ACES Terrier

The Association of Chief Estates Surveyors & Property Managers in the Public Sector

Volume 27 Issue 4 Winter 2023

ACES

Since 1908 managing public property for the public good

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ACES TERRIER

The Journal of ACES - The Association of Chief Estates Surveyors & Property Managers in the Public Sector

EDITORIAL

Betty Albon

Welcome to the 2022/23 Winter Terrier.

For the second time in one year, ACES' members and guests were able to meet up for a live Annual Meeting, held in Cardiff City Hall in November, where ACES' new President, Helen Stubbs, was installed. This issue contains her inaugural speech and summaries of the professional presentations delivered. One of those was from Platinum Corporate Member Carter Jonas. Thank you, Cardiff City Council and Welsh Branch for hosting an excellent meeting.

This issue also includes two presentations from the National Conference held in September, and also focuses on the real challenges of reducing carbon emissions, achieving net zero, and how to tackle the problem of meeting MEES environmental regulations. And I am extremely pleased to feature two case studies written by ACES' members, of large-scale development projects. Eastern Branch has been instrumental in helping me source some of the articles, as I have been able to follow up on presentations to the branch. This is an excellent source of topics, and I'm sure other branches could point speakers in my direction…..please.

Again, thanks to the branches which have submitted reports. Reading these illustrates the exceptional value of being an ACES member, who can benefit from participating in all the collaboration and professional input such meetings provide – as well as gaining CPD!

Please share ACES' Terrier with colleagues - in hard copy and online www.aces.org.uk/library/.

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Cover photo: Helen Stubbs, ACES National President, Cardiff City Hall, courtesy of Marcus Macaulay

All conference photographs courtesy of ACES' photographer Marcus Macaulay

WELCOME TO CARDIFF

Paul Orders

Paul is Chief Executive of Cardiff City Council and welcomed ACES' members to City Hall for the Annual Meeting.

Bore da a chroeso.

It's great to see the Association of Chief Estates Surveyors and Property Managers in the Public Sector in Cardiff. And lovely to see you in the rather grand setting of City Hall's council chamber. It is rare for me to speak here, as meetings are normally held elsewhere. It is pleasant to speak in front of an amenable audience, rather than experiencing some of the tensions of formal council events.

As a council, we want to attract networks like ACES to hold their meetings in Cardiff, to promote Cardiff and host such meetings in this important public building: to recognise the city's role as the capital of Wales. And we're really keen to play host to local government and the wider public sector and to help promote discussion about the key issues that are affecting us collectively.

And for this Association, for ACES, I think it's absolutely appropriate that you're holding your national AGM in Cardiff. I say this because the transformation of Cardiff over the last 30 years has been bound up with the council's success, not only in forging partnerships to deliver the regeneration of the city, but also in using the council's land and property assets to add value to the opportunities that have been generated by our work with the private, public and voluntary sectors.

These partnerships have enabled the construction of the Millennium stadium in the late 1990s; the delivery of the of St David's 2 retail centres; the regeneration of Cardiff Bay; our recent work to build

council houses across the city, as well as the recent delivery of 1m sq ft of grade A office space in front of Cardiff Central Station. These are all major projects that have involved vital contributions from successive generations of council property professionals who have played important roles in the city's redevelopment, making Cardiff one of the most successful core cities in the UK. These individuals are often the unsung heroes of the schemes. ACES' members can be proud of their contribution, including some past members sitting here today.

And it reflects an evolved strategy to align our strategic estates teams within the economic development directorate. The council's capability and capacity in the areas of commercial property development has been a significant driver of development.

But property professionals are also playing a vital role in reshaping public services, in the context of an urgent need to meet the pressing decarbonisation challenge in the years ahead. In Cardiff, our Fewer but Better Buildings agenda between 2015-20 delivered an overall reduction in floor space of 15%, achieving £35m of capital receipts and £20m of investment in reducing the council's backlog maintenance. And we're now looking to emphasise the development of a greener and leaner estate with a 30% reduction in our carbon footprint in the next 5 years.

I'm really proud of the work that has been undertaken in recent years by Cardiff's property team. Matt, Eirian, Giles Parker and others were to the fore in helping to shift the council to new modes of working during the pandemic. They worked ceaselessly in shaping the city's emergency response, and they're now working to reconfigure our estate and to adapt to a new world of hybrid working, set against a backdrop of extraordinary financial and demand pressures that are serving to test our services like never before.

I know this work is being replicated by public sector property teams across the UK. And I know the importance of sharing knowledge and good practice, at ACES events like these.

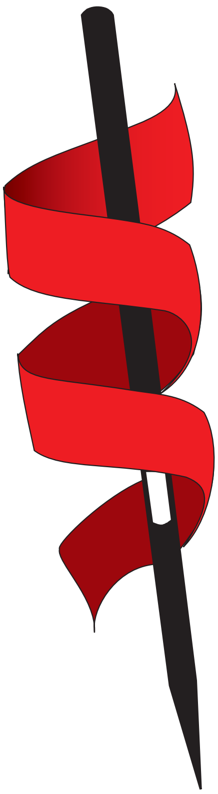
In Wales, there's a real commitment on the part of public service professionals to working in tandem as One Public Service. There are excellent working relationships between local government, and NHS and Welsh Government colleagues. But we also recognise the value and importance of framing the challenges we face in a UK context. This is particularly true on the day that the Chancellor gives his Autumn Statement.

All this makes your AGM particularly timely.

Enjoy your conference. Do try to get to see as much of Cardiff as possible. It's a fantastic city. It's important that you contribute as much to our economy as possible!

Thanks everyone. Thanks for coming to Cardiff.

Diolch yn fawr i iawn [Ed – I'll leave readers to translate the Welsh].



'Why not use the ACES website for free* advertising of your job vacancies?

The ACES website Job Vacancies page (open to all) caters for member and non-member organisations advertising for public sector property posts.

The page gives a summary of the available post with the details of location, salary and closing date and provides a link to the organisation's own website for further details and application form etc.

The Job Vacancies page is currently available to ACES member organisations to advertise opportunities **at no cost.**

You gain direct access to likely candidates already working in the public sector property arena with the expertise and experience that you are looking for.

The new and improved ACES website enables advertisers to enter their vacancy details direct online and include their logo, website links and required details (subject to approval by ACES Secretary).

*The cost per advert for non-members is currently £100.00 for a maximum of 4 weeks' exposure on the ACES website; this is still excellent value!!

Contact the ACES Secretary, Trevor Bishop MRICS, at secretary@aces.org.uk **for further information.**

Helen is Senior Transaction Manager at NHS Property Services and President of ACES.

PRESIDENT'S KEYNOTE ADDRESS 17 November 2022, Cardiff City Hall

Helen Stubbs, president@aces.org.uk

Prynhawn da a chroeso

For those of you who are not fluent in Welsh, like myself - good afternoon and welcome.

I would like to thank everyone for making the journey to Cardiff today. Some of you have spent many hours travelling, and it's fortunate that we haven't been affected by train strikes this time round. For each and every one of you, your attendance is what makes these events such a pleasure, so thank you.

I am doubly lucky today in being in the fortunate position of being a) appointed President and b) sharing that with real live people – the last in-person AGM was in Glasgow in November 2019.

I hope you will all agree with me that the venue and the meal have been excellent and I thank Trevor and colleagues in the Welsh Branch for organising it.

I am truly honoured to be standing here today as ACES President. And, quite frankly, amazed - if anyone had said to the 15-year old me, who decided that she wanted to be a surveyor as her friend's father was a surveyor, and he had a BMW - that I would be representing the huge wealth of talent and professionalism of our members on the national stage, I really would not have believed you (I still don't believe it's real, despite my lovely new "necklace").

But that is the thing about ACES – everyone is equal, everyone's opinion is valued, and we all work together to support each other, no matter how big or small the problem or the question, or how much experience you have.

Having been gradually eased into this role over the last two years, it is abundantly evident that the work of this Association could not happen without the support and dedication of the core management team. Trevor, Neil, Willie and Betty are the permanent members of the team and a special thank you from me to them for guiding and cajoling me out of my comfort zone over the last couple of years. I would also like to thank Chris Rhodes, Simon Hughes and Sara Cameron for their support and words of advice as the past and future presidential team.

The Association is the sum of its parts and without its members it wouldn't function, whether you are a fully active member or just dip into ACES'Terrier every now and then, your participation is key to making this organisation what it is, and the support of members who are on Council shaping the key decisions and reporting back on activities cannot be underplayed. So, on behalf of myself, thank you to all our members.

Public sector property can, however, be quite insular and quite often a lonely world, especially if you are the only surveyor in your organisation. Yes, we can now go on the internet and find whatever information we require, but without the expert knowledge and practical experience of those who live and breathe that subject, it's difficult to turn that knowledge into its practical application.

That's where the support of our external partners is so important to us. We are continually grateful for our valued partners who provide us with excellent CPD, ad-hoc advice and will pick up the phone when we call. I'd like therefore to thank our corporate sponsors and everyone else who gives up their valuable time to help strengthen our membership.

For those of you that weren't at the conference in September, just a little potted history about me [Ed – see Helen's introduction in 2022 Autumn Terrier]. I qualified 25 years ago as a land agent working on a traditional estate in rural Teesside, moved from there up to Scotland to work for The Crown Estate, then the Forestry Commission, and back to England in 2008 to work for Redcar and Cleveland Borough Council – moving to NHS Property Services in 2014. So apart from my APC years, my entire career has been in public sector in one guise or another.

NHS Property Services is a government owned company which exists to help the NHS (in England) to get the most from its estate. We were formed on 1 April 2013 and brought together the community assets of over 164 primary care trusts – including around 3,000 buildings and 7,000 tenants. With a total value of over £3bn, this represents about 10% of the NHS estate. We inherited a vast variety of assets, from listed buildings to state-of-the-art health centres, with a few cricket pitches, bowling greens, horses and sheep along the way. I would like formally to thank my employer for supporting me with my ACES career and allowing me the opportunity to take on this Presidential role.

It is very tempting when taking up a role that has a defined lifespan to try to do everything at once, and over promise on delivery. I am going to try not to do that.

I have a theme for my year in office and that is "Supporting the health estate through collaboration with the public sector".

There are two ways in which I hope to achieve this.

The first is growing the membership in the wider public sector and particularly the health organisations. Many of the NHS organisations don't have property surveying expertise at the senior level – the Director of Estates is quite often qualified in facilities management or capital planning/construction and for me, supporting colleagues who don't have the experience or knowledge of the intricacies of landlord and tenant, development issues and valuation is key to ensuring that the NHS estate continues to be fit for purpose, but more importantly, delivers value for money. I would appreciate the assistance of members and guests to help deliver this goal by encouraging conversations with health colleagues about the benefits of ACES and how we can collectively support each other.

Second is encouraging discussions about shared use of spaces, re-purposing community and public assets, joint developments, investment opportunities and guaranteed revenue streams for local authorities by bringing the health estate into the wider community. There is huge potential, both in terms of utilisation of space and financial efficiencies, by bringing local authorities and the health sector together to deliver estates projects.

This is nothing new, but the introduction of Integrated Care Systems bringing together organisations responsible for the delivery of health and care services and improving the lives of people who live and work in an area, and the formal Integrated Care Partnerships (ICPs) which bring together the Integrated Care Board (an NHS-led board) and the top tier local authorities in the locality, to determine how the health and wellbeing needs of the population are going to be met, provides a huge opportunity to reshape the community health estate.

Changing the status quo is not something that I am going to be able to achieve over the next 12 months, but by having the conversations with members about what joint working could look like will hopefully enable members to discuss with their colleagues who are in the ICPs about potential opportunities.

And just by way of few examples:

- Tackling health inequalities through provision of free or reduced cost space within health centres or community spaces such as libraries for social prescribing projects – thereby utilising vacant space, and sometimes otherwise unlettable space, for voluntary and community sector groups to deliver services such as healthy eating sessions, mental health support, or smoking cessation
- Working with retail landlords (many of whom are local authorities) to redevelop space within shopping centres or on the high street for GP surgeries or outpatient departments. This brings mutual benefits – the health partners benefit from premises that are strategically located with good vehicular and pedestrian access, and a very good negotiating position in relation to rents and achieving best value; the landlords receive essentially a government backed rental, reduced voids and vastly increased footfall and traffic
- There are a number of local authorities who are willing to use their favourable borrowing ability to finance new health centre developments in return for a long term guaranteed revenue stream – either it is as a stand alone health centre or as part of a wider joint development
- There are opportunities to work together to achieve maximum benefit from s106 contributions – often the NHS partners miss the ability to secure s106 contributions for health delivery, or don't have an input, so the contribution doesn't match the need, or is so specifically worded that it is undeliverable
- Housing is another possible focus – providing good quality social housing contributes to reducing health inequalities, by ensuring that people don't live in sub-standard accommodation, which then exacerbates health conditions such as chronic pulmonary disease, and thus increases referrals to the NHS. Within ACES, Derek Rowell is developing a project focussing on older persons' accommodation which seeks to address the shortage of suitable fit for purpose and right sized accommodation for older people and looks at ways in which this could be addressed, which again supports the health agenda.

In addition to what I would personally like to achieve, I am conscious that as an Association we need to ensure that we are adaptable to the external environments and that we are delivering our members' needs and wants. With that in mind, I would encourage anyone, either a member or guest, to write to me confidentially, or anonymously if you wish, with any thoughts on the association and our activities – whether that is good, bad or indifferent.

In conclusion, the last 10 minutes have been the most terrifying of my professional career – worse than sitting my APC – but I hope that I have managed to articulate my passion for health and the public sector, and how they can both work together for mutual benefit, and given an insight to members as to how I will define my year as your President.

Thankyou

ACES Award for Excellence

I am delighted that my first official task as President is to present the 2022 Award for Excellence.

If we were in private practice, the work that we do and the projects that we complete would be broadcast on our websites, circulated to potential clients, or used as case studies for seminars - but within the public sector, we just do not get the opportunity to showcase our skills and professionalism to a wider audience for fear of being political, or the project being misunderstood or taken out of context.

We all strive to provide excellent asset management supported by our professional staff and teams and this annual award provides an opportunity for members to showcase their achievements to a wider audience than just their employer.

As with every year, the breadth of projects submitted for consideration is wide-ranging, but we can only award a highly commended and a winner.

<u>Highly commended - Portsmouth City Council – Lakeside North Harbour project</u>

The highly commended award goes to Portsmouth City Council, for the delivery of the Lakeside North Harbour project. This project saw the council acquire a key business campus, with the aim of not only providing a revenue stream, but also to support the local economy for the longer term. A critical element of the project was to ensure that the campus was sustainable, not only to ensure long term lettings, but also in relation to its environmental responsibilities. The judging panel considered that this project demonstrated a good strategic approach to asset management and the ability to deliver positive change from a commercial investment [Ed – see article in this issue of ACES' Terrier].

<u>Winner – Lancashire County Council – Preston Western Distributor Road</u>

The winning project was a clear unanimous decision from the judges. The project involved the delivery of very complex infrastructure development, involving significant collaboration and team effort across a wide range of property disciplines. Consistent and persistent due diligence was applied to the CPO preparation. Applying sustainable principles in terms of design and social impacts/benefits, culminated in an approved scheme to build the new Preston Western Distributer Road.

Lancashire County Council is the 2022 ACES Award for Excellence winner and I am delighted to present the Award to Rachel Kneale, Estates Surveyor, Strategic Development, Growth, Environment & Planning Services at Lancashire County Council. [Ed - Rachel's response, as you can see from the images, was one of delight. She remarked that she has lost count of how many submissions she has made over the years, and was extremely pleased finally to have won it!].

A presentation of the 2022 ACES' Award for Excellence will be made at ACES' National Conference 2023.

ACES ANNUAL GENERAL MEETING

Notes of the AGM held at Cardiff City Hall on 17 November 2022

Trevor Bishop, ACES Secretary secretary@aces.org.uk

The 2022 Annual General Meeting, held in the magnificent surroundings of Cardiff City Hall, was attended by 43 ACES members. The minutes of the virtual Annual General Meeting held on 12 November 2021 were approved as a correct record.

Annual report of Council

The President, Chris Rhodes, and Secretary, presented a comprehensive report on the work of Council and the Association for the year 2021/22 which was approved by members. The Secretary talked through the items in the report including an update on membership, at just over 400 (including Fellows). He thanked all the liaison officers and branch representatives for giving up their free time to produce their excellent reports and for their valuable contribution to a successful year for the Association and the President endorsed this. Members were urged to take some time to read the useful information in the Annual Report.

The President summarised his last 12 months in a changing year and was glad to be in wonderful surroundings, rather than his dining room where he was installed remotely last year! He reported on his branch visits during the year, some remotely and some in person, and was grateful for the kind welcome given by all.

The President gave thanks to the support afforded to him by the London Branch, particularly with regard to the National Conference, and also thanked the secretariat for its support on many matters throughout the year; special warm thanks were given to Willie Martin, the outgoing Treasurer. The President was delighted to be handing over to Helen Stubbs, the first President to be employed by the NHS. He wished the best of luck to Helen during 2023.

It was noted that the full Annual Report was available on the ACES website for the perusal of members (https://aces.org.uk/aces-national-agm-2022/).

Financial matters

The Honorary Treasurer presented his report containing the accounts for the period ending 30 June 2022 with recommendations for subscriptions for the coming year. It was reported that income was less than had been budgeted for due to a number of reasons, but the income figures were within budgeted for parameters. By the same token, expenditure was lower than anticipated, in the main due to the ongoing impact of Covid restrictions. However, the

Treasurer concluded that the Association's financial position remained healthy.

It was agreed and approved by members to adopt the accounts as presented and to maintain the annual subscription levels at £125 for full members, £80 for additional members and associate members, and retain the current £40 for retired members.

The full year end accounts have been placed on the ACES website.

Appointment of new ACES Treasurer

The Secretary presented a report on the appointment of a new ACES Treasurer, following the decision of the current Treasurer to retire. It was noted that a formal application from Chris Hewitt of Norfolk County Council; following discussions with the applicant, officers were satisfied that he was suitable for the position.

The recommendation to appoint Chris Hewitt as ACES Treasurer was approved by members and it was confirmed that he would shadow the outgoing Treasurer initially and assume the full role from 1 January 2023.

Business Plan and future vision

The Senior Vice President advised of the work she had been undertaking in putting together the revision of the Business Plan. A substantial amount of progress had been made including the incorporation of necessary updates, such as a diversity policy, but further work was required. It was noted, however, that member feedback to proposals had been limited.

It was proposed that a working party be established to look again at the future of ACES from a high level perspective and formulate a clear vision for the future and address the changing world. It was noted in particular that there were some notable differences in the way branches were run and the future of less well attended branches was a cause for concern. Members agreed that terms of reference needed to be formulated, and approved the establishment of a working group to comprise key officers and branch representation, to meet mid-December and report back to ACES Council in January 2023.

Annual conference 2022

The President was pleased to report on a fully live conference for the first time since 2019 and the single hotel/conference rooms location worked well, complemented by the historic Nonsuch Mansion for the Thursday Dinner. The President was thankful for the support of the ACES team that had been brought together to organise the event, together with the support of external consultants, who in particular, worked well in engaging excellent speakers.

The conference was faced with a number of external challenges which impacted on numbers and viability, but the turn-out of just under 100 delegates generated much vitality and engagement in the conference room. Substantial efforts, notably by the Head of Engagement, in securing support from Corporate Members and prudent management, resulted in a close to "break even" position in very difficult circumstances.

As in previous years, a number of lessons were learned to take forward to future conferences. These and other issues were covered in further detail in the President's report on the ACES website.

DLUHC/ACES Working Party

It was approved that Neil Webster and Simon Hughes continue with initiatives to develop relationships with DLUHC during 2022/23.

Consultations

The Senior Vice President reported that the total number of consultations had been lower than in previous years, and it was noted that the level of responses from members perhaps reflected the working pressures that members remained under. However, the consultation response on CPO was robust.

Members were reminded that these consultations were documented on the consultation page on the ACES website. Consultations will continue to be notified to all members to avoid exclusions and enable capture of valuable member experience and knowledge.

Officers of the Association

The following were approved as officers of the Association for 2022/23:

President	Helen Stubbs
Senior Vice President	Sara Cameron
Junior Vice President	Vacant
Immediate Past President	Chris Rhodes
Secretary	Trevor Bishop
Treasurer	Chris Hewitt
Editor	Betty Albon
Head of Engagement	Neil Webster
Hon Auditor	Wortham Jaques

The decision was approved to delegate to ACES Council the appointment of Junior Vice President.

Liaison Officers

The following were approved as liaison officers for 2022/23:

a	Compensation	Vacant
b	Valuation	Chris Brain
c	Rating and Taxation	Tony Bamford
d	Strategic Asset Management	Lee Dawson & Jeremy Pilgrim
e	Commercial Asset Management	Andy Kehoe
f	Agricultural Asset Management	Vacant
g	RICS	Sam Partridge & Daniella Barrow
h	DLUHC/ACES	Neil Webster and Simon Hughes
j	Post Graduate/ Diploma Courses	Malcolm Williams
k	Health	Neil Webster
l	Regeneration and Housing	Gillian Boyle
m	Branch Liaison	Vacant
n	Covid-19	Tony Bamford
o	RACES & iHOPE	Derek Rowell

It was noted that Andy Kehoe and Gillian Boyle would step down from their respective roles if a replacement came forward. Charles Coats advised that a nomination for the Agricultural Asset Management role would be brought to next Council.

Council membership

Keith Jewsbury and Marcus Perry were approved to serve on Council for 2022/23 representing Past and Honorary members of the Association.

Neil McManus, Daniella Barrow and Andrew Stirling were approved as full members of Council for 2022/23.

Honorary membership

A nomination was received at the meeting from Malcolm Williams to confer the designation of Honorary Member of the Association on Willie Martin, following his retirement from the position of ACES Treasurer. He commented that the Treasurer had done a sterling job with our sterling. Willie's contribution to the Association over many years was recognised and the proposed Honorary Membership was

approved. The President then made a presentation to Willie to thank him on behalf of the Association for the excellent work done over many years.

Future meetings

The following future meetings were noted:

ACES Council	20 January 2023	Guildhall, London
ACES Council	21 April 2023	Birmingham (to be confirmed)
ACES Council	28 July 2023	North East (to be confirmed)
Annual Conference	September 2023	North East
Annual Meeting	November 2023	TBA

It was proposed that a regional location should be strongly considered for the 2023 AGM and members endorsed this.

ANY OTHER BUSINESS

No other business was raised from the floor.

The meeting closed and was followed by presentations from the Valuation Office Agency and Carter Jonas [Ed – both reproduced in this issue of ACES' Terrier], together with an introduction to a new Real Estate degree at the University of South Wales [Ed – to be featured in a future issue of ACES' Terrier]. This was then followed by the installation of the new ACES President, Helen Stubbs, who gracefully accepted the presidential chain of office from Chris Rhodes.

An excellent annual lunch was enjoyed by members and guests and the day was concluded by the President's Keynote Address and the presentation of the ACES Award for Excellence which was won by Lancashire County Council, with the Highly Commended certificate going to Portsmouth City Council Ed – reproduced in this issue of ACES' Terrier].

ACES MEMBERSHIP

Trevor Bishop MRICS, ACES Secretary secretary@aces.org.uk

I list below the changes in membership between 1 October and 31 December 2022.

