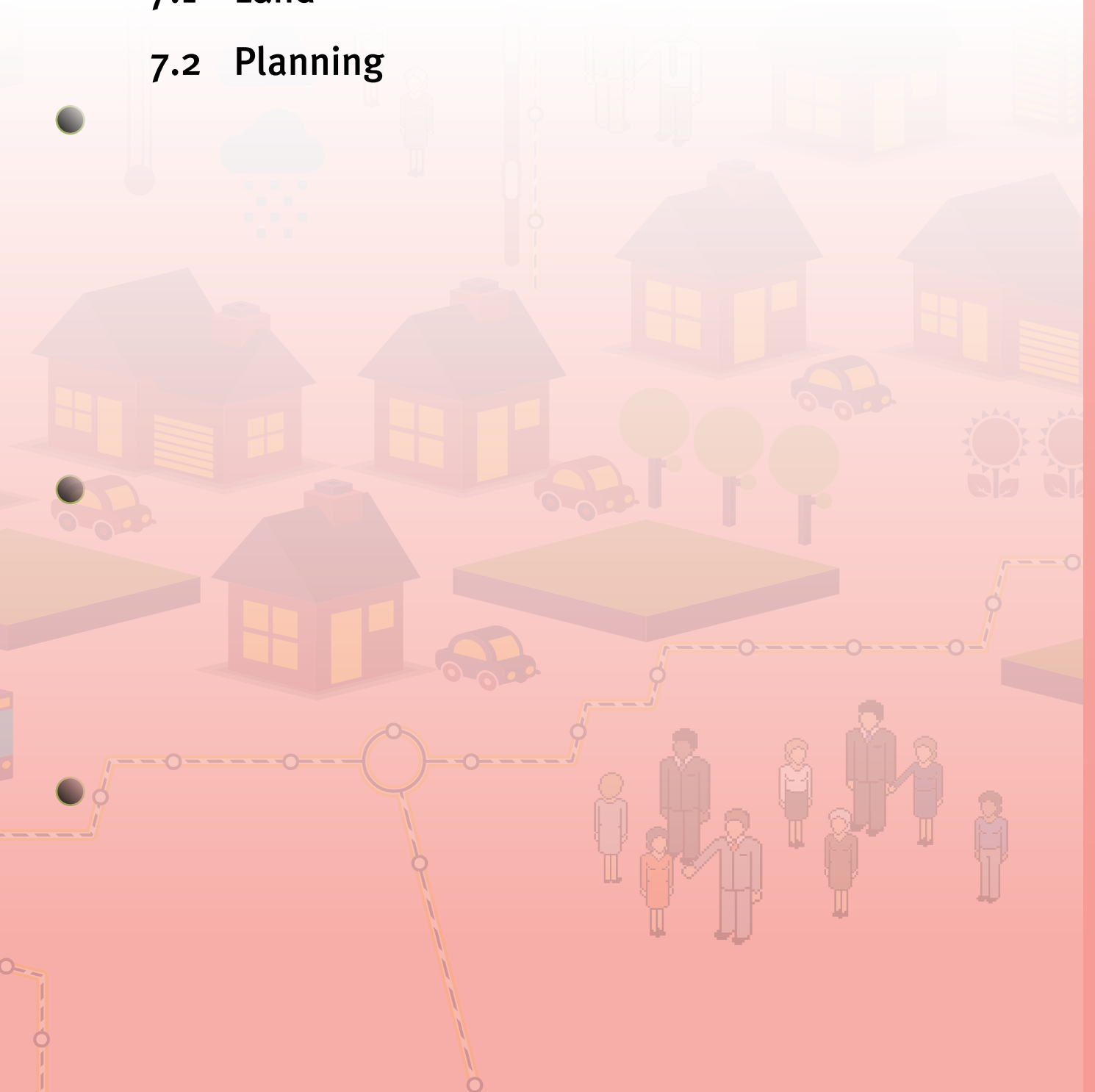


## Land and planning

**CASE STUDY** Cashes Green CLT

7.1 Land

7.2 Planning



**‘We don’t want to sit  
back and accept things  
being done to us. We  
say stop, say no, and  
change the situation  
for the better’**

Homebaked CLT steering group

# CASE STUDY

## Land and Planning: Cashes Green CLT

Cashes Green CLT, which was formally launched in April 2012, has been the project of Gloucestershire Land for People, the county's umbrella CLT, since 2006.



