



# Communities Taking Control:

## Final Report of the Cross-sector Work Group on Community Ownership and Management of Assets



ODPM is currently leading the development of a Government-wide strategy for the future of local government across England. An introductory document 'The Future of Local Government – Developing a 10 Year Vision' was published in July 2004. The present document forms part of a series of documents which are being published to inform the overall vision and the specific issues to be considered within it.

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## Introduction

The Government is committed to expanding opportunities for communities to manage or own physical assets. As part of ODPM's *local:vision* programme and the Government's Together We Can action plan, a Work Group examined how this could be taken forward. This report presents the Group's key findings and recommendations.

The members of the Work Group, set up in mid 2005, were drawn from Government departments, key voluntary and community sector agencies, the Local Government Association and the private sector. Their knowledge and expertise has contributed to a very valuable and practical report, and we are most grateful to them for their input. The report is being considered by the Neighbourhoods Project Board set up following the publication of the ODPM/Home Office paper, '*Citizen Engagement and Public Services: Why Neighbourhoods Matter*' in January 2005. This outlined initial proposals for offering new opportunities for neighbourhoods everywhere.

*Local:vision* is the ongoing and inclusive process of Government-wide debate with local government and key stakeholders on the future of local government which aims to generate a shared vision for the future of local government, to secure continuous improvement in public services and to achieve better outcomes for people and places. So far the debate has generated productive ideas on local leadership, neighbourhoods and a new performance framework.

Together We Can sets out the Government's commitment to empower citizens to work with public bodies to solve problems and improve the quality of community life. Revitalising Neighbourhoods is a key strand within the Together We Can action plan.

The recommendations presented here are not agreed policy. The Government continues to consider these issues as it prepares the Local Government White Paper, to be published later this year. We are keen to hear your views on the ideas presented here. You can contact us with comments until 12 May 2006 at [neighbourhoods.localvision@odpm.gsi.gov.uk](mailto:neighbourhoods.localvision@odpm.gsi.gov.uk).



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# 1. Executive Summary

1.1 Over the last three years, the Government has identified community ownership and/or management of physical assets as having an important role to play in the achievement of a number of key objectives. These include the development of active communities and civil renewal, the growth of social enterprise, the development of community anchor organisations, an improvement in the quality of neighbourhood level services, and an increase in citizen engagement in neighbourhoods.

1.2 As part of the Office of the Deputy Prime Minister's (ODPM) *local:vision* programme, a cross-sector Work Group was set up in mid-2005 to 'identify ways in which an expansion in the ownership and/or management of physical assets by communities can be promoted and supported, so as to further the objectives of the Neighbourhoods Project'. The Work Group was chaired by the Home Office, and involved members from Government departments, key voluntary and community sector agencies, the Local Government Association (LGA) and the private sector.

1.3 In tackling its task, the Work Group commissioned research into the benefits of community ownership and management of assets. We then considered the scope of current community ownership and management of physical assets (by which we meant land and buildings), the legal and financial parameters, the available legal structures, the costs and risks involved, and the resulting funding and capacity building needs and provision. We finally considered a range of possible options, and agreed recommendations for action, which are summarised below.

1.4 It is important to stress that we did not make the assumption that community ownership or management of physical assets is always the best solution. It will depend on the circumstances, and is always a matter of judgment, taking into account the costs and risks involved. However, our brief was explicitly to consider ways of increasing community ownership and management, in the belief that there is good evidence of the benefits to be obtained, and also of the unnecessary legal, financial and information barriers that can get in the way. All of our work

confirmed this belief, and our recommendations set out practical proposals for positive change.

## Proposals for early action

### *A promotional campaign*

1.5 We recommend that Government takes the lead in developing a comprehensive and high profile promotional campaign to highlight to local authorities, other public bodies and communities:

- a) The wide-ranging benefits of community management and ownership of assets, including how transfer of assets can help local authorities achieve their wider priorities;
- b) The importance of public bodies taking a community development approach to their assets;
- c) The range of existing legal powers and provisions under which assets can be transferred by public bodies to communities on favourable terms.

### *Incentivising action and removing barriers*

1.6 We recommend that early consideration be given to two initiatives:

- a) The creation of an Incentive Fund to support asset transfer;
- b) The promotion of greater awareness and application of the Treasury's recent advice on the relaxation of clawback rules.

## Proposals for further examination

### *Community Right to Buy*

1.7 We are convinced in principle of the potential benefits of the introduction of a Community Right to Buy in England, and therefore recommend that:

- a) Further consideration should be given to the principles and practicalities of introducing a Community Right to Buy in England, with a view to consulting on proposals during 2006;

- b) A campaign of engagement should be undertaken amongst key stakeholders to achieve their support for the proposals being developed.

### **Charitable funding**

1.8 We recommend that further consideration be given to questions relating to the disbursement of charitable funds to organisations which are not formally charitable, but which are promoting community benefit, such as those that may be constituted as Community Interest Companies (CICs).

### **Housing**

1.9 We recognise that there may be scope for expanding and broadening examples of community management (and possibly ownership) in the housing field, and recommend that ODPM initiates discussions with the Housing Corporation and others to consider what more might be done to facilitate development in this field.

## **Proposals with wider links**

### **Funding**

1.10 We recommend that, beyond the specific proposals contained in this report, the Government gives comprehensive consideration to the funding required to promote a significant increase in community ownership and management of assets as part of the work of the Local Community Sector Taskforce (LCST), and that the LCST report to be presented to the Deputy Prime Minister and the Chancellor in Spring 2006 addresses this question and makes recommendations.

### **Capacity building**

1.11 We recommend that ODPM and the Home Office together take the lead in promoting a greater awareness amongst central and local government bodies, and other stakeholders, of the vital importance of appropriate capacity building to support an increase in community ownership and management of assets, and that this initiative builds on the relevant priorities for action set out in *Firm Foundations: The Government's Framework for Community Capacity Building* (Home Office, 2004), and forms part of a more coherent approach to community capacity building as a whole across Government.

In considering these recommendations, the ODPM Neighbourhoods Project Board will wish to consider how they might be taken forward, both as part of the *local:vision* programme, but also as appropriate in other ways.

## 2. Policy Context and Objective

2.1 The 2005 Labour Party Manifesto stated:

*'...we will offer neighbourhoods a range of powers from which they can choose, including new opportunities for communities to assume greater responsibility or even ownership of community assets like village halls, community centres, libraries or recreational facilities'.*

2.2 *Firm Foundations: The Government's Framework for Community Capacity Building* (Home Office, 2004) includes amongst the specified actions to bring about change:

*'Facilitate the appropriate transfer of assets to community anchor organisations, by raising awareness amongst local authorities, encouraging consistent application of the rules, reviewing the basis on which the purchase of assets is funded, and building management capacity in the sector.'*

2.3 In 2003, the Department of Trade and Industry (DTI) published the Government's *Social Enterprise Strategy Social Enterprise: a strategy for success*. This asserted: 'Physical assets, such as community centres, parks and redundant buildings, are of critical importance to the development of active communities and viable community-based enterprise'. The Strategy committed the Government to exploring 'how best to address any real or perceived barriers to the transfer of assets to social enterprises'. This commitment has been subsequently picked up in the remit of the Finance Hub, established under the Home Office-funded ChangeUp programme.

2.4 *Citizen Engagement and Public Services: Why Neighbourhoods Matter* (ODPM and Home Office, 2005) identified community ownership and/or management of assets as one route for improving public services and engaging citizens more directly in the process. As part of the process of considering how to take *Why Neighbourhoods Matter* forward, ODPM's Neighbourhoods Project Board set up a

cross-sector Work Group on Community Ownership and Management of Assets to examine the issue and report back<sup>1</sup>. Our objective was:

- To identify ways in which an expansion in the ownership and/or management of physical assets by communities can be promoted and supported, so as to further the objectives of the Neighbourhoods Project.

2.5 In tackling its task, the Work Group commissioned research into the benefits of community ownership and management of assets. We then considered the scope of current community ownership and management of physical assets (by which we meant land and buildings), the legal and financial parameters, the available legal structures, the costs and risks involved, and the resulting funding and capacity building needs and provision<sup>2</sup>. We finally considered a range of possible options, and agreed recommendations for action.

It is important to stress that we did not make the assumption that community ownership or management of physical assets is always the best solution. It will depend on the circumstances, and is always a matter of judgment, taking into account the costs and risks involved. However, our brief was explicitly to consider ways of increasing community ownership and management, in the belief that there is good evidence of the benefits to be obtained, and also of the unnecessary legal, financial and information barriers that can get in the way. All our work confirmed this belief, and our recommendations set out practical proposals for positive change.

<sup>1</sup> See Appendix A for the membership of the Work Group.

<sup>2</sup> See Appendix B for a diagrammatic representation of this work in relation to other areas of policy development.

## 3. The Benefits of Community Ownership and Management of Assets

### 3.1 *The wider context*

In approaching our task, we recognised the importance of considering in depth the benefits, and also the costs, of community ownership and/or management of physical assets, and of doing so within the wider context of community activity as a whole. We therefore commissioned, through the Development Trusts Association (DTA), a team from London Metropolitan University, led by Stephen Thake, to undertake a short-term study and report on this topic to us. The final report, with illustrative case studies and a literature review, will be published in Spring 2006. Elsewhere in this report, we address the costs of promoting community ownership and management. In this section, we draw on the work of the London Metropolitan team to summarise briefly the benefits of community ownership and management.

### 3.2 *Community benefits*

There can be significant direct and indirect benefits for the community in which an asset may be situated:

- Users of assets that are in the control of the community, whether individuals or groups, are better able to plan for the future.
- Wealth creation activities, often deliberately aimed to create jobs for local people, will directly bring increased income and improved health within the local community.
- Wealth creation and the revaluing through new use of an existing facility, be it a centre, a shop, a housing estate, or a school, can have a powerful multiplier effect. It can restore confidence in that place, it can restore the viability of local businesses, it can help to reverse the exodus of residents and businesses, it can help to restore land values and attract new investment.

- The surpluses generated for the community organisation remain in the community and can support innovative projects through small grants and the availability of community facilities and development support.
- The buildings that are taken over by communities will often occupy iconic status in that community. Restoring them to productive use, that directly addresses current local needs, can give a significant psychological boost to local communities, giving them a new hope in their future.
- It can provide a means for communities to take practical steps that deliver social, economic and environmental benefits through integrated action, i.e. grass roots implementation of sustainable development.

### 3.3 *Benefits to external stakeholders*

Local service-providers can also benefit both directly and indirectly from community ownership and management of assets in a number of ways:

- Local service providers may find themselves with a local partner which can tap resources they cannot, complement the services they provide, and act as a channel for user and community feedback in response to service provision.
- Asset-based organisations can often offer a base for neighbourhood-based service provision, making it more accessible to local people. This is particularly important in rural areas.
- Asset transfer can enable community organisations to support a public body in delivering its objectives in ways that are more community-responsive and more closely related to local needs.

- The impact of the community benefits described above will have a direct and positive effect on the pressures experienced by local services, such as the health service, welfare support, education and the criminal justice system, enabling them to focus their resources on the highest priority needs.

#### 3.4 *Organisational benefits*

The benefits to a community organisation are immense. They can be listed briefly as follows:

- Embarking on the journey towards asset ownership and the related sustainability brings hope to an organisation, and greater confidence in a secure future.
- Effective asset ownership and management requires a transformation in the culture of an organisation, in terms of management capacity and organisational development.
- Acquiring the necessary finance and meeting the legal requirements will bring an organisation into contact with a wider range of players both locally, and often well beyond the locality, opening new horizons to those involved.
- Organisations will be opened up to external scrutiny, which will be a difficult, but important threshold to overcome.
- Capital asset ownership gives an organisation status and recognition, and indeed power, which it would not otherwise have, which is particularly important in giving it the confidence to plan for the future and form long-term relationships.
- Ownership of a capital asset can be one of the key factors in providing collateral for further borrowing, in levering in additional assets, and generating surpluses to finance new activity, thus providing a springboard for further growth.