New members approved

There were 9 new applications approved during the period:

First Name	Surname	Organisation	Branch Ref
Bradley	Salton	Basildon Borough Council	E
Amanda	Badman	Cannock Chase Borough Council	HoE
Robert	Holmes	Concertus	E
Sam	Munnings	Dorset Police	SW
Andrew	Lawes	Exmoor National Park Authority	SW
Mark	Cunningham	Newport Norse	W
Nicki	Collas	NHS Trust - University Hospitals Plymouth	SW
Thomas	Phillips	Teignbridge District Council	SW
Richard	Baker	Welsh Government	W

Members transferred during the period.

One member transferred during the period.

First Name	Surname	Branch Ref
Kerry	Harding	E

Resignations

The following 19 members resigned during the period (Resignation includes where members leave an organisation and do not maintain contact with the association, or where the member is over 12 months in arrears with membership subscription and is not responding to invoice reminders).

First Name	Surname	Organisation	Branch Ref
Sharon	Livesey	ACES Retired Member	NW
Julian	Stanyer	ACES Retired Member	L
Elaine	Parry	Basildon District Council	E
Mitchell	Spencer	City of Wolverhampton Council	HoE
Colin	Craig	Dundee City Council	S
John	McClimens	DVS Property Services	S
Mark	Cheverton	Kent County Council	SE
Stephen	Hartrick	London Borough of Haringey	L
Deb	Hill-Howells	Monmouthshire County Council	W
Fiona	Teague	Newport Norse	W
Richard	Chilcott	Norfolk & Suffolk NHS Foundation Trust	E
Robert	Morris	Royal Borough of Greenwich	L
Antonio	Fernandes	Runnymede Borough Council	SE
Simon	Seymour-Marsh	Surrey & Borders NHS Foundation Trust	SE
Stephen	Forsey	Teignbridge District Council	SW
Elaine	Field	Thurrock Borough Council	E
Philippa	Tranter	Valuation Office Agency	L
Stewart	Brown	Warrington Borough Council	NW
Steve	Cooper	Watford Council	E

Membership

Summary of current membership at 31 December 2022.

Total Membership	
Status	Number
Full	217
Additional	71
Honorary	34
Associate	25
Retired	34
Total	**381**

Helen is Senior Transaction Manager at NHS Property Services and President of ACES.

FUTURE VISION Welcome from the President

Helen Stubbs, president@aces.org.uk

Hello and welcome to 2023. I am sure it cannot be any worse than 2022 – but you never know!

The new year is a time for reflection but also for looking forward, often including resolutions for the year ahead (most of which are very short lived in my case). For my first article as President, I thought I would take inspiration from this concept and have a quick look back at issues that were perplexing us in times gone by, but also to look forward to some of the issues, challenges and opportunities that we might face during 2023. I have a feeling some of them may be very similar - time in the property world moves very slowly.

Time for reflection

Courtesy of four lever arch files from Mike Ackroyd when he resigned as branch secretary of the North East Branch, I am in the fortunate position of being able to call upon the very detailed archives charting the history and development of the branch and the issues that it has faced over the years. The records start in May 1986, with a circular from John Higginson FRICS of Kingston Upon Hull City Council to 10 of the regional councils, asking if there would be any interest in setting up a north east branch of the Association of Local Authority Valuers and Estates Surveyors, with one of the benefits stated as being the shorter journey time to branch meetings, as opposed to "a journey to London which might well be of 36 hours duration". Clearly train strikes were prevalent in 1986 also. The need for a NE Branch must not have been deemed a priority, as the first inaugural branch meeting did not take place until October 1991.

The issues concerning colleagues at that time are just as relevant today, one Head of Estates wrote *"do we have time to consider the implications of the proposed new method of Capital Accounting in Local Authorities – I am faced with the situation of dealing with each new initiative of this nature without increases in staff or permission to use private consultant assistance"*. A resourcing situation, which I am sure is still prevalent in many of our organisations today.

Valuation and rating issues appear to have been of most concern to members at that first meeting – the minutes recording debate such as whether the valuation of local authority waste disposal companies' assets should be kept "on the low side" as this would affect the base/rate of return anticipated from these sites if won "in house" by the local authority's own waste disposal company; or whether the valuation should be "on the high side" as it affected the position of a local authority as a potential shareholder [Ed – I imagine Chris Brain is turning in his metaphorical grave at questions like this!]. In addition, the perplexing problem of selling assets at less than best price in order to secure tangible benefits such as affordable housing and having to navigate the complexity of s123 of the Local Government Act 1972 – definitely an issue that still arises today.

Looking forward

These next paragraphs are not an in-depth study of the issues facing us today, but a quick reminder really of some of the competing issues that we do encounter, and a request that if anyone has a passion or interest for one of the areas, that you consider writing an article for the next edition of ACES' Terrier [Ed – Spring issue, deadline 1 April], or presenting at a branch meeting or a national event. It naturally doesn't cover everything – I have resisted mentioning Brexit for instance.

Climate change

As I sit writing this column on a rather warm January day (10 degrees and rising) climate change is an ever-present concept – whether you agree with climate change or not, the changing weather and climate patterns pose a challenge for all those who deal with property. From the micro issues at individual property level – such as whether to install solar panels, or ground source heating - to the regional and national issues of dealing with increased flooding, or drought and extreme heat and how to adapt our towns and cities and surrounding land to manage the issues this creates. This links into the net zero carbon agenda and the new MEES regulation which will directly affect how we manage our property portfolio.

Economy – British and global – how does this affect our assets

High inflation rates and the cost of living, along with the numerous strikes and disputes from public sector and key workers, are all affecting the work that we do – whether that's from an inability to use public transport to commute to work, or tenants being unable to pay rent defaulting on leases. The situation will not change immediately, so a degree of flexibility, adaptability and possibly compassion for hardship cases may be in order.

Planning reforms

The government announced consultation before Christmas on how reforms to national planning policy may be developed to support the Levelling Up and Regeneration Bill. A number of high profile comments and initial thoughts have been developed on this already and I would encourage all ACES' members to have a look at the consultation or the commentary around it.

Change in working practices

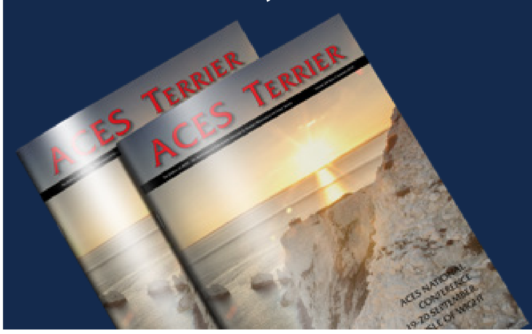
The legacy of Covid and the change in working practices continues and the current hybrid way of working is likely to be the new for the foreseeable future. This leads not only to office closures in traditional working cities and towns, but home working, or shorter commute options, leading to more demand in local towns and villages. This is a positive change providing the catalyst for regeneration in areas that may previously have been overlooked, and new businesses and opportunities opening up - all part of the concept of the 15/20 Minute City discussed at ACES' National Conference last September.

Future vision

The continued success of ACES relies heavily on its branches and participation and involvement from its members. At the AGM in November, I asked that we undertake a review of ACES to explore the challenges that ACES was facing and in particular, to look at the decline in branch meeting attendance (at some branches) and lack of engagement from members on both local and national issues (universal issue) [Ed – see notes of the Annual Meeting in this issue of ACES' Terrier]. The reasons for this position are numerous and proposals are being worked up to mitigate and try to reverse the problems, but in this opening article all I want to do is stress that the future of ACES is in its members' hands; we are here to support each and every one of you in the challenges that you face on a daily basis, but we can only do that with your continued support and engagement – the USP of ACES, to coin a marketing phrase, is the vast professional experience that our members have and the ability for any one of us to tap into that knowledge for free (other than our modest annual fee!). A quick calculation would suggest that we have a cumulative knowledge bank of 9,550 years of property experience to draw upon – so please, as the saying goes – "use it or lose it".

I will also re-iterate my request to hear from members with any suggestions or comments for the future of the association – positive or negative – all comments are helpful and welcomed.

ACES Terrier is published quarterly by ACES. The inclusion of any individual article in the Terrier should not be taken as any indication that ACES approves of or agrees with the contents of the article.



ACES

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UK COMMERCIAL MARKET OUTLOOK

Iain Mulvey Iain.Mulvey@carterjonas.co.uk and Alexandra Houghton Alexandra.Houghton@carterjonas.co.uk

Iain and Alexandra presented a shortened version of this paper at ACES' Annual Meeting. The full article is presented here, together with a selection of the graphics.

Iain is Business Development Director at Carter Jonas. He has 25 years' experience of working in economic development, regeneration and the wider property industry. He started his career working for Regional Development Agencies in London and the South East, and since then has advised a large number of local authorities and central government departments for Carter Jonas and prior to that, GVA (now Avison Young).

Alexandra is a member of the Commercial Board at Carter Jonas and leads the Commercial Division's Public Sector Consulting team, where she provides strategic advice to public and third sector clients, focusing on the delivery of solutions to business needs through estate change.

She specialises in UK wide property rationalisation and transformation projects and has a long history of public sector property consultancy achievements. A career highlight includes significant involvement in and preparation of the Ministry of Defence Footprint Strategy, announced in the House of Commons, as well as many central government and local authority Green Book business cases, options appraisals and estate strategy projects.

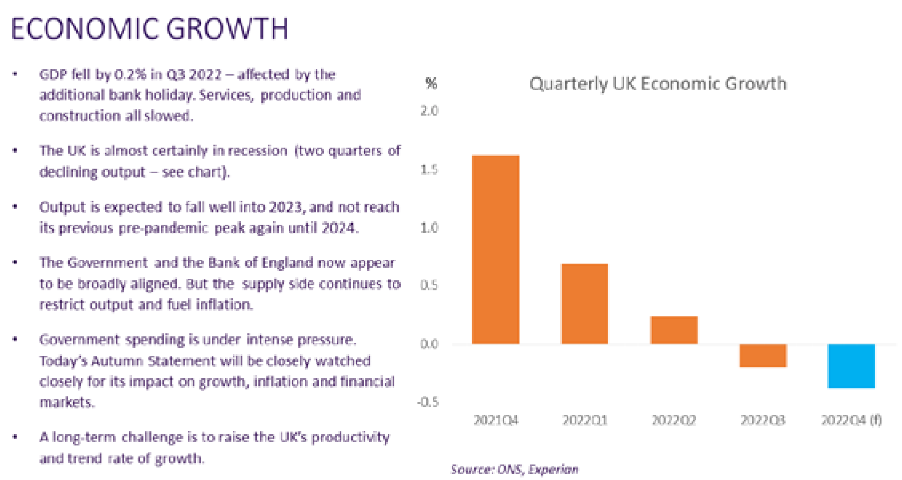
Introduction

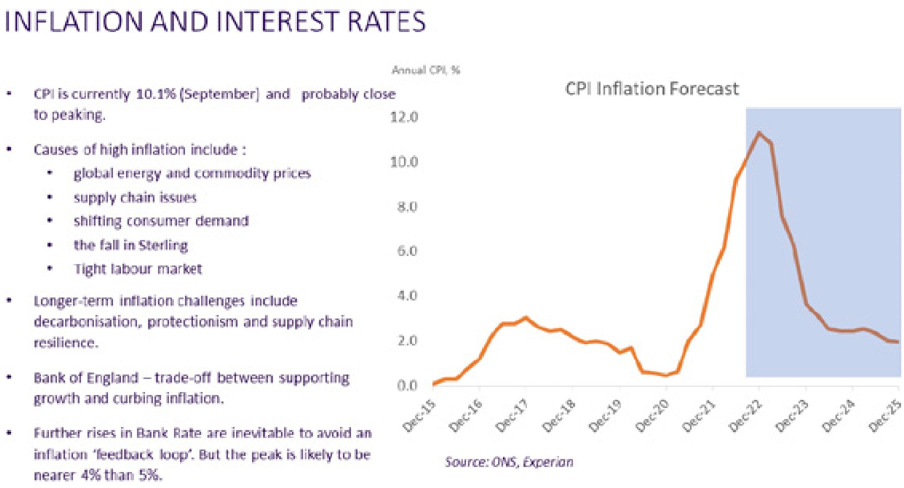
This article begins with an economic outlook of national trends including growth and inflation and then some selected drivers of occupier demand. This is followed by commercial rental growths, overall by sector, but then homing in on some particular sectors which may present opportunities to local authority landlords and landowners; finally, investment trends – recent transactions and yields, sector differences – and the occupier and investment market outlook.

Economic growth

The graphic indicates the quarterly position over the last year. Supply side issues include ongoing disruption to global supply chains, Brexit-related challenges for UK exporters, and an undersupply of labour. A long-term challenge is to raise the UK's productivity and trend rate of growth.

- GDP fell by 0.2% in Q3 2022 – affected by the additional bank holiday. Services, production and construction all slowed
- The UK is almost certainly in recession, defined by two quarters of declining output
- Output is expected to fall well into 2023, and not reach its previous pre-pandemic peak again until 2024
- The supply side continues to restrict output and fuel inflation
- Government spending is under intense pressure and the impact of the Autumn Statement will be closely watched in terms of growth, inflation and financial markets.





Inflation and interest rates

The chart shows the recent and forecast inflation rates. In September 2022 the Consumer Price Index (CPI) was 10.1%, which is approaching the forecast peak. The causes of high inflation include global energy and commodity prices, supply chain issues, shifting consumer demand, the fall in Sterling, and a restricted labour market. The Bank of England remains independent to set the bank interest rate. Further rises in the bank rate are inevitable to avoid an inflation 'feedback loop', but the peak is forecast to be nearer 4% than 5%. There needs to be a trade-off between supporting growth and curbing inflation.

There is a shifting imbalance between demand and supply, as a combination of changing social distancing restrictions and consumer behaviour has caused rapid swings in demand for some products and services. Supply has struggled to keep up, as there is inevitably a lag in how quickly production and distribution chains can respond.

Property is traditionally seen as a hedge against inflation as it increases the rate of rental growth, and in turn, property values. In addition, more leases are now indexed directly to inflation. This contrasts with the potential for lower returns for bonds and greater volatility in equities. As a result, property as an asset class tends to perform well in inflationary periods. However, selecting the right stock in the right sector is more important than ever, as sector differentiation is key.

There is increasing globalisation – the EU Single Market, the expansion of global supply chains, and offshoring. Additionally, technology has and is playing its part. Internet and growth in ICT hardware supported the growth of e-commerce, which introduced cheaper distribution channels (see later). Longer term inflation challenges include decarbonisation, protectionism and supply chain resilience.

Labour market constraints

There is currently historically low unemployment, at 3.6%; but the rate is now starting to move upwards. There is strong long-term growth in employment, but there is likely to be a hiatus next year. There is an acute labour shortage: job vacancies are a record 1.23m, interestingly at the same level as total unemployment! There is also an issue around skills.

Causes for this labour shortage include fewer EU nationals, a skills mismatch, "The Great Resignation", and the effects of the pandemic. There may be as many as 2 million people suffering from long Covid. Finally, there is an escalating risk of industrial disputes.

Retail demand drivers and households

The graph charts the Consumer Confidence Index in October 2006 to 2022, showing clearly the reasons for major dips and the current dramatic fall.

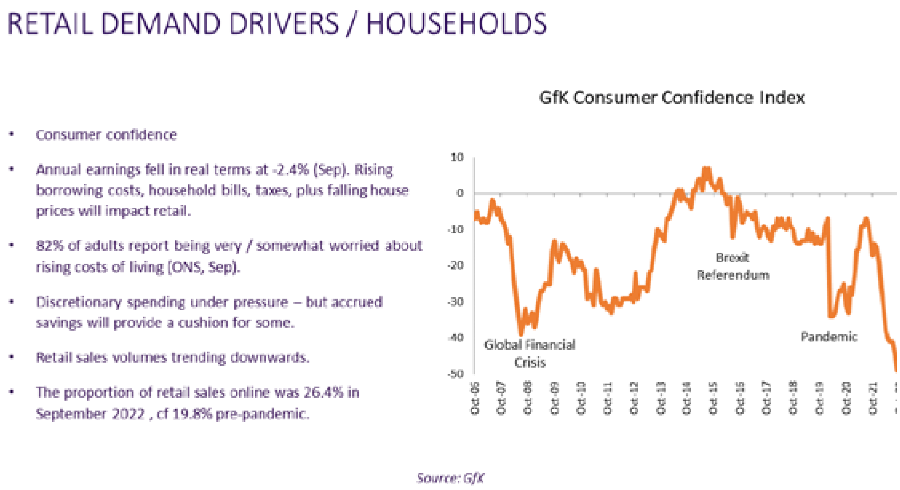
Annual earnings fell in real terms, in September 2022 measured as an average of minus 2.4%. Rising borrowing costs, household bills, and taxes, together with falling house prices and low market confidence will all impact retail demand. A record 82% of adults report being very/somewhat worried about rising costs of living (Office for National Statistics, September). While discretionary spending is under pressure, accrued savings will provide a cushion for some.

Retail sales volumes are trending downwards, with a 1.4% drop in September. At the same time, the proportion of retail sales online was 26.4%.

Output and rental growth

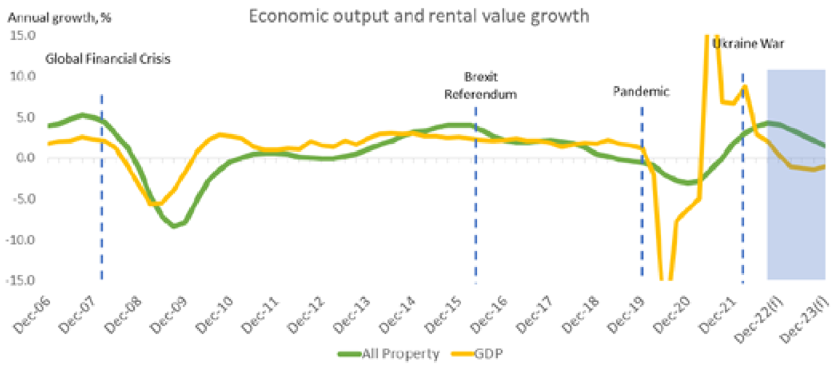
There is a strong link between economic growth and rents. The slowing economy reflects an impact, as the chart and forecast show.

Property has been resilient in recent cycles but this is not really illustrated by looking at the 'all property' trends. Structural factors are arguably a more important driver than short-term economic performance. Changing demand is creating supply imbalances and maintaining growth in some sectors, as illustrated in the sector differentiation histograms and text below.



OUTPUT AND RENTAL GROWTH

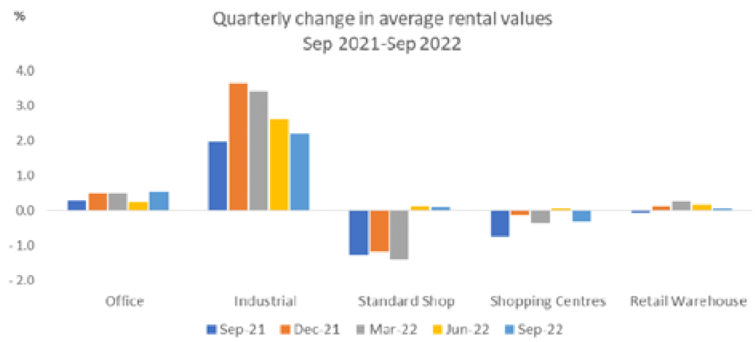
Crisis, which crisis? UK entering recession, but commercial property has proved resilient...



Source: MSCI Quarterly Index, REFL, Experian, ONS, Carter Jonas

SECTOR DIFFERENTIATION

Structural change is a more important driver than short-term economic performance...



Source: MSCI Quarterly Index, Carter Jonas

<u>Office demand: drivers and impacts</u>

Carter Jonas has prepared a new report: "The impact of artificial intelligence on the office market". The images in the publication have been produced using AI technology. The following drivers have been identified:

- Economic slowdown - in the short term, recession and heightened business uncertainty will underpin demand for serviced/co-working space, but delay office relocation decisions
- Rising inflation and interest rates - will erode the profitability of many businesses, with an increasing focus on cost reduction. But reduced investment could be positive for employment
- Labour market and staff wellness – difficulty of recruiting staff/ increased importance of providing a vibrant, attractive and well located, sustainable, energy-efficient work environment
- Increase in remote/hybrid working will permanently reduce the amount of office space needed. This will be partly mitigated by lower densities: offices will be seen as a positive choice, not a necessity
- Minimum Energy Efficiency Standards/Corporate ESG credentials – the proposed increase in the minimum EPC to C by 2027 and B by 2030 is already accelerating the move to A/B buildings and will have a potential impact on secondary stock
- Technology such as artificial intelligence will reduce the number of lower value jobs and create new higher value ones. This will further increase the emphasis on offices as high quality environments for creativity and interaction.

The impact of these drivers on the office market will be:

- Further structural shift in demand towards grade A, sustainable, energy-efficient, buildings
- Focus on quality space for collaboration, innovation, communication and wellbeing
- Space occupied at lower density. But overall, less space will be needed
- Continued shortage of prime space, with development highly constrained by demand uncertainty and high building costs
- Secondary offices – higher vacancy, obsolescence and conversion to other uses.

154

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Life science trends

The life sciences industry has received record levels of funding over the past two years. Funding in 2021 has exceeded the total invested over the previous decade, at $17.3bn, and remains strong at nearly $5bn in the first half of 2022. Buoyant funding is fuelling occupier demand for research and development space. Demand is outstripping supply and putting upward pressure on rents.

Several massive schemes are under way, including Oxford Technology Park and Birmingham Health Innovation Campus, with more expected to start over the next two years. NHS has formally begun a search for a developer for an 800,000 sq ft life sciences scheme in Whitechapel, while Landsec has committed to plans for Cambridge Northern Fringe East, a £3bn residential and life sciences campus development focused on a 120-acre site.

Life sciences/R&D operators are increasingly looking for laboratory space in city centres, which may be an opportunity to re-purpose existing office buildings [Ed – also see Helen Stiubbs' inaugural speech in this issue of ACES' Terrier and initiatives to relocate health services to city centres].

As a consequence, life sciences real estate risk profile has moved from 'opportunistic' to 'core'.

Industrial/logistics trends

- Structural change continues to drive demand - Brexit and the shift to e-commerce have fuelled the need for additional warehousing. Occupier demand remains strong across a broad spectrum of industrial sectors
- However, take-up has eased across the 'Commercial Edge' cities to 6m sq ft in Quarter3, following exceptionally strong levels over the past year; 33% down quarter on quarter and 47% down year on year. In part, this is attributable to a lack of available stock
- Rental growth is slowing, but is expected to continue at sustainable levels where stock is low. However, some markets are seeing more competition that might put downward pressure on rents in the short term. Average quarterly industrial rental growth was 2.2% in Q3, down from a peak of 3.6% in Q4 2021. So growth has slowed, but is still strong – the equivalent of more than 9% over one year. Growth will probably slow further though
- High construction costs, shortages of labour and materials, and rising interest rates are acting as a constraint on development. This is now exerting downward pressure on land values.

Open storage – demand, rents and opportunities

Demand has been evolving rapidly, due to the rise in e-commerce requiring vehicle parking/EV charging for urban logistics. These need high specification sites which the market is not currently able to satisfy. The number of enquiries in 2022 is broadly in line with the 2021 level, and is significantly elevated compared with previous years. Usually, sites of 1-3 acres are leased by a single tenant, with sites of 3+ acres generally leased to multiple tenants. Typical leases are between 1 and 5 years, although there is also a demand for 'meanwhile uses' for open storage.