Cashes Green CLT

The Cashes Green site, once a hospital whose growing land had been made available to local residents for allotments, was closed by the NHS in 1994. The site was left derelict. Ten years later, with an established need for affordable housing in the area, there was a clear public aspiration to regain the use of the land. Owned by the Homes and Communities Agency (HCA), the HCA required that a local CLT be established as part of the redevelopment of the site.

Cashes Green CLT is now involved in the redevelopment in partnership with developer Haboakus, a joint venture between Hab, the development company founded by Kevin McCloud and GreenSquare Group.

The scheme will build 78 homes on the site, of which half will be affordable homes, and half will be offered for sale on the open market. The designs reincorporate some of the former hospital buildings, and arrange the neighbourhood around a central square and street with shared access space. The rest of the site will be used to provide growing space, including formal allotments and edible landscaping. An “ecological zone” has been set aside to protect a badger set, and a communal building will serve on-site growers. Detailed work is underway on an electric car facility and electric bikes on-site.

GreenSquare Group has acquired the land and licence to develop from the HCA, and is responsible for pre-development costs and securing development finance. On completion the HCA will transfer the land to the GreenSquare group, who will then transfer the freehold to the Cashes Green CLT, except the homes offered for open market sale. Cashes Green CLT will then lease this land back to GreenSquare Group, who will maintain the site and manage the affordable housing, through contracts with the Estate Management Board, run by the residents. The long term aim is for the CLT to take on ownership of some or all of the affordable houses in the future, when it has the capacity and desire to do so.

The project follows significant engagement with local residents by Gloucestershire Land for People, which resulted in the CLT being an important stakeholder in the developmental process. The CLT has a clear vision to use the income derived from the site for the long-term benefit of local residents, and is committed to meeting housing, employment and community needs on terms the community can afford.

Visit [www.cashesgreenc.lt.co.uk](http://www.cashesgreenc.lt.co.uk) or [www.haboakus.co.uk](http://www.haboakus.co.uk) to find out more.



## 7.1 Land

The first issue faced by Community Land Trusts (CLTs) is that of land availability and the route to acquiring it for housing or other asset development.

A CLT may already have a site or property in mind or, quite often, the site itself can be a catalyst to wanting to set up a land trust. However, the community will need to avoid pursuing a single site or property at the expense of exploring alternative sites, and should consider establishing a list or register of sites.

Recent changes in legislation, particularly through the Localism Act (2011) may bring new opportunities for CLTs to identify and acquire land and other assets for community benefit.

### Identifying land and property

A CLT may find that land will come forward from local landowners who are swayed by the emphasis that CLTs place upon meeting local needs and the assurance that the land and homes will be stewarded in perpetuity for the benefit of the local community.

There are three principle sources of sites for CLTs, allocated sites, which could include public land for regeneration sites, windfall sites and Rural exception sites.

Local authorities are expected to plan for growth by maintaining an adequate supply of housing land to meet the full need for market and affordable housing within the overall market area. The need must be objectively assessed and founded on evidence contained in a Strategic Housing Market Assessment. The National Planning Policy Framework (March 2012) states that local authorities should 'identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their

housing requirements' with an additional buffer of 5% to ensure choice and competition in the market for land or, in areas where there has been a record of persistent under delivery of housing, this buffer is increased to 20%.

Local authorities are also required to carry out a Strategic Housing Land Availability Assessment (SHLAA) to establish realistic assumptions about the availability, suitability and the likely economic viability of a range of sites to meet the identified need for housing over the plan period. From this assessment sites will be allocated in a 'Sites and Allocations Development Plan Document', which identifies specific deliverable sites that will form the authority's five year land supply and further sites that will be part of its longer term site supply.

In some cases the local authority will also have an allowance for windfall sites. These are sites that are not currently identified but which, if they meet stated requirements, will be considered for development.

The Local Plan and Development Plan Documents will also include policies that set out the size of site from which an affordable housing contribution will be required and the level of that contribution. Normally, this is in the region of 20-35% but sometimes up to 50%.

A CLT will need to know which sites have been allocated for development, the policies covering release of windfall sites and any requirements, in particular what proportion of the scheme should be affordable housing. These all have a bearing on the cost of the land and the room for negotiation on what is provided and the price of the site. A CLT could undertake the market and affordable housing themselves or, alternatively, they could work with a private developer who sells the market housing and transfers the affordable housing to a CLT at an agreed price. There is more information on this in Chapter 8.