## 4. Analysis of Current Position

### 4.1 *Community buildings and other non-residential assets*

There are various types of non-residential building already in the ownership or management of community-led organisations. The spectrum extends from largely volunteer-run community buildings providing a vital but often low-cost and low-key service to their community at one extreme to ambitious, asset-based enterprise premises at the other. Typical organisations at different points on the spectrum might be:

#### *At one end of the spectrum – Low cost, volunteer-run*

- **Village or community halls** – usually run by voluntary management committees, often with no paid staff. There are 8,900 village halls across the rural areas of England<sup>3</sup>. Others might be church halls or other faith group premises, or halls run by other local community organisations, such as uniformed organisations or tenants associations. Some may be in the freehold or leasehold ownership of village hall committees, community organisations, faith groups, local trusts or parish councils. Others may be licensed from a statutory or charitable body. Many may be self-sufficient in revenue terms, but most will need grant support for the kind of capital work that may be needed to renovate and modernise, to ensure they are equipped to respond to current needs and to attract in new, more diverse users.
- **Rural shops and service outlets** – usually run on a volunteer basis or with some local part time paid employment. Service in the broader sense includes shops, post offices, pubs and transport facilities especially if local provision is not viable to enable reasonable access to services.
- **Community centres** – often run by Community Associations, with no or few paid staff, but with a more explicit community development objective than many smaller community halls. Community Matters (the national network of community centre-based organisations) estimates that there are around 4,500 across England and Wales, mostly in urban areas. Over 50% are owned by local authorities and leased or licensed to community associations. Some rely on rental income, others on subsidy from trading profits, others from grant support, particularly in more deprived areas. Capital grant will be needed for capital works, as with village and community halls.
- **Building preservation trusts** and other similar charities which have taken on and developed redundant historic buildings as a community facility and resource (examples, some dating back to before the Second World War, include town halls, swimming baths, schools, libraries). Development may have been funded through grants or loans.
- **Multi-purpose settlements and social action centres** – most will provide a base for a range of funded projects with professional staff. Over 100 across Britain are networked through bassac (the British Association of Settlements and Social Action Centres). They receive a mix of income from charitable fundraising, project grants and rental. Building ownership varies.
- **Development trusts and community enterprises** – community-led organisations with an enterprise base, using buildings both as a resource for community activity and as a way of generating independent income. Building use might include social and community facilities, workspace for small businesses and community organisations, office space, retail premises, training facilities and even housing (but see section 4.3 below).

<sup>3</sup> See Appendix C for a note on Rural Community Buildings.

The DTA has 350 members, and estimates that 1,500 community organisations might attempt the enterprise route over the next seven years.

### ***At the other end of the spectrum – Expanding enterprise-based organisations***

Organisations at the two ends of the spectrum have very different funding and capacity building needs which need to be clearly differentiated. The concept of a ladder can be helpful, with some organisations moving further up the ladder than others and different sorts of intervention and support being required at different points. At the same time, it is very important to recognise that many village and community halls and community centres may not wish to or have the capacity to move from their present scale of operation, where they may be fulfilling a very valuable role, of benefit to their neighbourhood or community.

#### ***4.2 Open space<sup>4</sup>***

A key conclusion from the Urban Green Spaces Taskforce report *Green Spaces, Better Places* (2002), and the Government's response *Living Places – Cleaner, Safer, Greener* (2002), was that it is the quality, rather than the quantity, of public space that needs to be enhanced. It has been shown that greater community involvement can contribute significantly to an improvement in the quality of public open space. However, there are two features of open space which make them rather different from non-residential buildings, when community ownership and management is being considered. First there is less potential for rental or earned income from most normal uses of public open space. This means that, given the significant cost of management and maintenance, there is less potential for community owned open spaces becoming financially self-sufficient, and a greater likelihood that they will continue to need grant subsidy. Second, the provision of public open space across a local authority area or a sub-region requires strategic co-ordination, to ensure that different, and possibly conflicting, user groups can have their needs met within the total provision. (Planning Policy Guidance Note 17 encourages local authorities to undertake a strategic approach in urban areas

particularly). This suggests that there may in many cases be a stronger case for community management, with the local authority or other public body retaining ownership, rather than community ownership as such.

Nevertheless, there is to an extent a similar spectrum of scale and potential within public open space as there is for non-residential buildings (see section 4.1 above). Of course the position of undeveloped land (as opposed to open space) is very different, as it may offer the opportunity for building development, and therefore move the land and the organisation owning or managing it into the spectrum of activity described in section 4.1 above.

#### ***4.3 Housing***

There is a long history of community management, and sometimes ownership, of housing stock. This has happened mainly through housing associations or Registered Social Landlords (RSLs), or through Tenant Management Organisations (TMOs). There is now also the hybrid option of Arms Length Management Organisation (ALMO), to which some local authorities are transferring management of their housing. RSLs vary in the degree to which they are resident owned and/or managed. TMOs explicitly involve management by the tenants, and their development has been based on the statutory Right to Manage that local authority tenants collectively possess, and has been actively supported by ODPM for some years.

Policies and practices governing the transfer of housing stock from local authorities to other owning or managing organisations are major areas of policy development, as is the developing work on the provision of affordable housing in rural areas. However, we considered these to be beyond the scope of this report, and therefore have not addressed them in any detail. However, we did recognise the wealth of practical experience that resides in the history of tenant management, which we can learn from in promoting community management of non-residential assets. Also, one aspect of current policy was felt to be particularly relevant to our study.

<sup>4</sup> For further background, see Appendix D.

RSLs have for some time been considering and piloting ways in which they can invest more actively in their communities. One possibility could be through an expansion in the number of TMOs, particularly if the Right to Manage was extended to the tenants of RSLs. However, as TMOs are tenure specific and most communities are multi-tenure, an alternative approach is for RSLs (perhaps acting through consortia) to devolve the management and servicing of particular neighbourhoods in which they have a predominant interest to local residents, via a residents' organisation. This could offer the benefits of community management, without contradicting the trend towards larger housing associations utilising the economies of scale from large-scale ownership and financial muscle. Housing and neighbourhood services can be revenue thirsty, but they can also, in some circumstances, be a revenue generator. Housing stock could therefore be, and in a few cases is, one component in an expanding assets portfolio of a more ambitious, enterprise based, community organisation.

### 4.4 *Legal structures*

We have reviewed the existing range of legal structures, or organisational forms, that are available for community groups who own and manage assets to adopt.<sup>5</sup> We believe they will be adequate, and that to legislate to create any new kind of legal vehicle for community ownership and management of assets would only cause confusion. In many cases, a key consideration for local authorities and others will be that the legal structure of the group to whom an asset is transferred should be such that it will be obliged to preserve the asset (or the value that it represents) for the benefit of the community: in other words, that it is subject to some form of "asset lock". Asset locks are a feature of a number of different organisational forms, including in particular:

- **All forms of charity**, which can themselves take a number of different legal forms, including in future, subject to passage of the Charities Bill, the Charitable Incorporated Organisation ("CIO"), as well as the Company Limited by Guarantee, the Trust, and the Unincorporated Association.

- **Community Interest Companies** ("CICs").
- **Industrial and Provident Societies of the "community benefit" type** (for which an enhanced form of asset lock is shortly to be provided by Treasury regulations).

From a practical point of view, we believe there may be a case for wider use of the Community Land Trust model as a particular approach to extending community ownership and management, but feel that it will be important to learn from the experience of current pilots. In any event, the Community Land Trust model works with existing legal forms and we do not think that extending its use would require legislative change.

The Work Group also noted that an asset lock would normally preserve the value of the asset, rather than a specific asset itself. However, a particular building which might be of iconic value could be further protected through legal covenants. The Work Group also noted that the position is more complex in the housing field.

### 4.5 *Existing powers and opportunities*

We reviewed the fairly wide range of powers and opportunities that already exist for local authorities, and to a lesser extent other public bodies, to transfer assets to community ownership or management. These include:

- The 2003 general consent given by the Secretary of State to local authorities to dispose of assets at less than best consideration within certain constraints and conditions.
- The power for local authorities to grant leases of premises at less than market rent for up to seven years, and the extension of this power with regard to premises used for 'recreational purposes' for any period.

<sup>5</sup> A table setting out the options is at Appendix E.

- Planning and compulsory purchase powers<sup>6</sup> – under section 106 of the Town and Country Planning Act (T&CPA) 1990 (as substituted by the Planning and Compensation Act 1991), local authorities can enter into agreements, “planning obligations”, with developers and other parties to address issues relating to a new development. In some circumstances, these may include the provision of community facilities or public open space. Where appropriate, provision for the future management of these facilities can be made by the local authority, the developer or a community trust set up to maintain the facilities. The major areas of housing growth in the south east of England could offer a significant opportunity for the exercise of these powers at the current time.
- Local authorities have a range of compulsory purchase powers at their disposal to acquire land and property for specific purposes e.g. for recreational facilities: s19 Local Government (Miscellaneous Provisions) Act 1976 or for public walks and pleasure grounds: s164 Public Health Act 1875 (both in conjunction with s121 Local Government Act 1972). Section 226(1)(a) of T&CPA 1990 gives local planning authorities a clearer power to compulsorily acquire land that they are unable to acquire by agreement for development, redevelopment or improvement. This power can only be exercised if the proposals are likely to contribute to achieving the promotion of the economic, social and environmental wellbeing of their area. There are other powers which might also be appropriate in certain circumstances. The choice of power in any case is a matter for the local authority to decide.
- The general ‘wellbeing’ power that local authorities (other than parish councils) have to further the economic, social and environmental wellbeing of their area. The transfer of assets to community ownership or management can offer local authorities an important opportunity to exercise this power, and can enable all public bodies a way of contributing to the achievement of their wider objectives (such as community safety, economic development and job creation, improved health, community cohesion) through greater community engagement and involvement.
- The commissioning option that local authorities have to provide a service through the transfer of an asset to community ownership, which may in some circumstances represent the best value option available.
- The responsibility that public bodies have to manage their assets actively and responsibly. Over the last few years, through guidance, performance indicators and exhortation, the Government has promoted more active management of assets amongst local authorities and other public bodies.<sup>7</sup> Local authorities have been encouraged to produce an Asset Management Plan. These efforts have met with considerable success, although practice does still vary considerably from area to area. In 2004 ODPM promoted a Beacon Scheme theme for Local Authority Asset Management, which resulted in five Beacon Councils being chosen. In reviewing the present position, we recognised that in considering their approach to asset management, public bodies face a tension between maximising the financial value of their assets and therefore their use as a resource to help meet the cost of services, and using them in a way that directly supports the achievement of their objectives in other ways. Local authorities in particular face considerable pressure to realise market value of their assets as a means of reducing pressure on council taxes. Considering how these apparently conflicting demands can be balanced and reconciled is an important topic for continuing debate and review.

<sup>6</sup> See Appendix F for a fuller note on Planning Obligations.

<sup>7</sup> See Appendix G for a fuller description of recent developments relating to Local Authority Property Asset Management.

#### 4.6 Funding requirements

We have reviewed the funding situation across the whole range of community ownership and management, and concluded that one of the barriers to the transfer of assets to communities is the lack of funding on the scale and of the type required, both capital and revenue. In particular, we do not believe that mainstream funders, or indeed many recipient organisations at the low cost end of the spectrum, yet fully appreciate the importance of investment funding as a way of building up financially independent asset-based community enterprises which will not require long-term, large-scale grant support.

However, as has been pointed out in section 4.1 above, different types of asset-based organisation require different types of funding. These are broadly summarised below:

- **Low cost, volunteer-run halls and centres**

will often be self-sufficient in revenue terms, though perhaps with a need for varying levels of grant subsidy in areas of disadvantage and for favourable rental terms where they do not own their building. However, they will generally not be in a position to generate a surplus to meet capital funding requirements (e.g. for renovation, extension, replacement, major equipment purchase). They will therefore require capital grant for those purposes. As an example of the scale required, the Department for Environment, Food and Rural Affairs (Defra) has estimated that, based on trends since 1998, at least £50 million will be needed over the next five years in order to meet the cost of necessary capital works on village halls. It is also worth noting that in most of the years between 1998 and 2005, the Community Fund made grants totalling around £60m per year to support capital works on community buildings in urban and rural areas.

- **Expanding, enterprise-based organisations**

will need a range of different types of funding over their journey from grant-dependent body to self-funding enterprise. These can be listed as follows:

- *traditional grant finance* for projects and capital works;
- *patient capital* for asset-building, incorporating business development grants for pre-investment planning and support, seed and working capital, investment grants and loans for implementing asset development plans;
- *social finance* from Community Development Finance Institutions (CDFIs), to further support enterprise development, in the form of loans, particularly in disadvantaged areas and areas of market failure;
- *commercial finance* from banks and venture capitalists, in the form of traditional loans and equity investment, to support social and community enterprises with a proven track record;

One estimate, prepared by the DTA, suggests that a national fund of £150 million is needed over seven years in order to invest in 500 community enterprise organisations so that they can lever in sufficient funding to acquire at least £500 million worth of assets, for community purposes.<sup>8</sup>

- **Public open space** – no estimates are available, but an indication of the level of demand can be gauged from the experience so far of ODPM's Living Spaces grants programme, which has committed £30 million over the three years 2003-6, to support neighbourhood groups wishing to take action to improve their local environment, including the places and spaces where they live. After just 10 months, nearly 10,000 application packs had been sent out. Given the fact that public open spaces in general will require continual investment and maintenance expenditure, and will not command significant rental income, one possible solution could be the creation of endowment funds to meet their funding needs in perpetuity.

<sup>8</sup> Appendix H explains the basis for this calculation in more detail.