Open storage sites provide a vital urban land use which is key to servicing some important and growing economic sectors. Many traditional open storage sites are of low quality, comprising mainly hardcore and broken asphalt surfaces, rented on short-term leases to occupiers with poor covenants. In contrast, open storage sites can be in demand for energy provision (notably solar panels), but access to the National Grid is a pre-requisite.

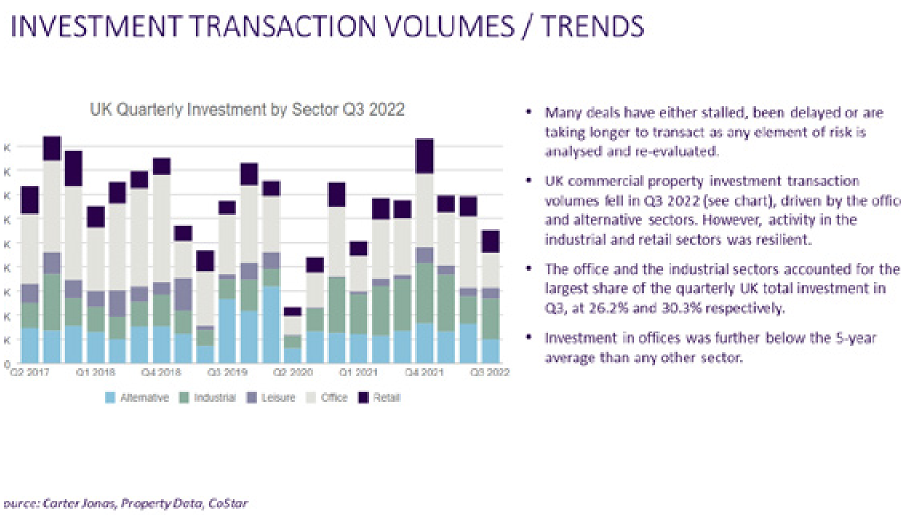
Occupier demand will remain elevated compared with the supply of sites in the right location and of the right specification. Demand is regionally influenced. Many strong covenants occupying sites include Amazon, Royal Mail, and Eddie Stobart Logistics.

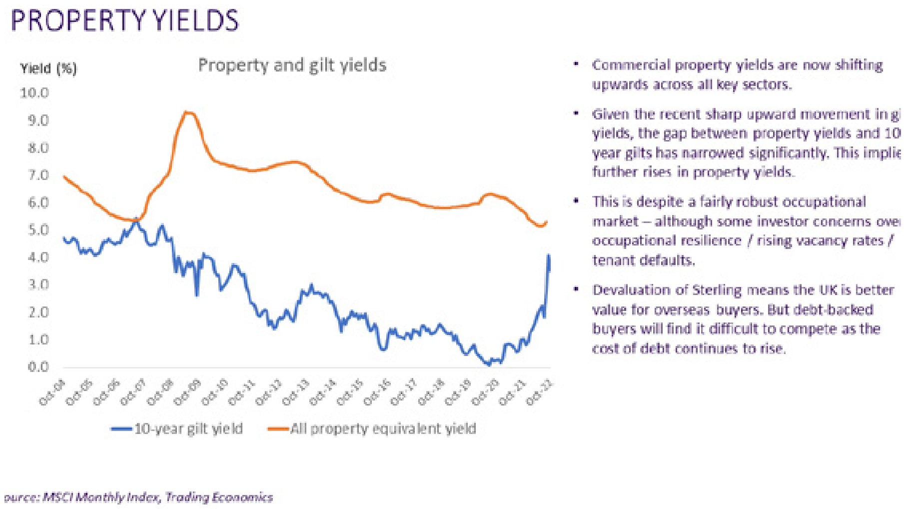
There are only limited opportunities to purchase either high-quality existing sites, or those that can be upgraded (surfacing, security, facilities, etc). There has been strong rental growth: average annual rental growth in London and the south east is 27%, with growth in the regional markets of 119% (year to Sep 2022). This restricted quantity of stock will help to maintain upward pressure on rental values and will mean increasing potential returns from upgrading lower-quality sites.

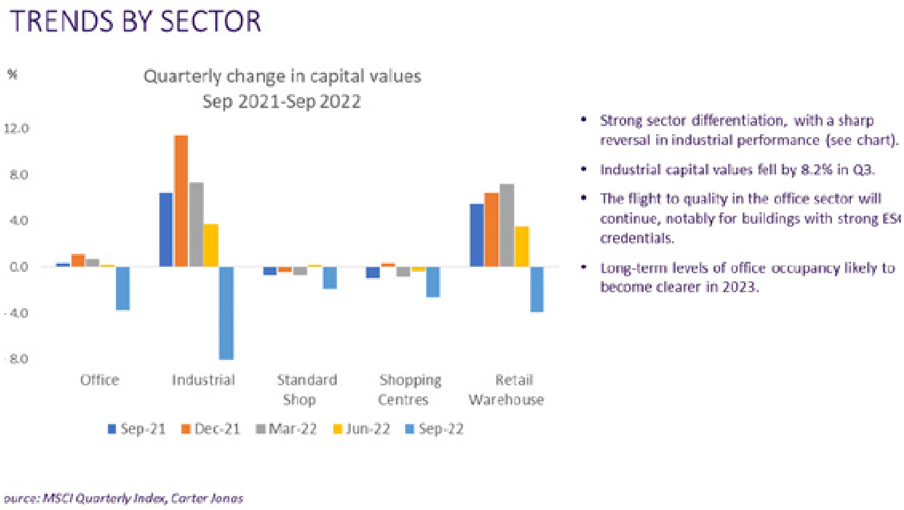
Investment transaction volumes, yields and sectors

The graphics show quarterly investment trends, 2017-2022. Many deals have either stalled, been delayed, or are taking longer to transact as any element of risk is analysed and re-evaluated.

UK commercial property investment transaction volumes fell in Q3 2022, driven by the office and alternative sectors. However, activity in the industrial and retail sectors was resilient. The office and the industrial sectors accounted for the largest share of the quarterly UK total investment in Q3, at 26.2% and 30.3% respectively. However, investment in offices was further below the 5-year average than any other sector.







Property yields

Commercial property yields are now shifting upwards across all key sectors. Traditionally, there has always been a healthy gap between property and gilt yields. Given the recent sharp upward movement in gilt yields, the gap between property yields and 10-year gilts has narrowed significantly. This is possibly a worrying convergence and implies further rises in property yields, despite a fairly robust occupational market – although there are some investor concerns over factors such as occupational resilience, rising vacancy rates and tenant defaults.

Devaluation of Sterling means the UK is better value for overseas buyers. But debt-backed buyers will find it difficult to compete as the cost of debt continues to rise. Sterling is 12% below the US dollar, compared to the start of 2022.

Trends by sector

There is strong sector differentiation, with a sharp reversal in industrial performance (see chart). Industrial capital values fell by 8.2% in Q3. The flight to quality in the office sector will continue, notably for buildings with strong ESG credentials. The long-term levels of office occupancy are likely to become clearer in 2023.

Occupier and investment market outlook

Occupier market

The UK is almost certainly in recession, with output expected to fall well into 2023. The Bank of England expects CPI inflation to peak this year at almost 11%. Despite this, there is a fairly robust occupational market: a lack of stock supports rents and holds back activity for prime offices and industrial space. Industrial occupier demand remains robust, driven by structural change.

The office market will be driven by upgrading poor quality space, and moves to reduce space and there will be increasing differentiation between prime and the rest.

Households remains under significant pressure with continued record low consumer confidence. Unemployment will start to rise from record lows. This will impact consumer-facing sectors.

Government spending is under increasing pressure, and will require further cost efficiencies. It remains to be seen if the levelling up agenda results in any regional differences.

Investment market

Many transactions are delayed ('wait-and-see') or stalling (sellers not prepared to take a further price discount). Q4 2022 is likely to be quiet, but deals are still happening, albeit at discounts.

There has been recent positive response to political stability from financial markets, after the trauma of recent times, but there will be further rises in bank interest rates to control inflation. While the devaluation of Sterling helps overseas buyers, debt-backed buyers will find it difficult to compete as the cost of debt continues to rise.

There has been a recent sharp industrial correction, but yields are stabilising for prime stock.

Yields are likely to soften further, meaning there is a significant buying opportunity for some investors, including local authorities: "now is the time to buy: the focus should be on prime product with secure income."

KNIGHT FRANK ROUNDUP
The challenges of 2022 and insights into 2023

The Knight Frank team

Knight Frank is a multi-disciplinary property consultancy, advising private, public and third sector clients on residential and commercial real estate projects across the property lifecycle. In this article, written exclusively for the ACES' Terrier, experts from Knight Frank's Development Partnerships, Debt Advisory, Public Sector Advisory, Rural Consultancy and Town Planning teams reflect on the challenges of 2022, and offer their unique insight on what public sector chief estates surveyors and property managers can expect in 2023.

Development partnerships

Charlie Dugdale is Head of Knight Frank's Development Partnerships team.

In 2022 it felt like supporting development became political suicide. The local and by-election swings away from the Conservatives signposted an electorate that had become dissatisfied with development. However, to dismiss this sentiment simply as 'NIMBY-ism' is to overlook the local issues at play. I would argue that people are not simply 'anti-development' but have concerns that existing infrastructure will be unable to cope with new development. These concerns are often founded on experience, be it ambulance wait times, crammed daily commutes, or traffic jams on the school run.

It is no surprise then that the government has changed its narrative, shifting away from "addressing the housing crisis" with "new towns" and "planning reform", towards the "UK Infrastructure Bank" and the "Levelling-up & Regeneration Bill". Through investment in infrastructure, the mindset will not be around adding demand to failing services, but about investing in infrastructure to ameliorate these pressures and stimulate growth of jobs and opportunity.

One of the popular 'silver bullet' solutions to the pressures facing local authorities is to promote a new settlement. The thinking goes that it will solve the housing target pressures without impacting too many people, and the land value uplift can be captured through investment in local services. It does seem compelling, and it is not surprising that many are being carefully considered. But unfortunately, 2022 was also the year that the financial incentive for delivering a new settlement was stretched to breaking point.

New settlements are delivered by master developers whose revenue is selling serviced land, and whose cost is building infrastructure. Unfortunately serviced land values have been falling, and infrastructure costs have increased dramatically. At the same time, the discount rate increased in line with 5-year SWAP rates – something my colleague Craig Wilson will come onto later in this article. All of this has significantly impacted the viability of these projects.

We must address the common misconception that the larger the development the more infrastructure it can support, when in fact, the reverse is true. Small developments that plug into existing infrastructure are far more profitable and can afford to support more than they do. As Maddie Chelsom will touch on later, local government has an incredible opportunity to engage positively with new sources of funds and with developers who are actively seeking to deliver the right development in the right place.

Engaging constructively means climbing over the table and sitting alongside master developers. It also means understanding viability and what projects can afford. The alternative is not only to misunderstand the electorate, but also cause more stalled development, less investment in infrastructure, fewer businesses being given the platform to thrive, and fewer homes for people to live in. That future is unconscionable.

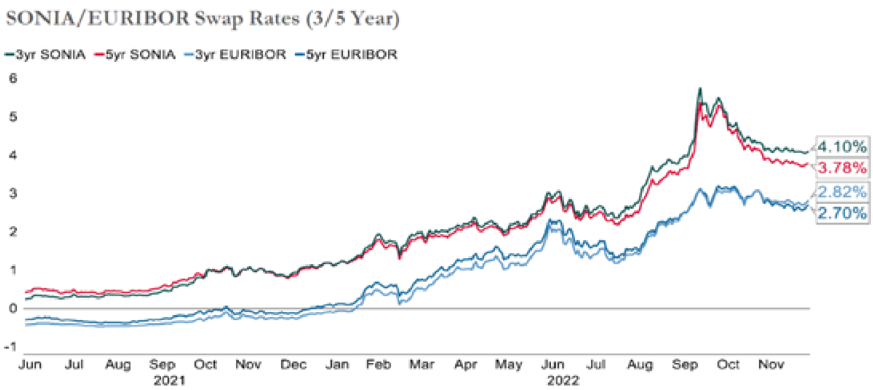
Debt advisory

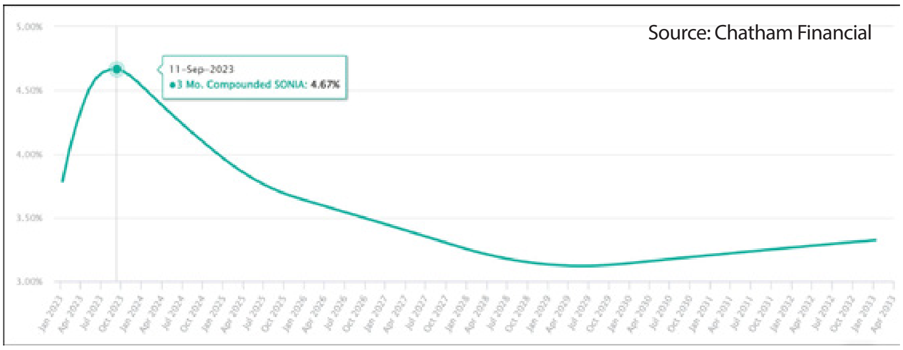
CraigWilson is a Partner in the Debt Advisory team.

As Charlie just touched on, 2022 stretched the viability of development to breaking point. In particular, 5-year SONIA swap rates – the fixed rate that receivers demand in exchange for the uncertainty of having to pay short term floating rates – increased from less than 1% a year ago to over 5% during a period of significant political and economic instability immediately following the September mini-budget. While SONIA swap rates have now returned to levels seen in early September 2022 (5-year SONIA swap - 3.95%), the economic turmoil in 2022 has significantly impacted development viability.

In terms of infrastructure funding, Homes England can offer infrastructure loans through their Home Building Fund (HBF), providing financing for any

Source: Marcobond/ICAP





Source: Chatham Financial

non-housebuilding activity needed to unlock large sites and enable partners to use their capital resources to deliver housing quickly. These types of activities include land preparation and enabling works, which can be more challenging to finance in the private debt market. Homes England will also be launching the long-awaited Brownfield Infrastructure and Land fund, which will provide further support for unlocking sites.

The all-in interest rate for HBF infrastructure loans comprise both the margin (i.e. the lender's risk premium), and the EC Reference Rate (i.e. the floating reference rate published monthly by the European Commission). Over the course of last year, the EC Reference Rate increased markedly from 0.51% in January 2022 to 2.77 in January 2023 – this loosely follows the 3-month SONIA floating rate. Unsurprisingly, the increased all-in cost of infrastructure loan finance has squeezed the modelled returns for a number of long-term master plan projects.

The good news, however, is that a peak in the cost of debt is now anticipated to be less severe than many were fearing. At the time of writing, the 3-month compounded SONIA rate is forecast to peak at just over 4.70% in late summer 2023, before beginning a steady decline to align with European interest rates in 2030, establishing a "new normal" for the cost of floating rate debt of just over 3.00%.

The beginning of 2023 will bring opportunity in the debt market as funding targets reset and lenders will be required to re-enter the market. Given the depth and breadth of lenders in the market now, compared with the Global Financial Crisis of 2007-08, this will inevitably lead to competition to fund the best assets and will result in lenders offering greater flexibility on pricing and financial covenants.

Public sector advisory

Maddie Chelsom is a Senior Surveyor in Knight Frank's Public Sector Advisory team.

As Craig has just touched on, in 2022 we saw the cost of corporate borrowing skyrocket. The same is true for personal finances and borrowing, while spiralling inflation has created a cost-of-living crisis that is impacting hundreds of thousands of people up and down the country.

The Chancellor was successful in November in stabilising the markets, maintaining balance between the credibility of the government's financial management and offering support to those worst affected. At a local level, however, the public sector needs to work much harder with its money and assets to ensure responsible investment into well-advised developments with a long-term stewardship approach.

The pressures on local authorities throughout 2022 will continue over the months and years to come. The key message and takeaway from looking at a number of public sector projects throughout the year, in order to be successful, both from a feasibility and economic growth assessment, is that a solid business case with strong viability, an excellent supporting advisory team, and the right balance between risk and reward is essential for success.

Throughout 2022 Knight Frank has seen more public sector emphasis placed on Environmental, Social and Governance (ESG) issues – particularly on the environmental element of that wheel. Progress has been made towards reaching net zero targets, although there needs to be more of a focus on social value and governance going into 2023.

The year ahead requires optimism for both delivery and outcomes. If the government is going to deliver on its promises, it needs to be clear on the required outcomes and paths to delivery. Trust also needs to be prioritised and built and maintained by delivery.

Pressure on local authority revenue budgets is greater than it has ever been. The provision of revenue generating services through a Teckal Company is not enough to cross subsidise inflationary pressure on general fund expenditure.

The 2022/23 extension on use of flexible capital receipts for revenue expenditure has helped fund transformation projects that produce long-term cost saving to service delivery. However, does the disposal of an asset protect public interest, and should government do more to allow local authorities the flexibility to generate revenue receipts?

The market continues to respond with more innovative funding strategies that help public sector bodies protect public assets while helping ease the pressure on the revenue budget. We look forward to seeing better partnerships between the public and private sectors in 2023/24, as well as more support and flexibility from central government to avoid more s114 Notices being served.

Knight Frank Rural Estate Staff Salary Survey 2022 https://bit.ly/3vJMXlw

Rural consultancy

James Shepherd is a Partner in Knight Frank's Rural Consultancy team.

As colleagues have already mentioned, in a year when inflation and interest rates took off like they hadn't done for a generation, the UK's rural landowners added those concerns to a growing list of others – notably war in Europe impacting food security (a theme that re-emerged in politics during the initial outbreak of Covid).

It was also the year when those seeking delivery of environmental projects and/or a continued safe haven for their investments turned to agricultural property. According to Knight Frank's Farmland Index, the record low supply of farmland openly marketed in 2022, combined with increasing pressures on demand, resulted in a 13% year on year increase of England's farmland values.

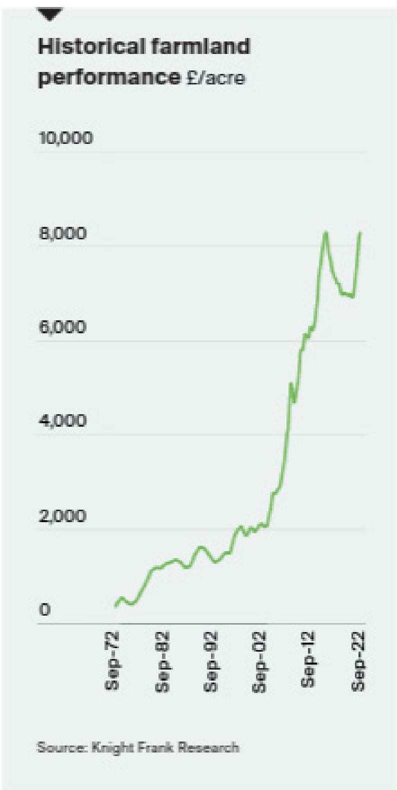
It is likely the reader's view of the market will have picked up on the strengthening forces of demand for farmland in 2022, particularly for ESG themed tree planting or other carbon off-setting projects. However, the results from Knight Frank's Rural Estate Staff Salary Survey will also resonate with many. The survey's results (released December 2022) showed the availability of labour was a serious concern, with 86% of respondents saying it was harder to recruit staff.

Looking ahead to 2023 it seems likely that the public sector's ability to recruit and retain rural estate staff will come under greater scrutiny. The gulf between private and public sector wage growth is significant and the viability of running full service in-house rural estate teams seems set to be tested.

Yet there are reasons to be optimistic. Delivery of green infrastructure will march onwards in 2023 and some of the themes crossing the desks of in-house rural surveyors are easy to predict – including carbon, biodiversity net gain and tree planting – while others are more niche and geography dependent, such as nutrient neutrality and flood alleviation.

Some of these themes will offer genuinely rewarding roles for surveyors and will provide a unique opportunity for the public sector to play its part in re-imagining what a rural surveyor does in the 21st century and how they do it. As our research shows that an increasing number of candidates interrogate potential employers' ESG policies before accepting a role, the public sector certainly shouldn't be selling itself short on how well it performs in this area.

Making sure a holistic view is taken of emerging and pre-existing priorities will be essential; updating strategic asset management plans accordingly will undoubtedly be a requirement. The opportunity to contribute towards place-making, facilitate rural economic growth, and deliver innovative and rewarding projects (increasingly gazed upon by the public and politicians' eyes) in the rural sector is an exciting one. As ever, controlling what is within your gift to control will be critical. Proactive and strategic rural estate management has, in my view, rarely offered so many rewards.



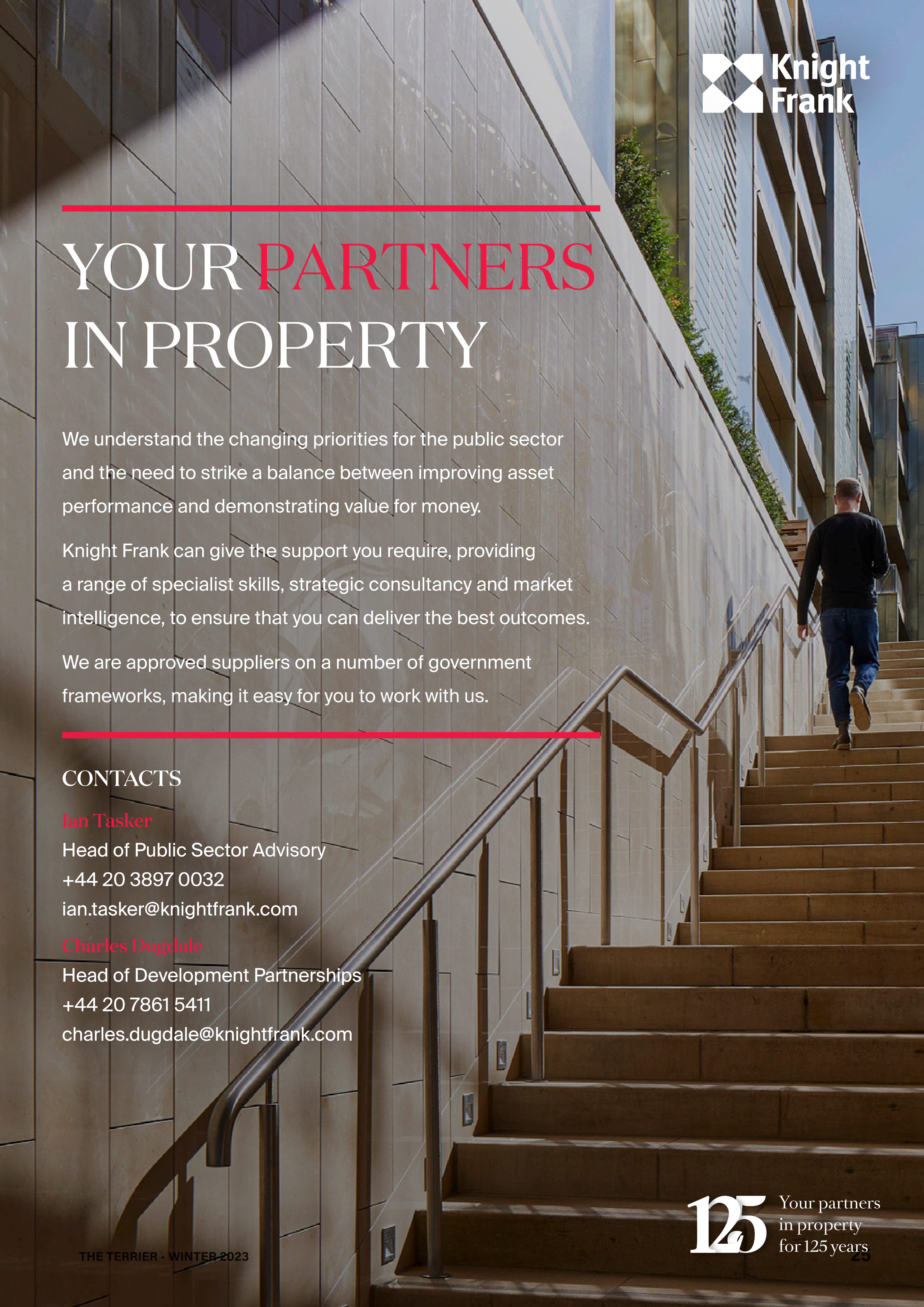
Knight Frank Farmland Index Q3 2022 https://bit.ly/3ZavhTP

Town and country planning

Stuart Baillie is Head of Knight Frank's Town Planning team.

