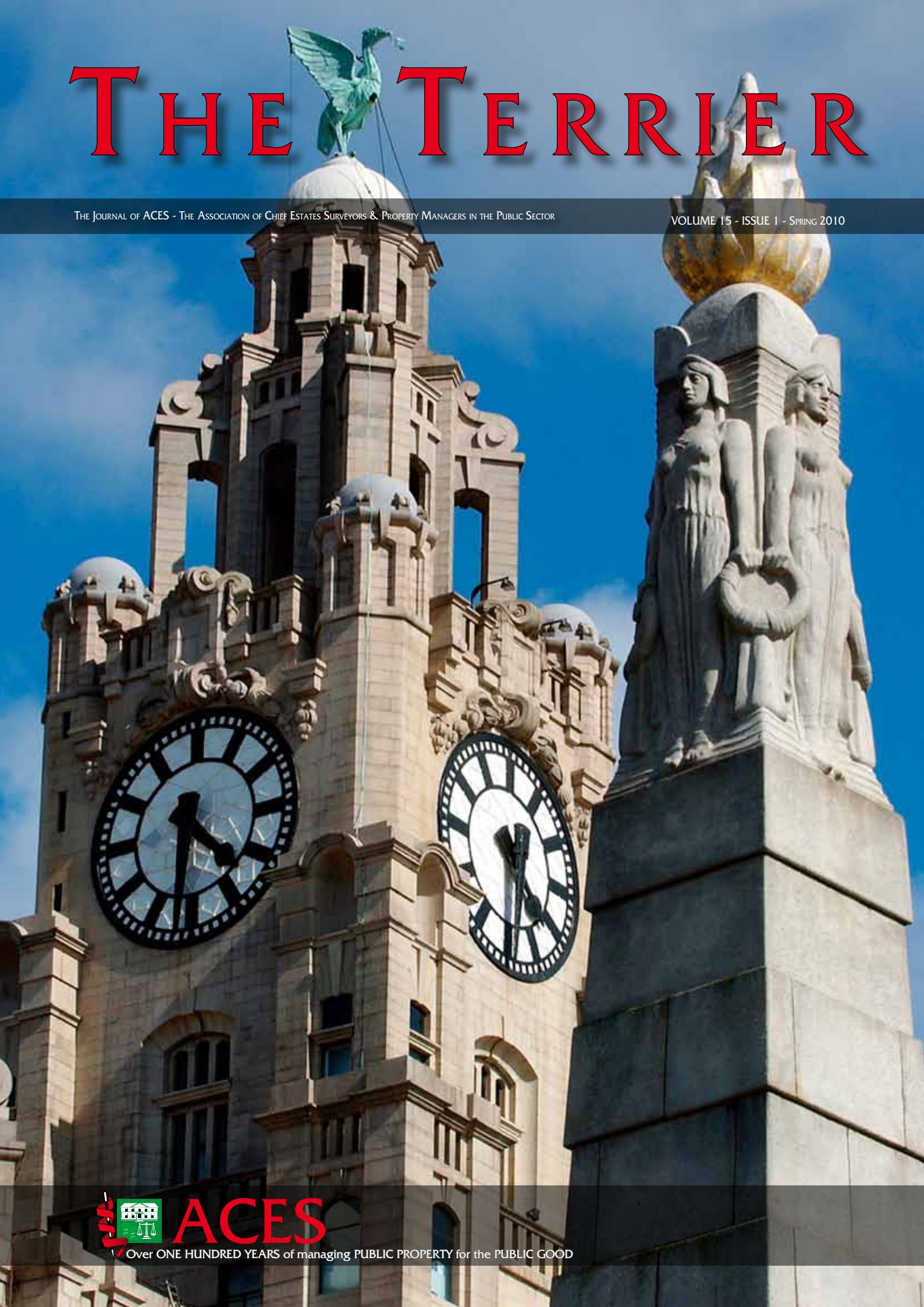


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PUTTING ASSET MANAGEMENT IN THE SPOTLIGHT

Mark Few

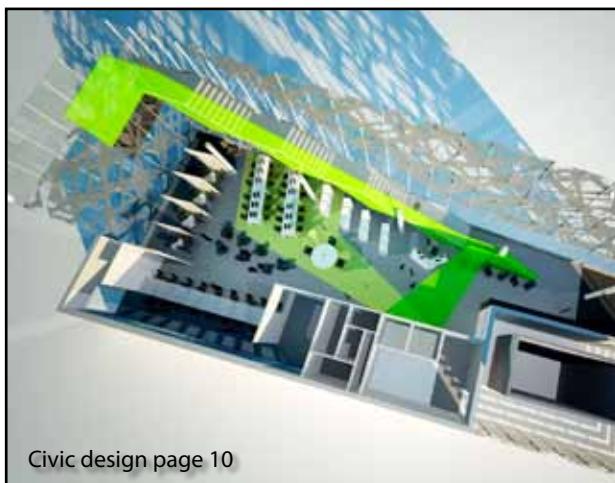
There are now tentative signs that Britain is moving out of recession but for the public sector the effects of the downturn will be felt for the foreseeable future. In this increasingly pared-down regime, the ability to achieve value for money from local authority premises is crucial if frontline services are not to suffer.

Historically public sector estates departments have provided what has frequently been regarded as a backroom service. Now, reduced budgets have put asset management firmly in the spotlight, with enormous pressure being placed on estates departments to introduce efficiencies in all areas of service delivery.

The 2009 Budget identified a potential £16bn in future capital receipts that could be gained from local government property and asset sales over a three-year period from 2011/12, with proceeds going to supplement capital budgets. A year earlier, HM Treasury's Operational Efficiency Programme had already pinpointed potential efficiencies which could be made over

CONTENTS

Asset Management	3
All Change at the Town Hall	5
Forging a Civil Partnership	9
Civic Design	10
Corporate Landlord	12
ACES Branches	16
Memories of Stan Matthews	20
Is Mediation the Answer	21
Public Markets	23
Future Finance	28
Cut the Carbon	30
Operational Portfolios	31
St Ann's Allotment Gardens	34
Tenanted Non-Residential Property	35
Paying the Price	41
Public Procurement Remedies	43
Viability of Large Housing Projects	46
Winning the War on Costs	48
The Suffolk Scribbler	49



Civic design page 10



Public markets page 23

a 10-year period equating to £20 billion worth of capital receipts from property disposals and £5 billion in running costs across the government estate as a whole.

By their very nature, local authorities' premises are spread across a number of different sites which frequently means duplicating facilities and services and inevitably leads to resource inefficiencies. This also has time and cost implications for staff and customers. At first glance, this looks like a cut and dried case. There is a strong argument for rationalisation of council premises, but disposal is not the only solution. A more strategic approach is called for and there are a number of options open to estates directors that may help increase the efficient use of public sector buildings.

The first step is to know your property portfolio and its value. If authorities have access to current, relevant data, decisions can be taken as to whether all buildings should be retained or whether there is the possibility of benefitting from disposal to free up resources for investment elsewhere. One property review undertaken by seven local authorities has identified a potential saving of up to £640 million across their region in capital receipts and revenue savings simply by making these kinds of efficiencies.

A new report by the Department of Communities and Local Government (CLG) identifies ways in which authorities will be expected to make savings. "Putting the frontline first: meeting the local government challenge" published in March, encourages councils to take a 'total place' approach to their area and use joined-up thinking to look at what "the big spend public sector bodies and wider strategic bodies in their area are doing and taking a more coordinated approach". Basically, this means councils identifying unnecessary waste and duplication and wherever possible sharing buildings with other public sector partners, allowing either disposal of under-utilised buildings to accrue capital receipts, or getting better value from using premises in a different way. The argument is that "sharing offices can emphasise customer-focused service delivery by providing a number of services with a shared customer based from the same building".

However, there is considerably more to efficient asset management than disposing of under-utilised buildings, particularly in a depressed market where returns are likely to be poor. In the current climate, lateral thinking is increasingly important. Office space may be able to be reconfigured so staff occupy less space, thereby facilitating either sharing with a public sector partner or sub-letting part of the property. The RICS, in its 2009 report Strategic asset management in local government, recommends authorities "consider tenure other than ownership – such as lease, rent or lease-back options – where that gives demonstrably better value". There may also be opportunities to identify and unlock the value of hidden assets such as listed premises that could be used to generate revenue as a wedding venue or film/TV location, or buildings in parks or landscaped gardens that could be rented to



external providers such as cafés, leisure or retail outlets. The RICS report also recommends motivating service managers who occupy property "to use it economically by implementing capital charging arrangements that make them accountable for the cost of the capital they use".

There is no doubt that the current recession represents a major challenge for public sector estates departments. Peter Mitchell, Head of Property at Watford Borough Council, emphasises that in a market where values are depressed, it is vital not only to consider disposal of property to generate income but to take the long-term view and derive the maximum possible value from existing assets. "Most local authorities have an asset management plan for the next five years but in the property sector, that is very short-term. Property is a hugely valuable asset. We should be taking a more strategic view." Mitchell believes authorities frequently miss opportunities to maximise their assets. For example, if an authority owns a car park or public toilets in a prime location, it may be worth retaining that land either to sell at a premium as part of a future commercial development, or as a ransom strip to influence future planning outcomes rather than simply disposing of it for short term gain. At Watford, Mitchell has established an asset management group which is now being used as an internal monitoring group and enables property, finance and planning departments to come together to make informed decisions. "Everything we do as an authority whether it generates revenue or costs us money, involves property," he emphasises, "and as a result property decisions have to be long-term and objective".

Mitchell also believes the recession is presenting opportunities to those authorities that engage in strategic joined-up policy making. "By better integrating property and occupational strategies we have the chance to improve the way we work for the benefit of our customers and ensure we are making best use of taxpayer's money, while maintaining service provision," he says. "We have now reached the bottom of the market and while 'rationalisation' frequently means disposing of under-utilised buildings, we should also be considering acquisition where high quality property in strategic locations comes onto the market, as an investment for the future."

Mark Few

ALL CHANGE AT THE TOWN HALL

Nigel Cooper and Philip Harcourt

Colliers CRE has advised a number of local authorities on their office accommodation strategies. Each was different. Can any lessons be learnt?

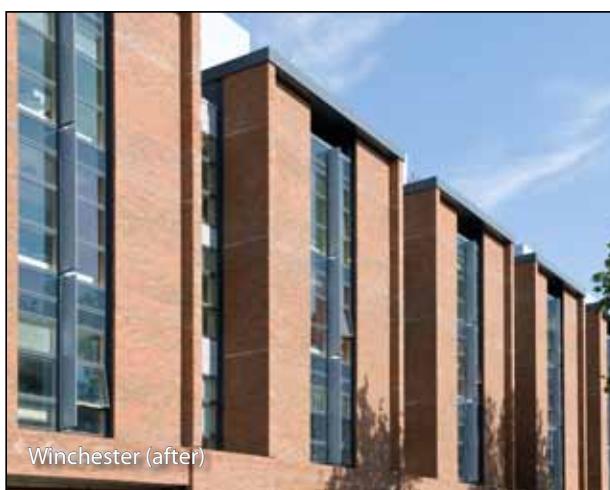
Many local authorities are looking critically at their office accommodation and some have already made changes. Buildings which have been occupied for many years are increasingly not fit for purpose. Occupational costs have spiralled with maintenance or replacement costs on items such as lifts have become increasingly expensive. Many buildings are not energy efficient and CO₂ emissions too high. Cellular space does not assist modern business methods, nor is it efficient with a poor gross to net ratio adding to occupancy costs. In an open plan format more people can be accommodated successfully, in a better working environment, in less space at less cost. Technology not only assists local authorities with business on the move and the writing of reports at home, but is also reducing filing and storage requirements – or at least has the potential to do so – thereby further reducing the need for space. With pressure on budgets, sustainability and efficiency are keys words, and not just amongst estates staff.

The town hall interface with the public is perhaps the critical element for all local authorities, not only for its own sake but as a key demonstrator of an authority's acumen. While some buildings lend themselves to the successful modernising of public areas for example Wycombe District Council, others do not. Do public areas and the offices typically found to the rear need to be physically linked? If not, can offices be located elsewhere? If offices can be located elsewhere, does

this change locational requirements and does it further erode the difference between public and private sector office requirements? Does it free up local authorities to do the best deal they can on their office accommodation, a potentially attractive proposition given the extent of vacant modern office space in some towns and authorities' covenant strength.

Reading Borough Council has had to face many of these challenges as it has to replace its town centre offices. The decision was made to develop new offices on Council owned land as a catalyst for the regeneration of a further part of the town centre. The new Civic Quarter was conceived as comprising new Council offices with modern public areas (including a revenue generating post office), together with sustainable, efficient offices and democratic space. Related phases could include new library and community space with residential above and in due course the replacement of the existing Hexagon Theatre would potentially complete the scheme. A team of consultants appointed under the Improvement and Efficiency South East (IESE) framework devised proposals which following extensive and supportive public consultation; the Council resolved to grant permission (subject to a legal agreement). As the recession bit, costs became an increasingly political issue, partly affected by the abnormal costs associated with a difficult town centre site and falling office rents in the town against which the project had been benchmarked. The project was also subject to review following a shift in political control. The review has to balance the future operational, occupancy and revenue benefits of a purpose built building with the capital cost, and the political acceptability of a £60m investment in today's more frugal climate. Whatever the outcome of this review, new office accommodation will have to be acquired and maximising the opportunities of today's property market is no doubt an important factor.

Hampshire County Council had similar problems to address at its headquarter offices in the centre of Winchester. Located in a conservation area, its unprepossessing offices were no longer fit for purpose and some functions had become scattered. However if demolished, planning policies would have prevented a replacement building of a similar scale and parking would have had to be reduced, an important consideration for the County Council and for the economy of the city, given the car park's off peak use by shoppers. Yet the existence of other County Council offices nearby meant the





location was attractive. The option of moving from the city centre was considered and rejected, and instead a strategy of taking the building back to its original concrete frame, remodelling and creating additional space was devised.

Undertaken in two main phases between spring 2007 and summer 2009, the 12,600 sq m building replaced the previous institutional working environment of corridors and cellular rooms with stylish, flexible, open plan office space incorporating the latest technology.

New flexible working methods were introduced concurrently. Sustainability was put at the heart of the overall development, with the building devised to achieve BREEAM 'Excellent' and to produce one of the lowest CO₂ emissions of any building in the UK. Its success in this respect has already been recognised nationally with winning the Green Buildings Council's Award for Sustainable Building of 2009. Proposals were devised by many of the same consultants who advised Reading, under the IESE framework, with Colliers CRE again providing planning and property advice.

The strategy adopted by Hampshire County Council was initially greeted with hostility. The £40m cost was considered excessive and staff were sceptical. The strategy of remodelling the former building did however find favour as the original building was not liked. Public relations, or more particularly good communication, was critical to overall success. Delivered on time and budget, residents and amenity groups have welcomed the 'new' building, sensitively designed by Bennetts Associates, while the 1,100 staff now accommodated have taken to their new working environment. Elizabeth II Court, as the building is now known, is an exemplar of successful, sustainable development by a local authority.

Other local authorities for example Darlington Borough Council have considered involvement in major town centre mixed-use schemes. As is widely recognised town centre development is complex, and susceptible to market changes and the views of the public, as in Darlington's case. In addition, procurement regulations add to the risk and uncertainty. It is perverse that regulations devised to safeguard the public purse, now have to be seen as a risk with significant cost and delivery implications.

In Lincoln, the issue was not only the cost of operation, but also the ownership structure. As part of a development review

of the City of Lincoln Council's property interests with Colliers CRE's Development Solutions team, City Hall was identified as a pressing issue in terms of both cost and operating efficiency.

In the early 1970s, the City of Lincoln had granted a long leasehold of 127 years over its freehold land now occupied by City Hall. The lease was granted to a developer who built the Council new premises, which the Council leased back for a period co-terminus with the headlease, at a discounted rent to reflect the Council's continued interest in the freehold.

The Council was now faced with issues over its ability to deal with its property in terms of occupation or redevelopment, as the intermediate interest prevented the Council undertaking any development on the extensive car park, and the Council was also faced with interim dilapidations liabilities that the head leasee required to be undertaken.

In line with its sustainability commitment, the Council was keen to see new technologies embraced within its occupational estate, both to reduce the carbon footprint and reduce operating costs.

Clearly none of this could be undertaken whilst the Council did not fully control the property, and capital works could have become subject to additional rent. An alternative was for the Council to look at disposing of its occupational lease, but after investigation it was considered unsaleable, as the likelihood of finding a tenant (let alone one prepared to pay any form of premium) for City Hall was nil. An exercise was undertaken to compare the present value of the rental liabilities under the existing occupational lease with the future liabilities as an owner occupier and the difference was astounding.

Negotiations with the intermediate leaseholder were commenced and an agreement reached in principle, however during the course of which, and in the midst of a sudden surge in investment values in late 2009, another bidder emerged for the interest as an investment. The Council needed to move quickly to secure its interest.

Colliers CRE's Development Solutions team, working with officers at the Council, moved swiftly to seal the deal late on Friday 4th December, after it was voted through unanimously at a special Full Council meeting on Tuesday 1st December. In a unique departure from standing orders, the Council meeting was directly addressed by department head Philip

Harcourt who outlined the deal. The City of Lincoln Council successfully exchanged contracts for the purchase of the head leasehold interest on City Hall, saving Lincoln City taxpayers around £230 million in the process.

The deal will cost around £13 million to complete including all of the usual fees. This now means the Council will hold both the freehold and leasehold of City Hall outright. It means that it is now master of its own destiny and is able to move ahead with property rationalisation and implementation of its sustainability agenda in respect of its own holdings.

The Council has been working with Colliers CRE reviewing its accommodation needs as part of a fundamental review of Council services. The review is focused on saving around £2.5 million from the council's annual revenue budget.

Leader of the City of Lincoln Council Councillor Darren Grice said:

"We are delighted that we have been able to strike this deal and that we are now the masters of our own destiny in terms of what we do with City Hall. Thanks to this decision the City Council will no longer have to pay an annual rent, saving Lincoln taxpayers over £230 million in estimated future rental costs. We have exchanged contracts at exactly the correct time, when property values are relatively low, and when borrowing is at an affordable level. I would like to thank all of the team who worked on this deal and all members of the council who have shown their full support for this decision."

Carolyn Wheater, Head of Corporate Support Services and Angela Andrews, Director of Resources at the Council said:

"We could not have achieved this major milestone without the professional and dedicated assistance that we received from Colliers CRE."