One of the advantages of transferring assets to community ownership or management is that this can unlock access to charitable and other funds which would not otherwise be available. There are a number of actual and potential sources of such funding. Examples include:

- **The Big Lottery Fund**, which has recently announced a £50 million Community Buildings Fund over the next three years. This will go some way to meet the needs particularly of the smaller halls and centres, though the figures presented to us suggest that significant other national sources will also be needed.
- **The Adventure Capital Fund (ACF)**, supported by the Home Office, ODPM and DTI, which offers patient capital to community enterprises, and which has since 2002 commanded an investment fund totalling £15 million.
- **Futurebuilders**, established by the Home Office to invest in capacity building for voluntary and community organisations to deliver public services. £215 million will have been made available for the period to 2008, and the experience to date is that 80% of the total sums invested has been spent on property acquisition.
- **Regeneration programmes**, including New Deal for Communities (NDC) (though these only operate in 39 already defined neighbourhoods), and the Regional Development Agencies' Single Pot (which is however intended to address a range of priorities and not primarily community regeneration).
- **Commission on Unclaimed Assets** – we are aware that this Commission is currently giving consideration to the most appropriate uses for the unclaimed assets held by banks and building societies. We believe that investment by grants or recyclable low-cost

loans in the acquisition and development by community organisations of revenue-creating assets is one very appropriate use for these funds.

- **Banks and Community Development Finance Institutions (CDFIs)**, operating at the commercial end of the market, including Charity Bank, Unity Trust Bank, Triodos Bank, and the Local Investment Fund, as well as clearing banks such as NatWest/Royal Bank of Scotland. These will normally only be of relevance to a relatively small number of organisations which are beginning to or have developed into robust enterprises, though there are also some examples of lending to Community Land Trusts.

Because of the difficulty of securing funding for asset-based projects, and the fact that more often than not, a package of funding from a number of sources will be required, community organisations often lose out to commercial buyers when a suitable asset becomes available on the market. In order to tackle this barrier, we considered the early experience of the Community Right to Buy legislation in Scotland and how similar legislative provisions might appropriately be introduced in England.<sup>9</sup>

We are also aware that community enterprises which adopt the new CIC legal form may not be considered eligible for charitable funding from trusts and foundations, but that there is some difference of interpretation on this point, which would merit further consideration.

We have also been aware that the Local Community Sector Taskforce (LCST), set up following the 2004 Budget, has been examining the wider question of the funding requirements of the community sector as a whole, of which our brief is only a part, and is due to report to the Chancellor in Spring 2006. We believe it is essential that our report is considered alongside the LCST's report, and a coherent approach adopted by the Government to the funding requirements of the community sector, and of community capacity building.

<sup>9</sup> Appendix I summarises the analysis and conclusions of the Work Group on this topic.

#### 4.7 *Clawback*

Apart from the availability of finance, the other significant financial barrier to asset transfer has in the past been the relative inflexibility of clawback rules. These have meant that, where a public body was making a grant to a voluntary or community organisation for asset development, the public body could claw back the proceeds if the asset were to be sold, or any profit generated by its use. This has had a very substantial disincentive effect on enterprise, and has also prevented organisations from using the asset as collateral for borrowing for further asset development.

We therefore warmly welcomed the recent relaxation of the clawback rules introduced by the Treasury.<sup>10</sup> We are further encouraged by the proposed application of this new approach by ODPM to NDC projects, which acknowledges the protection afforded to public benefit by the existence of an asset lock in the grant-aided organisation. We consider it important to encourage both Whitehall departments and also local authorities to review their clawback rules and take the opportunity to reflect the recent advice circulated by the Treasury, and the example being set by ODPM in relation to its NDC projects.

#### 4.8 *Capacity building*

All the evidence that we considered confirmed the view that the effective transfer of assets to community ownership or management depends as much on the availability of appropriate capacity building as on the availability of funding. The Adventure Capital Fund (ACF), for instance, has shown that a programme of pre-investment and post-investment support has been crucial in ensuring that organisations are equipped to make use of the investment finance being offered, in other words revenue investment is necessary to support and enable effective capital investment. In ACF's case, the cost of such support has been about one fifth of the total of investment funds. Research by CABE Space has similarly demonstrated that one of the greatest barriers to the improvement of green space has been skills shortages in the field of open space management.

We were made aware of the concerns felt by local authorities, and other public bodies, who might consider transferring assets to communities, that community organisations might not have the skills, or long-term resilience to manage the assets effectively. These concerns were also borne out by a review of asset management undertaken by ODPM in 2005. This review, incorporating a number of authorities and agencies, including the Beacon Councils, Chartered Institute of Public Finance (IPF) and Accountancy, Institute of Public Finance, Office of Government Commerce and Royal Institution of Chartered Surveyors, highlighted stakeholder concerns about whether community organisations were properly prepared to take on the associated risks and liabilities, for example, maintenance and health and safety issues. The IPF asset management network stocktake cited examples of asset transfer which had led to problems such as asbestos leakage and legionnaires disease arising from poor maintenance stemming from inexperience and lack of knowledge in asset management. Such scenarios run the risk of legal challenges and costs being incurred.

In addition, any transfer of assets should take account of possible changes in circumstances over time, for example to manage the risk that a particular community might lose interest in an asset.

Clearly there are risks here, as there are in any venture that seeks new and enterprising ways of meeting needs and providing services. However we believe there is considerable, documented experience that demonstrates ways in which these risks can be effectively managed:

- Any proposed transfer, and investment relating to it, should be dependent both on the preparation of a business plan for its management and development that is assessed as achievable by people with experience of the field and a perspective that takes on board financial, social and organisational considerations, and also on supportive monitoring of its implementation (ACF offers a very replicable model for achieving this).

<sup>10</sup> See Treasury DAO letter DAO(GEN)07/05 dated 27 June 2005: <http://www.hm-treasury.gov.uk/media/C2A/9B/dao.0705.pdf>

- Public bodies should not consider transferring assets to communities without either providing the necessary funding, or satisfying themselves that the project, and those involved, have the potential for attracting the required financial and/or support in kind to take it forward.
- Experience shows that there is a need both for technical guidance on the sometimes complex issues of asset ownership and management, and also for tailored organisational development support to ensure organisations and their staff and boards have the skills and understanding necessary to run an effective and viable asset-based project. Central and local government, and other funders, should work together to ensure that there is adequate provision of capacity building support for this purpose. This is likely to come from a combination of sources:
  - *funding-related support* – eg from ACF or Futurebuilders;
  - *community sector infrastructure bodies* – eg Community Matters, Action with Communities in Rural England (ACRE), DTA, bassac and the Scarman Trust;
  - *generic business-related support* – eg Business Links, although this service is not yet significantly focused on the particular needs of community enterprise, the Regional Centres of Excellence in regeneration and the Plunkett Foundation.
- There are a growing number of toolkits and sets of practical guidance that relate to community ownership and management of assets now available, or in development. These are listed in Appendix J. They will go a long way to meeting the need for technical guidance, if they are sufficiently accessible to potential users. The Together We Can web portal being developed by the Home Office Civil Renewal Unit aims to provide an online mechanism for increasing this accessibility.

*Firm Foundations* sets out a clear framework for community capacity building, but more needs to be done in practice to achieve a coherent approach across Government, both across the whole field of community capacity building, and also in relation to the more specific and technical needs of asset-based development.

## 5. Proposals for Change and Recommendations for Action

### 5.1 *Our approach*

The report from London Metropolitan University will make clear that policies to promote community ownership and management of assets have broader implications than can be related simply to the agenda set out in *Why Neighbourhoods Matter*. They are central to the development of sustainable communities in the broadest sense. At the same time, it will be vital to the success of the Government's approach to increasing neighbourhood engagement to incorporate policies that promote community ownership and management within its ambit.

In considering proposals for change, we have grouped our specific recommendations for action under three headings: those that merit early action, those that require examination in greater depth than we have been able to undertake within the confines of our Work Group, and those that require consideration in relation to separate and wider developments.

### **Proposals for early action**

5.2 We are convinced that considerable progress could be made by promoting a greater awareness amongst local authorities, other public bodies as well as community organisations of the powers and opportunities that already exist for transferring assets to community ownership and management, by evidencing the benefits, by identifying ways in which the risks can be mitigated, and by taking practical and proactive steps to encourage and incentivise action, including through the removal of unnecessary barriers.

### 5.3 *A promotional campaign*

**We recommend that Government takes the lead in developing a comprehensive and high profile promotional campaign to highlight to local authorities, other public bodies and communities:**

- a) The wide-ranging benefits of community management and ownership of assets, including how the transfer of assets can help local authorities achieve their wider priorities;**

- b) The importance of public bodies taking a community development approach to their assets;**

- c) The range of existing legal powers and provisions under which assets can be transferred by public bodies to communities on favourable terms.**

This campaign should be undertaken in partnership between relevant Government departments, key stakeholders in the voluntary and community sector such as the members of the Community Alliance<sup>11</sup>, the LGA and other public sector networks. The campaign should have several facets:

- a) Inclusion of community management and ownership as one of the "menu of options" within the National Neighbourhood Agreement;
- b) Bid for a Beacon Council theme in Round 9 of ODPM's Beacon Council round (for awarding in March 2008), focusing on the practice of transferring assets to community ownership and management;
- c) A community enterprise challenge scheme to offer money/support to those community organisations which can come up with the best proposal to turn certain derelict buildings into assets for the community. This might be piloted in one or a small number of towns, cities, rural market towns or villages. The challenge would have to be developed in such a way so as to be attractive to local authorities as well as local people/community groups. There may even be potential to have some sort of 'reality TV show' around such a social enterprise challenge, building on the success of the Restoration series. This would have as much value in stimulating local media coverage for the issue, as in attracting national media attention.

<sup>11</sup> The Community Alliance brings together four national community sector networks: bassac, Community Matters, DTA and the Scarman Trust.

d) A proactive communications strategy including:

- Highlighting the issues and the action to be taken in Ministerial speeches.
- Wider promotion of the technical guidance that is either available, or will shortly become available from organisations with specialist knowledge in this field. A listing is given in Appendix J.
- Publication of the London Metropolitan University research report with a suitable launch event in Spring 2006.
- Work with the Audit Commission and the Royal Institution of Chartered Surveyors to consider the conclusions of this report and in their light revise and update current local authority guidance on asset management to better support the transfer of assets to community ownership and management.
- Easier access to information through the proposed Together We Can webportal, and through VCS infrastructure supported and strengthened through the ChangeUp programme and in particular through the proposed ChangeUp Finance Hub website.
- Articles in newspapers and specialist press (including the local government press), particularly drawing attention to successful examples of community ownership and management.
- Targeted use of the popular media to draw attention to the benefits of and opportunities for community ownership and management.

#### 5.4 *Incentivising action and removing barriers*

**We recommend that early consideration be given to two initiatives:**

**a) the creation of an Incentive Fund to support asset transfer;**

**b) the promotion of greater awareness and application of the Treasury's recent advice on the relaxation of clawback rules.**

We propose that early consideration be given to the introduction of an Incentive Fund for asset transfer. The aim would be to encourage local authorities and other bodies to consider transferring assets by linking an investment programme to asset transfer. This would give reassurance that there would be provision for such expenditure as refurbishment costs, purchase of furniture and equipment, insurances and/or maintenance costs. Under this proposal, the transfer of an asset to a community-based organisation would allow the organisation to apply to a dedicated investment fund. Detailed work is needed on criteria and the source of funding, and its relationship with existing national funding programmes for transparency. It might prove sensible to use an arms-length approach based on the Adventure Capital Fund model, or use the Adventure Capital Fund as the delivery agent. It would make sense to pilot this approach in a limited number of urban and rural areas.

We are aware that, although the Treasury published revised and relaxed rules on clawback in 2005, which reduce significantly the deterrent effect on asset-based development which was previously the case, the wider implementation of those rules rests on individual Government departments, local authorities and other public bodies revising their own rules in line with the Treasury's advice. ODPM has taken the initiative to review the clawback rules it applies to New Deal for Communities projects, where this has been a particular problem. We now recommend that ODPM and the Treasury take positive action to promote greater awareness of the Treasury's advice on this issue, and to encourage and assist public bodies to review their clawback rules in the light of this advice, whilst maintaining the principle of securing good value for the use of public money.

## Proposals for further examination

### 5.5 *Community Right to Buy*

**We are convinced in principle of the potential benefits of the introduction of a Community Right to Buy in England, and therefore recommend:**

- a) that further consideration should be given to the principles and practicalities of introducing a Community Right to Buy in England, with a view to consulting on proposals during 2006;**
- b) that a campaign of engagement should be undertaken amongst key stakeholders to achieve their support for the proposals being developed.**

In 2003, the Scottish Executive introduced the Land Reform (Scotland) Act providing a community right to buy for rural communities in Scotland. Following the Scottish precedent, we have explored the feasibility and likely benefits of introducing some form of Community Right to Buy legislation in England. We are particularly attracted by the way that a Community Right to Buy (or more accurately a Community Right of First Refusal) would, once triggered, create a 'window' for communities to finalise their plans and financial packages necessary for the acquisition of a capital asset, without the pressure of commercial competition. Appendix I discusses in more depth the policy background, the rationale for a community right to buy and the lessons to be learned from the Scottish experience. A number of key principles to underpin a community right to buy in England are proposed and a simplified model suggested.

We are learning from the Scottish experience, but realise that introducing comparable legislation in England would require a different approach, and must take into account other existing government policies in this area, including work on the development of affordable housing provision. We are clear that any legislation would apply to any owners of land and buildings, not only public bodies or just local authorities.

