clear powers to influence and determine policy and set out a strategic vision for their area as well as more certainty over financial support. Inevitably this requires Government to devolve power and the extent to which the Government embraces this over the next year to 18 months, coupled with a more proactive and creative approach from local government and business communities, is likely to determine the future success or failure of LEPs.

Richard Holmes
Recognised as a leading adviser to the public sector, CB Richard Ellis has accrued a wealth of experience having advised over 200 authorities and currently advising 22 London Boroughs.

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Once upon a time in a land not so far away, Kirstie and Phil told us all how the Housing market was booming. Housewife’s and Merchant bankers alike rushed out to B&Q for Magnolia paint and improvements were made to homes, second homes, flipped second homes and at least one Moat. Now as Mistress Prudence has been dumped for Lady Austerity, we still speak of this thing called a Housing market.

In the same way though that Prudence probably wasn’t the buzz word in the upper echelons of the likes of Northern Rock, RBS and Lehman brothers, the term ‘Housing market’ doesn’t now seem entirely correct either. It’s been used more out of habit and ease than accuracy and at times I’ll do the same in this article.

If there are any Grannies out there with false teeth, I won’t hand you any eggs to suck on by suggesting that all properties in all areas appreciated at the same rate in the boom years. That’s never been the case as certain types of property and certain areas have always out performed others. There has always been a very broad brush for this giving a knowledge that appreciation from one to the next isn’t going to be a million miles apart. This is what has allowed us to coin the term ‘Housing Market.’

I’m going to stick my neck out on the line now though and say there is no such thing as a Housing Market. What we have is a series of different markets which have much looser ties with each other than ever before.

**Equity markets**

It was once a case that values on lets say a run down Council estate would perform in line with that of a nearby private estate. Though the private estate values would normally be higher, they would increase at a similar rate as the availability of credit was a leveller. Soaring values lead to low numbers of repossessions and self certification mortgages often gave credit to people to people who if honest would not have otherwise obtained a mortgage. Adverse lenders advertised extortionate interest rates to all and sundry and if repayments fell behind, there was little to worry about as selling on was quick and there was normally a profit to be made.

Roger Daltrey and the Who’s Tommy could equally obtain a mortgage through different routes. Even the mainstream lenders got involved. The writer used to be a mortgage consultant working on Self Certification mortgages for the Woolwich.

Things have changed though. A minimum 10% deposit is now needed with the majority of mortgages requiring more than that. Gone are the days of self certification mortgages and borrowing seven or eight times’ income. Getting together a deposit at the bottom end of the market where savings are either low or none existent. This cuts down the demand for housing purchases but increases the demand for rentals. In equity rich areas (e.g. where the population is older), sales are simpler. Even if the amount of equity held is less than at the height of the market, there is normally still enough to provide at least the 10% minimum required. With interest rates so low, buyers often won’t mind buying with so little equity. At the upper end, where properties are purchased with low LTV's, the downturn in the market won’t have had as much of an effect. These equity rich and cash rich buyers are in a completely different market to those at the bottom as they aren’t so heavily dependant on credit.

It used to be the case that undertaking home improvements and repairs was a sure fire way of increasing value. With values soaring, the Vicky Pollard ethos of buying a house was that the better the quality the higher the value. There was little point in many in wasting time doing up a house only for values to increase irrespective of what is done. Catherine Tate’s Lauren Cooper set the tone of the nation perfectly when she said “Am I bothered.”

Today’s buyer though is more demanding. Particularly at the bottom end of the market, where buyers with sufficient deposits are a rarity, they will demand near perfection to pay top whack. Anything not as good as this is likely to achieve much less regardless of whether the condition is ok or poor. Whilst there used to be a four tier market – very good, good, average and poor, we now have a two tier market – excellent and everything else. I could add a third tier of ‘refurbishment projects’ for properties that need a great deal of money spent on them to become habitable but I think there would be a better word that would remove the need for a third tier – “unsellable.” The sort of property which could only sell at auction in the good times just doesn’t often sell now as the restricted market of cash rich investors are too busy servicing their negative equity, thinking long term or if they were smart enough to sell a the peak, sunning themselves in the Bahamas (lucky so and so’s).

**The strong rental market 2**

In my opinion, sequels very rarely live up to the expectation. I didn’t like Jaws 2 and the less said about Caddyshack 2, the better. Chances are the resurgence of the rental market may also be a disappointment but it can’t be ignored.

Buy to Lets previously held up the bottom end of the market with landlords relying on capital growth to give them a good
intermittent income whilst mortgages were roughly covered by rentals. The majority of the buy to let landlords who overstretched themselves are now out of the market leaving a number of landlords whose focus has now changed away from capital growth to long term stable income.

With a large number of buyers held back from the market due to restricted credit and demanding deposits, the rental market has grown whilst capital values have fallen. At the same time, interest rates have dropped giving rise to cheap mortgages. With rents increasing and mortgage costs reducing, long term investors are now realising a good stable income with small profits each year. If the Housing market has long term stability, these kind of buyers may come back to the market in droves seeking to realise stable rental income. As the expectation is that House prices will increase in the long term, buy to let investment can become an attractive proposition but not until the current stability has been tested for longer. The worry of a double dip has to be a concern.

What will be key though is the provision of credit for these buy to let mortgages. In the mainstream mortgage market, LTV’s of up to 90% are available. Even state owned Northern Rock have recently introduced a 90% mortgage at 5.99% with low fees. The Buy to Let mortgage is justifiably at 75%-80% LTV and less as there is added risk when the owner does not occupy. However, the risk should be reduced by the rising market with many landlords receiving a profit rent which wasn’t the case during the boom. A big problem though is that the fees can typically start at about 2-3% of the loan amount + solicitors and valuation fees. With buy to let investors buying with the view of seeking a small profit rent each month, many will be put off by comparatively high arrangement fees.

**Bouncing dead cats and we’re all having kittens**

One thing I’ve noticed is that commentators on House prices rarely get it right. After the doom and gloom of the year and a half following the crash, most expected prices to continue falling.

The Bank of England Base rate was at 5.75% at the crash and fell nine times until March 2009. Though this was at the same time as credit conditions tightened, it’s desired affect of holding backs falls in the housing market arguably had the opposite affect. It is no great surprise that the mini recovery (known as a dead cat bounce) started in May 2009 at which point the supply of buyers waiting over the last year thought that affordability was at a long time high.

Once this tapped up supply of buyers tailed off, we found ourselves in a position of sellers too nervous to sell (also, often being short of equity to be able to sell) and buyers not being able to meet deposits and challenging credit conditions. Quantitative Easing, which had previously helped, became a dangerous term in MPC meetings due to risks of deflation becoming out of control inflation.

The scene was then set for values to begin falling again and that they did. It seems though that the main reason falls haven’t been as great as before has been because of the low transaction levels. This stable market has become a false one. With interest rates likely to rise in the next few months (at the time of writing this, the MPC have just kept rates at 0.5% in March but with predictions for an increase in April or May), we could find another bounce back up as buyers jump on before affordability becomes a problem. This time though it would only be a dead kitten bouncing. This could leave prices roughly stable over the year as it is counter-acted by government cuts and stagnant wages.

The problem as I see it comes in 2012/13. With affordability not as high as it is now due to rising interest rates and government cuts having kicked in sharply, prices may then begin to fall again sharply. We are relying on at least one of three saving graces to prevent this. One is strong economic growth which is highly unlikely with the economy having contracted recently. One is wages increasing which appears unlikely with public sector pay freezes (Boo! Hiss!) and tightening of belts in the private sector. The last is credit being more freely available. This is the most likely but recent history suggests that the Government has a sore head from hitting a wall where the banks are concerned. If prices fall, the banks will be more reluctant to lend and may tighten lending criteria further which in turn could leave prices falling even more and the cycle will continue. A further round of quantitative easing may help the banks balance sheets but unless interest rates are increased a lot, inflation is unlikely to fall enough for quantitative easing to be acceptable to the MPC.

My prediction is that the Housing Market will fall during 2012/13 and 2013/14 after which we’ll hope that the deficit is under control, the Government can start spending again, the economy can grow and banks might trust each other’s balance sheets enough to introduce more competition in the market by relaxing credit conditions. At that point, the pent up demand for housing from previous years may all flood in and we can enjoy prolonged increases in values.

**Magnolia tinted spectacles**

The way in which we see the market has to now change. Rather than a series of sectors within a greater Market, we are now seeing a series of Markets and a series of Sectors.

The lower end of the market may under-perform compared to the rest of the market whilst credit conditions are no restrictive. This may change if (and that’s a big IF) the market stabilises for a considerable period of time and competition re-enters the buy to let mortgage market as a different kind of investor to that we are used to will help prop up the market.

Not until the economy recovers, lending criteria relaxes and hopefully a number of buyers have finished saving up for deposits will we see the series of markets and sectors converging into one larger market with the nuances we experienced over a number of years.

Lets just hope it doesn’t recover so quickly that we get back to the days of irresponsible lending and ridiculously high bankers bonus’s (oh wait, we’ve got that one already!). I bank with Barclays and I really don’t fancy the idea of queuing outside hoping my money is safe after another crash. I hope you read the Terrier, Bob Diamond!

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Brian Ablett

Brian is the current Chair of the North East Branch and has over thirty years of public sector property experience, working in both central and local government. This thought provoking article represents his personal views and has recently been published in the RICS Yorkshire and Humber and North East Newsletters.

The May 2010 election generated a rapid change in the previously common understandings around asset management in the public sector. It wasn’t that this was being done either well or poorly, but more that a number of organisations would either downsize or cease to exist. A period of rapid change in the size of the public sector estates is driving asset management up the corporate agenda.

Overlaying this is a reshaping of the various bodies. Should asset management become a centralised function? Certainly this is the direction of travel for central government. We are seeing the reestablishment of a common user office estate in central London and Bristol. To achieve this requires the unwinding of the notion that various government departments and their agencies are owners of an independent estate. In Leeds, for example, government departments are seeking to develop an approach to rationalise and reduce their estates by establishing a joint plan. Some participants talk of facilities management following, using combined purchasing power better to search out further economies of scale. This all sounds very familiar since it was the approach used until the 1980’s - what goes around comes around!

What, then, for local government? This is far more complex than the task for central government, itself difficult, because of the integrated operation of administration and service delivery. In central government this was typically split out; delivery functions were often brigaded into independent agencies, allowing a simplified starting position for estate rationalisation.

Overlaying this is the statutory basis by which local government operates, meaning it sits in an enclosed environment for accountability, under democratic leadership. But, even allowing that a large proportion of staff are out-stationed to where they are most effective, there remain large numbers, typically centrally based, who occupy standard offices. What are local government’s requirements?

Discussions amongst Heads of Property reveal these are similar in nature. There is a need to rationalise - fewer staff, since May 2010, but to occupy space more intensively (typically, “new ways of working” as shorthand). Lower costs (per person) and reductions in CO2 are expected as are various partnerships with other public sector agencies and, increasingly, the Voluntary Sector. This last can be difficult to implement: which partner? How many staff, both now and into the future, and who will pay for what? Total Capital, Total Place, LIFT, all have their merits, and will no doubt be replaced by others. They suffer from complexity, from excessively long set-up times (and thus costs) and may be at risk from future restructuring. The LIFT programme is a case in point; a partnership between the NHS’s Primary Care Trusts (PCTs) and Local Authorities, they will require further review since PCTs are now to be abolished.