It is apparent from this experience that the form of redevelopment or replacement of a local authority's offices is not itself the issue. New build, refurbishment, relocation or regearing can all be managed, in part or in whole. What is critical is having a clear, well thought through strategy at the start where costs, risks and process have all been explicitly considered and analysed and where there is commitment of purpose across all parties. The process will almost inevitably take more than the life of one administration, or even of one property cycle, and that has to be recognised and managed. Getting it right can however seriously improve a local authority's finances, improve public perception and create a better working environment for staff.

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ASSET MANAGEMENT FORGING A CIVIL PARTNERSHIP

Brian Thompson

Brian is Head of the RICS Scotland Management Consultancy Professional Group Board and Director at Drivers Jonas Deloitte

What's in a Word?

I was recently debating the relevance of the term 'asset management' with a Head of Estates at a city authority. She commented that some of her colleagues, particularly those in service departments, regarded asset management as an operational activity – its purpose was to ensure assets 'owned' by service departments were looked after to the best of her ability.

We agreed that change was now the imperative – a static estate could no longer fulfil local authority needs.

Initiative Overload

From central and local government, change is being encouraged and expected - we see an urgency to consider appropriate Total Place themes, explore collaborative procurement, identify shared service opportunities, and of course deliver efficiencies of a scale never previously contemplated.

Some success can be achieved by going it alone, some will benefit from partnership with others in the public sector, the third sector and the private sector.

Marriage or Civil Partnership

Local government is accustomed to partnering with the private sector at many levels. It is reasonable to assume that, in the short term, we will see an increase in the number of authorities exploring alternative business models for the delivery of both core and support services.

The relatively recent concept of the Local Asset Backed Vehicle (LABV) is evolving – Local Investment Backed Vehicles and Accelerated Development Zones are now on the agenda in recognition of the fact that economic development activity takes time and cannot be placed at the mercy of the property market.



Brian Thompson

However, there is a danger that public private partnerships such as those referred to above will comprise little more than arms' length contractual arrangements.

Corpus of Knowledge and Experience

Some councils (and other public sector organisations) have entered into LABVs, some are currently procuring partners or conducting feasibility studies while many others will inevitably see partnership as the way to realise short and long term objectives.

All too often, the public sector will spend time and valuable resources going over old ground – and not learning the lessons of the past.

What the local authority market needs is a forum for the free exchange of information in support of effective LABVs – and let's also acknowledge perceptions as they can play a critical role in the success of a partnership.

A virtual and evolving 'Good Practice Guide on the Formation and Management of LABVs' could be a useful component of the forum and a contributor towards effective asset management – providing it includes an honest reflection of benefits, challenges and practical steps to overcome those challenges, and the steps to take starting tomorrow if you think a LABV is for you. Views of existing and potential private sector partners should also be captured to make sure services are demanded that can be supplied and at a profit.

The forum must be illuminated with case studies, anonymous only if necessary - imagine a case study that touches on what went wrong instead of glossing over the problems.

But, let's avoid matching initiative overload with guidance overload and create a truly interactive and evolutionary 'place' that practitioners in local government want to access, contribute towards and be part of.

Brian Thompson

CIVIC DESIGN

Bisset Adams is working with EightyTwenty Insight and Mott MacDonald as a partnership to develop Citizen Driven Design as a model for public service provision.

With councils around the country wondering how they can tighten their belts further without cutting off circulation altogether, it might be timely to consider a radical reassessment of assets, services and costs in the light of what the individual citizen actually wants and needs. It's probably no longer good enough for councils to simply think about what they're required to deliver, and possibly make it a bit easier for people to get access their services. The average citizen, even without any special requirements, may need information and services from a whole range of sources – PCT, council services, voluntary sector groups, online information, the local school, even friends and relations – the aspiration should be to slot seamlessly into this landscape of providers from the citizen's point of view. This is going to take some big picture planning...

During the first decade of the 21st century, public sector services have transformed dramatically but unevenly – 'one stop shops' are now a commonplace idea, but in many areas you may still in reality be waiting on a hard plastic chair to be seen by someone behind a grille; depending on where you live your library might be a gleaming palace of learning, reading and information, may run band nights or OAP reminiscence

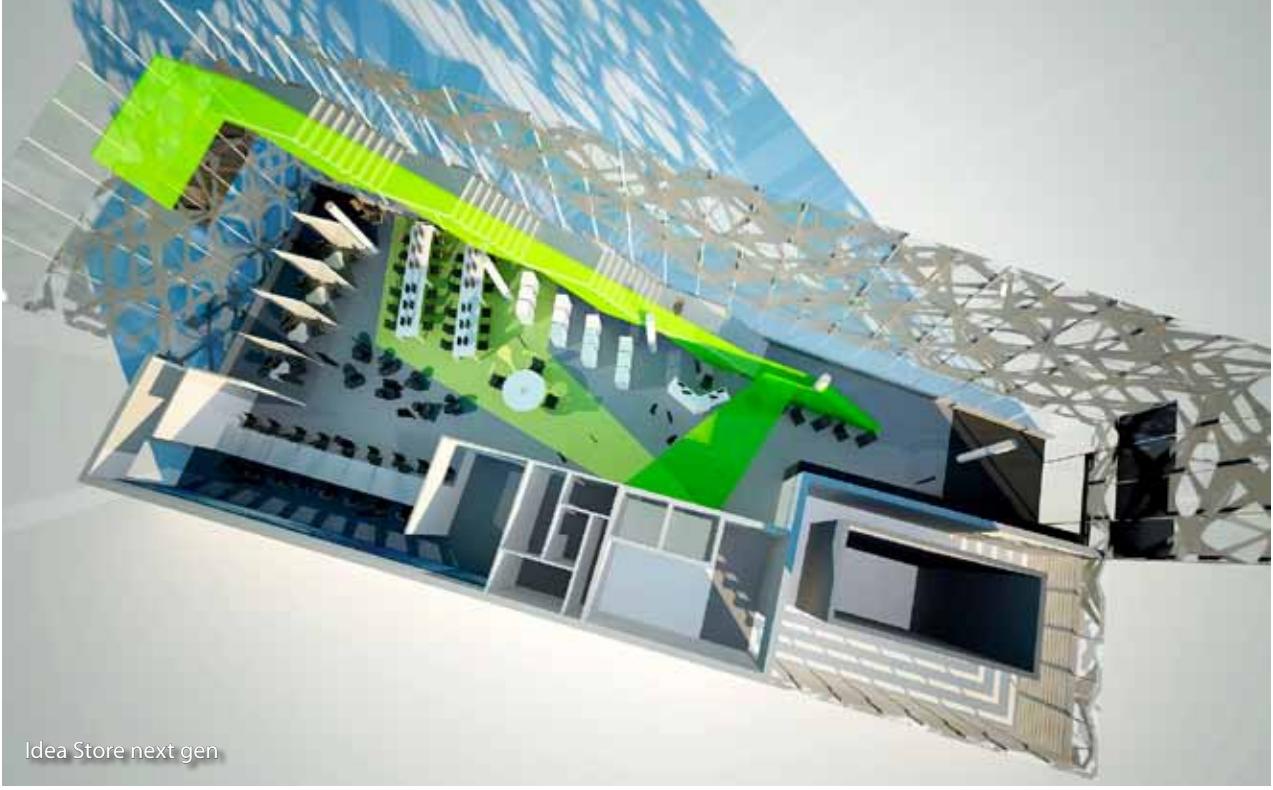
sessions, singing for toddlers or classes in English. Or it may still be painted in 1950s green, with a leaking roof and books with an average 'last issued' date stamp of 1994.

Generally speaking, councils have embraced two routes to modernization and efficiency over the past decade: one is the property and asset strategy, rationalizing council property and raising cash through sales; the other the collocation strategy, a buzz word since 2000, putting services together for the convenience of the customer. The Hetton Centre in Sunderland was a flagship for Sunderland's customer service strategy, a one stop shop centre offering everything from library services to sports fields, housing and GPs, all accessed from a single front desk and laid out in the style of a shopping mall.

But co-location and a property strategy haven't necessarily been approached as a unified strategy, and cash raised from sales or Section 106 agreements not necessarily spent as part of a wide-reaching strategy. In addition, the sale of a library, for example, will not necessarily deliver a cash receipt into the library service, which has been the cause of bad feeling from within service areas, for whom a degree of autonomy has been the incentive to be creative or deliver an excellent service.

Co-locating services provides convenience for the customer, but in many cases, full integration of staff has been harder to achieve. Channel strategies are now being developed in local authorities such as Tower Hamlets in East London, to explore how individuals want to access services – in the context of new national indicators on local government performance, which include NI 14, a directive to 'reduce avoidable contact' as an efficiency and cost saving exercise. Tower Hamlets' initial research indicated that many of their residents understandably wanted or needed personal contact and conversation.





Idea Store next gen

Our view is that the collocation strategy and asset realization strategies should be unified, and replaced with a wider assessment of the whole service and information 'landscape' which an individual may want to access. No authority has produced such a unified strategy as yet, although a number have achieved significant successes.

Wigan Borough Council have in many ways been an exemplar of innovative and forward looking thinking in terms of partnership working to deliver services; the first to outsource their library and leisure services, into the Wigan Culture and Leisure Trust (WCLT), the council and its partners work together and interact in a businesslike way. The PCT can contract the WCLT to deliver benefits in terms of healthy living and weight loss for example, by promoting swimming or sports, or through information campaigns via local libraries. The business footing of the arrangement supplants the old issues to do with silo thinking and departmental defensiveness which have traditionally beset councils.

The council commissioned the 'Wigan Life' brand, as a communication tool being applied to the borough to flag up its partnership working, its regeneration and community investment, and as a statement of aspiration for local people in terms of health, opportunities and local identity and loyalty. Wigan Life is used to communicate all new initiatives: The Wigan Skills Shops, flexible, multi-agency centres offering tailored information and help into work; the major PFI investment in the Wigan Life Centre, a joint service centre in Wigan offering one stop shop, property shop, central library, healthy living centre, swimming pool and council offices; the Life Centres as local service centres around the borough; the free swimming for all initiative.

The key to Wigan Life is the range of partners working together, to provide the best and most flexible service to customers; ranging beyond the council, WCLT and the housing trust to include the chamber of commerce, Greater Manchester Police, colleges and voluntary groups.

The London Borough of Tower Hamlets are developing their innovative Idea Store programme of libraries and

learning with a new generation of Idea Stores based on a 'Metro' concept of smaller stores offering a more flexible, information-based service, a 'marketplace' concept with the potential for a range of information and service providers coming together into the Idea Store as a local hub. The first of these, to be funded by Big Lottery, is at feasibility stage, with extensive public involvement and consultation planned, with an overarching brief to deliver local benefits in terms of health and employment.

Bisset Adams has designed for the concept for the building based on accessibility and flexibility. A staircase is highly visible through a semi-translucent façade, inviting the visitor up into the upper floors of the building. The ground floor will be a busy and flexible 'marketplace' with areas for private consultation and group meetings. The upper floors hold the main library, teenage space and children's library and 'learning clusters' designed for group learning, classes and assignments.

The Idea Store is designed as a hub and control tower for all local community facilities and spaces, a genuine attempt to provide an integrated service, offering customers a single place to access all types of services, agencies, information and groups to meet their needs.

There's more work to be done – the citizen-centric model of truly integrated services hasn't been achieved, with its attendant benefits: rationalization of property; regeneration and creation of vibrant town centres and public spaces; genuine benefits in terms of individual health, employment, learning, inclusion. It might take some doing, but could be the lifeline of councils struggling to reduce budgets without ruining services.

Sarah Godowski
Bisset Adams
(020 7250 0440)

CORPORATE LANDLORD

Roy Gregory

This was a presentation given by Roy Gregory to a recent London branch meeting where he asks the question whether the concept of the Corporate Landlord is a key part of Asset Management or just an excuse to play shops.

The resurgence of interest in the concept of the corporate landlord could be another significant step along the path of restoring the strategic importance and – yes – the status of the Head of Property.

So, what's it all about? And should we embrace the opportunity with open arms?

WHAT IS A CORPORATE LANDLORD?

The Corporate Landlord role involves a coherent, corporate overview of the acquisition, management, maintenance, improvement, review and rationalisation of property assets.

The concept ultimately involves holding all property in a single central support service which becomes a notional landlord.



Occupying departments no longer "own" their operational assets, and become notional tenants.

The role of the corporate landlord is to provide occupying Services with the right accommodation for their needs, in the right location.

The corporate landlord is responsible for facilities management and all repairs and maintenance, and for the payment of running costs including Business rates, utilities, insurance and cleaning.

The costs are recovered from the occupiers via an annual all-inclusive charge which is, in effect, the annual value of fully serviced accommodation.

The corporate landlord also takes responsibility for the management of the corporate capital programme.

The agreement between the corporate landlord and the occupiers can be as complicated or as straightforward as you wish, but will at its most basic set out the obligations of both parties, the charging arrangements, and what happens when changes in occupation are necessary.

A REALITY CHECK

I raised the issue of the corporate landlord role on the ACES website in September 2007. From the responses way back then, there appeared to be a rather lukewarm interest in the concept. Here are two extracts from the handful of responses.

- "It was something being pushed strongly by CIPFA in the mid 1990s. However, as far as I know, not many local authorities went down this line. I think current asset management plans and policies are the tools for examining if property is effectively utilised, rather than setting up an artificial internal market"
- "It is something we started doing, and, in its day, it was quite useful. It then degenerated into the Council playing shops with itself"

As far as I am aware, there are still relatively few authorities which have adopted a full – blown corporate landlord policy and, even those which have done so, exclude significant categories of property from the concept.

The London Borough of Westminster was probably the first and most significant. When I was spring cleaning at Redbridge before leaving to go to Enfield, I came across various papers from the 1980s setting up the Westminster corporate landlord, so this is not a new idea.

More recently, I understand that Camden adopted a similar system.

Those authorities which have gone this route have tended to exclude similar categories of property from the concept – namely;

- Schools, because under LMS, a notional landlord and tenant relationship of sorts already exists.
- HRA dwellings, because an actual landlord and tenant relationship already exists, and the accounting basis is different.

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- Highways, including car parks, because most of these assets are in the form of infrastructure.

The following asset categories would probably be included in the concept;

- Corporate offices
- Libraries
- Depots
- Family Centres
- Residential Care homes
- Youth and community Centres
- Leisure Centres(although a landlord and tenant relationship will already exist where local authorities have out sourced leisure or set up their own Trust).
- The Investment Portfolio, where the Property Service already acts as landlord and /or agent.

Parks, allotments and cemeteries could be either within or out with the concept. Ironically, it was parks management which brought corporate landlord issues to the fore in my previous authority because of two iconic buildings in public parks that nobody wanted the responsibility of looking after. Both properties were empty, though neither had been declared non-operational. Both properties were dilapidated. Both properties were listed . Both posed health and safety risks, which is why there was general reluctance to take responsibility for them.

So, where do you draw the line? When I was at Redbridge, there was a clear distinction between operational and non-operational property. With the exception of corporate offices, operational property was held and managed by the relevant service. Property Management was responsible for the non-operational estate and for office accommodation. And there was a procedure to be followed if property was declared non-operational, which involved a transfer of budget along with the property to which it related. Nothing stayed in the non-operational "holding pen" for long - the strategy was "use it or sell it"

What happens at the moment in your authority? Let me guess.

Maintenance and investment requirements of schools will be determined through the schools' asset management plans and the Children's Services asset management team.

The management of the housing stock will probably be undertaken by an ALMO,(unless it's been transferred) under the direction of the Housing Asset Management Plan.

With the exception of schools and housing, both reactive and planned building maintenance will be dealt with corporately, and looked after by Property Services.

So, what would have to change in your authority in order to move to a more comprehensive corporate landlord regime?

- A charging mechanism. You probably already have a mechanism of sorts, based on a homogenised charge per square metre (to avoid arguments among occupiers about the respective merits and demerits of particular buildings in the portfolio). Charges will be "below the line", and the

occupying Services will be funded to enable them to pay for the accommodation. If floorspace is reduced, the supporting charges are reduced, and vice versa. Such an approach doesn't exactly encourage efficient use of space. But it could be incentivised to encourage efficiency, (the classic 6 to 8 sq metres per person) with a penalty charge for inefficient space utilisation.

- FM Services would need to be formalised. Service contracts no doubt already exist for essential health and safety checks such as PAT testing, fire drills, emergency lighting tests, water testing, etc but the procurement and provision of these services may well need to be formalised. I recommend identifying a facilities manager or premises controller for each building or group of buildings. With the ever-present risk of litigation for negligence (and ultimately Corporate Manslaughter) this is a wise precaution.
- Other traditional FM duties such as security, locking and unlocking of buildings, electronic access controls, could be commissioned on a menu-style basis, as experience proves that some Services want them, while others do not.
- All of the above falls short of the formality of transferring significant numbers of staff from other services into the Property Service. Whether this takes place or not depends on the culture and strategic policies of the authority in question- and also of course (dare I say it) on the relative empire building and retaining aspirations of the Chief Officers concerned.

So, to conclude; do corporate properties need a corporate landlord? The following is my personal view.

- Not to the extent of transferring all property assets into one central service, together with budgets and staff.
- There needs to be a clear distinction between strategic and routine management. The development of Asset Management Plans, Core Property Strategies and Property Procedure Rules will have established the strategic principles. Provided these strategic principles are followed and properly enforced where necessary, routine management can in my opinion remain with the occupying service. That does not preclude them from seeking corporate assistance in the fulfilment of those responsibilities, which will be mainly in the facilities management area and need to be formally requested and resourced.
- In the crucial area of Health and Safety, it is vital to ensure that procedures are seamless, so that there is no risk of falling between the cracks. Work may need to be done to set down in precise terms the responsibilities for "landlords" and "tenants" in this area, as there will probably be a wide diversity of existing responsibilities across the portfolio. Service Level Agreements will probably be the vehicle.
- Beyond this, I commend to you the apposite comment on the ACES website - "Corporate landlord can easily degenerate into playing shops".

Roy Gregory
Past President

ACES BRANCHES

EASTERN BRANCH

The Eastern branch met for their meeting on 5th March 2010 in the management suite at the Harlequin Shopping Centre Watford and was attended by 13 members.

The branch meeting, with the aid of aerial photographs and a scaled model, enjoyed an informative and entertaining talk by Kyle McClelland, the programme manager for the Watford Health Campus.

"The Watford Health Campus seeks the transformation of West Watford through a unique partnership to deliver improved health, a sustainable community, improved access and enhanced leisure facilities."

Watford BC is about 4 miles by 5 miles and has a high population.