We recommend that ODPM commissions further work on this issue, with a view to preparing concrete proposals for consideration and consultation later in 2006.

### *Charitable funding*

**We recommend that further consideration be given to questions relating to the disbursement of charitable funds to organisations which are not formally charitable, but which are promoting community benefit (such as those that may be constituted as CICs).**

We recommend that this topic be further examined in liaison with the Home Office and Charity Commission, to ensure that restrictions on the disbursement of charitable funds are not being imposed which are not actually required by charity law.

### *Housing*

**We recognise that there may be scope for expanding and broadening examples of community management (and possibly ownership) in the RSL sector, and recommend that ODPM initiates discussions with the Housing Corporation and others to consider what more might be done to facilitate development in this field.**

Our timetable did not allow us to focus significantly on the housing field, but we did receive evidence that suggested that there would be value in examining what more could be done to further encourage community management through resident-led management of housing and neighbourhood services.

## Proposals with wider links

### 5.6 *Funding*

**We recommend that, beyond the specific proposals contained in this report, the Government gives comprehensive consideration to the funding required to promote a significant increase in community ownership and management of assets as part of the work of the Local Community Sector Taskforce (LCST), and that the LCST report to be presented to the Deputy Prime Minister and the Chancellor in Spring 2006 addresses this question and makes recommendations.**

As we have said above, we are convinced of the need for increased access to appropriate funding to support an increase in community ownership and management of assets. We have explained in section 3.6 above the range of types of funding that we believe are needed, and also referred to some estimates of the scale of need. We have also identified a number of potential sources, while recognising that by themselves they will not meet the needs identified.

At the same time, we recognise that the funding requirements for increasing the community ownership and management of assets is simply part of the wider requirements for adequately funding the community sector and the community capacity building programme that is necessary to sustain and develop it. Since the LCST has already been tasked by the Deputy Prime Minister and the Chancellor, following the 2004 budget, to give consideration to this wider issue, we believe it makes sense for the LCST to make specific proposals on the funding of community ownership and management of assets, as part of its wider recommendations, drawing on the work of this Work Group in order to do so. We also believe that the Commission on Unclaimed Assets should be asked to give specific consideration to the role it could play in meeting the funding needs identified in this report.

We are clear that the financial responsibility for facilitating an increase in the community ownership and management of assets must be shared between central and local government, charities, the private sector and communities themselves. However, we are also clear that Government has a crucial responsibility to invest in a way that will lever in responses from others.

### 5.7 Capacity building

**We recommend that ODPM and the Home Office together take the lead in promoting a greater awareness amongst central and local government bodies, and other stakeholders, of the vital importance of appropriate capacity building to support an increase in community ownership and management of assets, and that this initiative builds on the relevant priorities for action set out in *Firm Foundations*, and forms part of a more coherent approach to community capacity building as a whole across Government.**

We have been presented with very clear evidence for the importance of both technical guidance and tailored development support if community organisations are to be equipped to take over the management and/or ownership of physical assets, and to capitalise on their potential for community benefit. We are not however convinced that public bodies and other funders have fully taken on board the implications of this. This is why we believe that ODPM and the Home Office should take the lead jointly in promoting a greater awareness and ensuring that provision better meets the needs that we have identified. This should be done in a number of ways:

- a) By promoting the availability of technical guidance and good practice examples, as recommended in section 5.3 above;
- b) By drawing attention to the priorities for action set out in *Firm Foundations: the government's framework for community capacity building*, and particularly those that relate to the development of 'community anchor organisations' and the development of stronger, more effective collaboration at local, regional and national level;
- c) By encouraging funders of asset-based development, such as Regional Development Agencies, local authorities, financial institutions and charitable trusts, to follow the examples of the Adventure Capital Fund and Futurebuilders in building pre-investment and post-investment support into the delivery of their funding programmes;
- d) By encouraging those agencies which currently provide business support to the private sector, including particularly the DTI's Small Business Service, to consider ways of ensuring that their services are fully attuned to the needs of community enterprises;
- e) By working with partners across government at all levels to ensure that community capacity building provision as a whole is better co-ordinated, and therefore uses the available resources more effectively.

## **APPENDICES**

- A. Work Group membership
- B. Community and Management of Assets Work Group: A web of policy involvement
- C. Rural community buildings
- D. Public space and the transfer of assets to communities
- E. Table of alternative legal forms
- F. Planning obligations
- G. Local authority property asset management
- H. Investment in assets for community enterprise
- I. Report from the Community Right to Buy sub-group
- J. List of technical advice that is available or in preparation

## Appendix A: Work Group membership and contributors

**Chair** – Home Office

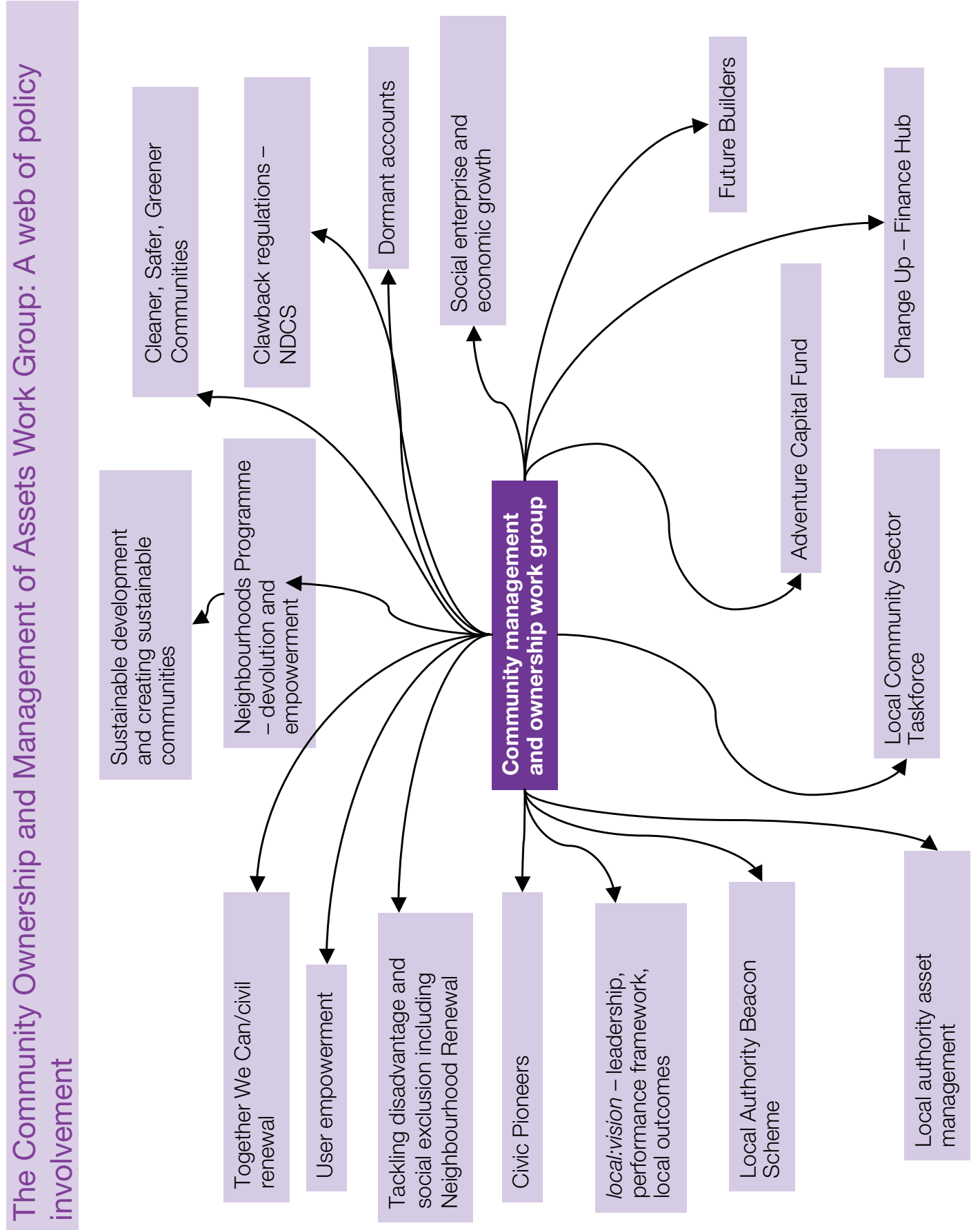
### **Government Departments**

Office of the Deputy Prime Minister  
Department for Culture, Media and Sport  
Home Office  
Department for Education and Skills  
Her Majesty's Treasury  
Department for Environment, Food and Rural Affairs  
Department of Trade and Industry

### **Other Stakeholders**

Development Trusts Association (DTA)  
Charities Aid Foundation  
RBS/Natwest  
CABE Space  
Local Government Association (LGA)  
Community Matters  
Race on the Agenda (ROTA)  
Environment Trust  
Adventure Capital Fund  
The Big Lottery Fund  
English Partnerships  
Housing Corporation  
Architectural Heritage Fund  
London Metropolitan University

# Appendix B: The Community Ownership and Management of Assets Work Group: A web of policy involvement



## Appendix C: Rural Community Buildings

This paper puts forward the view from the Department for Environment, Food and Rural Affairs (Defra) on rural community buildings, mainly village halls, and some of the issues related to greater community ownership. The following information has been gathered from various sources, and Defra research is currently examining funding for village halls and, less directly, social enterprise as a means of tackling rural social exclusion.

### Ownership

There is no general rule for ownership or responsibility for village halls. They can be owned, or vested in a custodian and held in a charitable trust, by parish and district councils, trustees, and schools, particularly voluntary schools. Laws governing charitable trusts require that the premises are used for educational or recreational purposes. In diversifying the greater use of village halls for rural community life the charitable purpose has priority; commercial activities may be pursued but there should be a rental that reflects what the market in potential users is prepared to pay.

### Status

Defra wishes to see village halls become places that offer services to the community as well as the traditional social activities. There are some very good examples of halls that have done this. Charitable status and tax exemption are a concern for village hall committees if the activities and uses of the premises generate significant income. It is a judgement that only the management committees and the community themselves can make.

### Benefits

Village halls provide space for a range of activities and services which are required by rural communities that may not otherwise have a home. This is increasing to provide a wider range such as a surgery room for health services, visiting services from the police and Post Offices.

In many rural areas, service outlets (public and private) cannot be viable on a freestanding basis. Providers need to maximise the economies offered by integrated or co-located service provision and some communities

are taking the initiative to establish outlets at village level. This can help retain existing services and offer scope to provide additional and convenient services of benefit to the community. The Parish Plan scheme run by Defra includes consultation and plans that can link into strategic area plans at the district and county levels.

### Data

There are approximately 8,900 village halls in England. According to research by ACRE in 1998, overall, there had been an increase in the number of meeting places since 1997, with facilities in 85% of parishes and 52% of settlements. Over 75% of villages have only one meeting place. There was a close correlation between the size of a settlement and the likelihood of it having a meeting place. 87% of settlements with fewer than 50 residents had no meeting place whereas 58% of settlements with 100 – 199 residents had a meeting place.

Other rural meeting places are diverse: church halls, British Legion halls, memorial halls and barns lent by farmers.

### Funding issues

#### Sources

Obtaining grants is increasingly difficult for village halls as funding sources diminish. Big Lottery has recently announced a Community Buildings fund for summer 2006. However, village halls also rely on charitable trusts, but these bodies revise their policies and targets from time to time. We shall not know how village halls raise funding until the RCB research described below reports next year. Defra has no way of knowing how much ongoing funding is needed by halls nor how viable they are. Social enterprise is also being researched by Defra (see below) which may identify models for sustainable income that go wider than village halls.

Village Halls Management Committees are not keen to take out loans, but some have increasingly been used to cover cash flow while waiting for sources of funding to materialise, such as RES, which is paid in arrears.

Defra will be launching an information hub for village halls on Defraweb towards the end of this year, which will include funding sources and links to sources of advice.

## Direct grant

Source	2002/03	2003/04	2004/05	Total
Big Lottery Fund	£13,960,000	£9,863,000	£4,495,000	<b>£28,318,000</b>
Awards for All	£620,000	£853,000	£1,300,000	<b>£2,773,000</b>
Aggregates Levy Sustainability Fund	£187,000	£145,000	£66,000	<b>£398,000</b>
Landfill Tax Credit Scheme	£1,715,000	£1,889,000	£817,000*	<b>£4,421,000</b>
Rural Enterprise Scheme	£1,119,000	£1,465,000	£2,538,000	<b>£5,122,000</b>
<b>Total</b>	<b>£17,601,000</b>	<b>£14,215,000</b>	<b>£9,216,000</b>	<b>£41,032,000</b>

\* final figures not yet available for 2004 calendar year

## Loans

Source	2002/03	2003/04	2004/05	Total
<b>Village Halls Loan Fund</b>				
<i>(Interest Rate: 8%)</i>	£7,200	£53,000	N/A	<b>£60,200</b>
<b>Charity Bank</b> <i>(Interest Rate: 5%-7%)</i>	N/A	N/A	N/A	N/A

N/A: not available

## Local authority funding

See the Annex. Some county councils run schemes for grants of up to around £10,000 for village hall capital works.