The effects of inflation and build cost challenges, which my colleagues have alluded to in their articles, also significantly impacted the planning system in 2022. Under-resourced planning authorities continued to experience a significant post-lockdown increase in householder applications, which masked the declining volume of larger scale planning applications and project starts – particularly for new residential development.

This slowdown was influenced by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development viability and also new policy considerations in building safety, carbon neutrality and biodiversity net gain. Nutrient neutrality was another significant restriction on new development in 74 local authorities across England.

Meanwhile, Michael Gove and his 'Levelling Up' agenda survived three prime ministers and a backbench rebellion. The Secretary of State for Levelling Up, Housing and Communities has gone to war with mainstream housebuilders in recent months – accusing them of operating a monopoly on land and manipulating the supply and cost of new homes.

He has also backtracked on mandatory housing targets, while maintaining a notional 300,000 homes p.a. delivery aim for England. Requirements have also been relaxed for local authorities to produce up to date local plans that demonstrate a five-year housing land supply, while great weight has been placed on neighbourhood plans. The idea of 'street votes' has also been introduced, with the aim of increasing local influence on planning policy and decisions.

Looking ahead to 2023, planning application fees are likely to increase, with councils being given greater autonomy to increase fees. Whether that income will be ringfenced for councils' own planning resources to help address chronic under-resourcing remains unclear.

Revisions are coming forward in the National Planning Policy Framework which appear to be firmly influenced by work undertaken by the Building Better Building Beautiful Commission (BBBBC). As Charlie mentioned earlier, if communities feel that development will put additional pressure on already stretched infrastructure, the risk of local objection increases.

There is going to a need for earlier and more meaningful engagement with communities and the BBBBC recommendations for design codes, gentle density, building beautiful and high quality homes in the right places to emerge into 'policy'.

The greater use of technology to engage more widely and more effectively with a broader demographic should encourage developers to invest in this part of the planning process. Gone are the days of the standard 'town hall meeting'.

Green belt and open space protection is being reinforced, including land suitable for food production, with food security being an increasingly important objective for the government.

Larger scale housebuilding projects may become more challenging in the medium term as it is likely that planning committees will feel more empowered to reject housing growth where it is remotely controversial. This may result in more 'planning by appeal' and Knight Frank's Planning team is being asked by developer clients to prepare for a planning appeal scenario from the outset.

For the reasons outlined above, we do not anticipate a speeding up for local plan adoption, particularly where it comes to areas with development land supply issues. What we will likely see is more supplementary planning guidance relating to design, carbon reduction, circular economy and assessment of 'retrofit' options, as some of the better resourced authorities have done so in 2022.

Energy security needs are likely to provide a significant boost to the energy sector. While fracking was back on the agenda under Liz Truss, this has been rejected by the Sunak administration. The recent Secretary of State's approval of a new coal mine in Cumbria certainly raised environmental eyebrows. Nuclear remains part of the government's long-term solution and there now seems to be an acceptance from government that 'on-shore wind' infrastructure must be harnessed to secure cleaner energy supplies.

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THE LEGAL PERSPECTIVE
Covid and big property cases of the last year

Antony Phillips antony.phillips@fieldfisher.com

In his 'Legal Perspective' update delivered at ACES National Conference in September, Antony gave us a summary of the big landlord and tenant developments over the last year. This included a recap and the current position regarding Covid and legal cases.

Antony is Partner, Head of Real Estate & Head of Property Litigation Team, Fieldfisher. He deals exclusively with contentious (and potentially contentious) issues relating to commercial, mixed use and residential property. This includes dilapidations claims, rent reviews and other landlord and tenant disputes, real property disputes (including covenants, easements and ownership issues), development issues (including rights of light, party walls and boundaries), contentious planning disputes and property-related insolvency issues.

Throughout his career, Antony has had a strong emphasis on public sector work, helping clients unlock value in their property portfolios and dealing with issues arising from public sector clients' ownership and development of their real estate holdings. He is a regular speaker at ACES conferences and other events and was recently made an honorary member of ACES.

COVID Regulations – recap and current position

The pandemic brought with it many things, including three Acts of Parliament which imposed wide-ranging restrictions to protect commercial tenants against the impact of Covid. These were:

1. Coronavirus Act 2020 and Corporate Insolvency and Governance Act 2020

   The 2020 Acts prevented landlords of commercial premises forfeiting leases, using Commercial Rent Arrears Recovery (CRAR) to recover rents and serving statutory demands on their tenants or winding them up for non-payment of rents.

2. Commercial Rent (Coronavirus) Act 2022:

   The 2022 Act imposed more limited restrictions on landlords. Landlords were prevented from forfeiting, bringing rent claims, using CRAR or serving statutory demands/ winding up for rent arrears falling due for a period between 21 March 2020 to 18 July 2021. The precise length of that period depended on the sector in question – these were known as 'protected rent debts'. The principle was that some sectors were impacted more than others during the pandemic, for example, essential shops could open for much of that period, while restaurants and other non-essential businesses had to stay closed.

   In terms of arrears during this period, there was a government-backed arbitration process set up to decide whether all arrears should be paid and, if so, over what period. In fact, the arbitration process was little-used - most landlords and tenants came to commercial deals between themselves (perhaps because the arbitration process was likely to prove expensive and the outcome uncertain).

The Covid provisions have now all been lifted. CA 2020 and CI&GA 2020 restrictions were lifted on 25 and 31 March 2022 respectively and the CR(C)A 2022 provisions ended on 23 September 2022. So normal remedies are, once again, available to landlords.

Bank of New York Mellon (International) Ltd v Cine-UK Ltd; London Trocadero (2015) LLP v Picturehouse Cinemas Ltd and others

This combined the appeal of the two cases and related to pandemic defences raised by tenants. In both cases, tenants sought to resist landlords' claims for rent for periods when premises had to close due to government Covid regulations

The issue that the Court considered was whether a tenant of commercial premises was required to pay its rents notwithstanding such enforced closures due to Covid. The tenants ran two arguments:

1. That there was an implied term in the leases relieving the tenant from payment of rent while the premises could not lawfully be used as a cinema; and
2. That there was a failure of consideration (a species of unjust enrichment) in relation to the periods of closure. The assumption being the premises use as cinemas was fundamental to the obligation to pay rent and, given that the premises could not be open (and therefore could not be used as a cinema) meant that the tenant did not have its side of the bargain.

In the Trocadero case, it was argued that no rent was due where attendance fell below levels anticipated at the time leases were entered into. In the Bank of New York case, it was argued that the true construction of the rent cesser provision in the lease relieved the tenant from a requirement to pay.

The tenants failed on all counts. The rent cesser defence in the Bank of New York case applied only where there was physical damage or destruction to the property by an Insured Risk. The implied term defences were not successful as the Court held that the leases worked 'perfectly well' without the implied terms - none of the implied terms satisfied the 'Business Efficacy' test nor the 'Obviousness' test. In terms of failure of consideration/unjust enrichment, the Court held that, where the contract exists and is otherwise performed, there needs to be a 'gap' such that a claim in unjust enrichment does not contradict the terms of the contract. In this case, there was no gap as the tenants still benefitted from exclusive possession of the premises (in spite of the pandemic restrictions prohibiting trading).

<u>Faiz and others v Burnley Borough Council (CA) [2021] EWCA Civ 55</u>

This case related to forfeiture, being the right of the landlord to bring a lease to an end where specified breaches occur. The particular point considered was whether the landlord's right to forfeit had been waived, i.e. whether the landlord's actions had treated the lease as continuing.

This was a lease of a café. On 30 October 2019, the landlord, having identified a breach of the alienation provision (unlawful subletting), it served a s146 notice on the tenant (being a necessary pre-requisite to forfeiture where there is such a breach). On 4 November 2019, the landlord sent the tenant a <u>revised</u> invoice for insurance for the period to February 2020 (which had originally been sent on 26 September 2019) and then, on 22 November 2019, the landlord purported to forfeit lease.

The issue for the Court was whether, by sending the revised invoice, this was an act by the landlord in treating the lease as continuing (and therefore had the effect of waiving its right to forfeit). In considering this, the Court looked at the timing of the various events, in particular that the revised invoice was sent after service of the breach/s146 notice. While, on the face of it, this was a waiver, the Court held that, as the invoice sent after the breach/s146 notice was a revised version of one sent before the breach/s146 notice, it did not amount to a waiver. In particular, this was because the landlord indicated a willingness to accept payment for part of the period covered by the original invoice.

However, beware if you are a landlord looking to forfeit, as a demand for rent or other sums after the breach/s146 notice will generally be construed as a waiver. The landlord in this case was saved by the particular (unusual) facts.

<u>Keshwala and another v Bhalsod and another (CA) [2021] EWCA Civ 492</u>

This was another forfeiture case but, this time, related to a tenant's right, following forfeiture, to apply for relief from forfeiture and get the lease restored. Such a right exists in every case but, in each case, the Court has a discretion as to whether or not to grant relief.

The case related to a lease of 20 years, with 10 years unexpired. On 13 September 2018, the landlord forfeited the lease by peaceable re-entry for non-payment of £500. On 26 February 2019, the tenant applied for relief from forfeiture (i.e. nearly 6 months later).

One of the factors that a Court will consider on a relief application is whether the tenant applied for relief with *"reasonable promptitude"*. This is a factor that will impact on how the Court exercises its discretion. The Court looks to the balance of the interests of the landlord in having the uncertainty of whether or not the tenant will apply for relief and the tenant losing its lease.

When the case was heard in the County Court, the Court held that the tenant had waited too long, so no relief from forfeiture was given. However, in the High Court, it held that relief should be given. Finally, the Court of Appeal agreed with the County Court - no relief.

This case is a lesson that, if you are a tenant whose lease has been forfeited and you want relief, you must make a prompt application for relief from forfeiture.

<u>Vectis Property Company Ltd v Cambrai Court Management Company Ltd [2022] UKUT 42 (LC)</u>

When a landlord is seeking to add value to its investment, it will often look to build upwards, i.e. add a storey to the building or go into the roof space. This is the issue in this case - was the landlord permitted to do so?

Vectis owned the freehold of Cambai Court, which was a building consisting of nine long leasehold flats which each had a share in the management company. The management company was responsible for the exterior of the building, including the roof. The landlord wanted to build two additional flats in the roof space. None of the leases contained any reference to whether the landlord could or could not do so. The tenants did not want the landlord to do so and, through the management company, sought to prevent the landlord from carrying out such works.

There were two issues for the Court to consider:

1. Whether the landlord needed an express right to build; and
2. Whether the building of the two flats would interfere with the management company's obligation to repair and maintain the roof.

The Court held that no express right was needed as the roof was not demised to the management company but, instead, was retained by the landlord. In terms of whether the additional flats would interfere with the management company's repairing obligations, the Court said 'no'. This was because the repairing obligations were applicable to whatever structure existed at any given time (as opposed to being specific to the existing structure).

While there are some general principles in this case, the terms of each lease are crucial in a case of this nature and need to be considered carefully in each particular instance.

Capitol Park Leeds plc –v- Global Radio Services Ltd [2021] EWCA Civ 995

Every year there is at least one case relating to the challenge by the landlord of its tenant's attempt to operate a break option in a lease; 2021 was no exception.

As with every break option, the conditions of the break must be complied with strictly by the tenant and, failure to do so, will lead to the break not being effective. In this case, the tenant's break option was conditional on the tenant giving vacant possession of the "premises". The "premises" were defined in the lease as including fixtures.

When preparing for the break, the tenant removed all chattels but, at the same time, stripped out some fixtures. The landlord challenged the break on the basis that the "premises" (as defined) had not been returned to them because they did not include some fixtures.

In the High Court, it was held that the 'premises' had not been handed back and, as such, vacant possession of the 'premises' had not been effected. However, the Court of Appeal overturned the High Court's decision and held that vacant possession had been given.

The decision was received by the property industry with some relief, with the conventional definition of vacant possession being restored. This is, essentially, that the premises must be handed back:

- Free of people
- Free of chattels; and
- Free of third party interests.

W (No.3) GP (Nominee A) Limited v JD Sports Fashion plc

In this case, turnover rents in 1954 Act lease renewals were considered.

JD Sports was the tenant of a shopping centre in Derby and the lease came to an end and the tenant sought to renew under the Act. The renewal was not opposed by the landlord, but the parties could not agree on the type of rent that would be payable under the new lease. The existing lease had a turnover rent (i.e. percentage of turnover of the business). As this worked for the landlord and, as the starting point in a renewal is that the terms of the current lease (save for rent level and the term) are carried over into the new lease, it contended that the renewal lease should also be on a turnover rent.

The principle that established the fact that the party changing a term must demonstrate why it should be changed was O'May v City of London Real Property Co Ltd [1981] Ch. 216. It was those principles that were considered in this case.

The Court held that, while the starting point is the terms of the expired tenancy, the Court did not consider a turnover rent suitable for the renewal in this instance – it had the effect of over-valuing the premises. It therefore held that it was reasonable for the new lease terms in this case to differ from the expired term, with the new lease having a rent on a conventional basis.

Valley View v NHS Property Services Limited

In these five test cases, the issues were tenancies at will and 1954 Act rights. All of the tenancies were GP surgeries. The question was whether the tenants were liable to pay a full service charge in the 1954 Act renewal leases. In two of the cases, the Court was required to decide whether the GPs occupied under the terms of a tenancy at will or a tenancy implied from conduct. The reason for the uncertainty was that the GPs had been in occupation for years without written agreement or record. There had been some discussion about a formal lease being granted, but little to no negotiation had happened in the first four years, with more negotiation in subsequent years, but still with long periods of inactivity.

If a periodic tenancy implied from conduct was found, the tenancy would be protected by 1954 Act. Conversely, if the tenancy was a tenancy at will, no 1954 Act rights would exist.

The Court found that negotiations had continued over the period 2007 to 2011 and, although they were sporadic, the occupation was under tenancies at will: the test being whether the occupation was in anticipation of more formal tenancies. If so, it would be a tenancy at will. If not, there would be a periodic tenancy protected by the Act.

While the landlord was successful in this case in arguing that the tenants were tenants at will, rather than periodic tenants, the case could easily have gone the other way. So it should be emphasised that landlords need to be very careful about allowing uncertainty in terms of their tenant's rights to exist for long periods. In such circumstances, it is generally better that the landlord takes the initiative and formalises the position.

Consequently, we have seen a year of the Covid protections being lifted and perhaps the last of the Covid defences. However, many of the other issues rehearsed before the Court during the year are likely to be recurring themes in future years. So lots of take-aways from the last year's cases.

James is Principal Building Surveyor Chief Valuer Group, at the Valuation Office Agency (VOA). He delivered this presentation at ACES Annual Meeting at Cardiff.

DRC VALUATIONS
Valuation of specialised operational assets

James McLearon MRICS clientdevelopment@voa.gov.uk

James presented this paper at ACES' Annual Meeting.

James' presentation gave a brief overview of the theoretical underpinning of Depreciated Replacement Cost (DRC) valuation, current trends especially increased auditor involvement, and advice on how to add value to the use of information gathered for DRC valuations.

Theory

The theoretical underpinning of DRC is that in the absence of comparable evidence of any kind, the asset's value to the client is equivalent to **the cost of replacing the remaining service potential of the asset.** Valuers use the £/sq m cost of building a modern substitute (MEA) that would provide the client with the same **Service Delivery Potential**, not the cost of rebuilding the actual building. The client is best placed to advise on aspects of which MEA would deliver the same service potential. And the last assumption is that you are valuing an instant building, which means that time – and consequently finance costs – are not included. As an example, the valuation of Cardiff City Hall would not include all the actual embellishments in the MEA.

The definition of 'specialised' buildings are those which, due to their specialised nature, are rarely, if ever, sold on the open market for single owner occupation for a continuation of their existing use, except as part of a sale of the business in occupation. This means there is no comparable evidence which is the general mechanism for arriving at a market valuation. Specialised may arise from the construction, arrangement, size or location of the property, or the function or the purpose for which the building is provided.

Valuation

The first stage at arriving at a value is to calculate the Gross Replacement Cost (GRC). An elemental basis is used by the VOA. The cost as new is used for each element, calculated by multiplying the Gross Internal Area by the rate per sq m of that element. Elements can be grouped; disaggregation of the building into too many elements is not advised (as often happened when the concept of componentisation was introduced). Generally, splitting the asset into structure/services is sufficient, although more elements may be considered for a particularly valuable building – it is a question of 'significance' and applying common sense.

The addition of all the elements gives the total GRC of the asset, to which are added the additional costs: professional fees; preliminaries; cost of external works.

Obsolescence can be treated as a single overall adjustment or separated out into the stages of:

- Physical - applied always to the asset GRC. Adjustments are made to reflect the poorer condition of the actual asset ('valuer depreciation')
- Functional - where present, applied to the asset as a % reduction after physical obsolescence. It arises where the design or specification of the asset no longer fulfills the function for which it was originally designed, hence operating at a lower level of efficiency than the MEA (eg cellular rather than open plan offices); or fails new standards (eg environmental regulations)

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- Economic/external - must be considered but rarely arises in public sector assets. It is 'any loss of utility caused by economic or locational factors external to the asset' (eg adverse changes in demand or oversupply in the market).

Current trends in asset valuations

There has been a shift in focus to figures for the balance sheet, which has led to a noticeable change in the auditing process. Historically auditing was a light touch, conducted by the Audit Commission. However, now that private firms have taken on the role of auditors, particularly the 'big 6' firms, there has been a series of high profile fining of some of the biggest accountancy firms, who have reacted. This reaction has substantially increased the focus on asset valuations, with far more forensic questions and probing.

The effects of this change means that the audit process is taking much longer – historically the process was generally concluded by May; at the VOA, we are still getting queries in November. Some practitioners have withdrawn from this area of work, claiming the audit process is taking more time than the actual valuation. For local authorities, there is an increased burden on time and cost.

To adjust to this change, asset valuers need to involve the auditors sooner rather than later; practice good housekeeping - make sure your property records are up to date and well ordered; take on board comments from previous audits and implement changes where practical and reasonable; document discussions around the asset valuations, record key decisions, e.g. around valuation bases, asset categorisation, and consider different forms of obsolescence, componentisation.

It is also good practice to review valuations. Always record changes and discuss these with the client before they are submitted for the accounts.

How do we add value?

Historically asset valuations were a driver for efficiency, informing asset management decisions, and reducing charges against the estate. While the asset valuation will never be a condition survey, it can be an indicator of condition and inform decisions around where to invest, where to rationalise and when to dispose of assets. It may avoid pouring money into an asset and not achieving a satisfactory return.

With skilled professionals inspecting properties and providing an opinion on value and remaining lives, it is possible to identify where it is likely that significant investment might be required. We can also consider how capital expenditure against properties translates into value and identify where this value is being realised.

Olivia is Associate & Asset Strategy Lead, HLM Architects and works with local authorities, focussed on delivering innovative solutions which make asset portfolios deliver value for community and client. Her work to date has focussed on town centre regeneration and public sector asset strategies, using design to assist clients in developing business cases, action plans, masterplans and designs. She is also the co-founder of the #bettertowns consortium and is passionate about encouraging long term development strategies which create more sustainable, socially conscious neighbourhoods.

SOCIAL VALUE

Social value is the answer – so what is the question?

Olivia Jackson MArch, PGDip Olivia.Jackson@hlmarchitects.com

Olivia presented this paper at ACES' National Conference in September 2022. This was written way before the recent political shenanigans and the deepening crises facing the UK, and is probably more pertinent than when Olivia delivered it.

Social value model

For too long 'Social Value' has been addressed as a 'bolt on', 'nice to have', 'box ticking' exercise whose indispensable nature has been undervalued because of the perception that it is hard to quantify. By contrast, sustainability-led projects have risen exponentially in response to the climate emergency. This siloed approach is not only blinkered, but fundamentally unsustainable - a band-aid solution which ignores the fact that our social systems are not structured to support sustainability. We already have the answer – what needs to change are the questions we're asking.

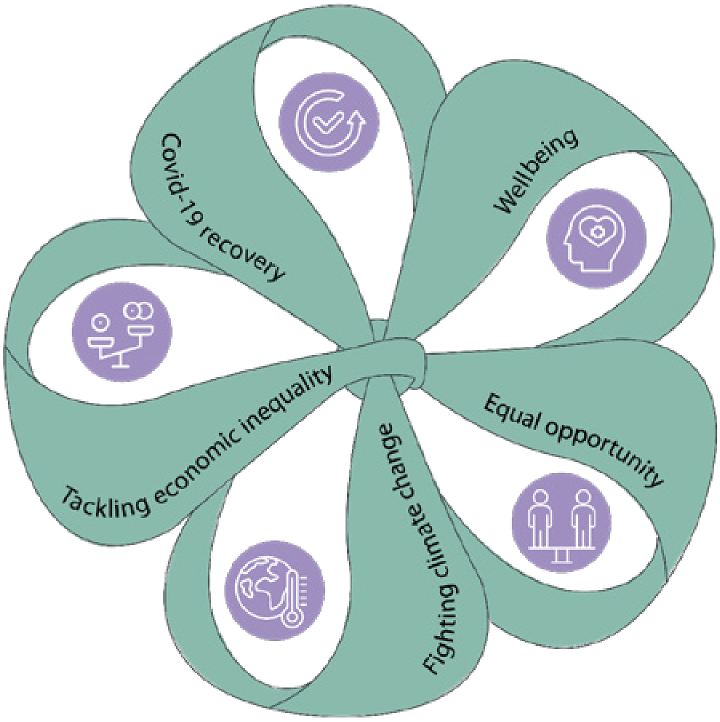
The 2020 Social Value Model outlines 5 key themes:

- Covid-19 recovery
- Tackling economic inequality
- Fighting climate change
- Equal opportunity
- Wellbeing

Each of these is critical in creating long-term – well rounded - sustainable communities.

I will look at each of these themes, demonstrating how tackling <u>every</u>

Sustainable Communities



social value marker inevitably leads to sustainable, long-lasting decision making. Each brief example will conclude with a question which I would like readers to consider in an overarching need to broaden our field of vision when considering how truly to facilitate a socially sustainable community.

We should start by recognising that leaps and bounds have been made in terms of recording, measuring and quantifying social value impact. The Social Value Portal has created national Themes, Outcomes and Measures, creating a universally applicable way of measuring and reporting on social value initiatives alongside financial proxy values, which allow basic monetisation of both immediate and wider benefits to organisations and communities.

It is rightly becoming a much more commonplace part of all projects and procurement initiatives as a measurable, quantifiable requirement, but we need to start recognising its true potential, not just as a way of finding socially conscious consultants within procurement, but as unwavering targets which will deliver value for both community and climate.

