

Introduction

Across the world access to land remains one of the most politically fractious issues, from aboriginal rights in Australia and uneven land distribution in the Americas to housing in Britain. Disputes are invariably connected to ownership, and what can be done on or with the land.

In Britain ideological battles about land and housing formed a backdrop to the post-war period. State ownership of land and the subsequent mass construction of council housing dominated the 1950s and 1960s. At the same time farmers were encouraged to engage in intensive farming to feed a rapidly expanding population, which led to farm amalgamations and further reductions in agricultural employment. Many farms and farm buildings became redundant.

After Margaret Thatcher became prime minister in 1979, things began to change. Council tenants were given the right to buy their homes, increasing the membership of the 'home owning democracy'. However, this contributed to the growing gap between rich and poor. The centrality of asset ownership to British economic life meant that increasing wealth fed into house price inflation and, in rural areas, the purchase of second and retirement homes.

The impact has been that home ownership has become less affordable and at the same time fewer affordable homes are available in both urban and rural areas. Many rural workers find it impossible to live near their place of work due to high house prices.

Away from the intensive policy and media environment of metropolitan areas, many people feel ignored and patronised by politicians and policymakers who don't seem to understand their needs. Even in the poorest urban areas, as house prices continue to rise, questions are being asked about who the community belongs to, and how to ensure there are enough homes for the existing community and their families.

At the heart of this debate is the failure to ask what comes after the right to buy. Selling off council houses only helped one generation and reduced the availability to those who followed. This has been compounded by a growing population, fewer people per household, and insufficient house building. It does not take an economist to tell us that limited supply and unchecked demand result in inflation – and that's before discussing multiple home ownership and the growth of the 'buy to let' market.

Of course the simplest solution involves building more houses, whether through a new stock of council housing (using the receipts from previous sales) or private sector development with a proportion of affordable homes. But that only answers part of the question. After all, what's to stop these new properties being bought by those seeking a return on their investment? Do they address our propensity to live alone, and do they add to local communities or become soulless estates disfiguring the environment and leading to social problems? More homes are certainly needed, but there is a need to rebalance the economic and social considerations when building.

So what does come after right to buy? Perhaps the question should be to ask what values should shape housing policy. The first thing to accept is that the main benefit of right to buy (fulfilling the desire of people to own their own home) will be lost if there isn't a means to help the next generation get onto the home ownership ladder. This requires a combination of more housing and a new finance package; and it needs to be designed to counteract the negative social impact of turning homes into commodities, which fractures communities, prices families out of more desirable areas and forces people to live further from their place of work.

This guide deals with one potential solution: Community Land Trusts (CLTs), which are based on the assumption that land and its use can be separated.

'In their modern form, CLTs have retained a clear and defined purpose. They exist to sustain community ownership, lock in land value and support community based housing and enterprise. In the context of escalating house prices in recent years, they can deliver affordable rural housing to local people on modest incomes by taking the land cost out of the development equation. In the context of urban regeneration or to meet the Government's Decent Homes standard, they provide a route for public assets to be transferred to local ownership, thereby engaging and involving the community with its valuable understanding of local needs and circumstances. In addition to securing affordable house prices, CLTs can provide job opportunities and support the development of community owned land and property assets.' (Section 1.1.2)

The guide describes how the 'value lock' works to the benefit of the householder and the community, ensuring that while householders gain from an appreciating stake in their homes, the community keeps the property for future generations.

Community Land Trusts and their forerunners have a long history in Britain and those interested in this should read Section 10. Ebenezer Howard's garden city model, which continues to be represented by Letchworth Garden City, is the most significant Community Land Trust in England, though Scotland has been leading the debate in recent years.

Reviewing some of the literature on Community Land Trusts and reading this guide, it is possible to discern seven interrelated principles:

1. A separation of land and its use;
2. Capturing land for use by future generations;
3. An acceptance that enterprise and trade are necessary and people want to build asset values, while acknowledging we are more than just economic actors;
4. A belief that communities do exist and that there are enough people in those communities who want to be actively involved. Underneath this is an assumption that local control matters;
5. A perception that communities are more effective than the state in forwarding their interests;
6. Activity must maintain the value of the land, ensuring 2 is fulfilled;
7. Collective activity must be on a scale that is manageable.

This list is not exhaustive and not all supporters of CLTs sign up to these perspectives. But while some may be given a higher priority than others, they all inform the process of creating a CLT and those involved in it.

Consequently, the concept of a Community Land Trust is a curious synthesis of political stances, combining elements of socialist libertarianism, co-operativism, One Nation Toryism, neo-liberal social policy, and Schumacher-inspired Green politics and localism. What they share, to a greater or lesser extent, is an acceptance that humans are social and responsible beings and they are the best agents to make decisions about their future. Moreover, they imply that we are part of communities so that informal social mechanisms are the best means to maintain order. This relies on a sense of 'knowingness' (awareness of others and your links to them) and the self-limiting obligation best summarised as stewardship. In sociological terms community land trusts owe far more to Durkheim than they do to Marx or Smith.

The principles behind Community Land Trusts and the underlying political philosophy are still nascent. There is much work to do before a cogent theoretical understanding emerges. However, that is a task for another project.

This guide seeks to be a practical document for those who want to establish a CLT. It does not assume that CLTs will solve the social housing problem in England, but does indicate that they are viable alternatives which can make a contribution. Nor do the authors believe that communities are always good, unbiased and make the right decisions. Instead this toolkit aims to provide a wealth of detail, much of it technical, to arm the CLT's promoter and supporters with the questions and, sometimes, the answers to the challenges faced when starting something new and innovative. If after reading it you still need assistance, the authors and colleagues at Community Finance Solutions at the University of Salford will be happy to talk to you.

Many people have been involved in writing this guide, most of whom are listed in the acknowledgements. I'd like to pay particular tribute to our sponsors and to Steve Bendle, Bob Paterson and Jennifer Powell, without whom this document would never have come to fruition.

Dr Karl Dayson
University of Salford

Route map: how to use this guide

The purpose of this guide is to provide tools, technical resources and contacts for developing a community land trust (CLT) project.

It is not intended to be comprehensive but does seek to include material and advice which is relevant, whether the aim is urban regeneration, affordable rural housing, workspace or a community building. The guide aims to give help in getting started and also to be a useful reference tool throughout the various stages of a project. To this end it includes some helpful contacts and references for further information and support.

The main body of the guide consists of explanatory text enhanced by additional documents containing further or technical information, precedents and examples of documents and leaflets. We have called these 'exhibits', and they can be found at www.communitylandtrust.org.uk. This is an evolving area of policy and other material will be developed. It is worth checking the website for the most up to date information.

As a supplement to the toolkit, there is a brief history that explains some of the thinking behind community land trusts.

Section 1 is intended as a resource for anyone who needs to make the case for CLTs to funders, local authorities, landowners and other stakeholders. It offers a definition of CLTs and, in conjunction with the website, an overview of the current policy context as it applies to both rural and urban communities. The policy context is also important for convincing planning, housing and possibly economic development staff, maybe in several layers of government, of the value of the CLT proposal.

Section 2 is about planning and implementing a CLT scheme. It begins with the process of community consultation and looking at setting up a CLT steering group. Exhibits include SELF-OP, which argues that the CLT will need, from the very beginning, to think about the Social, Environmental, Legal, Financial, Operational and Physical issues. It concludes with suggestions for financing the CLT's early development.

Sections 3 and 4 provide information about the types of legal organisational structure and governance arrangements likely to be relevant to CLT schemes.

Section 5 describes some of the housing tenure models that that can be used in order to meet the needs identified. The terms and benefits of the various tenures and the choice between them need to be understood, and the CLT's costs must be met while keeping the homes as affordable as possible. It will be necessary to consider these tenure options again as the scheme develops, but they need to be understood first at the planning stage.

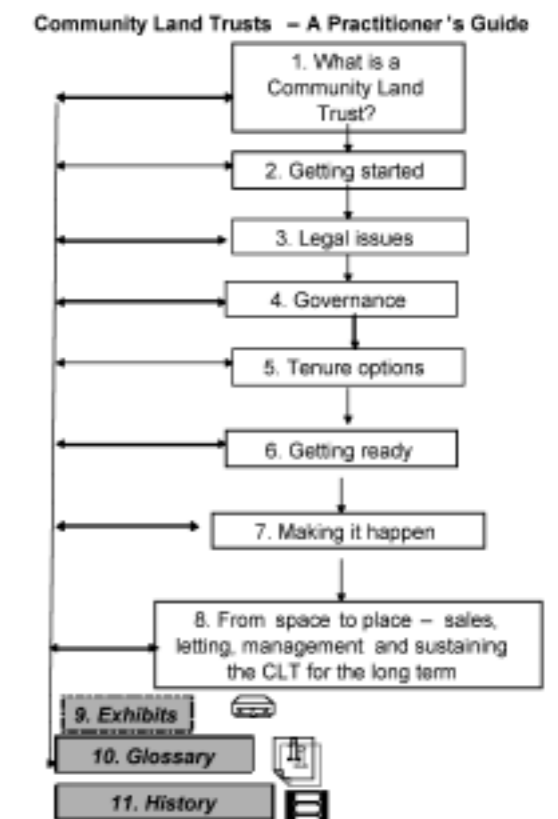
Section 6 is about securing the opportunities that meet the identified needs, culminating in the preparation of a detailed business operational plan. It contains technical support information from feasibility to preparing a plan/brochure, all essential to the objective of 'capturing value'.

Section 7 is about committing the organisation to purchase and develop the land and/or property through to handover of the completed project. This development process is supplemented

by drawing upon the practical experiences of some urban and rural projects.

Section 8, From space to place is about setting up a CLT for the long term. It contains information about the marketing, sales and lettings of the completed property, together with suggestions for operational sustainability and preserving affordability in perpetuity.

On the website there are case studies which should help to give encouragement and inspiration by finding out how others achieved their vision. To limit the size of this toolkit, these papers are only available online. So that new groups can share their experiences, ideas and obstacles, the website will also include a 'portal' from early 2007, where details of schemes can be posted so that communities and their supporters can find out what others are doing. The exhibits on the website also include examples of documentation which others have used.



Acknowledgements

Community Land Trusts: A practitioner's guide

This publication springs from *Capturing value for rural communities*, a research project funded by the Housing Corporation and the Countryside Agency. The research involved investigating existing practice in creating community land trusts. It resulted in a publication, *Capturing Value for Rural Communities: community land trusts and sustainable rural communities*, showcasing 10 case studies of CLTs throughout the UK. The first national CLT conference was held at Warwick University in 2005. Work in conjunction with solicitors Trowers & Hamlins has resulted in the publication of a pamphlet entitled *Community Land Trusts: affordable homes in sustainable communities*. A website has been set up at www.communitylandtrust.org.uk.

The practitioner's guide has drawn, in addition, from the practical implementation of pioneering CLT projects in the south west of England through the work of the Devon Reinvestment Service/Wessex Reinvestment Trust Group. The guide gives tools, technical resources, contacts and the inspiration needed for developing a successful CLT project. The case studies, exhibits and business planning techniques are based on good practice – on what works. It will give a handy overview of what is needed alongside practical help in getting started.

The guidance given in this document is largely drawn from the experience of setting up and providing technical support to a number of emerging CLT projects. Every effort has been made to ensure the accuracy of the information contained in this guide. The University of Salford wishes to stress that it is the responsibility of the reader to check that accuracy independently, before taking any action or entering into any commitment based upon the guide. Exhibits and links to other websites are provided solely for information. In addition, the development of a CLT must be suited to the needs of the community and the specific context. The guidance given in this publication should therefore be adapted accordingly, and new approaches adopted where appropriate.

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1.0 What is a community land trust?

This section covers:

- what is meant by a community land trust (CLT);
- the kind of bodies and agencies this includes;
- where they have played a role so far.

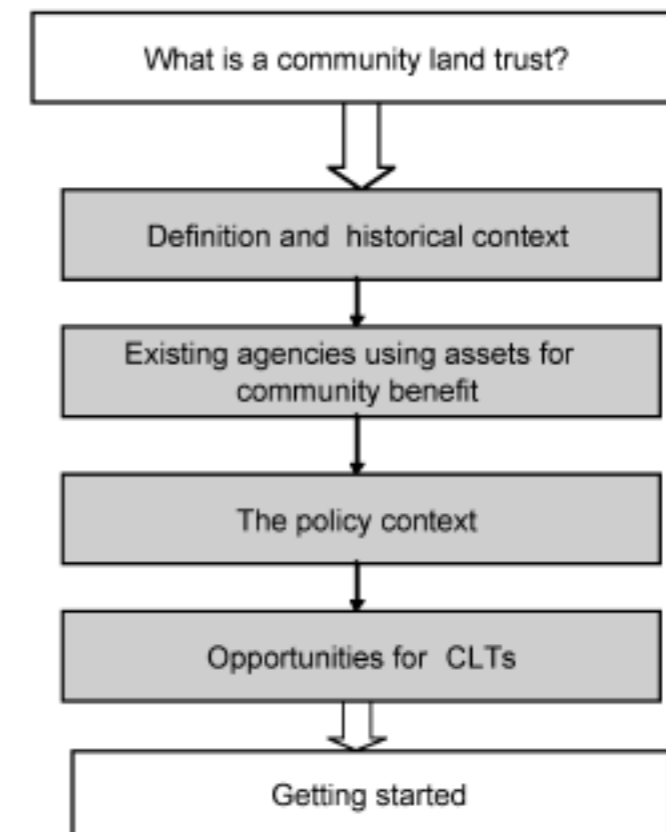
It also refers to the current policy context. A fuller and regularly updated section on policy is available as Exhibit 20 on the CLT website. This examines both urban and rural contexts, and aims to provide an understanding of the concepts, thinking and language governing this area, as well as some of the issues relevant to planning, funding and other applications. It argues that CLTs are well placed to meet needs and objectives identified by recent government and independent analysis.

EXHIBIT

See www.communitylandtrust.org.uk

1 The Highlands and Islands of Scotland: an enabling framework

20 The policy context



1.1 What is a community land trust?

Roads are made, streets are made, services are improved, electric light turns night into day, water is brought from reservoirs a hundred miles off in the mountains – and all the while the landlord sits still.....To not one of those improvements does the land monopolist, as a land monopolist, contribute and yet by every one of them the value of his land is enhanced. He renders no service to the community, he contributes nothing to the general welfare, he contributes nothing to the process from which his own enrichment is derived. Winston Churchill's speech to the House of Commons, May 4 1909 quoted by Kate Barker in her Interim Report on the Supply of Housing for HM Treasury 2004

1.1.1 Community land trusts (CLTs) form part of a long British tradition of seeking ways to protect the asset value of land for the benefit of the community, beginning in the 19th century with the work of the Chartist Land Company, Octavia Hill and John Ruskin to defend and preserve the 'commons' from the threat of complete enclosure. This work was taken up subsequently by Ebenezer Howard and the early Garden Cities movement, along with the co-operative housing movement from 1903 onwards. The practice died away after 1918 with the government's preference for public land ownership, but over the past decade, community land ownership has been revived as a practice in the Highlands and Islands of Scotland through 'community buy-outs'.

1.1.2 In their modern form, CLTs have retained a clear and defined purpose. They exist to sustain community ownership, lock in land value and support community based housing and enterprise. In the context of escalating house prices in recent years, they can deliver affordable rural housing to local people on modest incomes by taking the land cost out of the development equation. In the context of urban regeneration or to meet the Government's Decent Homes standard, they provide a route for public assets to be transferred to local ownership, thereby engaging and involving the community with its valuable understanding of local needs and circumstances. In addition to securing affordable house prices, CLTs can provide job opportunities and support the development of community owned land and property assets.

1.1.3 For the purposes of this toolkit, a community land trust, whatever its legal or organisational form (or even name), has the following essential elements:

- It is a not-for-profit organisation;
- It promotes resident involvement. Its membership, which elects a majority of the board, is drawn from people who live or work in the area, and this helps it to build a strong base for community action;
- It is a mechanism for holding land and property for the benefit

of present and future generations in a defined locality or community:

- It has purposes which are commonly related to the provision of affordable housing ('intermediate market' housing for working residents on low to moderate incomes, and affordable rented housing), but a CLT may also exist for other purposes, such as local or social workspace, community enterprises and cultural, recreational, environmental, farming or conservation objectives;
- It enables communities to capture and preserve the value of transferred public and private assets, public regeneration investment, value derived from the use of planning policy instruments ('development gain'), gifts and endowments. At the same time, it enables the land, or buildings constructed on the land, to be used in ways that offer maximum support to the community. (Conceptually the structure of the CLT provides for separation of the ownership of the land from the ownership of the buildings, structures or activities on it, although in practice the legal position may be rather more complex.)

1.4 A definition of a CLT has been included in section 9 - Glossary. This was drafted by practitioners with legal advice with the express purpose of seeking to insert a new clause in the Sustainable Communities Bill - 'establishing, supporting or promoting Community Land Trusts'. This was tabled in Parliament by David Drew MP on 28th February and represents at the time of publishing this practitioner's guide the best working definition available.

1.2 What existing bodies could, or already do, use CLT mechanisms to capture land value for local communities?

1.2.1 There are several types of body which have set out to hold land and property on behalf of communities and which may or may not call themselves a 'community land trust'. They have different objectives and there are many ways of categorising or grouping them. The term 'community land trust' will include some but not all of the members of each of these groups.

1.2.2 *Housing associations* are not-for-profit organisations which build, regenerate and manage affordable social housing. Some are community based. They are governed principally by the Housing Associations Act 1985, which defines them as existing to provide 'housing and associated amenities for people in necessitous circumstances'. They are usually registered under the Housing Act 1996 with the Housing Corporation, the body responsible for public investment in housing associations. (The Housing Corporation is due to merge with English Partnerships to form a new agency known as Communities England: this should be borne in mind when these bodies are referred to in this guide.) While they are in principle independent organisations operating within the 'third sector', registered housing associations, known formally as registered social landlords (RSLs), operate within a defined statutory framework in order to qualify for access to Social Housing Grant (SHG). RSLs use these grants to make their new homes affordable. Alongside the grants, RSLs borrow large sums from banks and building societies which they repay from rental income. Unregistered housing associations, which tend to be smaller,

member based and sometimes mutual organisations, do not have access to SHG but can, as a result, operate more independently, without being regulated by the Housing Corporation. Both RSLs and unregistered associations could be seen as a form of CLT, but only those that still have strong local community support policies are likely to be well placed to implement the CLT mechanism.

1.2.3 *Heritage trusts* exist for a wide range of purposes, usually related to the conservation of land, property or cultural goods. Most are charitable trusts and rely on grant funding to carry out their objectives for the benefit of a defined community or locality, or for the public in general. A heritage trust could use the CLT mechanism, but most have a different focus. In the US, they are known as Conservation Land Trusts or Environmental Land Trusts, in order to distinguish them from community land trusts. CLTs usually have affordable housing as a core purpose, and this is not generally the case for heritage trusts, including the National Trust.

1.2.4 *Development trusts*, of which there are over 200 across the UK, share common approaches to creating community assets to be held in trust for the long term. They are represented nationally by the Development Trusts Association, which defines them as:

- engaged in the economic, environmental and social regeneration of a defined area or community;
- independent and aiming for self-sufficiency;
- not for private profit;
- community based and community owned; they are actively involved in partnerships involving the community and the voluntary, private and public sectors.

1.2.5 Development trusts take a number of legal forms, all of which are not-for-(private) profit distribution. At present, only a minority of development trusts are involved in affordable housing development.

1.2.6 *Parish and community councils* are expected to receive wider local powers and resources from the Government to run village and community services in future. These could include managing parks, maintaining street lighting and employing neighbourhood managers. As democratically elected local bodies, parish councils in rural England, community councils in Wales and Scotland, and neighbourhood councils in urban areas might also use the CLT mechanism to capture value for community needs. Indeed, if developed in this participative way, CLTs could be the ideal vehicle for meeting local needs at local level under local control – something that advocates of parish councils and neighbourhood councils have long argued for.

1.2.7 Overall, what is important is what a CLT can do, rather than its particular legal or cultural background, or what it is called. Even new, local organisations set up specifically to provide land or property assets using the tools and models referred to in this toolkit may call themselves either a community land trust or a community property trust. And a final point to note is that restrictions on the use of the word 'trust' by the Financial Services Authority may mean that the registered legal name cannot include 'trust' but

must instead be abbreviated as the 'Townsville CLT Limited', although in its business dealings it can still call itself a 'community land trust'.

1.3 The policy context

1.3.1 Two main strands of government policy are supportive of the development of community land trusts. These are: policies to promote sustainable communities and increase the supply of good quality affordable housing; and policies to promote community and neighbourhood engagement. Details of these are set out as Exhibit 20 on the website www.communitylandtrust.org.uk, which will be updated as policy develops.

1.4 Opportunities for CLTs

1.4.1 As can be seen from Exhibit 20, there is reference to CLTs in government policy documents but there are also opportunities where CLTs are not specifically mentioned.

The policy role of CLTs in urban neighbourhoods

1.4.2 In the urban policy context, CLTs can be seen as a mechanism for local governance, and a driver for neighbourhood action, with an emphasis on long-term, asset based community development. They can involve a shift in power relationships at local level and enable the voice of the community to be heard in planning and decision making processes. CLTs can facilitate a partnership approach, involving local residents, housing associations, developers, the local authority, landowners, voluntary organisations, and community groups.

1.4.3 Within this policy context, there is interest in CLTs as one of several possible new institutional forms for local governance and practical and political action in neighbourhoods. CLTs were specifically recognised in the consultation which preceded the Local Government White Paper in October 2006 as being a powerful driver for neighbourhood action.

1.4.4 Important features are:

- Enabling the community to be involved in specific, practical actions which make the community more viable and sustainable;
- Provision of community benefits based on local understanding of need;
- The ability to provide a counterbalance to market conditions, deal with 'market failure' and ride out economic cycles;
- Recognition of the need to invest in communities, to re-invest and to manage different interests in the land;
- Land and property stewardship – a 'safe pair of hands' for property assets derived from both public and private sources where whoever sells the land wants to be certain there is no opportunity of the transfer simply resulting in private or individual profit.

1.4.5 Involving local communities – including, and sometimes especially, social housing tenants – can bring local knowledge, understanding and commitment to bear on the problems which have sometimes been experienced in public ownership and management of housing and other assets. Bringing improvements

to large, publicly owned estates has proved an enduring challenge, despite very substantial investment. Perhaps this is because there has been too little emphasis on issues other than physical regeneration, so that poverty and social exclusion have continued; while in rural areas affordable housing has been both sold off and reprovided without enough attention to the local need and context.

1.4.6 Housing assets have the potential to contribute to the realisation of some of these new policy objectives in several situations, as explained below.

- The disposal, refurbishment and redevelopment of local authority housing in order to recreate and safeguard good quality affordable housing. This will often take place in estates with other publicly owned assets, such as shops, school buildings, and health centres. These processes are an opportunity to see public housing stock transfers as a catalyst to achieve the Decent Homes standard, increase inward investment, diversify forms of tenure and land uses in neighbourhoods, and manage the public domain more effectively. They can also create some capability for managing local housing markets to maintain supplies of affordable housing in urban neighbourhoods and in more dispersed rural settings;

- Where substantial regeneration funds are being made available for land acquisition or site assembly, a CLT could be created to acquire the land with public funds and to control the regeneration process. A private developer inevitably has the financial motivation to negotiate away any complex aspects of a regeneration scheme involving low value retail or workshop space, or the refurbishment of a landmark building. The community may be forced down the same path for economic reasons but will be motivated first to redouble their efforts to make the regeneration aspects work;

- The consolidation of fragmented ownerships in areas of mixed land uses and mixed tenure housing in need of repair, modernisation and redevelopment, and requiring co-ordinated and collective action to secure investment and execute the work. Other kinds of intervention may be needed to deal with low demand and abandonment in situations for which local authorities, acting on their own, are not the best or most sympathetic agency. These homes are typically now in inner city areas of Victorian and Edwardian terraced housing. Nevertheless, areas of more modern, low density suburban housing, in public and private ownerships, will need similar treatment as the housing stock ages, or where urban housing supply needs to be increased through more cost effective and intensive uses of land.

1.4.7 Some other urban opportunities where CLTs might play a role, alongside or separately from a role in transferred local authority stock, are set out below:

- In new homes provided by the English Partnerships first time buyers' initiative, a CLT would be able to continue to recycle property equity to future first time buyers in flexible ways which reflect their individual means, rather than providing a one off opportunity. A CLT can also tailor subsidy to the individual rather than the home;

- CLTs could provide a mechanism to hold and manage public open space for the benefit of everyone in the surrounding community.

This could then contribute effectively to Liveability policies through community engagement in both the problem and the solution;

- In housing market renewal areas, CLTs could provide an opportunity for owners of property in poor repair to pool their ownership and access public investment which could then be held collectively, rather than requiring existing owners to sell up and move. By transferring ownership to a CLT, those with a low existing value could remain within the renewal process, participating in it and reaping the benefit;

- At the end of regeneration programmes such as after New Deal for Communities programmes, CLTs could offer ways of holding assets and generating income for the community.

The Manor & Castle Trust in Sheffield, established over 20 years ago, now takes rent-charge income from new private sector housing built as part of a major regeneration scheme. When the council was considering a city-wide housing stock transfer (before abandoning the initiative after a change of political control), the trust aspired to be one of the transfer bodies, to consolidate its asset base over a considerable sector of the city and to support the community and economic development activity for which it had been originally set up. In this way it would have built on its existing asset base and funding support from Yorkshire Forward regional development agency.

The policy role for CLTs in rural communities

1.4.8 Affordable housing has a dual role in rural communities. It meets individual housing needs alongside wider community needs by helping to ensure a balanced community, where people who play a role in the area through their employment or social contacts can afford to live.

Housing needs

In 2005, various bodies, including the then Countryside Agency, estimated that 10,000 more rural homes would be needed every year. However, up to the end of March 2006 the actual programme was 1,750 homes. At least 8,000 more homes a year are needed. Many people require rented housing, let at government target rents under assured tenancies. However, in the face of rapidly rising house prices, there is also a growing need among people on intermediate incomes to access affordable housing, perhaps on a part equity basis. Resources will need to be found to achieve this alternative. The most likely source is land from sympathetic landowners, supplied through the wider use of exception site planning consents, where the price of land is not unduly inflated above agricultural values. The requirements on developers to provide a percentage of affordable homes in larger developments are also important, as is the transfer of public assets. This source of 'subsidy' can be 'locked in' by a CLT. The trust can then build homes that will remain in the affordable sector in perpetuity.

Community needs

Rural housing is crucial to the countryside. It supports social cohesion by enabling families and kinship groups to remain together. Affordable rural housing reduces reverse commuting from towns by people employed in country areas, and by carers and others providing informal support. The CLT, in addition to providing affordable housing, can also be the focus for underpinning other

village facilities, such as workspace and community facilities, and through this empower local people to take responsibility for bringing about benefits, many of which are also key objectives of government policy.

1.4.9 The emphasis on housing as a core feature of asset based community development is beginning to be recognised as one of the most powerful drivers of change. Almost by definition, housing is the predominant land use in most communities, whether deprived or not. Ownership and management of housing (and also related shops, workspace and open public spaces) is a highly effective means by which communities can control or influence what happens in their neighbourhood in the long term, as well as at the outset of a regeneration scheme.

Village Companies

For more than five years, Leicester Housing Association (now LHA-ASRA) has been working to develop social enterprises in communities that span the Meden Valley in north Nottinghamshire and north east Derbyshire. Through close co-operation with local residents, elected councillors and other stakeholders, a string of 'village companies' has been established. Offering essential services, these have created jobs and put pride back into an area that suffered badly from the collapse of traditional industries. The commitment was sustained through the active involvement of the housing association's managers on the village company boards.

In Warsop, the village company known as WAVES worked with Age Concern to develop a home repair and maintenance business that provides minor works to elderly residents on low incomes. Running alongside this is a new business providing domestic and personal care services. Elsewhere at Elton and Creswell, the village company has refurbished three shop front units to create a popular learning centre as well as a café, heritage centre and 'nearly new' shop. In Whaley Thorns, the village company has developed a local print business and opened a fish and chip shop in purpose built premises.

Extract from LHA-ASRA website www.lha.org.uk

1.4.10 In relation to public policies, a CLT can be used as follows:

- to increase the supply of affordable rural housing, especially intermediate market housing, without requiring social housing grant;

- to hold in perpetuity assets derived from agreements under section 106 of the Town and Country Planning Act, enabling flexible and effective arrangements without the repeated intervention and involvement of planning staff;

- to persuade landowners to provide land for affordable homes in the knowledge that their concession will be protected from private profit;

- to secure local support and consent to build on sites not designated in the Local Plan by demonstrating that local needs will be met;

- to recycle council tax on second homes in a way which relates directly to the reason for imposing the tax;

- to provide a 'delivery vehicle' for community plans developed through the Vital Villages and market and coastal towns initiatives

- where needs have been identified but must now be translated into action to build sustainable communities.

Creating community owned housing assets as a key driver of policy

1.4.11 Both the urban and rural opportunities described above have in common the principle of land and property ownership as a means of empowering local people to help themselves, not just in the short term but also in the long term, when needs and circumstances may change. Additionally, local ownership ensures that provision is tailored closely to local need.

1.4.12 The essence of a CLT is the simple idea that the value which can be derived from land within a neighbourhood or a defined community should be protected and made available for reinvestment to the long-term benefit of that community.

1.4.13 In these circumstances, public policy, local political interests, investor interest and common sense can coalesce around the idea that both the assets derived from the original public investment, and any disposal of public assets on advantageous terms, should be protected through community ownership and an 'asset lock'. In section 5 there is the example of a transfer of a housing estate at nil consideration to a housing association partner. In return, the housing association and its joint venture developer partner will invest in new and existing buildings for all kinds of housing, retail and community uses, and high quality public spaces. A CLT can give legal, financial and social expression to this idea.

1.4.14 In this case study, the housing association and developer partner are uniquely placed to secure and deploy the necessary finance, development and marketing skills. The longer term success and sustainability of the community, however, will depend on landlords, residents, churches, schools and voluntary organisations taking joint responsibility for regeneration. The community will be much more diverse community than it was before any intervention, and this long-term commitment to action has to be underpinned by notions of local partnerships in which partners are equal, with a sense of common ownership of place. It will need to draw on local knowledge, skill and energy.

1.4.15 A typical CLT structure should be able to provide the means to bring these interests and skills together in similar situations, as outlined below.

The stewardship of 'public goods'

CLTs can represent the continuing public interest in land and assets, especially those formerly in public ownership, or provided with public funds and public institutional support.

The cost of land

CLTs offer a mechanism for sharing the benefits derived from recurring charges on land such as ground and other rents, in ways which can help stabilise local land markets and inhibit speculative trading behaviour and inflationary trends.

Community benefits

Community benefits include secure streams of income generated from land ownership, and the creation of assets with both utility value and with income streams of their own. All these add value to a neighbourhood.

1.4.16 The emergence of housing-focused community trusts will be a sign of the evolution of community expectation and aspirations, coupled now with the development of a more supportive policy framework, in which community property ownership is naturally linked to ideas about:

- improving quality of life;
- promoting community wellbeing;
- managing communities and neighbourhoods;
- supporting enterprising communities.

1.4.17 Government policy guidance (see Exhibit 20) shows that it expects to see new institutional forms for representing the 'public interest' or the 'community voice' at neighbourhood level. Such institutions would also have the capacity to join up actions that flow from local neighbourhood renewal strategies, community strategies and the spatial planning process, operating at regional level. The Scottish Parliament's record of achievement in the passing and implementation of the Land Reform [Scotland] Act 2003, and the Government's references to it, provide a powerful signal that communities have at last been recognised as having the legitimacy and competence to take action themselves at a local level (see Exhibit 1 on the website). Through CLTs, communities in Scotland have the capacity to promote big policy ideas like sustainable development in ways which are probably more effective and relevant to local circumstances than intervention by 'big government' ever could be.

Key forms of support: the Scottish Community Land Unit perspective

- Work at an early stage with assistance and a start up grant of £2,000
- Funding for a project researcher and/or animator
- High levels of grant, free of borrowing charges, as it is hard getting revenue funding for loan interest payments
- Aftercare - 'we don't just help them buy the land and then leave them to it'
- Close, long term relationships with communities.

Andrew Anderson, Highlands and Islands Enterprise

1.4.18 Land and property assets would undoubtedly increase the potential for CLTs to elevate the status of neighbourhoods and the 'community voice' in these planning and decision-making processes, and thus bring about a significant shift in the traditional disposition of power at local level. CLTs should therefore have the capacity, in appropriate situations, to mature into new forms of localised governance, which will be directly involved in urban and rural management and the commissioning or delivery of local public services.

This section should have provided:

- a working definition of a CLT and what it aims to do;
- a good understanding of the policy context (via the website) as it applies to both rural and urban situations, which may well be needed when seeking to convince planning, housing or economic development staff of the value of what is proposed.

2.0 Getting started

Getting started is about engaging people in order to reach agreement on a plan for a community land trust project. The key is to identify what needs the project should meet; to set these out in a community appraisal; and to acquire the resources to take the project forward.

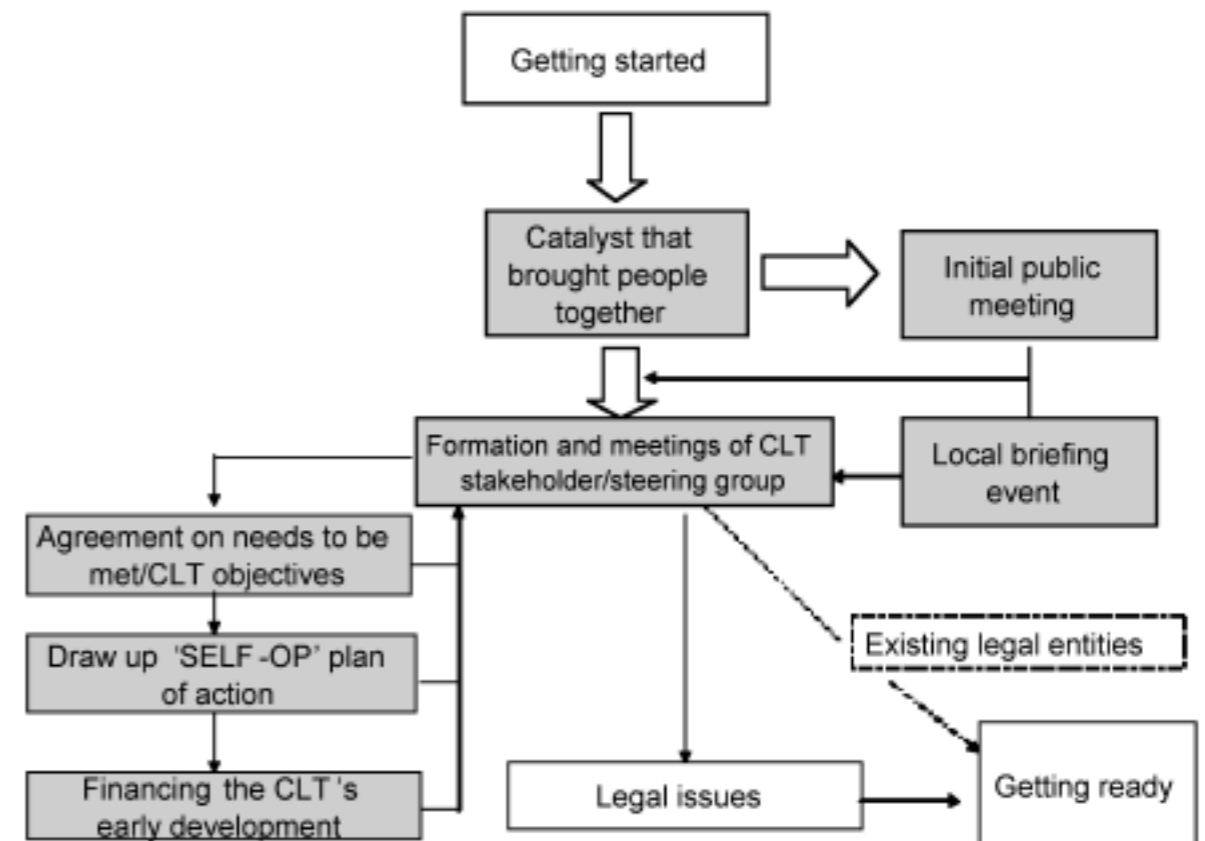
This section of the guide is therefore about building trust and relationships, identifying common insights into the issues and opportunities facing the community, sharing the 'story so far', agreeing the vision, and working together to realise it.