## Defra Research

The following two pieces of research were commissioned in 2004, before the Government's commitment to community ownership. They may not be specific enough for the purposes of a right to buy funding source.

## RCB Research

Much of the debate around village halls is anecdotal with little hard evidence to hand. To improve our understanding, Defra has contracted Rural Partnerships to carry out Rural Community Buildings research through rural community councils to explore the barriers to funding and factors for success in grant applications for rural community buildings. They are also examining the benefits such facilities bring to individuals, communities and wider society. The research focuses on issues around funding, but it also addresses the tangible and intangible benefits that community buildings bring to individuals and the communities served.

## Enterprise for Inclusion

Enterprise for Inclusion (E4i) is an action research programme that supports businesses and services that already exist as, or aspire to become, social enterprises, and local voluntary and community organisations and parish councils with the potential to develop some trading activity as a means of increasing sustainability. It is part of Defra's two year Infrastructure Programme to tackle social exclusion in rural areas. E4i is targeting the most deprived areas in the North East, North West, East Midlands and South West.

All successful applicants receive a package comprising a cash grant (average £6,000) and specialist advisory support (up to 15 days) to develop their business skills. They have to agree to their activities providing material for the research and evaluation. The results will help Defra to understand how social enterprises can help inclusion in rural areas. E4i is administered by the Plunkett Foundation, who lead a consortium of organisations with social enterprise experience that comprises ACRE, Prime, Co-operative UK the Village Retail Services Association (ViRSA) and the DTA, and utilises local regional partnerships. The results are expected in Spring 2006, and will help Defra to understand how social enterprises can help inclusion in rural areas.

**Rural Communities Division, Defra**  
**October 2005**

## Annex to Appendix C

The main source of funding for parish council revenue expenditure is council tax collected from residents by means of a precept on the appropriate billing authority, usually the district council. There is no legal upper limit on the amount that can be collected this way. Parish councils can also receive income from other sources, such as interest, sales, fees and charges – including charges for the use of village halls, if they run any themselves. Parish councils may run a village hall themselves, or pay grants to others to do so. However, they can spend money only within the legal powers that they have. In addition to specific powers, they have a general power, under Section 137 of the Local Government Act 1972, to spend money for the benefit of their area, up to a fixed amount per elector per financial year.

Where a parish/town council wishes to construct or renovate a village hall (whether in its direct ownership or not), it may fund the expenditure by using any receipts or reserves, and/or any grant it may have received for that purpose (e.g. from Central Government or from a principal local authority). It may also wish to borrow. Under current legislation, borrowing to finance capital expenditure requires the approval of the Secretary of State. Approvals are issued for a specified purpose stating an upper limit on the amount that can be borrowed. The approval is also time-limited (usually six months, or until the end of the financial year if shorter). The Government's only interest is with the issuing of the approval. The council may then borrow from the Public Works Loan Board, a bank or other financial institution.

### Funding from Principal Local Authorities

Local authorities can contribute from their reserves or revenue to the funding of village halls in several ways. These include:

- Direct contributions to capital expenditure, either building halls in the council's ownership, or paying grants to others.

- Contributing towards the running costs, either directly (if they run them themselves) or indirectly (by paying grants to a body that runs a village hall in its area).
- Reducing or cancelling the non-domestic rates bills payable for village halls in certain circumstances. For example, if a charity is the rateable occupier, it is automatically entitled to 80% rate relief, and the billing authority can choose to top that up to 100% (and in 1998 nearly 60% of village halls received 100% rate relief). Similarly, a billing authority can choose to reduce or cancel the non-domestic rates bill for a village hall occupied by a non-profit making body that is not a charity.

Local authorities may also help village halls indirectly through paying for activities that take place there for which the authority would otherwise have to provide other premises. Now that post-16 education is mainly the responsibility of Local Learning and Skills Councils, they too have a role in paying for the use of village halls for adult education and some local authorities have expressed concern about recent decline in such arrangements.

### Town and Country Planning Act 1990: Section 106 agreements

Contributions by developers have, on occasion, been used as a means of supporting community facilities where the community benefit relates closely to the nature of the development. This source of income is less widely available in rural areas where development is largely small scale and incremental. Whilst Section 106 agreements may provide help in some situations, it is by no means a solution in its own right.

## Appendix D: Public space and the transfer of assets to community ownership

**The principle of providing the community with greater control in the running and delivery of local services is sound and, where appropriate, should be encouraged. There are however a number of issues that arise from the transfer of assets to the community, particularly in relation to public space, and these need to be considered within the recommendations of the Work Group.**

### 1 Introduction

The focus of the Group's discussions has largely referred to the transfer of built assets. This assumes that under local authority ownership, the asset is under-performing: its potential value (in a very broad sense) can be enhanced and captured by a community owning and having greater powers over the management of that asset.

The same assumption is true for public space. A friends group for instance can have a considerable impact in improving the quality of a local park. However, there are specific considerations which ought to be addressed in the recommendations in light of public space.

### Background

Good quality parks and green spaces make a critical contribution to our neighbourhoods, towns and cities, and to people's quality of life, and play an important role in creating a sense of place. 33 million people make more than 2.5 billion visits to parks and green spaces every year.<sup>12</sup> Quality spaces benefit the economy, the community and the environment.

- Quality green spaces have been shown to:
  - support the local economy, making neighbourhoods more desirable;
  - enhance physical and mental health;

- benefit children and young people;
- reduce crime and fear of crime;
- support social cohesion;
- aid movement between other spaces;
- protect biodiversity and enhance the environment.

They are places to exercise, relax, play, learn, socialise, rest, walk, cycle or to use as outdoor classrooms. There is a need for a diverse network of green spaces that meet a variety of needs and to do this a strategic approach is needed to deliver networks of diverse and high-quality spaces that fulfil a range of functions and serve all members of the community. Green spaces that are well planned, well designed, well managed and well maintained can achieve all this.

In 2001 the Government set up the Urban Green Spaces Taskforce following the publication of the Urban White Paper. The Taskforce published its final report *Green Spaces, Better Places* report in May 2002. The report contains 52 recommendations to improve provision, design, management and maintenance of urban parks and green spaces.

Government responded positively to most of the Taskforce recommendations, in *Living Places – Cleaner, Safer, Greener* (Oct 2002). Amongst other things we committed to set up a new dedicated champion for parks and public spaces, CABE Space, and develop 'enabling schemes' to help local authorities and the community to deliver better green spaces.

The findings of the cross-cutting review of public space fed into *Living Places*. *Living Places* sets out the Government's vision for public spaces – that everyone's local environment should be cleaner, safer and greener. It draws on the work of six Government departments who joined up to link together their policies and programmes in a more sustainable way.

<sup>12</sup> Source: Dunnett N, Swanick C, Woolley H (2002) Improving urban parks, play areas and green spaces (ODPM)

*Living Places: Caring for Quality* was published in February 2004. It is based on research into ten local authorities across England and identifies examples of good practice. It highlights eight cross-cutting steps to better practice which are applicable to every local authority.

## 2 Emphasis on quality of outcomes

There is actually an over-supply of public space, particularly under-performing public space in England and Wales. ODPM figures suggest an estimated 70,000 hectares (an area the size of Greater London) is currently lying undeveloped or derelict. However whilst there is vacant land it may be held for a reason and future development. There is a need to consider *temporary* community use of vacant land with the recognition on both sides that if the owner so decides the land will become available for development.

The problem therefore is not necessarily with the quantity within existing communities but with the quality of that space which could, if realised, provide vital assets for local communities.

A crucial issue therefore is how can mechanisms for greater community engagement actually contribute to improving the quality of public space. Community-led projects can provide a fantastic opportunity for engagement and building social cohesion but can focus on the process rather than the product and the benefits of good quality public spaces are not realised for the various reasons outlined below.

Professionals involved in the design and management of public space should be engaged in supporting such groups who undertake the challenge of ownership of public space. This is crucial to support communities, particularly in realising aspirations about changes that could be made to public space.

## 3 Ensuring strategic co-ordination

ODPM and CABE Space are currently working across the country with a number of local authorities to prioritise the development of green space strategies to create a vision, co-ordination and delivery plan for improving the quality of green spaces locally.

The importance of this co-ordination work is vital because the quality of public space generally suffers as a result of many different organisations and actions being undertaken with a lack of coherent planning and direction. The Treasury's *Cross-cutting Review of Public Space* (2001) and ODPM's *Living Places* (2002) policy reviews identified this as a key priority.

Planning Policy Guidance Note 17 (advising the statutory planning system in relation to urban green spaces specifically) encourages local authorities to undertake a strategic approach. A vital element of this, in contrast with individual built assets, is to plan, manage and provide resources for public spaces as a continuous network of connected spaces serving varying community needs and priorities.

Ensuring the close relationship between local ownership and the strategic planning of land use is a priority.

## 4 Securing long term resources

A decline in the quality of public space under local authority ownership is frequently linked to a lack of revenue in order to maintain its upkeep. Public spaces require constant management and maintenance. Ensuring this resource is present and planned within the transfer of any asset to a community group is vital.

Within the idea of proposing an Investment Fund to incentivise asset transfer, it would be hugely beneficial to consider potential mechanisms to further incentivise alternative models such as trusts or endowments to support the upkeep of the space in the long term. Unlike buildings, the opportunities for public space to offer a rental income or further self-generating revenue is much more limited.

An advantage of community groups owning public spaces is that they are able to access funding for which public bodies are not eligible. However it should be recognised within the recommendations that often local authorities are continually called on by community groups to provide gap funding for projects. This applies where the authority still has an interest in the land, having this relationship is key but is it also masks the true cost of resources required when the community would have to go it alone.

## 5 Building capacity to engage

While many people are happy to volunteer time and effort to support a local park, MORI surveys demonstrate that there is a question mark over the appetite of people to become wholly involved in further delivery of key services, such as public spaces and especially streets, which are seen as the responsibility of local authorities.

The recommendation to establish an investment should consider the nature of the skills required to support new/existing community organisations which have responsibility for public space. This would be wide ranging from the design and delivery of improvements, to the management and maintenance of sites, to the further engagement of the community through to continued financial support. CABE Space will be producing a Community Client guide in Spring 2006.

The timescales for transforming public spaces can be over a 10-20 year period to realise the vision and aspiration to turn around potential years of neglect. The model of engagement should realise this duration and provide realistic incentives to engage communities' interest over such long periods.

## 6 Does community management need asset ownership?

There are examples where community management of spaces operates well, such as the Bankside Open Spaces Trust (BOST) which works with the community in Southwark to support and service nine parks and open space community groups to carry out consultation, fundraise and oversee improvements. The co-ordination provided by BOST is the key to its success.

Groups, such as BOST, also go part-way to overcome difficulties in the fragmentation of ownership and groups becoming over-territorial to the way their particular spaces are run alongside other community interests or groups. Managers and owners of public space must uniquely balance tensions and conflict created by the legitimate demands of competing user groups.

Living Spaces was launched in May 2003. It is worth £30 million over three years (2003-2006) and is funded by ODPM. It is delivered by Groundwork working with GreenSpace (formerly the Urban Parks Forum) and a number of other partners. We expect to support over 1,000 projects over the 3 year lifetime of the scheme.

The Living Spaces programme provides funding and support *direct* to neighbourhood groups wishing to take action to improve their local environment.

The scheme has two overarching aims:

- To support local people to implement projects that improve the quality of the places and spaces where they live.
- To support volunteering and local involvement in projects.

The programme is demonstrating considerable success in guiding funding directly to communities whilst ensuring that local groups receive professional help, and are connected to local organisations who ensure that their projects are delivered safely, effectively and in a sustainable way.

The programme is regarded as an effective mechanism, and has proved very popular with community groups. After just 10 months 9,935 application packs had been sent out

### Summary of issues for consideration

- Fragmentation of strategic co-ordination for networks of public space. Acknowledging the requirements of planning policy, particular PPG17 and being able to respond to the needs and priorities over a whole network of spaces and planning resources according to priorities. Fragmentation of ownership and not knowing who owns particular plots of open space is currently a problem in co-ordinating plans to improve public space.
- The need to ensure the gap between the deprived and less deprived areas doesn't grow. Deprived areas are twice as likely to have poor facilities compared to less deprived.