It is very easy to look at the themes and think that by addressing, say, climate emergency, we have done right by sustainability – that we have ticked that one off – but what that perspective does is to put the health of the environment into one box and the health of the community into another. It divorces the link, without considering that sustainable solutions cannot survive without the social systems to support them. Every one of these themes is interlinked and it is only by tackling all 5 at once that we will create truly sustainable communities.

Global disasters have a way of highlighting the fault lines in society and C-19 did just that. In the initial days of lockdown – when everyone had stopped just about everything – we heard stories from around the world of environmental damage being reversed: the canals in Venice shone bright and clear, blue skies soared over Delhi, and people could see the skyline in Beijing – a clear message that the actions of communities matter and as the pandemic wore on, the consequences only showed this more starkly and more locally.

Some of the challenges which arose during the pandemic:

- Increased vacancy rates as local businesses struggled to survive through lockdowns
- Decreased footfall as a direct result of lockdowns and increased vacancy rates
- Decreased use of public transport as nervousness prevented people from travelling in close proximity
- A sharp spotlight on areas of economic inequality which suffered the worst losses
- Reduction in the number of children receiving consistent education as remote learning distinguished between those able and unable to access technology
- Huge pressures on local and national healthcare and a sharp increase in issues with mental health.

Change on a global, national and community scale impacted every single social value marker. A seemingly health focussed emergency spread the cracks far and wide and will not be rectified with a solely health focussed solution.

The same is true for the climate emergency. The good news is that this leaves us with significantly more levers to pull in the fight against climate change. The bad news is that we need to be considering a much wider set of questions as we look to regenerate, recover and reimagine.

Covid-19 recovery

Covid 19 recovery – as viewed with a sustainability lens – comes back time and time again to locality, encouraging people that living, working and playing locally is the preferable solution 70-80% of the time. We need to understand not only how people use their immediate facilities, but where else they go for things that cannot be found so readily.

It would be impossible to suggest that we can all individually create the utopia of a 15–20-minute neighbourhood on our doorstep. Covid was too long and too cruel to expect local business to rise up that quickly; and even if they could, it is unlikely to be sustainable in the long term. Understanding and facilitating a network of local businesses, however, could well be within our grasp. The meat of this lies in truly understanding what each place can and does provide, and how better to facilitate movement between offerings to ensure that where one lacks, another can pick up the slack – it is a team effort.

We have already proved the effectiveness and the sustainability of this approach in the work done across One Public Estate and in the ever increasing world of shared public services. After all - why duplicate if we can share and streamline effectively? Not everyone can do everything and instead ask ourselves

Bromley by Bow Centre,
East London

Listening to communities and shaping public spaces to create a sustainable community space

Harnessing the Power of Community

honestly *'what do we do well, what do others around us do better, and how can we make the combined network as sustainably accessible as possible?'*

The upshot – not the driver – of this is self-sustaining, sustainable communities built on the foundation of locality.

Equal opportunity

The discussions surrounding equal opportunity also weigh into this debate and touch on the realm of the Levelling Up agenda. Both respond to the concentration of resource, wealth and population in specific areas and aim to create a more even society where opportunity is accessible at all levels.

On a national stage, levelling up is beginning to reach the status which 'up and coming' has held for decades: it is new, it is exciting and it will make a marked difference to an area. On a local level however, we have yet to emulate or really exude the same principles. Local 'levelling up' is typically the domain of community outreach programmes found in community centres, youth clubs, libraries or charitable organisations. These are the facilities struggling to try and deliver accessible opportunity and yet they are often hidden away in partially forgotten halls, while retailer after retailer proves that the local high street is not generating viable footfall anymore.

The solution is staring us in the face. We need to take a leaf out of our national book and put our local 'levelling up power' – and not the anchor retailer - at centre stage in our local centres, not only making these community-based facilities more accessible and visible, but capitalising on the universal popularity of these services to generate a more consistent and representative footfall for associated local business.

The consequence of this is a sustainable, low carbon retrofit strategy for your local centre – whether that be the high street or a neighbourhood hub - creating consistent patronage, support for the community and ensuring that maintenance, operation and energy efficiency are not only monitored but within your control.

This might sound like it should start with a question about sustainable retrofit on the high street but the real question is –*'where is the most work being done to 'level up' your local community and what can you do to give them more prominence and more presence?'*.

The Bromley by Bow centre is a pioneering charity which embodies this very principle. Founded by Lord Andrew Mawson in 1984 when he arrived as Minister of the church, it is now a model of sustainable, self-reliant communities. Upon arriving at the church, Lord Mawson and his wife Susan found it at its lowest ebb, but instead of accepting the closure or merger which many thought inevitable, he and his wife worked with the local parishioners and opened the church's doors to the community. Over the years this service has expanded through community direction, providing everything from dance classes to educational services, a community café, art studios and healthcare. Its list of partners has become a force to be reckoned with through its 'communities in business' approach, which helps young local entrepreneurs make their visions a reality, as well as ensuring that people from more deprived backgrounds can develop relevant skills to secure a job which plays to their strengths.

Lord Mawson dubs this building a "community department store" and is an excellent example of the repurposing of an existing single function building to provide sustainable multifaceted services which has helped to regenerate an entire community. In itself, it is an example of a sustainable local network, an adaptive retrofit solution and a levelling up power with true regenerative impact.

I would love to tell you that HLM Architects was responsible for the extension of the Bromley by Bow centre in 1997, but alas that credit must go to Wyatt MacLaren Architects. However, over the past decade we have been working alongside Lord Mawson helping to extend the reach of its approach to community healthcare, resulting most recently in several projects with Surrey County Council and Andrew's social business Well North Enterprises. Projects in Ashford and St Peters, Weybridge and Staines have used models which– in Andrew's words – focus on "life and living rather than disease and illness", recognising that many people who enter their Healthy Living Centre have problems which stem more from their environment and social situation than from their own bodies.

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Is your workplace and asset strategy Fit for Future?
read more in the following pages

Levelling-up or fighting back?
#bettertowns roadmap can lead you to the right solution

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#**Big**TownAudit

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Our project in Staines builds on that very principle – combining healthcare, community arts, fully affordable residential and social recreation in a development which puts equal opportunity at its heart. The apartments have been designed to maximum flexibility, allowing for both families and assisted living and creating a sustainable, multi-generational community node which has both repurposed existing structures and provides an anchor that draws people into the local centre.

This model of dispersed healthcare is something which is becoming more widely explored. Hospital energy usage totals around 12,000GWhrs p.a. and is one of the biggest targets in the Public Sector Decarbonisation Scheme. Despite this, we are still seeing calls for more large scale emergency care hospitals, still seeing hugely oversubscribed or full to bursting GP practices, and still seeing very few instances of truly accessible community care for day to day challenges, advice and therapy.

Health and wellbeing

The NHS estate is extensive, overworked and in many instances inefficient, but largely because health and wellbeing is not a subject discussed in any other space – it is almost taboo and yet a significant load could be taken if elements such as initial consultations, mental health care and prescription deliverance could be disseminated wider into the community, joining with those forces for levelling up to deliver initial care in a different environment. Not only would this allow GPs and hospitals to get back to the challenging medicine that they train for, but it would bring the topic of health and wellbeing into the open, moving to a system of preventative – as opposed to reactive - care that can operate at a more consistent rhythm by spreading the load across the community.

The advantages of this have been proven on a small scale in instances such as the studies developed by the organisation What Works for Children's Social Care, which found in its pilot stage that placing care in a more familiar, daily environment such as a school allowed them to catch cases earlier; reduce the number or referrals; and create a wider conversation around safeguarding.
The results, in short, were families who were more capable of taking on their own safeguarding needs and who were receiving the low level, sustainable care they needed that prevented much more onerous interventions.

A similar approach has also been started by the North West Surrey Alliance which has partnered with multiple organisations to engineer a far broader reach for wellbeing in communities, on the premise that the results of more integrated, community focussed healthcare should be a society which is better equipped to make healthy life choices, to support active travel solutions, and contemplate the extremes of the 15 minute city without having to use a vehicle. Not only this, but it again looks to make the best use of the estates we already have by creating carbon neutral solutions to the existing problems of overcrowding, without building more energy hungry hospitals. A social value solution for an environmental problem.

Ask yourself – '*How can we make healthy living a daily conversation?*' – not only to relieve backlogs and make better use of existing estates, but to create society which is actually equipped to support the principles of a sustainable city or town.

Economic inequality

Each of these examples has had an element of addressing the issues surrounding economic inequality which sits hand in glove with health and wellbeing as the pandemic has so starkly pointed out. The cost of living crisis is affecting more and more people and the benefits of acting not only to insulate our houses, but also our local communities, is paramount. The challenge here - as with my other examples - is addressing change from a social value - and not a sustainability – perspective.

Let's take the retrofit of existing housing stock as an example. There are huge implications from both an economic and sustainability perspective, with clear advantages for helping those on the breadline, but our narrative needs to understand that - irrespective of worldwide arguments - adapting a home is a personal adjustment rather than a global movement, and the success rate is likely to be higher if the people who have to live with it feel as though they own the decision.

The same is true for many of the so-called 'environmental' challenges that we are faced with today and ask '*Am I addressing a social challenge with my sustainability hat on?*'

Tackling climate change

Each example aims to show that sustainable strategies will only be truly successful when they are community-led and socially minded. Their development therefore needs to centre around understanding and involving those to whom the mantle of perpetuating sustainability falls.

Consultation is king – it needs to be run at both macro and micro levels and should not focus on questions about sustainability. Instead, it should endeavour to understand where the fault lines in your communities have appeared and how regeneration can help to close these. Without this approach, I fear our sustainability strategies become a little like pouring water through a dishcloth – it absorbs some of the information but a significant proportion slips through the cracks and is lost to those who hold it.

Rishi Sunak was recently quoted [Ed – while he was Chancellor] saying that he helped to 'reverse the efforts of the Labour Party to shove all the funding into deprived urban areas'. Let us for a moment put aside the morality of this statement and focus on what this quote reveals about our urge to keep things in boxes. This is not just about pouring funding into one area or another, it is about changing the narrative so that the leaders of a community are not always perceived as those with the most money. Sustainable communities and sustainable decision making are - after all – about empowerment and following the example of someone you respect. Ask '*How can we facilitate more consistent community conversations?*'.

It is vital to engage children and young people in conversations. Regeneration projects can take years to come to fruition and those children may be encouraged back to an area if they were involved at the initial stages and their ideas were factored in.

Sue was appointed Programme Director for the London Estates Delivery Unit, Greater London Authority, in June 2018. The focus of the role is to work collaboratively with key London health and care stakeholders to maximise the use of the public sector estate, accelerate the release of surplus assets for alternative use, facilitate reinvestment and enable joint strategic planning.

Sue has over 30 years' experience of working in the public sector in London, mostly within the NHS where she held roles as Director of Estates and Facilities Management, Director of Strategic Estates and Head of Estates and Facilities Shared Services. She is committed to working collaboratively with partners to innovate, share best practice and improve the quality of the health and care environment in London. As the LEDU works in collaboration teams, Sue is also Regional Estates Delivery Director at the NHS.

Nimika Patel is Data & Analytics Manager, London Estates Delivery Unit.

HEALTHCARE ESTATES TOOLKIT Primary and Community Care Estates Toolkit

Sue Hardy Sue.Hardy@london.gov.uk

Sue and her colleague Nim made a presentation to London Branch back in Autumn 2022, where they explained the Primary and Community Care Estates Toolkit, used to support the Integrated Care System for the Primary Care Network. They also suggested: "The toolkit will be useful in integration programmes and include other assets such as schools. It was agreed that the toolkit could be promoted by ACES." So here is an article kindly written for ACES' Terrier.

Background

London system partners recognise significant opportunities to enable greater value to be driven for Londoners from the health and care estate. These opportunities form the basis of London's devolution proposals established in 2017. The London Estates and Infrastructure Board (LEIB) aims to directly solve some of the challenges involved in securing NHS estates approvals and disposals, through more transparent and collaborative working, for the benefit of London's health and care system. The LEIB provides a single forum for estate discussions in London and ensures early involvement of London government partners.

The LEIB developed the first ever London Estates Strategy in 2019. The strategy captures the key strategic estates priorities identified by the five Integrated Care System Partnerships (ICS) and describes the focus for investment over the following 10-year period. Developing the Estate Strategy is widely regarded as a significant step towards enabling collaborative decision making and leveraging the potential from NHS and local government partnerships.

The London Estates Delivery Unit (LEDU), is a pan-London partnership of resource and expertise, created to support the work of the LEIB and includes the Healthy Urban Development Unit (HUDU) and NHS England strategic estates delivery team. The Unit brings together regional and national resource to enrich local and NHS Trust estate expertise, planning and delivery capability. The LEDU works in partnership with the Greater London Authority's (GLA) Housing and Land team, the NHS in London, London local government, national and central government partners, and also works in partnership with key national and regional organisations.

LEDU's role is to drive the delivery of the London Estates Strategy, part of which focusses on the primary and community care estate. A requirement was identified to develop a shared methodology for strategic estate planning specifically for primary and community based care across the capital. As a result of this ambition, the Primary and Community Care Estates Toolkit was commissioned in partnership with Imperial College Healthcare Partners

and developed by a data science partner.

Importantly, the methodology and toolkit enable the five ICS at a GP practice, local, borough or system level to articulate the current and future space requirements, to ensure a sustainable and fit for purpose estate for primary and community based care. In addition, it provides the LEIB with a clear regional view of London's space and funding requirements for community based services. When used consistently across London, we will be able to link capital availability with the needs and plans of local areas. This will enable more effective health and care capital investment planning, with greater certainty about use of any land receipts to support financial planning. Through this toolkit, planners can model various scenarios, based on expected growth of population and clinical activity, but also various degrees of change in how care is provided.

Toolkit functionality

To support the system requirements, this toolkit has been developed to assist ICSs and localities in converting clinical activity volume, shifts in care from acute (hospital) settings and demographic growth into a space and resource investment requirement by using machine learning and propensity matching through data. The usage of this toolkit is underpinned by a methodology that looks to provide a consistent approach across the five ICSs, while also allowing for the localisation required to ensure that the estate meets local population and activity needs.

The toolkit was established with a North West London system data set and propensity matching feature, along with a calculation against 22 variables utilised to provide a result that other areas in London can use as a baseline to analyse further. The toolkit has a user defined feature across all data points, which allows the user to overwrite any data points with their own localised knowledge and this in turn runs a revised calculation which will automatically amend the figures and graphs accordingly.

The toolkit is targeted at ICS supporting estates planning teams across London in developing their future estates strategies. However, the toolkit is useful to stakeholders at every spatial level, because it provides a common source of data that can be channelled through the system. It quantifies the community infrastructure needed for a defined geographical area within the NHS in London, based on combining localised population projections with expected changes in the setting of health care delivery.

The toolkit quantifies the community infrastructure needed for a defined geographical area over the period 2020 – 2050, and estimates the future requirements for built facilities by combining:

- Localised population projections
- Expected changes in the location of health care delivery
- Current age-specific consultation rates
- User-defined expectations of future service configuration.

Estimates of costs are then applied to the future premises requirements, to provide an indication of the likely level of expenditure required for the specified area.

Future exploration

The toolkit has recently been refreshed with a sharing feature that allows users to share their search scenario automatically with the HUDU team. This enables the HUDU team to provide its knowledge and expertise early in the estate planning process, and ensure that the ICSs are building these requirements into the wider system infrastructure and estate strategy development process.

There is also the potential to develop the toolkit further and current explorations include the availability of other ICS data sets to feed into the toolkit.

The toolkit also has the possibility to be further developed to enable use by other public sector organisations within London, based on availability of full data sets and update feeds, along with the need to revise algorithms and calculations to ensure the toolkit runs efficiently. The diagram displays how the toolkit takes existing data and use artificial intelligence to supplement local scenario testing to predict future estates requirements.

Kevin is Head of Strategic Projects at Broxbourne Council. Starting his career as a Clerical Officer in the Valuation and Estates Depart of the Greater London Council in 1978, he moved across to the professional side in 1982, taking a day release course at South Bank Polytechnic. Following abolition of the GLC, Kevin moved to the London Borough of Islington in 1988. While there, he joined the Special Projects team dealing with the N1 Shopping Centre and the relocation of Arsenal FC, among other large scale projects in the Borough.

In 2001 Kevin moved to the London Team of English Partnerships with a focus on the development and sale of the Millennium Dome and the London Wide Initiative for key worker housing. Following the merger with the housing association, Kevin moved to South Oxfordshire District Council to advise on the Didcot Town Centre projects.

From there, Kevin took over the role of Head of Property at Stevenage Borough Council and in 2013 move to Broxbourne as Head of Property. With the number of major projects coming through in Broxbourne, Kevin relinquished the Head of Property role to concentrate on Strategic Projects in 2019. The main focus at present is a new Town Centre and Garden Village extension at Brookfield which is about 2 miles north of the subject of this article, and has just had planning applications submitted for consideration.

COUNCIL TECH INITIATIVES Broxbourne – open for business and booming

Kevin Clark BSc MRICS

Kevin featured Brookfields in 2020 Winter Terrier. The article was headed: "Madness or inspired intervention?". Kevin hasn't elaborated on that, but here outlines inspirational initiatives taken by the council to stimulate technological growth and the inward investment they will bring.

The planning

Way back in 2017 a local entrepreneur approached the council with a plan to bring to the Borough one of the five largest data companies in the world in the form of what was projected to be the largest data centre in Europe.

The site, formerly known as Maxwells Farm, is situated on the A10 approximately half a mile north of its junction with the M25. The council did not own the site, but as part of the overall planning package negotiations, started on the council receiving that part of the site fronting onto the A10 to create a new Business Park for the area.

Protracted negotiations of the s106 package proceeded and in the end the council was to receive 5.7 acres of land, together with a contribution towards the creation of a new Technology Hub for small starts ups and business. The new centre would mirror a similar venture that had been running successfully in the north of the Borough for the past five years.

After outline planning for the whole development was finally granted in June 2020, the council started developing its own plans for the new technology centre and submitted a detailed planning application, addressing several reserved matters, in April 2021, to provide 34,000 sq ft GEA building to provide a mixture of workshops, offices, meeting/conference facilities and an on-site café.

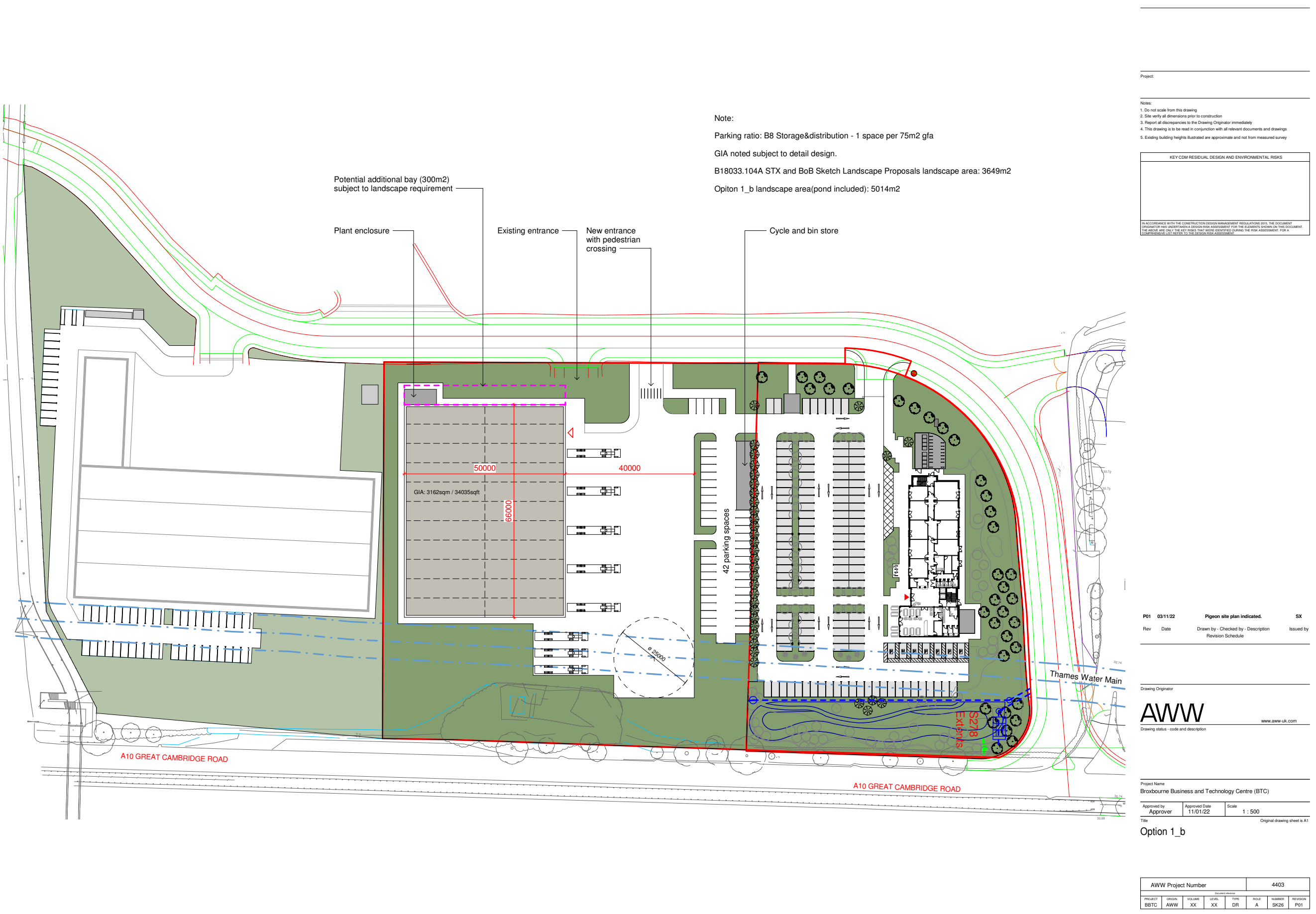
Permission was granted in August 2021 and then the procurement of a construction partner was commenced.

Funding and procurement

However, the council did not have the required capital (circa £11 million) to build out the centre and so needed to source some alternative funding. With timing being everything, the council was approached by the Herts LEP asking if we could spend £5m in the next 18 months, bingo!

Application was duly made, and the council was successful in achieving a mixture of loan and grant totalling £5m as the LEP acknowledged the vision of the council in bringing forward this first phase. This did however come with strict time limits on when payments had to be out of the door.

The procurement exercise was undertaken with the knowledge of the grant and loans and the strict time limits for carrying out the initial spend. Surprisingly the tender bids came in lower than expected (and have remained consistent through the development), and the winning contractor was made aware of the time limits on spend.



In December 2021 work on the build began by Ashe Construction Limited. The council had previously engaged a full external team with project management by Gardiner and Theobald and design and architecture by AWW Ltd.

The build was due to complete in December 2022 and, had it not been for external problems outside of everyone's control (need I say it was utilities!), it probably would have been, but the building is now on course to be handed over at the end of February 2023.

A leap of faith

There were two distinct milestones set by the LEP: one at the end of March 2022 - the council needed to have spent £2.6m; and by the end of March 2023, the full £5m.

To enable this to happen, the council had to let the build contract and also take a licence to build ahead of the land officially transferring to the council under the s106. This also all had to be done ahead of a firm commitment from the data centre operator that it would eventually occupy the site.

A small leap of faith was therefore necessary from the council to commit to the build ahead of actually owning the land; the land would only transfer once the current owners had completed the access road and provided a serviced site. The road had started, but was not due to finish until June 2022 and there was no guarantees on the utilities at this time.