At the end of this stage of development, there should be an outline community plan and possibly a 'prospectus', so that the team is ready to start securing land and property to meet the agreed needs of the community.

EXHIBITS

See www.communitylandtrust.org.uk

- 2 Initial public meeting agenda and sample business plan
- 3 Sample invitation and agenda to feasibility briefing conference
- 4 Generic design for CLT search conference
- 5 'SELF-OP'
- 6 The 'Wheel of Fortune'
- 7 Development process plan
- 8 Development plan budget for a county-wide umbrella CLT



2.1 What triggers the process and who takes the lead?

2.1.1 People will be alerted to the need for action through triggers, which might be anything from new regeneration or road plans, to the lack of affordable housing, or to a simple belief that local involvement could make things work better.

2.1.2 Initial leadership may come from:

- the parish, district, urban and/or city council, which initiates consultation;
- community leader(s) forming a core planning group and raising community and council support;
- a community based organisation, action group or alliance using surveys, public meetings, and participative events to engage people, the council and stakeholders;
- an action group of people in need of housing.

2.1.3 The process described below is intended to help local people and supportive organisations to build as broad an agreement as possible to take a scheme forward. However it starts, the desired outcome is the same: a viable plan of action with a steering group responsible for implementing it, which has a clear mandate for action from the wider community and is supported by other stakeholders.

Setting up a steering group: the how and the what

2.1.4 The first task of a steering group is to agree how it will work and what it plans to do. It starts by designing its terms of reference. The following participative design process is an example, to which further questions could be added as needed. Even if there are only three to five members, there should be a chair to guide the process, a timekeeper to keep track of time (allow up to three hours) and someone whose task is to record the outcomes as they develop, ideally on a flip chart so everyone can track progress.

The how: participative process for setting up a CLT steering group

- Who will facilitate the discussion? Timekeeper? Flip charter?
- What helps and hinders productive project planning? Brainstorm on a flip chart for 5-10 minutes.
- What are our group objectives and overall purpose?
- What are our individual objectives?
- What are our key tasks? How will we know when we have succeeded?
- How will we co-ordinate our work? (Meetings: recording decisions/minutes; ground rules; how we will communicate with each other; leadership tasks: chair, minute taker, convener, treasurer)
- External relations - how will we consult and check with community, stakeholders, partners, champions and funders?
- What skills do we have and what skills do we need?
- Criteria for membership? Any gaps and overlaps?

- What resources do we need for the initial project stages? (Funds, budget, time, space, equipment)

- See terms of reference for High Bickington Project 2000 at www.communitylandtrust.org.uk

2.1.5 After deciding how it will organise itself, the CLT steering group must agree what it wants to do, adapting an agenda/process from the questions below.

The what: participative process for determining the goals of a steering group

- Why is local action needed?
- What will the CLT aim to do - what will be its core purpose?
- Who are its intended beneficiaries?
- What locality and community will the CLT serve? How will it be defined?
- What individual actions are needed – what are the tasks?
- Who will undertake them - what will/can be delegated to other bodies?
- What technical support and initial funding are available?
- What legal and governance structure will be chosen?
- What types and tenures of housing and workspaces will the CLT develop?
- What timescale will be feasible or necessary?
- How will the homes or workspace be made affordable and how will affordability be preserved?
- How will the community, sponsors and stakeholders be engaged in agreeing a vision, values and action plan for setting up the CLT?
- How feasible is a local CLT? What is a workable business model?

2.1.6 Many of these questions will take some time to be resolved and may require external professional advice. There are central questions, which should be kept under review as the project develops. The availability of funding, political support, opportunities for acquisition, etc are all liable to change as ideas develop. But having had initial discussions and formulated the CLT steering group's broad terms of reference, the next step will be to agree an overall work process.

2.1.7 A flow chart should be drawn to show the key steps needed and the list below can be used as a checklist. It will be necessary to draw up an action plan of who will do what and by when. The level and scope of consultation and the degree to which all these actions are necessary will depend on the scheme, but all will need to be considered.

Key steps to setting up a CLT

- Set up a CLT planning group (community or a supportive organisation such as the parish or district council, or a regeneration agency).
- Draft CLT steering group terms of reference and action plans.
- Check terms of reference and plan with those who have set up the planning group (see section 2.3).
- Obtain funding for initial consultation work and feasibility study.
- Undertake some form of participative consultation with community, also involving stakeholders from statutory, business and voluntary/community sectors.
- Design and hold (public) meeting to consult on results and proposed next steps.
- If project is feasible, form steering group and raise funds for next planning stage.
- Devise means to keep community and stakeholders informed.
- Incorporate CLT and implement.

Additional steps for more complex proposals

- CLT planning conference: vision, aims and structure.
- Options such as:
 - Planning for Real ®
 - Local design statement
 - Local mapping
 - Community appraisal
 - Housing needs survey or audit
 - Community or parish plan
 - Project work on different themes, eg, housing, workspace, amenity, conservation, or community farm.
- Local briefing events:
 - Exhibition, workshops, open house
 - community land trust conference
 - Enquiry by Design
- Present and agree a plan or vision
- Local briefing events:
 - Exhibition, workshops, open house

2.2 Participative consultation techniques

2.2.1 There are two principal purposes in engaging people through participative events. The first is to make the most of local knowledge, skills, energy and time so as to generate the capacity to develop a CLT. The second is to involve people from all sections of the community, particularly potential beneficiaries of the scheme, people who are often marginalised, and people who find it difficult to come forward without encouragement and support.

2.2.2 In addition, if some form of community, regeneration or parish plan does not already exist, it will also be helpful to secure the participation of potential supporters and stakeholders such as the local authority or a local housing association.

Getting people engaged

2.2.3 When given the chance, most people are strongly motivated to work together to create a better future for their community. But 'talking heads' at public meetings, with expert inputs and little space for involvement can leave people demoralised. Participative events, however, can be highly motivating. They give people a chance to suggest and prioritise improvements for their community in ways which engage everyone, not just those who are most confident or strident. There are many methods which can be used, either directly by those drawn from the community and committed stakeholders, or, if preferred, by external facilitators.¹

General principles for holding events

- Plan carefully, so that invitees are clear about the purpose, the benefits to themselves and the community, the process and the follow up;
- Accept diverse agendas, constraints and varied levels of commitment;
- Agree ground rules and boundaries – which decisions are on the table and which are not;
- Avoid jargon and explain technical terms;
- Be honest, transparent, flexible and visionary;
- Be realistic, too;
- Encourage communication and collaboration;
- Involve people affected by the project;
- Be inclusive and draw on the whole community;
- Enable local ownership of the process;
- Plan for and respect the local context;
- Keep records;
- Use experts carefully but avoid dependency;
- Use outside facilitators where appropriate;
- Record and follow up what happens at the event.

2.2.4 It is vital to prepare each event carefully so as to make the most of everyone's contribution and time. Events will then be seen as a significant milestone, and the time attending as worthwhile.

Building partnerships

2.2.5 Remember that the aim of the participative events is also to build partnerships with key stakeholders and organisations. Keep in mind some key roles and take some time to discuss who might fall under which heading. Many partnerships will already be in place, and it may be important to find out about the concerns of the local strategic partnerships and any working groups or subsidiary partnerships they have set up. There may also be regeneration partnerships in urban situations, and affordable housing partnerships covering county councils or particular areas. These may be consultation rather than action-based and may not be specific to the area, but they will nevertheless be a source of contacts.

2.2.6 For example:

- **Brokers:** people who know the local community well, including its statutory, community and business sectors, know where to find resources and which people are likely to be interested in a CLT, and bring people together for an initial meeting. The local voluntary and community services council is one option;
- **Champions:** respected local people such as the MP, district or county councillors, county or district council leaders, rural community council chair, local employers, etc, who have positive influence;
- **Sponsors:** such as the parish council, county economic development unit, district housing strategy or rural community council. They might set up the CLT planning/steering group or fund and commission paid work, such as a feasibility study;
- **Partners:** share the risks and the benefits, putting time and money into CLT development. They share decision making, and make things happen;
- **Participants:** take an active part in the decision-making process, such as community planning events and working groups. May gain the capacity to lead and carry out specific tasks;
- **Consultees:** are formally asked about their views on current issues and solutions through surveys or in briefing meetings, but do not engage in participative events;
- **Potential clients and users** of products and services to be provided by the CLT;
- **Potential service providers,** in particular housing associations or development trusts that might be willing to provide services such helping to find and develop land, or to provide on-lending for development costs.

2.2.7 The depth of consultation needed will depend on what the proposal is and what has gone before. If the community and stakeholders are already supportive and if the options have already been explored, some of the following suggestions may not be appropriate. But it is always worth checking that the organisation is working from a firm foundation.

2.2.8 What follows is a list of examples of participative techniques.

Planning for Real®²

Purpose: to enable the community to engage through creative input in the form of listing issues and development priorities, suggesting options and voting for the best scheme.

Planning for Real® helps people visualise a model of their community and area, and uses simple devices to help people generate ideas and prioritise ways of improving their community. A facilitator or a community architect trained in this method should be used and a session can take two to three hours. It involves the following types of processes.

- A large model of the community is made by local people using cardboard models for buildings stuck on to a base of card or polystyrene. This might be done by schoolchildren as a project.
- The model is shown around the community to advertise the workshops.
- At the workshop, people put cards on the model suggesting what they want to happen and where. Some examples might be a playground, community woodland, a new school, small flats, starter homes, trees, etc.
- Participants order the cards into actions which can be taken now, soon or later, and identify who should take action.

Local design statement

Purpose: to use consultation to define and protect what is important about the appearance of an area and the activities that take place there.

This technique enables people to produce guidance for future development, and may be adopted as supplementary planning guidance. The design statement team, supported by local planners, obtains the views of local people through events such as a one-day 'local character workshop' which uses mapping, photographic surveys, guided walks, presentations and discussion to determine the architectural style or 'vernacular' which characterises the area. This is then written up, circulated and re-edited after feedback and consultation with local people and planners.

Local mapping

Purpose: to help people see the local area from different perspectives.

An event is organised to help groups of local people map their area. Residents compare their maps and so learn about the area

and the interests and needs of different groups. Problems and opportunities can be explored. This method can be used to map specific issues, such as the history of land use, and to challenge perceptions.

Community appraisal

Purpose: to agree a vision of how the community wants to develop, and an action plan to achieve those aims.

A community appraisal could emerge from a Planning for Real® exercise or from local mapping, but it would begin from the point of view of the facilities and amenities that a community needs to function sustainably, rather than the physical environment. It would often be the first step in consulting and involving the community.

In market towns and rural areas, many communities and their local councils have had experience of developing town or village appraisals or design statements. Parish plans were also developed during the early 2000s. Funded by the Countryside Agency or regional government offices, these involve the whole community through surveys, research, consultation and community participation. They bring together identified needs and the way the community would like to see these needs met with developments of an appropriate scale and design. The local rural community council fieldworker may still be able to source funding from their regional government office to help with this planning process.

Housing needs survey or audit

Purpose: to identify the extent of local housing needs compared to the housing available.

A housing needs assessment will generally be in place, undertaken for the local authority or for a group of authorities and covering a 'housing market area'. This will provide valuable demographic and strategic information, but may not provide all the necessary detail. It may be worth finding out if other assessments have been undertaken, for example by housing associations.

If the aim is to provide affordable housing to meet a perceived need in the community, it will be necessary to have a more formal survey to use when persuading planning officers or the Housing Corporation of the need for an 'exception' planning permission.

For rural projects, if there is a rural housing enabler for the area, they will be able to give all the help needed to undertake this or to conduct it on behalf of the community. In a larger settlement, surveys are conducted by interviewing a sample of local people and extrapolating across the whole community. However, in a village or even a market town it may be possible to aim for an 'audit' which lists everyone who has been identified as being unable to meet their needs on the open market. Information to be collected from individuals will include household size; present housing circumstances; household income; savings and other resources available (such as from family or friends); and whether they are on the housing waiting list. Alongside this, information will be needed about average house prices and about what is available at the lowest cost. There may, for example, be a shortage of smaller homes or of private rented housing. In urban areas, the local authority's needs assessment may provide the necessary data if it is sufficiently broken down to be relevant to

¹ An excellent handbook offering a comprehensive range of effective methods is Wates N. The Community Planning Handbook Earthscan, London: 1999

² This community consultation tool is a specialist process subject to a registered trademark and permission is required to run events under that name. This can be obtained, along with further information, from the Neighbourhood Initiatives Foundation at www.nif.co.uk. See also A Practical Handbook for 'Planning for Real' Consultation Exercise, Neighbourhood Initiatives Foundation, Telford, UK: 1995.

the community. An advertisement in the local paper followed by a housing needs questionnaire, or questionnaires distributed locally through shops, schools, pubs and community centres, will give information which could reinforce and inform the proposals.

If people are going to provide personal data, they may prefer to give it anonymously. In this case, names and addresses can be recorded on separate sheet so that there is a contact list but the survey data is unrelated to particular individuals. However, if the aim is an audit, it may be necessary to associate names and financial circumstances, in which case the information must remain confidential. If it is intended to use the data to take decisions, or to make it available to others, it may be necessary to provide a notification under the Data Protection Act. Information on how to notify can be obtained from the Office of the Information Commissioner (www.ico.gov.uk). It is not very complex.

Initial public meeting

2.2.9 Whatever consultation methods it decides to adopt, the outcomes will put the CLT steering group in a better position to draw up an initial project plan or feasibility study.

2.2.10 Checking that this proposal delivers the outcomes the community has identified will be the next step. Again, this can be done in several ways, from a brief newsletter to a full local conference. A middle option will be some sort of public meeting to involve and inform people in the community and gather wider support. A small group, which could be the steering group, will need to plan such an event carefully, using the following agenda questions.

- What are the purposes and objectives of the meeting?
- What outcomes are we hoping for?
- How will we engage people?
- What information do people need before the meeting and during it?
- Is an outside speaker, chair or facilitator needed?
- Which sponsor will welcome people when the meeting starts?
- As well as community members, which stakeholders and partners will be invited, and how?
- How will the meeting be publicised and reported?
- What resources, equipment and staffing do we need?
- How will we make sure everyone gets to have a say, not just those who are most articulate or vociferous? A platform of speakers plus an audience may not be the best option.

Some tips for holding an initial public meeting

- Check and revise the public meeting plan with the sponsors and the initial partners so that support, funding, invitees and timing are agreed.
- Invitations are best delivered personally, backed up by a letter which outlines the purpose and agenda, as well as giving background information. Decide who will personally invite whom. Try using postcards that people can put on their mantelpieces or notice boards.
- For publicity, write a press release and make sure a reporter for the local newspaper is briefed three weeks beforehand so a news feature can be produced which both informs people and invites them to the event. Place the event in the newspaper's listings section.
- Arrive early. Make sure the venue is well marked and that the following have been organised: a table for meeting, greeting and recording who comes; seating; amplification; visual aids, and welcoming refreshments. Visuals concerning the village, area, land use and housing needs could be attached to the walls.
- For easier interaction and discussion, try seating people in a horseshoe format.
- Agendas and information should be distributed on every other seat.
- An agenda should also be sent out in advance so that prospective participants know what to expect. A facilitator could also make a detailed process plan in order to structure the event and, above all, to ensure that it closes with an initial vision of what people want and a clear idea for the next step. For a sample agenda and process plan, see Exhibit 2 on the website.

2.3 Developing a project proposal

2.3.1 If the public meeting, or whatever other method has been selected, supports the proposal and initial vision, the CLT steering group will need to clarify the next tasks. These are likely to include developing some form of 'prospectus' or planning document based around an outline feasibility plan. The steering group should check its membership and terms of reference are still appropriate and if necessary review them both, securing approval for any change from the wider group that set it up. For larger proposals, it may be useful to have subsidiary project groups covering particular themes. Alternatively, there could be a wider group of people which meets less frequently or receives developing proposals by post or email, to advise and support the steering group in putting the feasibility study together. The wider group may include stakeholder representatives as well, such as a local planner, a housing development officer, employers, landowners and relevant community groups.

2.3.2 The initial tasks of the CLT steering group are therefore to:

- clarify terms of reference;
- consider at what stage to involve stakeholders as a formal steering group, e.g., during or after the feasibility study;
- commission and/or carry out a feasibility study;
- plan ongoing consultation and communication;
- if the project is considered feasible, constitute a legal entity to take the proposal forward.

2.4 Local briefing events

2.4.1 The purpose of a local briefing event is to present the outline proposals to the community and stakeholders and decide whether to proceed.

2.4.2 Following the initial public meeting, the CLT steering group and feasibility study consultants (if appointed at this stage) will have involved the community and stakeholders in developing an outline business model, clarifying local needs, and identifying sources of land, finance and possible initial projects.

2.4.3 The aim of a half-day or evening briefing event is to present the proposed way forward, so that the community can decide whether to continue or not, and what the next steps are. At this point the CLT steering group can start considering the composition of a 'shadow' CLT board.

2.4.4 A sample invitation and agenda is at Exhibit 3 on the website. This was used in Stroud, where the CLT briefing was designed to secure the support of partners, find resources and increase understanding of how the CLT could fit in with other housing work in the district. A key objective was to persuade the affordable housing working group, which brought together the local authority, voluntary groups, housing associations and others, to propose that the CLT could in principle receive low-cost land through s.106 planning gain agreements and exception site consents across the district.³

2.4.5 There are a number of options at this stage, depending on the scale and nature of the proposals, and the previous consultation with the community and stakeholders. These include the following.

Exhibition, workshops and open house event

2.4.5.1 *Purpose:* To exhibit plans to the community and obtain feedback. Exhibitions at a convenient local venue, such as a library, community centre, school hall or village hall, can take place over a day or a weekend, with workshops and talks. They are a useful way of publicising plans and work in progress, and of obtaining feedback and comments. Workshops can be held on any themes of common interest which feed into the CLT plan. As well as a display of plans, there can be a contact point for discussion, exhibits by community groups and CLT working groups, and exhibits of options for development, such as renewable energy,

amenity or recreation space, community woodland, allotments, a community orchard or even community supported agriculture. The event can also include a children's corner, and tables set out by enablers such as Business Links, housing advice agencies, the local housing authority, the voluntary services agency or the rural community council.

Conference

2.4.5.2 *Purpose:* when the feasibility has been established, a community conference agrees a plan for the future of the organisation, which participants will implement. The result feeds into the business plan, and offers a boost to the new organisation by resolving a large number of issues in a short, focused time. The key aim of this event is to achieve consensus and cohesion around common ground.

This is sometimes referred to as a 'search conference' or 'future search conference' and can be used for strategic planning, developing a vision, purpose and guiding values, or deciding on structures and a timetable.

The conference must be carefully designed to bring together up to 50 active participants who contribute information, resources, influence and connections from all sectors of the community. While invitees are free to decide how much time they can commit to the future CLT development, in principle they are those people who are interested in implementation. So, in successful conferences, plans will be made by those who will implement them. Invitees include people from the statutory, community and business sectors, active partners, funders and stakeholders. It can last an evening and a day, together with a follow-up event after about a month to develop working groups to realise the plan. The working groups can be set up using one of the participative design models described above, co-ordinated by a planning group. For a sample conference design plan, see Exhibit 4 on the website.

Enquiry by design⁴

2.4.5.3 *Purpose:* to produce a masterplan for a new development. This is an intensive design event involving key stakeholders such as developer, landowner, local authorities, interest groups and the community in the production of a masterplan. Facilitators enable identification of options and approaches to the development, and assist the development of common ground.

Other ideas

2.4.5.4 *Building a local pool of facilitators*

At an early stage, run a training day for anyone in the community who is interested in facilitation, so that they can help design and facilitate events as the project evolves, as well as chairing or facilitating working groups. If each facilitator takes it upon themselves to train up in a particular participative method, such as Planning for Real, so much the better.⁵

2.4.5.5 *Communication, communication, communication*

It is crucial to keep people informed on a regular basis, so that they are kept in the picture and feel included. This is the way to maintain trust.

³ see Section 6.3 for discussion of these planning issues. ⁴ This approach was pioneered in 1999 by English Partnerships with the Prince's Foundation, the Department of the Environment, Transport and the Regions (now Communities and Local Government) and the Campaign to Protect Rural England (CPRE) in plans for hypothetical urban projects in the Midlands and South of England. ⁵ See Section 2.2.8 for resources

Word of mouth works well. One rural planning group divided its village up into 'walks' of 12-24 households to be covered by each member. That person delivered the parish appraisal questionnaire personally, leaving a card to say they would be back in three days, and to ask if any help was needed. Another used 'kitchen table meetings' to discuss plans for the village, with a map of the village on the table as in Planning For Real. Each host was an action group member and made sure that all the people in their street were invited. Similar approaches could be used in urban communities.

Notice boards, regular news items in the community or parish newsletter, local radio, a website, exhibitions and fairs are all useful for communication. Information is also effective in the form of leaflets, a local directory of resources and the community development plan.

Dissent and disagreement

2.4.6 The processes described here are intended to bring the community together in order to share information about what is needed and how it can be provided. Usually, people emerge with a better understanding of both the constraints and opportunities, and find a way to reach a consensus. But it is unlikely that unanimity will be achieved.

2.4.7 Meetings where people are presented with alternatives to choose from when they have not been involved in formulating the alternatives are likely to be difficult. Taking the ideas forward at a pace that keeps the whole community on board may prevent this.

2.4.8 Public meetings with presentations from the platform may be used as an opportunity for detractors to put their view, sometimes vociferously, even if the vast majority are in favour of the proposals. Exhibitions or workshops are a way of getting everyone to speak and contribute and hence to discover majority views and suggestions which can help to neutralise objections.

2.4.9 Many communities have found that this process of developing plans for the community creates new contacts and links which have value in themselves in bringing the community together. In some cases, 95 per cent of the community have participated and backed the scheme.

2.4.10 Conclusion and summary: engaging people

You get alongside people, identify what they have to offer, and form a cohesive group, led in a supportive way so as to include people. When the village developed its vision of a community that was viable economically, socially, environmentally and culturally, we made sure we kept our eye on the ball, where we wanted to go, and how we wanted to get there. We made sure all our working groups were chaired by a member of the community to show we were leading the process. We also made sure we responded to the feedback we got from local people to our plans.

David Brown, Chair of High Bickington, 2000

2.4.11 The conditions for success in engaging people include:

- getting the right system and the right people in the room;
- partnership building;
- getting people to see the wider context as well as actions which can be taken locally;
- focusing on common ground around the desired future, rather than conflicts and problems;
- formation of self-managing groups;
- community responsibility for decision making and follow-up.

2.4.12 People will work hard together to create a future for their community, its housing and its needs in terms of land use. They are motivated by the practical benefits to themselves, their family and their community. It is up to the planning or steering group to lead a start-up process which will energise the most important resource of all: the community itself.

2.5 Creating a community plan

2.5.1 The paragraphs above describe how to go about consulting within the community about the housing, workspace, community and other needs. This will lead to a document which describes what would be needed to achieve a functioning, sustainable community.

2.5.2 The next step will be to develop a plan for how and where these needs might be met. Deciding how best to meet the needs will come first, and the community may want to consider how other agencies might be persuaded to respond to the evidence that has been assembled, or whether the community itself is best placed to take the lead and hence whether a CLT could be the way forward.

Defining the nature and affordability of what is planned

2.5.3 Before a site is identified, it will be essential to invest time in deciding carefully what property assets the CLT would like to have under its control and what use would be made of them.

Affordable, intermediate market housing

2.5.4 Careful assessment will be needed of the likely income and other assistance available to those whose needs the CLT aims to meet. A home made available at 10 per cent below open market value might enable someone to live and take up work in the community. Or it may be that, unless there are homes for people earning low wages, the identified needs will not be met. People's financial circumstances are complex. Some people can access loans from parents, or have inherited capital sums, or share a home with a partner. A detailed assessment of individual circumstances may be helpful, but of course it has to be remembered that this remains a 'snapshot' of needs which may have changed by the time the development is complete.

2.5.5 Housing associations are awarded social housing grant (SHG) to meet the needs of those on the lowest incomes, and meeting the needs of unemployed or elderly people may require this level of grant support. They do also meet intermediate market needs, again usually using SHG, generally in the form of HomeBuy or shared ownership schemes. SHG is made available through the Housing Corporation, mainly through two year programmes whose size is determined by the Department for Communities and Local Government. CLTs are likely to want to concentrate on a different market need that complements and supplements provision by housing associations.⁶ This could include the following:

- Provision for people in work but whose salaries are insufficient for the open market. For example in areas where one-bedroom homes begin at around £90,000, insufficient salaries could be between £14,000 and £35,000, including those who need homes of two or three bedrooms;
- Areas where Homebuy or shared ownership is not already available;
- An emphasis on those who, for whatever reason, do not qualify for the local housing waiting list;
- Households who would not get priority for housing for the foreseeable future, especially single people and couples;
- Housing of a type and size not being produced by the market, such as starter homes or smaller homes for older people wishing to 'downsize' within the community.

Commercial space

2.5.6 This could vary from storage, which might be in an unconverted, redundant barn, through space with basic heating (for example to pack local vegetable boxes), up to fully equipped space for food processing or IT-equipped office suites. A local shop may also be needed, again with a greater or lesser degree of pre-fitting. As with housing, it may be helpful to have a snapshot of likely occupiers, even if they are not the actual occupiers when the scheme is completed.

2.5.7 Affordability is as important as it is for housing. If a new development cost £850 per square metre to build, it might have to command £120 per square metre to repay a loan taken out for development. But in an area of lower demand, local businesses will not be willing or able to pay rents at this level, even though building costs will probably be no lower. Allowance may also have to be made for a higher cost of finance to cover the risk, or a greater allowance for voids. If the aim is affordable business rents, capital subsidies or low cost build methods may be necessary.

2.5.8 The CLT promoters also need to consider the following:

- If shop premises are sold outright, the owner could decide to discontinue the existing use and apply for planning permission for housing. If, however, the CLT owns the land but franchises the shop, a new franchisee can be sought or new management arrangements devised if the existing shop fails;

- Lessees may not have the resources to equip premises or may want to use office facilities only on an ad hoc basis. This will involve the CLT in greater investment, in providing a ready-serviced office, and in greater management, in making sure the premises are equipped to meet the needs of users. However, both may be necessary if needs are to be met and the economic life of the community is to be supported.

Community space

2.5.9 Multi-use space capable of providing for everything from a basketball court to a cinema may seem an ideal, but relying on community use alone will be difficult if charges are low and use is limited to a few days a week. On the other hand, it may be possible to secure regular and reliable sources of income if the building can also be a centre for district and/or county council service provision, or a remote learning centre for a local college, or provide a local venue for a range of agencies such as health visitors, police, housing advice workers, housing associations, etc.

2.5.10 Sports field or play equipment provision can be surprisingly expensive too. Aspirations need to reflect realistic funding expectations.

2.5.11 Overall, the initial appraisal for the community plan should go further than identifying needs and should outline, for each type of provision, the cost, types of demand and how ability to pay can be made consistent with cost.⁷

Identifying a site

2.5.12 Section 6 sets out the planning and land ownership issues that will arise. These may appear daunting, but the essence of the CLT's requirement for land to be developed and which it can afford to purchase is likely to fall into one of the following categories:

- Land at open market value:
 - where the CLT has access to some form of grant such as the Adventure Capital Fund or support from the regional development agency in meeting identified regeneration need; or
 - where the needs they plan to meet generate sufficient income;
- land and/or property transferred or paid for by a public authority, for example as part of a Decent Homes programme, New Deal for Communities initiative, housing market renewal or regeneration scheme;
- land at, or not far above, agricultural value where 'exception' planning permission can be relied on;
- free land arising through a s.106 agreement imposing an obligation on a developer of a larger site;
- land which the CLT has already purchased or has an option on, which is now capable of receiving a planning approval.

⁶ See Glossary for definitions and Section 6 for an explanation of the types of housing that would meet this need. ⁷ The preparation of a full Operational Business Plan is dealt with in Section 6

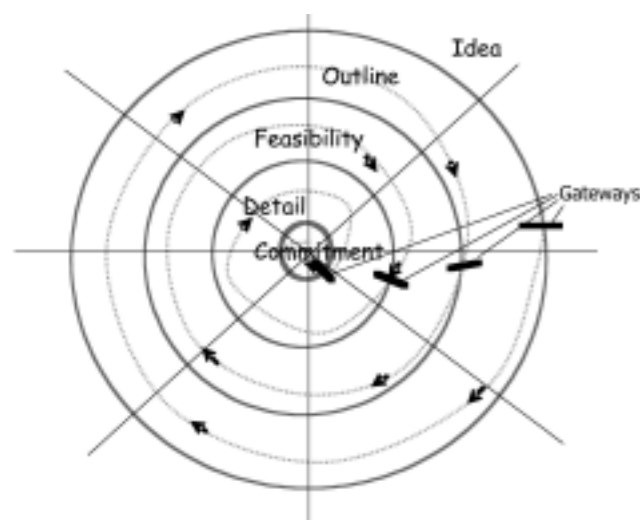
2.5.13 The community needs survey (covering both needs and the lack of open market or affordable housing to meet them) is the critical tool in creating each of these opportunities. Local circumstances and chance will play a part in deciding which route is most likely to succeed.

'SELF-OP'

2.5.14 Whichever approach is used for developing a business operational plan, the CLT will need, from the very beginning, to think about the **S**ocial, **E**nvironmental, **L**egal, **F**inancial, **O**perational and **P**hysical issues. It is not helpful to start with the social and environmental targets and the physical means of meeting them and then, as the scheme advances, to turn to consideration of operational matters. Instead, it is vital to consider the full spectrum of issues from the start and to work at a gradually more detailed level as the scheme proceeds.

2.5.15 Exhibit 5 on the website suggests the questions members of the steering group will need to ask themselves when they put a community plan together. Often, there is too much emphasis on physical provision and not enough on the management and financial issues which will dominate once development is complete. 'SELF-OP' describes what the CLT is aspiring to, as opposed to an alternative acronym: FLOPS!

2.5.16 Exhibit 6 on the website, the 'Wheel of Fortune', is another way of looking at this. Briefly, progress towards a completed scheme can be described as moving in a spiral towards the aim at the centre of the diagram, with each issue examined in more and more detail at each stage. Further investment to reach the next stage is only undertaken when the previous stage requirements have been met.



2.5.17 These approaches should help prevent an unexpected obstacle from derailing the scheme at an advanced stage, with all the loss of confidence and waste of resources that this entails.

2.6 From development, through setting up, to running a permanent CLT

2.6.1 In the initial years of operation, the task of the trust will be to acquire and develop the land or property. Later, as completed property comes into ownership, the trust will be concerned with the provision of services and support; and finally, in the longer term, there might even be enough property under management to enable it to employ management staff. In the early period, extra grants will need to be raised to finance the organisation's development⁸ and the creation of stable governance. An organisation with stable governance is one that understands its tasks and is competent to deliver them, can call on expertise from its management committee or trustees, has well-managed finances and has reserves of funds or income to deal with unexpected eventualities. This may include having good contacts with other local organisations whose help can be sought when necessary.

2.6.2 Many CLTs will have more limited aspirations, perhaps to do no more than bring into ownership some affordable homes, or a village shop or community building. These same stages of development will still be required and will need different financial strategies.

- **Setting up:** both grant aid and a lot of voluntary effort will be needed in the formative stage, when the mission, aims and organisational rules are being worked out, needs surveys are being undertaken, and intensive community consultation is taking place;
- **Developing:** with the right financial structure, the cost of putting the buildings in place could be seen as part of the development cost, provided a loan can be obtained until the development is complete. Even better is to secure revenue finance to pay for a development officer, which is most likely to be possible in designated regeneration areas;
- **Managing:** as schemes complete, the revenue they generate needs to meet any mortgage payments, as well as the cost of managing and maintaining the property and running the CLT. When the CLT is small, this revenue is limited and costs need to be low until or unless the organisation becomes big enough to take on staff.

2.6.3 As discussed above, a thumbnail plan for how the organisation will move through these stages of development will help in thinking through its formation and growth. Exhibit 7 on the CLT website is a development process plan for intermediate market housing by the Holsworthy Community Property Trust. It illustrates the development process and also shows the community technical aid which might be required to supplement lay involvement.

2.6.4 A community appraisal or plan is a useful overall statement of the community's intentions and would include both the survey of needs and its results, as well as an outline plan to meet those needs and to manage the organisation in the long term.

2.7 Financing the CLT's early development

2.7.1 CLTs, like all new social enterprises or businesses, will require an initial source of funding. Before any formal finance can be

⁸ See section 2.7

secured, resources are needed to investigate potential sites, work up proposals, approach funders, pay architects and other professionals and fund the community consultation and involvement. If a CLT scheme goes ahead, some of these costs can be reimbursed from the capital costs of that scheme. If it does not go ahead they will have to be written off. Voluntary effort and commitment will pay a large part in this, but grants or soft loans are needed too.

2.7.2 The CLT will require different kinds of finance, as summarised below:

- **Set-up costs**
 - Legal and administration costs of forming a CLT, estimated at £1,000-£3,000;
 - Community development (may need £5,000-£10,000 CLT contribution);
- **Start-up, pre-development (revolving loan)**
 - meeting architect and other costs before the site can be bought;
 - could be financed on a fully revolving basis if successful schemes repay what they have borrowed with a 20 per cent premium to cover the costs of unsuccessful schemes, which generally fail at quite early stages;
- **Cashflow for delivery**
 - banks will lend 70 per cent, or more if they have rights as mortgagee in possession;
 - up to 30 per cent from new sources, including the local authority, a local housing association, charities willing to lend rather than provide grant, or finance raised from the community itself as shares or loans. The rates offered and security provided may need careful consideration;
- **Project development management**
 - met from 2.5 per cent charge to project;
 - need for initial funding for pioneering schemes to demonstrate the case;
- **Long term borrowing**
 - to develop a track record and two to three years' accounts;
 - as deferred or index-linked funding to match the rent profile.

2.7.3 This section of the guide deals with set-up costs and the start-up and pre-development requirements. Section 5 deals with the types of finance needed to secure the physical development, and in section 7.7 the longer-term needs are commented on.

2.7.4 Identifying resources to promote and develop the CLT are crucial to take the scheme forward. At this stage in the development, the steering group will either be in a position to raise resources for its own local CLT project needs, or be part of an area or sub-regional initiative that is seeking resources for a larger number of schemes.

Local CLT project needs

2.7.5 To meet the initial set-up, start-up and pre-development costs it is recommended that an initial budget of about £15,000-£30,000 is raised as a cash contribution. Voluntary 'in-kind' contributions will be in addition. The budget for this is likely to contain the following items of expenditure.