- Due consideration of the model for the long-term management of public space under whatever vehicle of asset transfer is considered.
- The role of the design and management professional across this distributed client base. The professional skills are there to raise aspirations for what community groups could achieve in transforming spaces. Their input is crucial, though a local knows best approach may need support and aspirations raising. Issue of green space skills shortage.
- The capacity of the community to undertake the long term planning and management of public space. The skills and capacity within smaller community groups may not be there to rely upon. Ultimately the condition and quality of the public space remains static or gets worse. What is the escape clause when the community decides it is no longer interested? Who is the community accountable to?
- Questioning the incentives for members of the public to become involved on the evidence of MORI data. The enthusiasm of the public to take on a greater extent of management and maintenance within goodwill and voluntary capacity is limited and as yet not wholly tested.
- The willingness to be involved has often been catalysed by a untenably bad situation or because of the response to an external threat to the green space. This creates a local agenda which may actually inhibit change once a certain level of improvement has been attained.
- The nature of support and resources available to community groups. Long term management and maintenance does cost. Where will this funding come from? Will community groups be expecting/expected to take on the delivery of these functions themselves? How are the community groups going to generate long term revenue streams?
- Local authorities are frequently called on by community groups to provide gap funding for projects or they very often contribute in kind with officer support. This applies where the authority still has an interest in the land, having this relationship is key but is it also masks the true cost of resources required when the community would have to go it alone.
- The relationship between providing local ownership and engagement with the strategic need to plan land use and design for priorities across a network of public spaces throughout a locality.
- The balancing of territorial claims and priorities between different ownership groups is one which requires some form of arbitration or balancing of needs. There should be clarity over the role of the local authority to be able to provide this.
- The scale of undertaking the project to transform public space. This can often take 10-20 years. Does the community have the stability and staying power to embark on these projects? Otherwise actions are short-term, remedial and could be akin to using sticking plasters when a cast and re-set is needed.

**CABE Space**  
**ODPM Cleaner Safer, Greener policy unit**

## Appendix E: Table of alternative legal forms

### Legal structures for community ownership and management of assets

Legal structure	Summary: Most typical features	Ownership, governance and constitution	Is it a legal person distinct from those who own and/or run it?	Can its activities benefit those who own and/or run it?	Assets "locked in" for community benefit?*	Can it be a charity and get charitable status tax benefits?	Differences in the law as it applies in Scotland or Northern Ireland?
<b>Unincorporated association</b>	Informal; no general regulation of this structure; need to make own rules.	Nobody owns: governed according to own rules.	No: can create problems for contracts, holding property and liability of members.	Depends on own rules.	Would need bespoke drafting to achieve this.	Yes if it meets the criteria for being a charity.	No specific differences.
<b>Trust</b>	A way of holding assets so as to separate legal ownership from economic interest.	Assets owned by trustees and managed in interests of beneficiaries on the terms of the trust.	No: trustees personally liable.	Trustees/ directors no, unless trust, court or Charity Commission permit.	Yes (if trust established for community benefit).	Yes if it meets the criteria for being a charity.	No, subject to differences between English and Scots trust law.
<b>Limited company</b> (other than Community Interest Company)  www.companieshouse.gov.uk	Most frequently adopted corporate legal structure; can be adapted to suit most purposes.	Directors manage business on behalf of members. Considerable flexibility over internal rules.	Yes; members liability limited to amount unpaid on shares or by guarantee.	Yes (but no dividends etc to members if it is a company limited by guarantee).	Would need bespoke drafting in articles (which could be amended by members).	Yes if it meets the criteria for being a charity.	Scotland: no. Northern Ireland: separate but similar legislation.
<b>Community interest company (CIC)</b>  www.cicregulator.gov.uk	New "off-the-peg" limited company structure for social enterprise with secure "asset lock" and focus on community benefit.	As for other limited companies, but subject to additional regulation to ensure community benefits.	Yes; members' liability limited to amount unpaid on shares or by guarantee.	Yes, but must benefit wider community as well. Can pay limited dividends to private investors.	Yes, through standard provisions which all CICs must include in their constitutions.	No, but can become a charity if it ceases to be a CIC.	Scotland: no. Northern Ireland: legislation not yet in place.
<b>Industrial &amp; Provident Socie (IPS) (Co-operative)</b>  www.fsa.gov.uk	For bona fide co-operatives that serve members' interests by trading with them or otherwise supplying them with goods or services.	Committee / officers manage on behalf of members. One member, one vote (regardless of e.g. sizes of respective shareholdings).	Yes; members liability limited to amount unpaid on shares.	Yes, but should do so mostly by members trading with society, using its facilities etc, not as a result of e.g. shareholdings.	Would need bespoke drafting in articles (which could be amended by members).	No – would have to be constituted as community benefit type of IPS.	Scotland: no. Northern Ireland: separate (but similar) legislation.
<b>Industrial &amp; Provident Socie (IPS) (Co-operative) (Community Benefit Soceity (BenComm))</b>	Benefit community other than just own members and have special reason not to be companies.	Like Co-op type, but new legislation provides option of more secure form of asset lock.	Yes; members liability limited to amount unpaid on shares.	Must primarily benefit non-members; asset lock applies.	Yes (asset lock only survives dissolution if new statutory form of asset lock adopted).	Yes if it meets the criteria for being a charity.	Scotland: no. Northern Ireland: legislation not yet in place.
<b>Charitable Incorporated Organisation (CIO)</b>  www.homeoffice.gov.uk/comrace/active/charitylaw/	EXPECTED 2006 First ready-made corporate structure specifically designed for charities.	Similar to company but with different terminology (e.g. for "directors" read "charity trustees").	Yes; members either have no liability or limited liability.	Members: no. Charity trustees: only if constitution, court or Charity Commission permit.	Yes.	Cannot be anything but a charity, and must meet the criteria for being a charity.	Scotland: separate (but similar) legislation and Regulator. Northern Ireland: legislation not yet in place.

*Probably not suitable: partnerships, limited partnerships and limited liability partnerships. Compare: local authorities. Consider also: transactional issues, tax and legal relationships between ownership/management body and local authorities/others.*

\* This does not necessarily mean that they must always be preserved in the same form; just that the value they represent must be preserved for community benefit.

## Appendix F: Planning obligations

### Introduction

1. Planning obligations (sometimes referred to as “section 106 agreements”) are usually agreements made between developers, local planning authorities and other parties to address issues relating to new development. Planning obligations can also be unilateral undertakings offered by the developer.
2. The purpose of planning obligations is to make a development acceptable in planning terms which might otherwise be unacceptable, so as to enable it to be granted planning permission.
3. For example, a new development such as an office or housing development can generate additional demand for transport or education, or result in public loss or damage such as the loss of open space. It is therefore appropriate for the local planning authority (LPA) to seek contributions (financial or in-kind) from the developer to address these issues. Examples of such contributions include providing or paying for a new bus service, road widening, construction of a new school building, provision of affordable housing or the creation of additional open space.

### Planning Obligations Policy Development

4. The DTLR carried out a consultation in December 2001 (*Reforming Planning Obligations: a consultation paper – delivering a fundamental change*) to seek views on legislative proposals aimed at achieving greater simplicity and clarity in the system. The paper proposed replacing the existing negotiated agreements with the single payment of a tariff to the LPA. However, following consultation, the Government decided that many of its objectives could be delivered without legislative change and instead committed to “revise its policy guidance and work with all the relevant stakeholders to create a more streamlined system that would enable the community to share in the benefits arising from development”.
5. In November 2003 ODPM carried out a further consultation (*Contributing to sustainable communities – a new approach to planning obligations*). The paper outlined a number of proposals for reform of the

system of negotiated agreements and also the introduction of an Optional Planning Charge (OPC). It was proposed that developers should be able to choose between whether to pay a fixed-rate charge set by the LPA (based on floor area or number of dwellings) or alternatively to seek a negotiated, site-specific agreement with the LPA.

6. Sections 46-47 of the Planning and Compulsory Purchase Act 2004 gave the Secretary of State powers to make Regulations in order to create an Optional Planning Charge. These have not yet been used.
7. The Barker Review of Housing Supply was published in March 2004 recommending that the Government should introduce a Planning-Gain Supplement (PGS) to help support the delivery of additional housing supply. Kate Barker recommended that any introduction of a PGS should be accompanied by a scaling back of planning obligations to cover only direct impact mitigation and affordable housing.
8. In advance of these likely major reforms to the system of developer contributions, the Government decided to restate and update current policy as an interim measure. Thus in November 2004 ODPM published a draft revised Circular on planning obligations for consultation. The consultation paper set out proposals to create a system that is faster, more transparent and accountable, and which gives greater clarity and certainty.
9. Following an analysis of consultation responses, in July 2005 ODPM issued Circular 05/2005 on planning obligations<sup>13</sup>. The Office is also aiming to publish good practice guidance and a standard agreement drafted by The Law Society later in 2005 to support the new Circular.

### Current legislation and policy

10. At present planning obligations legislation is set out in section 106 of the Town and Country Planning Act 1990 (substituted by section 12 of Planning and Compensation Act 1991). The Act sets out the broad boundaries for obligations:

<sup>13</sup> [www.odpm.gov.uk/stellent/groups/odpm\\_planning/documents/page/odpm\\_plan\\_039133.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_039133.pdf)

- (a) restricting the development or use of the land in any specified way;
- (b) requiring specified operations or activities to be carried out in, on, under or over the land;
- (c) requiring the land to be used in any specified way; or
- (d) requiring a sum or sums to be paid to the authority on a specified date or dates or periodically.

11. Current policy in England is set out in Circular 05/2005. The Circular states, among other factors, that planning obligations are only to be sought where they meet *all* five of the Secretary of State's policy tests. Thus they must be:

- (i) relevant to planning;
- (ii) necessary to make the proposed development acceptable in planning terms;
- (iii) directly related to the proposed development;
- (iv) fairly and reasonably related in scale and kind to the proposed development; and
- (v) reasonable in all other respects.

12. The policy tests are designed to ensure that planning obligations are used to make acceptable development that would otherwise be unacceptable in planning terms, i.e. to bring a development in line with the objectives of sustainable development as articulated through relevant local, regional or national planning policies.

13. Case law has demonstrated a broader interpretation of the type of developer contribution that can be agreed under s106. Where an obligation is offered by a developer the connection between the obligation and development needs only to be 'greater than de minimis'.

**Planning Obligations and Planning-gain  
Supplement Team, Planning Directorate, ODPM,  
August 2005**

## Appendix G: Local authority property asset management

### 1 Regulatory framework

1.1 Local Authorities are given power under the Local Authorities Act 1972 to dispose of land (including the sale of freeholds, granting and assigning of leases and granting of easements) for the best consideration reasonably obtainable unless the Secretary of State consents to the disposal.

1.2 The Local Government Act 1972: General Disposal Consent (England) 2003 replaced the previous consents issued in 1993 and 1998. It provides that LAs are no longer required to seek specific consent from the Secretary of State for any disposal of land where the difference between the unrestricted value of the interest and the consideration accepted is less than £2m subject to specified circumstances. The specified circumstances are that the LA considers that the disposal will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area.

1.3 These provisions do not apply to short tenancies (i.e. a tenancy, which is granted for seven years or less, or the assignment of a term, which has not more than seven years to run). Disposals by way of a short tenancy do not need consent, see sections 123(2) and 127(2) of the 1972 Act.

1.4 The consent order sets out the information to be contained in applications for specific consent and includes a Technical Appendix relating to the Valuation Report. In the Technical Appendix the “unrestricted value” is defined as the “Best price reasonably obtainable for the property ... expressed in capital terms. It is the market value of the land as currently defined by the Royal Institute of Chartered Surveyors (RICS) Red Book (Practice Statement 3.2), except that it should take into account any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest (a “special purchaser”).”

### 2 Guidance on Property Asset Management

2.1 In 1988 the Audit Commission (AC) published a report and handbook on local authority Property Management calling for “...greater attention to the strategic and policy implications of property ownership and use”. The report was well received but action on the recommendations was patchy.

2.2 In April 2000 the AC published *Hot Property – Getting the best from Local Authority Assets* which reviewed progress since the previous report. The Report stated that local authorities own property assets valued around £78 billion of which £10.3 billion is non-operational. The Commission commented that local authorities would benefit from taking more active measures to manage their property portfolios including “reviewing their need to retain holdings, especially those that do not contribute to service objectives.” The AC acknowledged that the Department for Environment, Transport and the Regions (DETR) were issuing advice on property asset management but recommended that Central Government should:

- Set clear national property performance indicators for local authority asset management.
- Relax capital controls that were hindering asset disposal – place greater trust in local authorities.
- Share best practice between central and local government.

2.3 The DETR report *Measuring Performance in the Management of Local Authority Property (1999)* was followed by practical advice contained in *Asset Management of Local Authority Land and Buildings – Good Practice Guidelines (2000)*. The guide covered strategic asset management planning including planning, prioritisation, evaluation, performance measurement and data management. The Asset Management Plan (AMP) was seen as an important source of information for assessing the relative needs for capital under the Government’s “single pot” capital system.

2.4 Subsequently, National Property Performance Indicators (NPPI) were introduced by DETR and all local authorities were required to report their performance against these indicators to their Government Offices (GO). There were five main indicators:

- Condition of assets;
- Internal rate of return for non-operational properties;
- Total annual management costs per sq m GIA;
- Repair and maintenance costs, energy costs, water costs and CO<sub>2</sub> emissions;
- Project performance in terms of outturn and timescale.

The requirement for local authorities to report their performance against the pPIs was discontinued once most local authorities were achieving the required levels.

2.5 During 2000, DETR commissioned DTZ to prepare training and guidelines to assist GOs in assessing AMPs and the pPIs. These documents and a PowerPoint presentation can be viewed on the Intranet.