West Watford is less prosperous unlike Watford and West Hertfordshire. There are 9 partners that include 4 National Health Trusts, Watford Football Club, East of England Development Agency, Watford Borough Council and Hertfordshire County Council. The aim is not just about health but to promote healthy activity. Kyle ran through the background from the start with a single regeneration budget 12 years ago on the Cardiff Road Industrial Estate, the vision of a centralized hospital for St Albans, Hemel Hempstead and Watford in a single new acute hospital in Watford (set out 6 years ago in the Investing in your health document); YRM architects illustrative master plan with shared resources, catering, conferencing and physiotherapy, and the long awaited Outline Planning Permission for the campus due in April 2010. The scheme is not a bio-science park but a co-location of specialist health facilities with business, leisure, recreation and fitness facilities. The office block is outside the hospital but capable of being converting at a later stage for clinic use and new homes capable for occupation by hospital staff. The scheme will regenerate a run down and deprived area. The construction will be predominantly on Brownfield sites. It is proposed to remodel the land for residential use which takes it out of the flood plain with the creation of a new lake and new access road. Part of the improved access is the creation of Croxley rail link which will be within 300 yards of the hospital and joined to the Metropolitan line from Watford Junction. The current timetable is for building of new Houses 2012-16; Business Units 2011-2013; Lake 2012-13; Access road 2011-12 and the Rail link 2011-12. The partnership has been beneficial; the EEDA supporting the Planning Application costs with a £750,000 contribution; sharing facilities, improved links to the town centre and joined up delivery across the various branches of government. Sustainable items include a combined heat, power and cooling plant; and rainwater harvesting (the Football Club pay to water the their pitch and the hospital pay to put water down the drains, each can assist the other by using collected rainwater to water the pitch)

The following main points arose from the question and answer session after the talk.

The organic certified allotments stay within the campus. There is a contamination management plan and there will be insitu treatment. The original funding was PFI £325 M, which has now been switched to phased funding from sales and borrowing. There is some recovery from Developers to mitigate the future spends. The current site has 1100 car parking spaces and it is proposed to have 1500 underground and in multi storey car parking.

The site extends to 65 acres of land which is wholly owned by the partners and unless it is needed for single ownership in the future, there is no requirement for a Compulsory Purchase Order.

Further details can be found on www.watfordhealthcampus.org

Robin Neve thanked Kyle and the hosts for the talk and their hospitality shown to the branch.

Robin Neve thanked Andrew Wearmouth for all his work for the branch; having retired from St Albans DC and welcomed him to continue his support to the branch. The branch discussed the contribution towards the Centenary Book introduced by Jeff Clarke. After a discussion the branch voted in a proposal by Andrew Wearmouth, seconded by Betty Albon for a contribution of £200 towards the cost. Betty Albon explained the proposed changes to the ACES publications.

The branch covered many topics from the information on Valuer regulation, Village Green Applications and the need to ensure property officers are part of the process, the recent market information, Section 20 notices Landlord and Tenant Act 1985, the new Rating list 2010, and IFRS progress.

Kyle McClelland treated the branch to a guided tour of the Watford Health Campus area after lunch; to see first hand the Cardiff Road industries, the 164 key workers residences being built around Vicarage Road Watford Football Stadium and the temporary build and areas for future build. It was clear to see along the topography, the proximity to the western coast rail line with the proposed route of the new rail link and the areas designated for the creation of the new lake and buildings.

The remaining branch meetings for this year are Cambridgeshire (2nd July 2010) and Great Yarmouth (5th November 2010)

Ian Lowe
Branch Secretary

HEART OF ENGLAND BRANCH

Apologies received from six branch members within 48 hours of the Branch AGM and meeting resulted in just ten members attending the event held at the Markham Vale Environmental Centre on 3 December 2009. Disappointing following the excellent turn out for the previous Birmingham meeting. But perhaps a sign of the current times.

At the AGM Steve Meynell took over the Chair from Ray Ashton who stepped down to the Vice Chair role. Richard Allen continued as Secretary/Treasurer.

Following a discussion on the fluctuating attendances at Branch meetings it was agreed to reduce the number from four to three for 2010. The reason for this decision was (a) the difficulty members appear to be finding due to current workplace pressures to commit to effectively four full days for Branch meetings plus in some cases four more days to attend the two ACES conferences and (b) the internet is now providing alternative methods of communication-ACES website and forum, emailed information direct to branch members through branch Secretary.

Dates and host authorities for the 2010 meetings were agreed as:-

11th March – Sandwell MBC

22nd July – Warwickshire CC

4th November – including Branch AGM - Mansfield DC

In the morning the Branch received a presentation from Chris New of 'New Markets Solutions' on 'Public markets for the public good'. The presentation was accompanied by a number of photos of different local authority markets showing what Chris considered to be the 'the good, the bad and the ugly'. Chris has also kindly produced a comprehensive article based on his presentation which appears in this Terrier.

The main branch meeting discussed various topical issues including the IPF asset management health check undertaken at Mansfield DC, different experiences of authorities moving to adopting the central 'Corporate Landlord' approach, the CAA requirement for future AMPS to include a property strategy (concluded more clarification needed), implications for valuers of the new IFRS regulations and compensation for the reservation of mineral rights.

The 'Public,' the controversial Will Alsop designed community arts centre, built by Sandwell MBC, and representing a 'bold leap of faith' to act as the catalyst for the regeneration of West Bromwich town centre, was the venue for the March meeting, attended by eighteen members. In the morning Peter Manley, Head of Corporate Property at Sandwell MBC, gave a most interesting presentation on the proposals and challenges to regenerating the town centre as the premier retail, cultural and leisure centre for the borough with the wider aim of attracting people from further a field. This was then followed by a fascinating half hour guided tour of the 'Public' prior to lunch. Our enthusiastic guide explained how the building operates providing art events, film nights, live music, galleries and office space. Members were then walked up and down the ramps which are a feature of the interior to experienced the interactive digital artworks and view the temporary installations. Before the visit the Sandwell members promised that it would be a venue unlike any others in which a branch meeting had been held. It did not disappoint. Locally it is has been described as a 'shoebox with blobby windows' (see photo). Perhaps the best description though is 'just wacky'.

The afternoon commenced with a welcome to Bob Perry, new national ACES President, who was making the first of his visits to the branches around the country.

During the main meeting there were three short presentations.

Bob Entwistle, past branch member, who is now an RICS Accredited Mediator, gave a presentation on the benefits of mediation - which are to assist parties to arrive at an acceptable conclusion to a dispute. It was followed by a general discussion on how it could benefit ACES members.

Peter Burt, Central Bedfordshire Council talked about his experiences of asset transfer arising from local government reorganisation. He explained that Bedfordshire had gone down to just two unitary authorities. One based on the Borough of Bedford and the other on the remainder of the former county council area. The main challenges had been identifying ownership as the records were kept on three different systems, a timescale challenge due to a judicial review, all the existing property functions having been outsourced by the county council and a dispute over whether the Borough should benefit from the county farms.

Richard Allen briefly went through the final draft of the TNRP Strategy and Review Action Plan which has been developed by the ACES Commercial Asset Management Working group.

There was the now regular discussion on the implications of the new IFRS regulations and members sought advice on a range of issues including the valuation of a county council highways depot being compulsory purchased by a borough council and the price to be paid for the acquisition of land for a proposed gypsy site where the land owner had obtained planning consent for the proposed use.

The next meeting to be hosted by Warwickshire County Council will be held at the new Law Courts in Leamington. It will include a tour of the new courts and presentation on their development.

Richard Allen
Secretary, Heart of England Branch

LONDON BRANCH

ACES London Branch first meeting of 2010 took place on 29 January at Westminster Council's offices. Security forces were very much in evidence, but not for us – this was the day Tony Blair gave evidence at the Iraq War inquiry nearby. 26 members attended and heard a presentation from Arthur Whatling, Editor of the Red Book on IFRS and the distinction between finance and operating leases. This was the first of a series of discussions on topics of interest agreed for London meetings throughout 2010. Members also discussed the Benchmarking questionnaire and a comparison of void rates for retail premises held as an investment.

The branch then headed to Southwark Council's new offices situated near London Bridge for the first time for its March meeting. Clearly 'curiosity killed the cat' as around 40 members turned up to hear 4 separate interesting talks, conduct a news round up, conduct usual business, tour the new building and still get to the pub by 5.30. Thanks went to the chairman

Richard Barrett for conducting a full agenda and preventing members dying of thirst.

The packed agenda started with a short talk from Southwark's GIS consultant Greig Wishart of AGY Consulting who highlighted the land terrier review that Southwark had undertaken and the benefits and costs savings made. This included registration of all Southwark's land title for greater accuracy and speed of investigations as well as improved defence of adverse possession claims. Next were Neil Webster and two colleagues from the Metropolitan Police property department so they were welcomed with a Hallo Hallo Hallo. Their talk set out how the Met's property function works, detailing their estate asset management systems, how they co-operate with local authorities and proposals for future integrated centres.

This was followed by a third talk from Dan Jones representing the RICS. After the usual banter we settled down to hear about RICS proposals for alternative avenues of entry for non degree holders by way of modular learning examinations via learning centres and achieving status of Associate of the RICS, which is not a Chartered status - funny I can remember when we were both Chartered and Associates. If I'm confused, think how that will confuse the general public who couldn't be expected to understand the difference between an Associate and a Member.

A lively debate ensued and Dan Jones was asked to take back various members' concerns particularly relating to representation of Chartered Surveyors in the public sector. There are now over 50,000 members in the public sector and better representation is a pre-requisite of any changes in RICS future proposals. It was stated by past president Lee Dawson that ACES does have an established and improving relationship with the institution but that further work needs to be done. It was also pointed out that bemoaning the RICS did little good if members did not also take an active role.

Following a break for tea Roy Gregory gave a short but punchy talk on the role of the corporate landlord within local authorities, how it has evolved in recent years and the differing approaches adopted by some authorities. Other business included discussion of local benchmarking arrangements and ACES Council feedback.

Jeremy Pilgrim

NORTH EAST BRANCH

Spring in Stockton

Spring had arrived in Stockton-on-Tees when the North East branch met on 19 March 2010 for its spring meeting.

Our host for the day was Stockton-on-Tees Borough Council and Paul Hutchinson gave us a brief introduction to our venue for the day, the town's historic Town Hall or to give it its traditional name, the Town House. The building dominates the town centre from its position in the centre of High Street

and whilst the building dates from 1735 in its present form, evidence of a building on the site dates back to 1382.

Today the Town House is still used for full Council meetings and on a daily basis as a meeting venue so it can boast being the oldest functional town hall in the United Kingdom.

Brian Ablett who was in the Chair for his first full meeting opened proceedings commenting from his lectern on the fact that his seat was mounted on a plinth, lifting him above his audience, a position he had not previously commanded but could get used to if only he had a gavel to bring the room to order.

As we had two speakers for the day, the usual branch business was dealt with in a swift and orderly fashion with the minutes of the previous meeting being approved, followed by a short discussion on a number of recent Forum items. It was also agreed that Daniella Barrow, our new Vice Chair would lead on a regular agenda item dealing with ongoing preparation for the 2012 Spring Conference which would be hosted by Barnsley Metropolitan Borough Council. Daniella reported that initial work was underway to develop the event theme and identify possible venues and the branch agreed to support her and the branch Executive in preparation.

The first of our presentations entitled 'Regeneration Rocks' was given by Derek Rowell and dealt with the implications of the 'Roanne Case' for property disposals and development agreements. Derek gave us all the benefit of his experience at Middlesborough and described how EU procurement rules and law was impacting on regeneration projects. Derek has agreed to provide an article for The Terrier on this topic which members will find most helpful and instructive.

The second presentation was given by Andy Hallows of the Valuation Office Agency, Newcastle Group and dealt with the 2010 Revaluation with particular reference to local authority properties. Andy provided an overview of the revaluation, outlined methods of valuation with regard to the different types of property held by the public sector and commented on what had happened with property markets since the April 2008 valuation date. He also commented generally on the implications of increases and reductions in Rateable Values and the impact that these would have on rates bills after transitional relief.

Both of the presentations were well received and provoked a good range of questions from delegates who thanked the two speakers in the normal fashion before retiring for lunch in the Mayors Parlour. The buffet lunch provided by our hosts was up to the usual high standard and the break offered the opportunity for members to network.

Following our lunch break, I was given the graveyard slot when I gave delegates the opportunity to comment on an information request I had previously circulated regarding the RTB Re-determination process and the relatively new secondary appeal process introduced by the Housing and Regeneration Act 2008 (Chapter 17 Section 306). This proved to be a most useful debate which confirmed the trend across the branch, in the current economic climate towards a higher proportion of re-determination requests from tenants. The Valuation Office representatives suggested that if delegates had not seen the RICS guidance it would be useful to have a look at this.

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Other issues discussed in the afternoon session included a report from David Roxburgh on the branch finances, discussion on RICS matters and the format for our next branch meeting with The Chair going around the table, inviting suggestions for topics to be covered at the meeting to be hosted by Vincent Masons in Leeds.

John Read

MEMORIES OF STAN MATTHEWS

Roy Gregory

These are the words said by Roy at Stan's funeral

I feel privileged to have been asked by Susan to say a few words in memory of my erstwhile boss Stan Matthews.

I bring with me messages of sympathy to Susan and the family from former colleagues at the London Borough of Redbridge, and from the Association of Chief Estates Surveyors and Property Managers in the Public Sector.

I first met Stan in October 1974 when, as Chief Estates Surveyor and Valuer at the London Borough of Redbridge, he interviewed me for a post in his Department.

Interviews are seldom, if ever, relaxed and unstressed experiences, but he put me at my ease straight away, and at the end of the interview, offered me the job.

And so began several years of work for a man who I came to regard as a friend, as much as the boss.

An unusual man. With a famous name, at least as far as we older folk are concerned. At meetings, he used to introduce himself as "Stanley Matthews, recently transferred from....."

Not your typical local government manager. I remember the receding hairline, more than compensated by the flowing locks covering his collar. Strangely reminiscent of Lord Longford, I always thought.

I recall the rimless glasses, and the fluid, classical handwriting, always with a fountain pen and real ink. No biros for Stan.

I had a brief word with a former colleague, Karen, who used to do Stan's typing. She reminded me that he used to dictate extempore, with his legs swung over the side of his armchair,

behind his desk which always carried a sign "Load not to exceed 20 tons".

In the email she sent me, she described Stan as a "very kind, very astute man who was extremely supportive of, and respected by, his staff."

And I remember the bicycle clips; this was a man who, to me as a mere youngster in my 20's, was of mature age even then, and yet who cycled to work from a country village called Theydon Mount, miles away on a daily basis.

Stan embraced the green travel plan long before it was officially invented!

He did drive; In the years that I worked for him, he owned a succession of old cars hardly becoming the status of a local government chief officer, which he bought from a backstreet garage in Ilford.

I particularly remember a long drive to a factory in Bedfordshire which made prefabricated houses, on a freezing winter's day, in a Humber Sceptre (anyone remember those?) of unknown vintage and without a heater. By the time we got back to Redbridge I'd virtually lost the will to live!

We had several trips like that, and it provided an opportunity to get to know him better, and, on occasions, to share my faith with him. He always listened so patiently and courteously to what I had to say.

Stan left Redbridge Council about 3 years after I joined, and moved to Ipswich as Borough Valuer.

I lost contact with him after that for several years, during which time he moved on again to become an estates officer with the CEGB, which became National Power and then the National Grid. Sue tells me that the cycling habit continued, from home in Ipswich to somewhere called the Bramford Substation, where he was given a desk rather than having to commute to the Midlands.

And then things turned full circle, because as fairly active members of our professional association, ACES, we used to attend various meetings and conferences around the country. I was always pleased to see Stan's name on the attendance list (and quite often Susan's as well) and I always enjoyed their company on such occasions.

A gracious, gentle man and a true professional who I shall miss, and who I was privileged to call my friend.

Roy Gregory
Past President of ACES

IS MEDIATION THE ANSWER?

Bob Entwistle

Bob is a past member of ACES and an accredited RICS mediator and this article is based on a short presentation and discussion at the Heart of England Branch

It would be most surprising if in your role as a property adviser to a public authority you are not involved in any matters that are in dispute. You have possibly considered various means of resolving disputes such as arbitration, adjudication or litigation but have you considered mediation as an alternative way of resolving disputes?

In 2008 the RICS decided that it would be helpful to train and provide accreditation to mediators with a background of professional knowledge regarding property matters. Such mediators would understand the terminology and nature of a property dispute but their role as described below would be very different from that of an arbitrator or expert.

What are the advantages of using mediation as an alternative means of dispute resolution?

- It is usually far quicker and at a much lower cost than other methods
- The success rate for mediations settled on the day is 70 to 80% with a substantial numbers of others resolved soon afterwards.
- The process is informal and flexible enabling wider issues to be considered and business relationships to be maintained
- The process is confidential to the parties and without prejudice to the use of other methods if it fails.

What is the role of the mediator?

- The mediator is a neutral, trusted and respected facilitator who does not advise the parties their role is to enable the parties to reach an agreement that is acceptable to both of them
- The mediator will help to clarify and prioritise the issues, crystallise needs, reality check and assist the parties in looking for solutions that could form the basis of agreement.

Mediation can be used in relation to a very wide range of different disputes for example between neighbours or in the workplace but the following list may be of particular interest to you:-

- Compulsory purchase and compensation issues

- Construction disputes of all sizes
- Boundary disputes
- Landlord and tenant disputes on dilapidations, service charges, rent review or lease renewal

There are a few situations in which mediation would not be appropriate eg if a party is seeking an injunction or to set a legal precedent but where neither of these applies mediation may well produce a more acceptable solution for the parties than for one of them to 'win' the case but often either at greater cost than reward either financially or in the damage to the relationship with the other party. If parties pursue litigation the court will wish to know why they did not seek to resolve their dispute through litigation and even if a case is 'won' the court may decide not to award costs if it considers that mediation should have been tried first.

It is helpful if the parties choose mediation at an early stage in a dispute but it can be used at any stage prior to an alternative. Ideally mediation should take place at a venue that is neutral to the parties. It is important for the parties to be represented by a person with authority to settle and they can be accompanied by professional advisers. The mediator will usually make arrangements by telephone but not meet the parties until the mediation itself. Each party will make an opening statement after which the mediator will usually meet with them separately in order to better understand their interests and needs and then shuttle to the other party



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disclosing only what the first party is willing to disclose. It is essential that any offers or counter offers that may emerge through this process are owned by the parties.