1	Set-up costs, including legal registration fees, meeting room hire, materials, etc	£1,000- £3,000
2	Community consultation fees, including professional facilities, room hire, refreshments, etc	£1,000-£5,000
3	Start-up pre-development costs/fees, including meetings, architect's fees and other costs such as planning fees before the site can be bought.	£10,000-£20,000
4	Other, such as printed material	£2,000+
		£15,000-£30,000

2.7.6 Raising the resources will be time consuming, and voluntary effort and commitment from local people will be essential. Sources of funding include grant aid from local government sources, local and national charities, and local fundraising. For the start-up, pre-development costs, these could be met by a loan, or the work could be undertaken on a 'no scheme, no fee' basis which can be charged to the scheme if it goes ahead, or written off if it does not.

County or sub-regional CLT development project

2.7.7 Rather than individual CLT projects duplicating effort in one particular geographical area, housing associations or development trusts with community development as one of their aims may be willing to put their expertise and financial muscle at the disposal of local communities. This could be done by backing CLT projects as above, or by creating county-wide or sub-regional CLT structures. Such an arrangement has been implemented in Cornwall where the Cornwall Rural Housing Association acts as the host for the CLT project, which has attracted funding from Cornwall County Council, a national charitable trust and other local contributors.

2.7.8 An outline budget for this project is set out in Exhibit 8 on the website. As can be seen, there are five distinct elements to the plan.

1. the employment of a full-time CLT development manager;
2. administration, financial and other overhead support from the housing association;
3. direct costs, such as legal and promotion costs;
4. community technical aid, which covers the engagement of outside specialist consultants and advisors;
5. revolving loan fund for development costs.

2.7.9 The total budget for an initial two-year period is £175,000. In practice, the funding will be a cocktail from various sources and the ingredients will differ from area to area.

This section should have enabled the initial idea for a CLT to be made into a set of robust, concrete proposals built around the involvement of the community and other stakeholders in developing the ideas.

3.0 Legal issues

This section summarises the basic types of organisational structure and status likely to be relevant to CLT schemes. Its main purpose is to enable an understanding of discussions with professional advisors, and of the decisions to be made.

There are some pointers to help with the process of instructing legal advisors, namely how to choose a legal advisor; costs; tendering; and preparing instructions.

There is also an explanation of the implications of incorporation of an organisation, and the significance of legal liability for protecting the individual participants in the organisation. The chapter also looks at the question of charitable status, what types there are and some of the issues to be considered in that context. Trusts and trustees and their duties and responsibilities are described and defined.

There is a brief description of the main types of corporate entity, and at the end of the chapter, there is a summary of some of the key features of charities, companies limited by guarantee and industrial and provident societies.

EXHIBITS

See www.communitylandtrust.org.uk

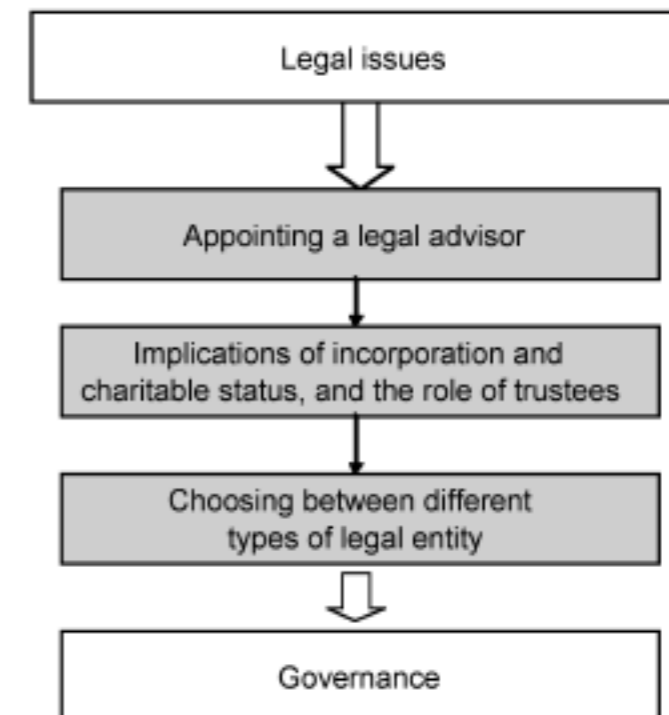
9 Health Check devised by the Community Land Unit, Highlands and Islands Enterprise

10 Summary of key clauses contained in the Bye-Laws (Articles) used by the Institute of Community Economics, USA

11 Legal note on choice of legal entity by Wrigleys, solicitors

12 Community ownership models for sustainable communities, Trowers & Hamlins Solicitors

13 Community Land Trusts; a citizenship model, Trowers & Hamlins Solicitors



3.1 Introduction

This guide is intended to enable active participation in an informed discussion, but it is no substitute for detailed, specific legal advice based on a full and detailed brief about the scheme before any final decision is taken.

3.1.1 Every decision about legal structure or legal instrument must focus on capturing the value of the assets in question for the community. The right legal structure and well adapted legal instruments will help the CLT secure assets, ensure they are dealt with appropriately, and defend and further the interests of the community. British property law is based on assumptions about private property and wealth. Most community property, the 'commons', was expropriated generations ago. More recently, the dramatic migration of public assets into the private domain through a multiplicity of forms of privatisation, from denationalisation of major public sector industries to the right to buy council houses, has been made possible by wide-ranging legislation. It is crucial to ensure that efforts to capture value for community benefit do not inadvertently fall foul of laws that could send the assets back into private ownership in the future.

3.1.2 The application of all of these models and specimens must be set against the specific circumstances and objectives of each project. There are many other potential factors which could have a significant bearing on the eventual outcome:

- Will a local council be involved, or some other statutory body?
- What conditions will be placed on public money or grants?
- What legislation applies to them?
- What bearing will this have on raising funds?
- Are there other issues involving specialist legal questions?
- What are the plans for the future?
- What is the primary purpose and what specific, localised problems is the CLT trying to resolve?
- What is the nature of the land and what rights exist over it?
- Does the CLT want to branch out into other areas one day – workspace, a local shop, renewable or local energy generation, social businesses, allotments or farming, community open space or woodland, a fishing pond, childcare, local water treatment, rainwater collection...?

3.2 Appointing a legal advisor

Choosing a legal advisor

3.2.1 Solicitors with the necessary expertise are few and far between and may not be available locally. It is essential that a legal advisor is chosen with the relevant experience; don't be persuaded by an air of confidence and assurances of familiarity with this type of work. Speak to contacts involved in other projects of a similar nature, find out whom they instructed and

whether they were happy with the outcome. Test potential advisors' experience in the field and ask them how many similar projects they have worked with. Ask to be put in touch with other clients they have helped with a comparable scheme.

Costs

3.2.2 It is vital to know what the charges will be at the outset to avoid any unpleasant surprises. This should include the basis of the charges – a fixed fee, an hourly rate or a daily rate and, if it is not a fixed fee, what the final bill is likely to be, as well as what factors will affect the costs. It is important that this information is given in writing and that there is advance notice of whether and why there is going to be a cost overrun. Remember that there will be VAT to pay as well.

Tendering

3.2.3 It may be worthwhile to draw up a detailed set of instructions and send it to three or four specialist advisors, asking for a firm estimate of their fees. Set the same deadline for them all and let them know the CLT is asking for other tenders (but not who has been asked). Also ask how long it will take them to do the work once they have been formally instructed, and how they will approach the task.

3.2.4 The choice should not be based on cost alone. The CLT will need to evaluate the quality of the response received and decide whether it will be able to form a good relationship with the advisor. Are they approachable and clear? Will they go that extra mile, make an effort, avoid jargon and being patronising? How far will it be necessary to travel to see them, and will they need to attend local meetings or visits from time to time? Are they actively interested in what is being done?

Preparing instructions

3.2.5 The advice and documentation produced by the advisor will only be as good as the instructions provided. Clear instructions save time, avoid misunderstandings and ensure the CLT gets what it wants. They also save the money that is wasted on putting things right if incomplete or misleading information results in the wrong outcome. Ask someone else with knowledge of the project to read the draft instructions before they are sent off, in order to ensure that everything has been included and that the instructions are clear and unambiguous.

3.2.6 Start by writing down the core objectives and then adding desirable goals to be achieved if possible. What is the primary purpose? Whom does the CLT want to benefit? What problems is it trying to solve? How does it see the future of the project: immediate, medium-term and several years down the line? Is it likely to grow? Does the CLT see itself working with other organisations? What sort of funds and resources is it targeting? Will the CLT be starting with housing? Does it hope to go on to other things as described in paragraph 3.1.2? Perhaps there will be a need for housing for the elderly in the future? Or provision for children? What categories of people is the CLT targeting and is this likely to change? How important is it to leave options open for the future?

3.2.7 Put down everything as clearly and concisely as possible. Highlight particular concerns or queries. Ask the advisor to consider all of the CLT's objectives and advise on all matters they consider relevant to the project, such as the implications of charitable status, taxation, tenancies, leases, entitlement to state benefits, planning, employment regulations and other regulations specific to the various aspects of the project, and any bearing the advice may have on raising funds. Think about the strings that may be attached to any grants, subsidies or public asset transfers the CLT is hoping to secure. Make it clear that the list provided in the brief is not exhaustive and that the CLT wants the advisor to raise any other relevant issues. Then ask them to advise on the documentation needed and draft it for the CLT.

3.2.8 There will often be *two stages* in the process. The first is general advice and the second is producing the documentation the CLT has ordered in the light of the advice given. It may be wise to ensure that the two stages are dealt with separately, and that there is thorough discussion and consideration of the matters emerging in the first stage before proceeding to the second.

3.2.9 Identify one individual who will be responsible for liaising with the advisor and who can be available to provide any additional information or deal with any queries. Good, clear *communications* on both sides are vital to ensure everything proceeds smoothly.

3.3 Implications of incorporation and charitable status

Incorporation and limited liability

3.3.1 Most CLT projects will want to ensure that trustees and other participants are not exposed to personal liability on behalf of the organisation. Participants may be personally liable if the organisation takes one of the following forms:

- Unincorporated association;¹
- Unincorporated trust governed by a trust deed;
- Incorporated charity;
- Partnership.²

3.3.2 In other words, once the organisation becomes active, it must consider what legal form it should adopt, and whether it should apply for charitable status. It is fair to assume that the above organisational forms should be ruled out, not least because of the problem of personal liability.

¹ Definition of an unincorporated association: 'two or more persons bound together for common purposes, not being business purposes, by mutual undertakings, each having mutual duties and obligations, in an organisation which has rules which identify in whom control of it and its funds rests and on what terms, and which can be joined or left at will.' Conservative and Unionist Central Office - v - Burrell, 1982

² But see below for limited liability partnerships. Traditional partnerships are defined by the Partnership Act 1890, section 2, as 'the relation that subsists between persons carrying on a business in common, with a view of profit'. It is quite possible to be in a partnership without knowing it and there does not have to be a formal deed. But if there is no intention to make a profit, there is no partnership. ³ See below

Some other considerations

- Would charitable status³ be an advantage? Would this help raise funds or unduly restrict the CLT's activities? Will it benefit from the tax advantages (exemption from corporation tax and stamp duty)? Is charitable status consistent with the ethos of the organisation? How does it fit in with the proposed accountability structures and any 'self-help' culture it is intended to engender? Will charitable status be needed to ensure that the assets remain in community ownership? Will any other devices be as effective?
- How are income and surpluses to be dealt with?
- What are likely sources of funding now and in the future?
- Who will have a material interest in the organisation and how are conflicts of interest to be dealt with? What conflicts of interest could arise?
- What voting rights are envisaged? Is one member, one vote appropriate, desirable or indeed essential? What checks and balances will be needed between the various stakeholders involved?
- Is the local authority or a housing association likely to be involved? Will the CLT be working with an environmental organisation or trust? Who is providing the land? What assurances will they want and what conditions are they likely to impose? What legislation will be brought to bear?
- What are the special features of the land the CLT hopes to acquire/has acquired?
- What are the special characteristics of the community or locality?
- Will the services and/or facilities provided by the organisation be available only to members or to the wider community? Will residents be members? What voting rights will they have? How will their interests be balanced with long-term community interests?
- Does the CLT expect other organisations to become members and what weight and power does it want them to have?
- Does the CLT expect to employ staff at some point? Will they be members?

Charitable status⁴

3.3.3 Charities may be **registered** or **exempt** (the exemption is granted by HM Revenue and Customs [HMRC] and applies to corporation tax.⁵ Charities are also exempt from stamp duty).

3.3.4 Registered charities may be companies, unincorporated associations or unincorporated trusts.

3.3.5 Exempt charities include Industrial and Provident Societies (IPS),⁶ charities in Scotland and Northern Ireland and some educational and religious institutions. HM Revenue and Customs must confirm in writing that an exempt charity is indeed a charitable organisation for tax purposes.

3.3.6 To be recognised as a charity, an organisation must have 'charitable objects'. These are defined by law, originally under the Charity Uses Act of 1601. They are:

- The relief of need (poverty, suffering, ill-health, old age);
- The advancement of public education;
- The advancement of religion;
- Other purposes beneficial to the community, such as public amenities, environmental conservation, public safety, racial harmony;
- Facilities for recreation... in the interests of social welfare either for 'persons who have need for such facilities by reason of their youth, age, infirmity or disablement, poverty or social and economic circumstances', or 'the facilities are to be available to the members... of the public at large' (Recreational Charities Act 1958).

3.3.7 The overriding principle governing all charities is that they must always act for the public good. They may not:

- Do things not included in their objects;
- Benefit non-charitable activities;
- Be politically active;
- Put charitable funds at risk;
- Trade except in defined ways.

3.3.8 Their primary purpose cannot be to make money.

3.3.9 They may carry out the following trading activities:

- Primary purpose trading;
- Ancillary trading;
- Selling donated goods;
- Drawing income from property;
- Hold raffles and lotteries;
- The charity's beneficiaries can trade.

⁴The Charity Commission provides useful guidance, available from their website at www.charity-commission.gov.uk

⁵There are two HM Revenue and Customs exemptions:

- de minimis, or small-scale trading (up to 20 per cent of the charity's income can come from non-charitable activities);
- small-scale trading within the C4 exemption, ie, trading to secure public support which does not compete with the private sector, such as jumble sales, dinner dances.

⁶Under the Charities Act 2006, this exemption will be confined to IPSs with charitable objectives that are registered with the Housing Corporation as social landlords.

Charities Act 2006

The Charities Act 2006 was passed on 8 November 2006. The act underlines the concept of 'public benefit'. Charities will have to demonstrate that they are a benefit to the public in at least one of the following key areas:

- The prevention or relief of poverty;
- The advancement of education;
- The advancement of religion;
- The advancement of health or the saving of lives;
- The advancement of citizenship or community development;
- The advancement of arts, culture, heritage or science;
- The advancement of amateur sport;
- The advancement of human rights, conflict resolution or reconciliation, or the promotion of religious or racial harmony or equality and diversity;
- The advancement of environmental protection or improvement;
- The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- The advancement of animal welfare;
- The promotion of the efficiency of the armed forces of the Crown; or of the efficiency of the police, fire and rescue services or ambulance services, and;
- Any other purposes charitable in law.

Under the Act, smaller charities (those with incomes of less than £5,000 a year) will no longer have to be registered, but can opt to register. There will be a new legal form for charities, the charitable incorporated organisation, whose purpose will be to reduce bureaucracy for charities, which currently have to register both with Companies House and the Charity Commission. Mergers will be facilitated by the Charity Commission, which will provide specific advice. Larger charities will have to file a standard return containing information available to the public about their effectiveness, performance and finances. The Charity Commission will itself be reformed and an independent tribunal will be set up to which charities will be able to appeal against Commission decisions.⁷ Some provisions of the Act will come into force early in 2007 but many others will not be introduced until early 2008. New guidance, produced jointly by the Office of the Third Sector and the Charity Commission, will be available on the commission website by February 2007.

For further information, contact the Charity Commission direct: enquiries@charitycommission.gov.uk

Information from Charity Commission News, autumn 2006

⁷The Charities Act 2006 can be obtained from www.tso.co.uk.

⁸See www.charitycommission.gov.uk for guidance on trustees' responsibilities and conflicts of interest.

3.4 Role of trustees

3.4.1 A trust is formed by a donor, who transfers assets to trustees; the trustees in turn hold the asset on behalf of beneficiaries.

3.4.2 Trustees may not profit from their position:⁸

- They cannot receive payment (except expenses);
- They cannot be employed by the trust;
- They cannot participate in any discussion in which they have a personal interest;
- They cannot deal with their own firm;
- They cannot benefit from preferential treatment.

3.4.3 There is therefore a clear distinction between a charitable trust and its users or beneficiaries. A charity is not accountable to its users, in contrast with a 'self-help' model.

3.4.4 Charitable status is needed to be eligible for grants from charitable foundations for obvious reasons, although charitable objects may sometimes suffice. But to have the benefit of tax relief in the form of gift aid, it suffices to be a tax-exempt IPS or to register with HM Revenue and Customs.

3.5 Choosing between different types of legal entity

Private limited companies

3.5.1 All companies are governed by the Companies Acts 1985 and 1989.

3.5.2 They are regulated by the Department of Trade and Industry and a register of companies and their accounts is maintained at Companies House. A 'Memorandum and Articles' sets out the objects of the company and the relationships between its members, as well as the powers of the board of directors. If the company acts outside the objects defined in its articles, its actions are ultra vires, or outside its powers, and invalid. They cannot promote or market their shares to the general public. The directors are under a fiduciary duty to act in the best interests of the company, in other words, its shareholders – NOT the community, its users, or its employees (unless, of course, they are its shareholders). For that reason, they are by nature not well adapted to an organisation whose primary purpose is to preserve assets for the benefit of the community.

3.5.3 Private limited companies are cheap and simple to form, register and run. They are heavily regulated and there are a number of formalities which must be observed, although these are largely based on relatively simple forms. A company can be purchased 'off the shelf' for as little as £40 and then adapted to meet the specific requirements of its shareholders. They are therefore very flexible; they may allow or prohibit the distribution of profits and the memorandum and articles may be changed with relative ease (which can be a negative attribute if the underlying purpose is, say, to preserve assets for community benefit).

Companies limited by guarantee

3.5.4 These are widely used by social enterprises and organisations seeking charitable status. They enjoy all the advantages of other private limited companies in terms of flexibility, simplicity, cheapness and limited liability. They do not issue shares and there are therefore no shareholders, but they do have members who meet and control the company through general meetings. Directors may be called a management committee or council of management, but their legal status is the same as company directors. They may qualify for charitable status if their objects meet the requirements for this (see above). Most do not distribute profits, but they may do so.

3.5.5 Liability is restricted to the guarantee, which is the contribution of each member on a winding-up, and is defined in advance. The memorandum states that the members guarantee to pay the debts of the company up to a fixed amount, which may be, and often is, £1. Of course, the more the guarantee is limited, the less the company may be able to obtain in terms of credit and borrowings because of the lack of security the company can offer. A major disadvantage with this form may therefore be the absence of security for raising loan finance.

3.5.6 References to websites where model rules can be obtained are given in Exhibit 11 on the website, and Exhibits 12 and 13 provide some further guidance.

Public limited companies

3.5.7 Like private limited companies, public limited companies enjoy limited liability. They may issue shares to the public. They must raise and maintain a minimum of £50,000, of which at least one-quarter, plus any share premium, must be paid up.

Traidcraft, Wind Fund plc and the Ethical Property Company have all used the mechanism of an ethical share issue using plc rules.

Traidcraft established its ethical plc trading company in 1985 as a sister to its charitable older brother, in which the Traidcraft Foundation holds a single 'guardian share' in order to protect the mission of the company. Both companies have overlapping directors. Mark Hayes, a former venture capitalist with 3i, guided the success of their two share-issues which, in the company's first year and again in the early 1990s, raised £2m in non-voting redeemable preference shares. A further share issue in 2002 raised £3.25m. In good years, these shares have yielded a dividend to investors. Because of the social justice nature of the business, most investors have either waived the take-up of this dividend or have covenanted it to Traidcraft's charitable sister company. In the past 20 years, Traidcraft has grown from a small charity of six staff, with a turnover of £110,000, to a social business with a turnover of over £13.8m, 6,000 shareholders and about 90 members of staff in the year ended in 2004. It also holds a 10 per cent stake in Café Direct.

Wind Fund plc, which is backed by Triodos Bank, has supported the development of renewable energy in Britain and is another enterprise which has used the mechanism of the ethical plc share issue. A second share issue increased the number of shareholders to over 700 and increased share capital by 68 per cent to £1.5m, enabling further investments in wind and hydro developments.

Likewise, the **Ethical Property Company's** successful ethical plc share issue in 1999 raised over £1.3m to fund the development of managed workspace for social and ecological enterprises in Bristol, Oxford, Sheffield and London. These workspaces range in size from 1,200 to 18,000 square feet.⁹ A second share issue was launched in September 2002 for £4.2m and reached full subscription; a third share issue in 2006 raised £3.6m. The company now has over 1,200 shareholders and it owns centres which accommodate over 130 tenant organisations.

⁹ Homeopathic Finance – equitable capital for social enterprises. New Economics Foundation. London: 31 May 2001

Industrial & Provident Societies and co-operatives

3.5.8 These are governed by the Industrial & Provident Societies Acts 1965 – 2002 and now the Co-operatives and Community Benefit Societies Act 2003¹⁰ provides another, equally effective way of legally setting up (incorporating) an organisation as a legal entity with limited liability. Under these Acts of Parliament it is only possible to register as one of two types of organisation:

- A community benefit society; or
- A co-operative.

The key difference between the two is that a community benefit society is set up to benefit the wider community in accordance with the objectives in its rules, whereas the principal object of a co-operative is to trade or provide services for the benefit of its members. To be recognised as a co-operative, organisations must also operate in accordance with the internationally agreed co-operative principles and values. These require them to embrace the principles of: open membership without discrimination; democracy; limited return on share capital; and transparency and accountability in their business dealings with members and in the wider community they serve.

3.5.9 Community benefit societies and co-operatives register with, and are regulated by, the Financial Services Authority (FSA). Their incorporating document is referred to as their rules (as opposed to articles) and they are run by a committee (as opposed to a board). Structurally, they are similar to limited companies and the effect of registration is that liability of the members is limited and they have corporate status, enabling them to own property, to enter into contracts, to sue or be sued. Succession is perpetual – unlike partnerships, they do not have to form again each time a member joins or leaves.

3.5.10 Community benefit societies and co-operatives are relatively expensive to register and run (charges for registration and rule changes are relatively high unless model rules are used). Administration of them is less flexible than company administration, but in recent years the trend has been to simplify this to enable them to be administered in the same way as companies. They must operate on a one member, one vote basis and apply a limited return on investment. There is a maximum investment of £20,000 per individual investor, although other community benefit societies or co-operatives may invest an unlimited amount as members. The FSA imposes a maximum threshold on changes, such as to profit distribution.

3.5.11 Shares in a co-operative or community benefit society are usually of a nominal value of £1 or such other minimum value prescribed by its registered rules. It is possible to register a co-operative or community benefit society with rules that enable members to provide working capital through investing in withdrawable shares, rather than shares of a nominal value,

which are not withdrawable or transferable. Working capital can also be raised by the issue of loan stock – effectively loans from members – to which members may contribute or not as they choose.

3.5.12 A community benefit society is a non profit-distributing organisation. Its profits are held within the society and applied to achieve the society's objectives. A co-operative's profits are also held in the co-operative and used to provide services for members but may be distributed as a 'dividend' to members in proportion to their transactions with the co-operative.

3.5.13 In establishing a CLT, registering it as a community benefit society has a particular advantage. Its rules can provide an effective 'asset lock' to ensure that its assets are dedicated permanently for the benefit of the community it was established to serve. (This provision was introduced in law by the Co-operatives and Community Benefit Societies Act 2003.¹¹)

3.5.14 Registering as a co-operative would not be appropriate for a CLT because the nature of a CLT is to operate for community benefit rather than for the benefit of members. However, combining a CLT, which owns the land, with a co-operative, which owns the homes on that land and whose members live in those homes, can be an effective way of separating the land asset from the homes built on it. The land is held by the CLT for the benefit of the community, while the homes built on it are managed by the co-operative for the benefit of members. CLTs in the US often facilitate the development of housing co-operatives providing housing and housing-related services for their members. The new mutual home ownership tenure, developed by CDS Co-operatives and described in section 4 of this toolkit, uses a combination of a CLT and a limited equity co-operative in which members own equity shares.

3.5.15 The Financial Services Authority (FSA) has a list classifying types of IPS which is separate from the basic categories of 'bona fide' or 'bencom' (for the benefit of the community). These are:

- Credit unions;
- Retail societies;
- Wholesaling and productive societies;
- Agricultural societies;
- Fishing societies;
- Clubs;
- Housing societies;
- General services societies.

¹⁰ IPSs will now be known as Co-operatives or Community Benefit Societies; otherwise this Act tidies up various procedures, bringing these organisations into line with other types of company, and provides for matters such as disclosure of charitable status on letterheads. The Act also gives the Treasury the power to issue regulations ensuring that community benefit societies can lock in assets to protect them in perpetuity for community benefit. These regulations have not yet been tabled, but they are of obvious interest and relevance to the 'capturing value' objectives.

¹¹ CDS Co-operatives is a sponsoring body for registering CLTs as community benefit societies using model rules that include provisions which ensure that assets are dedicated permanently for the benefit of the community. Contact CDS Co-operatives at: enquiries@cds.coop

3.5.16 Model rules are available for the above categories, and use of them attracts a discount on the fee for registration according to how many amendments are made. If model rules are used, they must be submitted by the sponsoring body which will charge a fee.¹²

Current fees charged by the FSA	Amount payable (£)
Registration using unamended model rules	40
Registration using model rules with one to six amendments	120
Registration using model rules with seven to 10 amendments	350
Registration using model rules with 11 or more amendments, or using 'free draft rules' (rules specially drafted)	950
Subsequent annual fee	60 – 370, depending on total assets of the society

3.5.17 Community benefit societies as a form of organisation for registering a CLT thus have a number of potentially useful features:

- Ability to raise finance in the form of share capital;
- An effective asset lock to ensure that assets are dedicated permanently for the benefit of the community;
- Organisational membership;
- Investment potential from other societies and co-operatives;
- The capacity to federate and form 'mother' and 'daughter' group structures.

Limited liability partnerships (LLPs)

3.5.18 This is a new form of partnership and was introduced by the Limited Liability Partnerships Act 2000. It is a hybrid between a partnership and a company. Like a limited company, the LLP's

corporate identity is distinct from that of its members and liability for debts is thus restricted. On the other hand, like a partnership, it is a much less formal creation. There must be an 'incorporation document' containing certain basic, specified information:

- The name of the LLP;
- Whether the registered office is to be in England and Wales;
- The names and addresses of its members;
- Which members, and whether all of them, are to be 'designated members'.

3.5.19 A designated member is responsible for certain filing and administrative duties, including the filing of accounts. She or he must be a partner, and there must be at least two such members.

3.5.20 There does not have to be a formal partnership agreement, but the absence of an agreement is likely to generate problems in the future, and even litigation, so most partnerships will be based on a detailed agreement. The agreement remains confidential and does not have to be registered. Like traditional partnerships, the existence of a limited liability partnership is founded on business in the pursuit of profit. It would therefore not in itself be compatible with charitable status. A charity, or any other form of corporate body, may enter into an LLP with other organisations, subject to the rules governing profit making and trading by charities (see above). Care must also be taken as to the tax implications of such ventures, and specialist advice should be sought. The proceeds of a project realised through an LLP would, for example, be subject to income tax on the same basis as the gain realised by the other partners, and the charity would not be able to benefit from its exemption from corporation tax.

3.5.21 Liability of the partners is effectively governed by the partnership agreement. Usually, on a winding-up, liability will be broadly defined as the amount the partner has put in, plus the net amount drawn in the preceding five years (as well as sums the partner could have drawn or is entitled to claim from other partners).

3.5.22 For the purposes of taxation, partners' income is taxed in the same way as members of a traditional partnership. It is not taxed as a corporate body.

3.5.23 The LLP thus has the great advantages of simplicity, flexibility and limited liability. It has the further advantage that a partner could be another LLP or a company. There are some safeguards for those dealing with LLPs in the form of regulations compelling public disclosure of financial information about the partnership and insolvency procedures.

3.5.24 It is important to remember that this form of partnership is very new and still evolving, so how it works in practice remains to be seen.

3.5.25 In terms of social enterprise, there is potential for creative use of LLPs, especially where user or producer groups form a body which in turn becomes a member of the partnership, with its interests carefully defined and safeguarded within the partnership deed itself. Its structure, however, is essentially designed for a commercial, profit-making enterprise and the most common application in recent years for LLPs has been for large solicitor and accountant practices. It is likely to be used as a social enterprise only in certain, carefully defined applications.

Community interest companies (CICs)

3.5.26 The Department of Trade and Industry describes community interest companies as follows:

'The Community Interest Company (CIC) is a new type of company, designed for social enterprises that want to use their profits and assets for the public good. CICs will be easy to set up, with all the flexibility and certainty of the company form, but with some special features to ensure they are working for the benefit of the community. CICs will report to an independent regulator on how they are delivering for the community and how they are involving their stakeholders in their activities.'

3.5.27 *'The legislation which enables CICs to be formed, and provides for them to be regulated by the Regulator of Community Interest Companies, is contained in Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 and the Community Interest Company Regulations 2005. As of 1 July 2005, both Part 2 of the Act and the Regulations are fully in force.'*¹³

3.5.28 CICs were devised specifically to provide a legal structure for 'social enterprise'. Their structure is similar to that of an ordinary limited liability company, but they are subject to criteria of working in the interest of the 'community'. They will show the initials 'c.i.c.' after their name (instead of 'Ltd').¹⁴

3.5.29 This 'community interest test' is carried out by the CIC Regulator, and takes the form of a statement declaring that the work of the CIC will be for the benefit of the community. That statement may or may not describe its intended activities. Whereas a conventional limited liability company operates for the benefit of its shareholders, CICs operate for 'community' benefit and it will be necessary to convince the regulator of this at the outset. Subsequently, the directors must produce an annual 'community interest report', describing how it is carrying out that objective, at the same time as the normal annual report for the company is filed. Otherwise, the administrative obligations of CICs are similar to those of a traditional limited company. They are relatively inexpensive, but in addition to the fees charged by Companies House, there are additional charges payable to the regulator (currently set at £15 for incorporation, conversion or re-registration with different status).

3.5.30 Competitive trading is allowed. CICs can be subject to corporate buy-outs and may be floated on the Stock Exchange (in which case, the words 'community interest plc' will follow their name). An existing company may convert to a CIC. A CIC may be a company limited by shares or a company limited by guarantee, but it has a non-profit status preventing privatisation in much the same way as a charity, protecting its social purpose and its assets: the 'asset lock'. On a winding-up, its assets must be transferred to another body with similar status, or to a charity. The return on investment is capped by government¹⁵ through secondary legislation, with the intention of balancing the need to encourage investment while ensuring that the main beneficiary of investment is the community.

3.5.31 In short, CICs carry out trading activities for social purposes, but are not limited in definition to the purposes which define charitable status. This enables access to funds, notably regional budgets, specifically designated for social enterprise, as well as access to certain public sector services like Business Link, and there may in future be some scope to benefit from the public procurement regime for local authority services. Most importantly, it amounts to a 'legal form for almost charitable trading'.¹⁶

3.5.32 However, investment in a CIC by a charity remains problematic, because of the charitable purposes requirement. It should also be noted that CICs do not share the tax advantages of charities.

Summary

3.5.33 Ultimately, the choices are most likely to be:

- Whether to seek charitable status; or
- Whether to form a community interest company; and/or
- Whether to opt for a company limited by guarantee structure; or
- Whether to become an Industrial and Provident Society;
- Whether to become a co-operative.

In all cases, legal advice should be taken before any final decisions are made.

3.5.34 At some stage, possibly sooner rather than later, adoption of a group structure or engaging in some form of partnership, even a limited liability partnership, should also be evaluated. This is why thinking ahead is important. The ability of Industrial and Provident Societies to develop 'mother and daughter' groupings may be advantageous. Community interest companies are now a further option for careful consideration. In exceptional cases, future prospects of becoming a plc may be relevant, or indeed a community interest plc.

3.5.35 In all cases, legal advice specifically related to the details of your intended CLT, may be required, but by using model rules, legal costs can be kept low.

3.5.35.1 Charities: some key features

- They must have statutory charitable objects;
- They cannot benefit from non-charitable activities, and assets owned by charities cannot be appropriated by non-charitable organisations (asset lock);
- Trustees cannot profit from their position (be paid or employed by the trust);
- Charitable status or objects are needed to be eligible for funding from charitable foundations;
- Charities are not accountable to their users and users cannot govern the charity.

¹²As at March 2006, these include Co-operatives UK, the International Common Ownership Movement, the Community Transport Association, the Association of British Credit Unions and CDS Co-operatives. A full list is available from the registrar (www.fsa.gov.uk).

¹³www.dti.gov.uk). Comprehensive guidance material is available on the regulator's website at www.cicregulator.gov.uk and includes model memoranda and articles, together with approved application and report forms. including dummy regulations ¹⁴there are prescribed Welsh alternatives: cwmni buddiant cymunedol ('c.b.c.') or cwmni buddiant cymunedol cyhoeddus cyfyngedig ('cwmni buddiant cymunedol c.c.c.'). ¹⁵The share dividend cap is currently set at the Bank of England base rate + 5 per cent; the aggregate dividend cap is currently 35 per cent. ¹⁶See Lynch M. For and Against the Community Interest Company, available on www.caledonia.org.uk

3.5.35.2 Companies limited by guarantee – some key features

- There is limited liability;
- They may have charitable status;
- They are inexpensive to form;
- They are relatively simple and inexpensive to operate;
- They may distribute a surplus;
- They may have difficulty providing security for loan finance (unless the land can be used);
- They have flexible voting rights.

3.5.35.3 Industrial and Provident Societies – some key features

- There is limited liability;
- One member, one vote;
- They are relatively expensive to run and register;
- There is limited return on investment;
- Shares are not transferable;
- Shares are withdrawable;
- The maximum individual shareholding is £20,000;
- There is no limit on the size of shareholding by other IPSs;
- They can be either a co-operative, acting for the benefit of its members, or an IPS for the benefit of the community ('bencom') which could have members drawn from the community, together with current or future residents or other beneficiaries, and stakeholders.

3.5.35.4 Community interest companies – some key features

- There is limited liability;
- Assets cannot be privatised and purposes must remain in the community interest;
- The definition of 'community interest' is wider and more flexible than the definition of charitable purposes;
- They may be a company limited by guarantee or a company limited by shares;
- They are inexpensive and relatively simple to form and operate;
- They may transfer income or assets to a charity and be owned by a charity;
- Finance from charities is confined to charitable purposes;
- They do not have the tax exemptions enjoyed by charities;

- Members of the board can be paid;
- They can raise equity finance, but the return on investment is capped;
- They may be eligible for lottery grants;
- They may set up unrestricted subsidiaries for purposes such as raising equity for high-risk ventures;
- Community development finance institutions may lend to CICs;
- CICs do not have an institutionalised democratic structure in the same way as IPSs.

Use of more than one type of organisation

3.5.35.5 There may be advantages in considering the creation of more than one type of organisation. For example, under CDS's mutual home ownership scheme, a charitable body is created to hold and own the land (or an equivalent equity value), while a democratically accountable co-operative on mutual IPS rules owns and manages the homes that are built on the land. Another option might be to hold the land in a charity, whose aim is to provide for community wellbeing, but to set up a community interest company to run activities for the benefit of the community on the land, especially if the activities proposed do not clearly fall within a charitable definition.