The council considered its options, risks and ambitions and it was decided to move forward and the build contract was entered into, alongside the grant and loan agreement with the LEP, and the licence to occupy and build from the current owners: no turning back.

The first challenge was to get the spend out of the door by the end of March 2022. In collaboration with the construction firm, we were on course to spend approximately £2.2m. After some negotiation with the LEP, it was agreed to make an advance payment to the construction company to cover the shortfall. The payment was made and used up within 3 weeks of the end of March and so there was little risk involved.

Sunset Studios on the horizon

As the council was progressing the build, another exciting development emerged for the site that lays directly between Maxwells and the M25; surely someone wasn't going to build a film studios right on our doorstep?

Yes they were, and the Sunset Film Studios has now achieved its own planning permission and started on site in October 2022, and so the council's initial build, while not directly leading to the film studio, will be the first complete and operational building in an area that will, in under two years' time, be a thriving hub for the technological and film industries.

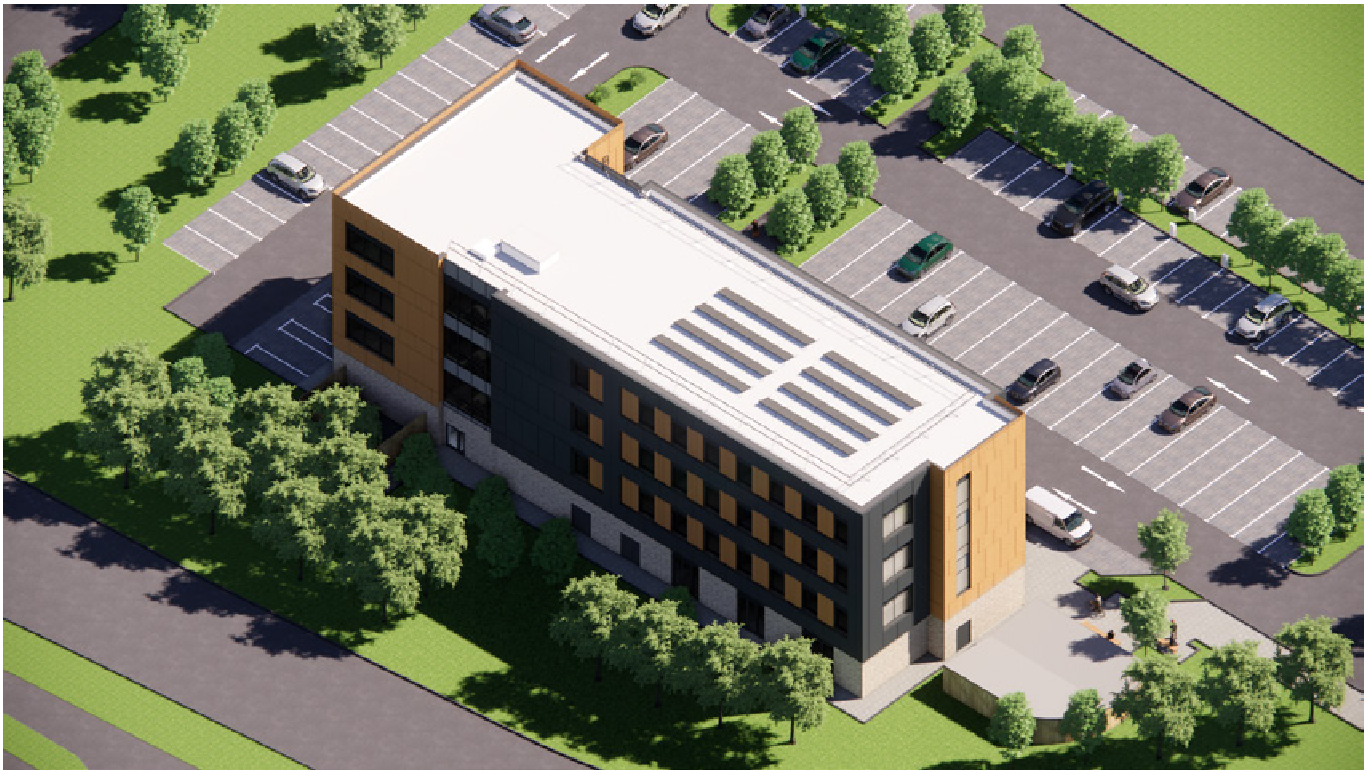
The council's Cabinet, Planning Committee and officers have worked hard to ensure that these developments happen and that in the coming years the Borough benefits from the growth and inward investment they will bring.

What's in a name?

The next conundrum for the technology centre was the requirement for a postcode and for that it needed a building name and a road name!

Now, in local government, these such things are never easy to get agreed; a few suggestions were put forward on the building name , trying to make sure that any acronyms weren't, shall we say, inappropriate. Finally Theobalds Enterprise Centre was agreed, but caveated as Members also wanted to make an application, in the Queens jubilee year, to have the building named after the Queen.

The response received to the initial application was non-committal as it had



to be put forward through the necessary committees, so the council had to take a decision to enable a postcode to be sorted for the utility provision:

Theobalds Enterprise Centre
Theobalds Business Park,
Innovation Place,
Platinum Way,
Cheshunt.

This address, with its nod to the Queens Jubilee, was approved by the planning department and the post office (the council could always change the building name at a later date if appropriate.)

Building specification and moving forward

The build hasn't all been smooth running of course, as you would expect, and especially in regard to provision of utilities and perhaps most ironically, the provision of fibre and IT services.

So what is actually in the building and its specification?

The building is at BREEAM very good and may even reach excellent and it has a wired score Platinum certification. It is constructed over four floors with lift and stair access. As it was being designed at the height of the pandemic, provision was made to allow for a one way system throughout the building, where possible, and with 'passing places' incorporated into corridors. There are 60 workshop and office spaces ranging in size from 15sq m to 55sq m. There is a PV array on the rooftop and 20% of the 126 car parking spaces will be EV charging ready, with the rest capable of being active in the future. The building also incorporates a café facility, shower and changing facilities, secure bike storage and electric bike charging facility.

The TEC will run as a fully managed centre and Oxford Innovations has recently been selected by the council to manage the site. Lettings will be on an easy in easy out basis and rentals will cover a full range of services and be competitively priced. Advertising of the space has commenced and interest is building, and the council hopes to have the first occupants installed as soon as possible after handover at the end of February.

There is also a flexible meeting/ conference space which could hold up to 120 delegates. The building is located within 10 minutes' walk of Theobalds Grove British Rail Station and a short taxi ride from either Waltham Cross or Cheshunt Railway Stations.

The council has now started work on the reserved matters application for Phase 2, which is looking to provide warehouse/ logistics space; the data centre is due to submit its detailed planning application in February and commence construction later this year.

The film studios is planned to open for business in Autumn/Winter 2024. Soon I may not have to explain to everyone where Broxbourne is!

Tom is Assistant Director, Property & Investment, Portsmouth City Council. He is responsible for the delivery of the council's property strategy, the property investment fund, and a variety of commercial development activities. Tom led the acquisition of the Lakeside North Harbour office campus and is responsible for management of a diverse property portfolio valued at more than £1.1bn, yielding £30m p.a. revenue. He is also the Managing Director of a public sector owned housing development company (Ravelin Housing Ltd), delivering mixed tenure housing developments, regeneration, and financial return to the council.

LAKESIDE NORTH HARBOUR Boosting businesses and harnessing the sun in Portsmouth

Tom Southall

In another case study submitted by an ACES' member, Tom sets out the green credentials of this business campus, an initiative of the council. Tom won the 'Highly commended' 2022 ACES Award for Excellence announced by Helen Stubbs at ACES' Annual Meeting in Cardiff in November.

Lakeside North Harbour is an award-winning south coast business campus set in 130-acre landscaped grounds. Owned by Portsmouth City Council since August 2019, it is home to 55 companies including world class brands and vibrant SMEs.

It is the region's leading office complex and gives the council ownership 60,000 sq m of grade A office space and a data centre in the north of the city. Strategically located adjacent to Junction 12 of the M27, the campus offers fast access to London, Portsmouth International Port and Southampton Airport.

It boasts offices from 115 sq m to 7,000 sq m, with planning permission for a further 69,000 sq m. Avison Young provides facilities management and occupier engagement services.

Office space meets green space

At Lakeside, the team is working to create a future fit business campus that meets the needs of its occupiers, as well as positively working to tackle the climate emergency and celebrating green technology.

According to Portsmouth Climate Action, greening Portsmouth can help the city to reach net zero as well as become more prosperous. Green space in Portsmouth is sparse - the city needs 182 acres of additional green open space to meet the recommended level for Portsmouth's population. Additionally, the city and local environment could benefit from more trees, more habitats for wildlife, and business infrastructure served by renewable energy.

The environment is one of Lakeside's core values and the council is committed to driving sustainability and efficient use of valuable resources across the campus. In 2023, Lakeside is set to become home to a pioneering solar generation and battery storage project to create one of the UK's largest solar parking canopies. 8,000 solar PV panels above existing car parking spaces and 1,900 panels across five buildings will reduce carbon dioxide emissions and provide nearly 40% of the site's electricity.

Alongside this project, Lakeside has introduced a raft of sustainability measures and initiatives to support sustainable energy generation; encourage green travel options and reduce people's dependency on cars getting to and from the office; and champion tree planting, rewilding and biodiversity across the 130-acre campus.

Plugging in to green energy

Lakeside is committed to using 100% green electricity supply; 95% of general waste from the campus is processed for energy producing electricity. But it is the


Artist's impression

council's ground-breaking plans to install a large-scale solar photovoltaic (PV) and battery storage system at Lakeside North Harbour that will really set the business campus apart to produce one of the largest solar parking canopy arrays in the UK.

This project will see commercial occupiers protected from increasing electricity costs, at a time when both businesses and residents across the UK are seeing steep increases in energy bills.

The plans include:

- 1,900 roof-mounted solar PV panels will be installed across the five buildings
- An additional 8,000 solar PV panels will be installed above existing car parking spaces, forming solar canopies
- These combined projects will have a total renewable electricity generation capacity of 4.5 megawatts (MW) and are set to save 992 tonnes of carbon dioxide from being emitted each year
- Installation of a number of electric vehicle (EV) charging points alongside the solar PV and battery project, along with the infrastructure to install additional charging points as onsite demand increases
- 2MW battery installation to enable excess electricity to be stored and used during peak periods of demand.

To maximise the consumption of electricity generated from the solar PV panels, the 2MW battery will have the capacity to store any excess electricity and power approximately 2,000 homes instantaneously. This means an increase in carbon emissions savings and further reductions of onsite electricity costs. The battery will also be used for grid services, which allows power to be stored or discharged as required by the National Grid, to help balance other renewable sources of generation and periods of peak electricity demand.

The solar PV and battery installation is expected to start in spring 2023 and be completed by spring 2024. When complete, the electricity generated by the solar PV system will total around 4.1 gigawatt-hours every year and provide up to 38% of the site's electricity requirement.

Commenting on the project, Councillor Kimberly Barrett, Cabinet Member for Climate Change and Environment at Portsmouth City Council, said:

"It is great to see that we are continuing to build a portfolio of energy saving projects across the city with the addition of this solar PV and battery at Lakeside. This will help to support our tenants, local businesses, and residents in a time where energy bills are rising. The inclusion of further EV charging points will encourage and support more people to transition to electric vehicles as a reliable mode of transport, therefore reducing their carbon footprint in a time of climate emergency.

"By adding this project to our energy saving initiatives across the city and working alongside our big employers, it is a big step in the right direction towards achieving our city-wide net zero target by 2030."

The work is the latest in a series of solar PV and battery projects being managed by Portsmouth City Council's in-house energy services team. The team is also managing a major solar PV and battery project which is underway at Portsmouth International Port. The energy services team has installed more solar across the council's buildings portfolio than any other UK local authority, across schools, leisure centres and housing properties. The Lakeside project, when complete, will be the largest single solar project ever undertaken by the council.

Growing a sustainable business community

Portsmouth City Council's purchase of Lakeside marked a different approach to the properties bought for the council's existing property portfolio. The previous investment purchases were primarily out of borough and driven by the level of return on the investment over the short to medium term. While Lakeside still generates a positive return for the council, it is seen as a strategic acquisition, supporting the local economy for the longer term.

Lakeside has an excellent occupancy rate at 92% and provides the council with a robust, significant income stream from the existing tenants, which operate across a diverse range of business areas, including recruitment, accountancy, biosciences, automotive and maritime, technology and engineering.

The landscaped grounds and lake provide immediate access to nature, healthy spaces, and opportunities for exercise for the whole community. The team is working in partnership with the Hampshire and Isle of Wight Wildlife Trust to support the green space on campus, rewilding areas with pollinator friendly flowers, and introducing beehives that are managed by the resident beekeeper.

People working on the campus are also being encouraged to use the free occupier shuttle bus service to the city centre and main stations. Cyclists can make use of the bike storage and shower facilities and Lakeside recently launched a trial of Voi rental e-scooters on site, as part of an initiative run by Portsmouth City Council and Solent Transport. There are also 13 electric vehicle charging stations onsite, with more to come as part of the ambitious solar PV project.

The onsite amenities at Lakeside – including a florist, hairdresser, beauty salon, hotel with a fully equipped spa and gym, and five cafes and shops – offer added convenience for occupiers.

You can find out more about Lakeside, its campus, community, core values and plans for the future at https://lakesidenorthharbour.com

Paul is director and head of telecoms at Gateley Hamer. With more than 20 years of telecoms experience within large organisations, Paul heads up the team of surveying and legal experts who offer specialist advice on telecoms services. This includes telecoms infrastructure work, as well as finding pragmatic and commercial solutions to property and land transactions, acquisitions and disputes.

Gateley Hamer's work on levelling up extends beyond digital connectivity. The compulsory purchase and compensation team is actively advising local authorities on how levelling up funds can be used to acquire strategic regeneration sites within town and city centres and how, ultimately, the use of compulsory purchase powers can be utilised to reduce the risk of both timescales and costs of land acquisition. Digital connectivity will be critical to every regeneration project being considered by the compulsory purchase team and, working together with the telecoms team, and other Gateley services, Gateley Hamer offers a unique and highly comprehensive solution.

DIGITAL CONNECTIVITY

Levelling up: digital connectivity is essential for advancing smart cities

Paul McCullagh Paul.McCullagh@gateleyhamer.com

Paul outlines the importance of digital connectivity in levelling up, but are local authorities taking their role within levelling up seriously through actions such as allocating resources and funding? Apart from funding as key, Paul says it requires passion, vision and desire from the necessary leadership team.

Digital connectivity is key

The levelling up programme is a key part of the government's political agenda and aims to invest more funding into the areas of the UK which have been left behind in terms of living standards and economic opportunities. Housing, education and employment feature at the top of the list of priorities. However, digital connectivity has an ever-increasing and pivotal part to play in achieving those objectives and should not be overlooked by local authorities.

In his Autumn Statement 2022, Chancellor Jeremy Hunt announced that the government would be proceeding with round two of the levelling up fund and emphasised the importance of connecting the remotest parts of rural Britain. While there is a welcomed positive narrative of authorities being more proactively engaged in digital connectivity, are they taking their role within levelling up seriously through actions such as allocating resources and funding?

Many UK towns are desperate for viable and sustained regeneration as businesses continue to close their stores and consumers adopt new online shopping practices during these continuing and tough economic conditions. As a result, local authorities are looking at what they can do to drive the much-needed transformation and inward investment. Unfortunately, many are not looking closely enough at technology transformation as an enabling solution to help achieve that or seeing the commercial uses and benefits that can be realised through the delivery of an inclusive digital strategy. If local authorities are serious about improving opportunities and living standards, they need to be considering the benefits of digital connectivity now and the steps that need to happen to reap the desired benefits sooner rather than later. The City of Sunderland and West Midlands 5G initiatives are prime examples of what can be achieved through a bold forward vision and a strategic technology partnership approach.

The recent pandemic has significantly changed the way all levels of society work and connect – whether it's an urban or rural environment. This, combined with the growing number of case studies emerging as a result of 5G innovation investment and development, is allowing local government authorities to better understand data at a local level. In turn, they can then apply the data and findings to deliver services more efficiently and commercially which can be a significant lever for economic and social growth.

The City of Sunderland – a significant smart city transformation

The regeneration of Sunderland is transforming it into a well-connected, digitally enabled place with world-class infrastructure supporting inclusive services for the prosperity of the city and those who live there. Partnering with Bai Communications, Sunderland City Council set the goal to become a first-of-its-kind 'smart city and 5G neutral host' joint venture – recognising the benefits and needs of an ever-increasing technological revolution and what that can mean for all aspects of the city. The 20-year partnership has formed 'the network of all networks' as Sunderland uses ubiquitous layered connectivity including fibre networks, free city centre Wi-Fi and wireless 5G for real-time control and data analytics across the city.

The smart city model allows Sunderland to collect data from a range of city-wide sensors, across a host of activities including roads, residential areas and utility usage. This approach allows Sunderland efficiently to monitor, understand and improve many services including transport, the energy grid (including carbon reduction monitoring), retail patterns, and social and physical health challenges and trends. Utilising this data allows the local authority to deliver transformational use cases to improve opportunities for all, and to improve the quality of living for residents to ensure truly that nobody gets left behind – the key objective driving the levelling up initiative.

Why is Sunderland's transformation so successful?

Sunderland has been successful in becoming a digitally connected city because it had the passion, vision and desire from the necessary leadership team to make it happen. However, it is important to recognise that there were areas of expertise outside the immediate skill set of the leadership team and so that gap was filled with external partnership support. If other local authorities are looking to achieve the same, an essential element for initial success would be appointing a 'digital champion' as a project manager to lead the work, while being supported by the local authority. This could be somebody within the local authority, or an appointed partner offering this service.

Local authorities may be unlikely to have the funds to go out and recruit for this position, but there are still opportunities available to explore this, although, this may be a narrowing window. If you look at the planning industry, for example, housebuilders or landowners going through the planning permission process can fund a planning performance agreement to guide and handle the process to ensure it gets actioned. A similar initiative could be considered beneficial for digital connectivity objectives, while relieving pressure on local authorities at the same time.

Funding is key for supporting digital initiatives

The other element making Sunderland's digital transformation so successful is its funding approach. They had to have funding secured or invested in part by themselves, but they also had to secure match funding from the parties involved with the deployment. For local authorities wanting to achieve the same, there are definitely funding avenues to be explored. It's no secret that a lot of local authorities are not awash with spare cash for funding additional projects. However, there are digital transformation companies out there who are open to having these important funding conversations and will give this proper consideration.

As connectivity is a strategic priority for the government, the Department for Digital, Culture, Media & Sport has devised a sub-organisation encouraging local authorities to open up their assets into a national telecoms database to accelerate digital rollout. While this will support and enable digital connectivity, it is only part of the solution. In order truly to realise the growing and necessary benefits that digital connectivity can bring, there should be continued government-funded programmes made available to align with their national strategic digital connectivity objectives alongside regeneration and levelling up work. Without sufficient funding, the proposed connectivity projects simply will not happen.

Local authorities can't afford to not be investing in digital connectivity for levelling up

Funding is an important conversation to have and of course is key to embracing digital connectivity to level up cities and towns, however, local authorities can't afford not to be thinking about this. The most socially and financially disadvantaged areas will continue to become further disadvantaged if they don't begin to embrace the benefits of digital connectivity. We are well into a cost of living crisis and estimated prolonged recession, and as people struggle to pay essential household bills, we run the risk of people considering and disregarding perceived 'luxuries' such as broadband, as they face tough financial decisions such as 'heat or eat' over the winter.

The consequences of society not being digitally connected through basic services such as broadband and WiFi are that people will mentally struggle with the lack of social inclusion, miss out on vital educational benefits, and will fail to maintain the basic standard of living the government is promising. Therefore, the inclusion gap will widen rather than close. What is so good about the smart city model embraced by Sunderland is that residents are still able to access free WiFi and other services in the city centre at all times. Not only is this key for accessing services, but also supports safety and welfare initiatives. By not keeping connectivity accessible to all, as we move further into a digital technology revolution, the government is in danger of failing at the first hurdle with its levelling up initiatives before issues such as public safety and healthcare are even considered.

If a level playing field is to be achieved across the UK, local authorities (supported by the government) need to commit to embracing digital connectivity through actions such as appointing digital champions, establishing effective partnerships, and exploring and allocating funding within the levelling up scheme or other external sources. There are many partners keen to work with local authorities to support and drive this digital connectivity transformation and improve living standards for many towns and cities across the UK where it is much needed. So, the key question local authorities need to be asking themselves is can they afford to not be looking at digital connectivity initiatives?

Stephen is Associate Director - Sustainability & ESG at Lambert Smith Hampton and Darren is National Head of Commercial Property Management at LSH.

OFFICE ENERGY COSTS Dealing with mitigating the energy shock

Stephen Clayton sclayton@lsh.co.uk and Darren Clarke dclarke@lsh.co.uk

The war in Ukraine has propelled office occupier considerations on energy costs to the top of the business agenda. Darren and Stephen, within LSH's respective property management and ESG teams, reflect on how LSH is helping its clients to mitigate costs and take action on energy consumption.

Businesses reeling from energy price hikes

On the heels of the pandemic, businesses up and down the country are now facing the challenges of a full-blown energy crisis. Energy is a complex and dynamic market with prices influenced by a variety factors. In this instance, geopolitics form the primary reason - Russia's invasion of Ukraine suddenly exposed the vulnerabilities of European energy security, with a halving of gas supplies into Europe, pushing volatility and pricing to unprecedented levels. At the summer peak, the scramble to fill gas storages across continental Europe for the coming winter saw prices hit an all-time high of 830p/therm.

Almost overnight, the crisis has transformed office occupiers' considerations around energy costs and usage. Until recently, these considerations were typically ethical in nature, involving efforts to mitigate carbon emissions and demonstrate commitment to ESG goals. Now, with occupiers seeing up to a fivefold increase in their energy bills, the crisis poses a direct impact to the bottom line. It is also stoking inflation as many businesses have to pass these extra costs to their customers in order to remain profitable.