Members of the Heart of England branch with experience of mediation described the process as demanding but worthwhile in producing a satisfactory outcome. Increasingly public authorities are having to look at different cost effective ways of delivering services why not give mediation a try on one or two of the disputes on your desk if it works it will free up your time and that of your professional staff to deal with other matters?

Further information on mediation and a list of RICS accredited mediators is available on the RICS website at www.rics.org/drs and a leaflet describing the benefits of using mediation is to be issued shortly. The RICS mediation service is in turn accredited by the Civil Mediation Council (CMC) and the RICS mediators are therefore eligible for the recently launched National Mediation Helpline (NMH). There is further useful information on mediation at their website at www.nationalmediationhelpline.com

Bob Entwistle

THE TERRIER

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PUBLIC MARKETS FOR THE PUBLIC GOOD

Chris New



This article is by Chris New, principal of New Markets Solutions (NMS), a specialist retail markets consultancy that primarily works for local authorities which seek to revitalize their markets as key niche town centre attractions as part of overall town and city centre regeneration. It expands upon a presentation made to ACES Heart of England Branch. The title of the article borrows the key element of the ACES strapline.

INTRODUCTION

How can Traditional Retail Markets – most of which are still owned and operated by local authorities - have a future within the highly competitive retail industry?

Public markets – and how they are managed and developed - are considered here under four themes:-

- Is the Markets Service the Poisoned Chalice?
- Are Traditional Retail Markets Irrelevant or Contemporary in current times?
- The Good, The Bad and The Ugly
- The Future for Markets: Location, Differentiation, Presentation - or Annihilation

IS THE MARKETS SERVICE THE POISONED CHALICE FOR PROPERTY PROFESSIONALS?

Markets are the original communal trading facility. In the centuries after the Norman Conquest the Crown ensured their

control, development and regulation through Royal Charters, whilst in more recent times local Acts and various enabling legislation (currently Part III of the Food Act 1984) provide for councils to own and operate their local markets.

The operation of traditional markets, pre- and post-war, was an important local authority service with their numerous small traders distributing a major proportion of food and consumer goods to communities. The position and responsibilities of a city market manager at this time were regarded as important within local government - and there was much infrastructure redevelopment of markets in the 60s to sustain their service value.

In the 70s the service was affected by three key factors, namely: Local Government reorganization (which lessened the strategic role of markets management within the hierarchy of local authority bureaucracies), the effect of the ending of Retail Price Maintenance (prior to which most genuine "bargains" and "value shopping" were only available in traditional markets rather than in shops) and the establishment of the supermarket concept in this country.

The 80s saw major expansion in retailing and the unleashing of credit controls, starting the credit boom. That, together with a wealthier society, created huge marketing opportunities for big business retailing. Increasingly professional competition to small traders continued through the 90s – and by the Noughties 85% of food was being purchased through supermarkets. Discounters flooded British High Streets. Such factors impacted badly upon general traditional markets, whose small traders found themselves out-competed at every turn – with some managements often finding themselves deprived of the ability to invest markets profits because their councils took a short term political view for using such monies to fund other forms of social and community services, without appreciating the long-term problems that would cause for markets services.

Many markets in the present day are now often perceived as full of problems – not full of traders. The main public interface for the service comprises small traders over whom control is difficult in an age of entitlement. Sizeable markets are extremely time-consuming for general day-to-day management - as they are for property surveyors trying to settle rent reviews and for solicitors aiming to create acceptable tenancy and licensing arrangements. Treasury teams chasing rent arrears and unreasonably demanding high financial returns from an ever-decreasing number of viable traders are finding that markets are no longer the golden goose. Local politicians - who do not understand the commercial environment - are lobbied and nattered by traders. Architects and property professionals who seek to create attractive and fully useable market places lack the necessary revenue budgets to support constant maintenance and refreshment due to relentless cut backs. Whilst there are good and notable exceptions, many traditional markets are failing due to the "double whammy effect" of the lack of Council support and a highly competitive retail environment.

NMS works with many local authority professionals and was contacted recently by a leading Council property manager to provide a specialist report on its markets. I asked if he was in charge of markets and his reply was 'No, thank goodness, being given responsibility for markets would be like being handed a 'poisoned chalice'!

So does this difficult environment amount to the beginning of the end for the traditional retail market?

TRADITIONAL RETAIL MARKETS: IRRELEVANT OR CONTEMPORARY?

Today, the world of local government has changed enormously from the post-war period and so too has the environment for traditional retail markets, so is this specialist service now irrelevant or is it sufficiently contemporary to deserve to be a part of - and be sustained by - local councils through the difficult decades to come?

Since the 70/80s when most food shopping was done in High Street shops and in markets the growth of car borne 'convenience' 24 hour/7 day a week shopping has decimated town centres as people favoured the convenience of edge of town/out of town supermarkets and major shopping centres. Free parking and undercover heated shopping, with massive ranges and choice of foodstuffs and consumer goods on offer - underpinned by significant marketing campaigns - have been far too attractive to resist. Moreover, internet home delivery retailing is increasing by leaps and bounds and the use of 'plastic' and credit is the norm. People can now shop anytime, anywhere and anyplace - the 'Martini Principle'.

Tesco now has 20 million shoppers every week, processes 6 million transactions a day/100 shopping baskets a second and tracks the shopping habits of 16 million people. 1 in 2 households have a Tesco club card. No wonder that traditional markets struggle to compete.

The markets industry - and others - instigated report after report on what could be done to sustain this traditional service in such a competitive environment. The Rhodes Report of 2004 found that there were over 1100 markets in the UK with 75% operated by the public sector. There are 46000 traders in the industry and as many again are employed by market traders. Market operators' turnover was £130 million and traders' turnover £1.15 billion. Rhodes found a falling occupancy and steady decline in general markets - but a growth in specialist markets. The numbers involved demand that this is a service well worth the required investment in political time and effort.

Professor Sophie Watson of the Faculty of Social Sciences, Open University in 2006 identified the importance of markets as sites of social interaction, for economic regeneration and for their cultural benefits for all community groups. She concluded that markets need a well designed site layout, connection with other retailing, effective management and investment by local authorities, features to attract visitors, opportunities to linger, good access and an active and engaged community of traders.

A 2008 survey undertaken by the National Market Traders Federation (35000 members) found that markets were 6% cheaper than supermarkets across a range of items, were 30% cheaper than supermarkets for fresh fruit and vegetables and that, collectively, the UK public could save £42 billion annually by shopping at markets - a saving equivalent to an additional three shopping baskets per person per year - £200 in Birmingham, £470 in London.

Core Cities measuring customer footfall showed year on year increases in indoor city centre markets

(e.g. Jan 08 - Jan 09 Manchester + 12.8%, Sheffield + 9.7%) - perhaps the result of the recession and the greater public need for value shopping.

The Cabinet Office 2008 report 'Food Matters – Towards a Strategy for the 21st Century' stated: 'Street markets can be an important source of affordable, good quality food including fruit and vegetables. They can be significantly cheaper than supermarkets and so can provide access to good quality food for those on low incomes'. Anne Coffey MP, Chair of the All Party Parliamentary Markets Group said 'Every family is looking for best value nowadays and this survey goes to show that those who spend the most advertising do not always offer the most bargains. Families who want good value should get along to their market to save money by buying really fresh food at the same time as helping the environment'.

In 2009 the Parliamentary Select Committee on Traditional Markets concluded that street, covered and farmers markets make a valuable contribution to the local diversity of shopping as well as to the viability of towns. Successful town centres need investment and a strong retail mix to attract shoppers and provide consumer choice. Markets are part of that mix. But markets need to adapt to changing conditions and challenges. And local authorities should consider the need for new markets and ensure their markets remain attractive and competitive by investing in their improvement."

PPS6 has been notionally supportive for some years and proposed PPS4 states: "Successful markets have economic and social benefits to communities – including fresh fruit and vegetables available to support healthy eating – whilst assisting the regeneration of town centres. Markets can play an important role in area regeneration, making a visible and powerful contribution and providing a focal point for economic and social interaction, attracting visitors to key centres and providing employment opportunities, catalyzing better outcome for people and places. Government wants markets to thrive to fulfill their potential."

The real question is: Are local market authorities listening and acting – and what can property professionals and their regeneration colleagues do about it?

Support for Policy Objectives

There is, evidently, political and academic notional support to ensure the sustainability of traditional retail markets. But that needs to be translated into actions and positive outcomes if there is to be a future for markets. Some local authorities treat this traditional service as being irrelevant; some senior managers having markets in their portfolio of services do regard them as a poisoned chalice. But local market authorities should be addressing the decline of this traditional service and promoting the benefits of the contemporary market in order to support their corporate policy objectives - which will echo those of the National Association of British Market Authorities:

- Regeneration/economy/employment
- Town centres vitality: PPS6/PPS4
- Food and Health – with Value for Money
- Culture and Tourism
- Community cohesion and a sense of Place
- Environment and the reduction of "food miles"

Taking just one worthwhile example from the list – that of generating self-employment from markets business start ups. Consider the common factor that binds the following together: Lord Harris of Carpetright, Dave Dodd - CEO of Poundland, Nick Shutts - CEO of Julian Graves, Bill Adderley of Dunelm, Tom Singh of New Look, Gutchait Chima of Bon Marche, Sir Ken Morrison's father, Mark Smith of Claire's Accessories, Dave Whelan of JJB, Joh Hargreaves of Matalan, Michael Marks of M&S...

An example to other Local Authorities



Kirklees
Metropolitan Council in West Yorkshire is a leading political and financial investor in its traditional markets. Ken Gillespie, Director of Regeneration, said at a recent Markets Conference: 'We can no longer rely on retail backed development regeneration - so we should make the best of what we have got and include our traditional markets in the renaissance of our towns. Buying from the small trader rather than from a supermarket checkout operator gives a dynamic experience and a market creates a place to mix ethnicities and an opportunity to start a business'. This practical and positive view is supported by Kirklees investing over £8 Million in its markets, one of which – Dewsbury - won the Market of the Year Competition.

THE GOOD, THE BAD AND THE UGLY

For those regeneration and property professionals who are in a position to influence matters, it may be useful to learn from case studies carried out by New Markets Solutions, example highlights being referred to below. It is the case that many professionals do not appreciate the potential of markets to

fulfill the town centre regeneration objectives listed above – because the standards that they see locally are low and non-inspirational.

For the purposes of ending this article in a positive mood, I'll reverse the order!

THE UGLY

Markets are about marketing and the Four Ps of marketing are extremely relevant to market trading success: Place (Location), Product (Specialty and Differentiation from normal shops), Price (VFM for goods/reasonable rental values for landlords and traders) and Promotion (Marketing/ Advertising). Promotion must include Presentation as so often inexperienced or inadequate traders do not appreciate that a well-presented stall is vital to success. Presentation of the market as a whole is equally important to local authority management as the overall market impression depends on quality, well-maintained infrastructure.



These sample photographs (taken at Grantham and Northampton in recent years) demonstrate how poor presentation can be. Please note that at these markets there are plenty of excellent traders as well!

THE BAD

A couple of examples where local authorities have got markets developments totally wrong:



St Helens



Wakefield

ST HELENS: A market hall with a magnificent main façade but, being badly located and with little passing trade, 40% of the stalls are empty. A fixed stall open market was placed on the precinct area fronting the main façade, but with no connection to the main retailing area of the town, the open market soon closed and the stalls were removed. Due to poor development planning, St Helens lost its magnificent Victorian Tontine Market and was provided with a totally inadequate, failed, replacement.

WAKEFIELD: The Council ran down this major market in the last fifteen years and then tasked an international architect to create a new iconic market building. Contrary to the high aspirational vision of the Council, what Wakefield citizens got was an unattractive black monstrosity in a tertiary location with a hopeless stall layout and without any market atmosphere or vitality. The badly designed food market hall closed within 6 months. The open market, reduced in size by 80% and covered by an immensely tall canopy that does not protect the market users from the weather, fails to attract thousands of people to the city as its predecessor used to do. Almost two years since the opening of this failed market, the local authority now has egg on its face.



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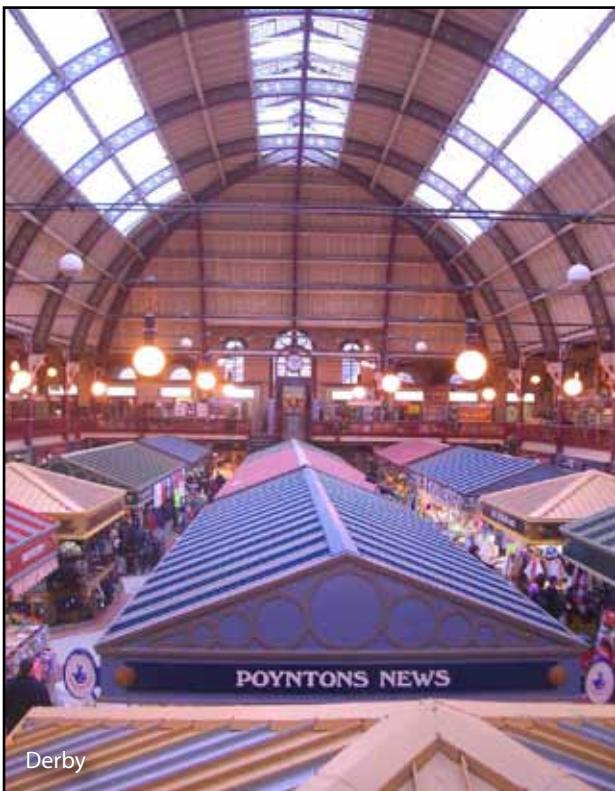
THE GOOD

A selection of markets that are leading examples of good market development practice:



Newark

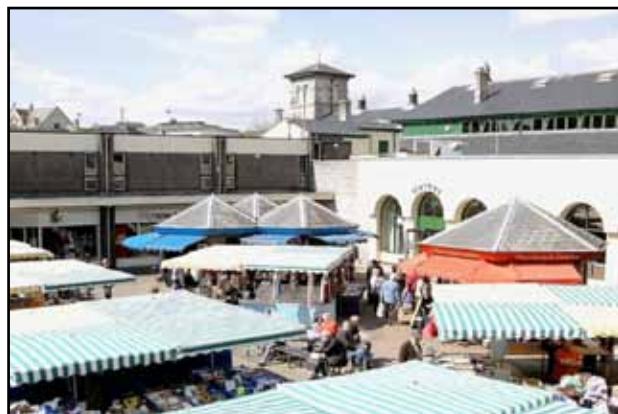
NEWARK: The Council replaced its old fashioned demountable stalls with modern pop ups. The market is highly attractive and the new stalls have ensured that the market is still adding vitality and great value to the historic central market place.



DERBY VICTORIAN MARKET: The market hall was structurally refurbished with considerable capital outlay from the Council. It provides traditional market shopping within a well-designed modern layout. Attractive stalls retain the culture of the city and the hall is maintained for its core purpose.



LEICESTER: A centrally placed open market with excellent weather cover, well presented with new access points and a high quality Italian cafeteria. A large fruit and vegetable market supports the ethnic population in the city. However, its labyrinthine market hall is showing its age at a time when the Highcross Shopping Centre has doubled in size and quality.



NEWTON ABBOT: At a time when the current recession has created a significant number of empty shops in town centres, only 3% of this town's shops are vacant, considered to be due to the market being the key attraction together with events and street performers.



NUNEATON: The “family friendly town” of Nuneaton is well supported by a Town Centre/Markets Management team that has facilitated attractive trading facilities and street entertainment. The market street scene has the differentiation and quality that brings people from major conurbations such as Leicester, Coventry and Birmingham.

THE FUTURE FOR MARKETS

Sustainability is now the issue for markets following years of Councils using them as cash cows to support other services and not appreciating what this specialism can do to support regeneration objectives.

What works? NOT just general commodity markets. NOT out of date infrastructure.

What works is: Providing quality infrastructure – in the right location, the right platform to trade, quality presentation by all the key players, developing food specialisms, farmers markets and event activity, professional design/layout, systems and policies - and investment in professional quality market management-led business planning and promotional marketing. Outsourcing of markets to Community Development Trusts or competent Market Trader Cooperatives may be other means of realizing successful markets in the future.

New Markets Solutions summarises its infrastructure advice as:

LOCATION, DIFFERENTIATION, PRESENTATION – OR ANNIHILATION

The role of the Local Authority Chief Estates Surveyor, Property and Regeneration Manager

It is not to just ‘look on’, but to be proactive, take responsibility, research, understand and take action. Don’t assume that your own retail, specialist or administrative knowledge is adequate to deal with this acutely-specialist, very different service. Avoid the clone High Street mentality (over which Councils have little control). Realise the economic, social, cultural and regenerative benefits of thriving differentiated and quality markets (over which you have more control) to increase the vitality of your towns and cities.

If this is done then there still is a big future in ‘Public Markets for the Public Good’, but without intervention many traditional markets across the country will become simply a part of our cultural history.



I will leave you on a high note: a Council’s aspirational vision made real: the Southampton “Below Bar” market that transformed a poor pedestrianised highway linking two shopping centres. A major markets success and a significant regenerational asset for the city.

Chris New

UNLOCKING FUTURE FINANCE

Tim Johnson and Caroline Baker

Tim Johnson (London) and Caroline Baker (Manchester) are Directors in DTZ’s development consulting team. They are working with several clients to access funding to support regeneration schemes in town centres and industrial areas. The UK property market may be showing signs of recovery but it’s too early to consider ourselves home and dry they explain.

Key Examples of Public Sector Regeneration Funding Available in England, 2009

Type of funding	Sources
Grant	<ul style="list-style-type: none">• Local Authority• Regional Development Agency• Homes and Communities Agency
Business Rates	<ul style="list-style-type: none">• Business Improvement District• Local Authority Business Growth Initiative• Tax Increment Financing/Accelerated Development Zones
Borrowing	<ul style="list-style-type: none">• Prudential Borrowing/Public Works Loan Board• Bonds
Planning Gain	<ul style="list-style-type: none">• Section 106• Community Infrastructure Levy
European Funding	<ul style="list-style-type: none">• European Regional Development Funding (ERDF), including JESSICA

Source: DTZ



In these tricky post-recession times many development schemes are struggling to attract enough revenue to cover their project costs and the need for solid funding from the public sector has never been greater.

The good news is that established and potential funding is available: much of it has been around for some time and other options are still evolving. Two of the newest models, Joint European Support for Sustainable Investment in City Areas (JESSICA) and the Accelerated Development Zone (ADZ)* offer particularly exciting potential for raising funds for developments that are stuck for capital (table shows options for funding in England).