This section should have enabled a choice to be made about the right type of organisation for what the CLT plans to do, and to involve all those who need to be involved.

Section 4: Governance

Having decided the legal form of the organisation, the next step is to show the stakeholders and prospective funders that the organisation will stand the test of time and that it has the skills to take over assets that are either already public, derived from planning policy instruments, or funded by public or charitable sources.

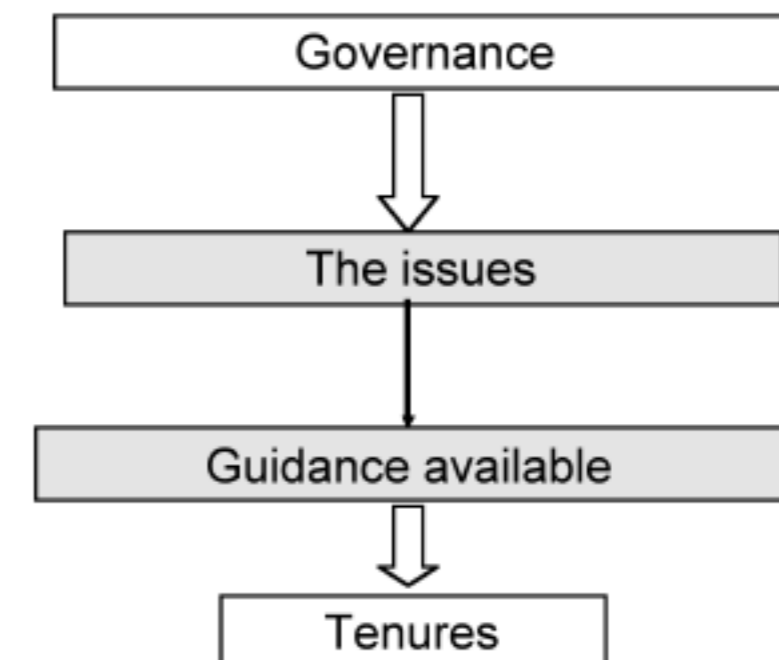
This section provides some limited guidance and gives pointers to further help.

EXHIBITS

See www.communitylandtrust.org.uk

12 Community ownership models for sustainable communities (guidance published by Trowers & Hamlins)

13 Community Land Trusts – a citizenship model



4.1 Introduction

4.1.1 Section 2 has suggested how local people might be encouraged to become involved. Section 3 sets out possible legal frameworks in which they can be brought together, depending on the type of organisation needed. This section is about ensuring that the organisation, once set up, can earn the confidence of the community and those who might support it through asset transfer or with funding.

4.1.2 In recent years, there have been increasing efforts to make sure that all types of organisation are governed effectively in the interests of those they seek to help or represent, for example the wider membership, shareholders or community. In the private sector, there have been moves to give shareholders better control over the actions of the board and to define the role of non-executive directors to hold the company to account. In the public sector, the Committee on Standards in Public Life has proposed seven principles which the holders of office should follow.

4.1.3 Parallel efforts have been made in the voluntary sector and, in particular, organisations such as registered housing associations whose governance is overseen and regulated by the Housing Corporation. Similarly, the Charity Commission publishes a range of documents describing the duties and obligations of charity trustees and regulates charities to make sure they comply with these requirements.

4.1.4 Those who might transfer assets or provide finance to a CLT will want to be assured that it too has adopted principles of good governance that will protect the asset for the community, and manage it effectively.

4.1.5 The extensive guidance available on this subject may appear daunting, but the steps to be taken may be quite simple and can be related to the scale of the CLT's activities. Some key questions are set out below:

- Is there a statement of aims and a code of conduct which all members and board members can sign up to?
- Is there a process whereby the board identifies the skills and experience it needs and whether there are any gaps? Such gaps should be filled by co-option, through paid staff, through consultancy, or by encouraging members voting in any election to take note of the skills needed. Board members' CVs will probably be requested by any bank or building society, and it is obviously preferable to identify and fill skill gaps before seeking finance, rather than plugging a gap at the last moment at the request of a potential lender.
- Is there a policy to identify conflicts of interest between the CLT as a whole and individual board members or the membership at large; and is there a procedure for dealing with conflicts?
- How does the organisation continue to engage the wider community? Is it directly through membership or some form of representation; or indirectly through newsletters or public consultations?

- What measures are needed to ensure the organisation is seen as open, accessible and responsive?
- How will expertise be maintained in future, as people leave or retire? Through the election or appointment of new board members from the membership, or through other routes?

4.1.6 By considering these points, the CLT will be able to demonstrate the following:

- First, that anyone wishing to be a member or stand for election to the board has confirmed that they support the aims and ethos of the organisation. This means having a statement of values which those seeking membership or standing for the board must agree to sign;
- Next, that the organisation has policies to regulate and deal with situations where board members or individual members have conflicts of interest. Examples of such conflicts are the architect who put the initial scheme together and would now like a paid commission, or the landowner who sold the CLT its land but wants to support it further as a board member;
- Finally, that the organisation is not dependent on a few individuals but is capable of being renewed and sustained through its membership or by recruiting new members.

A regular assessment of board skills and of any gaps in the skills needed to conduct the tasks required of the CLT will be particularly important.

4.2 Guidance

4.2.1 The help and guidance available depend on the type of organisation the CLT has decided to set up. (See section 3.5 for an explanation of the different options.)

Co-operative Industrial and Provident Societies

4.2.2 This toolkit has been partly funded by Co-operatives UK and CDS Co-operatives. The co-operative movement claims to be the largest democratic movement in the world. Co-ops play a major role in the delivery of affordable housing, for example in Sweden and Denmark; retail shopping (Switzerland); the manufacture of consumer goods, for example Mondragon in the Basque country; and healthcare (South Africa). Although the UK was a key player in the origins of the movements, co-ops are now less important here than in many other countries. However, the Nationwide Building Society and the Co-operative Bank are part of what remains a significant social movement.

4.2.3 Co-operatives therefore provide a legal model that is well understood and underpinned by a set of principles and values. The principles of what comprises good governance for co-operatives are well established. See www.cooperatives-uk.coop/live/cme327.htm

Industrial and Provident Societies for community benefit

4.2.4 Co-operatives UK provides support not only for those who wish to establish co-operatives, but also for those using the IPS for community benefit model. Organisations with this type of legal structure are a way of bringing people together to achieve a common aim which reflects a 'co-operative' way of delivering the desired outcomes.

4.2.5 A CD-rom with the title Governance and Participation Toolkit is available from Co-operatives UK and also at www.gandp.org.uk. It includes information on how to select a legal structure, how to improve active participation, frequently asked questions, case studies, fact-sheets and models of good practice. Co-operatives UK aims to establish a network of people who have undergone training in the use of the resources to run local courses.

Other legal forms

4.2.6 The National Council of Voluntary Organisations (NCVO) coordinates the government-funded Governance Hub, which aims to assist in recruiting board members, encouraging take-up of support and training and reviewing governance generally. The hub can give advice on various legal forms, including companies limited by guarantee. The hub is intending to increase its support services which, like Co-operatives UK, includes toolkits. It has also developed a Good Governance Code for the voluntary and community sector that has been endorsed by the Charity Commission. For more information see www.governancehub.org.uk.

Charitable company limited by guarantee

4.2.7 The Governance Hub's guidance referred to above will be useful to charities too. The Charity Commission also has extensive guidance at www.charity-commission.gov.uk

Community ownership models

4.2.8 The law firm Trowers & Hamlins has produced two useful guidance notes: *Community ownership models for sustainable communities and Community land trusts – a citizenship model*. These set out the options for formalising the relationships between communities, the public sector and other partners and regulators. They are particularly relevant for CLTs taking over social housing or other public assets, and are available as Exhibits 12 and 13 on the website.

This section should help the new organisation ensure it has the skills and expertise it needs, is connected to the community it serves, and is governed effectively: so as to be able to persuade all those who might support it that it is a well-founded organisation.

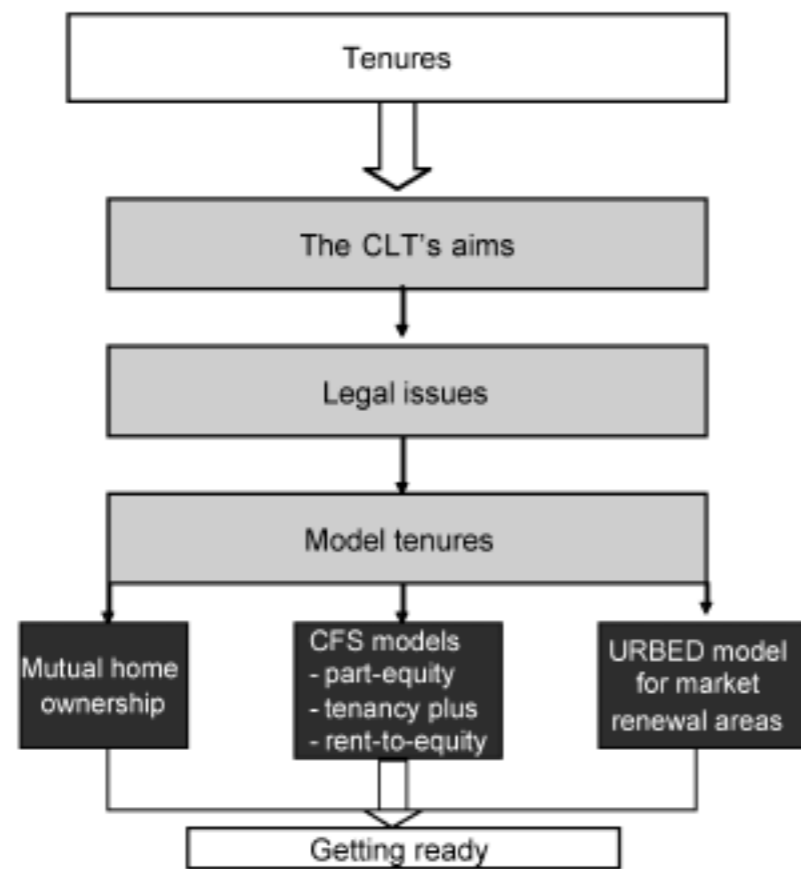
5.0 Providing affordable housing and holding the assets – tenure options for a community land trust

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Sections 5, 6 and 7 of this toolkit provide support for developing affordable homes, workspace and community buildings. In this section, the information on affordable housing tenures is important for two reasons. First, when the CLT sets up the project and tests its feasibility, it will be necessary to think about the terms on which homes will be made available. Is the organisation sure they will be affordable to the people it wants to help?

Second, when the project is complete, the CLT will need a clear understanding of the basis on which the homes are occupied. This will enable it to prepare information for potential applicants, secure mortgage allocations, allocate the homes, and instruct solicitors to prepare leases and other legal documents.

Although this information has been included as section 5, it is an issue that will need to be revisited and resolved finally after section 7, 'Making it happen'.



5.1 CLT aims

5.1.1 The types of tenure that people are most aware of are renting and home ownership.

With renting, the landlord owns the property but has granted a tenancy. This is usually an assured tenancy under the Housing Act 1988, which may continue indefinitely if the conditions are not broken; or an assured shorthold tenancy under the same Act but modified by the Housing Act 1996. A shorthold tenancy is for a minimum period of six months, after which notice may be given by either side. Apart from decoration and very minor repairs, maintenance is the landlord's responsibility. Housing associations routinely use assured tenancy agreements.

With home ownership, the title to the property may be freehold or leasehold. If it is leasehold, someone else owns the freehold and has granted use of the land for a specific period, often 99 or 999 years. The freeholder or long leaseholder is responsible for maintaining the property.

5.1.2 A CLT that owns homes can grant assured or assured shorthold tenancies like any other private landlord. However, it is important to note that this carries an obligation to maintain the property. If the CLT uses assured tenancies rather than assured shortholds, it should also be aware that the tenant has the right to pass the tenancy on to someone else in their household. The powers to increase rent are also limited, which restricts the value of the asset as security for a loan.

5.1.3 A CLT may well have the provision of rented housing as its aim if, for example, there are no homes to rent locally, or no homes of the right size.

5.1.4 However, many CLTs set themselves up to provide for people who would like to own a home of their own but cannot afford to buy on the open market because values are too high.

5.1.5 In order to help people in these circumstances, the 'normal' tenures described above may not be appropriate. The CLT's aims may be among the following:

- As nearly as possible, to put people into the same situation as those who can afford to buy on the open market. In this case, what they pay goes towards settling a mortgage, and when they leave they have a lump sum from the equity they have repaid and a share of any increase in value;
- To enable people to take out a mortgage on the property related to their household income, just as they would if they were buying on the open market;
- To avoid complexity, which is likely to add to legal costs or put off lenders such as building societies and banks;
- Once the home is sold, to enable the CLT to make it available to other people who need to live in the community but cannot afford the open market.

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5.1.6 The last aim may be in conflict with the others. Let us suppose the CLT helps a family to buy a home worth £200,000 on the open market, for only £100,000. The CLT will then want to make sure that there is no possibility that the home can be sold for more than 50 per cent of its value. The CLT may also want to make sure that it cannot be required to sell the family the remaining half of the equity. Alternatively, the CLT may consider this would not matter, provided it receives the full £100,000 and can use it to invest in another property. This could actually be quicker than waiting for the first household to move on. However, there may be no suitable homes available for the CLT to buy, and the landowner who provided the original affordable home may object that this was not the basis on which the land or property was made available.

5.1.7 To provide permanent affordability, the CLT may want to ensure the home is as affordable to the next purchaser as it was to the first. Or it may even want to increase its share of value so that future households with relatively lower incomes can afford to buy. In particular, if house values rise faster than wages, affordability for the second purchaser could be less if the re-sale price follows property values. The CLT might therefore want to limit the growth in the value of the share of the home to the rise in the wages index; or the average of the wages and property indices; or even to make the rise in value which the occupier is entitled to keep less than the wages index. Equally, it might decide that giving people a leg up to the housing ladder is the most important thing, so the rise in value of the purchaser's share should be the same as the rise in house values.

5.1.8 A number of ways have been devised to enable the CLT to achieve these aims. They are set out in section 5.3 and annexes 5.3A-5.3C.

5.2 Legal issues

5.2.1 There is a lot of legislation and case law covering housing tenures. As discussed in 5.1, the CLT needs to enter into legal agreements that provide affordable homes to households who need them, while at the same time protecting the asset in perpetuity so that others can be housed affordably in future.

5.2.2 A particular issue is leasehold enfranchisement. Legislation is designed to give leaseholders the right to acquire their freehold, but if this were possible in CLT homes, the affordable provision could be extinguished in the same way as the right to buy has already seriously eroded the availability of affordable council homes.

5.2.3 Anyone who takes on an affordable home from a CLT will therefore need to sign documentation that has been carefully drawn up to comply with the law, while meeting the CLT's aims. In the case of part-equity, households should instruct a solicitor of their own to advise them that the documentation gives them good title to the home they are buying. In addition, the building society or bank that provides the mortgage will also want to be reassured that the property provides security for the loan even if the mortgagor gets into arrears.

5.2.4 For households with limited means, the cost of solicitors, surveyors and stamp duty imposes additional burdens. The mutual home ownership scheme, and to some extent the rent-to-equity scheme described below, seek to address these issues.

5.2.5 The terms under which assistance can be given to those who get into financial trouble is also governed by detailed rules, whether through housing benefit (for rented homes) or income support (for mortgage interest).

5.3 Model tenures

5.3.1 The legal models and the different organisations which have sponsored their development are summarised below and set out in more detail in annexes A-C.

Community Finance Solutions (annex 5.3a)

Part-equity, rent-to-equity, and tenancy plus tenures
These tenures have been developed by solicitors Trowers & Hamlins. The legal forms have been developed for: an equity mortgage with the option of different re-sale clauses; leasehold interest in flats; and a pre-emption agreement. Models are available at www.communitylandtrust.org.uk

CDS Co-operatives (annex 5.3b)

Mutual home ownership

5.3.2 Mutual home ownership has been developed by CDS Co-operatives Limited to make use of co-operative forms of tenure which have proved so successful in engaging residents in the management and maintenance of rented and shared ownership homes.

URBED (annex 5.3c)

Proposal for a housing market renewal model using a CLT

5.3.3 The model is intended to enable owner occupiers with property in poor repair to retain their equity as part of a CLT alongside public investment to bring properties up to Decent Homes standards and encourage a revival in the local housing market.

5.3.4 URBED has developed a financial model showing how funds from the project could be recovered and recycled into new schemes. This can be discussed by contacting URBED at Charlie@urbed.coop or info@urbed.coop An addendum in 5.3c also illustrates an alternative including permanent public investment.

This section should have provided an understanding of the housing tenure options open to the CLT. These need to be understood at an early stage as they will affect the development and finance of the scheme.

Annex 5.3a: Community Finance Solutions

What are 'affordable' homes?

Open market housing is now out of reach for an increasing number of people. House prices have risen on average by 8.5 per cent a year since 1995, but wages have risen much more slowly. This is seriously disadvantaging a wide spectrum of people who are often vital in retaining balanced urban and rural communities. The problem not only affects the lives of those concerned but also puts a serious brake on local economies.

Affordable homes should, if possible, cost residents less than a third of net household income. Mortgage providers usually limit mortgages to three to four times salary for this reason (although some allow mortgages at five times salary), and it is the approximate basis for the calculation of housing benefit to meet a proportion of rent for those on lower incomes (although housing benefit assumes single people can afford up to 50 per cent).

Intermediate market housing

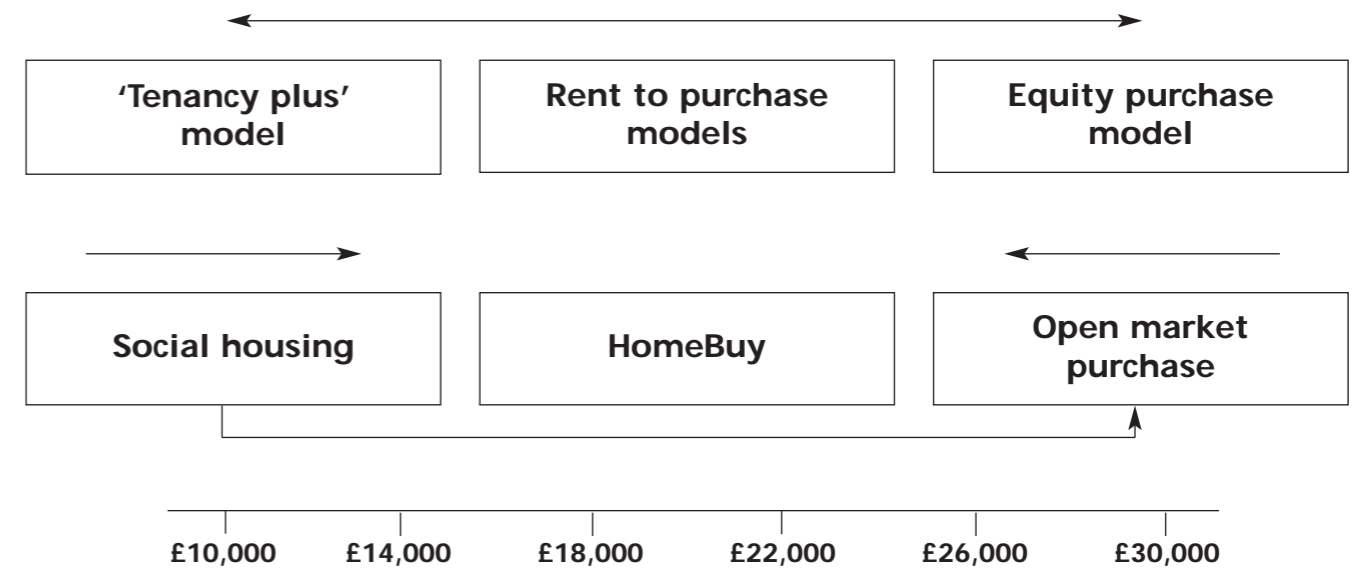
Intermediate market housing is needed for the growing number of people who are generally in work or on a good pension and whose household incomes are around or below the average (although people earning up to around £35,000 may need help). They are able to support a mortgage, but are unable to buy where they need to live because of high prices.

The Government funds various 'HomeBuy' schemes with social housing grant (SHG) which are aimed at helping existing social housing tenants or those who would otherwise qualify for a social rented home. HomeBuy enables tenants, and others who qualify, to buy a share of the value of a property and hence provides them with 'intermediate market' opportunities. Wider use of SHG could provide first-time buyers more generally with the opportunity to apply for HomeBuy. However, the budget for SHG is under very great pressure: expanding HomeBuy beyond the current limited eligibility would mean reducing funds for new rented homes (or creating vacancies in existing rented homes).

The need for intermediate market housing is particularly acute in rural areas, where gaps in housing supply are causing a steady erosion of communities in village and market towns. However, it is also needed in many urban situations.

Three tenures which are intended to bridge this gap have been developed by Community Finance Solutions (CFS) with the help of solicitors Trowers & Hamlins. They are equity purchase; rent-to-equity and 'tenancy plus'.

Intermediate market housing



Levels of Household income

Equity purchase

The household buys the freehold of the property, purchasing a share with whatever mortgage or cash they can afford. The rest of the equity is retained by the CLT to create long-term affordability for successive generations in housing need.

In the case of a house:

- the CLT transfers the freehold to the purchaser;
- The purchaser buys this freehold interest by raising a mortgage with a bank or building society at the level they can afford, between 40 and 80 per cent of the full market value of the property;
- The CLT takes an equity mortgage for the remaining percentage of the value to secure its long term interest (and enable the purchaser to own the freehold);
- When the purchaser leaves, the value of the share of equity is likely to have risen and they will have paid off part of their mortgage, giving them a capital stake towards their next purchase;
- By varying the terms of the equity mortgage, the CLT can limit the rise in the value of the purchaser's share of equity. This could be to link the rise to the wages index rather than property prices, or to 25-75 per cent of the property value rise, or to an average of wages and property indices. This is important if the CLT wants to keep affordability for the next purchaser at the same level. This mechanism balances the community and individual benefit and could preserve affordability indefinitely;
- A pre-emption agreement obliges the owner who is moving to offer the house first to the CLT so that the CLT can offer the house to another priority household.

The process for a flat purchase is the same, except that the CLT retains the freehold but grants a long lease at a nominal rent for 99-125 years. In addition, a service charge is payable.

It is not proposed to charge a significant rent as this complicates the assessment of affordability, but the CLT may want to ensure there is some ground rent income from all homes of, say, £104 a year to cover administrative costs.

'Tenancy plus' model

Under this scheme, the CLT builds and finances the homes and keeps the freehold ownership of the property. It grants residents assured shorthold tenancies.

At the end of the tenancy, the CLT may make a small payment to the tenant that reflects the amount of rent paid, less the CLT's costs in servicing the mortgage and in managing and maintaining the home. This payment could be used towards funding a deposit on a house purchase or possibly for entering into one of the other tenures described here.

Rent-to-purchase

The principles behind rent-to-purchase are:

- The occupier pays rent;
- The CLT uses the rent to repay a mortgage and meet any other costs;
- The occupier shares in the equity created by the repayment of debt and the appreciation in the value of the home.

Under this model:

- The CLT holds equity in perpetuity for the provision of affordable housing;
- The resident takes out a long term assured tenancy under which full repairing responsibilities become the tenant's, not the landlord's;
- When residents leave they can receive an equity stake of 50 to 90 per cent of the increased value of that part of the property value their rent has serviced, and the debt redeemed on the loan which has financed their home during their tenancy;
- Rents are set at 35 per cent of net household income, so tenants will pay different amounts. Those paying more receive a higher equity stake when they leave;
- Residents can choose to switch to the equity purchase tenure after two years;
- A rent will be required to cover insurance, make a small contribution to the CLT's management cost and to fund long-term renewals;
- There may also be a service charge.

Enfranchisement

Long leaseholders may have the right to acquire the freehold of their home.

Enfranchisement is not an issue for CLT-owned houses, because no lease is granted. Purchasers own the freehold, subject to the equity mortgage.

There is a right for collective enfranchisement of flats if sufficient leaseholders in the building want to acquire the freehold. However there is an exclusion for 'shared ownership' leases and the legal definition of 'shared ownership' is wide enough to include the models proposed here, provided the equity is fixed ('staircasing' to higher levels of ownership is not permitted) and no rent is paid.

Leaseholders of a charitable housing trust are also excluded from enfranchisement, provided the home was supplied in pursuit of the trust's charitable objectives. Providing homes on part-equity terms can be charitable, as long as it benefits those with average household incomes or lower.

Tax

The position is the same as for any other purchaser in the property market. There will be some stamp duty land tax if the interest acquired has a value in excess of the minimum (currently £120,000) and also Land Registry fees. There will not be any capital gains tax (if the home is occupied as the only or main residence), and the payments made by the CLT under 'tenancy plus' and equity purchase models cannot be defined as proceeds from a disposal on which the tax could be levied.

Example

The table below illustrates how permanent affordability can be maintained through the resale clause in the equity mortgage.

1	Initial property value	£154,000
2	House price inflation after 10 years at (say) 4 per cent	48 per cent
3	Value of property after 10 years	£227,958
4	Wage inflation after 10 years at (say) 3 per cent	34 per cent
5	Average wage of household in work at the start (say)	£22,000
6	Initial affordable share (individual mortgage [50 per cent value]) @ 3.5 x income	£77,000
7	Initial equity mortgage granted (property equity held by CLT) [(1) minus (6)]	£77,000
8	Rise in value of 50 per cent share (6), if based on 48 per cent property inflation (2)	£36,979
9	Rise in value of resident's share, capped to the 34 per cent rise in wages	£26,180
10	Resident's outstanding mortgage after 10 years (5.5 per cent, 20 year mortgage)	£48,567
11	Value of equity stake built up for next purchase (6 minus 10 plus 9)	£54,613
12	Share to be purchased by next resident	£103,180
14	Average wage of households in work	£29,566
15	Multiple of household income required	3.49

Further details

Details of the legal model starter pack and further details of the model tenures are also available from Trowers & Hamlin, First Floor, Portland House, Longbrook Street, Exeter EX4 6AB.

Annex 5.3b: Mutual home ownership

The model, developed by CDS Co-operatives, takes advantage of co-operative housing principles which include intrinsic cost savings.

- Borrowing is corporate not individual, which can reduce interest costs and make possible unusual lending profiles such as index-linked or deferred interest models;
- Tenant participation in management can save on some overheads and exert continuous pressure for 'best value' in professional management fees;
- Tenure can be kept simple: a repairing lease, where it is the tenant's responsibility to carry out internal repairs, can be assigned and equity shares can also be assigned through a transparent re-sale formula, reducing transaction costs.

Shared equity co-operative housing has the further advantage that it can support people in gradually building up ownership of buildings (as opposed to the land) while dealing with repairs and maintenance through a service payment. Residents can therefore acquire an interest in their home which they can sell when they leave through a local mutual organisation in which they actively participate through their voting rights.

The key features of the model are as follows.

Community Land Trust (CLT): a non-profit company or charity established for 'community benefit', which acquires and holds parcels of land scattered throughout a specified geographical area in order to ensure the permanent affordability of any housing (or other developments) on the land.

Co-operatives: leasing land from the CLT under a 99-year ground lease, any number of separate co-operative housing societies will partner with the CLT to develop, own and manage multi-unit residential buildings. Each co-operative will have a membership made up of people who occupy the co-op's units and own shares in the society.

Rights of occupation: to be governed by both membership in the co-op and by a contractual full-repairing lease that allows for both the assignment of the equity and for entitlement to housing benefit or income support in circumstances of unemployment or long-term ill health.

Corporate mortgage finance: for constructing new housing and negotiated on the basis of low-cost rates comparable to the interest levels negotiated by registered social landlords and possibly on a low start basis with payments weighted so that they are lower in the early stages and higher towards the end.

Equity units: units of equity acquired incrementally through a structure similar to a property unit trust, in which an element of the monthly payments made is applied to the acquisition of units which represent an interest in ownership of the built environment on a mutual, shared ownership basis.

Affordable and equitable housing payments: shared ownership payments in the model are based on an affordable proportion of

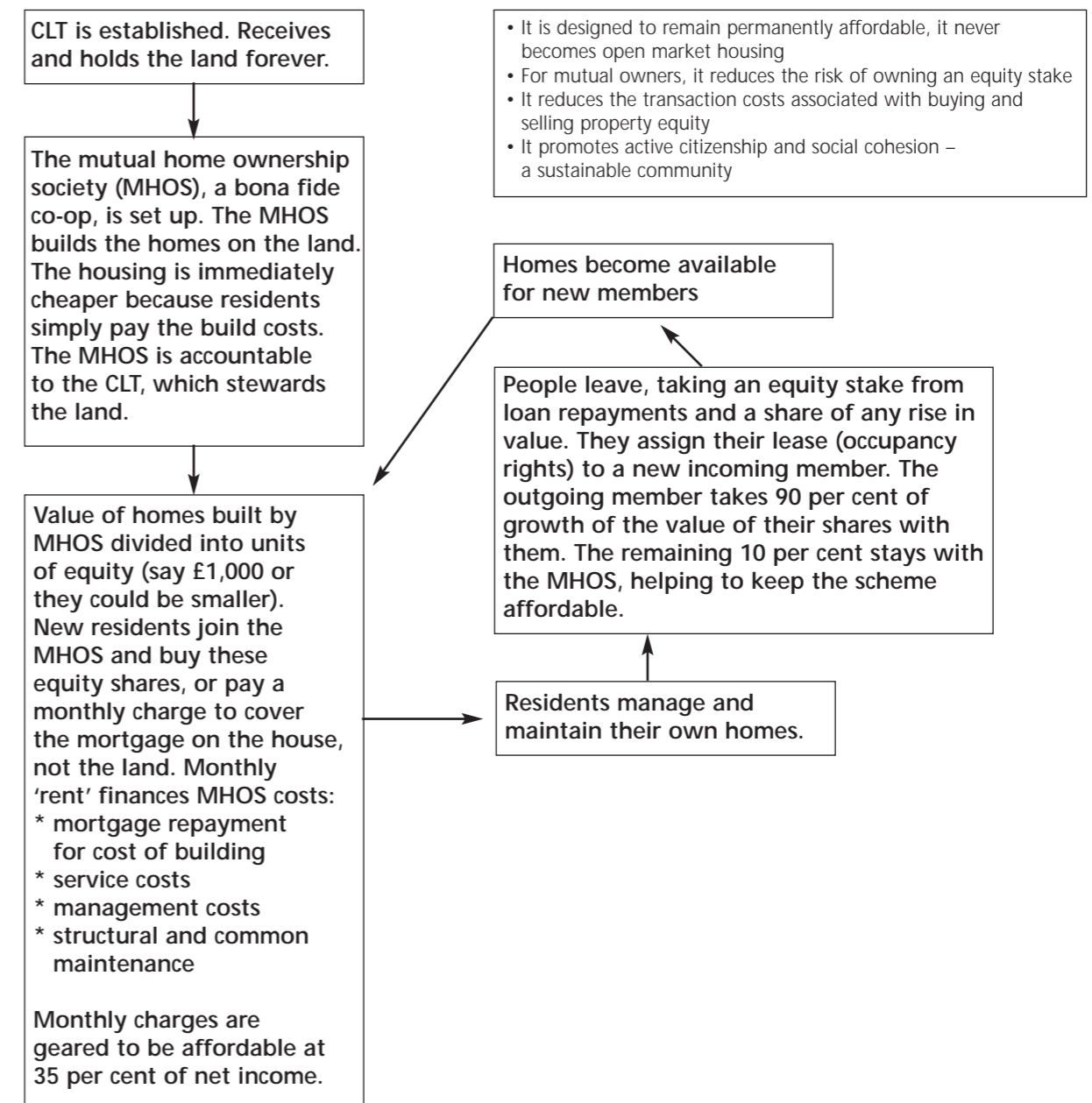
salary. Thus a teacher with a salary of £23,000 per year who pays 30 per cent of net salary for housing costs to the co-operative will pay more per month but, on the other hand, will earn equity stakes at a faster rate (their relative share of mortgage debt is repaid faster), compared with a health service worker paying 30 per cent of a lower salary of £18,000.

Re-sale formula: a clear and transparent means of valuing equity stakes when a member wishes to sell and leave the co-op.

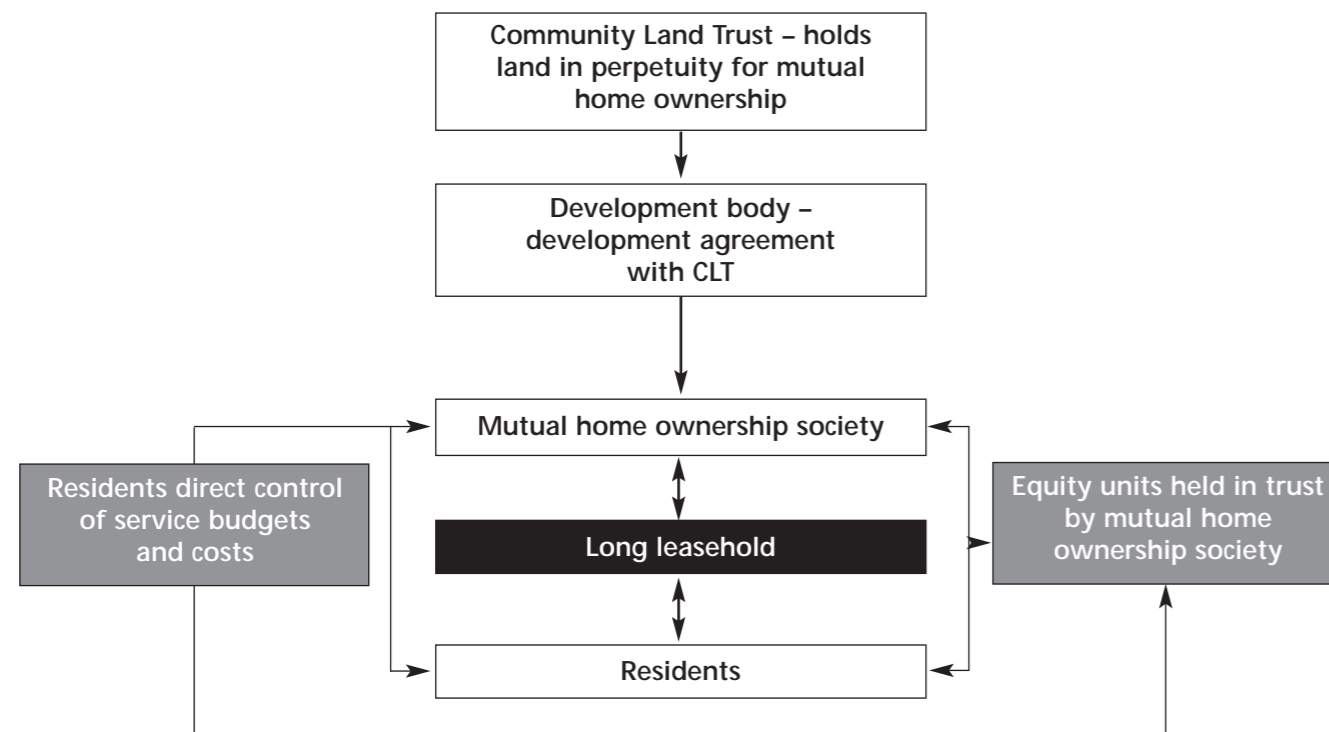
Deposit: Members would pay an initial deposit, set in the first instance at 5 per cent of housing unit costs, but subject to review in later years in order to maintain affordability in relation to earnings.