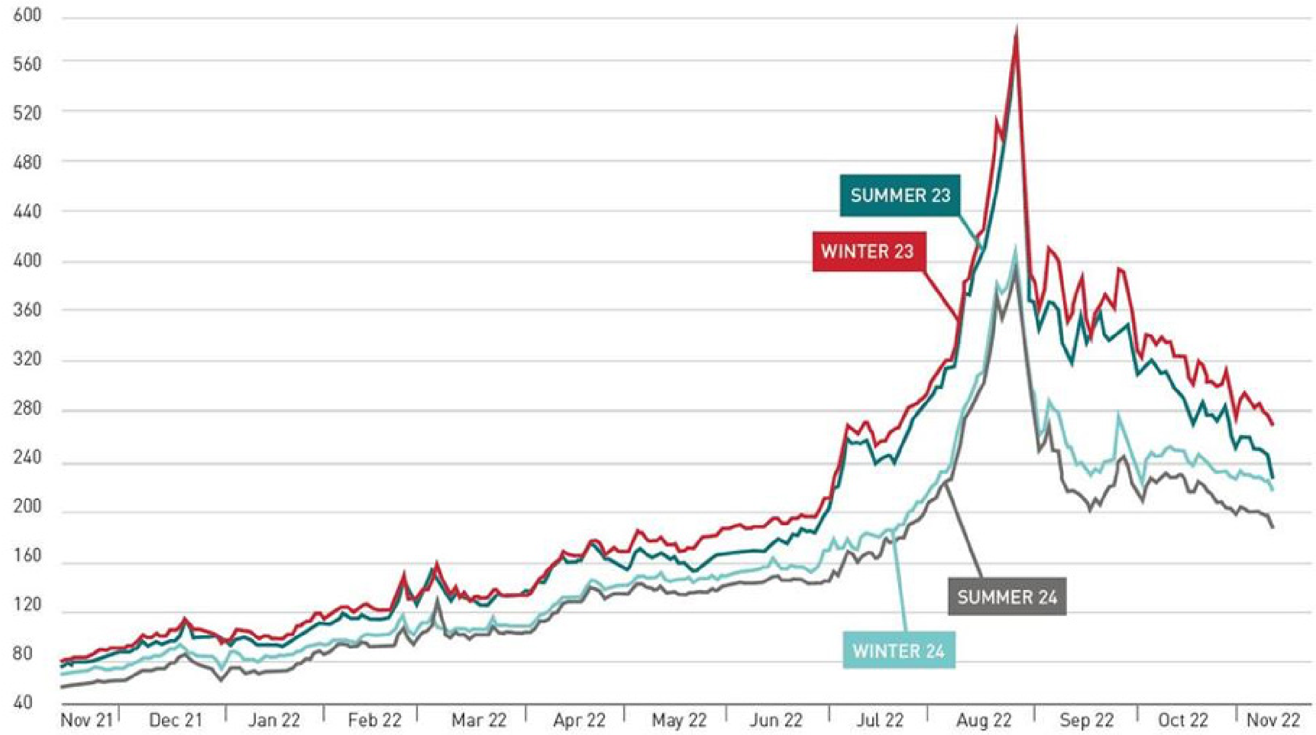
The issue was serious enough to have prompted major government intervention through the Energy Bill Relief scheme, initially announced in September 2022 and subsequently modified. While the package of support will help, it only shields businesses from the very worst of the volatility. According to LSH's recent Total Office Cost Survey, even with the relief applied, energy costs now account for between 8% to 15% of total occupancy costs depending on the building, compared with a range of only 2% to 5% prior to the pandemic in 2019.

New contracts

In the wake of the crisis, suppliers are now focusing heavily on credit ratings as their customers struggle to pay bills. Limited risk appetite means suppliers are reluctant to issue long term contracts beyond a year, or even refuse to offer contracts and renewals without sizeable security deposits, or making contracts conditional upon direct debit arrangements.

Some suppliers have even exited the commercial market altogether, lowering the amount of choice business users have in the market. The managing agent market has tightened and availability of contracts into this key commercial sector have reduced, with significant restriction being

UK WHOLESALE POWER – MARKET PRICE TRENDS (PRICE GBP MWH)



placed on availability through the second half of 2022. This has resulted in managing agents having to consider alternative procurement strategies for client energy contracts, with suppliers seeking to transfer risk as a core consideration of these products.

Timing is everything

The renewal date of contracts has dictated the position in which businesses find themselves when procuring energy through 2022. Historically, a large proportion of energy contract renewal dates fell on 1 October as a consequence of the date on which the sector was privatised. LSH's client group contract was fixed over the past two years, with end users benefiting from competitive prices at a time of rising prices in the market. Unfortunately, having initially benefitted from the decision to fix for a longer term in 2020, as with many other businesses and managing agents, contract renewal came at a difficult and chaotic time for the market.

The options available have been extremely limited, with contractual concessions outweighing the benefits associated with a fixed price/term contract. Certainty is a clear desire, as is mitigation of risk, but at what price? And how does this impact on occupiers and investors, the latter of whom could be carrying all-inclusive service charge caps, conceived at a time prior to the energy crisis? Similarly, the financial impact on occupiers and the need to meet increasing energy recharges could impact the occupier covenant strength and hence value of an asset.

Pricing

Given the lack of availability of fixed term contracts through the summer months, and with an impending renewal date of 1 October, our energy governance team, through dialogue with our clients and sector specialist advisors, opted for a flexible forward buying procurement framework to mitigate price increases.

The wholesale rate secured this winter on the new flex arrangement is now 100% committed for the period of the business Energy Bill Relief scheme, with a forward purchasing strategy actively in place for Summer 2023 and beyond. This strategy compares favourably with half-hourly deemed rates that have been seen through October and November of anything up to 130p/kWh, and up to 110p/kWh for fixed rate options taken in late September/early October 2022 on 6 or 12 month contracts. This compares with our LSH group client's 2020 fixed rate of approximately 14p per unit for electricity. The same considerations apply for gas in terms of mitigation of risk and exposure to significantly increased costs.

Current scope of government support

Under the new Chancellor, the government recently announced some changes to the original basis of the business Energy Bill Relief scheme. The maximum discount for those on a default or variable tariff will be 34.5p/kWh for electricity and 9.1p/kWh for gas, if prices are secured above the threshold of £211/MWH for electricity and £75/MWH for gas. For fixed tariffs the discount is variable, based on the wholesale price on the date the contract was secured. The relief scheme is running until April 2023, with the government reviewing if further ongoing support is required or affordable beyond this date.

Flexing your procurement

In addition to cost issues, this winter may see grid disruption across the country, should the UK suppliers fail to secure sufficient supply to meet demand. Lambert Smith Hampton has worked up contingency measures to mitigate the worst effects of possible power disruption, should the worst happen.

Key recommendations

Our mantra is that the cheapest kWh is the one you do not use. In addition to energy procurement matters, LSH's expert team of property managers actively engages with landlords and occupiers to help reduce energy use and mitigate risks.

Our key recommendations are as follows:

- Monitoring – Implement energy monitoring for out of hours usage and demand management to further refine building management systems, heating, ventilation and air conditioning plant settings and timings
- Effective dead banding - Ensure temperature setpoints have enough dead banding so heating and cooling are not conflicting
- Engage - Engage with occupiers and appoint an energy champion to manage demised energy use, if controls are within their demise
- Resilience testing - testing of building resiliency measures by ensuring generators are operational and stockpiling generator fuel as appropriate and where the opportunity exists
- Exploring investment - provide proposals to bring forward capital and operational expenditure energy savings projects, including both upgrades to plant and installation of on-site renewables, especially now that payback times are now 3-5 times quicker
- Load shift – establish ways to remove as much consumption as possible away from peak times, as this is the most likely time where grid instability will happen
- Forecasting demand - Close monitoring and forecasting of forward energy requirements and any known variables that are likely to alter levels of consumption
- Partnering – LSH is also introducing more extreme energy savings measures with our partners at 4D monitoring, facilities management and M&E consultants as cost savings are now more incentivised than ever.

We are closely reviewing developments in the energy markets to provide long term value for money to clients, whether investor or occupier.

Download Lambert Smith Hampton's Regional Office Market Report 2022 here

Mark is Carbon Reduction Manager, Corporate Property – Assets and Investment, at Suffolk County Council, which he joined in September 2021. He is a specialist in developing energy management systems and energy contract management and worked for the council's wholly owned company managing the council's electricity contracts. Mark previously worked within the energy supply industry.

DECARBONISING SUFFOLK
Decarbonising Suffolk County Council's corporate estate

Mark Dale

Mark and his colleague Glyn Lee, Renewable Energy Project/Programme Manager, both of Suffolk County Council made an enthusiastic presentation to an Eastern Branch virtual meeting, and agreed to write for ACES' Terrier to illustrate the first steps the county has achieved towards net zero.

Suffolk County Council (SCC) has a long history of addressing climate change, notably being a founding partner of the Suffolk Climate Change Partnership in 2007. In March 2019, it declared a climate emergency and in 2021, along with other local authorities in the county, launched the Suffolk Climate Emergency Plan.

Within the council itself, SCC has a proud history of providing dedicated investment to improve the energy efficiency of its estate. SCC has previously replaced fossil fuel boilers with biomass, has installed solar panels across more than 100 buildings, and upgraded a large percentage of the estate's lighting to LED. It was also one of the first authorities to have complete smart meter coverage across the estate on both gas and electricity supplies.

In November 2021, SCC's cabinet

pledged an investment of £12.8m towards the decarbonisation of its corporate buildings and has since provided a separate capital investment to update electric vehicle charging infrastructure.

From fire stations, libraries and schools to social care, highways and biodiversity, all SCC directorates are working together with the ambition of being net zero by 2030.

Spend to save

This ambition will continue to require significant investment and further development of a robust governance and communication structure to oversee delivery of the carbon reduction strategy and monitor performance against baseline emissions.

Investment will mitigate the effects of rising energy prices, as well as giving the council the opportunity to take an innovative approach to how energy is used within the estate, reviewing heating and cooling strategies to ensure consumption is reduced to the most appropriate baseline, prior to transitioning to low carbon generation. The council is also committed to decentralised generation wherever possible, to ensure reduced reliance on national energy supplies and associated costs.

This article will discuss some of the council's first steps to net zero, along with some of the results from the first year of the programme, with the hope that the shared experience can provide assistance and inspiration to other organisations taking the same journey.

Know your estate

The first step we took in establishing our carbon reduction programme was to develop a full energy review of the estate.

SCC undertook a 5-year energy review of all energy billing data to establish the accuracy of all smart meter data across electricity and gas supplies, as well as analysing all half-hourly data against operational hours and weather data. Energy data was then benchmarked according to building sizes, condition data and headcounts. This allowed buildings of different sizes to be identified for possible intervention without the initial requirement for a site audit. This data has been organised in such a format that is can be regularly updated on a monthly basis to take account of changes within the estate.

The review was also useful to analyse electrical capacity against current usage to give an early indication of the potential cost of required electrical upgrades.

Establish the pathway

The energy review was used to project energy usage and pricing to 2030, to establish a suitable target trajectory for decarbonisation.

It was decided to split our journey to net zero into three distinct phases.

The first phase was focused on "best practice" energy management, control and reduction of energy use:

- Improvements in thermal efficiency
- Implementation of upgraded building controls
- Proof of concept projects
- Installation of "quick win" solar PV at high consuming sites
- transition of remaining heating oil and selected gas sites where cost appropriate.

The initial focus of this phase has been on the largest buildings as it was identified they accounted for a large proportion of our overall footprint.

The second phase will be an upscaling of the preparation work performed during the first phase, with a strong focus on space rationalisation and matching energy use to the organisation, rather than the building stock. The most appropriate way of doing this is upgrading data to be aware of who is/will be in each space in real time, and in advance where possible.

Addressing the most challenging carbon reductions in the third phase will rely greatly on national policy and industry drivers over the next four years.

The third phase is commonly thought of as the time for "innovation." Prudent preparations have begun to examine the viability of several large-scale projects immediately, with a view to mobilisation in 2027. There are several approaches to this, mainly involving renewable self-generation projects, district heat networks and a potential vehicle-to-grid electric vehicle strategy, along with other potential technologies currently outside of the mainstream.

Assess your intervention

Every building is different, and it is important to be agnostic in the approach to the interventions made. It is equally important to be able to "walk away" from an intervention and leave the building untouched and defer to later in the programme. It is also important to note that some interventions will have better carbon reductions than others, but may have a shorter operational life. Interventions and the targeted buildings need to be sequenced in line with your project pathway.

By means of the energy review, SCC established a targeted approach to the excess energy usage for each building. We have then been able to standardise investment levels across the estate to ensure capital availability; this is monitored by having a target carbon reduction per £ of investment.

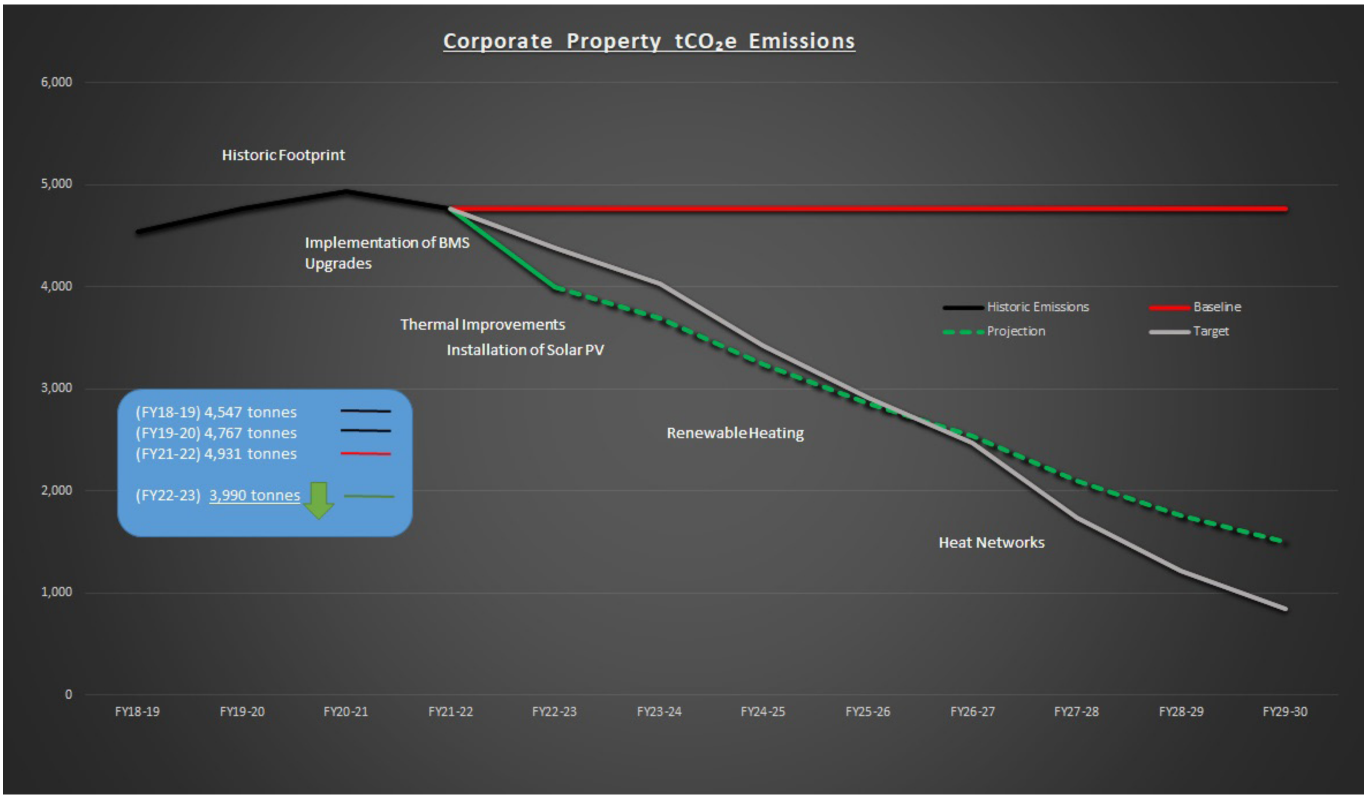
Measures we are looking to employ include reducing solar glare, driving heat down to ground level in tall buildings, and heat recovery - several products are available.

Throughout the project, contract optimisation procedures are being utilised to establish the best value for all aspects of delivered energy cost. This will involve assessing when energy is used and aligning with tariff options. This is particularly prevalent for peak-use electricity: any organisation that can move their consumption to reduce grid strain should be looking to do that, regardless of whether there is currently a cost saving incentive, as it will develop the flexibility to be able to take advantage of cost optimisation measures in the future pricing landscape.

Routes to procurement

Once the energy review, pathway and interventions have been established, the route to market needs to be prepared and reviewed. A pipeline of projects should be established for at least 18 months ahead, to ensure maximum agility to change project order should conditions dictate. To enhance this agility, it is important that the organisation has market transparency over cost of intervention and delivery schedules. The organisation also needs to be confident that there is flexibility within the procurement route and an innovative approach is being utilised.

Graph showing SCC corporate estate's pathway to net zero



Develop governance and communication structure

The governance of the carbon reduction programme needs to involve regular communication with stakeholders and interested parties, along will full engagement of council staff, partners and suppliers, to establish a collective ownership culture. The most efficient way of establishing this is a central focal point across all net zero "disciplines" with a multi-layered communications plan, creation of an ownership culture being the primary goal.

The programme also needs to feed into existing maintenance and procurement processes, to ensure energy efficiency and lifecycle costs are a primary focus of any activity involving building stock. This will assist in improving the ownership culture and ensure no increases on existing emissions.

Suffolk County Council's year end results

The council's five largest buildings account for around 70% of the utility-based emissions of the corporate estate.

The council has now reached the end of the first year of project implementation and undoubtedly the biggest success of the programme has been upgrading the building management systems at these buildings, alongside installation of CO2 sensors in as many locations as possible within the buildings, to ensure air circulation is improved in line with the most recent Chartered Institution of Building Services Engineers guidance. This has built on work completed as part of previous successful plant and infrastructure upgrades.

During the 2022 calendar year, all of these buildings have seen reductions in usage when compared with 2021, resulting in a combined reduction of 24% of their utility carbon emissions, or 634 tonnes of carbon dioxide equivalent, using government guidance on emission factors. This is the equivalent of heating over 250 average homes a year with a gas boiler.

One building in particular has reduced gas usage by over 540,000 kWh this year (80%). This was achieved solely by the installation of CO2 sensors to regulate air circulation and upgrade the building management system.

Future ambitions

An important part of our journey to net zero is establishing programme gateways by means of regular review and continuous improvement. 2030 is in reality not a distant date, and we have seen recently the socio-economic landscape is in a constant state of flux. When this is coupled with the expected advent of new technology, it is important that every organisation is reviewing the landscape and analysing recent and future changes.

Timing will be the key. Future plans include:

- SCC will continue the work of the first phase, in preparation for the second to begin in the summer of 2024, while continually laying the foundations for future projects; the move towards decentralised energy generation being paramount
- SCC is continuing to assess large scale solar generation on council land holdings, alongside other current priorities such as housing, food production and biodiversity enhancement
- SCC is in the preliminary stages of a feasibility study for a large-scale, low carbon heat network for Ipswich
- SCC will continue to standardise energy efficiency measures across the estate where practicable.

Ben is a chartered building surveyor and Director of Mobius Building Consultancy, an independent practice established in 2019 providing Building Surveying services to clients across the UK and Ireland. Ben also provides specialist advice to private and public sector clients on the impact of the 'MEES Regulations' and their impact upon commercial leasehold property.

THE MEES REGULATIONS – the driving force for commercial property

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Ben, at a presentation to ACES' Eastern Branch, alerted practitioners to the real challenges ahead to meet energy performance standards, and potential costs of doing so, if you are to keep your buildings let: "this is set to prove to be the most significant piece of legislation to affect existing building stock in a generation." Ben here presents a useful tactical approach to MEES.

The 'MEES Regulations' (1,2) are currently in force for leasehold commercial property in England and Wales to prohibit the letting of commercial properties which do not achieve the current minimum standard of an EPC rating E. Through imminent changes ahead, this is set to prove to be the most significant piece of legislation to affect existing building stock in a generation.

The UK Government has now declared its intention to increase the minimum standard to an EPC rating B by 2030 (3). This is a seismic shift which will require stakeholders substantially to rethink their property strategy for the decade ahead.

In this article we seek to identify what is at stake, some of the difficulties faced, and what those facing this challenge could and should be doing next.

Risks - enforcement

Failure to comply with the MEES Regulations can lead to enforcement action from the local authority in question. While instances of enforcement remain low, it remains the case that financial penalties are as follows:

n.b. these penalties apply per instance and not per building – landlords of multi-let properties should be particularly aware of this where aggregate penalties could easily escalate into millions of pounds.

Non-compliance

The principal contraventions under the regulations are as follows:

1. Granting a new lease of a 'sub-standard' (4) property at any point since 1 April 2018
2. Granting a renewal lease of a 'sub-standard' property at any point since 1 April 2018
3. Granting a lease extension of a 'sub-standard' property at any point since 1 April 2018
4. Allowing a lease (which has otherwise lawfully been granted) of a 'sub-standard' property to continue as of 1 April 2023.

It is necessary to expand on this final point, given that it remains a source of significant confusion for many, with incorrect advice still being given by agents, advisers, solicitors even.

Up to 3 months' infringement	10% of rateable value	Minimum £5,000	Maximum £50,000
Over 3 months' infringement	20% of rateable value	Minimum £10,000	Maximum £150,000

1 April 2023:

- Is **not** the date as of which every property needs to have a valid EPC
- Is **not** the date on which the minimum standard is due to change
- Is **only** a relevant date for those properties which have been subject to a lawful prior letting/renewal/extension where those lettings then become unlawful on this 'backstop' date of 1 April 2023, where the Regulations then apply to ongoing leases (as opposed to just new lease entities).

For illustration, a couple of instances where the 1 April 2023 date is relevant:

1. A new 10-year lease granted in 2015 of a property with an EPC of F (from 2015). This lease was lawfully granted in 2015 (prior to the MEES Regulations applying to new leases), remained lawful as of April 2018 because the lease was already in play), but becomes unlawful as of 1 April 2023 due to it having a valid 'F' rating (so defining the property as 'sub-standard') and the lease continuing
2. A 5-year lease granted in 2021 of a 'D' rated property which – subsequent to tenant alterations – has been reassessed and achieves a 'G' rating. This lease was lawfully granted in 2021 under the previous 'D' rating but will be unlawful as of 1 April 2023 due to the downgrading to 'G' through the tenant's consented works.

With this latter example, one can identify how easily a landlord can face a significant problem where a tenant's works are not carefully pre-assessed for their impact upon the EPC rating. This takes us on to the arguably far greater risk of tenants using MEES to their tactical advantage.

Risks – tenant behaviour

Although in previous years, the EPC rating of a given asset has been largely unimportant for most, this is no longer the case. While landlords are now rapidly turning their attention to the matter, tenants are increasingly recognising various reasons for which EPC ratings are relevant to them. Below listed are just some of these reasons, arguably in order of increasing concern for their given landlord:

1. ESG (5) – many tenants/occupiers (particularly corporate entities) are strongly driven by ESG criteria, of which one significant element is energy monitoring and usage. It is therefore increasingly common to see tenants commissioning their own EPCs for this purpose.

   Landlord concern: this tenant-commissioned EPC result could be poor and result in the subject letting being deemed unlawful
2. Lease negotiation – well-advised tenants undertaking due diligence prior to agreeing a lease now seek an accurate EPC rating of the subject property to be demised. This firstly identifies the likelihood of the landlord having to undertake disruptive improvement works during the course of the lease, but secondly, will impact the extent, nature, and cost of the tenant's required fit-out works.

   Landlord concern: the tenant may pull out of the transaction if the existing EPC rating is poor. Equally, the tenant may use a poor rating to drive a hard lease negotiation on the basis that the property is at risk of obsolescence through non-compliance with MEES
3. Renewal negotiations – while an EPC is currently not required for a lease renewal, a well advised tenant considering a renewal/extension would seek one to ascertain their position and potentially drive a similar negotiation per the above example in 2.

   Landlord concern: a tenant in a multi-let building taking this action could lead to further tenants doing the same and lead to a significant income/rental shortfall
4. Rent review – tenants faced with a landlord pursuing a significant rental uplift at review supported by comparables may commission an EPC as part of their response. Where they are able to identify that the landlord's comparables are of properties with good/compliant ratings and the subject property has a poor/non-compliant rating, then they may sufficiently argue that the comparable rents cannot be applied to the subject property.

   Landlord concern: if the tenant is successful in their argument, the landlord may face years of suppressed rents
5. Service Charge – tenants (particularly a group of tenants in a multi-let property) receiving a landlord's claim for service charge works on their property can seek to challenge such claims where they can identify that the works included are directed by the landlord's need to comply with MEES. Although the landlord may assert that this is legitimate as they are seeking to ensure the statutory compliance of the property, this will be challenged further where the tenant can sufficiently demonstrate that the works will not represent value for money for them.