JESSICA neatly brings the private and public sectors together, mixing European funding with other sources of investment to create urban development funds that give upfront finance to projects that will bring positive returns in the longer term. This 'higher value' mixed funding opens up the possibility of funds being recycled for future investment. It's hoped that the JESSICA model will combine European Regional Development Fund (ERDF) resources with private finance/ institutional investment from bodies such as the European Investment Bank (EIB) and Central European Bank (CEB).

The ADZ/Tax Increment Financing (TIF) model is simple: it promotes public sector borrowing, secured against any potential tax increment accrued through new development in an identified zone. The Department of Communities and Local Government (DCLG) pilot projects indicate that local authorities can hold on to the increment in National Non-Domestic Rates (NNDR) revenues to service any finance raised: in simple terms, a new site with an extra 500,000 sq ft of employment floorspace will generate significant business rates.

As a further encouragement local authorities can use forecasts of projected rating revenues (over a given period) to secure

debt to fund infrastructure or other costs to service the site and unlock development.

In a nutshell

Creative public and private sector partnerships are key to unlocking the value of sites and support development in a challenging investment climate where public funding is almost certain to go down. There's no magical secret to success but good cross-sector communication and skill sharing are essential, as is the ability to identify the most viable and strategically important areas to invest in to maximise benefits in terms of outputs and policy outcomes.

When you're looking for project funding, watertight delivery strategies, a detailed explanation of scheme benefits and a real confidence about how objectives will be met are critical.

*ADZ is based on the Tax Increment Funding (TIF) approach from the USA

Tim Johnson and Caroline Baker
DTZ

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READY TO CUT THE CARBON?

Paul Sutcliffe

Paul is DTZ's Sustainability Manager and leads a team of sustainability professionals who provide a comprehensive range of sustainability services to clients.

As moves towards a lower carbon economy gather pace, organisations must put energy management at the heart of their business plans. Paul Sutcliffe highlights the challenges faced by local authorities preparing to take part in the UK's first mandatory carbon trading scheme.

The Carbon Reduction Commitment (CRC) Energy Efficiency Scheme, which begins on 1 April 2010 for qualifying organisations, is a compulsory climate change and energy saving scheme aimed at improving energy efficiency and reducing CO₂ emissions.

Participants will have to predict their annual energy use and buy allowances equivalent to their emissions; they will submit performance data which will determine their position on an annual league table; the cost of allowances will be refunded ('recycled') subject to a bonus or penalty determined by their league table position.

While the scheme's scope and complexity may seem daunting, organisations can ease the transition towards compliance and benefit, both financially and environmentally, by careful planning.

CRC in summary Who qualifies?

- Local authorities that consumed over 6 million kWh electricity through mandatory half hourly metered supplies in 2008 must participate fully
- Energy consumption by state schools is included in the calculation
- Local authorities that consumed less than 6 million Kwh don't need to participate fully but must provide information on electricity consumed over the period
- Local authorities must confirm their obligation status and register online between April and September 2010.

Compliance

Qualifying authorities must monitor energy use during the first full compliance year, from 1 April 2010 to 31 March 2011.



They must then buy carbon allowances in April 2011 to cover emissions for 2011 to 2012, at £12 per tonne.

Allowances are bought annually from 2012 onwards.

In July 2011, participants report on carbon performance. The scheme is not designed to bring in revenue for the Government so the money raised from allowances is repaid to participants in October each year.

Performance will be measured by requiring participants to report on their activity against a range of 'metrics'. It will be published in a league table, the position of which will determine a participant's recycling payment bonus or penalty – which will increase in severity over the next five years. In the first year early action metrics (see below) will also dictate repayments.

Fixed prices for carbon credits will end in 2013 where a second capped phase will begin, limiting the availability of credits.

Early action metrics

Organisations that demonstrate performance improvement will achieve higher rebate payments.

In year 1 (2011) rebates will be based on:

- Achievement of a recognised management system approach such as the Carbon Trust Standard (50%)
- Installation of voluntary SMART meters (50%).

Therefore, clients achieving the Carbon Trust Standard across their entire portfolio and installing SMART meters at all locations will achieve the maximum rebate. To achieve the Carbon Trust

Standard, companies must have three years' worth of carbon data, be able to demonstrate carbon savings and implement management system controls. From year 2 (2012), energy reduction will be used to position participants within a league table.

Performance will be based on:

- Absolute carbon reductions (45% of rebate)
- Relative carbon reduction (15% of rebate)
- Installation of SMART meters (20% of rebate)
- Achievement of the Carbon Trust Standard (20% of rebate).

Quick wins	Medium term operations	Longer term projects
<p>Improved staff energy Awareness</p> <p>Turning off equipment when not in use</p> <p>Introduction of energy teams with responsibility to identify quick wins</p> <p>Installing SMART meters to introduce monitoring and targeting improvement programmes</p> <p>Review of HVAC controls to ensure efficient use.</p>	<p>Boiler optimisation</p> <p>Improving lighting systems</p> <p>Installing energy management controls to building management systems.</p>	<p>Incorporating energy saving plans into building refurbishment schemes</p> <p>Introducing on-site Renewable</p> <p>Introducing alternative cooling strategies for buildings to replace air conditioning.</p>

Criticism

While some criticism from the real estate world has been addressed, some problems remain. Cashflow issues will arise from having to buy allowances in April and not receiving repayments until October – an organisation with a £7.5m energy bill will need to spend around £600,000 on carbon credits per year. And responsibility for carbon credits remains unclear from a landlord tenant perspective and further clarification of an industry standard is required.

However, the scheme will force participating organisations to improve the accuracy of carbon emissions data collection during operation, acquisition and sale of buildings, as well as encouraging them to work to reduce emissions.

Best approaches

As well as meeting basic compliance requirements, which involves collection of data and reporting, councils should plan to reduce emissions through a carbon management strategy.

Successful organisations will develop co-ordinated plans designed to deliver improvements. These should contain:

- Broad objectives
- Targets
- Timescales
- Responsibilities
- Methods for monitoring and evaluations.

Management systems to help businesses improve have been developed and can be externally validated through recognised benchmarks such as the UK's Carbon Trust Standard or the new British Standard for Energy Management, BS 16001 which will be used to position CRC participants in the early years of the scheme.

Specific actions will also achieve improvement – the table gives examples of initiatives that could bring about energy savings.

The future

New research conducted by the Carbon Trust shows that UK organisations could save over £2.5billion a year through carbon reduction measures.*

The days are long gone when energy was just another overhead: in today's climate, it's business-critical. Councils which incorporate carbon analysis into decision making and planning and act to reduce emissions now will enhance their environmental performance and reduce their cost base for years to come.

* **United Kingdom Carbon Cost Map** – www.carbontrust.co.uk/costmap

Paul Sutcliffe

RESTRUCTURING OPERATIONAL PORTFOLIOS

Peter Jones

Peter is Director of Property at Birmingham City Council

Many authorities, including Birmingham City Council, are restructuring their operational property portfolios, driven by the need to deliver savings. In our case we have also used the restructuring as a catalyst for culture change and as an opportunity to provide better working environments for staff, which support agile working patterns.

The model which we, and others, are applying is based on;



- Reducing the number of buildings.
- Reducing the average floor area per workstation and per employee.
- Encouraging the sharing of space.
- Better working environments including different types of meeting space, break out spaces, hot desks, cafes etc.
- High specification ICT – “follow me” phones and “walk up” network access.

Birmingham is currently part way through the restructuring of our back office estate. We have delivered two 40,000 ft² buildings; we have a 200,000 ft² refurbishment scheme on site and part completed and we have a 200,000 ft² building in construction. The building environments are being delivered to consistent branding and standards across the new portfolio.

We have generated a framework document “Policies and Standards in Office Environments” which we have used to specify Occupiers Requirements to our consultants and contractors. This was influenced by the research into working environments, which we carried out, seeking good practice examples in the public and private sectors, and by consultation with colleagues as potential occupiers of the buildings. The framework was also heavily influenced by the British Council for Offices (BCO) best practice in the specification for offices.

The BCO revised the guide in 2009 and for occupiers the guide has become even more essential as a bible. Birmingham has also benefited from membership of the BCO and in particular the regular reference site visits which are a feature of the regional programme.

As an occupier, the key issues for Birmingham in developing the back office restructuring project are:-

- Functionality of the building for business needs – does the building enable us to deliver the range of services to our citizens in the most efficient manner?
- Productivity – does it help our staff to be more efficient?
- Facilitating agile working – does the working environment support flexible solutions for managers and staff?
- Good working environment for staff – does it provide the range of facilities that the staff will expect and can this be maintained?
- A demonstration of change – delivering a message about change within the organisation and our organisational values.
- A demonstration of transparency – both internally between managers and staff and externally to the public at large.
- Sustainability – is the building sustainable in its own right and does it enable the Council to show leadership in this area?



- Short and long term value for money – the solutions need to provide immediate savings, but also evidence value for money over the long term.
- Taking a corporate view – the new portfolio is corporately owned and managed and space is allocated corporately against agreed priorities.

We have selected locations for our back office buildings that are well served by public transport. We have a mixture of large floorplate buildings for the two processing centres on the edge of the city centre and more traditional narrow floorplate buildings elsewhere. We are aiming at a workplace density of 8.5m²/workstation and 30% agility (seven desks for ten people) with one meeting room seat for five people. This is based on non-hierarchical allocation of space, with no cellular offices and layouts designed to encourage collaborative working.

We are achieving value for money through close control of the building specification, working in partnership with our contractors, taking their advice on buildability. We have used durable, low maintenance materials, finishes and equipment. The project is taking advantage of good prices currently available for construction work and also the low cost financial solution available through prudential borrowing. We will own the freehold of all the buildings in the portfolio.

The sustainability agenda is addressed by aiming the new buildings at a BREEAM Excellent Standard and the refurbished buildings at a BREEAM Very Good. We anticipate no lower than Grade B energy certificates. All the buildings have recycling facilities. We have incorporated low energy solutions, using the thermal mass of the building and typically feature exposed soffits, natural ventilators, chilled beams and solar panels and in some cases buildings are connected into combined heat and power schemes.

The buildings are centrally managed, by the Corporate Landlord team within Birmingham Property Services. Building managers provide single point building management and are the first response for occupiers. The Corporate Landlord will maintain space and service standards in line with an agreed protocol.

All this is not to say that Birmingham has got it perfect, far from it. We are happy to share our experience with other public sector colleagues and also to learn from them. But if you do nothing else, get a copy of the BCO Guide to Specification 2009 and have a look; or better still if you can find a few quid in your budgets join your local BCO chapter and get on the inside track. It will pay dividends for your own portfolio restructuring project.

Peter Jones

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ST ANN'S ALLOTMENT GARDENS NOTTINGHAM

Richard Allen

One of the largest 'Quirk' transfers to the community is proving to be a great success

Introduction

'Making Assets Work: the Quirk Review' lead by Barry Quirk, Lewisham Council Chief Executive Officer, concluded that community organisations can realise tremendous potential by taking on the management and ownership of community assets. The following case study by Richard Allen, former Head of Estates, Nottingham City Council, looks at one of the largest transfers of land that has taken place to the community since the report was published.

St Anns Allotment Gardens, Nottingham

The grant of a medium term lease by Nottingham City Council to the local community, enabling a £2 million Heritage Lottery Fund award, has secured the future of a very special and unique allotment site - the country's largest and oldest surviving area of Victorian detached town gardens, recently listed Grade 2 by English Heritage. And with the increasing interest in food growing and allotments, the timing of this project could not be more appropriate.

The transfer of ownership to the community of the 75 acre St Anns Allotments site in Nottingham has reversed decades of neglect, rescuing the largely intact layout and preserving the remaining historic features, which include one of the few Grade 2 listed garden sheds, plus several Victorian summerhouses and greenhouses.

It has also relieved the Council of an undertaking where the annual revenue income was much outweighed by the management and maintenance costs.

The recent £2 million HLF grant was the second award made on the site. The first in 2002 for £22,000 funded a Conservation Management Plan which offered a full and detailed understanding of the site and its historical value. It was instrumental in developing the proposals for the full scale restoration which secured the major grant and gave the Council the confidence to transfer the site.

The allotments were originally created as detached town gardens used as retreats by wealthy families before much of Nottingham was built. Times have changed and the allotments now sit within one of the most deprived areas of Nottingham representing a rare large green space in an area of high density inner city housing with over 40,000 local inhabitants.

In recent years the allotments have been severely blighted by vandalism and fly tipping. Many of the historical structures have been badly damaged. Despite the troubles the gardens have always been a well used and much loved asset to the local area. Of the 677 plots, at the time the HLF grant was obtained, around 500 were actively used and several community groups used the site as their base to run frequent events on the site.

The project to restore the site has been led by a consortium of social enterprises dedicated to securing the full use of the site and lead by the Renewal Trust. The Renewal Trust is a Community Development Trust formed in 1997 as part of the Nottingham City Challenge exit strategy. The Trust's aim is to bring about improvements in the quality of life of the inner city communities of St Anns and Sneinton by supporting and promoting activities to renew the area socially, economically, environmentally and in 'spirit'.

The Trust is the accountable body for the HLF grant. It has the lease of the site from the City Council. Over a planned 5 year improvement programme period from 2008 to 2013, including the HLF grant, a total of £4.5 million will be spent on capital improvements and running costs. Additional funding is coming from The East Midlands Development Agency, Government Office for the East Midlands and City Council.

The allotments are managed on behalf of the Trust by St Anns Allotments Association Ltd (STAA) formed in 1998 by a group of allotment holders from the allotments to protect and improve the historic gardens. Its main roles are the letting of gardens, working with organisations to improve and protect their heritage and provide opportunities for all members of the community to benefit from the site. STAA are responsible for achieving the training and jobs required by the various funders as a condition of their support. For instance, the improvement works are providing opportunities for local people to learn new skills to help them gain employment e.g. building skills for the construction industry.

STAA also runs a very popular education project on the Community Orchard aimed at local schools and nursery groups.

The HLF monies are being used mainly to improve boundary fences, repair and renovate roads, retaining walls and historical structures, clear overgrown pathways and unused sites to ensure the gardens are safe and free from anti-social behavior, encouraging the residents to use and enjoy the gardens to their full potential

During the last eighteen months STAA has drilled down and located an underground source of water for the site and over 9000 meters of water pipe have been laid to supply each plot. Over 8000 metres of roads have been resurfaced and 51 Kilometers of hedges have been trimmed and are being improved with fresh replanting. Over 100 plots have received new gates. By the end of the 5 year period 60 plots, for which there is a waiting list, will have been restored to a condition suitable for gardening. 60 plots will be left as they are as wildlife areas to be managed by volunteers. These are the less

attractive plots where the slope or ground conditions make gardening difficult. This is also being done as the allotments are a Site of Importance for Nature Conservation (SINC)

An Allotment Centre is under construction which will be a focal point for visitors to the site and provide a meeting place for gardeners. STAA are also preparing show plots that help tell the story of allotment gardening from Victorian times to the present day. They will enable visitors to see how rewarding gardening can be as a hobby and source of fresh food. Regular open days and organised activates will ensure that as many people as possible visit the allotments.

Two large sites are managed by Ecoworks, a local community organization which promotes the interests and personal development of people who are socially disadvantaged by delivering activities connected with the conservation, restoration and enhancement of the environment.

Occupying an area covering 17 plots, The Ecoworks Community Garden is the oldest community garden in the county and was set up 17 years ago. It is a relaxing space for volunteers to work together to garden using the principles of permaculture – an approach to living that supports the creation of sustainable, agriculturally productive, non-polluting and healthy settlements. It has its own show hut and a straw bale constructed energy efficient building used for workshops. (photo 1).

FRESH Market Gardens and Training, covering 10 plots, is a working garden set up in 2004 with a teaching classroom where Ecoworks produce 'for healthy eating' is grown and gardening training takes place (photo 2). Produce from the gardens is sold to local cafes all year round and locally at subsidised prices to those in need.

The Property Agreement

The negotiations to transfer the allotments to the Renewal Trust were commenced in 2007, prior to my retirement and conclude soon after, because the proposals met the Council's criteria for asset transfer. They supported a number of Council corporate plan objectives: the Renewal Trust had sound long term management and governance arrangements; there was a robust business case; certainty of funding; and an agreed time scale under which the restoration of the allotments would be undertaken.

But as is often the case with such asset transfers, the negotiations were conducted over many months. Responsibility for future major capital costs was discussed at some length, in particular the responsibility for a number of significant existing brick retaining walls. Much of the discussions centered around the fact that the Renewal Trust was securing a significant grant, but that initially it was difficult to understand where it was to be invested.

Eventually it was agreed to grant the Renewal Trust a 30year lease (sufficiently long enough to secure the HLF grant) at a peppercorn rent for use only as allotment gardens or associated uses. The lease is full repairing and insuring, but limited to specific cyclical repairs and only major repairs that can be funded from the sinking fund the Trust is required to build up over the term of the lease. As part of the deal the Council transferred its revenue budget to the Trust and a management agreement, in addition to the lease,

was entered into clarifying the future management and maintenance regime.

If the Renewal Trust, as lessee, is unable to meet its obligations under the lease or management agreement the Council can determine the lease by giving not less than six months notice. An encouraging start demonstrating the wide community commitment to the allotment project should make such an event unlikely.

Richard Allen

TENANTED NON-RESIDENTIAL PROPERTY

Richard Allen

This is a report by the Commercial Asset Management Working Group chaired by Richard on portfolio management made easy

Last year the RICS launched a number of leaflets on local authority asset management. Leaflet No 6 covered 'Tenanted Non-Residential Property' (TNRP), assets let to third parties (other than housing stock). In accordance with this leaflet, which focused on the key priorities in the management of TNRP in the local government arena, the ACES Commercial Asset Management Working Group has developed a 'Model TNRP Strategy and Review Action Plan'.

The RICS leaflet states that if there is not clarity about why TNRP is to be retained, it should be disposed of, on the best terms that may reasonably be obtained. If measures of performance are not acceptable, the TNRP estate should be driven harder, where possible, or it should be sold and the capital generated redeployed.

In order that the 'Model' can be adopted/adapted/expanded for use by all ACES members it assumes a single tier authority with an extensive TNRP portfolio where no detailed or systematic review has yet commenced. It proposes a four stage review process. Stages 1 and 2 are a quick and easy way

of addressing the Audit Commission 'Room for Improvement' report which says that authorities should 'review property holdings and reduce them where possible by identifying and disposing of surplus and under-utilised property'

The model excludes markets, allotments, small holdings and county farms (see Winter 2008/9 Terrier for Sir Don Curry's report on the importance of county farms to the rural economy) but includes vacant undeveloped land, as all such land has the potential to be let to a third party.