Each and every organisation is supported in some measure by property teams. These cover every combination; professional staff, part or unqualified, placed variously in organisational structures and with varying levels of responsibility and accountability. In-house, out-sourced, TUPE’d in - and back again - with half-way house solutions as well. There would seem to be no single model better than any other.

Property, by which I mean non-specialised, common user offices, seems to be a deep-seated issue, more usually part of the problem. It is inflexible, when held in smallish lots, and difficult to replace so as to maintain operational efficiencies.

The various initiatives since May 2010 address a narrow but essential need to off-load space and to squeeze into what remains. But what it doesn’t achieve is any improvement to other requirements. The vexed issue of who sits next to whom is not addressed nor how shared space is to be paid for. Many organisations will continue to be “price takers”, both too small and perhaps inexperienced to improve on their position and secure maximum economies of scale.

So, whilst applauding present efforts by the those doing their level best, one question must be: how can we do better for the many and not just the few?

Perhaps the first point is to ask again why organisations should be concerned with running, owning, operating or doing clever deals for their common-user properties. Surely what they share is a need for modern, economical, efficient, well-located and sustainable accommodation? How can this be better achieved by all? And how might this be done during a period of public sector austerity?

One possibility is to look further at proposals to recreate the central government common user estate but to expand it to the whole of the public sector. None of the occupiers need to own property or hold leases to function. Instead they might pay an inclusive occupational charge - hardly revolutionary in itself since it is the essential basis for PFI funded buildings. Rolling the wider public sector estate into one offers the potential to drive down costs, of all types, because of its sheer size. These reductions can be passed on to occupiers. Such an arrangement provides intriguing possibilities. Where would it sit? It could be a public body with clear targets - essentially, quality up, costs down, along with measurable improvements in sustainability. What if it had access to borrowing powers? It could find the funds for improvements and make repayments based on annual savings. How else could it be constituted? Perhaps a cooperative, or a charity, maybe modelled on the National Trust with the benefits locked into improving the taxpayers’ lot. But it is the taxpayer who should be seen as the
ultimate beneficiary, not the occupiers who simply are their servants.

The President of the ACES, Paul Over, said of these general trends, against the motto of the Olympics, “I believe they will continue FASTER and the message from Central Government is likely to get STRONGER. The amount we are expected to deliver is also anticipated to be HIGHER than we currently think.”

But simply working a bit smarter and harder can’t get us there. Something more fundamental and radical is required.

Brian Ablett

THE DURHAM DRIBBLER

I have been a Town supporter since 1953 and, living in the North East for over 40 years, my opportunities to watch them are limited. However I do try to get to a game at least 3 times a season - weather providing.

Although grounds such as Carlisle, Darlington, Hartlepool and York are within travelling distance I have been restricted, in recent years, to the likes of Brandon, Durham, Newcastle Blue Star, Norton & Stockton Ancients and Ryton!

One of my ambitions was, having moved up to the North East in the late 1960’s, that I would see Town play at Whitby, preferably in the FA Cup not the league!

The fixture list for this season gave me such an opportunity, on Saturday 26th February to be precise. As an added bonus I would be able to invite our son to travel over for the weekend from Leeds via Whitby of course!

Train tickets arranged, and a collection point of Yarm Train Station agreed, we made our way to the match. We had a brief stop on the way down but sadly I clipped the car, on a fence post, backing down a track on the outskirts of Whitby. I didn’t realise, until parking outside the ground 20 minutes later, that several splinters of wood had lodged themselves between the tyre and hub.

Forty minutes, and 3 different jacks later, the wheel was off and the spare on with the help of a neighbour who turned out to be a former committee member of Whitby Town FC!

Although we lost a valuable three quarters of an hour we still had time to walk down to the Town centre to partake of a delicious pie, mash and peas lunch from that famous Whitby cuisine, no not the Magpie for a change, but the Humble Pie.

Not only was the food good, served with lashings of hot gravy on enamel plates, but it was accompanied by 40’s music playing in the background. Great tucker great atmosphere.

After a quick stroll round the town we made our way up to Upgang Lane, and thence to the Turnbull ground, around 2.30pm.

We followed a group of Town fans up the bank and chanced to hear a mobile phone call to one of them along the lines of “You must be joking - please don’t tell me it’s true etc.”. What made it worse was not only was the call genuine that the match had been called OFF but the caller also broke the news that the pitch had been passed to play at 12.00 noon only to be condemned by 2.50pm.

To say that they, and many other fans, were angry, puts in mildly. Many supporters had made a weekend of the occasion
to be rounded off with a football match rather than an unexpected perambulation along Whitby pier.

Despite hearing this bad news we continued up to the ground in order to take a closer look at the pitch and quite frankly we were surprised at what we saw.

I have to say if that pitch was unplayable then the Wolves game, against Blackpool, should have been postponed 5 days earlier such was the state of their pitch as witnessed late that night on Match of the Day.

After an hour of unplanned walks along the promenade we returned to Durham in a somewhat disappointed frame of mind. To compound matters we had both suffered earlier disappointments with Town.

Myself because Town were due to play Durham in the League Cup, but didn’t owing to playing an ineligible player in an earlier round, and my son a few weeks ago, for a League game also postponed on the morning of the match!

We will get to a match one day and hopefully it will be puncture free!

**Ratings**
The match 0/10
The Journey 1/10
The grub (Humble Pie) 10/10
Miles travelled 145

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**COMMUNITY ASSET TRANSFER AND THE BIG SOCIETY**

Richard Allen

This article is based on a presentation given to the Heart of England branch meeting in March and has been produced in consultation with Jim Ross, the ACES representative on the Asset Transfer Stakeholder Forum. It draws on my experiences of membership and the organisation of various community groups, 35 years experience in the management of a diverse range of local authority owned community assets. Plus since my retirement providing advice on a voluntary basis to various community groups on the transfer, use and occupation of community assets.

**Introduction**

Nottingham City Council became a unitary authority in 1998. It took over responsibility for schools and inherited a huge maintenance backlog. Some time after transfer I asked the question at a training event with the building maintenance team – who do schools belong to. The question was prompted at the time by having just been made Chair of governors at one of the council’s outer estate primary schools. The options given were the local authority that held the legal title, the children, the teachers, the governors or the community. The unanimous response was the community. This response was a surprise at the time as Nottingham was an old labour dominated authority which still continued to embrace municipisation. Its large land holdings had been achieved through the inclosure awards and gifts of land to the council to hold and use for the benefit of the community. But if I had asked the same question for assets such as community and leisure centres, libraries, parks etc I sensed the answer would have probably been the same.

**The Community**

So who are what is the community. The dictionary definition is ‘a body of people with something in common’. More recently it has become referred to as ‘the third sector’: the sector that sits between the public and private sectors and includes voluntary and not for profit social enterprises. To operate and use assets the community is organised through various forms of groups. There are specific exclusive groups covering in particular religion and culture. Then there are the larger players: charities and community based social enterprise organisations, such as development trusts, run by a mix of paid staff and volunteers. A number of these development trusts grew out life expired regeneration initiatives such as City Challenge. These trusts are represented by the Development Trust Association (DTA).
This association was a main driver behind the Quirk review. It is also the main driver in nurturing the growth of community asset transfer and is working very closely with the coalition government in the promotion of the Big Society.

The aim of the DTA (1) is to help people set up development trusts and help existing development trusts learn from each other and work effectively. One of its declared objectives is to ‘promote community ownership of land and buildings and to help development trusts develop local assets.’

Development Trusts are community owned and lead enterprises working to create wealth in communities and keep it there; through cultivating enterprise, developing community assets and transforming communities for good. They trade on a ‘not for profit’ basis, reinvesting surplus back into their community and effecting social, economic and environmental, or ‘triple bottom line’, outcomes.

Included in the DTA set up the Asset Transfer Unit (ATU) (2). It is funded by Communities and Local Government and helps empower local people and organisations to transform land and buildings into vibrant community spaces whilst supporting the development of a thriving third sector.

**Community Asset Transfer**

Community asset transfer is widely regarded as the ‘transfer of land and buildings into the management and/or ownership of the community for the benefit of the community’.

However, the ATU definition states that it is ‘the transfer of long leasehold or freeholds at less than best consideration’. This clearly shows that they and the DTA are looking at the transfer equation from the side of the transferee – not the public sector.

Asset transfer can range hugely from just the hiring out of a football pitch for a local community football match to the disposal of a freehold of a major public building of architectural and historical importance to the National Trust.

Transferring assets to the community is not new: it is just the term ‘Community Asset Transfer’ that is new. Nottingham City Council, my former authority has numerous examples of asset transfer, mainly held under a tenancy or lease, but in some instances freehold disposal. The list includes community associations, various sports clubs, wildlife trust, civic society, community laundry, scouts/guides, model railway club, allotment associations, city farm, religious bodies, minority groups, drama society, dancing school, rifle clubs, rowing clubs, business centres and leisure centres. There are examples of other authorities transferring numerous other community assets such as schools, museums plus community organisations seeking to take on large ventures like the recently fire damaged Hastings pier and even Dover docks.

**Quirk Review**

The previous Labour government policy under its vision for ‘Sustainable Communities’ placed a strong focus on ‘neighbourhood’ and ‘communities’ across a wide range of issues which included the potential for the ownership, use and care of land and buildings by the community based organisations to underpin their activities, particularly where they could act as ‘anchor’ organisations to deliver practical action and capture the interest and commitment of people with a continuing interest in the well being of the area.

This policy, supported by the 2006 White Paper ‘Strong and Prosperous Communities,’ lead to the publishing in 2007 of the Quirk review ‘Making Assets Work’. The report found that community groups vary greatly, are under capitalised, that local authorities have used assets to empower communities but not in a strategic way, most transfers are locally responsive and not proactive and that there are no substantive barriers to transfer.

Quirk concluded that:

- Any transfer of public assets to community ownership and management, needs to realise social or community benefits, without risking wider public interest concerns and without community purposes becoming overly burdened with asset management.
- Benefits of community ownership and management can outweigh the risk and opportunity costs
- Risks can be minimised and managed if all parties work together. This needs political will, managerial imagination and a focused business approach

Quirk recommended that:

- Guidance should be produced on how to transfer assets
- A tool kit on risk assessment and risk management in asset transfer should be produced
- There should be greater access for local authority and community groups to expert advise
- There should be smarter investment of public funds through the involvement of specialist financial intermediaries
- An ‘Asset lock’ should be introduced to protect public/community value (3)
- There should be a major campaign to spread the words through seminars, road shows, good practice

**Community Assets Programme**

This programme was set up following the Quirk review to run from 2007 for around four years. Coordinated by the DTA its aim is to empower communities by offering grants for the refurbishment of local authority buildings to enable transfer to the third sector. Now in its fourth year there are around 450 projects covering community land and buildings such as libraries, schools, heritage properties, allotments, swimming pools. The ATU estimated that there were around 1000 transfers on the go in November 2009.

**Community Asset Transfer and the Big Society**

Accurately defining the Big Society at this stage is difficult as it is still evolving. It has been referred to as; not the big state, localism, volunteerism, mutualism, and a chance for the community to shape where they live, giving control to the people, an approach not a thing. But what ever it is, in terms of community asset ownership it is only an extension of what is already going on. A Big Society ambassador has described...
it as ‘handing over assets to the people through not for profit social enterprises’

The Prime Minister has described the Big Society as his passion. One of the seeds for this passion was sown when he visited the Coin Street Community Builders project, started in 1987. This social enterprise company has created a £50 million community asset on a 13 acre formerly run down area of the London South Bank, comprising houses, shops, restaurants, cafes and small businesses. This scheme which captured the imagination of the Prime Minister also reflects the views of some of the far left who believe that the only way to empower the most disadvantaged is to give them control over public services and their environment.