2.6 In 2004 the ODPM commissioned RICS to produce further guidance on how local authorities can produce asset management plans for their property assets. This was in response to a whole raft of initiatives such as the Best Value Framework, Budgetary Pressures, the Gershon Review, the Prudential Code and the Comprehensive Performance Assessment process. The guidelines, *Asset Management in Local Authorities* (2005), seek to foster a greater emphasis on service delivery and the links between effective property management and improved service delivery. The subject areas covered are:

- Corporate Vision and Strategy;
- Structure and Roles and Responsibilities;
- Inclusion and Engagement;

- Implementation and Review;
- Performance Management and Data;
- Capacity Building.

The Report is available on the RICS web site and an Executive summary, aimed at senior officers in local authorities, is due to be launched at RICS HQ on 20 July.

2.7 At the end of 2004, Sir Michael Lyons published his report to the Chancellor of the Exchequer entitled "Towards better management of public assets". In that he points out that UK local authorities hold assets worth around £383bn which equates to 58% of public sector assets. He supports the Government's target of disposing of £30bn of assets by 2010. Among his recommendations he states:

- I welcome the role that local authorities are taking in leading local asset management plans. This role should be strengthened through the spread of good practice models.
- The Government should examine the scope for extending elements of the approach exemplified by English Partnerships, both in relation to the regeneration of complex sites and more widely in optimising the value of disposals.

### 3 Best Practice

3.1 Several local authorities were cited in the AC report in 2000 as providing examples of best practice in property asset management. These included Birmingham (Property Action Plans and AMPs), Chester (management of non-operational sites and Sunderland (training of property managers). The London Branch of ACEs was also recognised for their work on benchmarking rental income.

3.2 In 2004 ODPM launched a Beacon scheme theme for local authority Asset Management. The five Beacon Authorities are:

- Ashford – has an outstanding approach to asset management which is well evidenced by its achievements across the spectrum of its activities. They monitor quantitative and qualitative data on levels of satisfaction and have a structured methodology for post-project evaluation.
- Cambridgeshire – evidences an outstanding, proficient and professional approach to the use of asset management in supporting continuous improvement in the delivery of its services and in its partnership working with other organisations.
- Hertfordshire – uses a wide range of solutions in the pursuit of better property procurement and in the provision of the professional services upon which it relies – and the performance of which is diligently measured and monitored.
- Leeds – using asset management to further its corporate and service objectives. Its work on corporate asset management is sophisticated and well-resourced.
- Rotherham – demonstrates integration of asset management with the council's corporate and service strategic framework.

The first Beacon Learning Event took place in Manchester on 30 June.

## 4 Current Situation

4.1 According to statistics published by CIPFA, the value of local authorities operational land in England as at 31 March 2004 was £177bn (£8bn in Wales). ODPM statistics indicate that almost £98bn relates to local authority Housing and £50bn to education properties. Non-operational assets were worth £12.3bn (£.6bn in Wales).

4.2 Despite the value tied up in property and all the advice that has been given, it is still difficult to find any details of local authority property assets from their web sites. Leeds City Council are exceptional in publishing their Asset Management Plan on their web site and within that giving a global figure for the value of operational and non-operational property.

4.3 Some local authorities have been disposing of property assets to boost their capital receipts while others retain an investment property portfolio to assist their balance sheets. The non-operational property assets of local authorities are still substantial. The decision to retain or dispose of assets is frequently political rather than solely based on advice from property professionals.

### **ODPM September 2005**

# Appendix H: Investment In Assets For Community Enterprise

## Summary

A fund of around £150m over seven years will help 500 community enterprise organisations acquire at least £500m worth of assets, to generate long-term benefits in their communities.

### 1. Objectives

The objective is to help community organisations such as development trusts acquire buildings and land to deliver community enterprise activities – i.e. trading through contracts, rental or other fee income for social purpose.

Assets in community ownership can deliver services and facilities at a human scale, stimulate local economies, foster community self-help, and generate independent earned income to be re-invested for community benefit – in short achieve community prosperity.

### 2. Demand

The DTA has 350 development trusts in membership. There are so far 60 development trusts with assets of over £1m. These are the ones which are making the biggest impacts in their communities. DTA membership is growing at 7.5% to 10% a year.

There are other community-led neighbourhood organisations taking or exploring a similar approach. There are also SRB programmes and NDC partnerships searching for a sustainable exit.

We estimate over the next seven years there will be a pool of nearly 1,500 community organisations who attempt to take an enterprise route.

Not all are (or will be) investment ready.

- First, organisations need to have achieved **sufficient organisational capacity**. This includes good governance, clear objectives, management competence, and financial capability. At present between half and two thirds of DTA members (i.e. about 200 development trusts) are at an organisational level suitable for asset investment; the proportion may be a little lower for other community enterprises.
- Second, they need to produce **proposals that are viable for investment**. The ability to do this will in part depend upon opportunity (availability of a building or piece of land, and, often, other funding sources). Ultimately the critical investment-readiness test is whether the asset itself, and the business plan which sets out how the enterprise will function, is viable in financial as well as social terms. Some organisations will need pre-investment support to help them assess viability of their proposals, or to improve their business model.

Estimates of the number of community enterprise organisations which are investment ready, or could become investment ready in the next seven years, are set out below.

		Pool of community enterprise organisations	Investment ready in organisational terms	Proposals suitable for preinvestment support	Proposals suitable for investment
Now	DTA members	350	200	30	20
	Others	350	150	30	20
<b>Total now</b>		<b>700</b>	<b>350</b>	<b>60</b>	<b>40</b>
Year 1	DTA members	376	240	35	20
	Others	450	210	35	20
<b>Total year 1</b>		<b>826</b>	<b>450</b>	<b>70</b>	<b>40</b>
Year 2	DTA members	404	280	40	25
	Others	525	250	40	25
<b>Total year 2</b>		<b>929</b>	<b>530</b>	<b>80</b>	<b>50</b>
Year 3	DTA members	435	320	45	30
	Others	600	280	45	30
<b>Total year 3</b>		<b>1,035</b>	<b>600</b>	<b>90</b>	<b>60</b>
Year 4	DTA members	467	360	50	35
	Others	675	310	50	35
<b>Total year 4</b>		<b>1,142</b>	<b>670</b>	<b>100</b>	<b>70</b>
Year 5	DTA members	502	390	55	40
	Others	750	340	55	40
<b>Total year 5</b>		<b>1,252</b>	<b>730</b>	<b>110</b>	<b>80</b>
Year 6	DTA members	540	420	60	40
	Others	825	370	60	40
<b>Total year 6</b>		<b>1,365</b>	<b>790</b>	<b>120</b>	<b>80</b>
Year 7	DTA members	581	450	65	45
	Others	900	400	65	45
<b>Total year 7</b>		<b>1,481</b>	<b>850</b>	<b>130</b>	<b>90</b>
<b>TOTAL</b>				<b>760</b>	<b>510</b>

These projections assume that Government policy remains favourable, with commitment to community asset ownership and neighbourhood delivery through 'community anchor' organisations, and that resources are available to help community enterprises become investment ready.

### 3. Level of assets

On average (with regional variations because of property values) £1m of assets in community ownership is the base from which a community organisation is likely to grow a portfolio of enterprise activities, and acquire further assets.

By itself, this level is not sufficient to achieve full financial sustainability (development trusts produce on average 7% financial return on their asset, i.e. £70,000 for every £1m of assets, equivalent to two core posts) but it does provide the essential minimum foundation.

### 4. What investment is needed?

Drawing on the experience of the ACF, and other relevant investment funds, investment will be needed in the following categories:

- **Pre-investment support**

Grants (in the region of £15k) and mentoring (in the region of £10k) to help organisations undertake feasibility work and other preparatory actions.

- **Development**

Packages of development finance linked to professional/practitioner expertise will sometimes be needed to develop building based projects to the point of full investment readiness (cost £30-£100k).

- **Capital**

Patient capital investment, as modelled by ACF and Futurebuilders, combining a mix of patient loans and grants (in a proportion of about 2:1), with flexibility to tailor to each deal. Typical amount £200-250k – but with ability to make larger or smaller investments as well.

- **Post-investment support**

Mentoring and other support to safeguard the investment over a period of 5 years (cost c £10k).

The capital investments will attract leverage (through other funding sources and as a result of public bodies disposing/transferring of assets at an undervalue) at an average ratio of 1:3 or 1:4. Therefore a typical capital investment of £225,000 will achieve average community assets of £1m.

In order to achieve £1m of asset ownership in 500 community organisations a national fund of around £150m is required.

## 5. Delivery Vehicle

The options to deliver this fund are:

1. Deliver directly from a government department;
2. Establish a new arms length fund;
3. Use an existing fund, e.g. ACF.

### Development Trusts Association November 2005

	Average cost £	Investments	Cost over 7 years £
Pre-investment	25,000	750	18,750,000
Development	50,000	200	10,000,000
Capital	225,000	500	112,500,000
Post investment	10,000	500	5,000,000
admin 7%			10,237,500
<b>Sub total</b>			<b>156,487,500</b>
Less income from interest on loans over 7 years			4,461,406
<b>total required</b>			<b>152,026,094</b>

# Appendix I: Developing a “Community Right to Buy” for England: Report from the Community Right to Buy sub-group

## Executive summary

In 2003, the Scottish Executive introduced the Land Reform (Scotland) Act providing a community right to buy for rural communities in Scotland. Following the Scottish precedent, this paper explores the feasibility and likely benefits of introducing some form of Community Right to Buy legislation in England. The paper discusses the policy background, the rationale for a community right to buy and the lessons to be learned from the Scottish experience. A number of key principles to underpin a community right to buy in England are proposed and a simplified model suggested.

## Top recommendations

- The policy thinking on a community right to buy, including the simplified model contained within this paper should be included in the final report by the community management and ownership work group in December 2005.
- Further work should be undertaken on the community right to buy model with a view to consulting on the proposals in 2006.
- Alongside the further work to develop proposals, a campaign of engagement should be undertaken amongst key stakeholders to achieve buy-in.

## Policy proposition and objectives of paper

- In 2003, the Scottish Executive introduced the Land Reform (Scotland) Act providing a community right to buy for rural communities in Scotland. Following the Scottish precedent, this paper explores the feasibility and likely benefits of introducing some form of Community Right to Buy legislation in England.

## Background/context

### *Neighbourhoods agenda and community management and ownership work group*

- The Government’s manifesto committed to offering neighbourhoods a range of powers from which they can choose including “*new opportunities for communities to assume greater responsibility or even ownership of community assets like village halls, community centres, libraries or recreational facilities*”. These ideas were discussed in the document, **Citizen Engagement and Public Services: Why Neighbourhoods Matter** which was jointly published by the Office of the Deputy Prime Minister and the Home Office on 31st January 2005. This document also specifically invited views on the possibility of the development of a community right to buy, drawing on ideas and experience from the Scottish Executive’s Land Reform (Scotland) Act 2003.
- As part of the ODPM-led Neighbourhoods Project a work group was set up in June 2005 to develop policy proposals on community management and ownership of assets. This work group is chaired by Home Office and has a broad membership with expert representation from the voluntary and community sector, the LGA and relevant Government departments. Andy Wightman, a Scottish academic with strong involvement in the Scottish right to buy legislation, presented to the September meeting of the work group on the Scottish experience. It was agreed that a sub-group would be set up to explore the feasibility and likely benefits of introducing some form of Community Right to Buy legislation in England. This paper is the product of that sub-group.
- The idea of a community right to buy received further attention when David Miliband, Minister of Communities and Local Government, referred to it in his speech to the BURA Conference on 12th October 2005.

### The Scottish precedent

- The Land Reform (Scotland) Act 2003 enables rural communities with a population of less than 10,000 to establish a community body and register an interest in land or buildings, thereby providing the option to buy when the land/buildings come up for sale, following a community ballot. At the same time the Scottish Land Fund has been established to assist communities to own and develop land. Initial funds are £10m. It is able to support preparatory costs, acquisition, and development.
- The Land Reform (Scotland) Act 2003:
  - Provides a mechanism for communities to register an interest in land and property;
  - Provides that such registered land cannot be sold without the community first having an option to purchase;
  - Provides the mechanism for the community to purchase the registered land at an independent valuation if and when it is put up for sale. Gifts and inheritance do not trigger the right to buy.
- Thus the right is available to communities in towns and villages to register interest in community assets such as Post Offices, housing, amenity land, development plots, business premises and local authority property as well as fields, farms, forests and large estates. To date 25 applications for registration have been made of which 12 have been deleted (lapsed, withdrawn or refused), five are registered, five have been activated and three are pending a decision.
- A detailed examination of the process provided for in the Land Reform (Scotland) Act 2003 can be found at <http://www.Scotland.gov.uk/library5/rural/lracrb-oo.asp>. The implications and lessons for developing some form of community right to buy in England are considered below.

### Consideration and analysis

#### Rationale

- A community right to buy would provide a number of benefits including, an opportunity to purchase through creating a “window” for communities to finalise its plans and finance for an asset. The existence of a right to buy would stimulate asset transfer from both the public and private sector thus helping to fulfil the manifesto commitment to provide more opportunities for communities to assume ownership of community assets and all the benefits this can deliver (see research report for the main work group).