With regards to assets that contribute to socio-economic benefits the RICS leaflet says that 'measurement of performance becomes more challenging, as we are dealing much more with subjective judgments and because we need to ensure that the socio-economic purposes are directly linked to corporate goals and objectives'. The 'model' suggests a simple three tier ranking approach to assess the socio-economic benefits – high, medium and low. Authorities, particularly with a small TNRP portfolio, may wish to expand the approach to a more in depth analysis including more levels or a break down into measuring service, financial and value for money as identified in the Autumn 2007 Terrier TNRP article, page 30.

Assumptions have also been made with regards to how TNRP strategy is likely to support the widest range of authorities, but it will need to be adapted to relate to each individual authority's specific corporate objectives, circumstances and priorities. This applies particularly where a TNRP portfolio is held under a 'charitable trust' which will have its own specific objectives.

The strategy should also clarify the political role and thus minimise political micro management by elected members.

MODEL TNRP STRATEGY AND REVIEW

1. ROLE OF THE TNRP (NON – OPERATIONAL COMMERCIAL INVESTMENT) PORTFOLIO TO THE AUTHORITY

- Financial investment by producing, income used to offset the revenue costs of direct and indirect services thus reducing the impact on the Council tax; and capital receipts to support the capital programme.
- Socio-economic by supporting the wider corporate objectives of the authority through strategic influence, control and occupational use.

2. LEADERSHIP

(Strong corporate leadership, management and accountability are needed to support and achieve better performance. As outlined in the RICS leaflet, explain in this section how this operates in the authority with regards to the roles of the elected members, chief executive, senior managers, head of property and their staff).

3. BRIEF DESCRIPTION OF THE PORTFOLIO

The extensive TNRP portfolio has been accumulated over many years through enclosure awards, gifts, compulsory purchase orders, both planned and opportunistic acquisitions to support future growth/regeneration, and economic development schemes to support and provide accommodation for small to medium size enterprises.

It now includes freehold reversionary interests producing ground rents from major retail, office and industrial developments, occupational rents from retail, office, industrial, warehousing and residential properties, a large portfolio of business start up units/refurbishments, Housing Revenue shops on council estates, non county farms and numerous miscellaneous properties, many let for community uses such as social, recreational and cultural. A more detailed breakdown showing categories of lettings, numbers, gross rents, market value and general management policies is given in 8.

4. PLANNING, REGENERATION, HOUSING, COMMUNITY SERVICES POLICY CONTEXT

(Explain in this section after discussing and agreeing with appropriate Planning, Regeneration, Economic Development, Housing, Leisure and Community Services officers. Identify sites/specific properties where there will be a presumption to retain for strategic socio-economic reasons.)

5. STRATEGY AIM AND VISION

To move from the historic legacy to a more balanced sustainable portfolio to meet the future financial and corporate objective needs of the authority (include proposed time scale).

6. STRATEGIC OBJECTIVES

To:-

- optimise the financial return, both revenue and capital growth.
- support the wider corporate objectives, in particular social and physical regeneration, economic development and safeguarding strategic influence, control and future development opportunities.

7. MANAGEMENT POLICY

Financial

The portfolio will be managed in accordance with the Code for Leasing Business Premises England and Wales 2007, including environmental good practice (See Summer 2009 Terrier page 13 where ACES Council endorses this code and Autumn 2009 Terrier page 19 regarding the Environmental Good Practice code) to:-

- primarily generate income, but performance assessed in both income and capital growth terms.
- charge full market rents, unless a specific policy exists to determine otherwise.
- carry out timely lease renewals and rent reviews.
- maximise occupancy through appropriate marketing.
- minimise risk by ensuring tenants have adequate financial standing to meet their obligations.
- minimise rent arrears through timely intervention.
- undertake better planned maintenance based on condition surveys and ensure tenants comply with their obligations.
- regularly consult with tenants regarding user satisfaction.

- ensure all properties have up to date asbestos and legionella surveys, electricity and gas safety and energy performance certificates.
- improve performance through securing grant assistance, using property as match funding and working in partnership with the private/voluntary sector.
- Reduce property outgoings and management costs, particularly through the more effective and efficient use of resources, review of procedures and use of technology.
- measure and improve the performance through the use of appropriate 'performance indicators'.

Socio-economic to support corporate objectives

To

- use the portfolio 'strategically' to safeguard, control and promote the use of land for regeneration, economic, housing development and safeguard existing historic buildings and uses.
- based on an approved policy, support economic development including, the creation and protection of employment uses, and community organizations through the 'occupational use' of property.
- measure and monitor the 'socio-economic benefits' through a simple and clear ranking system.

Making better use of resources

(Authorities that have a large number of management intensive assets i.e. small industrial units, council estate shops, may wish to include this specific objective)

To reduce management time to free up resources to focus on strategic asset management, particularly with regards to rationalising the operational estate.

8. PROPERTY ASSET CATEGORIES AND GENERAL MANAGEMENT POLICIES

1. GROUND LEASES – INDUSTRIAL

A low rental income (some nominal) is received with infrequent rent reviews and potential for income growth limited. Leases are usually held by owner occupiers who are more likely to wish to invest in the assets. However, funders are reluctant to use leases as collateral for business loans, particularly where unexpired term less than 40 years. Where it is no longer considered there is a need to control land use and retention is a barrier to economic development and business expansion, as high levels of capital receipts can be realized relative to income lost, will dispose of freehold. If control of use is still required will restructure the lease to generate a capital premium and peppercorn rent to allow investment by the lessee.

2. GROUND LEASES – RETAIL

Generally comprise shopping parades where head lessees sublet the individual shops. A number of parades have fallen into disrepair as a result of lack of investment by the head lessees. If freehold sold to the head lessee there is a risk of further deterioration and potentially the need to repurchase as part of a redevelopment scheme. Will undertake a programme



of review to enforce repairs and lever physical improvements to benefit community.

3. GROUND LEASE – MAJOR SHOPPING CENTRE

The major shopping centre was developed in the 70's and is held on a long ground lease from the authority. It is now dated and in need of redevelopment. Propose to promote a redevelopment of the centre to act as a catalyst for a major regeneration of the town/city centre and to improve the financial performance of the authority's largest single investment. Support by the use of planning CPO powers and the appropriate surrender and renewal of the lease. Major shopping centre development is a specialist area so propose that the project/negotiations be supported by the appointment of appropriate specialist property consultants.

4. GROUND LEASES – OTHER

Let to occupiers generally with community based relevance i.e. doctors, sports clubs, which indirectly support corporate objectives. Leases be retained but be subject to review every 3 years

5. OCCUPATIONAL INDUSTRIAL LEASES

Mainly industrial estates or refurbished multi occupied factories let to small to medium sized enterprises (Starter units), developed since the 80s to support economic development and the protection and creation of employment uses, but now purely a commercial operation generating income. Some of these assets are of an age where repair and maintenance is needed to keep them in a satisfactory condition. They also require an increasing amount of internal management. Industrial estates that yield a poor investment return and where deemed not strategic or required to support economic development, will offer the freehold for disposal, initially to occupiers, otherwise as investments.

6. OCCUPATIONAL LEASES – RETAIL HOUSING REVENUE ACCOUNT

HRA shops, both individually and in parades, either let or vacant awaiting letting. Review with housing officers, and if vacant shops considered not needed to support the immediate residential community, will offer freehold for disposal, either on open market or to a Registered Social Landlords for conversion to residential, subject to planning for a change of use. Groups of shops with a shared infrastructure will be sold as one, to avoid mixed management and tenure.

7. TENANTED NON HOUSING REVENURE ACCOUNT HOUSES

Will offer freehold for disposal when they become vacant.

8. PROPERTIES LET TO REGISTERED SOCIAL LANDLORDS UNDER BUSINESS TENANCIES

Presumption to retain but review periodically with housing officers.

9. OCCUPATIONAL LEASES

Mainly miscellaneous leases acquired through gifts or abortive Compulsory Purchase Order schemes. A number are of some strategic importance for redevelopment schemes but the majority are held now purely for financial investment. Will consider disposal if financial return is poor.

10. LEASES – OTHER LAND AND PROPERTY

Telephone masts situated on high rise blocks or land in high locations, advertisement hoardings plus a range of minor interests including rights of way and opportunities arising from ownership such as income from mineral extraction and over sailing rights. Will identify opportunities for rationalization and additional income generation.

11. LEASES – PUBLIC UTILITIES

Sites leased for electricity sub and gas governor stations which generally produce a low level of income. Will consider for freehold disposal as a package unless such action may be prejudicial, for instance in terms of potential redevelopment (See Winter 2009/10 article).

12. LEASES TO VOLUNTARY BODIES

A range of commercial and residential premises used for leasing to voluntary sector. Presumption to retain ownership to support voluntary sector but will undertake a review to assess condition, suitability and sufficiency, identify opportunities to lever in external/grant investment and to what extent each voluntary body contributes to the Council's objectives (a policy on community ownership and management should be in place – see Strategy section 12 Community Asset Transfer).

13. SURPLUS LAND AND PREMISES

Surplus former operational assets transferred to TNRP for management and awaiting disposal.

14. LAND AND PREMISES PENDING DISPOSAL

Already identified as suitable for redevelopment and for disposal in capital receipts programme.

15. PROPERTY OUTSIDE AUTHORITY ADMINISTRATIVE AREA

Review and will propose disposal of freehold if do not support corporate objectives.

16. HISTORIC LISTED BUILDINGS

Presumption that retain unless expenditure is required and a disposal will achieve a transfer to a responsible owner/body that can provide evidence of funding and ability to undertake works, manage, use and maintain the building to a standard appropriate to its listed status.

17. OPERATIONAL ASSETS – OCCUPATIONAL LEASES

Commercial leases of parts of operational assets such as kiosks in parks, leisure centres, on public highways and arches under highway bridges. Presumption to retain and actively manage to generate revenue to support the operational service but review role periodically with the operational service.

NUNBER OF PROPERTIES

GROSS RENT RECEIVABLE £.....

APROX NET RENT £.....

MARKET VALUE £.....

(Also show after each category the number of assets and total annual rent)

9. CONDITION SURVEYS

Surveys of the TNRP are undertaken on a (provide period but no more than 5 yearly) rolling programme to identify outstanding repairs which are the responsibility of both the authority and tenant.

10. DISPOSAL POLICY

Assets that do not meet the performance test and that are identified for disposal will be disposed of in accordance with the authority's disposal strategy. (See Summer 2009 Terrier, page 42 for ACES guidelines for a local authority property assets disposal strategy). Consideration will also be given to the sale of properties that are on the performance margin and where the capital receipts generated could be better deployed.

Where it is proposed to break up a number of poorly performing assets i.e. disposal of freehold reversions in an industrial estate, retain the freehold in a property if it has the potential to become the key to a redevelopment in the medium term future.

Disposals will also be discussed with the Finance Officer and a programme agreed as appropriate to support the authority's revenue budget and capital programme needs.

11. ACQUISITIONS POLICY

Appropriate properties will be acquired periodically to improve the performance of the portfolio (i.e. adjacent to existing ownership or leasehold interest where authority own freehold reversionary interest and in both cases will benefit from the marriage value, property to support regeneration) and to achieve a more balanced portfolio, in both financial and

socio-economic terms. Funding will be from capital receipts from assets sold out of the TNRP portfolio or prudential borrowing if the annual rents from the property to be acquired exceed the annual financing cost (i.e. occupational lease where authority own freehold).

12. COMMUNITY ASSET TRANSFER

A separate strategy will be developed for the transfer of assets to the community, a charity, or another public body, but briefly a transfer will only take place if it is supported by a robust business case, the transferee has sound long term management and governance arrangements, the use for the property meets the authority's objectives and community strategy, there is an agreed time-scale within which a disposal is expected to be completed and certainty of funding.(see Spring 2008 Terrier, page 23, for model lease for community centres)

13. BENEFITS

- The benefits of this strategy and following review action plan will be that:-
- early capital receipts are achieved with minimum impact to income.
- review will be flexible and allows time to be developed to reflect views of stakeholders and accommodate any political/economic changes during the review period.
- ultimately better assets are retained as investments.
- reasons for holding assets are identified by specific purposes.
- socio-economic outputs are fully identified, considered and linked to corporate objectives.
- key priorities for improved management, use of resources and performance are identified and can be planned.
- future targets and timescales can be set.

ACTION PLAN FOR A REVIEW TO IMPROVE PERFORMANCE AND DEMONSTRATE VALUE FOR MONEY IN CONTINUING TO HOLD THE TNRP PORTFOLIO – THE PERFORMANCE TEST

(Authorities will need to determine their own timescale for the review based on their own particular circumstances)

Undertake the review in four stages as follows:-

STAGE 1 – Identify very quick wins

A 'Quick and Dirty' exercise to identify obvious assets for disposal and further review by allocating them to the categories set out in section 8 of the TNRP strategy, and applying the general management policies set out therein.

STAGE 2 – Identify quick wins

Using the current asset book valuations, determine the yields (net income as % of asset valuation) of all assets in the portfolio.

Agree a target rate of return with the Chief Finance Officer. Any assets not meeting this target consider for disposal.

After both stages 1 and 2, subject the assets identified for disposal to a further test as follows:-

- Does the legal tenure and/or statutory constraints preclude disposal?
- Would a disposal require the repayment of grant monies?
- Is it a strategic property to be held to control and/or facilitate future development opportunities?
- Does the property contribute to corporate objectives through socio-economic benefits i.e. support regeneration, economic development including the creation and protection of employment use, historic, community or leisure use?
- Could the property meet identified future operational or with partners co-locational requirements?
- Are there any redevelopment or other income or capital generating opportunities i.e. redevelopment site, special purchaser, marriage value, ransom strip, over sailing rights, release of covenants or rights of light.
- Could the financial performance be significantly increased through minor investment or better management?
- Are there any other opportunities?

If answer no to all tests – **Dispose**. Other wise further analyse the benefits of retention and actively manage. But also ask the question: can the capital achieved from the disposal be more effectively used than owning the asset

Stages 1 and 2 are likely to identify for disposal low income ground leases, lease regars to support lessees refurbishment schemes, vacant difficult to let properties perhaps requiring capital expenditure or with development potential, and non strategic properties such as non county farms.

After completion of possibly stage 1, but certainly stage 2, produce an estimate of the likely receipts and determine a disposals programme.

Following completion of these stages which are simple and cost effective, as they use data already available or easily collectable and provide a clear decision making process to identify assets for sale - but with safeguards - progress to:-

STAGE 3 – Analyse in more detail why properties are held

Using the data from review stages 1 and 2 identify pure 'investment' and 'socio-economic' properties that also support the wider corporate objectives assets. Where assets support wider corporate objectives identify and analyse, together with appropriate stakeholders - both internal officers as identified in the section 4 of the TNRP strategy and external interested parties. Evaluate their socio-economic benefits and rank each asset as follows:-

High –critical or major contribution– i.e. key regeneration site or property occupied by a community group supported and partly funded by the authority. If asset disposed of ultimately to support socio-economic benefit, such as to kick start a major regeneration scheme or meet an approved high priority authority objective, then may consider a disposal at less than the best price, so long as sale price plus value of the benefits at least equals best price that could have been obtained – review periodically but presume retain ownership regardless of financial return.

Medium - important contribution – i.e. located in a key regeneration area or occupied by a community group supported but not funded by authority - review periodically the importance of the socio/economic role and financial performance.

Low – minor or insignificant contribution – i.e. located on edge of regeneration area so retention to support scheme not essential, industrial units developed initially to support economic development and encourage employment opportunities but now difficult to let and run down, or property that happens to be occupied by a community group but not one that authority particularly supports or that has linkages to corporate objectives- review frequently and consider disposal if financial performance poor

Measurement of financial investment performance of the TNRP

Measure the performance of all assets on the basis of the 'internal rate of return' (IRR).

The IRR is the discounted rate that generates a zero net present value for a series of cash flows using discounted cash flow processes. It is important that all costs and benefits are included in the assessment and, not least, management costs. In simple terms it is a method of measuring both potential revenue and capital growth over a given period – the 'time weighted return'. Most authorities adopt a 10 year term (also see Summer 2008 Terrier article 'Optimising property values' page 20).

Measure performance also annually in the future by reference to the following performance indicators:-

- % total capital growth, year on year, adjusted for any capital sales.
- % total revenue growth, year on year, adjusted for capital sales.
- % rate of return against capital value.
- % void properties – floor space and lost income.
- % rent collected against total demanded.
- % management costs against gross revenue.

Benchmark these performance indicators with similar portfolios held in the public/private sector. (List benchmarking partners) and use to drive the improved performance of the TNRP portfolio. Set annual targets based on the previous year's performance and the benchmarking exercises.

(Authorities may also use further performance indicators to identify poor performing assets such as:-

- maintenance exceeds 10% of gross annual income.
- 3 years capital maintenance exceeds 10% of asset value.
- management costs exceed 10% of gross annual income.
- assets remain void for greater than 6 months in a year.
- asset changes tenant more than 3 times in any 5 year period.
- annual income/capital value does not rise by inflation

The National Property Performance Management Information Group (NaPPMI) TNRP performance indicators have just been revised and also need to be considered.

This stage could be undertaken over a period as a programme of review based on either the asset category groupings in 8 or on a geographical area basis).

Future disposals programme

Offer pure investment assets for disposal where they do not meet the target IRR agreed when and as necessary with the Chief Finance Officer. Base the target IRR, known as the 'hurdle rate of return', on the authority's alternative investment options – the opportunity cost.

Assets that have socio-economic benefits offer for disposal if they are ranked as:-

- 'Low' and fail to meet the target IRR.
- 'Medium' and significantly fail to meet the target IRR.
- 'High' and are being disposed of to meet a high priority authority objective.

As the assessment of socio-economic benefits is a subjective exercise support a proposal to dispose with an option appraisal where appropriate.

Upon completion of stage 3 use the data collected and condition surveys to produce an appropriate maintenance and improvements programme for those properties to be retained at least in the medium term.

STAGE 4

Stand back and look periodically through the process as more data is collected, analysed and recorded, to see whether the desired outcomes and objectives are being achieved.

On completion of stage 3, use the comprehensive data on property categories, financial and other performance, range and scale of contribution of the TNRP to socio-economic benefits, to assess to what extent the vision has or will be achieved. Has, or will the process ultimately, through identifying assets for disposal, further investment and perhaps purchase, achieve a more balanced and better aligned TNRP portfolio, both in terms of financial and socio-economic strategic objectives. If not then consider further appropriate review and rationalisation.