In rural areas it is proposed that Parish Councils will be at the heart of the Big Society as they will be made ‘guardians’ of community plans. There is already a growing trend developing of transferring libraries, public toilets, allotments, recreation grounds and leisure centres to Parish Councils.

The government has set up a £100 million transition fund to cover the shortfall in funding to voluntary groups and charities arising from the comprehensive spending review. It appears though that is far from adequate. From the summer they propose to launch the Big Society Bank that will make £600 million available through loans. £200 million will come from high street banks and the remainder from dormant bank accounts that the Big Lottery Fund has been collecting since 2008 for distribution to social and environmental purposes. The government wants to see over time mainstream finance from banks being made available to the social investment market, the introduction of a Big Society ISA and Big Society University. Initially some of the funding will be targeted at youth projects (3).

Localism Bill

The Localism Bill devolves power to local communities.

Part 4 Chapter 3 enables voluntary and community bodies, charities, parish councils, and public sector employees who are delivering services to express an interest in running local services. In such case if accepted the local authority must go through a procurement exercise which could result in the transfer of assets associated with the service.

Part 4 Chapter 4 provides local groups with an opportunity to buy assets listed by local authorities of community value. It builds on the existing local authority asset transfer policy, but also includes private sector assets. It gives the community the opportunity to bid by establishing time to raise finance, produce a business plan and get constituted. But the owner has no obligation to sell to the interested group. Examples of Community assets are described as a village shop, last pub in the village, community centre, children’s centre or library. They must be an asset that furthers the social, economic or environmental well being or interest of a local community. Local authorities are required to keep a list of assets of community value that may be nominated by a parish council, other body with local connection or local authorities themselves through a neighborhood plan. A nominated asset stays on the list for 5 years. During this period the local authority must be notified of any proposed disposal with vacant possession of the freehold or an interest greater than 25 years. This ‘community right to buy’ proposal is out for consultation. It suggests a few exemptions, two of which are sales by a lender being in possession or through powers of sale and under bankruptcy proceedings. It also suggests a protected period of 18 months from notification of a disposal, with an interim period of opportunity of 6 weeks in which a group can declare an interest in acquiring and then a full window of opportunity of 6 months in which to put in a bid. It excludes from listing any asset where the local authority considers that the price is likely to be beyond the realistic reach of any community group.

Local Authority approach to Community Asset Transfer

Local authority objectives of transferring assets to the community should be to:-

- Improve its service delivery
- Use the community to deliver a more convenient service
- Support efficiency savings
- Use the community as a resource to take up the slack due to comprehensive spending review cutbacks
- Energise and empower the community, to act as catalyst and give community purpose
- Lever in skills and finance (both public and private).
- Enable the community to realise the benefits from low NNDR afforded to charities

The key criteria to be met by a transferee, to give confidence to local authority to transfer an asset should be:-

- That the proposed use supports the corporate/community/neighbourhood and other relevant plans
- A willingness to work in partnership with the local authority
- It is a community organisation with wide community objectives, good governance, capacity and experience
- It can demonstrate a clear community/social demand for proposed use and that it does not duplicate
- It has access to finance, both capital and revenue
- It has a robust business plan that aims to achieve self sufficiency
- A willingness to enter into an agreement(SLA) to cover performance with appropriate penalties

Tenure

The Quirk review encouraged the transfer of freeholds. The DTA maintain there are lots of groups keen to get their hands on the freehold of community assets. However, John Redwood, Conservative MP, has said that transfers to support the Big Society should be by lease so that the public sector can get the asset back.

The tenure for any transfer should be determined by to what extent the transferee meets the aforementioned criteria and length of term needed to operate /raise finance – In other words good estate management principles.
For example a newly formed group seeking finance may be granted just a short term licence. Whereas a well established social enterprise company with an excellent business plan would be granted a lease of a length appropriate to meet the objectives and raise the finance to become self sufficient. Also provide for the asset reverting to the local authority if the need for the community use ceases or materially changes to protect the asset value for the community.

If external funding is required, to avoid any renegotiation of the asset transfer later on, establish whether the funding body has any specific requirements. If so include them in negotiations. Some funders even require the use of their own standard forms of lease.

**Disposals at Less than Best Consideration**

Under the Local Government Act 1972 (General Disposal Consent 2003) a local authority and certain other public bodies may transfer assets to community ownership at less than market value (up to an undervalue of £2 million) to further social, environmental and economic wellbeing, without seeking Secretary of State Consent.

A valuer should put an open market value on the property asset and also attempt to value the benefits. Valuing socio/economic benefits is difficult but there is some help on the way. The RICS Public Sector Executive Group is producing guidance on ‘less than best’ which refers to assessing benefits by reference to the Green Book – Appraisal and Evaluation in Central Government (HM Treasury). The book considers willingness to pay/willingness to accept. It is also understood that these guidelines recommend that the Section 151 officer decides whether a disposal can be supported in cases where the open market value still exceeds the proposed disposal value plus the benefits which can be assessed in financial terms.

Although it does not necessarily value socio/economic benefits the Birmingham Community Asset Transfer Development Programme has developed a tool to measure social value and the impact of asset transfer. It attempts to measure social value at pre lease stage by reference to financial resources, investment leverage, viability of the business plan, strategic and neighbourhood added value, proposed activities and use, savings to the local authority and impact on adjoining sites. The impact of transfer is then measured post lease stage by reference to the aims and objectives of the transferee organisation outputs, outcomes, and links to priorities for the area.

With any proposed disposal at less than best consideration two questions should be asked:

- Do the benefits out weigh the opportunity cost of income/capital forgone from not letting or selling the asset on the open market at full value
- Could the organisation adequately fulfil its and the authority’s corporate plan objectives and still afford to pay a rent/income

**Lease terms**

A transfer by way of a lease for a community use will create a business tenancy protected by the Landlord and Tenant Act 1954 and covered by the Commercial Lease Code. Accordingly, a flexible and sensible approach should be adopted. The lease should only include clauses that the local authority is likely to be able to enforce and where the lessee will be able to meet the cost. Permit subletting to enable the lessee to generate income to be sustainable. Include a user clause to cover community use. Consider improvements as well as repairs to encourage profits to be reinvested into the property. Ideally put into good repair before transfer. Alternatively make it a condition of the lease that the lessee repairs within an agreed timescale. Build into the lease local authority bulk purchasing powers for energy and insurance where this is financially beneficial to both parties. Consider reserving user rights for existing local authority uses such as a service hub/office base. Where appropriate include a Service Level Agreement to cover performance such as minimum standards, opening hours, activities and how to measure and monitor.

**Manage Risk in Asset Transfer**

The main reluctance to transferring assets to the community has been because of the perceived risks. Communities and Local Government have produced a guide which sets out a common approach to its management. It addresses the nature of risk, accountability and governance, commonly identified risks and examples of ways of managing them. Community Matters, a sister organisation to the DTA, have devised a tool kit to manage asset transfer risk called VISIBLE which is being used by a number of local authorities.

The best way to manage risk is for an asset transfer policy to require the production of a robust business plan as part of an application. The business plan should cover: the applicants understanding of the community, need for the use/service and evidence that it is not duplicating; consultation to show support from community, councillors and council officers; benefits, planned outcome and how supports the corporate plan; governance and clear management and written policies; capacity and past experience; diversity and employment policy; open book-independently audited accounts; cash flow forecasts to show sustainability; type of transfer requested and why; financial assistance/grants needed and applied for; space requirements and potential users; planning and other necessary consents; lettings policy that balances the needs of the community; whether and if so why transfer is requested at less than best consideration and a risk assessment.

**Case studies**

**BASILDON MODEL LEASE FOR COMMUNITY CENTRES**

Policy approach to standardising lettings to community associations that assumes if used appropriately the community benefits exceed the value of the opportunity cost of the asset

In the 1960/70s Basildon New Town developed 45 community centres, many of which have been operated by community associations without any formal agreements. The local authority has worked with the community to produce a model lease. The NNDRV is used to determine the rent but up to 90% discount is given based on a RAG rating: green no problem, amber need support and red no community support so full rent is paid. The criteria used to determine the rental discount is membership, occupany, range of activities contribution...
to the corporate plan, level of use, sustainability base on accounts and organisation of bars (5).

THE LENTON CENTRE

Pre policy ‘Quirk’ asset transfer to a social enterprise trust described by the DTA as a ‘Beacon’ example of a community social enterprise.

Nottingham City Council’s leisure transformation review in 2004 proposed the close of Lenton Baths. This empowered the Lenton Community Association to create a social enterprise trust to take over and develop the baths. They were granted initially a licence to occupy the premises and with the help of the DTA produced a business plan, raised finance and appointed architects and contractors to create a multi use centre. The council sold the freehold for £10 with an asset lock. The baths are now open again and the building is the home to a thriving centre incorporating a gym, creche, business and community centre. It brought a diverse inner city community together. Carl Towner, the Chief Executive says ‘the key to its success was developing goodwill and the trust of the local authority’. Under the asset transfer policy being developed by the council it is likely only a lease would have been granted, but under the capacity building policy more support would be given to the group in setting it up than was actually the case.

ST ANNS ALLOTMENTS

Asset based social enterprise acting as ‘anchor’ organisation to empower the community

The Renewal Trust for Sneinton and St Anns in Nottingham was established under the exist strategy for the 5 year £37.5million City Challenge programme to regenerate these inner city areas which ended in 1998. It has established an asset base of a number of properties including its headquarters, two business centres and a leisure centre. Adjacent to St Anns lays the country’s largest Victorian allotment gardens – 75 acres. Owned by the council and let to the local allotment association, in the mid naughties the area was still used but very run down. The Renewal Trust identified the potential to use the gardens for lw was granted a 30 year peppercorn lease to undertake the restoration. The lease makes the Trust responsible for cyclical and major repairs that can be funded from a sinking fund. The Council transferred to the Trust its revenue budget allocated to the allotments as part of a Service Level Agreement. The lease is subject to 6 months notice if the project fails (6).

HEDDON ON THE WALL LIBRARY

Sustainable transfer of services and asset to a parish council in partnership with the local authority

The Parish Council proposed a community asset transfer of this library, following its proposed closure in 2007, as part of Northumberland County Council libraries review. The Parish Council secured lottery funding of £200,000 to refurbish and divide into a smaller library, three offices for letting to local businesses and a parish meeting room/office. The office rents meet the running costs. The Parish Council was granted a 25 year FRI lease at a peppercorn rent. The Library is staffed by volunteers but the local authority provides an ongoing support package – IT links, book stocks and property management through the SLA.

ALBERT HALL CONFERENCE AND ENTERTAINMENT CENTRE

Transfer of a community asset to the private sector for both commercial and community use and building capacity to set up a local trust.

This former Methodist mission, which includes the world famous Binns organ, closed in the early 1980s. Often referred to as the city’s ‘village hall’ it was widely used by many local groups for large events. Following public pressure it was acquired by the Council who restored and adapted the building for wider public use. They also fronted and built capacity within the local organ enthusiasts’ community to form themselves in a charitable trust and raise £200,000 from an appeal to restore the organ. Initially the restored hall was managed by the neighbouring Playhouse Company who failed to make it profitable. A local family business approached the council and was granted a 25 year lease to run the hall as both a commercial conference/entertainment centre as well as a facility for large community type events. The hall is now run by the second generation of the family who has just renegotiated a renewal of the lease. The financial benefit of this transfer to the private sector represents an income stream of more than £50,000 per annum to the council.