The following diagrams illustrate these processes and principles further.

How will mutual home ownership work?



Legal structure of the model



Annex 5.3c: URBED (Urbanism, environment and design) model for housing market renewal areas

Making regeneration last – delivering housing market renewal

While the housing market in the South East is overheating, in parts of the north, markets are weak and have even collapsed. This has informed the government's Sustainable Communities Plan, which addresses housing expansion in the South East and a government programme called housing market renewal (HMR) in areas where house prices are weak. The aim of the programme is to fund major regeneration of the areas suffering the greatest market failure, rebuilding confidence and demand through housing refurbishment and replacement.

This is potentially a huge undertaking. A study of the M62 Corridor in 2001 (on which the policy was largely based) estimated that 17 per cent of all properties – 280,000 homes – were affected, so that expenditure could run into many billions of pounds. The government has made an initial pledge of more than half a billion pounds to get the worst areas moving through the 'housing market renewal pathfinders'. A further £400m was allocated in the 2004 spending review.

There is no set methodology for tackling this monumental task, and currently no confirmed proposals for how ongoing funding will be found. However, nine pathfinder authorities have been designated across the Midlands and the north of England and each has been bidding against these funds. These delivery partnerships (the pathfinders) include the local authority (at a planning level), the housing authority (directing council housing and grant funding for social housing), local councillors, housing associations, and private house builders. There have been some upward turns in the market since 2003.

There is concern that a once-in-a generation opportunity to give declining communities access to regeneration will be squandered as large numbers of properties are bought up at huge cost, only to be demolished – just like the slum clearances of the 1960s. We are proposing an alternative model that will use money to create assets, providing a vehicle that can recycle funds over time.

In most of the HMR pathfinders, people are still living in the areas up for renewal. Unlike the housing renewals of the '60s, this time it is widely accepted that these communities are in many cases a great asset. They create social support networks and active stewardship of neighbourhoods and give them their unique identities.

The key challenge is to transform unpopular areas into places where people want to live. This, of course, means improving the environment and the choice of housing, and tackling quality of life issues such as crime and schools. However it also relates to the community. Aside from the responsibility to improve housing standards for those who have stayed in the area, a strong community is a major draw for people considering moving from one area to another.¹

Retaining the community is therefore a priority in these renewal programmes. There are two key components: the retention of the people themselves within the area, and the strengthening of the social bonds that tie the community together.

The pathfinders are, to a greater or lesser extent, employing several measures that mainly cover the first part. These include the following:

- Acquiring homes that are, or might become, a blight to prevent further degradation of the neighbourhood. This also helps sustain house prices by restricting the number of homes on the market;
- Offering homeowners low interest loans and grants to take part in group repair schemes, or to carry out their own repairs;
- Buying out homeowners (including compulsory purchase orders), demolishing the houses and building new ones, giving them a 'part exchange' on their old home with a mortgage to cover the cost-value difference.
- These are all quite well tested. However they can be disruptive to the community, especially since attempts to engage residents in the future of the HMR areas have been patchy. As with many regeneration initiatives, the delivery partnerships are too complex and the timetable too short to add a tier of community decision-making.

A new model

A CLT is a mutual society which people join and in which they invest part of the equity of their property. Members are able to benefit from economies of scale or to access funds denied them as individual homeowners in order to refurbish or replace their homes.

In July 2002, a report promoted by the Confederation of Co-operative Housing and various partners in the West Midlands raised the idea of applying the CLT model for housing renewal in the UK. Recently it has also appeared as a key component of the mutual home ownership proposals promoted by CDS Co-operatives. It provides a community-based method of releasing, subsidising and redistributing equity. It is an ideal vehicle to deliver the requirements and aspirations of the housing market renewal process.

The CLT would be a vehicle for refurbishing properties where the costs are otherwise beyond the homeowners. By exchanging the freehold of their homes for a leasehold, they would free up equity to secure funding for urgent, street by street repairs. As far as we are aware, this application has not been taken further, but with the advent of the HMR programme, we believe this is an idea whose time has come.

CLTs could simplify the choices presented to homeowners while at the same time giving them a tangible stake in the future of the area, as they would become investor-members of the vehicle for delivering HMR.

The CLT is similar to a building society in its original form. People come together to get building work done which they could not otherwise afford. The CLT takes this highly successful model from the 19th and early 20th century and gives it new relevance.

¹ Scase R, Scales J. Regional Futures and Neighbourhood Realities. National Housing Federation, London: 2003; based on British Household Panel Study survey of 10,000 households which put friendly community at the top of a list of what makes a neighbourhood a good place to live, above crime and education.

It also has similarities to credit unions, in that services similar to those of a bank are provided in a way that is accountable through a common bond to the members. This local focus provides a unique opportunity to create a capitalised vehicle through making the CLT the conduit for government subsidy. However, in contrast to many other methods, it will also continue to exist beyond the life of any one funding regime, and will be demonstrably run by and for the benefit of a defined community.

How would it work?

The members of the CLT would be the investing householders. For the CLT to be an appropriate delivery body for HMR, it is important to make sure that all the key stakeholders have confidence in its decision making.

Drawing on the experience of housing stock transfers, the management committee would be made up of local representatives elected by the membership. Places would be reserved for council representatives, in recognition of their resource input, as well as for individuals from organisations that would bring appropriate skills and experience to the CLT. Nominations would be taken from the local community and other stakeholders to be approved by the membership.

The advantage of being a membership-based business is that the accountability of the management to the consumers of its service is easy and understandable, well tried and tested and legally enforceable.

The CLT would not replace existing structures but would become the financial intermediary, effectively enabling the housing associations and house builders to play the role of contractors not clients.

The regeneration strategy would work in two main ways. The first is to refurbish the houses without increasing the debt of the incumbent householder, who in many cases may not be able to afford it. In the early stages the CLT uses government funding to pay for the modernisation of the homes and takes a share in the home commensurate to the value of the repairs. So for instance if the house is worth £25,000 in today's terms, but requires another £25,000 to refurbish, the work would be funded by the CLT which would in return own half of the property. As the neighbourhood improves, values in the area would rise and both parties would have an equal share in this growth. Initially this would be funded by the government grant but as values rise, the equity in the property can be used by the CLT to borrow. As time goes on, the equity released when properties are sold will also be available to be reinvested.

The second route is similar but applies where the work needed is more costly than can viably be covered by the value of the home so that demolition is deemed necessary – figures to be determined by normal commercial parameters. In this case, the value of the home to be demolished would be counted as the home owner's investment in a new home, with the CLT investing up to the actual cost of the new property. There needs to be an incentive for the home owner to take this option rather than the compensation available, to encourage the resident to continue to invest in the area. Again the destiny of the CLT and the resident

would be tied together – in the opening years, the householders' investment might have to be subsidised as construction costs are likely to exceed market value in the early stages.

The model could therefore be highly effective in the early, confidence-building period of intervention. By making the key stakeholders those within the area, future profits can be recycled to continue the work, maximising the return to local stakeholders rather than external shareholders.

The CLT comes into its own once the market starts to recover and people begin to sell houses at healthier price. When this happens, the CLT recoups its share on its investment and can recycle the funds to allow other homes to be refurbished. This is a highly efficient vehicle as it can recycle public funds and use its asset base to secure further funding. Perhaps its greatest attraction for communities will be that it offers a route to renewal that does not saddle people with further debt – instead they simply share the success of the area with the CLT. This might be particularly attractive for people either into or nearing retirement, or people from cultures where debt is unacceptable.

If the intervention succeeds in creating demand in the area and thus starting a rise in house prices, the CLT will own substantial assets against which it can borrow to continue working. The more it succeeds, the more it will be able to do. Even if the CLT only succeeds in stabilising house prices, it will still own a substantial asset base that will be at the disposal of the community rather than passed into the hands of private owners who may leave the area once the first round of sales of refurbished or new homes has gone ahead.

In government policy terms the model is highly attractive as it allows for a cash injection at the start, with measurable success within a relatively short period which then sustains itself for long enough to finish the job and beyond. It will not need continual topping up from the public purse.

Financial model

In the financial model built to test this proposal, it has been possible to take a typical intervention neighbourhood of 1,500 homes; rebuild 500 of these; carry out major repairs averaging £20,000 on another 525; and execute minor repairs averaging £5,000 each on the remaining homes. The total spent by the CLT on the house repairs and renewals was almost £60m.

The model starts with a house at 30 per cent of the national average price catching up to it over 10 years: an annual sales turnover of 10 per cent was assumed. This was achieved with only £15m subsidy and maximum borrowing of just under £20m with asset cover of 163 per cent.

The model is able to adapt to lower house price rises or levels of sales by reducing the pace of work. Similarly, a higher than planned rise in house prices or sales would enable the CLT to carry out the works faster and potentially move beyond its original boundary.

Controlling measures

The model is very simple and provides a clear picture to prospective member households. It also can be adapted to other conditions.

In the opening few years, when a major part of the spending is public funding and confidence in the area is at its lowest, it would be possible to give the householders share preference over the CLT, so the CLT share (or a percentage of it) would be eroded first. This would be for a limited period to preserve the asset cover for loans but would give householders the confidence to stay on during the early years of the regeneration process.

To ensure that the CLT is not a victim of its own success, and to prevent speculation, it may be worth preventing the full value of the residents' share being fully redeemable for a fixed period after moving back in.

It is widely accepted that new and improved houses will create demand and that some market failure is due to displacement into areas that have been regenerated; therefore it is likely that house prices will rise in the CLT area. In the scenario that house prices do not rise at the rate projected, perhaps due to factors outside the project's control such as the loss of major local employers, the rate of work would have to be reduced in later years to maintain asset cover for the CLT loans. Alternatively, further public investment would be needed to continue at the same rate.

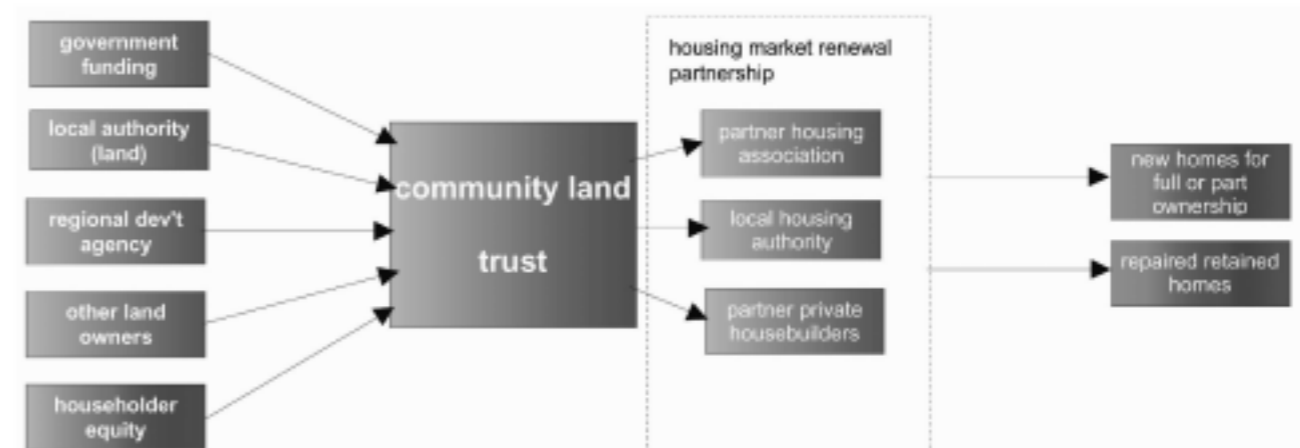
On an area by area basis, care needs to be taken to make sure that householders who stay put and maintain a commitment to the area receive a reward for doing so. However, it may be considered that to give someone a new house, which they do not have to pay for if they stay living in it, could cause division between the areas served by the CLT and those outside its funding regime. In consideration of the capital invested, it would be possible for the CLT either to take a slightly greater share in the house at the outset, or to charge interest. The resident could either pay the interest or have it added to the CLT's share in the house.

The advantage of charging interest would be that if the CLT's income was reduced due to falling house sales, the interest would replace it.

In some cases, the householder may wish to buy out the CLT's share in their home. If the CLT is suitably registered, it would be possible for the CLT to provide the mortgage directly so that the money could be paid back over time. However, it is in the interests of the CLT to receive cash sums, so care would be needed to maximise the incentive to keep the housing market in the area flowing.

Given the desire to sustain diversity in neighbourhoods, the CLT would be able to offer choice in the way householders cover the cost of their improved housing.

Where a community land trust fits into the process



Future access to housing

This brings us on to an interesting point about gentrification. If the process really works, it is possible that those who have weathered the last few years will be priced out of the market as the area picks up. A well-capitalised vehicle like this would be able to retain certain amounts of its assets on sale of properties in which it owns a share. By retaining the share the CLT could provide access to lower cost housing to more households, in a similar way to shared ownership schemes.

It would be feasible to develop a completely new kind of housing market with a partner housing association, offering a smooth transition between market renting and home ownership.

A resident who was unable to afford the whole cost of a house could ask the CLT to take an equity stake. They would then pay the interest costs of this assistance. At a later date, they could also pay off the principal of the CLT's equity to become full owners. With suitable quantities of property and a restriction on the numbers, it would therefore be possible for the CLT's equity to be 100 per cent. The resident would have a full repairing lease if they chose not to cover the principal.

And another thing...

The CLT would not only deliver the outcomes above but would also become the strategic landowner, providing a unique vehicle for stimulating accountable economic regeneration with respect to land disposal for non-housing activities. Mixed-use schemes could help to provide the economic improvements which would support the housing market, making the area more desirable in terms of employment options and increasing local incomes.

While the local authority will still have strategic opportunities through the Local Plan, the more detailed issues which might otherwise either clog up council officer time or breed distrust and resentment on the ground could be passed on for decision by the CLT through its membership. This would give a forum for the community to contribute to the design and planning of the regeneration process, including issues of phasing.

Conclusion

This process exploits the potential for yields from property investment to be used as a way of regenerating communities. The process is transparent and accountable, with the profits accruing to those by whose commitment they have been earned. This method will also provide a framework for clarifying decisions where clearance should happen and where it should not, as it will be based on the value of those properties before and after intervention as compared to the cost of that intervention. It will mean that the CLT will be successful both as a result of the loyalty of its community and of its commercial decisions.

The CLT would harness the commitment of many people in communities to get things sorted out and gives them a forum to do so. Once people can see the product of their endeavours, they are inspired to continue to contribute, and they also inspire others to do the same, putting the neighbourhood on a self-sustaining spiral of improvement, rather than a resource-hungry spiral of decline.

The CLT combines all of the interest positions in the neighbourhood in such a way as to maximise efficiency and the consequent chances of success.

There is also the opportunity to provide for the first time a vehicle to build the strength of communities on the same scale that the most successful RSLs manage, but for low income home owners as well as those who rent.

Charlie Baker and Sarah Hughes 13.9.2004

Addendum to URBED proposal: similar model developed separately by Community Finance Solutions for Elevate East Lancashire but without recycling proposed by URBED

MODEL FOR COMMUNITY LAND TRUST IN MARKET RENEWAL AREA

	1	2	3	4
Existing property value	£ 15,000	£ 15,000	£ 15,000	£ 15,000
Extra resident investment			15,000	15,000
Investment by Elevate per property	60,000	80,000	45,000	65,000
Final value	90,000	90,000	90,000	90,000
Resident share of equity	18,000	15,000	36,000	30,000
Equity held by Elevate (to be passed to CLT)	72,000	75,000	54,000	60,000
Grant required		-5,000		-5,000
Resident moves or buys remaining share				
CLT equity	72,000	75,000	54,000	60,000
New property owner can join mutual with stake of	18,000	15,000	36,000	15,000

Column 1 - resident joins a mutual CLT and becomes: a) a tenant paying nominal rent and b) a co-owner of the whole terrace with a shareholding worth £15,000. Elevate invests in renewal and the rise in value is shared proportionately. Elevate passes equity to the CLT to hold in perpetuity. If the resident buys extra shares, the CLT can use the receipt to invest in other property acquisitions or assist another resident to join the CLT.

Column 2 - Elevate investment plus the resident's equity exceeds the final value. Elevate meets difference from grant. Resident sees no increase in equity but has a property in good condition.

Column 3 - resident is encouraged to take out mortgage to meet part of the repair costs (£15,000) and benefits from larger share rise in value.

Column 4 - if the resident invests additional funds but the value is less than the total cost, there is no gain to the resident. The grant required remains the same.

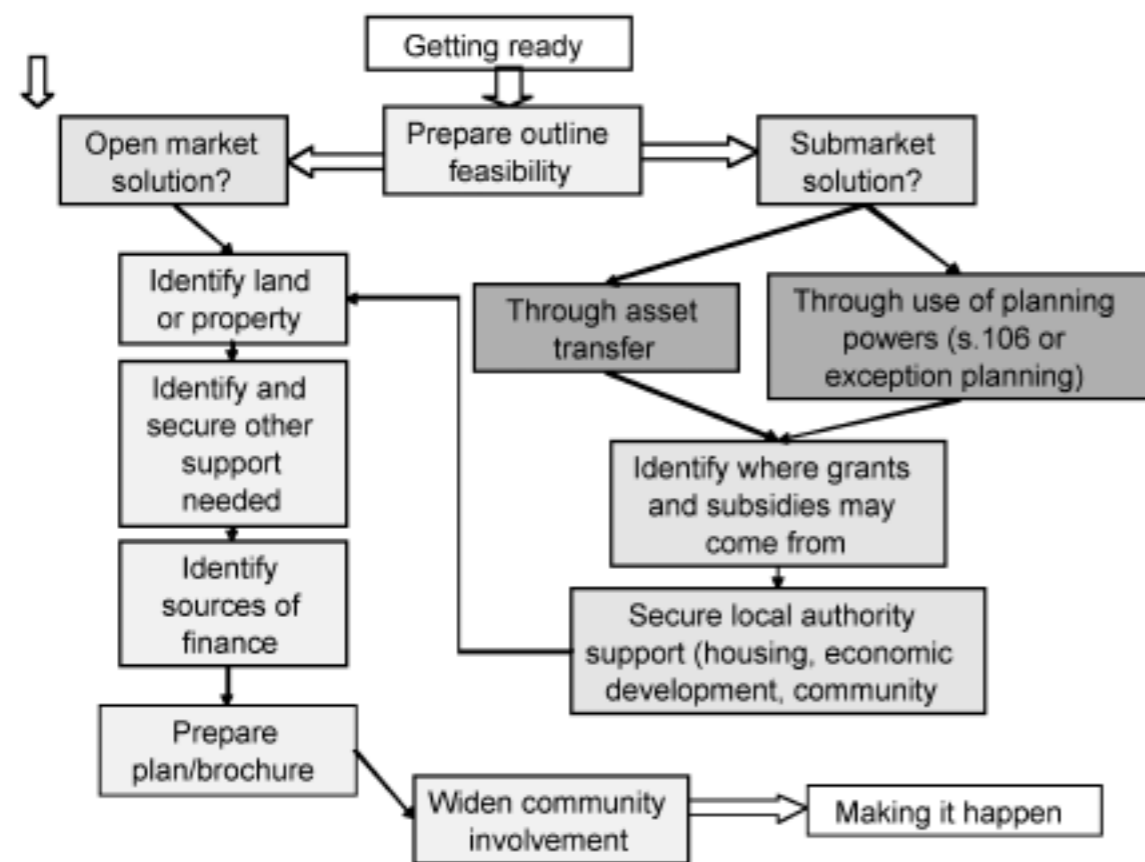
If property prices rise, the CLT could make the same choices described in annex 5.3a related to the equity purchase model tenure. For example, the resident's share of any risk to value could be limited to the rise in wages rather than property prices, if permanent affordability was an important issue so that successful housing market renewal does not make the area completely unaffordable for the original community.

6.0 Getting ready

This section is about how to meet the needs that have been identified, culminating in the preparation of a business plan describing what the CLT hopes to do. It shows how the plan can be used to secure the necessary support.

Exhibits:

- See www.communitylandtrust.org.uk
- 14 Torridge DC Section 106 agreement
- 15 HBCPT/Torridge DC housing allocation policy



6.1 Feasibility

Costs

6.1.1 Sections 6.2 to 6.4 below describe how land and property might be secured and developed at a cost which enables the CLT to provide assets that are affordable to the people it wants to help.

6.1.2 A fundamental part of this process is likely to be the transfer of public assets, the use of planning powers – including obligations on developers to reflect community needs – or the receipt of grants.

6.1.3 The acquisition of land or property may be the first step for the CLT, but the trust still needs to have a broad overall plan for making sure that its proposals will meet the need it has identified. Initially, a ‘back-of-an-envelope’ calculation should be prepared showing the likely cost of the project. This will include any grants that may be available, and any ways of keeping costs down.

6.1.4 A back-of-the-envelope feasibility study will involve lists of:

- What the CLT hopes to develop, sorted by size and type;
- The costs, including land, buildings and fees, and any particular or abnormal costs;
- Ways of meeting these costs.

6.1.5 Typical sizes for homes, workspace and community space, and the ball-park cost of new build construction are as follows. These figures are based on recent (2005) schemes in south west England. They should not be taken as accurate – real figures can only be calculated on a scheme by scheme basis – but they are a way of providing some initial indication of costs to help in the preparation of an outline feasibility study.

HOMES	Studio	1-bedroom	2-bedroom	3-bedroom	4-bedroom
Size	30-40m ²	43-55m ²	65-85m ²	88-100m ²	105-120m ²
Build costs per m2 excluding fees (2006)	£1,200	£1,100	£1,000	£980	£960

WORKSPACE	Studio/ 1-person office/ Starter unit	Small shop 2-person office	Workshop, village shop	Workshop with 1-3 employees	Small factory, eg, kitchen units
Size	9-12m ²	25m ²	50m ²	100m ²	200m ²
Build costs per m2 excluding fees (2006)	£900	£800	£750	£725	£700

WORKSPACE	Small community hall, seating 50; meeting rooms, aerobics	Typical community hall seating 100; smaller events, limited indoor sports	Multi-use hall seating 180 people, library; indoor sports
Size	100m ²	200m ²	300m ²
Build costs per m2 excluding fees (2006)	£1,800	£1,900	£2,200

6.1.6 Refurbishment costs are more variable. For run-down properties, build costs can even be higher than new build. For properties in good condition, the repair and conversion cost can best be estimated item by item but it will rarely come below £500/m². Once a building is opened up, it can become inevitable that all the plaster, wood and services are replaced. It may be better either to undertake decorations and patch repair only, or assume the equivalent of new build costs and standards.

6.1.7 In addition to build costs the following should be added:

- **Land cost** can be up to £5k per plot for housing on a rural exception site. Workspace and community space should generally have a nominal land value, but it may be necessary to pay the equivalent housing value;
- **Legal fees:** even if the land costs nothing, there are still legal fees for acquiring it. There may also be a fee for setting up an option agreement to ensure the land is not sold while awaiting planning approval. After purchase there may be costs for the legal agreements and for the sale or lease disposals;
- **Architect, quantity surveyor and other professional fees** should amount to 10 per cent or less on top of build costs. Complex community spaces may need ventilation and special heating arrangements or involve complex structures, which could take fees to 12.5 per cent;
- **VAT on fees:** no VAT is payable on new build housing, nor on community buildings where the intention is community use. However, if the building is to be let out most of the time to generate income, this may be regarded as trading, in which case VAT may be payable on the build cost. Refurbishment schemes and new build schemes for retail or business use attract 17.5 per cent VAT;
- **Building regulations and planning fees;**
- **Interest:** with little or no land cost and a building contract of 12 months (so that costs are outstanding for six months on average), a rough estimate is to add 3-4 per cent of all other costs;
- **Abnormal or specific costs:** examples might be poor ground conditions; very few homes built where a long new access has to be built or existing sewerage or electricity services are some way away; additional features like solar water heating; fittings such as retractable seating or removable partitions; or external cladding with expensive local materials.

6.1.8 Where the construction also involves common areas, as in the case of flats or a building with a number of different uses, 15-20 per cent should be added for circulation space. If shared kitchen, toilet, plant and lift spaces have to be included, the core space requirement may increase by at least 50 per cent.

Income

6.1.9 In the case of housing, the tenures available are discussed in section 5. Equity purchase involves individuals buying the homes with a mortgage and, if available, a deposit. An affordable mortgage is up to four times a single salary or potentially 3.5

times the whole household's income, although this is at the high end of affordability. However, some people do have access to extra equity from parents or other sources. The best way of determining prices is to ask the potential users what they can afford. For the CLT, the total paid by all purchasers must equal or exceed all its development costs.

6.1.10 Rent-to-equity involves lower outgoings, although outgoings then increase annually with inflation. As far as affordability is concerned, it is usually assumed that households should be spending less than 35 per cent of their net income on housing costs, whether this is rent or mortgage. When the scheme is complete, the CLT can convert the cost into a long-term loan and charge a rent sufficient to repay this loan and, in addition, meet costs such as insurance and management. Rent may need to be set at a level which includes a sinking fund for long-term renewals (eg, a new boiler after 15-20 years). Where rent repays a 20-30 year mortgage, there is the option of re-mortgaging to meet major repairs and renewals when the debt is cleared. However, with the rent-to-equity model the property is re-financed to provide the outgoing occupier with an equity stake. Major renewals must therefore be met from rent income.

6.1.11 Workspace rents will depend on location but typically in rural areas or secondary urban locations they are £50-£70/m². A neighbourhood store let to a local retail co-op might attract £150/m², while retail units might otherwise be let for £60-£90/m². Generally the CLT will need to borrow to finance workspace and repay the debt from rents.

6.1.12 Long term loans are likely to be at rates of around 6-7 per cent over a 10-25 year period, so that each £1,000 borrowed requires net income of £78.23 a year. Lower rates or a longer repayment period would reduce this, while higher rates and shorter periods increase repayments, as shown below.

Sum borrowed		£1,000			
Rate	Period (years):	15	20	25	30
5%		£96.34	£80.24	£70.95	£65.05
6%		£102.96	£87.18	£78.23	£72.65
7%		£109.79	£94.39	£85.81	£80.59

6.1.13 The difference between the funding that can be raised for both loans and workspaces from a mixture of individual equity sales and long term finance will have to be bridged either by reducing costs, or through grants and subsidies (which may also impose conditions that have to be met in terms of the allocation policy or rent).

6.2 Open market or near market solutions

6.2.1 Most often, needs are not being met because people cannot afford what they need on the open market.

6.2.2 There are types of use, however, where a CLT could pay the open market value and still meet its objectives.

Housing for sale for specific groups

6.2.2.1 Rural housing sites designated for housing development in the Local Plan all too often end up providing larger homes with three to six bedrooms, as this is where profit margins are higher and sales more certain. A CLT may identify other needs, such as older people in the community who want to 'downsize' but cannot find a smaller property locally; or first time buyers who want a flat or house with just one or two bedrooms. The CLT may be able to make a competitive offer for the site where it has this additional local knowledge, or it may be able to influence what a private developer builds by providing evidence of demand.

Co-operative or co-ownership

6.2.2.2 A group of people may be able to take advantage of a development opportunity by purchasing the land with bank finance, together with cash or security which they will need to find themselves. This might need to be 30 per cent of the land cost but could be as low as 10 per cent for a particular opportunity. Buying land in expensive areas may be difficult – but not impossible – as there will be competition from developers. The group will probably need to have a design costed by a local builder in order to be clear about what it can afford. In areas of lower demand, or where a site is being purchased from a public authority or sympathetic owner who is prepared to wait while the scheme is put together, this is a clear possibility. However, landowners, especially public ones, are more likely to be supportive if the scheme is helping people who could not otherwise afford to buy, rather than just providing a group with better or cheaper housing.

Two ways this could be made more affordable are through self-build or cross-subsidy from sales.

With self-build, the individuals put in their own labour to build part or all of the homes. A full self-build that buys in only materials and limited technical work typically requires 15 hours a week for 15-18 months. This might represent 30 per cent of the build costs, or 15-25 per cent of the value. A self-build specification such as the Walter Segal design will be needed (see www.segalselfbuild.co.uk).

With cross-subsidy from sales, there are examples of local authorities being willing to see sites developed with a number of homes sold and the proceeds used first to achieve an agreed sale value for the site and then to reduce the cost of the remaining homes to make them more affordable. The difference between the cost of the homes purchased by the householder and the open market value is the equity held by the CLT, under the equity purchase tenure described in section 5. Hastoe Housing Association is also seeking to promote a model on these lines to planning authorities, to allow the outright sale of two homes

out of 10 on an exception site so that the remainder can be made more affordable.

Co-housing or joint development

6.2.2.3 Co-housing is a scheme where people live in their own properties in a development that incorporates a communal space for shared meals, guest rooms, washing and drying. This could – but need not – mean each home is somewhat smaller. The idea is popular in Scandinavia and has been undertaken a few times in the UK. People have also come together to realise a common aspiration for homes designed to high environmental standards, or with other specific design features; or to undertake self-build or partial self-build. Purchase on the open market is a possibility, although sites may be hard to find. The group will of course need to secure the necessary finance, probably partly from members and partly from lenders, before making an offer.

Local shop

6.2.2.4 If a local shop has failed repeatedly, the premises may have limited value as a shop. If it is in private hands, the owner may wish to secure planning permission for conversion to housing but the planners may refuse this if there is a credible purchaser for the shop. If this were a CLT, it would have to show it could run the shop more cost effectively because of the use of volunteers, or by generating greater support, or by being more responsive to demand through its community connections.

Organisations such as the Village Retail Services Association (Virsa) exist to support CLTs in taking on and running village shops. In towns, the local economic development department, a development trust or other regeneration agency may be able to help. In some places, especially cities, a shop may be a source of revenue to support the affordable housing costs. Providing commercial and retail services and managing them effectively will require different skills, which should be reflected in the composition of the CLT board.

Viability

6.2.3 These types of solutions may also form part of a CLT's overall plan.

6.2.4 Where a local need for particular types of market housing can be shown, this could be the basis for securing exception planning permission (see 6.3.1 and 6.3.24) and could greatly assist the overall viability of the scheme. It could add to the land value and might therefore persuade the vendor to sell.

6.3 Submarket solutions

6.3.1 Most often, it will be necessary to find a route to securing the property asset below market value if the project is to meet its identified needs successfully. This can be done by making use of local planning powers, or by securing the transfer of assets from a sympathetic public body or private landlord.

6.3.2 The most common reason why the identified needs are not being met is that the market price of the housing or build cost of the workspace exceeds what people in the community are able to pay. In these cases, one of the two following routes will need to be identified to secure land or property at a price below that available on the open market.

Route A: Planning

Land values

6.3.3 The cost of land with an agricultural value is not significant compared with the cost of constructing a home on it. Around towns, land for horse paddocks or other leisure uses may be worth three or four times as much, but would still be only around 1 per cent of total cost.

6.3.4 Land which either has planning permission or which has been designated for development in the Local Plan or the Local Development Framework is worth a great deal more: housing land can easily amount to 40 per cent or even 65 per cent of the total cost of the home in some areas. Land that has planning permission for a supermarket or other major retail development could be worth even more.

Local Plans and Local Development Frameworks

6.3.5 The planning system exists to plan where development takes place. In the recent past, Local Plans have been the basis for deciding what uses will be allowed in which locations during the period of the plan. A new system of Local Development Frameworks was introduced in 2006 and should be more flexible and more responsive to local needs. This system aims to use community consultation to determine the type, size and nature of developments acceptable in the area. This would then inform subsequent planning applications. While Local Plans remain the most important component of the framework, other planning policies may be agreed which allow variations and flexibility in response to needs.

6.3.6 The new system also intends to expand the concept of planning. The term 'spatial planning' is being used to denote a more proactive system, as opposed to one that just reacts to proposals put forward by developers. Spatial planning seeks to look ahead, decide how needs could be met and consider how appropriate development might best be encouraged and planned to meet identified needs.

6.3.7 Under both new and old systems, land values jump sharply once planning permission is in prospect and landowners (especially those with agricultural holdings which become eligible for development as a result of changes in a Local Plan) receive large financial windfalls through no efforts of their own. The CLT mechanism, as explained at the start of this section, will generally aim to capture or avoid this increase in costs through the use of planning powers or asset transfer so that the community has the benefit of the asset at a cost that locals can afford.

Section 106

6.3.8 Planning conditions, in particular agreements under section 106 of the Town and Country Planning Act 1990 (s.106), seek to make sure some of this gain goes to offset the cost the development may impose on the community, or to ensure it is better orientated towards local needs.

The conditions may require the development to contribute to the infrastructure of the community by:

- Contributing to the cost of improvements required to transport infrastructure as a result of the development or as one of a number of developments;
- Contributing to the cost of providing extra school places; meeting the cost of providing a community building;
- Making a proportion of the housing 'affordable', which has been defined in a variety of ways depending on the planning authority.

6.3.9 In relation to affordable housing, s.106 requirements have generally been used to support housing associations, which are under acute pressure to deliver affordable homes at the lowest possible cost. The Housing Corporation says it would prefer not to see s.106 and social housing grant (SHG) used together as this can confuse or dilute the pressure that planners need to put on developers to achieve the affordable housing quota. However, this is not yet followed consistently. If they are not to be mixed with SHG, and since they are intended to ensure that developments relate to local needs, s.106 requirements should provide a good opportunity for CLTs to increase the overall supply of housing without recourse to SHG.

6.3.10 Private 'affordable housing' companies also make use of s.106 and exception planning. They often have good legal and development expertise and have pre-drafted planning agreements, shared ownership leases and other paperwork, which can streamline the process of setting up the affordable housing, with benefits for the planners and developers alike. A CLT should be the final piece in this process, providing a locally controlled vehicle to hold the equity created by the affordable housing planning condition – and hold it in perpetuity, which a private company cannot otherwise guarantee.

6.3.11 Small developments (below 10-15 homes) are usually exempted from s.106 requirements.

6.3.12 Community building schemes frequently have a s.106 contribution of £200k-£400k as their initial funding.

6.3.13 The wording of a s.106 agreement is of great importance. Exhibit 14 on the website provides an example of one such agreement that would meet the requirements of a CLT. In particular it exempts a mortgagee in possession from affordability conditions, which is vital if mortgages are to be obtained by individual equity purchase owners and if the CLT is to borrow development finance. This clause is resisted by many local planning authorities but schemes probably will not work without it. The example also includes a flexible definition of affordable housing which relates to the different tenure options, rather than an overly rigid agreement related to a multiple of average salaries which some authorities have used. Ideally, the local planning authority should rely on the transfer of the land to a properly constituted CLT, with local community provision as its aim, as providing sufficient safeguard without the need for additional requirements.

Planning policy

6.3.14 Each district has a Local Plan, which is often drawn up after an extended period of consultation over several years. It sets out the uses that the planning authority considers appropriate for all land in the district, and also the policy framework they will use when considering planning applications.

6.3.15 Land which is shown in the Local Plan as suitable only for a particular use, such as housing or workspace, will have an open market value related to the value of that use. Communities that want to develop sites likely to secure planning permission for open market use will have to secure additional funds under regeneration programmes, or show they are meeting needs that the market has overlooked, as discussed in 6.2. The affordable housing policy set out in the Local Plan will establish what percentage of larger housing developments should be affordable (this can vary from 20 per cent to 67 per cent, but is often subject to a 'viability' test). This reduces the land value and provides opportunities for communities or housing associations to play a role by acquiring the affordable housing land and/or completed homes at below market value. Some authorities have adopted a policy requiring a proportion of both intermediate market housing and social housing (eg, 33 per cent sale, 33 per cent intermediate market and 33 per cent social housing). This avoids arguments with developers about what would be accepted as 'affordable'.