## Rural exception sites

As part of the requirement to respond to housing needs in rural areas, particularly for affordable housing, local authorities will include a rural exception site policy. These are defined in the National Planning Framework (March 2012) as ‘small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of market homes may be allowed at the local authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding’.

The community should establish a list or register of potential sites. This should be discussed with the Local Planning Authority who will need very early involvement in the selection of a site. The Local Planning Authority will often organise a ‘call for land’, advertising for landowners to bring forward sites. These sites will be subject to an initial desktop assessment and then, with the CLT, a visit to assess the deliverability of different sites that have been offered. This is a vital first step to ensure the CLT is pursuing a site that is deliverable in planning, construction and cost terms.

Rural exception sites provide ideal opportunities for rural CLTs to deliver permanently affordable homes as they are generally made available at substantially below market value. Even so, a CLT should bear in mind that in the current financial circumstances, development on exception sites can be difficult to fund without the inclusion of some market housing to cross-subsidise the affordable homes; something that currently not all Local Planning Authorities allow. However, the NPPF does encourage limited cross subsidy, as the definition above sets out. As the NPPF is a ‘material consideration’ that a planning authority must take into account when deciding on a planning application, they may be willing to accept a small amount of market housing even though this provision is not made in their Local Plan.

Planning permission will only be granted for rural exception site development where arrangements are in place to secure the affordable housing for local people in perpetuity. This is usually secured through a Section 106 agreement under the Town and Country Planning Act 1990, which is a contract between the local authority and the CLT and, as set out in Chapter 3, defines what is meant by ‘affordable’ and ‘local needs’.

## Section 106 sites

Alternative sources of land are **Section 106 sites**. Local Plans usually require private market housing developments to incorporate a quota of affordable housing into their schemes, normally 20-35% but sometimes up to 50%, as part of the development or off site. These sites are normally developed by housing associations but CLTs may be able to bid for these sites and should consult with their local planning authority to explore this option. The CLT may need to be registered as a Registered Provider with the Homes and Communities Agency (HCA) in order to qualify for acquiring the affordable housing under these agreements.

## Land or buildings in public ownership

The local authority or public body may be persuaded to transfer or sell to a CLT land or buildings that are in public ownership for ‘less than best (financial) consideration’ because of the social, economic and environmental benefits that would result from CLT development. The Royal Institution of Chartered Surveyors (RICS) issued best practice guidelines to local authority and public sector institutions that identify the typical processes that might have to be followed to justify such an action. Refer to the RICS website for further information: [www.rics.org](http://www.rics.org). Locality’s Asset Transfer Unit can also provide guidance on the justification of transfer and the transfer process itself. Refer to the website at [www.atu.org.uk](http://www.atu.org.uk).

## Regeneration schemes

In urban areas, sites may come forward that are part of **regeneration schemes**, which can involve the refurbishment or redevelopment of existing properties. However, it is important to note that competition for these sites may be fierce. In growing cities, such as London, land value could be out of reach for a community group. Obtaining a site may be more possible by delivering the affordable housing contribution that has arisen out of the Section 106 agreement for a larger development and/or entering into a partnership with a housing association or developer.

Some additional tips for finding a site, as outlined in ‘So You Want to Build a House’ (David Bretell, DTA 2009), include:

- Advertising in a Parish magazine or alternative local press
- Using local networks
- Working with the local authority to explore potential sites
- Undertaking Land Registry searches.

As set out in Chapter 5, the potential of any site or property for CLT development will need to be carefully assessed.

## Land acquisition

Once the CLT has completed its financial appraisals and the Board and wider membership of the CLT has approved proceeding with a particular site or property, the CLT may be in a position to complete the purchase of the site or property. However, before doing so, the CLT will need to satisfy itself of all the physical and legal characteristics of the site.

### Pre-acquisition checks

The following factors must be established by the CLT or agent:

- 1 Site area and topography
- 2 Ownership and condition of boundaries of the site – a solicitor will need to be instructed to establish that the acquisition and development boundaries are the same

- 3 Ground conditions – a specialist geotechnical consultant should undertake this work
- 4 Access to and through the site
- 5 Services to and through the site
- 6 Existing features of the site (e.g. trees, buildings etc)
- 7 Current site occupation.