Summary

The transfer of assets to community ownership will be key to the success of the Big Society. However, it will be permissive – not mandatory. Although the transfer of assets to the community
is widely supported by all political parties there may be some resistance, at least initially, from the labour controlled councils who consider that the coalition government has taken and repackaged their ‘Sustainable Communities’ ideology. Also it cannot be done on the cheap. In particular local authorities passing on comprehensive spending review cuts to the voluntary sector is currently undermining the Big Society agenda. If asset transfer is to develop and flourish under the Big Society then the government will have to provide up front capital funding through grants in addition to the proposed Big Society bank loans. Success will be proportional to the level of government funding directed towards it. To ensure success the government may well in due course start to target funding at community based organisations, rather than local authorities.

Experience has shown that asset transfer schemes always take longer than anticipated. Do not expect too much, manage expectations and treat as a partnership. Do not just dump unwanted assets on the community and walk away. Build capacity in the community and grow organisations where they demonstrate that they can deliver and be sustainable.

Community based organisations such as development trusts operating in areas of high social deprivation where the traditional method of service provision is failing, and parish councils in rural areas, can get much closer to the heart of their communities. When backed by the support of experienced full time professional staff, these are the organisations that will best meet the criteria to take on community asset ownership and where asset transfer is most likely to be taken up.

Approach that should be adopted by ACES members to support Community Asset Transfer and the Big Society

As the Corporate Landlord, local authority property managers should get involved early and work with both colleagues in community services and the wider community to produce and promote a Community Asset Policy linked to the corporate plan objectives. Produce an application form for groups to use, a procedure for assessing applications and also guidelines for good/risk/statutory compliance management i.e. maintenance, fire, asbestos, legionella, energy efficiency, DDA.

A number of the larger local authorities have already produced policies. The ATU has also produced a model policy and other support documents (7). But it should be borne in mind that aim of the ATU is to empower local people and organisations to take over community assets. This is reflected in their approach to the support they provide. So if their model policy is used it must be adapt to cover the issues raised in this article and a local authority’s particular objectives.

The policy should put the onus on the community group to justify in the business plan why a transfer should take place at less than best consideration if this is requested.

Reserve the management of the property asset if appropriate to minimise risk and generate income.

Consider bringing the asset up to a reasonable condition of repair before transfer if condition is an issue. It is easier enforcing a lessee to maintain a certain standard of repair than undertake repairs to improve a standard.

Think out of the box. Is there commercial value, could the private sector be a partner. Could the asset be shared with other groups both public and voluntary.

Community ownership should just be an extension off good asset management. ACES members need to become and think like community surveyors – think people not capital.

Conclusion

In terms of who do community assets belong to, the answer is the community. But the real question for ACES members is how should they be owned and managed. The answer is by whoever can do so most effectively and efficiently for the benefit of the community. In some cases it will still be the local authority or another public body; in others a community group may be more appropriate. In either case the local authority should take the strategic lead. Its Community Asset Policy should be part of its Asset Management Plan. And where ownership is transferred to the community the local authority must hold a watching brief as they will be the owner of the last resort.

1. Further information on the Development Trust Association can be found on www.dta.org.uk
2. Further information on the Asset Transfer Unit can be found on www.atu.org.uk
3. An asset lock is designed to ensure that the assets of an organisation (including any surplus generated by its activities) are used to support the aims and objectives of its mission statement. Trust and charities are subject to asset locks
4. Funding position at 14th March 2011- date article was written
5. For more information see article in Spring Terrier 2008
6. For more information see article in Spring Terrier 2010
7. Available on ATU website

Richard Allen
This is an article Betty wrote for RICS East on the Government’s Agenda for savings

One of the Government’s aspirations is to generate £35 billion of savings from the sale of surplus office buildings. Spending will be reduced by shared running and FM costs, and reduced space needs through adoption of flexible working styles.

This is a tale of two towns and two projects of co-location which involve St Edmundsbury Borough Council and Suffolk County Council.

Bury St Edmunds

The transfer of St Edmundsbury’s housing service in 2004 resulted in office space becoming surplus to requirements. This prompted the district and county councils to develop a joint strategy to rationalise their combined office estate in Bury St Edmunds. The strategy identified the need for a new 8,000 square metre office building that would be occupied on a shared basis.

The aims of the project were to:

- Rationalise existing high maintenance buildings not fit for purpose into one shared building.
- Integrate services to provide one customer access point and improve ‘joined up’ services. This would result in more efficient working within and between councils and all services at one site to reduce travel.
- Obtain an "Excellent BREEAM" rating with maximum use of sustainable energy and create a better environment to work in.
- Use the existing county council procurement framework to save time and allow early input of architects into the design process.

There were some important lessons learned. While there was a formalised workstream arrangement for project management, it was agreed that both councils would work on trust rather than complex ownership/leasing structures. Elected members were involved from the start, to get political ‘buy-in’ to the project and speed decision-making.

There was early acknowledgement that this was a ‘people project’ not a ‘property project’ and work concentrated on a change management programme for staff, including regular consultation on emotive issues such as hot desking and car parking charges.

The £20m build cost was partly funded through the sale of sought after surplus offices in the town centre. The projected revenue savings were almost £1 million a year between the councils.

We took occupation in 2009. In capital terms, the downturn in the property market halfway through the project did put pressure on the business plan. However, shared running costs remain well below the combined costs of the borough council’s former two buildings.

Haverhill

We now want to build on the successes of Bury St Edmunds by undertaking a similar project in Haverhill.

As with the Bury St Edmunds project, during the feasibility stage for the Haverhill project, property owned by all public sector organisations operating from Haverhill was investigated, to identify which offices could be suitable for
co-location. The conclusions envisaged that fully shared accommodation would take up to five years to achieve and because of lower property values, coupled with potentially high refurbishment costs to enable flexible working, the economics of joining up services was marginal.

Notwithstanding, we have agreed that the benefits of shared offices are worth undertaking now. To help meet the Government’s challenges of “The Big Society”, the offices will also be shared with four voluntary organisations. If everyone takes on hot desking, the refurbished offices could be ‘comfortably’ fully occupied. If all goes to plan, the office hub will be fully operational by autumn 2011.

The business case includes the capital costs and receipts for the joint ownership of the Council Offices by the two councils, and the repairs and refurbishment to provide ‘fit for purpose’ accommodation for public and voluntary sector partners. If the project is looked at from a purely financial basis, lower property values in Haverhill, but refurbishment costs which are not so influenced by locality, mean that the co-location project is not viable in the early years. Actual revenue savings will be a fraction of those achieved at the Bury St Edmunds offices.

**Conclusions**

This is a cautionary tale of 2 towns. Co-location concepts are laudable and there are excellent outcomes for our customers and staff. But as for realising the Government’s “quick win” £35 billion – not in today’s economic climate and not outside of London & the prosperous south east, notwithstanding the willingness of our councils to work together.

Betty Albon
SOCIAL HOUSING FINANCE - REMOVING THE SHACKLES?

Jerry Freeman and Stephen Clark

Jerry Freeman and Stephen Clark are Senior Directors in CBRE’s Government & Infrastructure team. They specialise in providing strategic housing, financing and delivery advice.

OVERVIEW

In 2010 we built just over 100,000 new homes; the lowest number since 1923. With the current rate of household growth, that’s less than one home for every two new households being created.

Added to this, for the past thirty years we have become reliant upon the private sector for the delivery of the majority of affordable homes. The graph below illustrates just how dependent we now are on the private sector. In response to the impact of the credit crunch and the subsequent fall in property values, the Homes & Communities Agency (HCA) implemented a Government stimulus package called Kickstart, which was available to private sector led development. This programme supported a significant number of all new homes at its height. However, given the current austerity climate and withdrawal of public funding, the delivery model needs to change.

HCA FUNDING CUT BACK

The HCA’s funding has been significantly curtailed. Its new four year programme that runs from 2011 until 2015 comprises £6.5bn, of which only £2.2bn is uncommitted compared to the £8.4bn that was available for the 3 years from 2008 to 2011.

Yet, the Government has recognised the need to stimulate new delivery models and numerous changes and proposals have been outlined recently. These include the proposal for new Affordable Rents (equating to 80 per cent of market rents for all new lettings); the proposed new definition of Affordable Housing under PPS3; removal of new tenancies for life; greater use of the private rented sector; linkage of housing benefit to employment; the introduction of a universal benefit system, which will effectively cap the amounts some tenants can pay on rent; and the reform of the Housing Revenue Account and council housing finance.

The key question therefore is will these proposed changes collectively achieve the delivery of more new homes?

The proposals that have been outlined are some of the most wide ranging seen in the housing sector for many years. The Affordable Rent system in particular has been trailed as enabling the delivery of up to 150,000 new affordable homes. At face value the proposal, taken together with the Housing Revenue Account (HRA) and other reforms discussed below, should release additional resources to stimulate more new development. However there are complications.

New Affordable Rents at 80 per cent of local market rents will have a varied impact on different regions of the country with low value areas seeing less of a – or even no - differential from existing social housing Target Rent. Unsurprisingly, the difference in high value areas will be far more pronounced and there are big questions about whether resources released in high value areas should cross subsidise other parts of the country. In addition, the introduction of effective rent caps through the universal benefit system could lead to tenants needing to move to a different area in order to meet their housing needs; this is particularly relevant in London and for large families.

It should also be noted that the cross subsidy model for Registered Providers (RP) is still important, i.e. providing cross funding (or subsidy) between private homes for sale, intermediate and social rented. Indeed, the HCA’s recently published 2011 to 2015 Affordable Homes Programme Framework incentivises RPs to bid for funding to show how they will leverage development opportunities and their asset base to minimise this public investment. Along with the need to maximise leverage through the use of Affordable Rents, it
is worth noting that social rent will no longer be supported. This throws into sharp relief the need for RPs to take a fresh approach to development – particularly the way the new income is capitalised and its risk profile.

Clearly the cross subsidy model, which is dependent on market sale and shared ownership, still relies upon the banks willingness to offer reasonably priced mortgages to first-time buyers, as well as more lending generally.

It has been particularly difficult to secure mortgages for shared ownership products and whilst shared equity homes have been seen in a more positive light by lenders, the withdrawal of HomeBuy Direct by the HCA has prompted a number of housebuilders and private equity funds to consider potentially establishing their own equity loan structures. These new models are important to facilitate development, although the refinancing or securitisation of the unsold equity remains an issue. In view of the number of equity interests owned by many of the national housebuilders and also the public sector itself, we believe there is an opportunity for a coordinated engagement with potential investors to mould an attractive proposition.

PROPOSED HRA REFORMS

CLG recently published ‘Implementing self-financing for council housing’ which sets out the Government’s objectives for the reform of the HRA, the aims of which are two-fold;

To give local authorities responsibility and accountability for managing and improving their own housing stock by providing them with the resources, incentives and flexibility for the long term and:

To enable tenants to be able to access information easily from their council landlord by creating a clear relationship between the rent collected and the services it can provide.