6.3.16 Some local authorities have specifically designated sites as being for 'local needs housing'. This is a way of meeting the target they have been set to release land for housing, while at the same time ensuring it is developed in a way that helps the local community and local economy. Such sites are ideal for a CLT scheme.

6.3.17 Designation of workspace or retail use in the plan may also provide opportunities. Landowners may want to convert premises to housing use and can argue that permission should be granted if they can show there is no demand for workspace or retail use. By offering to take on the land or buildings (with regeneration, lottery or other grant support as necessary), communities could retain the use to provide important community assets, using planning policy to prevent inflated value, because the housing alternative is blocked.

6.3.18 Because the Local Plans take so long to develop and adopt, and are often out of date by the time they are produced, the government has asked local authorities to move to Local Development Frameworks (LDFs). This is a 'folder' of policies which can evolve and be added to over time so is less rigid than a Local Plan. A key part is a 'statement of community involvement', which is intended to enable the community to express what types of development would meet local needs. Development proposals can then be judged by whether they meet a local need and not just by whether they are profitable to the developer. This new arrangement should help communities, but it is still in its early stages and the implications will take time to work through. For a brief outline, see www.planningportal.gov.uk/uploads/ldf/ldf_guide.html

Supplementary Planning Guidance and Supplementary Planning Notes

6.3.19 For larger sites, local planning authorities may issue Supplementary Planning Guidance (SPG), setting out in detail the type and design of development they would like to see. The requirements would then be enforced through a s.106 agreement attached to the planning permission. Communities are in the ideal position to play a role in these circumstances, gaining the land value, affordable housing, workspace or local retail provision or financial contributions that the developer is required to provide. The new LDF system, which would begin with an expression of community involvement, gives local people the opportunity to influence the SPG, and to ensure that the local provision which results is there in perpetuity.

6.3.20 Supplementary Planning Notes (SPN) are additional policies adopted after consultation which add to the Local Plan. Again, the LDF arrangement opens the way for greater flexibility in how such new policies might be brought in, often in less than 12 months. An SPN could relate to provision of local needs housing and set out how the need might be established through local needs surveys; or designate how particular communities might be allowed limited growth but only where justified by local needs.

Exceptions to the Local Plan (Planning Policy Guidance Note 3 – PPG3)

6.3.21 Using the provisions of Planning Policy Guidance 3, updated to PPS3 in November 2006, housing schemes can win planning permission in rural areas where they do not comply with the Local Plan, provided they are small and respond to local needs. 'Local needs' are essentially a local audit of everyone who needs housing of a particular size, type and cost and who cannot meet their need either on the open market (because of high prices) or by applying for social housing (because of limited availability).

Rural affordable housing – rural housing enablers

6.3.22 Many county and district councils employ rural housing enablers (RHEs) to help communities assess local needs. RHEs adopt a systematic approach, as follows:

- They undertake surveys of housing needs in rural communities that have significant numbers of people on the housing waiting list;
- When long-term local need is established, they help to seek out land that the owner might be ready to sell at or near agricultural value, on condition that the housing provides for local needs;
- They then pass the proposal to an RSL with a view to securing planning permission as an exception to the Local Plan (conditional on all the homes being affordable to local people). In this way, it becomes possible to acquire the land, secure SHG and build the homes for social rent or shared ownership, with an intention that local people will be given priority access.

6.3.23 If there is no RHE for the area, the community can undertake its own survey of needs: the planning department or adjacent areas where RHEs do exist should be able to help them conduct the survey in a way that the planning and housing authorities recognise.

Potential for more extensive use of the exception planning arrangements in future

6.3.24 Advice from the former Office of the Deputy Prime Minister (now DCLG) on exception planning permissions was given in December 2005 as a supplement to PPG3. This suggested exception planning permissions should focus on small numbers of affordable rural homes. These usually end up as social housing managed by an RSL. A situation which could greatly increase the number of landowners bringing land forward would be for a small proportion, say 25 per cent, of housing in exception schemes to go for outright sale (see 6.2.2), provided the sales meet the needs of the community. Examples would include smaller homes for purchase by older people who want to stay in the community but move to a more manageable property; or starter homes for young people. Provided all the housing meets some local needs, and provided intermediate market needs are also met, this would seem to be a logical extension of the policy and offer a win-win solution for landowners and the community, by making more land available. Local and government planning policies may need to develop for this to be widely possible.

Route B: Acquisition below open market value

Public sector landowners

6.3.25 Public sector landowners also need to show a return on their land value, but they are able to take this as 'other benefits' provided they can show that these benefits – in making provision which the local authority is committed to achieve – are worth as much as the land would have been.

6.3.26 In urban situations, this is the principle applied to allow transfer of estates as part of the overall strategy to achieve the Decent Homes standard, or as part of housing market renewal strategies, or as part of a regeneration scheme. The property is valued under its existing use of providing social rented housing, rather than at open market value with vacant possession. The amount of work required to bring the property up to the Decent Homes standard is also taken into account. The result of the calculation may even be a negative value, meaning that the authority must transfer the estate with a dowry to pay for part of the repair.

6.3.27 Estates may include land that could be developed to provide additional affordable homes, including poorly used spaces such as garages or hard-standings. If nobody has considered developing these sites before, there is generally no reason to calculate additional value for development potential. This results in good opportunities for more affordable housing. Vacant shops and other redundant buildings may offer further potential for housing, workspace, social businesses – such as property repair, heating maintenance or common areas maintenance services – or community use. If the nil value transfer of these elements has to be justified, a case can be made for the social benefit.

Local authorities are required to dispose of assets on terms which reflect their value; here the 'value' would be the social benefits or wellbeing which the local authority is charged with providing

6.3.28 An almost ideal situation is where a public authority owns land on the edge of a village which might be granted exception planning.

- The public authority, like any other owner, cannot expect development value since the land is not in the Local Plan. This puts the community in a strong position;
- If the community itself seeks exception planning permission on the basis of its own local needs survey, a permission would enhance the authority's land value and increase the income from selling it;
- The final development would meet defined community needs, which the authority might otherwise have to fund from local taxation.

6.3.29 One way of looking at this situation is to see it as a process of sharing the development value between the community and the public authority. Part of the benefit falls to the community in perpetuity and part falls to the authority to meet the wider needs for capital spending in the district. The land asset is 'enriched' by this process, and percentage shares of this increase might be set out in an agreement between the parties.

6.3.30 There are also sites in rural areas where social housing development was undertaken some time ago, and even though the homes have been lost through the right to buy, the access or the garages related to the housing remain in local authority ownership. There may even be a piece of land held for possible future development. To secure these sites at nil value, the approach could be either an exception planning permission or transfer for the benefit of the affordable housing rather than for cash.

6.3.31 The local authority may want more control over who is to be housed under circumstances where it has provided the land in return for the benefit of more affordable homes, but this will be a matter for negotiation. A local needs assessment can provide a convincing case for a locally-determined CLT approach.

Regeneration support from regional development agencies

6.3.32 In regeneration areas where land or property has a negative value because of the amount of repair or restoration work needed, regeneration funding may be available for the exceptional costs. The regional development agency (in England) or other regeneration body may then be persuaded that the community itself is best placed to take over ownership of the land and develop it to meet community needs. Community control ensures that any public expenditure on remedial work is then locked in to achieve community benefits. Moreover, the uncertain calculation of the subsidy needed by a developer to make a profit is no longer necessary. A CLT bringing together local people and experts could be a very suitable agency for development in these circumstances.

6.4 Securing grants and subsidies

6.4.1 If the project is housing, it is likely to rely mainly on low cost land with the remaining cost met from shared equity sales or loans repaid from rents. The main requirement for grant will be:

- initially, when funds are needed to pay for an architect, planning application, and start-up costs for the CLT; and
- to improve affordability if build costs cannot be reduced.

6.4.2 Workspace and community building schemes are likely to need additional capital grants as the income generated is probably less than is needed to repay a loan taken out to cover costs. Finding extra grant or subsidy to bridge any gap is a considerable challenge. Availability will depend very much on location, but remember many CLTs in many locations are solving the problem somehow!

6.4.3 Some options for grants and subsidies are as follows:

Housing

- Second homes tax, where the collecting council is redistributing these funds to promote affordable housing rather than using it to reduce council tax;Σ
- Local authority capital receipts from the transfer of homes to a housing association;
- Charitable trusts, although this is an unlikely source except in special circumstances. The level of potential investment is so great that charities shy away from providing social housing as they cannot overall make much difference;
- Social housing grant from the Housing Corporation via regional housing bodies. This is only available to housing associations that the Housing Corporation has agreed to register, or to a limited number of large developers delivering substantial programmes of affordable homes under a policy introduced in 2004. It is worth noting that the corporation's current policy is to reduce, not increase, the number of registered associations.

Workspace

- European Objective 2 funds;
- Regional development agencies;
- Rural Renaissance and market town funds (which also come from RDAs but may be delegated to separate companies or consortiums);
- Section 106 funds from a large development;
- Local authorities.

Communities

- Charities;
- As for workspace, if economic or other outputs recognised by the funders can be demonstrated, e.g. training or childcare;
- Sport England;
- Big Lottery Fund;
- Section 106 funds from a large development;
- Local authorities.

6.5 Local authority support

6.5.1 Local authorities have responsibilities for housing (district or unitary), economic development (all – county, district and unitary) and community development (all). Their support for the project will be important.

Political support

6.5.2 The local parish, district and county councillors may already be part of the project. If not, they should be approached to share with them what is proposed and the reasons why the project is needed. They will be able to help make contact with the officials working on a range of policies, as well as giving political support.

Parish and town councils; urban communities and neighbourhoods

6.5.3 Sections 1.3 and 1.4 set out the Government's agenda for passing more control to the local level to involve and engage communities. In rural and semi-urban areas, this means parish and town councils taking more of a role, and they should almost certainly be interested in the proposal. The implementation of the Local Government White Paper may enhance this. Parish councils can also raise limited funds on the parish rate. The sums involved depend very much on the number of households, which can be as few as 30 or as many as 10,000. They may be the closest partner in the project.

6.5.4 In urban areas, the district or unitary council should have policies for community involvement. There may be existing structures which relate to particular neighbourhoods, or policies to increase neighbourhood involvement in the provision of services. Where these local partnerships or agencies exist, they can be approached directly; where there is policy which needs implementation, the district or unitary council may be able and even keen to help.

Local housing authority

6.5.5 District and unitary authorities are designated as the 'local housing authority'. They have a strategic responsibility which they exercise through their local housing strategy, which is in turn based on an analysis of local housing needs and conditions across the district.

6.5.6 The strategy must cover all tenures and consider how to meet all the housing needs of the district, including dealing with both publicly and privately owned property that does not meet designated standards or is in disrepair. However, the authority's

limited resources are likely to be focused on meeting the needs of disadvantaged people living in poor or overcrowded housing conditions, and on meeting statutory responsibility to house homeless families or vulnerable single people. Government support to housing associations using SHG is intended to increase the supply of social housing to enable these needs to be met. SHG is also used to provide 'shared ownership' housing through HomeBuy, to help those already in social housing or those who are on waiting lists to access intermediate market housing.

6.5.7 Planning policy as discussed in section 6.3 is one of the means available to increase the supply of affordable housing.

6.5.8 In urban communities, it will be necessary to get the support of the local housing authority if what is proposed will help to meet the needs identified in the local housing strategy. This could be by increasing the amount of affordable housing available, or dealing with disrepair or market failure. However the authority will have set priorities and they may be concerned that the proposal could reduce their ability to respond to homelessness and their waiting list. In order to persuade them to dispose of land below value, or provide a site for a self-build scheme, or even transfer an estate as a way of dealing with poor repair, it may be necessary to show that this will add to their overall provision or meet important needs which would otherwise be overlooked. One example could be provision for people in work but on average incomes or below who are needed for a viable local economy.

6.5.9 In rural communities, mistakes have been made when housing authorities have said that new affordable housing should go to people at the top of the waiting list even if they have no connection with the community concerned. This has frustrated local people and also landowners who may have supported an exception planning permission. Local housing authorities now generally recognise that housing on exception sites (and often also through s.106 quota percentages) is provided specifically for local needs, and that different policies are necessary when deciding who should have priority. Equally, planning permission has been granted in small communities for market housing in the hope that the new residents would help keep shops or other services viable, but the housing has been sold to people from outside the area who either commute or use the homes as investments or second homes. For example, over 90 per cent of homes sold in Dorset in the 10 years to 2005 went to people living outside the county. In attractive rural or coastal areas, second homes may comprise up to 50 per cent of the total. There is recognition, therefore, of a need for new approaches.

6.5.10 Similar arguments may need to be deployed in urban situations where the aim is to help people needed by the local economy, or to enable an established community to work effectively.

6.5.11 Through planning policy and by focusing on local needs, CLTs can help housing authorities add to the local provision of affordable housing, and several authorities are supporting CLTs as an element of their overall policy. Exhibit 15 on the website is an example of a housing lettings and allocation policy drawn up by a CLT in agreement with the local housing authority. The CLT

should therefore make an early approach to the housing authority to discuss its proposals and seek support.

Local planning authority

6.5.12 Section 6.3 above discussed the various planning policy instruments that the local planning authority can use to support the provision of affordable homes, workspace or community buildings.

6.5.13 Sometimes the community will find itself opposing local planning policy where they consider it is not helping them meet their needs, or where proposed developments do not help make the community more sustainable. Generally however, with the new emphasis on community involvement under Local Development Frameworks, and with a serious shortage of affordable housing, planners are likely to be keen to explain how local policies work and where this gives scope for community-led solutions.

6.5.14 Planning officers can only respond where the need is well documented. Key documents will be a housing needs survey or audit; a survey on the potential demand for workspace; or a consultation exercise on potential users of a community or shared building.

Economic development

6.5.15 Local authorities also have economic development strategies which recognise the need for workspace to support local businesses and encourage new start-ups. Economic wellbeing falls within the remit of both district and county councils as well as regional development agencies, and all have on occasion helped to provide workspace by meeting all or part of the capital cost. However, with limited budgets, schemes are now less frequent. The local authority will nevertheless have a lot of background knowledge that will be essential when considering a workspace development.

6.5.16 In urban regeneration schemes, the outcomes intended will include more economic activity and jobs. Planning guidance for a large site may specify provision of new business or retail space. Enforcing these conditions is difficult for planning staff where the cost of provision may exceed its value and the developer may just want to provide housing. Economic development and regeneration staff will in these circumstances be keen to support a CLT that can be the means of achieving additional economic activity.

6.5.17 English Partnerships (EP) is a government agency whose primary activity is buying land and facilitating its development to regenerate an area. This means increased economic activity, of which housing – including affordable housing – may be a large component. EP may promote its own schemes, such as its first-time buyers' initiative, which have a relationship to local economic health. Sites are often acquired from other government departments, and also from the private sector, where large sites designated for business or commercial use are standing empty because of low demand or the high costs of decontamination or development.

6.5.18 EP's usual approach to sites is to develop a masterplan supported by the planning authority, and then to offer the site on the open market to the highest private sector bidder, who buys and develops the site in accordance with conditions laid down by EP. Before disposal, EP may pay for enabling works such as roads or services (sewerage, drainage, gas and electricity). However, EP has also expressed interest in disposal to a CLT because it would mean any surplus value from the development could be held for community benefit, rather than providing extra profit for the developer. This approach is useful where:

- The community might decide to support a higher density if it means more affordable homes but would oppose it if put forward by a developer;
- Development is limited by planning policies in the short term but might be possible in five-10 years;
- A local agency is needed to manage business start-up or retail uses in cases where a developer might seek to negotiate them away because they do not add to profit margins.

Community development

6.5.19 Community development is a function that varies considerably between authorities, and there are few local authority posts with the specific task of working with communities. Work tends to be focused on areas in need of regeneration, or where there are high levels of deprivation. The Government, however, is keen to enable the community and voluntary sector to expand. The acquisition of assets by community and voluntary groups is very much on the agenda, and the Government is encouraging local authorities to find ways of disposing of assets to communities to provide an income stream that would enable local people to come together and meet their own needs.

6.5.20 It is difficult to track down the people in local government who might be responsible for supporting community development, and, once found, staff may have their own priorities. Linking up with the local strategic partnership (see below) may be the best route to gaining local authority support for the community development aspects of the proposal.

Local strategic partnerships

6.5.21 Local strategic partnerships (LSPs) are bodies which aim to co-ordinate local authority, health trust, housing association, police, higher education, voluntary sector and community activity to achieve common aims. They have limited powers beyond co-ordination but may be a useful ally. Their roles are to be enhanced, according to the Local Government White Paper. Affordable housing may well be an identified priority, and CLTs may get some assistance and encouragement from the LSP. Increasingly they are the route by which significant funding from the Department of Communities and Local Government is obtained under local area agreements (LAAs) to meet priority targets that the LSP has set itself. Housing funding has yet to be provided through LAAs but might be in future, or there might be some support for enabling that could include support for setting up CLTs.

Regional policies

6.5.22 Local authority policies have to be developed in the context of regional policies – the regional spatial strategy, regional housing strategy and regional economic strategy. These tend to focus on larger scale trends in development in and around major urban centres, leaving space for local policy development. An important element is seeking to plan for more sustainable communities, with good access to transport, employment and services and less use of the private car. Both regionally and at county level, some settlements are designated for growth while others may be excluded. This should not prevent development at local level to meet local needs that have been properly identified, but it may mean grant and subsidy is not available outside designated areas.

6.5.23 In London, there is further delegation of power to the Greater London Authority with the Mayor as its chief executive officer.

6.6 Finding the land or property

6.6.1 A CLT needs to identify land or property that meets planning requirements and is available at the right price.

Engaging landowners and developers

6.6.2 It is important to distinguish between developers, whose interest lies in buying land as cheaply as possible, and landowners, whose aim is inevitably to maximise value.

6.6.3 With landowners, the community is only likely to be able to secure land at less than development market value under the following circumstances:

- If the landowner is seeking planning permission and through a s.106 agreement, some of the land can be designated as required to meet community needs such as affordable housing, community space, workspace, green space, etc. It would be necessary to persuade the landowner and the planning authority that the simplest means of delivery is for land and/or cash to be passed to a CLT as a condition of the remainder being given planning approval. These needs can then be met in perpetuity without continued planning authority intervention;
- If the landowner has an interest in what the community wants to provide. Most obviously, this is where land is in public ownership and the provision the community wants to make is supported and encouraged by the public authority, perhaps because it offers an additional route for the public authority to meet its own statutory obligations. But it could also apply to any landowner who identifies closely with a particular community, for example those with land holdings who need housing for employees, or farmers and large rural landowners who identify with the needs and wellbeing of their locality;
- If the planning authority would normally resist development (or resist housing development on a designated commercial site), it may be prepared to consider it if the community has researched and proven the need and there is a mechanism in place to ensure that the land will remain in community control to provide affordability. In rural areas this is the 'rural exception' possibility discussed above.

6.6.4 Previously developed ('brownfield') land would, of course, be preferable, but because there is usually a presumption that development will be permitted, it does not present an opportunity for the community to purchase below open market value and thereby to meet the needs the market is not addressing. However, opportunities for taking advantage of planning control may exist, for example where land or a derelict property has been designated for employment use. The community's assessment of needs may enable it to propose a mixed solution of employment and housing uses, provided the housing is affordable to those in local employment. There should also be opportunities for a group that can show that it is representative of the community and committed to meeting local needs where the possible uses are uncertain. Examples could include a former airfield, large hospital or institution on the edge of a town, whose use was not specified in the Local Plan and which is going to stand derelict if a compromise is not found between the owners in terms of value, and the community in terms of use.

6.6.5 The first two examples in 6.6.3 above generally relate to brownfield land. The land described at the third bullet point is most frequently agricultural land or just possibly green belt land where there is otherwise a presumption against any kind of development. There should be considerable opportunities for CLTs where major changes to the Local Plan are proposed to meet house-building targets set by the DCLG. Letchworth Garden City, described in section 1, provides a model for any new settlement of this kind.

6.6.6 The existence of a CLT capable of taking ownership of the land should be a strong card to play in negotiations, as it guarantees community control and affordability in perpetuity. This is a considerable reassurance to planners, but it also prevents the landowner or developer feeling that individuals are benefiting from any concessions they are making. Planning authorities have in some cases been left with ongoing responsibilities to enforce conditions imposed under a s.106 agreement which can be over-complex and difficult to enforce. A prime example is a condition that an affordable home must, on re-sale, be sold at no more than three times average local wages and to a person designated by the planning authority.

6.6.7 Churches, the Duchy of Cornwall and other large estates may be very positively disposed to community asset-holding. But ultimately they may have no option to behave more than a little differently from a commercial developer when disposing of land, as they are managing an estate with either charitable rules prohibiting sale below best value, or else with clear return-on-investment targets. However, provided the rules under which the planning system operates are followed, there are advantages in dealing with sympathetic landowners. They are more likely to be prepared to wait while the community resolves any outstanding financial or other issues, and to dispose of the land at agricultural value if it can be proven that there is no open market opportunity.

6.6.8 A developer's aspirations for a project that delivers a profit may not coincide with the community's needs. PPS3 and Local Development Frameworks now require community consultation and communities should therefore be in a stronger position to

resist or seek amendments to developments that do not have any relationship to local needs. An example, using the preceding guidance under PPG3, is a village where a scheme of large homes was planned for a previously developed commercial site. The scheme was rejected by both the planning authority and the planning inspector on appeal, on the grounds that any homes built should be related to local needs and not to the wider housing market. If the community has good evidence of what is needed in terms of size and cost, they may be able to mount strong arguments to ensure any development includes a high proportion of intermediate market or affordable homes, or affordable workspace.

6.6.9 The community may then find itself in the high profile position of seeking to negotiate a deal with the developers, with the planning authority acting as an intermediary. But this is without doubt one of the routes through which communities can come into ownership of land assets. It involves recognition that the planning system is there to avoid inappropriate development, but also that the sums of money involved in land re-valuation create very great pressures and that it may therefore be necessary to accept a compromise.

6.6.10 Essentially, the CLT needs to look for win-win solutions where:

- The community secures land or property to meet local needs;
- The landowner or developer is able to secure planning permission which it feels is the best it can reasonably achieve, given proven local needs and established planning policies;
- The planners feel they have a development that fulfils the terms of their policy, has met some of the needs of the community, and is also fair to the landowner.

Commercial space

Workspace which the market may be unable to deliver

6.6.11 In thriving cities, land with planning permission for commercial space for retail, manufacturing or warehousing is very valuable, as property can generate income from a range of uses. Land around cities which is designated for new commercial development for factories or warehousing also commands a high value.

6.6.12 In small towns and rural areas, demand is generally lower. Business opportunities are more limited and the businesses looking for space are not able or willing to pay high rents. Typically, commercial premises and offices may be available for half the rent per square metre of a large city retail park or office location. Building costs are no lower, however, and, with all the additional costs and risks of development, there are poor prospects for market provision of affordable workspace. Few private developers will risk building new commercial space in these areas. As a result, successful businesses are forced to leave the town or village if they wish to expand. There is then pressure to convert the premises to residential use, which can command a much higher value. The town or village is left with much reduced prospects for local employment, which may then decline further.

6.6.13 Regional development agencies and local authorities have successfully reversed this trend by building workspace in smaller communities themselves, having first undertaken research to identify the sizes and types of provision most needed. Subsidies from European regional funds have been useful too in bringing this about. But provision is often patchy. It may be subject to regional- and county-scale plans, which aim to decide on a top-down basis which settlements should be designated for growth and which should be left as they are or allowed to decline.

Local shops

6.6.14 Similarly, village shops are lost where the value of the premises as a shop is less than its residential value. Planning departments resist the change of use, but if no-one can be found to run the shop, it is difficult for planners to argue that a building should be left empty and derelict.

Community buildings

6.6.15 English Partnerships and the National Lottery have both helped to fund new, multipurpose community buildings. Sport England is now using lottery funding to support new sports facilities. Larger developments may also provide opportunities for community provision to be a s.106 requirement.

6.6.16 Local authorities are increasingly keen to see joined up local service provision through one-stop centres and these provide opportunities too, where a sizeable population can be served.

6.7 Other support

6.7.1 Partnership with others may help to secure the land and permissions needed or give access to other funds.

Making the case for a CLT

6.7.2 All this means that the CLT will have to persuade the planning authority and other stakeholders that the advantages of community control and involvement make the CLT an appropriate recipient of land with the benefit of exception planning, or with an attached affordable housing requirement through a s.106 agreement. Alternatively, the CLT could work in partnership with an RSL or a non-profit developer if there can be an agreement through which both achieve their aims.

Registered social landlords (housing associations)

6.7.3 Governments have long recognised that the market does not provide for everyone's needs. To fill the gap, local authorities began to make substantial provision of rented council housing, supplemented increasingly after 1974 by voluntary housing associations which, since the Housing Act 1996, have been called registered social landlords (RSLs). RSLs are now almost the sole agency through which additional affordable homes are provided, using SHG provided by the Housing Corporation which the RSLs combine with private loans to fund the new housing. RSLs are, as a result, increasingly an instrument of government policy, outside the control of local authorities except in relation to their obligation to help local authorities house homeless people and those on the council waiting list.

6.7.4 A supportive housing association, usually with RSL status and eligible to receive SHG, can be an extremely valuable partner for a number of reasons, as outlined below:

- The process of land acquisition and development is a complex and lengthy one: land purchase and planning will take at least six months and possibly up to four years; development will take at least a further year. CLTs need to be in it for the long haul and having an RSL partner can help the community get through to the end of the process;
- RSLs involved in land and property development have a good knowledge of architects, quantity surveyors and other professionals and can advise on who might be employed, or even find firms willing to prepare sketch drawings free of charge, subject to agreement to appoint them if the scheme proceeds. They can also recommend builders and development partners with good track records. Their development expertise may be helpful in finding the way through the planning system;
- Where appropriate, it may also be useful to develop a site for both social housing through the housing association, and intermediate market housing (and other non-housing needs) through the CLT, so that the housing association is an active partner in the development.

6.7.5 Some disadvantages of involving a housing association are described below:

- They pursue their own agenda since ultimately the association is carrying the risk and may have to take a decision in its own financial interests;
- Once land and property is in the housing association's ownership, the Housing Corporation may refuse to allow its sale on to the CLT unless this has been firmly agreed in advance. (One of the Housing Corporation's duties is to protect public subsidy, including land.)
- The housing association's use of its own finance and direct engagement in the negotiations with landowners and planners could disempower the CLT if the community, which has put the needs assessment together, is no longer a key part of the development process;
- Once SHG has been paid to an RSL, it will have to repay the grant if it sells the property other than to a body which can itself take on the repayment obligation. This makes disposal very difficult;
- Housing associations come in many shapes and sizes, with different experiences, expertise and motivation. As with any partnership, the CLT should aim for an open discussion with the proposed housing association before proceeding. The CLT may wish to ask a range of questions, including ones about attitudes to community aspirations such as supporting self-builders, sustainable building methods, use of local materials and skills, furtherance of employment and training, risk-taking, commercial lettings and track record of community support.

Community development and support

6.7.6 Some housing associations with a strong community agenda can be identified through an 'Investor in Communities' designation (see www.hastoe.co.uk). These are more likely to have an agenda which supports:

- Acquisition of assets by communities, rather than ownership being held by the housing association;
- An emphasis on the provision of training and employment through the building contract;
- Investigating complex measures to reduce energy and water use such as solar panels, combined heat and power or grey water recycling;
- In the best cases, a willingness to raise and provide funding both for the land acquisition and the development, and to help secure the long-term finance the CLT will require.

Finance providers

6.7.7 In section 2.7.2, information is provided about the types of finance needed and how they might be secured.

6.7.8 When planning how the scheme will work, it may be useful to refer to this section and to have some preliminary discussions. The project will need three types of finance.

First, for pre-development costs, before committing to buy the land or property. This is likely to include securing funds to pay an architect to design a scheme for discussion with the CLT members, the community and the planners, and to make sure the scheme will work. This is money spent 'at risk' which cannot be recovered if the scheme does not then go ahead. It needs to be in the form of a grant or from a 'revolving fund' provided by a local authority or other body, with the loan repaid plus a charge if the scheme goes ahead. It may also be possible to persuade an architect to work 'at risk' in the context of an ongoing working relationship.

Second, for development costs, to pay for all the expenses as the scheme is built or converted. Banks and building societies will provide up to 70 or 80 per cent of this but it may be necessary to access a revolving fund again, or to find local sources of equity or loan finance – people or organisations who want to support the scheme. The form of any s.106 agreement will be important in securing bank finance and in particular there may need to be a full or partial exemption from the affordable housing requirement for a mortgagee in possession (see Exhibit 14 on the website).

Finally, finance will be needed as long term funding for the CLT, with the loan repaid by revenue from rents or charges. Again banks and building societies will provide funds on 25 and sometimes 30 year terms. If it is possible to access the lending available to housing associations, it may cost no more than 0.5-0.7 per cent over bank base rates, but it is more likely the CLT will have to pay about 1-1.5 per cent over base. Again, lending up to 70 per cent is probably not a problem. Funding to 100 per cent depends on the lender's security (no problem if the asset could be worth 50 per cent more than the loan) or else on securing other sources of finance for which a lower level of security is acceptable.

6.7.9 To help CLTs meet these three types of finance requirements, efforts are under way to identify revolving loans for pre-development costs, generally from local authorities or charitable grants. Community development finance institutions (like Wessex Reinvestment Trust in the South West) are all seeking to use new financial mechanisms to raise funds from the local communities themselves to meet development and long term costs. These funds might be available on similar terms to commercial loans but would be on terms that commercial lenders might not accept, for example to meet 100 per cent of development costs or to match returns on long term loans with rising rental income. Alternatively, funds might be below commercial rates with investors recognising a 'social return' rather than a financial one, by helping to support their local community.

6.7.10 It will be necessary to ensure there are banks or building societies willing to provide individuals with mortgages under the equity purchase or other tenure options. The terms of any s.106 agreement will again be important.

6.8 Preparing a plan

6.8.1 Once it has been decided how the scheme is going to work, the CLT should prepare a plan or short (marketing) brochure based on feasibility. This will outline how the scheme is going to be implemented.

6.8.2 The plan can be in different forms but serious thought should be given to preparing a brochure which could be given to those whose support is sought and which can also help inform the wider community about what the CLT is trying to do.

6.9 Widening community involvement

6.9.1 Keeping the community informed and supportive at key stages is not only important in its own right but will also help strengthen the case for the scheme when it is put before planners and other local authority officers.

6.9.2 Open meetings will be useful at early stages. There are bound to be some people in the community who are against the project. To enable majority views to be expressed, open days and workshops may be a better way of stimulating participation and gathering support. During the planning process, it is important to decide how to keep the community in touch with the CLT's plans, for example through newsletters, emails, meetings or exhibitions. Section 2 contains various ideas which could usefully be revisited at this stage.

Leadership and support

6.9.3 It is crucial that the community speaks with one voice, especially in any negotiations. It is a good idea to give a small group of trusted people the authority to negotiate and to agree what they see as the best possible outcome with the planners and landowner. This group should have a clear mandate from the consultation process given by a solid majority, ideally 60 to 75 per cent of the community. This is never easy, but it is absolutely essential if negotiations are to succeed.

6.9.4 Faced with all the pressures referred to in this section, communities will only acquire the land and property they need if they are well organised, well led and supported by effective local authorities and other agencies such as RSLs and other community development organisations. The length of time taken means that leadership is also required to keep the community interest alive.

Membership of the CLT

6.9.5 Some CLTs have opened membership to the whole community and rapidly acquired several hundred members, sometimes over 25 per cent of the community. Such a wide representation provides a good means of communication by newsletter or email and a pool of support from which to encourage people to stand for board membership.

6.9.6 As wide a membership as possible means that it will be easier to find people willing to stand for and be co-opted to the board. Thus all the skills needed for an effective board are more likely to be represented. This is important for the smooth running of the board and to convince lenders that the CLT is well run.

This section has been about securing the opportunity that has been identified, to meet the needs the CLT was set up to tackle. An outline business operational plan should now be available describing how this will be done, together with a prospectus to secure the further support needed.

7.0 Making it happen

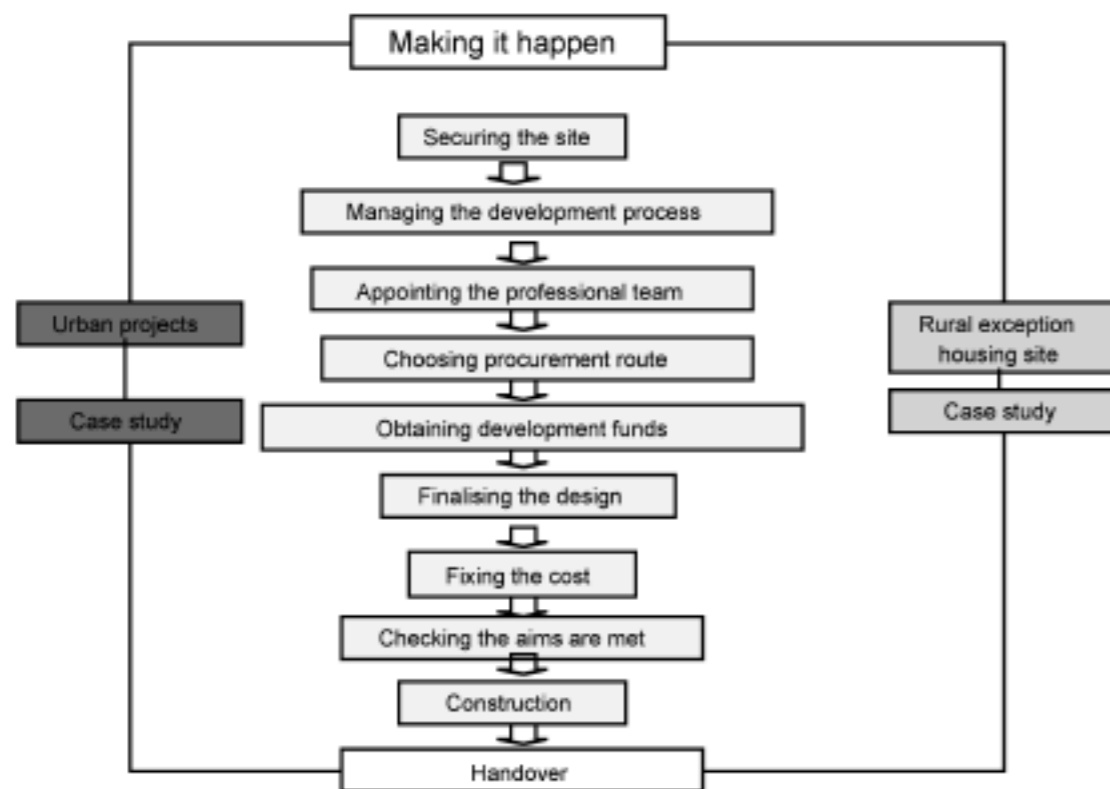
This section of the guide is about committing the CLT to the purchase and development of land or property to meet the identified needs. At the end of this stage the scheme will be complete.

EXHIBIT

16 Two case studies for urban situations (city and market town).

17 A case study of a rural exception site.

See www.communitylandtrust.org.uk



7.1 Securing the site

7.1.1 Buying the land or property will be a major step forward. Now you can at last have confidence that your proposals will come to fruition.

7.1.2 If you are paying for the site (rather than deferring the purchase price as you might with a purchase from a public body), you will also need financial arrangements in place, not just for the site purchase but also for its development. Section 2.7.2 has described the options, one of which will now be providing the funds you need to pay the landowner and a solicitor.