For more information on this please see ‘Developing Affordable Housing: a guide to development and regeneration’ (National Housing Federation, 2nd Edition, 2009)

### Legal title

A CLT should only acquire a site where they have proof that the seller owns the site and has the right to sell. This will be determined by a Solicitor undertaking a number of searches to verify the title of the property or site.

Land or property may be purchased freehold or leasehold. Freehold offers the greatest amount of security for a loan, whereas with leasehold valuation or security will depend on a number of factors, including the length the lease has left to run and any restrictions or covenants that control or restrict the use of the land. CLTs should look to purchase the freehold of the land, in order to be able to guarantee long-term affordability of the homes or assets developed on the site. However, this may not always be possible. The CLT also needs to consider carefully any obligations or covenants which affect the land transferred to it that may restrict the use of the land to affordable housing. This will impact on saleability and mortgageability in the same way as similar obligations in a Section 106 agreement.

### Option Agreement

If the CLT needs to buy a bit more time to get to a position to be able to purchase the site or property, it may wish to request an Option Agreement on the site that provides the future opportunity to buy the site or property prior to purchasing the site. Note that this involves a cost, which can be significant.



## 7.2 Planning

### National Planning Policy and the Localism Act

The planning system underwent a considerable overhaul in 2011/2012. National planning policy was condensed and is now contained in the **National Planning Policy Framework** (March 2012). The framework has at its heart a ‘presumption in favour of sustainable development’. This means that, for decision-making, local planning authorities need to approve development proposals that accord with the development plan without delay and, where the development plan is absent, silent or relevant policies are out of date, grant permission.

Every local planning authority has to prepare a Local Plan. This is a collection of documents that sets out the local plans and policies in the area. It must ‘have regard’ to the National Planning Policy Framework.

The Localism Act 2011 introduces another tier of planning, **Neighbourhood Planning**. This gives communities direct power to develop a vision for their area and dictate the type and locations for new development through a ‘neighbourhood plan’.

The Act also provides for Neighbourhood Development Orders and Community Right to Build Orders. Neighbourhood Development Orders can be brought forward by a Parish Council or Neighbourhood Forum. Community Right to Build Orders, in contrast, can only be brought forward by a community organisation. The latter is particularly relevant for CLTs as it gives community organisations

the right to grant planning permission for a specific type of development on a specified site. Neighbourhood Plans cannot promote less growth than in the Local Plan and like Neighbourhood Development and Community Right to Build Orders they have to be in conformity with the local plan; be subject to independent scrutiny; and have the support of more than 50% of those voting in a local referendum.

An excellent Plain English guide to the Localism Act is available online at [www.communities.gov.uk/publications/localgovernment/localismplainenglishupdate](http://www.communities.gov.uk/publications/localgovernment/localismplainenglishupdate). For more information on the Community Rights, see Chapter 10.



Homebaked CLT bakery, Anfield, Liverpool

## Obtaining planning permission

Early consultation with the Parish Council and the rest of the local community is absolutely essential. This can take a variety of forms including informal meetings, exhibitions and formal consultation events. There is more information on community engagement in Chapter 2: Starting out.

Before any development can commence, planning permission is required. A site should not normally be acquired before at least outline planning permission has been obtained. This is because what is permitted on the site impacts very significantly on the value of the land. Entering into either an option agreement or a conditional contract may be a way around this.

Planning permission can be obtained in two ways: applying for 'outline permission' on the site, to see if it is acceptable in principle, or applying for 'full permission'. An outline planning application covers at least use and layout and has the advantage of detailed drawings not being needed. This would then be followed by a 'reserved matters' application. A full application is appropriate in cases where work is needed to start quickly.

In determining the planning application, the local planning authority must take into account 'material considerations' relating to the application, giving precedence to policies in up to date and relevant Local Plans.

If the scheme is small (ten units or less), the Local Planning Authority should consider the application in eight weeks or less. Larger applications should be decided upon within 13 weeks.

For major applications, the information requirements in order for the application to be registered and /or considered can be onerous. They can include the following documentation below. This list is by no means exhaustive.

- Design and access statement
- Daylight assessment
- Planning statement
- Tree quality report
- Economic statement
- Archaeology statement
- Ecology survey and report
- Land contamination assessment
- Sustainable design and construction statement

Before proceeding with an application the CLT should check with the local planning authority to determine the extent of work required.

Early conversations with the Local Planning Authority are therefore highly advisable.

A good source of additional information on planning can be found on the Planning Portal: [www.planningportal.gov.uk](http://www.planningportal.gov.uk)