The current HRA finance rules are complicated with some local authorities in a negative subsidy situation, as in terms of their net position they only retain a percentage of the rent they collect. This is because the national housing debt, currently estimated at £21bn, is apportioned through a calculation that includes inter alia, allowances for a formula rent, management costs, and estimated repair costs. The aim is to make a specific allocation of the national debt to each local authority. The local authority will then be able to retain the rental income generated, the great majority of which will be needed to service the debt.

Whilst this might seem like good news for local housing developers, Government is keen to ensure prudential borrowing rules do not allow huge increases in borrowing by local authorities, as this would conflict with the Government’s first priority of reducing the national deficit. The prudential borrowing rules will therefore be amended to limit borrowing for council housing only. This is pivotal because if the valuation of a council’s housing stock is higher than the debt allocated to it through the HRA subsidy system, the local authority will be required to pay the Government the difference. In contrast, if it is lower the Government will pay the difference, although not by a direct payment to the local authority but by offsetting other local authority debt. The calculation to arrive at the borrowing headroom – which could then be used to fund prudential borrowing – is therefore fairly constrained. Local authorities will need careful advice on the issues affecting the valuation of their stock and the financing implications.

The HRA will remain a ring fenced account. Receipts from Right to Buy sales and other disposals of dwellings occupied by a secure tenant will also still be caught by the requirement to use 75 per cent of the receipts for debt redemption. However, receipts from the sale of vacant land or empty homes can be retained by local authorities providing they are re-invested in affordable housing or regeneration purposes.

It is too early to assess whether the HRA reforms will stimulate more new development because of the head room calculation that will restrict prudential borrowing for new housing development. However, the end to the Housing Subsidy system and creation of a more transparent system, taken together with the other housing reforms, should offer new opportunities and potential innovation.

ALTERNATIVES?

With the publication of CLG’s paper in February, there is now a clear route to implementation. Going forward, the introduction of Affordable Rents and greater flexibility through the new self financing system does offer a significant opportunity. In the current climate, many local authorities are looking at ways to leverage their assets more effectively and create revolving forms of investment. Local authorities are exploring the potential to collectively create investment funds with the Evergreen Fund in Manchester being the first such proposal. The ability to consider an indexed income stream under the new Affordable Rent regime could offer an attractive opportunity to long term investors. We therefore believe there are interesting prospects to be explored through the private finance market, particularly as the cost of prudential borrowing has been increased by the Government.

In summary, the greater transparency and local empowerment that the HRA reforms provide, taken together with all the other “localism” proposals, are offering proactive local authorities real opportunities to think innovatively to stimulate the much needed delivery of new homes.

Jerry Freeman and Stephen Clark
ACES

PRESIDENTIAL CONFERENCE 2011
22nd & 23rd September, 2011

PAUL OVER, PRESIDENT OF ACES ALONG WITH
CHICHESTER DISTRICT COUNCIL INVITE YOU TO ATTEND
THE 2011 PRESIDENTIAL CONFERENCE

“BEYOND PROPERTY –
UNLOCKING THE BARRIERS TO
PROPERTY COLLABORATION”
LEARNING FROM WOLVES

Stan Edwards

Stan Edwards, a Chartered Surveyor, is a Director of Evocati Consultancy specialising in CPO process. He is also visiting lecturer in retail planning and development at Cardiff University and formerly Vice-Chairman of the Compulsory Purchase Association.

The Judgment of the Supreme Court on the 12th May 2010 in the case of R (on the application of Sainsbury's Supermarkets Ltd) (Appellant) v Wolverhampton City Council and another (Respondents) [2010] UKSC 20 provides an opportunity to review compulsory purchase process in respect of retail regeneration sites. Stan Edwards considers how this case is in many ways special to its facts and essentially does little more than remind authorities and promoters of the importance of respecting the legal structure and requirements.

Background

In 2002 Sainsbury’s received approval to develop the site following a call-in and Inquiry, but in 2005 changed their mind, deciding to sell to Tesco. Tesco subsequently produced a scheme requiring the acquisition of additional land to accommodate a store 50% larger than the one with permission, in return for carrying out works to a Tesco controlled site with a number of listed buildings at the Royal Hospital (RH), 850m away. The RH site had been a financially unviable regeneration objective of the council for several years now, linked through cross-subsidy from the Raglan Street site. Following the exchange of an agreement with the council and the acquisition of third party rights Tesco sought an exchange with Sainsbury’s. Sainsbury’s decided instead to proceed with its development, and submit a fresh application of the Raglan Street site – after all it owned 86% of the enlarged site.

The council’s dilemma

Both competing schemes were acceptable in planning terms, and discussions took place between the two store operators, but the differences were unresolved. The council resolved to promote a CPO which facilitated Tesco’s proposals at Raglan Street, conditioned by the carrot of prior works at the RH site, and the stick that Tesco was unlikely to carry out the RH scheme unless it was selected to develop the Raglan Street site. It was reported to the council that the Tesco scheme would result in a significantly greater contribution to the economic, social and environmental (ESE) well-being of the council area.

The challenge

Sainsbury’s challenge at the High Court, Court of Appeal
and Supreme Court may be summarised in that case law on the legitimate scope of planning conditions were relevant as were those on Section 70(2) in respect of materiality. It followed from these that the only off-site benefits which could be taken into account were those which fairly and reasonably related to the development. The benefits had to be material and relevant in relation to which the CPO power was being exercised, that is for the Raglan Street development, and that a potential cross-subsidy was relevant only where there was a composite development. In other words there must be a real connection between the benefit and the development. The position of the council and Tesco was that the Court of Appeal was right to say that there should not be a read-across from the planning permission cases to CPO cases, but in any event the authorities showed that financial considerations, including off-site benefits through cross-subsidies, were relevant, and were essentially a matter for evaluation by the planning authority.

The Supreme Court decision was that the Sainsbury’s appeal should stand.

**Issues related to the challenge**

**Judgment Factors**

Was Sainsbury’s challenge legitimate? The majority (4:3) of their Lordships concluded that it was, and in the process rehearsed the following points:

- Connectivity and analogous planning case;
- The underlying principles of compulsory purchase;
- The application of CPO powers;
- Wolverhampton CC's selection process for a running partner.

**Planning**

Proper planning occurs in our system as a form of intervention to ensure proper governance in terms of services and the allocation of resources to local communities. The issues emanating from concerns of authorities result in policies, programmes and projects (PPP). Such elements may be stand-alone or linked. All levels generate projects to be delivered for the public good involving sustainability, community engagement and compliance with national planning policy demonstrating an assessment and justification of public good. What should be done?

CPOs require a more stringent form of assessment to justify expropriating someone's right or interest. Where a CPO was the product of a well documented planning audit trail for arguing the case for delivery of a scheme, it is easy to provide clearly defined linkages between composite projects because they were ‘material’, relevant and ‘reasonably related’ to one another.

In the Wolverhampton case this was not so. The Raglan Street development was a product of Sainsbury’s activities, call-in and Inquiry, therefore having shallow roots and no family in relation to other planning programmes and projects, but such is the case with many superstore led schemes. It is intriguing that the site was called-in to ensure that it was in the public interest and then, wonderfully, became so compelling in the public interest that an expanded site required a CPO to be delivered. It was restated in the judgment that in obtaining authorisation for promoting the CPO Wolverhampton CC could not report any connectivity between the schemes in planning terms.

The derivatives from the decisions in the planning context are:

1. That which is material (or relevant) consideration is a question of law, but the weight to be given to it is for the decision maker;

2. Financial viability may be material if it relates to the development, as it can be where it is part of a composite development on another part, as far that the proposed development will finance other relevant planning benefits may be material. Also, off-site benefits which are related to or are connected with the development will be material. Similar principles may be applied to compulsory
acquisition for development purposes, provided that it is recognised that, because of the serious invasion of proprietary rights involved in compulsory acquisition, a strict approach to the application of CPO principles is required. There must be a real, rather than a fanciful or remote, connection between the off-site benefits and the development for which the compulsory acquisition is made. However, many such projects that eventually require CPO assistance rarely assess the justification for a CPO beyond that required to justify the retail planning argument. The superficial arguments found in many CPO statements of reasons bear testimony of this.

Justifying the CPO

Justifying a CPO means an assessment of all the ESE sustainability/well-being/community elements way before the choice of the power because, in deciding that there is a compelling case in the public interest and justifying the use of CPO powers, there has to be evidence provided that an assessment has been made which balances public good against private interests. Possibly, it was not in Sainsbury's interest to challenge that this assessment does not appear to have taken place in this case. A retail assessment (economic wellbeing) related to the land was undertaken, plus a demonstration of a social and environment benefit in respect of the distant RH site. The redevelopment of the CPO site had been accepted in planning terms yet, as Lord Collins confirmed, there is no doubt that where a body has CPO powers, which is expressed or limited by reference to a particular purpose, then it is not legitimate for the body to seek to use the power for a different or collateral purpose. The purpose for which an authority seeks to acquire land will determine the most specific power available for the purpose in mind. But what defines purpose? Normally the scope of the intended works and their purpose will appear from the formal resolutions or documents of the acquiring authority. In the Wolverhampton case, the connectivity should have been seen from the policies, programmes and projects of the acquiring authority – it was not there.

Empowerment

Wolverhampton CC is the body empowered to promote the CPO under Section 226 (1)(a)6 "to acquire compulsorily any land in its area if it thinks that the acquisition will facilitate the carrying out of development or improvement on or in relation to the land". But, the clause related the compulsory purchase power to the land affected by the CPO, not some unrelated off-site scheme. Many times in recent years, supermarket led CPOs are seen to attempt to retro-fit CPOs to planning policy and background. Some get away with it, as in the Shirley Town Centre, Solihull CPO, and others, like this one, did not.

In providing a limitation to Section 226 (1)(a) of the Act, Section 226 (1A) states that a local authority must not exercise the power under Section 226 (1)(a) unless they think that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the promotion or improvement of the economic/social/environmental (ESE) wellbeing of their area.

The problem with many authorities exercising Section 226 (1)(a) power is that, in order to fulfil Section 226 (1A), they hunt for more than one ‘well-being’, even seeking benefits off-site, just to make sure. Wolverhampton CC / Tesco fitted the empowerment criteria in to promote the CPO, but in endeavouring to demonstrate social and economic well-being elements for Section 226 (1A), overplayed their hand by attributing to the CPO the well-being elements from another site (RHS) totally unconnected except for transactional arrangements to cross-subsidise. This is however an assessment in relation to the exercise of the power, not the assessment as to whether a CPO is justified.

Disposal

Section 233 of the T&CPA 1990 allowed Wolverhampton to choose a preferred developer providing its demonstration of estimate of ‘best terms’ (within its own standing orders and its procurement rules). The decision in the Standard Commercial (Glasgow) case7 reinforced this, and that related off-site benefits could be taken into account. In ‘private to private’, authorities have to be scrupulously careful that their actions are not seen as allowing a permission or power to be bought. In this case the only linkage between the two sites was a transactional one. Their Lordships gave no weight to the percentage of ownership of the respective parties but it was probably high in the parties’ thoughts.

Lessons from Wolves

1. It is wrong for an acquiring authority (AA) to deprive an affected party of their property just because the AA will derive from that property benefits wholly unconnected with the acquisition of that property;

2. Materiality and reasonably related benefits are important considerations. This includes any connectivity, proximity, scale and direction of their flow in respect of CPOs;

3. Acquiring authorities have the right to choose their partners if it is line with the ‘best value’ and the provisions of Section 233 T&CPA 1990, but this alone is not a CPO criterion. This case is specific to the facts, and essentially does little more than remind authorities, advisors and promoters of CPOs of the importance of respecting the legal structure and requirements, but even here it is an important, timely, shot across the bows.