Option agreement

7.1.3 When investing money in pre-development design work to secure a planning application, there is of course a risk that the project may not proceed. Where the site is available on the open market for the use you propose, it will be important to secure an option agreement with the landowner in which he or she agrees to sell the land at an agreed price if planning permission is approved.

7.1.4 If land is being transferred from the public sector this may not be necessary, provided there is a clear agreement to sell.

7.1.5 In the case of an exception site, it is arguably not necessary since only the CLT is likely to be able to secure planning permission using the evidence provided by a site survey. However, there is some risk that a private affordable housing developer or a housing association might make a higher offer when planning permission is granted and it is worth considering entering into an option agreement to protect the CLT's position.

7.2 Managing the development process

7.2.1 A sequence of detailed decisions now needs to be taken. These include the choice of other members of the professional team, the specification of materials and equipment, or how to save costs before the tender price is fixed to ensure the needs can still be met. In the end, these decisions lie with the CLT board but they need to be taken quickly and consistently, and the issues need to be presented to the board for consideration and agreement.

7.2.2 Organisations that are working on a number of schemes have development staff who take on this task and to whom the board may delegate some responsibilities. There is no recognised qualification for this: what matters is that the staff concerned have experience of achieving schemes.

7.2.3 A CLT should similarly identify someone to take on this task and either take the decisions under delegated authority or with a small group of others (e.g. proceeding with a site survey, the choice of door ironmongery) or present the issues to the board with a recommendation (e.g. the choice of architect, the procurement route, the acceptance of a tender).

7.2.4 The CLT should also have someone with development experience on its board and this person might also be willing to take on the role of maintaining progress on the development, provided the level of work required is not too great.

7.2.5 A development agency service is the route most likely to provide the skills needed. A local registered social landlord (RSL) or development trust with experienced staff could provide this service. A few organisations have begun to employ staff whose sole role is to support CLT developments. The cost could be added to the overall scheme cost: this is the route commercial developers and RSLs follow. Costs may be a time charge or a part-time salary or expressed as a percentage of the cost of the building work, usually around 2.5 per cent. This makes the scheme more expensive but may be essential for effective control. A good option is to find an RSL that will provide a development service for 2.5 per cent of the scheme cost and tap into its existing procedures and expertise.

7.2.6 Many CLTs operate on the basis of voluntary effort but there will be costs for consultation events, publicity and evening meetings, and it may be necessary to pay for some legal advice or to employ someone to cope with a period of heavy workload. If the CLT is undertaking the 'development officer' role itself, the 2.5 per cent charge could be retained by the CLT and should cover these costs. If an outside agency is providing a service for 2.5 per cent, the CLT should add its own cost of at least 1 per cent to the development cost so that it has some funds to cover administration.

7.3 Choosing the procurement route

7.3.1 Buildings may be procured in a number of different ways, the main ones being as follows:

- The *traditional tendering* process, where three to six contractors are invited to price tender documents comprising drawings and a specification produced by the client's professional team;
- *Design and build*, where a contractor is appointed at an earlier stage in the design process and takes on the professional team or employs a new one;
- *'Turnkey'* or *'off the shelf'*, where a developer builds homes to its own design and specification and offers them for sale on completion;
- *Partnering*, which is intended to create a co-operative, project team approach with client and contractor working together for a common goal, rather than the adversarial approach that can arise with a traditional contract.

Traditional tender

7.3.2 The client employs an architect to design the scheme and a quantity surveyor (QS) to cost it. This may suffice for a simple scheme but more complex sites and buildings will require professional advisors, such as engineers, noise consultants, or consultants on achieving 'green home' specifications or advising about the site ecology. The professional team designs and specifies the scheme for agreement by the client and prepares drawings and a 'bill of quantities' which are used to secure tender prices from between three and six builders. The team will recommend to the client which tender should be accepted. A contract is then signed with the successful tenderer who builds the scheme to the agreed design. The architect may include 'provisional sums' or 'prime cost sums' which may be items he or she has not fully priced and these may lead to cost increases when the price is finally fixed. The architect may also issue variations to deal with elements of the design that prove to be insufficiently specified or that need

changing for other reasons. These could also result in cost increases – or cost savings. A well-managed contract may finally cost less than the tender price or at least no more than 2-5 per cent more than the tender on completion. A badly managed or inadequately specified contract may run over by 5-20 per cent. Contractors can claim damages for variations which cause them delay or extra cost.

7.3.3 If the scheme is the conversion of an existing building, a building surveyor will generally undertake the role of both architect and QS set out above.

7.3.4 The advantages of this route are as follows:

- It gives control over detailed design and specification so that the details of the building down to the manufacturer, product and colour of equipment can be specified;
- It provides the contractor with a relatively risk-free opportunity since all the work required is set out in the contract documents;
- It uses the expertise of local contractors who are good at running the building work but less comfortable with the paperwork and administration.

Potential disadvantages are:

- Tenders may be higher than the QS forecast so that savings have to be found at a late stage in the design process;
- There is a risk of cost overruns or claims by the builder for work that was not fully specified or was changed by the architect after work began;
- The contractor may have trouble getting hold of the chosen materials or equipment and will therefore have to charge a high price for them;
- Work may be duplicated since the builder has to go through a very detailed specification document – which the client's QS has already priced to arrive at an estimate.

Design and build

7.3.5 There are several routes that might be adopted for a design and build contract. If the CLT owns the land, it will involve employing an architect to design the scheme and draw up a performance specification (which may need the help of a quantity surveyor who will later act as 'employer's agent'). A developer is then sought through a 'design and build' tender, either by negotiation or by seeking two to four tenders. The developer is chosen before detailed design is complete and becomes responsible for the design as well as the construction. The original architect may have their employment transferred ('novation') to the developer or else new architects or the developer's in-house architects may be employed. A fixed price contract may be negotiated. The developer is allowed to select the materials and equipment, provided they meet the performance specification. The developer will then take the scheme to the stage where it is ready to go on site and present a proposed price. The client will have an obligation to accept this if the price conforms to that given at tender stage. Where the scheme has changed or there are extra or reduced costs, the client will expect to negotiate a revised figure with the help of the employer's agent. If the price is agreed, the employer's agent acts for the client to certify the completion of different stages of work to authorise stage payments, and also to

agree that the scheme has been completed to the performance specification.

7.3.6 Design and build contracts may also be offered where the developer owns the land and offers to sell it and build the scheme on it for the client. The arrangements are the same, except that there is no opportunity to choose which developer is employed. It will be necessary to take great care to ensure that what is built is what is needed.

7.3.7 The advantages of this route are as follows:

- It enables the contractor to keep costs down by using knowledge of available types and sizes of materials in the design process;
- It cuts down the work required to submit tenders and avoids duplication of detailed price estimation;
- The likely cost will be known early and can be taken into account when making decisions on the design;
- It avoids disputes over faulty design. With the traditional route, the builder and architect may blame each other, often the reason for cost overruns;

Potential disadvantages are:

- There is less control over design and specification (although the performance specification could be very detailed if preferred);
- There is an expectation of a greater degree of trust as the design is developed and priced.

Turnkey

7.3.8 Turnkey or off-the-shelf contracts involve an agreement to purchase completed homes from a developer in the same way as an individual would. The purchase may be agreed after the homes are built or before work begins. The contract may include asking for modifications or changes if agreement is reached in the early stages of construction.

7.3.9 The advantages of this route are:

- It is simple and there is much less need to employ professionals;
- It is fast;
- There is clarity about what is being purchased.

Potential disadvantages are:

- A lack of control: there is unlikely to be a choice of size or specification.

Partnering

7.3.10 Partnering is increasingly used in the public sector (using the PPC2000 contract form for all sizes of contract). Often this is part of a process of establishing longer term relationships with particular contractors on both construction and repair work. The ideal is for partnering to work for both parties and combine the best of the conventional tendering and design and build options. The contractor can suggest alternative solutions and cost savings but share the saving with the client; and the client can ask for amendments and changes without being faced with a claim for delays. This route is least tried however, and some argue that the

original aim of a simpler contract and better teamwork has now developed its own contract documents which are at least as complex as the conventional route. For CLTs this option may be most readily usable where there is a housing association involved whose existing partnering relationships can be tapped into.

7.4 Choosing a professional team

7.4.1 Whichever procurement route you are planning (apart from off the shelf) you will generally need first to select and employ an architect.

7.4.2 Architect fee scales are recommended by the Royal Institute of British Architects, and for a full basic service generally work out around 6 per cent of the works cost. Just over a third (35 per cent) of this 6 per cent fee is payable by the time the scheme has a detailed design and planning permission; a further 40 per cent by the time it goes on site; and the final 25 per cent of the fee for site supervision. Architects are allowed to tender below these figures, however.

7.4.3 At pre-development stage you will probably want an architect to agree to prepare a sketch scheme to assess the viability of a piece of land, and to take this further, probably to planning permission stage, before the land is bought without having to risk 35 per cent of the fee. Agreements of this kind can generally be reached provided it is clear the architect will be appointed if the site is purchased (or even if the site is abandoned in favour of a second). Housing associations generally receive this sort of assistance on a 'no scheme, no fee' basis but they have larger volumes of work on offer.

7.4.4 Generally, the architect can be selected by sending out a brief, asking for information on the experience of the firm, and choosing the one which seems most capable of delivering what is wanted for the best price. Interviews are a useful way of taking a final decision.

7.4.5 Other professionals are often chosen on the recommendation of the architect. This may well be a good idea, as they will already have a working relationship; however it can also be a bad idea if it means there is no innovative thinking and each professional seeks to justify a fee by overemphasising their element of the design.

7.5 Obtaining development funds

7.5.1 The CLT will need to have secured offers of funds before it commits itself to the purchase of the land or buildings. The first draw-down of funds will generally be to make the land purchase.

7.5.2 When work starts on site, the builder will expect payment within two weeks if the CLT is working under conventional contracts. Using a design and build or 'turn-key' arrangement, there will be fewer but larger payments. In either case the CLT should make sure that the funders are able to meet the timescales required. Local authorities may prefer to make a lump sum available and delegate responsibility for lending, or for deciding on loans within agreed criteria, to an intermediate body such as a community development finance institution or housing association.

7.6 Finalising the design

7.6.1 Once the site is purchased and the procurement route decided, the professional team must be instructed to take the scheme forward. The detailed design work will involve preparation of a specification and a set of working drawings. A QS will need to prepare a bill of quantities which will be used to provide a set of tender documents. Builders will price the bill and it can also be used as a basis for savings.

7.6.2 With the design and build route, the developer will instruct the architect and the project will be priced directly as the design progresses. With a project provided on a 'turn-key' basis, the developer should agree particular elements of the specification, such as fittings and kitchen layouts, but will decide the elements of the basic design. Greater involvement has the advantage of greater control and prevents the developer using methods or materials the CLT would rather avoid, or enables local materials or suppliers to be specified. It also puts less risk on the developer and may result in a lower price. On the other hand, less involvement enables the developer to use existing knowledge and experience to design around low cost components and dimensions, which may be more economical.

7.6.3 Whichever route is taken, it will be a good idea to timetable regular meetings with the professional team as the design progresses to agree detailed matters around the specification, layout, appearance and site works.

7.7 Fixing the cost or keeping a contingency

7.7.1 The cost estimate produced in the feasibility study will now be replaced by a cost estimate from the professional team. This should be more closely grounded in the details of the scheme and the site.

7.7.2 It is likely that cost will be critical whether your scheme is for affordable housing or for workspace or community provision. The CLT will need to apply for grants at an early stage, before the detailed design is produced, and there will be problems if the estimated cost exceeds the funds raised. These will be even worse if the scheme is under construction when the difficulty is identified. Most professionals suggest a contingency of 5 per cent on top of the building estimate or tender; the problem is that many funders will not agree to fund a contingency, only the estimated or final cost.

7.7.3 A fixed price design and build contract is one way round this problem. It may be more expensive but it does provide greater certainty. If the CLT is using a conventional tender, it needs to say in its plan what it will do if costs go up by 5 per cent or, in an extreme case, by 10 per cent.

7.7.4 Another option is to make sure the CLT has a 'dowry' or some other source of funds to cover eventualities. One suggestion is to bring a number of projects together and agree to share any cost overruns – this is how developers and housing associations cope with the problem. Contingencies that are not needed will

provide the CLT with a useful reserve as it moves into management of the completed scheme.

7.8 Checking the needs can be met

7.8.1 A CLT's journey begins with a set of clear aims. Perhaps it wants to achieve affordable housing, affordable workspace or a community building. Perhaps it has a number of other aspirations, such as environmentally conscious design. As the dream moves towards reality, it secures land or buildings and raises grant and loan finance. Once the project is ready to start on site, the costs will be known with a high degree of certainty and the CLT may then face the painful process of deciding whether all its aspirations are still achievable or whether it will have to compromise.

7.8.2 The CLT must build 'gateways' into the development process – points where it does not proceed to invest further in the project unless it is clear that it is still on track to meet the target needs; or that it can still provide a scheme of value to the community, even if it has to accept that the homes or workspace will not be quite as affordable as was hoped or the design not quite as high quality.

7.8.3 The moment when the CLT signs the building contract is obviously one such gateway. Others are listed at Exhibit 6 on the website.

7.9 Construction

7.9.1 The professional team will draw up the building contract for the CLT's signature and supervise the developer or contractor on site to make sure the work is of a high standard and that the stage payments requested are properly due.

7.9.2 If the CLT is using a design and build route it will need an employer's agent to certify the payments due and may want to pay for additional site visits at critical stages, such as when the foundations are laid or drainage installed.

7.9.3 During construction, the CLT is likely to be asked to take a number of design decisions that were not finalised before work began. It should ensure that it has made arrangements to take these quickly, as delays may incur extra costs.

7.9.4 If the CLT is selling the homes on an equity purchase basis, it will need to provide 10-year guarantees that will involve external inspection to check that building standards are met. NHBC, Zurich, Premier and Build Zone are some of the main providers of guarantees.

7.10 Handover

7.10.1 When work is almost complete, the architect or employer's agent will agree a pre-handover inspection. Someone from the CLT should attend this to agree the work that must be done to finish the building to the planned standard. There will then be a final handover when the CLT's professional advisor issues a certificate of practical completion.

7.10.2 Once the CLT has taken handover, it will want to get the homes, workspaces or community building into use as soon as possible to reduce interest costs, and to fulfil its aims. Section 8 sets out arrangements for lettings and includes advice about preparing to sell or let the new community-held assets well before handover is reached.

This section should have provided the information needed to take the CLT scheme from an idea to practical reality, bringing in development expertise and financial resources where required.

Development of affordable housing through a Community Land Trust

The table below shows the stages required to complete a development.

The main work to be undertaken falls inevitably on **the CLT**, which will need to have the stamina and enthusiasm to carry the process through to completion. The first column of the table is intended to indicate the work involved.

Key to the first column

- PPP substantial input not just by the board but also by others in the community, to undertake surveys or consult
- PP work mainly by the board but with help from experts in the community, often to take a milestone decision
- P work by the board to take a decision or make an appointment

The CLT's **development officer** might be someone working on a paid or voluntary basis for the CLT who has agreed to look after aspects of scheme progress; or a housing association that has agreed to take on this role for a fee. The 'development officer' column indicates by a cross where someone with this post could take on some of the workload.

The other columns set out the outside help the CLT might need and where it might be obtained, as follows.

1. This **toolkit** should itself help the community wherever possible but it will be most useful where standard documentation is needed or a standard process has to be followed.

Key to the toolkit column

- PPP standard documentation is available which should largely provide what the community needs without further advice
- PP guidance will be available on how to proceed but will not be able to deal with all the requirements and the community will have to exercise judgement, with guidance from others
- P limited scope for standard guidance as the stage depends very much on local circumstances

2. **Professional help** refers to the professional appointments or the developer which the CLT will need to appoint and the stages where this help will be most important.

Key to the professional help column

- PPP professional advisor will have primary responsibility for progressing this stage
 - PP professional advisor will provide substantial help
 - P some professional help will be provided/needed
3. 'Other help' lists what may be available from a rural housing enabler, a housing association or the local authority.
4. The last column indicates, with a cross, where the CLT may find it useful to receive some mentoring support. This might be from a technical aid provider such as a supportive housing association; or a county or subregional community support service; or a financial intermediary like Wessex Reinvestment Trust.

Action stage	CLT decision	Development officer	Toolkit	Professional help	Other help	Possible need for mentoring/technical aid
<ul style="list-style-type: none"> ■ All the unshaded stages will be required in the standard model where a CLT acquires land and develops a scheme ■ Stages are shown in their likely sequence but events may happen in a different order ■ Stages in bold italic indicate a stage where a choice is being made between options ■ Dark-shaded stages are alternatives which may follow these choices: where one of these stages applies, there is an indication of which other stages will then be needed ■ Lighter-shaded stages (23-25 or 26-28) are alternatives related to the choice of procurement: only one of these will need to be followed. 						
1. Survey of housing needs	PPP		PPP		Rural housing enabler (RHE)	
2. Formation of steering group*	PPP		PP			X

3. Consider options	P		PPP				X
4. Decision to seek the help of an existing body (parish council, RSL, development trust) – go to 14, 15, 21, 40 and some others depending on the detail of the decision	P		PP		Housing association (HA)		X
5. Decision to proceed via CLT route	P		PPP				X
6. Review process for setting priorities for housing	PP		PPP		Local authority (LA) (housing)		
7. Identify site	PPP	X	P		Local authority (planning)		
8. Develop process for recording and prioritising those seeking access to affordable housing	PPP		PPP				
9. Appoint architect (where there is control over the site)	PP	X	P		HA		
10. Reach agreement with developer (where site owned by a developer who is offering some housing usually under a s.106 agreement) (16,17,18, 20-30 and 32 may not then be needed)	PP	X	P	PP	HA		
11. Draw up tenancy/shared ownership agreements from standard models	PP		PPP			X	
12. Identify local market values	PPP	X	P				
13. Prepare feasibility/outline plan	PPP	X	PPP	PP		X	
14. Decide if scheme will meet needs at level of rent or shared ownership sales proposed	P	X	PPP				
15. Decide how management and maintenance will be undertaken	PP		PPP		HA		
16. Decide procurement route	PP	X	PP	PP	HA	X	
17. Instruct architect to prepare design and to support community consultation	PP	X	PP	PPP			
18. Consultation with community and statutory authorities	PPP	X	PP	PPP	LA		
19. Identify additional grants required	PPP	X	P		LA (community)		X
20. Seek planning permission	PP	X	PP	PPP	LA (planning)		
21. Receive planning consent and negotiate any s.106 agreement required	PP	X	PP	PPP			
22. Secure loan finance required for land purchase and development	PP	X	PPP		HA		

23. Appoint solicitor; Purchase land	PPP	X	P				
24. From 16, where conventional design and tendering chosen, instruct architect to prepare and consult on agreed detailed design	P	X	P	PPP			
25. From 16, where conventional design and tendering chosen instruct architect to take scheme forward to tender	P	X	P	PPP			
26. From 16, where conventional design and tendering chosen, appoint quantity surveyor		X	P	P			
27. From 16, where design and build chosen, appoint contractor or developer on agreed terms		X	P	PPP			
28. From 16, where design and build chosen, appoint employer's agent	PPP	X	P	P			
29. From 16, where design and build chosen, novate (i.e. transfer) architect to contractor/developer and instruct contractor/developer to prepare detailed design	P	X	P	P			
30. Decide need for any other consultants (e.g. engineers, renewable energy advisors, wildlife experts, landscape architects)	PP	X	P	PPP			X
31. Appoint other consultants	PP	X	P	PPP	HA		
32. Agree tendered or negotiated price as recommended by architect/QS or employer's agent	PPP	X	PP	PPP			
33. Secure remainder of loan finance required for development and individual or CLT mortgages	PP	X	PPP				X
34. Receive and deal with reports of progress	PP	X	P	PPP			
35. Resolve effect of any planning requirements on nominations (i.e. from s.106 agreement)	PP	X	P	PP			
36. Review process for setting priorities for housing	PP		P			RHE	
37. Confirm building society agreement to proposed form of shared ownership lease	PP	X	P				
38. Re-contact applicants	PPP		P			RHE	
39. Select residents 1 month before practical completion	PPP		PP			RHE	
40. Take handover with advisor	P	X	P	PPP	HA		
41. Set up service contracts (heating, gas appliances etc)	PP		P				
42. Decide whether to appoint managing agent or manage the homes directly			PP				X
43 Appoint managing agent	PP		P				
44. Set up monitoring system for rent payments	PP		P		HA		
45. Set up computerised accounting/books of account	PP		P		HA		
46. Review governance	PPP		PP				X

8.0 From space to place

This is the last section but as emphasised in section 2, long-term management needs to be an integral part of the project plan from the start. Right from the beginning it is essential to get organised for when the property is handed over and it transfers from 'space to place'.

The financial and business plan projections are the foundation for deciding on the sales and lettings contracts and for securing the long-term viability of the enterprise. A new legal structure or a separate activity centre will usually have been set up with the goal of being as self sufficient as possible. Revenue funding may need to be raised to bridge any gap between income and expenditure.

This section of the guide is about setting up the CLT for the long term and putting property and financial management into practice. Income streams from contractual and trading activity will cover outgoings. Opportunities to create a dowry need to be explored to underwrite the revenue forecasts – this might also be used to acquire further assets.

Finally, although the physical development may be completed it is good practice to keep the community informed about what is happening and to continue to provide opportunities for local people to be involved.

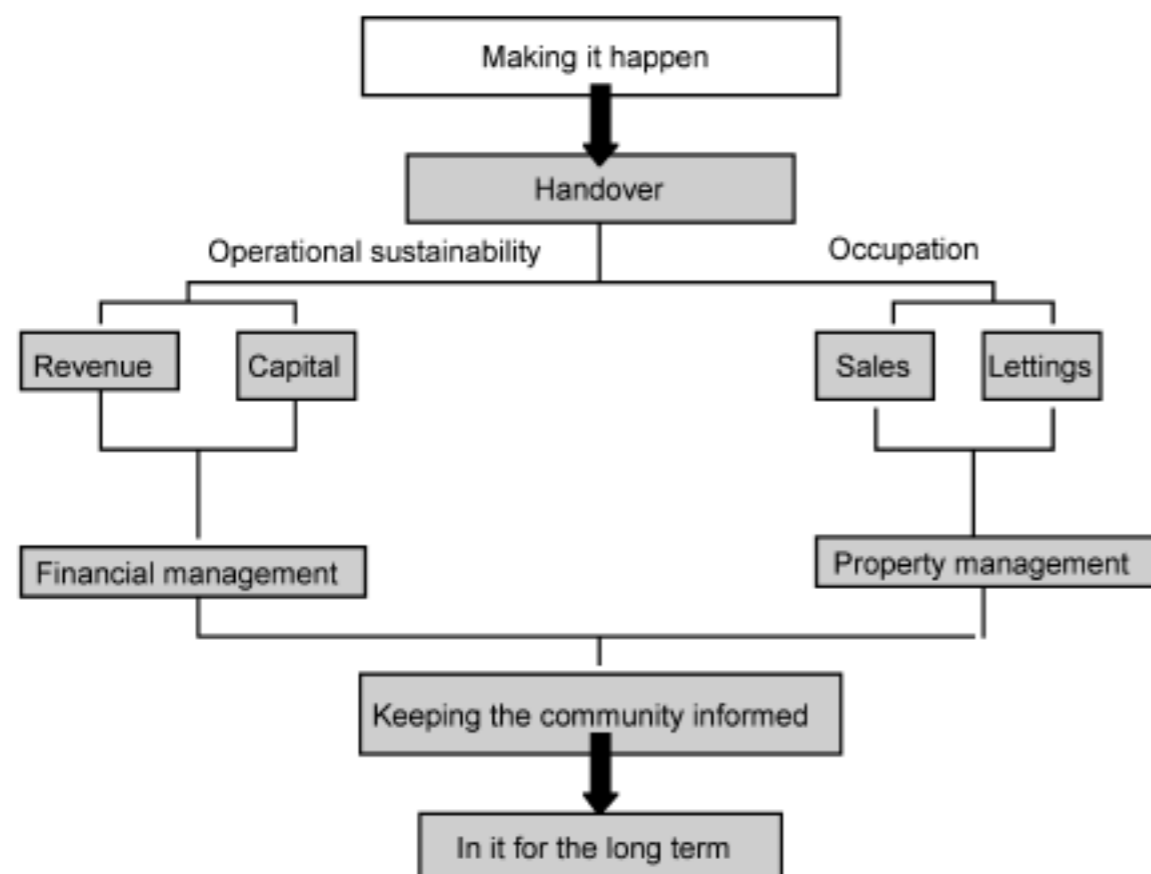
EXHIBITS

15 HBCPT/Torridge DC Housing Allocation Policy

18 Affordable housing leaflet – The High Bickington Way

19 Revenue budget and statement of capital resources forecast: HBCPT template

See www.communitylandtrust.org.uk



8.1 Meeting needs

8.1.1 The aim of the CLT is to meet gaps in provision.

8.1.2 The work undertaken to identify local needs, consult the community and local businesses and engage with the public sector provides the essential background upon which the CLT's development or acquisition proposals will be based. It will also be used in securing financial, political and other support for the scheme. When the CLT has reached the point where it is ready to begin work on site and commit expenditure, these assumptions should be double checked. They will also need updating if – as is often the case – there has been a long delay between identifying the need and putting in place the property assets to meet it.

8.2 Marketing

8.2.1 Marketing housing means defining the niche – the needs it is intended to meet – and positioning the CLT to achieve its goals. Marketing should commence no later than starting on site and finish at handover. It should have a primary focus on potential occupiers and a secondary focus on other stakeholders, including lenders, estate agents, local authorities and the general community. It may, of course, be unnecessary if the intended purchasers or tenants are already identified.

8.2.2 The CLT is likely to have identified a range of needs that it will concentrate on, but it will rarely be able to meet them all. Where the problem is that open market housing is too expensive for local people, some needs may be met by even a 20 per cent reduction in value compared to the market, although it is likely that

most of the households identified are on salaries around £20,000 and often significantly below that level. The CLT will have been set up with the needs of the community in mind and will be hoping to play the lead role in deciding between different households and their appropriate tenures. Their prime concern may be the functioning of the community, so that they might give greatest priority to someone with a local job offer who cannot take up employment unless they have access to a home. The local authority may have its own, different criteria and waiting list (see 8.4. below).

8.2.3 Information can reach potential occupiers in many ways, from low cost to expensive. These include the following:

- *Flyers* in launderettes, schools, disseminated in pay packets by school departments or large employers, or mailed to those surveyed in a needs analysis;
- *Press conferences and special events* – ribbon cuttings, ground breakings, first home purchased through the CLT programme, etc;
- *Brochures* in key public places;
- *Newsletters* – the CLT's and/or advertisements in others.
- *Advertisements* – display or classified – in local papers. These can be placed in estate agent sections, but also under other headings, such as rental, as a way of reaching people who may not think they have a reason to read the estate agent section;

	1-bedroom home	2-bedroom home	3-bedroom home
Value	90,000	160,000	210,000
Cost including land, fees, interest	67,000	94,000	114,000
Household income for equity purchase	19,100	26,900	32,600
Household income for mutual home ownership	17,900	20,600	31,400
Household income for rent-to-equity	15,000	20,600	26,700
Reduced cost (innovative build methods)	56,000	78,000	94,000
Household income for equity purchase	16,000	22,300	26,900
Household income for mutual home ownership	14,500	20,900	25,700
Household income for rent-to-equity	12,100	17,600	21,800

Note: if the mortgage rate is unchanged, equity purchase costs remain fixed while rents rise by inflation +0.5 per cent or, in the case of mutual home ownership, at the rate of wage inflation. Equity purchase payments generate the greatest equity stake while rent-to-equity generates the least. Different profiles may suit different households, e.g. some may prefer a very high initial mortgage which is eroded by inflation over time; others may need outgoings to be less than 35 per cent of net income because of other outgoings from the start.

Figures typical as at May 2006 in south west England.

- **Public service announcements (PSAs)** on radio and television. Generally, PSAs are 30 seconds long. Often a radio or television station will help to produce and/or edit a PSA free of charge, as well as providing copies for other stations. The CLT would need to be able to cope with both the likely demand and the level of response.

8.3 Sales and lettings

8.3.1 The CLT will want to offer its houses on the basis that the applicants' property eligibility is matched to income guidelines. Eligibility should be clearly defined and take account of the applicants' household size, ability to pay, the choices of tenure and the level of affordability needed to secure a mortgage offer (if applicable). The CLT needs to explain this in simple language. (See Exhibit 18 on the website.)

8.3.2 The tenure choices of equity purchase and rent to purchase are set out in Section 5. Equity purchase may be the preferred route for many applicants but rent-to-equity and 'mutual ownership' have the advantage of greater affordability as the following table illustrates.

8.3.3 Related to these options, the CLT will need an assessment form to consider all the financial circumstances of the applicant, and indeed to enable the applicant to understand the financial commitments they will be making and whether they can afford them. Compared to those purchasing on the open market, incomes will be lower and basic living costs will therefore be a higher proportion of income. The rules that any mortgage should be no more than three to four times salary, and that housing costs should be no more than 35 per cent of net income, should be applied unless a rapidly rising salary is predictable. At the same time, in order to provide for those on lower incomes, the CLT will wish to ensure that the equity purchased or the rent plus equity stake is set at an affordable level. In this way, lower levels of equity can be offered to those on lower incomes while still achieving the average sale required by the cost of the scheme. Account should be taken in these assessments of any additional costs, such as a service charge for joint maintenance of a communal space, or a communal hall for a group of flats. If sustainable building methods have been used, then below-average energy or water bills will be a financial advantage.

8.3.4 With all these elements in place, the CLT's policy might be:

- To draw up a sales/lettings policy which it has agreed with the local housing authority as meeting needs that the authority recognises and in a way that the authority supports;
- To make this policy widely available and to keep a list of those who are interested in applying for housing;
- To advertise the CLT homes about three months before they are due to be completed and circulate all those who have expressed an interest;
- To send out application forms and information explaining the tenure(s) available, the criteria and the cost;

- To conduct follow-up interviews as necessary in order to draw up a list of those who meet the CLT criteria and have sufficient financial resources;
- To offer the homes to applicants from this list who most closely fit the CLT's criteria.

8.3.5 The same procedure could be used when someone moves on, using the CLT's pre-emption clause to nominate the new purchaser or tenant.

8.3.6 The CLT will be operating to low margins and will need to keep management and maintenance costs to a minimum. Avoiding periods when the property is empty will be especially important. The above procedures could become complex, but speed will always be of the essence and some compromises may have to be made.

8.4 Reaching agreement with the local housing authority

8.4.1 Where there is a s.106 agreement, negotiations with the local housing authority may be more detailed since local housing authorities see s.106 agreements as helping to generate the numbers of 'affordable homes' they need. In the past, waiting list systems have worked very inflexibly. The household at the top of the list was offered the next available home even if its location was entirely unsuitable for the family concerned, and even if the home was in a small community with members who were also on the waiting list but just a bit lower down. Modern systems are more sophisticated and many local authorities are offering 'choice-based lettings', advertising vacancies and selecting the most appropriate applicant from those who respond in order to avoid the rigidities of a fixed housing list.

8.4.2 The opportunities available to the CLT will most likely be in the intermediate housing market. They will command a price which the CLT has tried to make as affordable as possible but which will still be constrained by the actual cost of the scheme, less any income the CLT has been able to secure. Where the CLT is proposing a self-build or self-finish option, the development may only be suitable for households who are willing to take on this commitment. When, in addition, local connection and/or local employment are important criteria for the CLT, it may find its allocation policy is very different from that of the local authority, which is likely to view current housing circumstances as the main determining factor.

8.4.3 Resolving these conflicting approaches will ultimately be a matter of negotiation between the local authority and the CLT. The CLT should be aware, however, of the pressures the local authority is under and the circumstances of people on the waiting list. One option may be to set up criteria related to the needs of the community which the local authority may be willing to accept; to agree to consider all local authority referrals alongside direct applicants known to the CLT; and to give priority to those in poor housing circumstances where two applicants otherwise meet the CLT's financial and local connection criteria. In the end the aim is to operate a fair policy that reflects the CLT's aspirations for a sustainable community. It should be possible to arrive at an agreed set of procedures if both sides are prepared to be flexible.

8.4.4 Exhibit 15 on the website provides an example of a CLT allocation policy which has been agreed with the local housing authority.

8.5 Marketing workspace

8.5.1 The nature of the space will obviously have been decided before work is undertaken. If there are different types and quality of space, each will need a separate marketing plan. Options will also exist between units that are fitted out ready for occupation or shells that the new occupant fits out. Shells will be cheaper but cannot be let on 'easy-in, easy-out' terms and could discourage new start-up businesses if this is the target. Similarly, if the need appears to be for a share of space in a serviced office, the premises will have to be fully fitted out and equipped, which will mean that higher costs will have to be recovered by the CLT as a serviced office rent (typically three to five times an un-serviced rent). The needs survey will have been a snapshot at a particular moment in time. As stated above, needs should be checked against local knowledge, including other developments planned in the area, just before work begins. At least some of the potential tenants should still be waiting to move to new premises when they are complete, but of course there is no certainty about this. Marketing the space should begin at the same time as construction and should aim to secure agreements from as many tenants as possible before work is complete in order to minimise the periods of vacancy when the mortgage is payable but no income is coming in.

8.5.2 Where the workspace has been designed to modern low energy and low water-use standards, this should be included in the marketing materials. Commercial users can look at the all-in cost of rent plus utility bills, rather than seeing them as two separate issues, as homeowners tend to do. The quality of the space should also improve its attractiveness and may command a higher rent. The CLT should do more than just advertising the space and hoping users can be found. Existing local businesses that seem to be overcrowded, or otherwise in unsatisfactory buildings might be approached directly. Early lettings to secure occupation soon after completion are crucial. The CLT could be protected by an agreement with the local authority, which would take the risk of letting the workshop units, with the CLT only taking the freehold transfer once the units are let.

8.5.3 Because of the risk that the forecast income will not be generated immediately if some units remain vacant, funders may be unwilling to provide long-term finance for 100 per cent of costs. One solution is to secure a local authority grant to top up any shortfall; another would be for the local authority to hold the premises until lettings are at a high enough level to service a loan.

8.5.4 The CLT may also want to take a more proactive approach to at least some of the workspace and look at how it might be used to house a service or a business needed by the community. A shop is one example, but there may be other community and social enterprises that could be set up if premises were available. Such ventures might attract revenue grants, helping both the CLT and the local economy. These different factors will all need assessing in order to decide between these options and ensure the space is occupied quickly. This is where the CLT's survey work and local knowledge will come into their own, enabling it to deal with each potential tenant on an individual basis or even, as discussed above, helping to shape and encourage the creation of the business.

8.6 Property management and maintenance

8.6.1 The CLT will need to put in place arrangements for day-to-day management and maintenance of its assets. It will be necessary to handle disputes and to have legal and property advice available to deal with issues such as re-sales/lets, arrears and recovery. The CLT can either carry out these functions itself or ask the client to pay for an agency service from another organisation or a CLT umbrella body. A local housing association or another social housing landlord would be well placed to provide such a service; alternatively a group of member CLTs could join together to pay for a collective service. This toolkit does not provide detailed management and maintenance strategies as these can be obtained from The Chartered Institute of Housing.¹ However, the following comments are relevant.