During the whole review period hold regular discussions with the Chief Finance Officer to advise on the relative benefits and risks associated with the TNRP to achieve the strategic aim and vision for the TNRP portfolio. (To achieve the vision the final balance of the portfolio will vary between authorities as it will be determined in particular by its own the financial position - need for revenue v capital, level of risk it is prepared to take, and to what extent it wishes to use the TNRP to drive non financial objectives i.e. to kick start regeneration).

Richard Allen
Liaison Officer for Commercial Asset Management

PAYING THE PRICE REVISITED

Dave Pogson and Stuart Mitchell

In the September 1999 edition of the Terrier, Alan Pickles of Rochdale MBC published an article entitled 'Paying the Price' on the guidance, or rather, lack of guidance, for Local Authority acquisitions. Alan's particular concern was in respect of the possibility of paying a premium over and above market value where this seemed justified in arms length transactions where CPO was not being used. He referred to an extract from Cross's "Principles of Local Government Law" that where the authority acquires land for a purpose for which it has no power of compulsory purchase, and this is unusual, there is nothing to compel the owner to sell so that the Authority will have to pay him the price he wants if it is to have the land.

By extension he then went on to state that from discussion with colleagues in other Authorities it is apparent that, in certain isolated very special cases, prices well above market value have been paid. These have been termed 'premium payments'. Alan admitted that what guidance was available was only in respect of acquisitions by CPO where the compensation code applied. He postulated that this may not fit the bill where ...

- such powers are not available,
- there is not time to wait for confirmation or
- if the chances of obtaining confirmation of the order are small,

...particularly where large amounts of capital spending are released, say for a regeneration scheme, where timescales are tight.

If such a Premium Payment could be made, Alan suggested that it could only be justified on the following principles:

1. The justification for the premium payment should be thoroughly explained/understood.
2. Any premium payment, however generous it may seem to the landowner, must be small in relation to the cost of the development scheme.
3. The justification must show that the development scheme would fail or be seriously prejudiced without the offending property.
4. All officers (and the outside developer) involved in the scheme should agree the premium payment is warranted and present a common front to the Council.
5. The precedent that the premium payment might set should be examined and any consequences weighed.

6. It must be decided if the Committee report is discrete or explicit. This must depend upon the circumstances but may be the most difficult of dilemmas.

But was this advice correct?

The view of the valuation office is set out in Section 1 of its Land Compensation Manual:

Purchase by Agreement

1.13 Sch6 of CPA 1965

Many acts that authorise compulsory acquisition also contain separate provisions that empower the purchase of land by agreement. It is usual for such provisions to import PT1 CPA 1965 so that compensation will be assessed in accordance with the statutory code (see Sch6 CPA 1965). In some cases, however, S10 is specifically excluded (e.g. by S227 Town & Country Planning Act 1990) and reference should be made to the empowering Act to find out which provisions of CPA 1965 or what other provisions are incorporated.

1.14 With compulsory powers in the background

In cases where an authority is purchasing land by agreement under provisions which authorise compulsory acquisition e.g. where negotiations are proceeding at the initiative of the authority in advance of the making of the CPO, the purchase price should be assessed having regard to the statutory code of compensation.

1.15 Other purchases by agreement

In cases where there are no compulsory powers in the background or the statutory code is not written in to the provisions that empower purchase by agreement there are no statutory rules for the assessment of compensation. Unless otherwise indicated by instructions in a particular case or type of case the consideration for the purchase will be open market value but not exceeding the amount that would be paid in compensation under the compulsory purchase code.

In summary the guidance notes question whether a premium payment as described by Alan Pickles could be paid if this was to exceed the amount that might be paid under the compensation code, but of course this guidance does not in itself carry any statutory authority.

It is interesting, and somewhat confusing to look at some of the local authority powers of acquisition to see whether those powers embrace the compulsory purchase code.

The "backup" powers of acquisition as set out in the Local Government Act 1972. Section 120 state:

2. A principal council may acquire by agreement any land for any purpose for which they are authorised by this or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose; and until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the council's functions.

3. Where under this section a council are authorised to acquire land by agreement, the provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable) other than section 31 shall apply, and in the said Part I as so applied the word "land" shall have the meaning assigned to it by this Act.

Section 7 of Part 1 of the CPA 1965 replaces the compensation provisions of the Lands Clauses Consolidation Act 1845 from which the whole compensation code is derived and this sets out the basis of compensation for land taken. The Land Compensation Act 1961 makes important modifications but does not replace the general principles. This might, at first glance, appear to give the complete answer, but the provisions of the CPA 1965 (except Sec 31) only apply to acquisitions by agreement under the LGA 1972.

Sections 4 to 8 of the CPA are specifically excluded from acquisitions under Section 227 of the Town and Country Planning Act 1990 and the acquisition by agreement provisions of the Housing Act 1985 are totally silent on the application of the CPA.

So, on the face of it we have a position where the compulsory purchase compensation provisions would apply to an acquisition by agreement under the LGA 1972 but not to similar acquisitions under the T&CPA 1990 or the Housing Act 1985. This seems completely illogical and is surely not what Parliament intended.

So what does the Legal Profession think? It is worth looking at a couple of case studies.

Allen Jones of the London Borough of Waltham Forest published his response to the September article in the December 1999 Terrier. Part of that response is summarised below.

In 1997 the LBWF urgently needed to acquire a site for a new secondary school. The options were few and complicated. The best solution was found to be two adjoining privately owned sites occupied by large, outmoded industrial buildings. A national house builder had acquired one after obtaining planning consent for residential development. Whilst the Council had resolved to make a CPO in respect of both parts, the timetable for the provision of the new school was such that a contested CPO would take too long. Discussions with the house builder produced a price for the site somewhat 'over the top' plus an additional £1 million for anticipated loss of profits on the development yet to be carried out.

Counsel's opinion was taken as to whether or not the Council could pay a premium over and above the compensation that would be payable under a CPO in order to avoid the difficulties that would arise if the school was not ready in time. Counsel's opinion was clear. He said that, whilst as an Education Authority the Council had the power to acquire land needed for school purposes and to pay the market value for such land, he did not consider that it had any power to pay money for items that would not be awarded as compensation. He went on to say that the Council would be acting unlawfully if it met the demand for the £1 million (loss of profits).

In that case the provisions that empower purchase seemingly derive from sections 530 (compulsory purchase) and section 531 (by agreement) of the Education Act 1996 (c56). The 'by agreement' section states that "making land available for the purposes of a school ...is a function of section 120 of the [1972 c. 70] Local Government Act 1972 (which relates to the acquisition by a local authority by agreement of land for the purpose of any of their functions)"

South Lakeland District Council had obtained a CPO to acquire land to create a Flood Relief Scheme in Kendal and had purchased the main site. In 2005 the need for additional pipeworks leading into the site were identified and the Council was reluctant to seek a second CPO to acquire the necessary easements. Design works and tendering were well advanced and waiting for a second CPO to be confirmed would have delayed the main scheme.

Pipeworks had to cross the rear gardens of a residential street with consequent disturbance and disruption to the residents. Most settlements were reached by agreement with the most expensive being £17,400 where the works affected existing garage structures and pipes and manholes would be permanent features. Mrs C's rear garden, being the end one, would only be affected by the temporary removal of her garden fence to create a working width and with no permanent works remaining either under or on the surface after completion. Compensation of £3000 for the sterilisation and disturbance was offered in line with settlements to other residents similarly affected. Mrs C was the last transaction outstanding and she wanted £19000.

Counsel's opinion was sought on the merits of making a premium payment to enable the contract for the works to be let and to avoid additional engineering works of £100,000 to avoid her land. Counsel advised that entering into an agreement with Mrs C on the terms proposed would cause considerable public and political disquiet and could lead to the possibility of an application for permission to apply for judicial review. He would not feel comfortable defending such an application given the clear advice of the Valuer that the payment was not in line with other settlements. He noted the LBWF counsel's opinion (quoted above) and confirmed his advice that the Council should not pay the sum demanded by Mrs C.

Both of those seem clear cut. Notwithstanding the lack of a confirmed CPO in each case both Counsel's have ruled out premium payments for acquisition by agreement.

However, the provisions that empower purchase in the South Lakeland case derive from S62 of the Land Drainage Act 1991. That states specifically that land can be bought either by agreement or compulsorily but, whilst being very precise about the application of the Acquisition of Land Act 1981 and the Compulsory Purchase Act 1965 for assessing compensation for compulsory purchase, it makes no mention of the basis for assessing the price to be paid by agreement except for land acquired from the Duchy of Lancaster (who has his own Act).

So we have two lawyers giving what appears to be identical advice in circumstances where the legislation differs. If we accept that advice, despite those legislative differences, then Alan Pickles' suggestion probably cannot be put into practice



UPDATE ON PUBLIC PROCUREMENT REMEDIES

Sophie Charveron and Christopher Causer

even where there may be very good practical and financial reasons to consider it.

So what should the Local Authority Valuer do?

Perhaps the Valuer can go a little way towards negotiating a solution. If you consider:

1. All valuations are an opinion and so have a bit of leeway – say 5% - as accepted by the Courts
2. In any acquisition the top bidder will win so the ‘one bid more’ approach should be acknowledged.
3. The Local Authority must come into the category of ‘special purchaser’ to some extent, especially if it is assembling land for a development to add to its other land
4. Marriage value may sometimes apply.

However, points 3 &4 above may be ruled out because of the special suitability rule Sec 5(3) & the disregards (Sec 6) of the Land Compensation Act 1961 in cases where the legislation is specific about the basis for assessing the price to be paid by agreement. Even where the legislation is silent, if you accept the advice of Counsel that the compensation code is still relevant, then the disregards must still apply. So there would appear to be very little leeway for the Valuer to pay more than the conventional valuation to secure a result. Alan Pickles was making a good point but is his suggestion only acceptable where it can be hidden within the tolerances of the valuation? Where exactly does a valuation end and a premium payment begin?

Members of ACES are invited to debate this matter and contribute with cases from their own experience, particularly if they have obtained legal advice. A thread entitled ‘L.A. Acquisitions and Premiums’ has been set up in the ACES website Forum to accept any such contributions.

Dave Pogson NPS
Group (South Lakeland)

Stuart Mitchell
Retired Member

The face of public procurement has dramatically changed in the last few months. On the one hand the power between contracting authorities and contractors, and on the other hand unsuccessful bidders, has shifted towards the potential claimants who are now given fairer and more effective remedies against breach of procurement law.

Until 20 December 2009 the available remedies under the public procurement Regulations were, until contract signature, interim injunctions and set aside orders, and at any time damages only. In other words, a public contract was safe from challenge at the end of the standstill ten-day period if no claim had commenced. Now and for all public tenders commenced after 20 December 2009 (i.e. an OJEU contract notice has been published or tenderers approached after that date), the Court may declare public contracts that are being entered into in breach of procurement rules ineffective. The Court can also impose a financial penalty on local authorities and/or shorten the duration of the contracts for those not declared ineffective.

These fundamental changes were introduced by the Public Contracts (Amendments) Regulations 2009 and the Uniplex European case decided in January 2010.

1. Uniplex - time limit for bringing proceedings

Before Uniplex, actions had to be brought promptly and in any event within 3 months from the date when grounds for bringing proceedings first arose. In exceptional circumstances courts would extend the period for a good reason but were reluctant to do so. In Holleran (2004), a bidder had been excluded from a tender procedure as it had failed to apply for selection in the relevant time set out by the tender document (*Holleran v Severn Trent Water*, QBD 4 November 2004). The judge held that Holleran should have brought proceedings “promptly”, meaning within a few days of the alleged infringement, and not within the three month-period of judicial review. In *Brent LBC -v- Risk Management Partners Ltd* [2009] EWCA (iv) 490 the High Court confirmed that the 3-month limitation period in Reg 47(7)(b) of the Public Contracts Regulations 2006 begins to run from the date of the relevant breach of public procurement, whether the breach is known or not.

In the Uniplex case, *Uniplex v NHS Business Services Authority* (case C-406/08) dated 28 January 2010, the European Court of Justice held that the provision in the English Regulations that

requires proceedings to be brought "promptly" is contrary to EU law. The "promptly" requirement gives rise to uncertainty: claimants do not know the exact time limit that will apply:

[a] limitation period, the duration of which is placed at the discretion of the competent court, is not predictable in its effects".

The ECJ held that the three month period commences on the date when the claimant knew, or ought to have known, of the alleged infringement, rather than the date of the breach itself. The Uniplex case clarifies that by learning that its tender has been rejected, a bidder does not have enough information to assess whether the decision was valid or taken in breach of procurement rules. It is only by learning the reasons why its tender has been rejected that the bidder can decide whether there is ground for legal action.

The Office of Government and Commerce (OGC) has published guidance on the implications of Uniplex which can be found on its website: www.ogc.gov.uk (Action note no. 03/10 dated 22 February 2010).

What are the implications of the Uniplex case for the UK?

The ECJ told the High Court dealing with Uniplex that it must exercise its discretion to extend the time limit so that the 3-month period ran from when the claimant knew (or ought to have known) of the breach of public procurement law. The Public Contracts Regulations 2006 will need to be further amended by removing the word "promptly" and substituting a fixed time period, which could be shorter than 3 months.

1. New remedies since 20 December 2009

The new Remedies Directive (2007/66/EEC) was published on 20 December 2007. It has been implemented in English law with effect from 20 December 2009 by the Public Contracts (Amendments) Regulations 2009, which amend the Public Contracts Regulations 2006. The key changes give the Court the power to declare a public contract "ineffective" if it has been entered into in breach of public procurement rules.

2.1 The old regime

Until now damages against the awarding authority was the only remedy once a contract had been entered into. Once entered into, a public contract was "safe" and could not be declared unenforceable. If legal proceedings were brought before the contract was awarded, the Courts were empowered to grant a temporary injunction to, say, suspend the contract award until proceedings are resolved.

In Lettings International the High Court issued an interim order preventing the contracting authority from entering into a framework agreement until full trial took place (*Lettings International Ltd v Newham LBC [2008] EWHC 1583 (QB)* dated 7 July 2008). The judge invited the parties to agree on a remedy based on the findings of the Court, for instance adding Lettings as a framework contractor. In B2Net, the Court refused to grant an injunction suspending a public tender and ordered damages instead, as damages would provide an adequate remedy to the claimant (*B2NET Limited v HM Treasury sued as Buying Solutions [2010] EWHC 51 (QB)*). The Court held that an injunction would not have been fair to the large number of public and private entities that would

have been affected by the suspension of the tender (as it was a framework agreement).

The Remedies Directive has been reformed to allow Courts to take measures in situations of obvious breaches of public procurement principles and award fairer remedies to aggrieved claimants.

2.2 New remedies: ineffectiveness and financial penalties

(A) Contract ineffectiveness

Contract ineffectiveness is a new concept in English law. Courts will now strike down a public contract that has been awarded in serious breach of public procurement rules. Courts do not have any discretion: they must declare a public contract ineffective when the conditions are met as follows:

- Failure to advertise: the public contract has been awarded without prior publication of a OJEU contract notice, where such prior publication is a legal requirement;
- Combined breach: the public contract has been entered into in breach of the EU rules where this breach affected the aggrieved bidder's chances of obtaining the contract and where the breach deprived it of the possibility of starting proceedings before the contract was entered into during the standstill period (namely a direct contract award); or
- Call-off: the public contract is based on a framework agreement and the call-off was made in breach of the procurement rules.

The 2009 Regulations set out that contract ineffectiveness is equivalent to a prospective cancellation. In other words, **all future (i.e. not performed yet) contractual obligations are rendered ineffective. All obligations that have been performed up to the cancellation will still be valid and cannot be cancelled.**

It is only if the Court finds overriding reasons relating to a general interest that the Court can reject the request for contract ineffectiveness. Economic interest affecting a large number of public bodies could be an overriding reason, but not the consideration of the costs of a new tender or the delay to the contractual performance and construction works.

Contracting authorities can mitigate the risk of contract ineffectiveness in two ways. First, where the authority:

- a. considers that the award of the contract without prior publication of a contract notice is permitted by the Regulations;
- b. has published a Voluntary Ex Ante Transparency notice (a "transparency notice") in the OJEU, expressing its intention to enter into the contract; and
- c. has not entered into the contract before the end of the ten-day standstill period, starting on the day after publication of the VEAT notice,

then the contracting authority is entitled to oppose the contract being declared ineffective.



Second, contracting authorities (and the winning bidder) can address any consequence of the contract being declared ineffective upfront by inserting contract terms which will apply in the event of a declaration of ineffectiveness. They can agree the "exit" provisions in a separate ancillary contract (should the main contract be declared ineffective). The exit provisions would need to cover issues such as:

- compensation on termination (calculated as per termination for authority default or termination at will);
- transfer of assets and resources back to the contracting authority and handover of staff and services;
- confidentiality;
- payment for services and works performed but not paid for at the time of the declaration of ineffectiveness;
- dispute resolution procedure.

(B Financial penalties

This is another new remedy introduced in December 2009. The amended Regulations prescribe when they can/should be used. Where a declaration of ineffectiveness is made, the Court must also order that the contracting authority pay a financial penalty. Alternatively, instead of a declaration of ineffectiveness, the Court can order that the contracting authority pay a financial penalty and/or that the term of the contract be shortened where:

- d. there are grounds for a declaration of ineffectiveness but the Court is satisfied that there are "overriding reasons in the general interest" (see above) so the declaration is not made; or
- e. there is a breach of certain procedural requirements (i.e., less serious breaches which do not give grounds for a declaration of ineffectiveness).

When making an order, the Court's overriding consideration must be that these penalties must be effective, proportionate

and dissuasive. Factors such as the seriousness of the breach and the behaviour of the contracting authority must be taken into account.

If an order shortening the contract term is made then the Court may also decide what it thinks is appropriate for addressing the consequences of the shortening, such as restitution and compensation in order to achieve an outcome which is "just in all the circumstances". The Court must also be sensitive to any contract terms that are agreed between the contracting parties in anticipation of such an order being made.

Conclusion

In the past contracting authorities and winning bidders were tempted to enter into a public contract as soon as possible as their contract would be "safe" from challenge. All risk of judicial review and public procurement challenge was with the contracting authority from that point in time and bidders could then concentrate on performing the contract and delivering works and services. The new 2009 Regulations and the Uniplex case have now shifted the balance of risk towards the contracting authority and successful bidder, and give unsuccessful bidders an unprecedented power in procurement challenges. This should lead to contracting authorities managing public tenders in a more careful way. Nonetheless we expect the Courts to be increasingly active over the next couple of years as private sector bidders flex their new muscles.