Stan Edwards

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LOCAL AUTHORITIES COULD BE HIT BY REVERTERS CLAUSE

Rebekah Formosa,
Consultant in corporate real estate consulting at DTZ in Bristol

In the wake of the largest public sector spending cuts since World War II, many local authorities are considering selling public buildings such as libraries, schools and museums in order to make efficiency savings and generate extra capital. However what many councils may not be aware of is that they risk falling foul of an ancient law which could see the land, or any profits made from its sale, taken away from them.

Back in the nineteenth century the Schools Sites Act 1841-1852, Literary and Scientific Institutions Act 1854, and the Places of Worship Sites Act 1873 were designed to encourage wealthy individuals to gift land for charitable purposes which would benefit the wider community, such as for the purpose of schools, museums, and libraries.

However, there was one specific stipulation set by the benefactors: should the land cease to be used for the purposes specified at the time of granting it, a reverter clause would kick in, meaning the land must be transferred back to its original owner.

It is estimated that some 2,000 schools alone were built with the help of the School Sites Acts, and in addition to those, there are many more museums, libraries, and places of worship.

If the land is subject to the reverter clause and ceases to be used for its original purpose, and it is either sold or leased to a third party for another use, the net proceeds of the sale or rent have to be returned to the original owner or the living descendants. In many cases, the length of time that has elapsed since the granting of the land might mean that no descendants can be traced. In this case, the Charity Commission and the Secretary of State have the authority to set up a trust to take care of any proceeds in the eventuality that these individuals are located, and in the meantime use the money for the benefit of that trust.

With a number of local authorities considering disposing of community amenities to streamline their property portfolio, the question now is whether these amenities are built on granted land under these Acts.

A landmark House of Lords case in 2005 won by genealogist firm, Fraser and Fraser, illustrates that the clause is as significant today as it was in the nineteenth century. The case involved a deed dated April 1866, which set up a school to educate the poor in the St Philip's parish in Canterbury, Kent.

Upon investigating the deeds of the property, it was discovered they contained the reverter clause in accordance with the School Sites Act 1841 which stated that the land be returned to the original donors if the school closed. The Church of England was forced to pay back the proceeds of the sale to the descendants of the landowner who donated the land almost 140 years before.

This case illustrates the significance of the reverter clause today, particularly in light of spending cuts. Local authorities are at risk of losing any funds generated from a sale or rent.

We would therefore urge any councils considering selling or changing the use of public buildings in their estate to seek professional advice and importantly, to do their research. Whilst the widespread practice of selling school, museums, libraries, and places of worship sites could derive revenue savings, from a capital perspective, it could prove to be a costly mistake.

Rebekah Formosa,
The Branch AGM last November agreed to take up an offer from Malcolm Williams for Terraquest to provide a free CPD event at the Belfry Golf Centre. This event took place on the morning of the 10th December last year and was held in the American Ryder Cup suite. It was attended by 6 members and one substitute from a member authority. Malcolm explained that since his retirement from Head of Property Services at Worcestershire County Council he had moved over to the ‘dark’ side and was now a consultant with Terraquest. He opened the event by giving a detailed presentation on the pilot ‘Total Place’ project he had lead at Worcestershire CC (See Terrier article ‘Worcestershire Total Place and the Public Estate’ in Summer 2010 Terrier page 40), which included a discussion on how the initiative will develop under the coalition government.

Ian Majury, Business Development Manager, Terraquest Asset Management then gave a talk on why high quality information is essential to meet the challenge of managing and improving a public sector property portfolio. It was also a ‘soft sell’ of Terraquest’s new unique approach which is to ‘only succeed when the council succeeds’. It is based on their 40 years of experience in providing high quality property information solutions to public sector organizations and achieved through integrating property, financial and service data. Terraquest do not charge for the initial feasibility stage when they will come in and look at how they feel a Council can improve service delivery and achieve cashable benefits. Fees are then agreed for a defined scope of work for all subsequent phases. But payment of any fees is subject to the Council achieving a threshold level of cashable benefits.

All who attended had found the session most thought provoking and beneficial – well worth a morning away from the office- and it was disappointing that more members had not taken up the offer for the free CPD event.

As a bonus in the afternoon 3 members stayed on to join Malcolm receiving some golf coaching on the driving range.

Paul Over, the ACES President, showed that he had done his homework when 16 ACES members welcomed him to the first branch meeting of the year hosted by Kettering Borough Council on the 10th March. He told us that Kettering was famous for producing the first boot and shoe closure machine called the ‘Kettering’, it was where the first Everest assault boots were made, and it was the home of Linda Hayes who wrote the signature tune for Jim’ll Fix it. All of which came as a surprise to Chris Bentley, our ACES member from Kettering, who was unaware of these three little know facts about the town.

The morning session was opened by Paul Thomas, Programme Manager, for ‘Suite 16’, who gave a presentation on the programme of regeneration in Kettering that is tasked with delivering the Council’s aspirations for growth related infrastructure, namely; better town centres, better educational offer and higher grade, higher density jobs. Over lunch time members were taken a walk around the town centre to view the award winning market square refurbishment and other ongoing and proposed projects which form part of the regeneration programme.

The second morning presentation was given by Jeremy Hughes, Policy Officer for the ‘Capital and Asset pathfinders programme – joining up to cut waste, improve services and release resources’. He explained the programme which will build on the Total Place pilot on capital and local asset management. This sparked a lively question and answer session on the size of the challenge and barriers to its delivery.

After lunch Paul Over gave a short address in which he referred to the current financial pressures facing the public sector, pointing out that although not of our making, ACES members are part of the solution. He said that we need to find ways of generating more income for the non operation estate, support the collaboration agenda and develop different skills sets to help remove some of the barriers needed to maximize the use of public sector assets in the future. He added that ACES would continue discussions with central government to increase its relevance as an organisation during these difficult times.

As President he was keen to try and form a Northern Ireland Branch. He believed that much of the strength of ACES lies in the branches which are most important to the organizations future. He also encouraged members to provide papers on good practice for the Terrier. Particularly identifying post project appraisals as a source of material.

The three options of registering for the RICS Valuers Accreditation Scheme were discussed. Most members had registered as a non regulated body and registered the members of the team who undertake asset valuations. In some cases this was just one person. Paul Over said that discussions were on going between ACES and the RICS regulation officers to try and adapt the scheme to make it more fit for purpose for the public sector.

There was a discussion on whether to go down to just one annual national conference, the general view of the branch members at the meeting being that they could not justify the time or the cost to attend two events per year. There were mixed views following a discussion on consideration being given by Council to merging Asset and the Terrier. There was also a discussion on membership and it was generally accepted by the branch members that it had to be opened up more to the private sector and that membership by people who were primarily advising the public sector was acceptable.

I gave a presentation on Community Asset Transfer and the Big Society, which included proposals for the Community Right to Buy (See Terrier article). The Hull Shops Policy approach to the Competition Act and the ‘Barnsley Council ask extortionate price for a strip of land' ombudsman case were they main general topics of interest raised.
The next Branch meeting will be hosted by Leicestershire County Council and held on 7th July 2011.

Richard Allen

NORTH EAST

It has been a busy time for the branch since its winter meeting in Bridlington with a small team lead by Daniella Barrow being set up to plan for the 2012 Spring Conference which will be held in Barnsley on 10-11 May 2012. Things are progressing well and more details will follow later in the year when plans become more crystallised.

In the meantime we are making plans for our next branch meeting in Leeds on 1 July. This will follow the successful format of previous meetings which have been arranged to provide quality CPD covering topics suggested by members.

On this basis, the spring meeting was held in Sunderland on 11 March 2011 with the theme ‘dealing with property disposals to generate income’. The meeting was held at ‘thePlace’ an award winning multi-purpose business, culture and arts centre located in the heart of the historic Sunniside and East End District of central Sunderland. The property which is run by the council is a vibrant community facility with an extremely high occupancy level. It consists of 21 high specification offices, meeting rooms, conference and gallery space and a cafe bistro restaurant. Our hosts Sunderland City Council even managed to arrange a sunny day for the meeting.

The Branch meeting was opened by Brian Ablett in the Chair, with a welcome to Sunderland from Nick Wood and David Gustard outlining the regeneration work being progressed by the city council given the demise of the urban regeneration company ‘Sunderland arc’.

Before we got into the CPD Sessions, Paul Over who was joining us as part of his Presidential tour of branches gave an address outlining the themes of his presidency and asking for the support of members in continuing to promote the work of the association.

The bulk of the morning CPD session was set aside for two external speakers both covering different angles under the ‘disposals’ theme.

Our first speaker was Richard Brammer of CoStar who in his words are ‘the worlds leading commercial real estate research and marketing company providing services to 92,000 clients within the commercial property arena’. Richard outlined the various products offered by CoStar and gave a presentation covering the following:

- The importance of getting your assets to the largest audience
- Choosing the right medium to market
- Knowing how to place yourself against your competitors
- The importance of accurate information to maximise your position.

The second speaker was Simon Riggall of Lambert Smith Hampton who spoke about getting added value out of sales. Simon did not apologise for selling the services of his auction house but gave a balanced overview of the current state of the property market and gave us all a little food for thought covering the following:

- Economic and Market Conditions
- What have you got to sell?
- Timing and what to do about it
- What you can do
- Methods of sale

After the usual question and answer sessions delegates retired for lunch and networking.

The afternoon session was set aside for a discussion on the theme of the day and to get things going I gave a short presentation on using the in-house team to deal with disposals. In the presentation I outlined how important the internet was in marketing property and referred to some excellent examples of what other councils were doing and how in-house teams were using their council web sites to promote and streamline the sale process. I stressed the importance of putting yourself in the shoes of the customer and how property searches, interactive maps, standard templates and downloadable documents were being used to give customers direct access to information.

The following questions were posed:

- Why use the in-house team?
- What are the advantages of effective web marketing?
- Do you recover professional fees – How much?

The topic provoked a lengthy debate and exchange of ideas and experiences and left us all with more food for thought.

The meeting was concluded with further informal discussion on relevant and current issues which included schools rating and emerging government policies affecting local government property, policy and planning.

John Read

EASTERN

The Eastern Branch met for their AGM and Branch meeting on 5th November 2010 held in Beacon Innovation Centre, Beacon Park Great Yarmouth, hosted by Robin Neve (Great Yarmouth B.C.) and David Harvey (Harvey and Co.) attended by 18 members. The branch meeting, with its new chair Peter Mitchell, followed the AGM. (Ian Lowe took the minutes in the absence of its new Secretary Duncan Blackie.)

The branch thanked the outgoing officers John Hooper
The branch conducted its usual business at its meeting and had 2 speakers together with a visit to the Beacon Park. Many topics were covered from LEP’s, IFRS (red alert RICS), Right to Build, Community Right to Bid, Right to Transfer, and an Auction update.

The branch welcomed Bob Perry (ACES President at the time) who thanked Andrew Wearmouth as the outgoing Liaison Officer RICS and the eastern branch for making a contribution to the costs of the ACES publication. Bob explained the association is playing a role at National level as well as locally.

The branch enjoyed a Joint presentation by Chair Robin Neve, head of property service at Great Yarmouth and David Harvey, development manager, of Harvey and co, in the Beacon Innovation Centre (20K sq ft offices)

Beacon Park is a joint venture between Great Yarmouth Borough Council (GYBC) and East of England Development Agency (EEDA) with development by MPM Properties of Cambridge. The park is mixed development, with office, industrial and leisure development together with private housing.