8.6.2 Managing the CLT's assets will mean meeting the expectations of service users. Good practice will require the CLT to inform and consult all customers, applicants and potential applicants. The CLT will need to know about current legislation and the local economic context for sales and re-sales and for lettings and re-lettings. Other key management issues include equality of opportunity, enhancing choice, marketing and potentially how to tackle low demand, should this occur.

8.6.3 The CLT, as the landlord, has a duty of care to prevent injury to people or damage to their property that might be caused by a relevant defect. The landlord also has a duty to ensure that all visitors will be reasonably safe when using the common parts for the purpose for which they were invited. Relevant insurance policies will be needed to cover liability as well as insuring the common parts.

8.6.4 Maintaining the CLT's assets may involve:

- Carrying out day-to-day maintenance which is the CLT's responsibility and recovering it from service charges where appropriate;
- Carrying out annual gas and other periodic checks (e.g. gutters);
- Setting aside funds to paint the exterior on a regular cycle, usually every four to five years but this will depend on the materials.

8.6.5 The CLT may also wish to set aside a longer-term sinking fund for replacements, especially where mortgages longer than 15 years have been taken out and some replacements, such as the boiler or kitchen fittings, may be needed before the loan has been paid off. Alternatively the property can be refinanced with a new loan and the first loan paid off.

Resale

8.6.6 The CLT may have the option to repurchase properties at the time of resale. The option period may vary and be between 90 and 180 days depending upon the terms in the particular pre-emption agreement, equitable mortgage or covenant of the CLT. This period allows the CLT to purchase the property for resale itself or, more likely, to get the property under contract within the timescale with a nominated buyer who meets the CLT's priority criteria and can afford the property. The option formula is calculated in accordance with the 're-sale formula' (see section 5).

8.7 Operational sustainability

8.7.1 These paragraphs of the guide are about the CLT setting itself up as a viable social enterprise and acting quickly and effectively to bring its property into use. Mortgage payments and management and maintenance costs must be paid from regular net income; any period when rent is not coming in will create a gap in the CLT finances. It may be better to err on the side of caution and under-provide compared to the identified need, with the aim of adding a second phase later, even though this might cost more in the long run. There is also the option of creating a dowry to underwrite the CLT's running costs. This will provide reassurance, as will the CLT's underlying property assets, because provision has been made at below market value in order to satisfy a local need.

8.7.2 CLTs would obviously prefer to be debt free so that all net revenue income can be used to meet the needs they perceive. In practice, many of the developments they undertake or properties they acquire will require the use of mortgages to be repaid through rents from housing, commercial property and community. This guide is not able to offer definitive advice about long-term financial sustainability as there will be many different examples and permutations; however it can draw up a statement of recommended practice.

Capital

8.7.3 Typically, a CLT housing property might have cost around 70 per cent of its open market value. In other words, the completed property asset is worth about 150 per cent of its mortgage loan. Commercial property may have cost just a little less than its market value, whereas community holdings may be difficult to value except for their rent revenue income. In section 6.7.8 of this guide, reference is made to the need to provide long-term funding for the CLT with the loan repaid by revenue from rents and charges.

Revenue

8.7.4 A CLT is usually a long-term business with mortgage funds secured on assets on 25-year, and sometimes 30-year, repayment terms. This, together with the costs of managing and maintaining the property asset and running the CLT itself, will comprise the expenditure of the CLT. At Exhibit 19 on the website there is a sample revenue budget and statement of capital resources that provides a template for developing a revenue forecast for a recommended minimum period of five years. To meet these, estimated costs assumptions (about income from rents from housing and workspace and other income from the use of community facilities) need to be calculated, and if there is a gap to bridge, other sources of grant income must be pursued by the CLT. Typical sources of grant funding include local authorities, other public sources such as regional and European funding, local and national charities, and local fundraising.

8.7.5 The CLT, although most probably having a property asset, will in many cases be a new business venture with little or no revenue reserves at its disposal. To underpin its trading activity, particularly in its early years, it is recommended that a 'dowry' be secured as part of the initial fundraising or financing of the project. In the revenue template at Exhibit 19 on the website, a £100,000 dowry is shown. This is to provide working capital and cashflow to

underwrite part of the capital cost of the community building, and also to secure the revenue assumptions. The dowry is not shown on the template as decreasing, but failure to generate expected income or other unexpected costs make such a reserve essential, as also is a maintenance reserve.

Financial management

8.7.6 Part of the process of setting up a CLT will be to make sure its board has all the skills necessary both for its own success and to convince lenders and funders. It is crucial that the board is capable of financial management and it is advisable either to appoint a treasurer or to give authority to a small group of board members to act as a finance sub-committee. Identifying qualified people to take on this function in a voluntary organisation is never easy, but it is absolutely essential if the business is to succeed.

8.8 Keeping the community informed

8.8.1 The creation of the CLT scheme is most likely to have involved substantial discussion with the community. Feedback is vital, particularly if the CLT has been successful with its sales and lettings and wishes to pursue another project in the vicinity. Keep the community informed about what the CLT is doing and provide opportunities for them to contribute and become more involved, perhaps by becoming a shareholder or a board director.

8.9 In it for the long term

8.9.1 So now the community has achieved its vision, secured the property and made it available for use. In doing so it will have had to consider the resources available; indeed they may have been the critical factor in some of the decisions.

8.9.2 It is now necessary to take a step back and give some careful consideration to the current position and the plans for the future. What has been successfully provided must be kept affordable and available to the community into the future – the CLT is now 'in it for the long term'. Three particular areas for review are:

- Membership and links with the community;
- Links with partners and supporters;
- Financial security.

This may be a good time to consider widening the membership or finding other ways to link the CLT to the community at large. Partner and stakeholder contacts also need reviewing, as they will now be less frequent, but the CLT may want to keep in contact.

8.9.3 In relation to financial security, the CLT may want to consider how it might generate additional funds or make better use of whatever reserves it has. It may need to consult with its members about how they see the future. Three options in particular are:

- Developing new or increasing existing income streams from trading and contracts;
- Using any 'dowry' to invest in new activity or using it to acquire assets;
- Raising funds from the community to increase community ownership.

8.9.4 Continuing to consolidate and strengthen the CLT's position in relation to its support and its finances will give it a firm base, just in case the community is now ready to tackle another project!

This final section should enable the development and implementation of plans for marketing, sales and lettings of the completed property; for the operational sustainability of the organisation; and to preserve affordability in perpetuity.

9.0 Exhibits Index

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10.0 Glossary

Term	Definition
Arbitration	A formal procedure outside the courts to settle a dispute.
Articles of incorporation	A form of contract defining the rules governing a corporate body which binds all members/shareholders.
Asset enrichment ratio	A term coined to show a public body that working to produce a development plan in consultation with the community could have benefits for all parties. An example is the High Bickington case. A scheme was agreed with the community so that instead of selling a farm for a capital receipt of £0.5m, the council could still have this receipt while also providing land for a new school and giving the community land for affordable housing, a community space and affordable workspace with a notional value of £2.5m, 'enriching the asset' by a ratio of 6:1.
Assignment	Transfer of a set of rights from one party to another.
Assured shorthold tenancy	Tenancy for a fixed term governed by the Housing Act 1988 (as amended by the Housing Act 1996). The automatic, default form of tenancy, for any period, giving the landlord the automatic right of possession on expiry of the term.
Board of directors	A group of individuals appointed or elected to govern a body or institution which will operate under a formal set of rules such as articles of incorporation
Brownfield land	Land which has previously been developed.
Burden	Scottish approximate equivalent of restrictive covenants.
Business operational plan	A plan for a community land trust setting out how the scheme will be developed and funded; whom it will assist; the planning and housing allocation issues; and how the scheme will be managed for the long term.
Bye-laws	Rules governing implementation of the provisions of the articles of incorporation (more commonly applied in the US).
Charitable status	Certain non-profit organisations can register as charities if their purposes fall within the statutory definition of charitable objects.
Commonhold	New form of tenure applicable to owners of flats, giving them the equivalent of freehold tenure (previously almost always leasehold), and membership of a Commonhold Association owning the common parts of the building and grounds. At present an optional form of tenure for new developments.
Community development finance institution (CDFI)	Independent trusts with a mission to provide loan finance to local bodies, small businesses, social businesses or individuals to which banks are not prepared or equipped to lend except at high rates.
Community gateway	Model developed by the Chartered Institute of Housing (CIH), the Co-operative Union and the Confederation of Co-operative Housing with the aim of empowering tenants. A full report is available from the CIH.

Community interest company	New form of company designed for social and community enterprise (which is excluded from registering as a charity).
Community Land Trust	<p>A not-for-profit organisation which is an industrial and provident society, a company limited by guarantee or other incorporated body whose governing instrument contains provisions to the following effect :</p> <p>(a) the primary purpose of the organisation is to hold land and other assets so as to promote the social, economic and environmental sustainability of a specified local geographic community through providing or facilitating the provision of affordable or other sub-market housing and/or other community-based facilities and services,</p> <p>(b) the organisation will not dispose of its land and other assets save in the furtherance of its objectives to promote the sustainability of the local community as set out in (a) above,</p> <p>(c) the membership of the organisation is open to persons or organisations living in or whose principal place of work or business is in the specified community it is established to serve (but may involve different classes of membership),</p> <p>(d) the majority of the governing body is elected by the members of the organisation,</p> <p>(e) the organisation is accountable to the local community through annual reporting or otherwise and is responsive to its needs and to representations made on its behalf, and</p> <p>(f) it is an inclusive organisation, committed to enabling those who live and/or work, or need to live and/or work, in the community it is established to serve to benefit from the land or other assets it holds, without discrimination on grounds of race, religion, age, sex, disability, sexuality or any other matter that is not relevant to its work.</p>
Community training and enabling programme	Operated by the Housing Corporation to fund projects within its 'Affordable homes, strong communities' strategy.
Company limited by guarantee	Companies whose liability is limited to the guarantee defined in its articles as payable by its members on a winding-up (usually a nominal amount); it does not issue shares, and may be a non-profit organisation and/or a charity.
Co-operative	A democratic business structure owned and governed either by its employees or its customers.
Countryside Agency	A government agency. Its functions changed on 1 April 2005 and it became much smaller, its role being to act as a rural advocate, expert advisor and independent 'watchdog' with a focus on disadvantage. The Commission for Rural Communities will operate as a division of the CA, advising government on rural issues, monitoring national delivery of policies and acting as advocate for rural people, communities and businesses.
Covenants	Agreements granting, governing or restricting rights over land, such as rights to dispose of land (e.g. when or to whom it may be sold, or its price), or other rights as to the way land is used.

Credit union	A co-operative finance institution established within a defined community (its common bond) and regulated by the Financial Services Authority.
Decent Homes standard	By 2010 all council and housing association housing must meet the government's Decent Homes standard. This standard describes a Decent Home as one that is warm, weatherproof and has reasonably modern facilities
Deed	A document drawn up following certain defined formalities and often required for the validity of transactions relating to land; it may, however, be used in relation to other matters (in particular wills and trusts, or any other transaction for which there is no payment in money or in kind).
Default	Failure to fulfil a financial or other obligation.
Detailed planning permission	Application must be submitted within three years of grant of outline planning permission, with detailed design. Permission enables building to commence.
Easements	Rights over land such as access to other land, fishing rights, etc.
Eco-Homes standards	An environmental assessment method for housing. Various credits are used to build up to a rating. Evaluation done by assessor accredited by the Building Research Establishment.
Egan construction	Based on the 'Egan principles' contained in the 1998 report Rethinking construction by Sir John Egan's Construction Taskforce. Off-site construction methods may be the most significant change this has brought about.
English Partnerships	A national regeneration agency that develops its own portfolio of sites and provides advice to government on brownfield land. It is due to merge with the Housing Corporation to form Communities England.
Enquiry by design	Intensive design event involving key stakeholders such as developer, landowner, local authorities, interest groups and the community in development of a masterplan.
Equity-linked mortgages	Similar to shared ownership, but the lender takes a stake in the equity of the property directly rather than the registered social landlord, and lends less than the full amount required to buy the home. Interest is charged only on the amount of the loan and not on the full value of the property. When the property is sold, the lender receives payment in proportion to the amount of equity it owns, and therefore also benefits from any increase in the price of the property.
Ethical investment	Investment by individuals or companies where a social return is accepted as compensating for a reduced economic return or for an increased risk. Often mediated by a community development finance institution (see above) or by a bank such as Triodos which matches up investors and borrowers.
Evergreen finance	A facility providing for loan finance to be added to without a requirement of repayment of the principal by a specific date.

Exception planning consent	Planning consent to development not compliant with the Local Plan.
Exempt charities	Charities which are not registered but nevertheless given exemption from corporation tax by HM Revenue and Customs if their purposes fall within the statutory definition of charitable objects.
Feasibility briefing conference	Event to inform and consult community members on the outcome of a feasibility study.
Feasibility study	Analysis and assessment of the viability and/or sustainability of a defined plan of action carried out under specified terms of reference.
First-time buyers' initiative	The FTBI is part of the Department of Communities and Local Government's HomeBuy low cost home ownership initiative and aims to help key workers and other eligible groups that have sufficient income to sustain home ownership but are currently prevented from entering the housing market by the prevailing demand/supply conditions.
Freehold	Ownership of land, but may be subject to other rights such as easements, restrictive covenants and assigned rights, such as leases.
Full planning permission	A combination of outline and detailed planning permission with all detailed information submitted in a single application. Common where the proposed development is contentious. Valid for five years from the date of consent.
Garden city	Pioneered by Ebenezer Howard, a planned community including housing, farming and industry, originally intended to be developed on a co-operative and environmental basis.
Governance	Set of decision-making and administrative powers/acts determining the operation of a body or institution.
Greenfield land	Land which has not previously been developed
HomeBuy	Government-backed schemes funded by the Housing Corporation and operated by registered social landlords. They are available only to existing RSL tenants and those on housing waiting lists. See Social HomeBuy, Open market HomeBuy and New build HomeBuy.
Housing association	Housing associations are non-profit organisations which build, regenerate and manage social housing. They are usually registered with the Housing Corporation and aim to house people on low incomes and those who are homeless or living in poor conditions. Many housing associations rent most of their housing to families and people nominated by local authorities; most will therefore not accept applications direct from single homeless people. Some also manage hostels and housing projects and lease buildings to voluntary organisations providing accommodation, care and support to homeless people and other groups.

Index-linked mortgage	Both the annual mortgage payment, and the outstanding debt at the year end, are increased annually by the rate of inflation. The interest rate charged should normally be the interest rate on a conventional mortgage less the rate of inflation (e.g. if the conventional mortgage rate is 4.5 per cent and inflation is 2 per cent, an index-linked mortgage would be at an interest rate of 2.5 per cent). Where this formula is used, an index-linked mortgage repays a debt over the same period as a conventional mortgage. Payments start at a much lower level than the fixed payments of a conventional mortgage but increase throughout the term and will be considerably in excess of the annual conventional mortgage payment by the final year. Index-linked mortgages are a form of low-start mortgage and provide a way in this model of matching loan repayments to rental income throughout the period of repayment. By contrast, a conventional mortgage will result in surplus income as rents rise with inflation, but needs higher initial rents to cover the cash flow.
Industrial and Provident Society (IPS)	Corporate body regulated by the Financial Services Authority and operated on a one member, one vote basis under co-operative principles. Shares have a nominal value, they are withdrawable (the IPS may buy them back), but they cannot be transferred to someone else. May be either a 'bona fide co-operative' (focusing on services to members) or a 'bencom' (focusing on services to non-members).
Initial public meeting	First meeting to inform and consult on proposed development/scheme.
Innovation and good practice grant	Housing Corporation programme launched in 1995 to fund projects under its 'Affordable homes, strong communities' strategy.
Intermediate market housing	Housing for people on moderate incomes who cannot afford adequate private sector rent/house prices.
Investor in Community status	An accreditation scheme available to housing associations with a commitment to working with communities, administered by Hastoe Housing Association (www.hastoe.com).
Islamic finance	See appendix to this glossary
Land pooling	A process in which landowners of fragmented parcels of land collaborate in the public interest to pool land for major development or redevelopment schemes. Landowners may retain a stake in the ownership. A plan sets out the procedure for land assembly, servicing and disposal, and may involve some form of compulsion. The concept is new to Britain, but has been extensively practised abroad, notably in the US and India.
Large scale voluntary transfer (LSVT)	The transfer to ownership by a new, or sometimes an existing, housing association of all the social housing owned by a local authority, usually with the aim of enabling reinvestment by the private sector to bring homes up to Decent Homes standards by an agreed deadline and to generate a capital receipt to fund new social housing investment. Housing associations set up by this route are known as LSVTs.

Lease	Formal agreement assigning rights over land for a defined period subject to defined conditions
Leasehold enfranchisement	Under certain circumstances, leaseholders of a house or flat have the right to purchase an extension to the existing lease or to purchase the freehold. Leaseholders of flats can exercise the right to enfranchise by purchasing the freehold collectively. The right was introduced by the Leasehold Reform Act 1967 and originally applied to houses only. It was then extended to leaseholders of flats by the Leasehold Reform Housing and Urban Development Act 1993, and further extended under the Commonhold and Leasehold Reform Act 2002.
Lessee	Individual or body receiving rights over land under the terms of a lease.
Lessor	Individual or body granting rights over land under the terms of a lease.
Limited liability partnership	New form of partnership now allowed to limit its liability. It must register as such with Companies House and comply with certain rules.
Liveability	The 'liveability fund' has been set up by the Government to improve and create public open spaces to enable people to feel proud of where they live. Liveability is a way of describing how the built and green environments contribute to successful neighbourhoods.
Local Plan	The key legal planning document which describes the policies a local planning authority will use to determine planning applications and to control and direct development in its area. The plan shows what types of development will be allowed in different locations. Variations from the Local Plan require the consent of the secretary of state for communities and local government. Local Plans are now being replaced by Local Development Frameworks, within which the Local Plan remains a key document but with greater emphasis on taking communities' needs into account, and with greater possibility for amendment and adaptation over time.
Local plan inquiry	The public inquiry led by a planning inspector which considers the draft Local Plan prepared by the local planning authority through a process of consultation. The inspector reports to the planning authority, which has the power to agree or reject the recommendations but subject to such decisions being called in by the Government.
Local strategic partnership (LSP)	Local strategic partnerships have been set up in every local authority area and are charged with promoting the wellbeing of their area, i.e. its social, cultural, economic and environmental health. Their composition can be determined locally but generally includes the local authority, local businesses, health authority/primary care trust, police, higher education establishments, a social housing provider and community representation. They may be seen too as federations of other partnerships which work to line up objectives in different fields to reinforce rather than oppose each other. LSPs have varying power to spend but are increasingly the body charged with implementing the local

	area agreements' special funding from the Department for Communities and Local Government to meet locally determined priorities.
Low-start mortgage	Similar to a repayment mortgage but with an interest-only introductory period. Repayments of capital and interest are then introduced and sometimes phased in. The total amount of interest and repayments over the life of the mortgage is higher than with a normal repayment mortgage, but payments during the initial low-start period are reduced.
Mutual home ownership model	A community land trust model in which the housing is run by a co-operative, of which residents are members, financed by a common mortgage. In this model, residents acquire units of equity over time based on their contribution to the repayment of the common mortgage.
Mutual ownership	Resident pays rent but is eligible for an equity stake on departure based on how much their rent has contributed to the repayment of the CLT's mortgage.
Neighbourhood renewal fund	Government fund providing grants to community organisations in certain deprived areas via local strategic partnerships.
New build HomeBuy	Only available to eligible priority groups. A housing association or private developer provides a 25 per cent equity loan on a new house and charges a small rent at 2.75 or 3 per cent. The buyer contributes 75 per cent of the price of the housing through personal savings and a mortgage, and the RSL lends the remainder. There are no repayments on the 25 per cent funded by the RSL; it is repaid when the property is sold, and the amount repaid is 25 per cent of the value of the property on resale. If the purchaser dies, the arrangement may be transferred to a family member/partner, who then takes over the payments and repays the element owned by the RSL when they eventually sell.
Open market HomeBuy	Available only to existing housing association tenants and other priority groups, including some key worker groups. The buyer contributes 75 per cent of the price of the housing through personal savings and a mortgage, and the registered social landlord lends the remainder, for which a small rental charge may be made.
Options (over land)	An agreement granting an individual or body the right to buy land (or other rights) with priority over other prospective purchasers, exercisable under certain defined conditions. Such rights may be registered at HM Land Registry.
Outline planning consent	Gives an indication of the permitted development – its footprint and height. Full planning details need to be approved before building can commence. Valid for up to five years, but the application for detailed planning permission must be submitted within three years.
Parish or community appraisal	Appraisal of a parish's (or other defined community's) facilities, including housing, amenities, green space, shops, transport and cultural facilities, in order to identify key issues and gaps. (Parish councils are called community councils in Wales.)

Parish or community plan	A holistic plan for the development of the parish or defined community, for example using the Countryside Agency's Vital Villages structured approach. (Parish councils are called community councils in Wales.)
Part-equity ownership	A shared ownership scheme whereby the purchaser buys a given percentage using a conventional mortgage, and obtains an 'equity mortgage' from the CLT in respect of the remainder. On re-sale, the equity mortgage is repaid, plus 1.5 times the increase in value relating to the percentage share covered by the equity mortgage.
Participative design	Process in which users actively participate in the design process.
Par-value co-operative	Members take out a share which is returned 'at par', or for the same cost, when they leave. May also be referred to as a 'non-equity' co-operative.
Patient finance	Long-term finance provided on terms deferring payment of interest and/or capital for a relatively long period.
Planning for Real	A community consultation technique designed by Tony Gibson and available from the Neighbourhood Initiatives Foundation. It uses a three-dimensional model of the community on which community members identify their priorities, followed by a democratic process of deciding on priorities.
Planning policy guidance	Available from the Department of Communities and Local Government (www.communities.gov.uk), it covers a wide range of planning policy issues
Planning policy statements	Issued by the Department of Communities and Local Government and available at www.communities.gov.uk
Private limited company	A conventional company with limited liability operated for profit in the best interests of its shareholders.
Property unit trust	Property unit trusts invest in real property through a pool of funds with exposure to the property market. Returns are generated from the rental income, plus any capital appreciation over the period the units are held. Most property units are listed on a stock exchange to ensure that the fund manager has sufficient funds to maintain a sufficient level of investment over the life of the trust, without the need to maintain a pool of liquidity to handle redemptions/sales of units.
Put option	The contractual right to require another party to purchase property or land at a stated time or in defined circumstances.
Regional development agency	Government body whose role is mainly to promote the economy of a specific region but which also has wider responsibility for promoting wellbeing since April 2005.
Registered social landlord	Registered social landlords (RSLs) are independent housing organisations registered with the Housing Corporation under the Housing Act 1996. Most are housing associations, but they also include trusts, co-operatives and companies.

Rental purchase	The resident has a lease of the dwelling and pays rent for a specific term, at the end of which ownership is transferred to him/her. Used in the past to avoid 'fair rent' provisions under the Rent Acts (no longer in force), but now applied in Islamic finance instruments to enable home purchase over time without application of interest. Rent is acceptable as a payment for a real benefit and takes the place of interest, which is prohibited as usurious.
Re-sale formula	Formula for calculation of the price to be paid to resident on departure.
Restrictive covenants	Agreement restricting the exercise of rights over land, including use of the land, its sale, leases over it, occupation, etc.
Right to buy	Right of local authority tenants to buy the property they occupy at a discount if they have lived there for over two years.
Rural housing enabler	Rural housing enablers work with parish councils and local housing providers to determine levels of need for affordable housing in rural areas and to develop rural housing schemes to meet those local needs.
Search conference	Participative planning process for agreeing the most desirable future for a community or organisation and how to achieve this.
Section 106 Agreement	A section 106 agreement is a type of planning obligation authorised by Section 106 of the Town and Country Planning Act 1990. A planning obligation is a legal agreement between the planning authority and the applicant/developer and any others who may have an interest in the land. It either requires the developer to do something or restricts what can be done with land following the grant of planning permission. Planning obligations tend to apply to major development schemes. They should represent a benefit for the land and/or the locality; they are registered as 'local land charges' and are normally enforceable against the people entering into the obligation and any subsequent owner of the site.
Shared ownership	see Social HomeBuy.
Shared ownership co-operative	A shared equity scheme in which the share of the property not owned by the resident is owned by a co-operative of which the resident is a member.
Single regeneration budget (SRB)	The name previously used for regeneration funds provided to partnerships, usually led by local authorities, which were set up to regenerate areas with high scores under various measures of deprivation. There were six rounds of funding, each of which led to programmes that might run over several years. The last was SRB6.

Social HomeBuy	A shared ownership scheme, an arrangement for purchase of part of the value of accommodation by the prospective resident, usually 50 per cent, with the option to 'staircase' up to a higher percentage in the future. The registered social landlord (RSL) purchases the remainder. The purchase is funded through a shared-ownership mortgage, sometimes 100 per cent of the value of the share owned. In addition to the mortgage, rent is payable on the percentage owned by the RSL, as well as, sometimes, a service charge which is generally paid into a 'sinking fund' for maintenance of the building. In many cases, only first-time buyers are eligible.
Social housing	Housing provided for people on low incomes or state benefits, usually through local authorities or registered social landlords.
Social housing grant (SHG)	Grants paid to housing associations by the Housing Corporation for provision of social or intermediate market housing.
Spatial planning	Recent planning jargon to convey a proactive, rather than reactive, approach to planning, with the aim of looking ahead and deciding what will be needed, beneficial or desirable. The traditional approach, in contrast, is to wait for an application and then evaluate it.
Sport England	A body responsible for providing services and funding to sport in England, including distributing major funding provided from the National Lottery. (Formerly the English Sports Council.)
Starter homes initiative	The starter home initiative (SHI) is a government-funded scheme to help key workers, primarily teachers, health workers and the police, to buy a home in areas where high house prices are undermining recruitment and retention. The scheme is available in London, the South East and housing hot spots in east and south west England. The scheme is run by local scheme providers. Round 1 consists predominantly of equity loans and shared ownership with varying levels of assistance. Round 2 involves equity loans of £10,000 and is not available in London.
Sub-lease	Formal assignment of rights over land by a lessee.
Tenancy	Formal agreement granting rights of occupation or use of land.
Tenant	Individual or body granted rights over land under the terms of a lease or tenancy.
Tenant co-partnership	Early form of housing co-operative.
Tenure	Form of rights over land – there are various types, including freehold and various forms of leasehold.
Tri-partite governance	Powers for governance of a body allocated between three interest groups to achieve a balance in the representation of defined interests.
Ultra vires	Outside the powers of a body or institution and therefore invalid.

VIRSA	Organisation committed to helping rural communities set up and run viable, community-owned shops (www.virsa.org).
Village appraisal	See parish or community appraisal above.
Voluntary stock transfer	Transfer of some local authority social housing to a housing association or to form a tenants' co-operative with the agreement of the residents, generally with a view to enabling investment to achieve Decent Homes Standard.
White land	Planning jargon referring to agricultural land.
Winding-up	The process of bringing a corporate body to an end and disposing of its assets and/or liabilities.

Appendix to the Glossary

Islamic Finance

The rules for Islamic finance lie in Shariah law, under which earning interest (riba) is not allowed. There are rules barring the types of business the banks can trade with. There should be no investment in unsuitable businesses, i.e. those involved with non-halal food, armaments, tobacco, drugs, alcohol or pornography. UK high street banks are now providing Shariah compliant products, and the Islamic Bank of Britain began trading in 2004. For further information from the Institute of Islamic Banking on Islamic finance and financial instruments see <http://www.islamic-banking.com/>

Islamic financial instruments include:

Ijara

Ijara is a form of leasing. It involves a contract where the bank buys and then leases an item to a customer for a specified rental over a specific period.

Ijara with diminishing Musharaka

The principle of Ijara with diminishing Musharaka can be used for home-buying services. Diminishing Musharaka means that the bank reduces its equity in an asset with any additional capital payment made, over and above rental payments.

Mudaraba

Mudaraba refers to an investment on your behalf by a more skilled person. It takes the form of a contract between two parties, one who provides the funds and the other who provides the expertise. Both parties agree to the division of any profits made in advance.

Murabaha

Murabaha is a contract for purchase and resale and allows the customer to make purchases without having to take out a loan and pay interest.

Musharaka

Musharaka means partnership. It involves you placing your capital with another person and both sharing the risk and reward.

Section 11: Community Land Trusts – Origins and history

Land is part of the global 'commons' like water, air, language and culture. However, in the UK the 'commons' as a viable system of the stewardship of land by villagers was curtailed and ultimately eradicated over 800 years by three major waves of land transfer.

The first changes were undertaken by the Normans, the second under the Tudors and the third by numerous private 'Enclosure Acts' of Parliament from the early 18th to the late 19th century. During the 19th century, the co-operative movement made many attempts to protect and preserve the affordable use of land in perpetuity for local communities. Most projects failed but a number did succeed from the 1890s onward. Some of these land trusts are still around. However efforts to use 'co-operative' land to preserve affordability were displaced by the preference for the use of public land with the growth of council housing after the First World War.

In the 17th century, near the end of the Civil War, action was taken to persuade Cromwell to reverse the practice of enclosure under the Commonwealth. In 1649, William Everard and Gerrard Winstanley decided to reclaim an enclosed 'commons' by occupying St. George's Hill near Walton on Thames, Surrey with 200 'Diggers'. They built huts and planted beans and carrots. The support expected from Cromwell was not forthcoming and after six months their crops were destroyed and their homes burned by soldiers. They were evicted after a year but then took up residence on another enclosed 'commons'. After a further year they were arrested, fined and imprisoned.

Other Digger rebellions occurred in Buckinghamshire, and Winstanley produced a number of pamphlets outlining 'The Law of Freedom' based on the ancient rights of the 'commons'. To prevent future rebellions, the Poor Law of 1662 provided charitable relief as compensation to the landless and homeless affected by enclosure. The ultimate extinction of the 'commons land' was carried out by statute rather than blunt seizure. From the beginning of the 18th century until 1850, there were over 3,400 parliamentary acts of enclosure, removing 22.5 per cent (8.4 million acres) of all the land in England and Wales from the 'commons'.

In 1775, Thomas Spence's pamphlet *The Rights of Man* set out the fundamental link between human freedom and the ancient rights to the commons. The increasingly obvious economic benefits of enclosure to landlords – rising crop yields, rising prices and rising rents – led him to call for the system to be turned on its head so that commoners could reap economic value to meet their own needs in perpetuity. His analysis sets out the first case for locally based community land trusts, whereby rental income and development gains are secured for social benefit.

The early co-operative movement took up Spence's land reform ideas steadily, but it proved very difficult to find a practical way both to develop property effectively and to capture economic value for local communities. A 'community land fund', promoted by Robert Owen to establish 'villages of co-operation', was central to the early movement. In the 1830s, less than 5 per cent of the population had the vote and virtually all MPs were large landowners. The Reform Act of 1832 was limited and only extended the franchise to tenant farmers and the middle classes in urban areas with houses valued at over £10 a year.

Bronterre O'Brien, editor of the *Poor Man's Guardian*, developed a link between the Chartist movement and the community land fund plans of Owenite co-operators. In 1837, a petition to Parliament by agricultural labourers requested 'small allotments of land' for subsistence cultivation'. The land fund idea was put into practice by Feargus O'Connor in 1843. He planned to build '40 estates' to provide 5,000 families with a cottage and a smallholding to secure both a living and the vote. Each estate would have its own community centre, hospital and school, and Chartist members would build the properties themselves. The Chartist Land Company was set up in 1845, and by 1847 had attracted 60,000 working class members and established 600 branches in England, Scotland and Wales.

Over £90,000 was raised. Each member held two or three shares and housing was allocated on a number draw system. In 1845, the first 35 cottages were built in O'Connorville (now Heronsgate) outside London. Each cottage had a smallholding of between two and four acres. A further five estates were begun in Worcestershire, Gloucestershire and Oxfordshire. The 250 cottages were well built and often incorporated with farm buildings. The villages included schools and community buildings. Unfortunately, the company was not properly incorporated or registered, and as a consequence of this and poor accounting records, it was closed by the government in 1851.

John Ruskin and Octavia Hill pioneered the housing association movement in 1865, when Ruskin provided investment funds for Hill to purchase and refurbish tenements in Marylebone, London which were then let at affordable rents. Ruskin wanted to protect and preserve the remaining commons land nationally and, most importantly, to establish a robust, non-profit corporation to stem the decline of small family farms, the loss of rural crafts and the abandonment of rural villages. In 1871 he founded the Guild of St George with these social objectives, and appealed for land donations and funds to construct village housing and build or repair village halls, barns, mills and farm buildings. Under the guild, land donated was held in trust and tenants rented properties on long leases at an affordable fixed rent with a option to buy. The fixed rental system was designed to be lowered as the land was improved.

A core principle of this early community land trust was that land made available to a family or tenant was restricted to the amount of land the occupiers could cultivate themselves. It was an abiding ethical rule that construction and any subsequent improvements had to use local labour and local materials for the sake of local economic and environmental self-reliance.

The success of the Guild of St. George was in practice limited to a handful of small projects. These included eight stone cottages and allotments constructed for fishing families on donated land in Barmouth, west Wales in the 1870s; the development of a small hamlet at Totley, on the outskirts of Sheffield; the rescue and redevelopment of two mills at Langdale and Huddersfield in Yorkshire; and the establishment of a pottery works in Worcestershire. Ruskin's real success was in being the first to pioneer the idea of a 'trusteeship company' – a distinctive form of social enterprise whose purpose as a business was not profit but to secure 'enduring community benefit' for local people.

These efforts motivated others to pick up the challenge of a land trust company.

The most ambitious land trust system was developed conceptually by Ebenezer Howard. Howard sought a system to 'capture the unearned increment' of property development in perpetuity for community benefit. He drew his ideas specifically from those thinkers who inspired or were pioneers in the co-operative movement. He led the foundation of the Garden City Pioneer Company Ltd in July 1902 and secured its initial share capital of £20,000. The main purpose of this company was to find sites for the first Garden Cities, and to buy them at agricultural prices. Letchworth was identified as the first site, and a separate 'co-operative land society', First Garden City Ltd, was launched in September 1903 as an Industrial and Provident Society.

Howard achieved enormous success with his ingenious and ambitious plans for self-sustaining cities. At Letchworth, a Garden City of 33,000 people was established and still thrives today. Operating profits on 5,300 acres of urban and rural land from a range of social enterprises have been captured for community benefit. These surviving five companies today comprise Letchworth Garden City Services, Letchworth Garden City Farms, Garden City Technologies, Letchworth Cottages and Buildings, and the Broadway Cinema. The Industrial and Provident Society is still the freeholder of much of the land within the city boundaries. This generates an annual income of £6m 'for community benefit' from rentals on offices, shops, farms and factories.

The 'co-operative land society' concept of Letchworth was abandoned for nearby Welwyn Garden City, founded in 1920. This second Garden City was based on public land and was part of the New Town movement to provide 'homes for heroes' to house troops returning from the First World War. This approach supported the new national policy of council housing, which looked to the state to provide capital and to lead housing provision, rather than for local citizens to do so. It would be more than 70 years before grassroots action in Scotland in the early 1990s reintroduced community land trust practice in a conscious and purposeful way.

Pat Conaty

new economics foundation

CLTs elsewhere

Community ownership and control of land has had a much higher political profile in Scotland than in other parts of the UK, until recently. Numerous community buy-outs and projects have now been developed. For further details please see section 1.3.1 and www.hie.co.uk. The CLT movement has been growing in strength in the USA since it was pioneered by Bob Swann in the 1960s, inspired by the Land Gift movement in India. For a full history of community land trusts see www.communitylandtrusts.org.uk.

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