#### Extension to England: issues raised by the Scottish precedent

- The Scottish precedent clearly raises a number of issues which need to be considered in developing thinking about possibly extending the community right to buy to England. The key issues are considered briefly below leading to some key principles based on this thinking.
- *Extent of application:* The Community Right to Buy is restricted to rural communities in Scotland, reflecting the historical origins of the policy in the Scottish crofter land reform movement. However, it seems more equitable and consistent with the neighbourhoods policy of offering opportunities everywhere if a community right to buy in England applied to both urban and rural areas.
- *Complexity:* The complexity of the Land Reform (Scotland) Act 2003 is a major disincentive to community groups and illustrates the need for any England-wide proposals to be much simpler while including the necessary safeguards.
- *Type of community body:* In Scotland the community body had to be a particular kind of organisation (company limited by guarantee). This had proved to be restrictive and it was agreed that in England such a narrow approach should be avoided; rather existing

types of organisation with the necessary governance structures should be permitted to register interest. It would be desirable to define a community body so that it would be automatically eligible, provided a clear asset-lock was built into the constitution of the organisation. This could mean that registered charities, Charitable Interest Companies, and Charitable Incorporated Organisations (expected to be available from 2006), could be eligible.

- *Promotion and profile:* Awareness had been a problem in Scotland as the Scottish Executive has not publicised the new powers and the community right to buy tended to be associated with Scottish crofters given the historical background.
- *Centralised vs. localised approach:* The Scottish precedent is highly centralised with a great deal of Ministerial consent built into the Act. Such a centralised approach would be unsuitable and undesirable in England and we need to avoid a bureaucratic system. It was agreed that the process should be as simple as possible, reducing the need for central Government intervention.
- *Investment Fund:* Alongside the community right to buy legislation, the Scottish Land Fund was established to assist communities to own and develop land. Initial funds are £10m. It is able to support preparatory costs, acquisition, and development. The Scottish experience has shown this investment fund to be essential in enabling and empowering communities to use the community right to buy.
- *Alternative models:* The Scottish Act provided a mechanism for communities to register an interest in designated land and property. There was discussion around a different type of approach. One alternative would be to allow community organisations to be able to register their interest in a defined area so they would be notified whenever assets within this area became available for sale. However, the sub-

group believed that this was potentially much too complex, burdensome and unworkable. It was also suggested that if a community body had a connection to a property e.g. it had rented it for 20 years, and then it came up for sale that body would have a right to buy the property. However, it was decided that this idea could actually discourage owners from entering into relationships with community bodies. It was agreed that there should be no compulsion on the owner (local authority or otherwise).

### *Principles for an English model*

- A community right to buy should apply to both urban and rural areas in England.
- As in Scotland, the model could provide a first right of refusal when property comes up for sale.
- The model should be as simple and unbureaucratic as possible.
- The approach should be more localised, avoiding as far as possible the need for Ministerial consents.
- Community organisations should be eligible if they have an “asset lock”.
- The model should be designed to minimise the occurrence of dispute and build on existing structures.
- To be effective any community right to buy would need to be accompanied by an investment fund.
- Adequate publicity would be necessary to make people aware of the community right to buy mechanism and promote uptake.
- Community bodies would need to demonstrate support from a significant proportion of the community for a proposal to activate a community right to buy. The community body could not exclude sections of the community.

### *A simplified model*

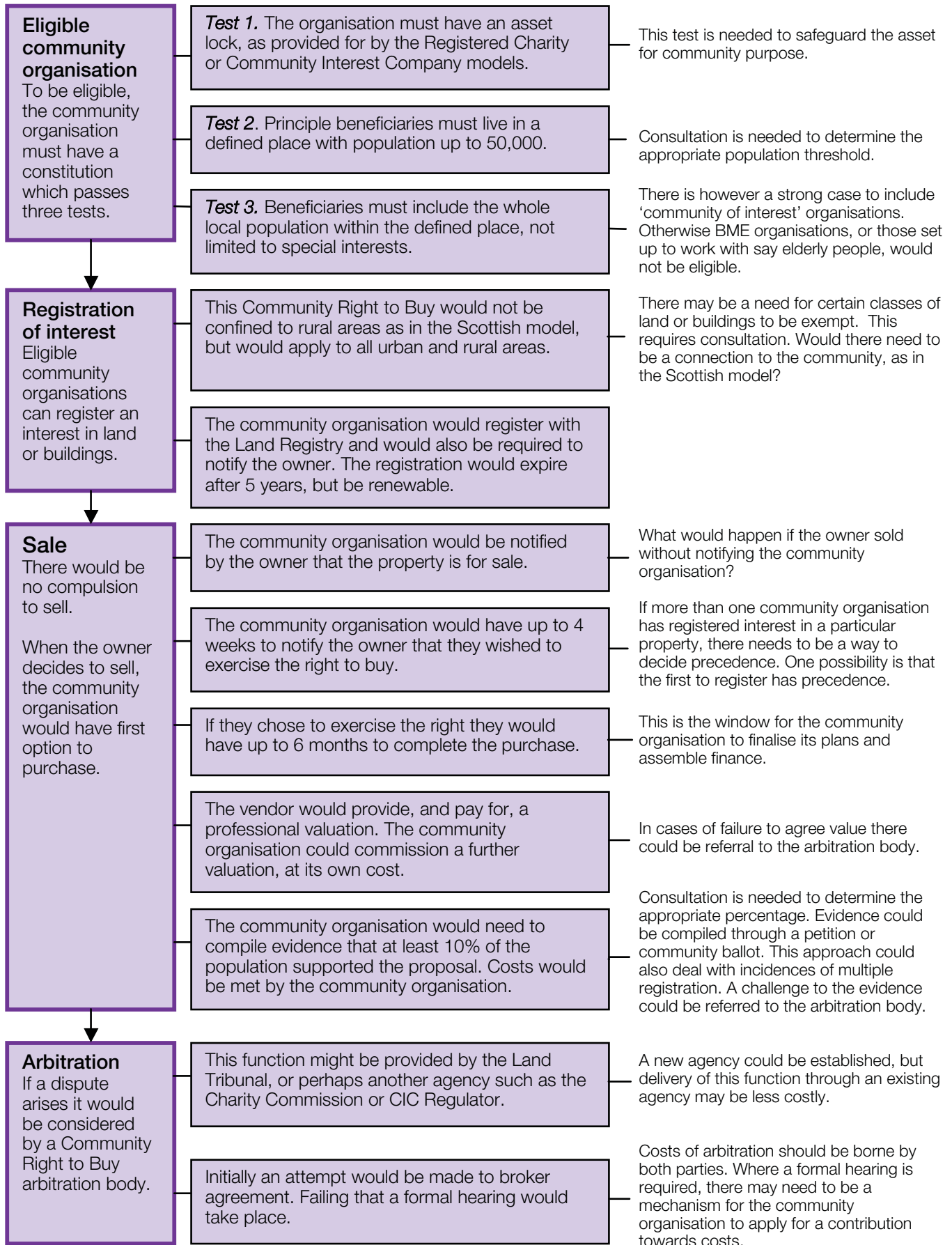
- Based on these principles a simplified model of how a community right to buy might operate in England is suggested below. It should be noted that this reflects initial thinking and clearly more analysis would be required if it was decided to pursue a policy of community right to buy (see overleaf).

### *Issues for further consideration*

There are clearly a number of issues within and beyond this model which would require further consideration and research before deciding to implement a community right to buy in England. These include:

- *Evidential base:* If this policy is to be taken forward further work would have to be undertaken to establish a firm evidential base that the activities of communities are being constrained at present by the absence of such a right.
- *Relevant precedents beyond Scotland:* The precedent in the Landlord and Tenant Act 1987, Part 1 as amended which provides that owners of blocks of flats have to offer a right of first refusal to the tenants at market value if they decide to sell.
- *Multiple registrations:* The Scottish precedent allows for multiple registrations and in the event of the right to buy being activated it is up to Ministers to decide which community body had the right to buy. It was suggested that this centralised approach should be avoided and perhaps it should be that the body that registered an interest first had the right to buy. Another option might be that in those cases where there were multiple registrations, the petition/ballot (see diagram) could also serve the purpose that the community body with the highest level of support would have the right to buy. Further consideration about the issue of multiple registrations would be required.
- *Compensation:* In the Land Reform (Scotland) Act 2003 there is provision for compensation to be paid by the Scottish Executive to the vendor for the delay in sale. Further investigation into this issue is required but clearly removing any need for compensation would be desirable. It may be that by having a much less centralised system, the need for compensation would be avoided.
- *Impact on the property market:* Research would be required to seek to forecast how such a community right to buy might impact on the property market. This would need to look at a whole range of issues including the probable effects on value of properties and operation in areas of market failure and high demand.
- *Relationship with other Government policies and public sector agencies:* Further consideration would be required about the relationship between a community right to buy and the various other Government policies around regeneration, planning and building sustainable communities.
- *Type and source of funding:* For a Community Right to Buy to be successful, a programme of investment combined with community capacity-building is needed alongside enabling legislation. What form this may take would require further consideration; it may take the form of a grants programme along the lines of the Scottish Land Fund, or an investment programme along the lines of the ACF, which operates in England. Delivered by a voluntary sector partnership (DTA, Scarman Trust, New Economics Foundation, Local Investment Fund), the ACF has already received support of over £8m from Home Office, ODPM, DTI and four RDAs. It provides pre investment support as well as capital investments for asset building – pioneering new forms of ‘patient capital’ finance.

**Notes**



## Recommendations

- This policy thinking on a community right to buy should be included in the final report by the community management and ownership work group.
- Further work should be undertaken on the community right to buy model and on the issues outlined above, with a view to consulting on the proposals in 2006.
- Alongside the further work to develop proposals, a campaign of engagement should be undertaken amongst key stakeholders to achieve buy-in.

### **Community Right to Buy sub-group:**

DTA

Defra

ODPM

LGA

Home Office

**November 2005**

## Appendix J: Technical Advice and Guidance

**Architectural Heritage Fund** offers guidance on its website ([www.ahfund.org.uk](http://www.ahfund.org.uk)) and on the Funds for Historic Buildings website ([www.ffhb.org.uk](http://www.ffhb.org.uk)), which covers 140+ sources of funding for projects.

**Community Buildings – Maximising Assets**, to be published by Local Government Association and Community Matters, February 2006. Sets out options and recommendations for community management of community buildings, with particular focus on buildings owned by local authorities or other public bodies. Will be downloadable from [www.communitymatters.org.uk](http://www.communitymatters.org.uk); hard copies will be obtainable from: Community Matters, 12-20 Baron Street, London N1 9LL, tel 020 7837 7887.

**How to guides on Cleaner, Safer, Greener Communities.** Three guides are available from ODPM, covering Town Centres, Homes and Streets, and Parks and Open Spaces. Copies can be obtained free from: [cleanersafergreener@odpm.gsi.gov.uk](mailto:cleanersafergreener@odpm.gsi.gov.uk), or from: Liveability and Sustainable Communities Division, ODPM, Zone 4/G6, Eland House, Bressenden Place, London SW1E 5DU.

**How to rescue a ruin**, published by the Architectural Heritage Fund. Takes groups through each stage in the process, starting with forming a buildings preservation trust. Available from: Architectural Heritage Fund, 9th Floor, Alhambra House, 27-31 Charing Cross Road, London WC2H 0AU, tel: 020 7925 0199.

**Managing Your Community Building** – 3rd Edition by Peter Hudson, edited by Jacki Reason. Published by Community Matters. Indispensable practical guidance on legal and other matters for people managing community centres and similar buildings. Obtainable price £14.95 from Community Matters (address above).

**Occupying Community Premises – guidelines for community associations and local authorities** – 2nd Edition, edited by Jonathan Dawson, LL.B. Practical guidance on leases, licenses and management agreements for community buildings. Includes specimen documents. Specimen documents also available on disk, for ease of use. Book price £18.95, disk £35.25, combined price £45. Obtainable from Community Matters (address above).

**To have and to hold: the DTA guide to asset development for community and social enterprises** by Lorraine Hart, published by Development Trusts Association. Provides a broad range of information, resources and contacts relating to the development of a land or building project as an asset. Price £20.00 inc p&p (£10.00 for DTA members). Discounts on bulk orders. Obtainable from: DTA, 1st Floor, 3 Bondway, London SW8 1SJ, tel: 0845 458 8336.

**UK Association of Preservation Trusts Guidance Notes** available from the Association of Preservation Trusts at 9th Floor, Alhambra House, 27-31 Charing Cross Road, London WC2H 0AU. Comprehensive set of notes on every aspect of a project and running a preservation trust.

**Village Hall Publications** – a wide range of publications and information sheets, including **Plan Design and Build**, and **Managing Your Hall**, aimed at Village Hall Management Committees, are available from: ACRE, Somerford Court, Somerford Road, Cirencester, Gloucestershire GL7 1TW, tel: 01285 853 477.