The origin of the park was conceived in the late 1980’s, which arose out of the low market and the need for considerable investment to bring into use (as most of the land remained in agricultural use.) There were sleeping industries, important ones but albeit not known by many. There are the service industries, which spread throughout the world, whilst companies like Shell and BP were working out of second ones but albeit not known by many. There are the service industries, which spread throughout the world, whilst companies like Shell and BP were working out of second

The vision of GYBC was to provide a choice, quality and flexibility for GY occupiers and inward investors, particularly high tech industries and to create a major new extension to GY comprising of modern, sustainable, complimentary mix of uses. This provision was to be:-

Higher quality design/ landscaping /tighter estate management / control and Developing bespoke buildings

From the South Gorleston Development Plan, GYBC owned a 178 acre site south of the town with the A12 trunk frontage and adjoining the James Paget Hospital.

It was important to note that if the Vision was going to be compromised then maximizing the land receipt was not one of the key drivers. Chesterton undertook a viability study and the park was not to impact on sustainability of the town centre. David Harvey was appointed as the Development Manager. At the time land values were low and an agreement with EEDA was entered into with £2.6 M available for infrastructure. 30k trees planted with a 40 m depth of tree belts and a medium strip and 3 times insulation to buildings.

Capital challenge funding for the trunk road roundabout (an accident black spot) and mains drainage injected £2m by the partners. Construction started in 1999. The first land sales occurred in 2002 and the growth in the residential land sales removed some of the financial concerns. The Innovation Centre was opened in 2002 (50% occupancy in the first year) and achieved full occupancy after 2 years. (£24 per sq ft inclusive compared with GY general of £6 per sq ft)

The original objectives are satisfied by controlling the way the park is delivered and not selling freehold. The site was principally let farmland, but there was a large fertiliser plant which required relocating at a cost of £3M.

The tight Estate Management is fundamental to ensure the initial vision is achieved:-

Key to establishing and maintaining long term quality
Not just subsequent to development , but constant pre development relevance/ Tenant selection-non conformist uses not permitted / Rules and regulations for noise/ smells/ emissions / land use / and external storage. / Service charges

The park consists of:-

- Beacon Innovation Centre 20k sq ft
- EEAT - East of England Ambulance Trust 18,1K sq ft
- PKF 8 k sq ft
- Norfolk Coastal Centre for Independent Life 6.6K sq ft
- Minerva House 12.8K sq ft – a place for growth from the innovation centre to allow movement within the park once a firm wishes to expand.
- Travelodge 52 Bedrooms
- Public House “Captain Manby” 8.43K sq ft.
- 400 homes
- Supported Housing scheme.

There are emerging developments for Norwich Capacitors Ltd, a 30 sq ft development.

As part of the current investment is Wellington Park (43.549 sq ft of Offices) a joint development by Wellington Construction, GYBC and EEDA, and a joint development by the same parties of light industrial/ warehouse use (60.342K sq ft) at Blackfriars Court.

There is a phase 2 planned which will see amongst many aspects a mains services extensions and new road construction.

There will be new challenges as well as those which have required overcoming:-

- FATO, final approach take off for the Helipad on the district hospital site (used about 17 times a year) needed the park to have a designated take off space, an approach strip and 3 times insulation to buildings.
- The EEDA partnership is due to come to the end shortly.
- Diversion of Gas Main.
- The struggle -Unable to deliver new build at the going rents of office £6-7 per sq ft and industrial at £4/ £4.50 per sq ft so selling the better product at Wellington is £12 per sq ft and Blackfriars is £6 per sq ft.
to reflect on my time as Chairman and update all our friends at a range of guest speakers or activities and it seemed high time that I took on a new role. Since taking on the role of Vice Chairman and more lately Chair for the South East ACES Branch, I have chaired four meetings at a variety of locations throughout Kent and Sussex. These meetings have been varied in their content and format, from informal presentations to discussions on the impact of change in political leadership. I am very glad to say that the hereditament was of no rental value according to the Valuation Tribunal.

The branch meeting focussed on concerns within the branch as to a lack of public sector representation on RICS committees and how this might be improved. Our autumn meeting was hosted by John Loxley of Horsham District Council who prior to the meeting gave two talks. The first talk was on the Rating Valuation Tribunal Decision to reduce the rating assessment of a public convenience in his district heating systems in public sector property villages.

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This was followed by the branch meeting at which Steve Mcleod of Reigate and Banstead shared the results of his benchmarking exercise. Paul Over briefed the branch on progress he had made in a property benchmarking exercise, amongst the members of the South East branch, that would be of tremendous value in sharing examples of good working practice and standard of service provision. Paul Over updated the Branch for preparations for his presidential year in particular his Presidential conference in September 2011 at the Goodwood Estate near Chichester. His update was well received and he was congratulated on an exciting choice of venue.

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The Annual General Meeting began by the Vice Chairman reviewing the years activities and paying thanks to Cate Stocken of East Sussex County Council who whilst David Waite Secretary had been unwell had very kindly agreed to minute SEACES meetings in the first part of 2010. The branch also applauded Amanda Dennis Branch Treasurer who after many years of outstanding service had decided to stand down as treasurer.

The election of officers were as follows

- David Baughan – Chairman.
- Amanda Dennis – Vice Chairman.
- Amy Terry – Treasurer.
- David Waite – Secretary (Re-elected)
- Steve Mcleod – Assistant Secretary.

The Annual General Meeting was followed by an address from Jo Shockley of RICS who spoke warmly of her desire to form closer bonds between the two bodies during a period of unprecedented change within the public sector. This was followed by an address from Paul Over President who as a long standing and very active member of SEACES was made very welcome in his first visit to the group as President. Paul spoke of his desire in his Presidential year to consider how ACES should respond to these changing times and particularly the growing role and involvement of the private sector in supporting property management of the public sector property portfolio.

Paul and Jo’s addresses were followed by routine branch business and a wide ranging discussion of a variety of topics including the RICS Valuer Registration Scheme and the response to the Comprehensive Spending Review. Congratulations were offered to John Loxley of Horsham District Council who had been awarded the ACES award for Excellence in Asset Management in 2010.

Chichester District Council 31 January 2011.

The new year for SEACES activities was opened by a meeting hosted by Peter Legood and Paul Over (President) of Chichester District Council. The meeting welcomed Malcolm Williams of Terraquest who had kindly sponsored lunch prior to the meeting beginning. This followed a presentation from Malcolm who spoke about his excellent work in developing a total asset solution for Worcestershire County Council before retiring from his former role in this Council in March 2010.

Malcolm’s presentation was followed by the branch meeting and was dominated by discussion over wide spread concerns regarding the RICS Valuation Registration Scheme, the developing agenda of sharing services between local authorities in Kent and widening ACES membership criteria to include private members.

It has been a busy year for South East ACES and 2011 is particularly exciting as it looks forward to supporting Paul in his Presidential year and particular the conference he will be hosting at Goodwood near Chichester on the 21st and 22nd September. I hope you will be able to attend what promises to be a first-rate conference and I look forward to seeing many of you there.

David Baughan
Branch Chairman

LONDON

The London Branch AGM was held in early December in the midst of the cold snap while heavy snow and serious travel disruption gripped central London. Members nevertheless approved Andy Algar’s election as the new Branch Chair, with Andrew Wild becoming Vice-Chair and Chris Rhodes taking over as Hon. Secretary. Outgoing officers were thanked, in particular Richard Barrett for his stint as Chairman and Andrew Wild for many years’ tenure as Hon. Secretary. Westminster City Council were thanked for hosting most of the Branch meetings during the year.

A scheduled Branch meeting immediately followed. Discussions included an approach from the RICS hoping to increase involvement of and with ACES, which was welcomed. Members heard an update from the ACES National AGM which had taken place a few weeks earlier. Section 106 receipts and advice to planning colleagues, the Community Infrastructure Levy and Crossrail subsidy were debated. The sharing of services with London boroughs joining forces was updated from a property perspective as well as the London benchmarking group which now includes 19 London boroughs. All boroughs are experiencing severe financial restraint and experiences were compared before an update on the forthcoming ACES Spring Conference, being held here in May.

Part of the meeting had to be held in a nearby pub following an unexpected fire alarm and the festive spirit continued for members who stayed for the Annual Dinner, held once again in the historic setting of the Guildhall. This was slightly down on numbers due to the adverse weather but well-attended nonetheless.

ACES’ new President, Paul Over, joined the next Branch meeting on 21 January. Paul invited feedback on issues including how ACES can add value for its members and they in turn to their employers, particularly by strengthening our voice in central Government. Members discussed core activities including publications and conferences. We also welcomed Jo Shockley of RICS who invited closer links with ACES and in turn hoped RICS could support ACES more.

It was useful to have Jo and Paul with us for the discussion on Valuer Registration and further updates followed on the progress of the spring conference and feedback from ACES Council. It was agreed to focus in the coming year on issues including Localism and the Free Schools initiative as well as changes to the Section 106 and social housing regimes. Members updated the meeting on issues including the Olympic stadium post-2012 and local issues arising from whether it goes to West Ham or Tottenham Hotspur football clubs after the Games. It has now been announced that West Ham have won the race, thereby pointing to major regeneration in Tottenham for a new Spurs stadium.
London branch is working hard to make the Spring Conference a success and we hope very much that many of you from throughout the Association will join us in May. We have leading figures from Government and the professions confirmed as speakers and generous sponsorship in place to ensure we can offer exceptional value for money. Please see elsewhere for details and book as soon as you can – we look forward to seeing you!

Christopher Rhodes

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A FORCE TO RECKON WITH

Angus Mylles

Angus Mylles, partner and head of public sector at property consultants Bruton Knowles, explains how Surrey Police Authority’s estates review is helping it weather budget cuts through innovation.

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Public sector bodies across the board are facing hugely tough financial challenges and the emergency services are no exception. England and Wales’ 43 police forces are facing a 20% cut in government grants over the next four years, and the Association of Chief Police Officers (APCO) has recently warned that the number of officers could fall by 12,000 as a result, as well as up to 1,600 police staff jobs.

But Surrey Police Authority is bucking this prediction and its ongoing estates review, part of an innovative change programme, is helping to create extra police officer jobs - making Surrey Police one of the only police forces in the country to be still recruiting constables. Its success suggests that lessons can be learned about how to cope with the financial pressures that all public bodies are under.

Surrey Police Authority embarked on its estates review in 2009 as part of a wider change programme to save costs and invest in more police officers on the front-line. Surrey Police has already made sufficient savings over the last 18 months to enable over 95 extra constables to be employed this year, in addition to the planned quota of recruits. This is expected to rise to 200 extra constables by the end of this year.

With advice from Bruton Knowles, the police authority has sought to rationalise its assets and rein in its costs. The estates review has considered the changing way in which the public make contact with the police, while recognising that the public want front-line officer numbers protected.
Surrey Police’s stations and buildings cost around £2.4m a year to operate and maintain, but many of its police stations receive less than ten visitors a day, with some receiving on average just one. Yet Surrey Police’s call centre handles around 2,500 calls in the same time frame. By selling some of these little used stations, up to £5million in capital funds could be raised while the costs of maintaining the buildings will be reduced.

Disposals will generate much-needed funds and save on building costs, but they constitute only part of the estates review. Planning is underway for neighbourhood police teams to be based in busy locations within local communities such as shopping centres, and to co-locate in buildings shared with local authorities and partner organisations.