Sophie Charveron and Christopher Causer
K& L Gates

VIABILITY OF LARGE HOUSING PROJECTS

Richard Haynes

Richard is the Head of Public Sector Consultancy at King Sturge LLP and appeared as an expert on viability at the Inquiry, appointed by Cambridge City Council.

INTRODUCTION

It is a difficult time for house builders. A shortage of development finance, reduced sales rates and lower values have all combined to restrict the number of new start schemes and to significantly limit the pace of development on existing projects. It is however also a particularly difficult time for local planning authorities trying to meet housing targets; to maintain an appropriate level of infrastructure and s.106 contributions; and also and perhaps more significantly to maintain affordable housing policies.

Most planning policies related to affordable housing will allow for a viability test such that the required affordable housing percentage is subject to the development being viable at that level. The approach to the viability test is not always totally clear however and some policy wording is more specific than others.

The recent Inquiry into the appeal brought by Countryside Properties in relation to their development proposals in Cambridge and the subsequent decision notice have however provided a detailed examination of the approach to viability testing.

SCOPE OF DEVELOPMENT

The Cambridge case related to two substantial housing sites forming a part of the Southern Fringe a major urban extension stretching eastwards from Trumpington to Addenbrookes Hospital on Hills Road. The two sites, known as Clay Farm and Glebe Farm had been bought by Countryside Properties in 2006 on the basis of phased payments but at a total price in the region of £62 million. It was suggested at the Inquiry that the value had risen substantially by 2007 before failing back very significantly in 2008.

The sites were allocated for housing development and applications had been lodged for a development of about 2,300 new homes together with community and neighbourhood facilities. A substantial s.106 and infrastructure package was however envisaged including, as well as educational and library facilities, a new spine road and contributions to the Cambridge Guided Bus link. Planning policy also required that 40% of the homes should be affordable, and this proved to be the most contentious issue in the appeal.

TOWN PLANNING BACKGROUND

The Cambridge Local Plan had been adopted in 2006. Policy 5/5 states that the Council will seek 40% affordable housing but subject to a test of viability.

The issue of viability was dealt with in a Supplementary Planning Document (SPD) which explained in some detail the process that should be used in determining the ability of a scheme to support the 40% affordable housing requirement. It is worth quoting from paragraph 42 of the SPD:

“...development will include full and appropriate provision for affordable housing unless it is demonstrated that it cannot be provided at a rate of 40%.... This will require a full economic appraisal of the cost of development and of returns from the sale of housing....The appraisal should be presented on a residual land value basis taking into account all the costs of development including contributions to local infrastructure and services, the provision of affordable housing and the profit margin required by the developer. It should also include a valuation of the site in its existing use not its purchase price or hope value.”

Work had been undertaken by my own firm, advising Cambridgeshire Horizons the local regeneration and development agency in conjunction with Countryside Properties and it was established that the project was viable on the basis of the stated affordable housing policy and having regard to the proposed s.106 package.

In May 2008 the City Council as planning authority, resolved to grant planning permission subject to the s.106 Agreement being finalised. By September however Countryside Properties were questioning whether the project was in fact viable and the s.106 was not completed. Ultimately the developer appealed on the grounds of non-determination and despite offers of potential public subsidy in the form of Housing Growth Fund money or the HCA's Kick-start funding to support the scheme the appeal proceeded to an Inquiry in October 2009.

THE KEY ISSUES

In essence the differences between the developer and the Authority related simply to the amount of the affordable housing and certain matters related to the s.106 community requirements, principally the provision of new library facilities. The issue was whether the amount of affordable housing in particular was realistic in the context of scheme viability.

THE VIABILITY TEST

King Sturge had developed a bespoke financial model to test viability by way of a development appraisal. The timescale of the project (up to 20 years) and the need for a high level of sensitivity testing related to the “flexing” of inputs (and in particular the triggers for the s.106 payments) meant that off-the-shelf development appraisal packages would be inadequate for the purposes of testing and re-testing constantly changing permutations as negotiations between the parties continued up to and throughout the Inquiry. There was a good spirit of co-operation between the parties and it was agreed that both the Authority and Countryside Properties would rely on the King Sturge model to present their respective cases to the Inspector.



In the months leading up to the Inquiry many items were agreed giving a reasonably stable platform to the model upon which tests related to key differences on disputed variables could be carried out.

It was however only in the final stages that complete agreement was reached on construction costs and fundamental disagreement still remained in relation to sales values, rates of sale, certain timings and triggers related to the s.106 contributions and critically, in relation to the treatment of land price.

The developers maintained that the price they had paid for the land was a fixed cost to the project and should be inserted as such into the model with all its attendant financing costs. The residual element after all other cost items and profit had been deducted from the net present value of the sales receipts should then be the amount that could be contributed to the affordable housing, converted to a content percentage. My view however, was that it was the land price that should be the residual element. The policy requirement for 40% affordable housing should be fully allowed for in the appraisal and viability would then depend upon the residual land value figure that was generated at the end. This was clearly what was intended by the wording in the SPD which specifically referred to a "residual land value basis". It was to my mind also only commonsense that viability had to be tested on the basis of circumstances prevailing at the time. Markets fluctuate and developers are in business to take risks. It would be illogical if they could be indemnified against loss through changes in the market by way of amendments to an established affordable housing policy. Would the authority have had a case for increasing the affordable housing percentage if land values had gone up instead of down? Probably not! These arguments were put particularly forcefully by counsel for the Authority, David Forsdick.

On the basis of my inputs the residual land value generated was in the order of £35 million, significantly less than the

price paid in 2006. It was however a sufficiently positive figure to conclude that development was viable on the basis of planning policy requirements. There is an argument that any level of value over existing use value (in this case agricultural) would be sufficient to pass a test of viability. Personally, however, I believe that there does need to be something of a premium over the value of the existing use. I believe that the test should be a level of value sufficient to tempt a reasonable landowner to sell for development. At, or just above, existing use value the landowner may take a view that it would be better to wait, but there would be a level of premium which would persuade a hypothetical landowner without any special use or intention for the land, to sell. I believe that £35 million significantly exceeded that premium threshold.

PHASING

A further argument was advanced at the Inquiry by the developer that the affordable housing could be phased with a reduced content in a defined first phase

and with viability then re-tested for the next to establish how much affordable housing could be justified then. The developers found some support for this approach in the HCA Guidance Investment and Planning Obligations – Responding to the Downturn. This document does promote the idea of phasing where a development is not viable and is certainly worthy of attention in relation to schemes where that is the case. Again however the matter rests on whether the project is or is not deemed to be viable when treated as a whole. It is worth mentioning that the Guidance is in fact slightly ambiguous in places about land value and does probably need greater clarity in its wording.

THE RESULT

A resounding victory for the City Council! The inspector fully accepted the Authority's arguments on the approach to viability testing. She did, in her reports however, suggest that a reduction might be permitted for a first phase if it stimulated a start to the development process and if it could be made up at a later stage. This was however over-ruled by the Secretary of State who confirmed that planning permission should be subject to a full 40% affordable housing content and with the s.106 provisions as required by the Authority.

Richard Haynes

WINNING THE WAR ON COSTS

Paul Srafton and Richard Grass

The pressure to cut costs and boost operational efficiency is stronger than ever but solutions are out there. This article explores how local authorities can turn ailing property portfolios into dynamic resources with real ability to make a difference to the delivery of public services.

Top of the list for achieving big improvements is effective asset management: it's the shortest route towards making demonstrable efficiencies, cutting costs and transforming council services by giving them better property. The Office of Government Commerce (OGC), Audit Commission, Local Partnerships and the Royal Institution of Chartered Surveyors (RICS) all join in driving home this message but the journey towards significant results needs to be clear and robust.

Five years ago the Gershon Efficiency Review challenged local authorities to achieve a £6.45bn efficiency savings target and property has already made great strides towards this. Since then though the Operational Efficiency Programme (OEP) has identified a further £20bn potential receipts from property disposals across

the public sector – a level that would give running cost savings of around £5bn a year – and so the bar has been lifted on an already tough target. Achievable ways forward include:

Space efficiency and building rationalisation

– Staying on top of new ways of working is vital to achieving improved operational and accommodation efficiencies. The introduction of flexible working in well designed open plan offices with adequate meeting space, staff facilities, IT capability and support and electronic data management is key in both central and community based facilities and can lead to a reduced office footprint and an improved customer interface. Our experience shows that typically, a 20% reduction in floorspace has been achieved

– Typical savings are often in the region of £25 to £35 per sq ft per annum and they can be implemented relatively quickly. One inspiring example is a county council committed to implementing a space efficiency programme that's targeting annual revenue savings equivalent to the cost of 140,000 home care hours. As new tougher sustainability targets demand further substantial investment in council occupied buildings, it's imperative that investment is focused on the core estate rather than a spread of inefficient buildings

Rent to debt

– High property yields and low borrowing costs from the Public Works Loan Board give councils an arbitrage opportunity that may be shortlived. Any council about to enter into an operational lease should consider freehold purchase instead. Prudential borrowing costs are often lower than rental costs and they'll generate an immediate revenue cost saving: a saving that also applies to existing property occupied on a leasehold basis

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Lease re-gearing

– A recent DTZ review shows that in some places the yield gap between government let and vacant property is at a record high. Where 'rent to debt' isn't a viable option the economic uncertainty and covenant strength puts local authorities in a strong position to benefit by extending leases on core property and sharing in the value uplift. Typical savings are between nine and 18 months worth of rental costs

Commercial portfolio reviews

– Local authorities are thought to have roughly £20bn tied up in nonoperational assets with about 80% of the value tied up in 20% of them; the danger is that it's the other 80% of assets that consumes management time. A complete portfolio review will identify genuine opportunities for income enhancement through lease restructuring, marriage value transactions and, in some cases, packaged disposals of underperforming property. A review towards outsourced management solutions or joint venture structures with specialist asset managers that allow councils to benefit from better investment returns

Facilities management

– The 'Cinderella activity': unloved, old fashioned and organisationally fragmented, there's no doubt that economies of scale and cost savings can be captured by letting longer term total facilities management contracts on a modern commercial basis. At DTZ we believe that better procurement and contract management can shave up to 30% from FM budgets at the same time as delivering improved quality service and higher levels of customer satisfaction

Rates and service charges audits

– Effective preparation for the 2010 Rating Revaluation isn't the only thing that can save you money. It's not too late to appeal against the 2005 Rating List assessments; substantial rate savings can be found by exploiting rates reliefs as well as through the audit of previous rates payments made in error and general rates management

– We believe that most organisations could save an average 10 to 20% on the rates payable on assessments appealed. Similarly, service charge audits can usually be commissioned on a 'no win no fee' basis and will reveal errors in tenant apportionments, service costs recovered and management fee calculations

Sustainability audits

– One can make a real impact on costs by getting to grips with energy efficiency. An effective audit will identify actual consumption, detail wasteful practices, provide the tools to understand real time usage and help organisations implement an effective energy saving package.

It's clear that some of these initiatives will deliver early results for little or no upfront costs but others will need to be approached on a 'spend to save' basis that only delivers savings in the longer term. Our experience suggests that the most effective approach is for councils to establish a cost savings programme rather than to allow a series of piecemeal initiatives to develop in different parts of the organisation with no overall target or control.

Paul Srafton and Richard Grass
DTZ

THE SUFFOLK SCRIBBLER

Going undercover

I am currently involved, peripherally, in the letting of an important town centre space as a possible "drinking establishment," to use the planners rather inelegant technical term. It's not an idea that has gone down well with the "great and the good" and immediately began to generate letters to the local paper based on the 2 usual grounds plus a rather surprising one. The 2 usual grounds are, of course (1) You cannot approve another pub/shop/café in the town as this will compete with my pub/shop/café and (2) this is a Council promoted project so must, by definition, be wrong.

In addition some complaints read like the teetotallers tracts that we used to be issued with years ago at Sunday School highlighting the evils of the demon drink. An interesting approach to adopt in a town whose prosperity was created by, and is sustained by, a major brewery!

But getting back to the story it is possible that a major national chain of family drinking establishment operators might be interested and this created much high-level internal discussion although it soon became apparent that neither Management, nor Members, or I, had any personal experience of the particular pubs in question.

In the Armed Services "Never volunteer for anything," is the watchword but as I was going up to Warwick I volunteered to lunch in such an establishment and report back. Sometimes it's a hard job but someone has to do it.

On the day I soon located the premises and went in. I had to draw the line at any undercover photography though as, although my new camera is compact enough not to draw attention, I cannot yet turn off the flash. I found it a very pleasant place to be in with a lunchtime family orientated clientele. And there was something on the menu I could actually eat ie Chicken Caesar Salad so I ordered that at the bar along with half a Guinness. "It'll be about 10 minutes," I was told so I sat down to study the house magazine. So far so good, no one had spotted me as a spy!

The meal arrived in 4 minutes and looked good enough to eat. Lots a big salad leaves, OK on my diet and lashings of Caesar Salad dressing, best not to think about it. There was also plenty of Parmesan and croutons; all best avoided as far as possible. After a minute or two I sensed something was amiss; there was no chicken. Would complaining blow my cover? Would not complaining blow my cover? Was I being watched from some secret control room?

I attracted the attention of the Polish lady and explained the problem. She whisked the plate away and then kept me waiting just long enough to wonder if she was ever coming back when she returned triumphantly with a Chicken Caesar Salad with a double helping of chicken. "Enjoy!" My cover was not blown. I finished my meal then slunk away.

A Chartered Surveyor? The prequel

Having decided, quite recently, that I had to digitise a lifetime's accumulation of photographs and transparencies I immediately

came up against the age-old problem of inadequate record keeping; most were undated. However in looking for evidence I did find I had retained quite a lot of written material such as a complete collection of work diaries from 1969 so not only do I know where all the bodies are buried but I have documentary evidence too.

This search for material eventually led me to a box containing a number of 50-year-old school exercise books and a surprising discovery. In "A CHARTERED SURVEYOR 1" I expressed some surprise when offered a training position with the objective of becoming a chartered surveyor I had no idea what a surveyor was although on reflection I thought it sounded just up my street.

Fifty years on I have only just realised how true that was. The school exercise books mentioned above contain a number of carefully drawn and labelled maps of my village with all streets clearly labelled and features of interest shown. These were done freelance as it were and pre 11 plus. Then when I was 12 we obviously had a session on scale drawings and off I went doing ever-improving scale drawings of the IIA form room eventually with each desk labelled up with the occupant's name.

Not having looked at this material for many, many years this all came as a big surprise and in any event who but a chartered surveyor would, due to other pressures, fail to date (value) photographs as they were taken but would, nonetheless, retain sufficient contemporary documentary evidence to allow accurate dating (valuation) to take place decades later?

Banker's bonuses

I have to say that my heart went out to the bankers to other day on reading this story. It concerned the "Banking Group" that would have gone down the tubes last year taking squillions of our money with it had not the Government pumped in squillions of our money to save their bacon. Now this year the Group's position had picked up and it had only lost a few billion, presumably, of our money. And apparently the Board of Directors had spent "a long time" considering very carefully the bonus position and had decided, given the very sensitive nature of the topic, to award themselves only a few millions of our money as bonuses for not losing more than the few aforesaid billions. The Board must be paid vast fees for taking such vital decisions.

I wonder if these bankers will ever tell us what really happened in the crash. We know that Billions were lost recently. So who trousered the Billions of pounds of profit? And given the bonus culture, ie you help yourself from the till when things go well when the big losses were sustained did you have a whip round and put some back?

Which all reminds me, not of the current "Scandal" about pay-offs to Chief Executives but an initiative adopted in local government about 20 years ago to assess all salaries on an impartial and objective basis so that we would all be on the same footing. The problem to be solved was the inequity whereby salaries were dependent upon the power and rapaciousness of the employing department. Apparently this then new system, widely used in the private sector, assessed responsibilities under a number of headings, for example budget controlled was one, then added up the scores and with the aid of a points table that came with the system, produced, independently and equitably, a salary.

"Isn't this a wonderful system?" said the Chief Executive. I alone disagreed. "Look," I said, "I accept the present arrangements where the powerful departments get the lion's share. It's the way of the world. All the new arrangements will bring a complicated assessment that will have to be manipulated to prove the powerful departments really deserved their big salaries all along.

As I say I don't mind that but I do object to being regarded as a simpleton." "What a cynical view. We will train you as an assessor and put you on the Appeals Panel. That will show you how wrong you are."

It didn't. After a huge amount of work, and massaging by the operators of the system it was proved that the old order of merit was right all along and, indeed, in some of the bigger department salaries were enhanced.

Then the bigger departments began reorganising and some individual salaries were greatly enhanced to reflect new responsibilities. Within 6 months a second wave of reorganisations began in which the salary enhancing responsibilities were switched within teams to give other staff enhanced salaries. "Didn't we consider this reorganisation 6 months ago," I naively asked, "and improved the salaries of A, B and C? Now A, B and C are losing their new responsibilities to X, Y and Z who should have their salaries improved too. Does this mean that the salaries of A, B and C revert back?" "That is not a question you can ask," said Personnel.

One issue I could not resolve was that the authority was not prepared to take into account capital receipts in assessing responsibility based points as both the system and the authority only regarded expenditure budgets as a true measure of responsibility. As the Treasurer himself put it, "You may be raising £3 million in capital receipts each year but anyone can do that. It doesn't really involve and professional expertise or difficult judgements. On the other hand we in Finance have the real professional job of "overnighting" those capital receipts when they come in and then investing them prudently so that income is maximised before we spend them. That's the real professional task!" Which is not what was said when the Iceland Banks went into meltdown taking many authorities' assets with them. A whole procession of Finance Officers, and their Groupies, appeared in the media to say it wasn't their fault. Investment decisions were just a tick box exercise. If Government gave the Bank of Toytown a good credit rating then that's where the money went.

In some professions you just cannot lose.

Kenneth Kemp Turner FRICS

The RICS reported recently that Kenneth Kemp Turner died aged 96. He had lived in Newmarket for many years but had recently moved to the south coast. He retired many years ago as Defence Land Agent and was for a time Chairman of Suffolk County Council. He was a real gent of the old school, always polite, considerate and had a wonderful turn of phrase that he used in both speech and letter writing. County Council meetings were always orderly and well conducted in his time.

What many may not realise is that when he, a chartered surveyor, was Chairman of the Council both the Chief Executive and the County Land Agent and Valuer were chartered surveyors too; a unique situation for the Royal Institution.

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