Surrey Police’s Camberley neighbourhood team has been co-located at the borough council offices since last year. Officers report they have already seen the benefits of being right next to council colleagues working on issues such as anti-social behaviour and licensing. With plans to move the police front counter to the council offices too, the hope is to make accessing local services much more convenient for the public.

The example of Camberley demonstrates how changing the estate and co-locating local officers in council buildings is providing a joined up service to the community, as well as providing better value for money for tax-payers. By February this year, Surrey Police had completed co-locating its neighbourhood teams with the local authority in five of the 11 boroughs and districts in the county. The overriding aim in each case is to improve accessibility and visibility of local officers in the community.

Bruton Knowles work with Surrey Police Authority dates back to the start of its estates review and we have supported the authority throughout the whole process, identifying potential development opportunities and scope for asset realisation. The sale of the seven former police stations and offices in Sunbury, Lingfield, Frimley, Byfleet, Ash, Ripley and Lightwater marks the culmination of this detailed strategic property review, with more properties to be released onto the market this year. Details about the properties, and news about the disposal programme can be found on our dedicated website for the project at www.sitesinsurrey.co.uk.

Over the last decade, Bruton Knowles has amassed a huge amount of experience and expertise in supporting public bodies to ensure that scarce resources are allocated where they are most needed. By taking a rigorous, yet realistic, approach to asset management, we aim to support public bodies’ organisational objectives from recruiting new staff to frontline posts, to identifying how the better use of buildings could benefit service provision. Surrey Police Authority’s commitment to re-inventing its property portfolio, and its innovative use of co-location means that the people of Surrey will see the number of officers in their county increase.

Angus Mylles
When it comes to property, we have the right experience and coverage to provide you with the best advice to identify opportunities for releasing value and making financial savings and service improvements to get the best from your assets.

Being part of the public sector means we understand the needs of our many public sector clients and the challenges they face.

Our services include:

**Strategic Asset Management**
Developing personalised property strategies to ensure your portfolio is efficient and effective in delivering your strategic objectives. We are able to provide a full strategic property appraisal, including a detailed benchmarking evaluation, as well as acquisition and disposal reviews.

**Asset Valuations**
Complying with the new IFRS accounting standards for both non domestic and housing stock valuations being introduced in 2010.

**Viability Studies**
Including development consultancy and expert witness to planners on policy viability studies and individual applications. Viability reports on affordable housing provision for LDF purposes and sect 106 agreements (sect 75 Scotland), including sensitivity analysis.

**Commercial Development Advice**
Including developer selection and negotiations, land assembly issues, apportionment of proceeds between development partners, overage, escalator and claw backs.

**Compulsory purchase, compensation**
Road schemes and regeneration, including Pathfinder initiatives, from drafting of scheme to transfer of interests.

**Environment**
Environmental and sustainability surveys, energy certificates and valuations for historic properties and heritage conservation.

**Policy development and analysis**
DVS holds an unrivalled database that links sales data with a wide range of property attributes and characteristics and can provide detailed market reports. Monitoring and analysis to inform policy decisions and economic and social regeneration initiatives.

**Clients include:**
- Regional Development Agencies
- Over 300 UK local authorities
- Over 150 parish councils
- Fire and Police Authorities
- The Scottish Government
- The Welsh Assembly Government

For further information contact Philip Percival
Telephone: 0151 802 1035 Email: philip.d.percival@voa.gsi.gov.uk
The scope for the study on flexible work style programmes is set out below.

The Internship

This scope sets out a study that seeks to demonstrate not simply case studies of different flexible work style projects, but the mechanics of the rationale, the implementation and the measures of success of different projects.

1. Provide a brief overview of the development of flexible work styles (FWS). Outline the different approaches that have been adopted, highlighting how different types of organisations and drivers have led to different solutions.

2. Provide case studies which demonstrate the business cases that different organisations have used to justify investment in change programmes. Outline the critical success factors that have been identified against which success would be judged (for example, reduced occupancy costs, higher output). Case studies will be sourced from both private and public sector organisations and include for example engagement with the British Council for Offices and Hampshire County Council.

3. Describe the different approaches adopted to project and programme management. For example, programme governance, work streams, use of external advisors, communications, and so on.

4. Provide evidence, based on case study interviews, of how programme management has engaged with the full spectrum of stakeholders, namely: the Board; key resource areas (property, HR, ICT, finance and users). With respect to users, outline approaches to user engagement through consultation, workshops and pilot studies, and demonstrate how barriers were removed and issues arising were resolved.

5. Using case studies describe how different stakeholders have judged the successes and failures of specific programmes. For example, the ‘mobile’ worker, the ‘fixed’ worker, the managers of those workers, the project champion and the shareholders of the business. Also what business efficiencies were generated and how they were measured.

6. Make recommendations on the “key ingredients of success” for FWS change programmes, and the generic “measures of success”. Provide a generic FWS programme and identify “dos” and “don’ts” at key stages.

Funding and arrangements for the Internship

FCRE has secured an internee to lead the FWS Programme project. This person will be employed for a period of up to six months and will be charged with delivering the completed project at a date yet to be decided, but likely to coincide with the Spring seminars of both FPS and FCRE.

The Federation of Property Services has offered up to £10,000 to support the project. FPS and FCRE share a desire to know more about how Flexible Work Styles are working in practice and what makes a change programme successful.

Members of the FCRE Committee have agreed to provide their own time and resources to set up the project through the scoping and selection stage. Members have also volunteered to provide accommodation and IT facilities and mentoring from their own resources. Dr Rob Harris, a specialist property-based researcher who has significant experience in this particular field of practice, will be overseeing the project from a research perspective and providing mentoring and direction to the internee.

Members of the FCRE committee have also offered to help source case studies for the project from among their client bases. This option will also be open to FPS/ACES.

A small amount of the FPS funding, to be discussed and agreed through the Steering group, will be allocated towards publicity and similar costs associated with such a project.

The project will be managed through a Steering Group which will include a sub-group of the FCRE committee, John Morris representing FPS/ACES. This group will ensure timely completion of the work as well as quality control.

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

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

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

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

Paul Thomas

This article is produced by Paul Thomas, Programme Manager for ‘Suite 16’, an ambitious programme of regeneration in Kettering. It is based on the presentation he gave to a Heart of England Branch meeting.

Introduction

Kettering is at the heart of North Northamptonshire, the UK’s largest single growth area outside of London. Under the Core Special Strategy the area is set to receive 13100 more homes, 10200 new jobs, 20500 sq metres of new shops and 38000 sq metres of new offices.

The Vision for Kettering

Kettering is the principal shopping town in North Northants and will remain the main retail centre. But it needs to be more attractive. The Borough members are using the growth agenda to achieve three interrelated ambitions:

- A better town centre offer
- A better education & training offer
- A Better employment offer (higher grade, higher density jobs)

But developing a new town centre will not be enough. Any new development will soon be eclipsed by a newer one elsewhere. In addition, internet shopping patterns are changing – rapidly! Recent trends show internet and mail order shopping is increasing over ten times the rate of the high street.

The vision for the town centre is to create a vibrant heart for Kettering that is more than a just a town centre: it must be a place that is characterful to reflect the locality, distinctive and fun. Design quality must be high – even in hard times and material quality must be high.

In creating a ‘characterful’ experience distinctive zones are being created. These are the:

- Shopping Quarter
- The Yards
- Restaurant Quarter
- Station Quarter
- Cultural Quarter
- Headlands Quarter – residential heritage area
- New Residential Quarter
- Socialising and Craft Quarter

The principal challenges to delivering the vision are land ownership, addressing the constraints of the town’s medieval street pattern and providing larger shop footprints to meet the growing demand for much bigger retail units.

Delivering the Vision

Kettering has developed a Suite of 16 projects (Suite 16) which encompass; public realm; new retail and leisure; jobs and skills; and transport and movement.

By investing public money in public realm, and leveraging the Council’s assets to increase opportunities for private sector, improvements are already taking place implementing the vision for the town centre.

Excellent progress to date

Chesham House – completed

Chesham House is a listed building that has been refurbished to create serviced office suites at a cost of £1 million. £200,000 of local taxpayer’s money was used to pump prime the investment with the remaining £800,000 coming from external bid funding. The project aims to bring design and technology based employment to Kettering in partnership with the University of Northampton who manage the building.

Market Place – completed

The refurbishment of the Market Place, undertaken in partnership with Northamptonshire County Council has been completed with 100% external bid funding, totalling £2,200,000. The work was delivered on-time and on-budget, despite the original contractors going into administration. The opening event was attended by over 3,500 people, who saw 5 days of entertainment. Subsequent events have included the National Cycle Tour Series and Christmas Lights Switch On. It has been the winner of multiple awards.
Market Place Restaurant Quarter  
– due for completion May 2011

New buildings are being sited on the footprint of old buildings which will include 2 restaurants and 10 High quality Apartments. They are being constructed to a traditional design to complement existing buildings around the Market Place. The project seizes the opportunity to restore historic features on the Church/Site boundary. The development adopts high sustainability credentials and is being funded through external bid funding.

When completed nearly 9,000 sq ft of Restaurant space will be available, with outside terraces to match and encourage new activity in the market place. Glass canopies will provide shelter from the elements and match the performance canopy in Market Place. 10 high quality private residential units will be on first and second floor levels (9 no. 2- beds and 1 no. 3-bed). There with be rear access for servicing and residential basement Parking.

Public realm Phases 2 – Reconnecting the north and south of the town centre - Due for completion June 2011

Works Started in October 2010 with the removal of through traffic from Market Street and construction of a new Bus Area at Horsemarket. Its aim is to achieve better connectivity of the main shopping area with the new Restaurant Quarter. The Horsemarket was completed by March 2011. Market Street / Sheep Street works commenced February 2011 and will be completed by June 2011. Hogshead demolition commenced February 2011.

Future projects
Soanes Yard
The future scheme comprises the development of a back yard area to create a distinct pedestrian-friendly area that caters for a niche and ‘independent’ shopping experience. The removal of through-traffic from Market Street will improve its connectivity with Market Place and High Street. Large areas of this quarter are already owned by the Borough Council.

Wadcroft
A new High Street shopping development is proposed that will provide for a department store and associated retail units. Soft-market testing has already revealed significant interest from retailers and developers. The Borough Council owns some of the properties fronting onto High Street and the Wadcroft Car Park. It will seek to utilise these assets in bringing the development forward.

Central for business
A colourful Kettering prospectus has been produced to attract business which promotes Kettering's assets, identifies development opportunities and demonstrates the track record of delivery. An electronic version of the prospectus can be found here http://bit.ly /KBC-CFB2010

Summary
There is a strong vision for Kettering Town Centre that is supported by the successful delivery of a number of key projects.

There is developer, retailer and investor interest in the town. We just have to provide the right environment for them to commit.

Paul Thomas
The Thomas Partnership (TTP) is the UK’s only practice of Chartered Surveyors acting solely in relation to advertising hoardings and displays.

Established in 1990 we have an unparalleled experience of direct day-to-day market transactions supported by extensive research and data management.

Landowners infrequently deal with Outdoor media assets and have limited access to market data which can easily be corrupted or misunderstood.

Ultimately, the value of our services not only ensure the client benefits from maximized revenue but a significant amount of time is saved which can be redirected towards primary activities.

The TTP monthly Newsletter is distributed electronically to over 7,000 property owners and professionals and has become an industry bellwether.