   Landlord concern: service charge works may be undertaken and whole claims challenged by one or a group of tenants, leading to non-recovery of expenditure
6. Dilapidations – tenants facing substantial dilapidations claims are now using MEES as a substantial tool to reduce their landlord's claim. Where a landlord's claim has been prepared without due understanding of what the outcome EPC rating would be of the 'yielded up' property requested back, tenants may be successful in arguing that the subject property would be 'sub-standard' and thus the value and validity of the dilapidations works requested would be questioned.

   Landlord concern: well-advised tenants will leave properties at lease-end with a sub-standard EPC rating, with no dilapidations works completed and a reasoned argument to contribute nothing even if the landlord subsequently does the work.

Draft EPC assessments

One of the most common 'next steps' advised is the commissioning of a 'draft' EPC assessment. This advice applies as much to the tenant seeking to use the EPC to their advantage (per above), as to the landlord seeking to stave off such risks.

An assessment can be fully prepared

and calculated in the appropriate software to model what the EPC rating of a given property would be. This rating does not have to be lodged and instead, these draft assessments are increasingly being used as consultancy tools.

Draft assessments, however, can be used by tenants in a different manner; again in context of some of the negotiating strategies above. For instance:

1. Lease negotiation

   A tenant is considering letting a floor of a subject multi-let office building from a landlord. The property has an EPC rating of 'D' for the whole property from an assessment in 2015. As part of their due diligence, the tenant commissions a draft EPC rating which identifies that the current accurate rating is actually an 'F'. The prospective tenant's drafted sub-standard rating would be hugely detrimental to the landlord if it was lodged (potentially rendering existing lettings in the building in breach as of 1 April 2023). With this knowledge, the prospective tenant may lean on the landlord to press for an additional six months' rent-free, in exchange for agreement that the EPC will not be lodged.

2. Rent Review

   A subject building on a single let 25-year FRI lease to a tenant is due for rent review in 2023 after 10 years. The property had a 'G' rating at the start of the lease which has now expired. With no EPC in place, there is no MEES breach. The landlord proposes a 50% rental uplift. The lease does not prohibit the tenant from commissioning an EPC and at rent review, they commission a draft EPC which is now an even worse 'G' rating. They present the landlord with the alternatives:

   a. Agreement to a negotiated 30% uplift and the EPC will be lodged, resulting in a MEES breach and local authority enforcement of up to £150,000 per three-month breach

   b. Agreement to nil increase – the EPC will be discarded and a side agreement put in place that the tenant will not commission an EPC without the landlord's consent.

Lease drafting

The above example raises the importance of careful lease drafting. While there have been improvements in recent years to the benefit of landlords, the following are imperatives:

1. No EPC clause – while this is now included in almost all leases to restrict a tenant's ability to commission an EPC, most do not go nearly far enough
2. Tenant's alterations – while landlords are typically obliged within their leases to not unreasonably withhold consent for their tenants' alterations, they do not specify when it would be reasonable to withhold; one such scenario should be in a case where the landlord identifies that the tenant's works will lead to a downgrading of the EPC rating
3. Rent review – while assumptions and disregards may offer some opportunity for a landlord to push back a tenant's argument on rent review, very few go far enough to specify that the EPC rating should not be a factor in such discussions
4. Dilapidations – the majority of dilapidations claims are now able to be challenged on the basis that the landlord will undertake some level of modernisation to the premises (typically to improve the EPC rating to a 'B') which will then result in an element of supersession on the claim. This may be as simple as the existing old and faulty lighting system being replaced with a modern equivalent LED system. Were the lease to include a proviso that the landlord can include for reasonable modernisation in such a claim, then the claim is less likely to be successfully challenged.

Unwanted consequences

While the result of the MEES Regulations having their full effect, as described above, will perhaps justifiably be applauded by many in terms of the contribution towards achieving the country's carbon reduction commitments, there are undeniably some unwanted – and likely unintended – consequences.

Take, for instance, many smaller property investors who may hold property primarily to act as a pension fund e.g. a SIPP (6), for whom significant capital outlay on improving their properties to an EPC 'B' is not an option. There is no affordability argument or exemption based on pure commercial viability (or lack thereof) hence many of these property owners will inevitably end up unassailably being in breach of MEES, with many likely being forced to sell.

Another unfortunate repercussion is for community use leased properties, e.g. nursery schools, scout halls, charity uses, etc. The MEES Regulations apply to leasehold properties whether the annual rent is a peppercorn or £1m; the exclusions of there being no EPC, or the lease term being less than six months or 99 years plus, are unlikely to apply for such properties and hence they will be caught by MEES. Many such properties perform poorly on EPCs and thus the landlord in question (typically a local authority) will be in breach but again, with limited or no commercial justification for the required investment to improve the property to the minimum standard.

Next steps

While required action in each case depends upon a multitude of factors (e.g. time to lease expiry, extent/nature of tenant alterations, age of existing EPC assessment, etc.), below outlined are steps for landlord entities to consider in assessing and addressing MEES risk across their portfolios:

Audit – Portfolio lists/schedules need to include EPC ratings and their expiry dates; with this information alongside other property data such as size, property age and lease data, an initial strategy can be put in place to set out which properties need prioritising for further action

Baseline – EPC ratings can be subject to significant change through seemingly innocuous factors, including a tenant's fit-out, better building documentation being provided, an existing EPC having been carried out several years prior, or a previous EPC simply being poorly prepared. It is therefore imperative to be assured that an existing EPC is completely accurate before using it as a baseline and acting upon it (i.e. considering improvement measures)

Context – Several factors can impact the urgency with which one should consider addressing a property's EPC rating, e.g. if there is a lease end on the horizon, before looking at improvements, it should be considered whether the rating may improve through the tenant removing their fit-out (or whether it is only poor because of the fit-out). Similarly, if an existing EPC is due to expire, it may not be in the landlord's interests to immediately lodge another rating (this may be unnecessarily putting the property prematurely in breach of MEES)

Draft – obtaining accurate advice on the current EPC position is now critical; this does not mean you have to lodge a new EPC. Find a competent professional able to undertake an EPC in draft only – this does not have to be lodged. If it is suitably accurate and detailed, you can then use it to inform next steps

Enhancements – do not rely on a 'Recommendation Report' to guide on required improvements; this is a report automatically generated by EPC software which does not consider the practicalities of measures proposed or offer certainty on what an outcome rating may be. Instead, a reputable professional should be engaged to provide a report to propose practical improvement measures (or package of measures) and advise on what outcome rating those measures will achieve, in order that certainty can be gained before expenditure is considered

Finance – Where expense on improvements is unavoidable, seek out means of sharing or recovering that expenditure. It may be that a tenant is bound or willing to contribute; equally there may be funding schemes available for certain improvement measures. For those UK tax paying entities, it may be that significant portions of the required outlay can be recovered through 'Capital Allowances'.

Conclusions

The MEES Regulations seem likely to lead to a polarising result: those stakeholders who understand it the best, and deal with it the most proactively, will see significant advantages in the form of future-proofed, efficient property portfolios able to be well-rented; whereas those who choose to disregard it are likely to be most heavily impacted by enforcement action and well-advised tenant strategies put into practice.

References

1. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
2. MEES – 'Minimum Energy Efficiency Standards'
3. Energy White Paper: Powering our Net Zero Future, HM Government, December 2020
4. A 'sub-standard' property is one which has a valid EPC rating below the prevailing minimum standard (currently EPC 'E')
5. Environmental, Social, Governance – a widely used and broad term covering many elements of corporate responsivbility
6. Self-invested Personal Pension.

Chris spent nearly 25 years working in local government, involved in estate management and strategic asset management. Having moved on to CIPFA in 2003, Chris has been delivering property consultancy and training across the public sector. In 2019, he established his own consultancy, Chris Brain Associates, and he continues to support the public sector with property consultancy and training throughout the UK, in strategic asset management, organisational efficiency, and asset valuation.

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VALUATION AND NET ZERO
Valuation in a net zero carbon world

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Chris explains that the purpose of this article is to inspire valuers to think differently about how, as the climate changes, their role may be changing also. And, for managers to think about how valuers need to be supported through such change.

Some predictions

Predicting the future can be a very foolish thing.

No more so than in the film and TV industry. When I was growing up, I used regularly to watch a program called Space 1999. It was made in 1975 and predicted that by 1999 there would be a permanent human base on the moon. As we all know that didn't happen.

The 1982 film Blade Runner envisaged that by 2019 – just three years ago - we would be living in some post-apocalyptic society where replicants had been made illegal but still existed. In 1980, in the very first Terminator film, there was the prediction that by 2029 there'll be global devastation caused by the machines taking control of Skynet and waging war on the human race. Okay, we're not at 2029 yet, but that doesn't seem very likely at the moment.

In 1985 the Back to the Future film series began, which imagined 2015 – seven years ago – being a world where the use of hoverboards, flying cars and self-drying jackets would be in everyday use. As I say, prediction can be a very foolish thing to do.

But when it comes to the climate of the planet, prediction is perhaps not quite so foolish. Many different climate models exist, which broadly agree on the climate trajectory. On the basis of what science is currently telling us, predictions can however be helpful in thinking about how property valuation may change.

The purpose of this article is to inspire valuers to think differently about how, as the climate changes, their role may be changing also. And, for managers to think about how valuers need to be supported through such change.

What do scientists tell us about what the future world might look like?

I would like you to imagine the year 2040. It may seem a long way off, but in climate terms it really isn't. Climate models can tell us quite a bit about what that world may look like. The younger valuers among you will still be practicing in 2040. It's predicted the planet will be 1.5 degrees Celsius warmer in 2040 than it was in the late 19th century. Sea levels in London will have risen five inches since 2019. The number of heat-related deaths in the UK will have doubled since 2022. The number of wild animal species will have declined by more than two thirds since the 1970s. Summer precipitation in the southwest of England will be down 13% on 2019 levels, and winter precipitation in the northwest will be 10% higher than it was in 2019.

Not only that, for the past decade all new cars will have been electric. All publicly owned buildings in Scotland, for example, will have already met the net zero target since 2025. All commercial properties in England and Wales will have had to meet the MEES 'B' standard for the last 10 years. Flood insurance claims in the UK will most likely have doubled since the figures in 1998.

That's a picture of what 2040 might look like. And there are plenty of flood maps available that will show you what your area of the UK will look like, if current predictions come to pass. Many locations will be adversely affected by tidal and river flooding for example.

At the moment the planet temperature is still rising and will still be rising most likely in 2040, no matter how successful governments are at hitting net zero carbon targets. All this means sustainability and environmental risks will become a business essential. Understanding sustainability, not in terms of protecting the environment, but resilience from the environment, will become an everyday consideration.

Climate and valuation

What does this mean for the valuer?

There are three big questions valuers will need to start thinking about:

- How will market preferences be affected?
- How will property values be affected?
- How do you identify the assets that occupiers in the future will want?

A critical element of all valuations are the associated inspections, investigations and records, that support an opinion of value. Thinking about how the world is changing is an important part of that.

The RICS Red Book requires valuers to undertake inspections and investigations to the extent necessary to produce a valuation that is professionally adequate for its purpose. The valuer must take reasonable steps to verify the information relied on in the preparation of the valuation. Having awareness of the changing world, and having evidence to support conclusions based on that evidence, is going to be ever more important. As Louis Pasteur is often attributed with the quote: "fortune favours the prepared mind".

The valuer will need to think about how they prepare for this future net zero carbon world and for practicing and valuing in that world. What the valuer needs to know about the asset is going to be critical going forward, and is going to change. For example, is the valuer…

- Clear on what's there?
- Knowledgeable on how the asset is performing?
- Aware of what risks the asset is carrying and how resilient it is against those risks?
- Skilled to know what intervention could improve performance or reduce risk?
- Able to identify future flexibility or adaptability needed for the asset?

As the world changes, business and occupier needs will change. This may take the form of two key areas. The first of these might be staying open for business, which may well focus around three main aspects: resilience to drought; resilience to storms; and resilience to flood.

In assessing resilience to drought, building occupiers will be concerned with the geology of the area, soil conditions, building settlement risk, burst pipe settlement risk, tree risk, water storage and reuse systems, and building component heat performance. In terms of storm resilience, building occupiers will be interested in the infrastructure utility, vulnerability to downdraft and updraft and high wind design, energy backup systems, energy storage, on site energy generation, and water storage. For flood risk and flood resilience, building occupiers will be concerned with the geology and the water table, runoff, proximities to waterways and planting-based erosion control, as well as drainage system capacity and rain water system capacity.

As we move towards our net zero carbon world, we can already see sustainability characteristics influencing occupier choice. This will only accelerate. In the second key area, the following areas will continue to be important: carbon performance; statutory compliance; and water.

Carbon performance will focus on building insulation levels, heating and cooling systems, the internal environment and the air quality, heat transportation loss, solar gain management, space utilisation management, energy storage, building management systems and building information modelling, servicing and maintenance routines, and also transportation links. Statutory compliance considerations will be around energy ratings, current performance and utility of heating systems, ventilation, vehicle charging infrastructure, recycling facilities, the impact on surroundings and habitats, the impact of the occupant wellbeing, compliant alterations, and also building end of life impact. In terms of water, building occupiers will be interested in water storage, grey water recycling, pipe lagging, servicing and maintenance regimes, landscape design, and automated irrigation systems.

A valuer's broadening skill set

What does that mean for the valuer?

It means the valuer has to think differently about the future role of sustainability and their CPD in terms of broadening skills, knowledge and awareness. For me there are four main areas to this: keeping abreast of the regulatory and legislative changes; staying up to date with technological advances, suitability and relative technological performance; ability to identify and assess flood, drought and storm risks; keeping abreast of changing market sentiment, how markets are shifting, and how occupier needs are moving. All four areas will impact market pricing, building design and create dual markets that do not currently exist.

The journey to 2040, and the changes along the way will be gradual. The world will not suddenly change at the end of 2039. Those that ignore this gradual change and treat the next 15 to 20 years as if it is still 2023 may be in for a rude awakening. Valuers should start now, thinking about what might be ahead, and where their knowledge gaps might be in the future.

Will you be prepared and equipped to understand, for example, the value impact of different forms of heating system and their relative performance? Do you know what life expectancy would be appropriate for different heating system components, say between ground source or air source heat pumps? Would you be able to assess how well an asset is designed for predicted storm water flows?

This article is not just for valuers. Those of you that manage valuers need to start thinking about how you skill up and prepare your valuers to think differently, behave differently, providing the necessary CPD support packages to help them maintain their skills as valuers.

Good luck on your journey to 2040!

Jen is a partner and co-founder of Property Elite.

HYBRID WORKING Some thoughts and insights

Jen Lemen BSc FRICS jen@property-elite.co.uk

Jen outlines changing working patterns largely brought about by Covid. She presents some useful insights from practitioners.

The mathematics of traditional working

Traditionally, most full-time roles have required 0900-1700 working days, 5 days or 40 hours per week. The average pre-Covid daily commute (Independent, 2019 - https://www.independent.co.uk/life-style/average-commute-time-59-minutes-record-work-tuc-a9204031.html) was just under 1 hour, which is 5 extra hours each week. This equates to 45 hours commuting or at work each week, not including paid or unpaid overtime. Over a year, taking into account a minimum 28 days' statutory holiday, this roughly equates to 2,160 hours per year at work. Each year has 8,760 hours, so we are spending approximately 25% each year at work. If we assume that the average person sleeps for 8 hours each night (if we are lucky…), then we have only 5,824 waking hours. Of our waking life, therefore, nearly 40% is spent at work. Adding in overtime, this could be well over 50% for many workers.

This is a substantial amount of time, and calls into question the reasons behind continuing with the 9 to 5 work week. The 9 to 5 was originally conceived by Henry Ford in the 1920s to optimise assembly line production. Society continued with this model, often without question, well into the 21st Century.

However, have we now entered a new world of work?

The now and future

During the Covid pandemic, we saw the economy grind to a halt as the government called for all non-essential business premises to close. Offices were shut and a new model of working emerged: hybrid or remote working.

Landsec, in its 2022 report entitled 'The Future Office: Rising Expectations in a Hybrid World' (https://landsec.com/sites/default/files/2022-10/The%20future%20office%20-%20rising%20expectations%20in%20a%20hybrid%20world.pdf), reported that the proportion of surveyed homeworkers intending to continue working from home has grown from 30% to 42% (between 2021 and 2022). Additionally, 79% of respondents of the survey reported that having a strong hybrid working arrangement was very important when choosing an employer.

The Harvard Business Review proposes an easy to understand model of hybrid working (HBR, 2022 - https://hbr.org/2021/05/how-to-do-hybrid-right), using an image with axes of time and place, which are then split into constrained and unconstrainted. The traditional 9-5 model falls into the quadrant constrained to the office, and time constrained, as it is based on specific hours. Various degrees of constraint have been seen in various models of hybrid working, ranging from working at home (place unconstrained) during working hours (time constrained) to working at home during self-imposed hours (unconstrained).

During lockdown, flexible working arrangements were essential to allow service businesses to continue to operate, including central and local government and chartered surveying firms. Without employees being able to work from home, the property industry would have ground to a halt.

Facilitating 'anywhere' 9 to 5 working required improvements in IT systems, communication strategies and leadership, particularly during Covid. In some working environments, this was welcomed, but in others there was resistance to new ways of working and the impacts are still being felt.

Post-Covid, Acas (Acas, 2022 - https://www.acas.org.uk/new-survey-shows-3-in-5-employers-have-seen-an-increase-in-hybrid-working-since-the-pandemic) has reported that 60% of employers have seen an increase in hybrid working post-Covid.

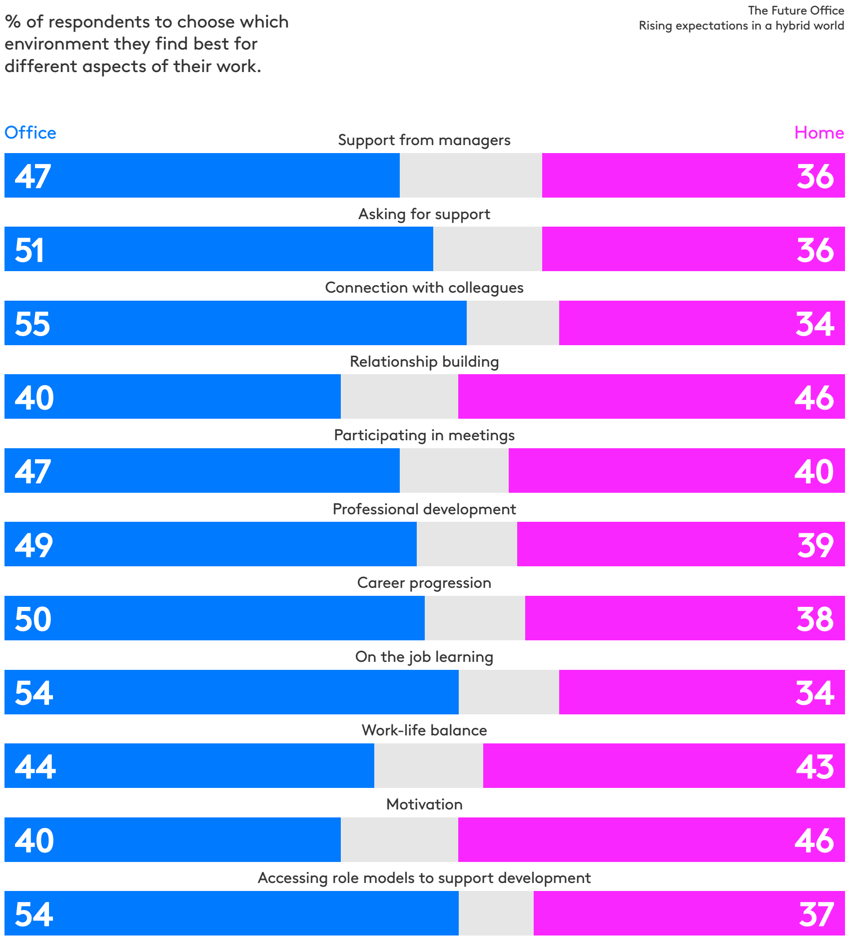
It is well-known that as humans, we like to have control over our lives, including the time we spend and the place of our work. The advent of hybrid working has given us some control back over our work, including the hours we work and where we work. This has provided benefits such as:

- Being able to work in the optimal environment, such as a quiet home environment for focussed tasks or in the office for team-based tasks
- Fitting in childcare much more easily around work
- Increased motivation through having more control over our work
- Improved IT systems (as a necessity of hybrid working)
- Leaner business and reduced operation and occupation costs
- Reducing commuting times and allowing us to live where we want, such as in more rural locations
- Working at times when we are most productive, which is not necessarily always 9 to 5
- Being able to take advantage of natural light in the winter, by working later or earlier and taking time out during the day
- Access to a broader spread of talent when recruiting
- Improved wellbeing and workplace culture. Landsec's report found that 70% of respondents found that they were better able to protect their mental health when working in a hybrid model.

However, there are also downsides to hybrid working:

- Communication breakdowns
- Reduced team morale and development
- Lack of support and development for new starters or graduates, who can become alienated and disillusioned
- Lack of knowledge sharing between teams
- Workspace strategies are not instant, and some offices are vacant and underused with lease exits or options some way off
- Poor IT systems limiting productivity or creating data security issues
- Too much flexibility can create uncertainty and difficulties for employees
- Cost of working from home, particularly given increasing energy prices.

Ranking these in terms of importance, Landsec's report considered various aspects of the hybrid working environment in terms of importance (see graphic):



Some opinions

To delve further into experiences, both positive and negative, of hybrid working – the author sought input from a variety of property professionals.

David Clare, MRICS MFPWS, Director of Surveying Services at Gold Crest Chartered Surveyors, commented that: *'As a Director and Residential Surveyor, I was used to working about 50% on-site or home verses a traditional office prior to the pandemic. In the last 2 years I have seen an increase in desire, from both clients and colleagues, to have virtual meetings rather than face to face encounters, which not only saves costs but also the inevitable environmental impact. The quality of online meeting software has increased to the point going into the office is now a realistic second option rather than a primary one for a function. I have found almost all aspects of the increase in hybrid working as positive. I now visit the office just a couple of times a month; this benefits my work and family life as I start work refreshed, as opposed to commuter battered, and to get home I just cross the garden! The biggest downside is the delivery drivers drop off neighbours' packages for me to sign far too often!'*

Jamie Cohen MRICS MCABE is a Chartered Surveyor and Director of his own firm, Templewhite. What works well for him is *'the flexibility of working in multiple locations, which gives me freedom to arrange my diary accordingly with appointments that are convenient pertaining to my location'.* He also has *'a good work life balance, meaning If I am working at home, I could finish earlier without having to worry about commuting, I could use the time more productively such as catching up on admin. I am working more efficiently and effectively'.* He finds little negative about hybrid working.

Ed Ellis MSc MRICS, Director at Websters Surveyors, commented that, *'as a practicing surveyor, hybrid working seems to be a good model. Much of my time is spent on site with the remainder of the day needed to either write up reports or deal with other business related matters. The hybrid element allows for flexibility in the week so the diary can be well managed, factoring in any non-moveable life factors whilst crucially also allowing for the much needed interaction with other colleagues in the days when I can get to the office. Having worked 100% remotely in the past, I can certainly testify to the benefits of hybrid working as a model that suits my work and lifestyle'.*

Conor Watt MSc MA MRICS is a Senior Project Manager at Sanctuary Group, one of the UK's largest providers of housing care and commercial service. The hybrid working arrangements in his team consist of normally three days in an office/on site and two days from home. His team comes together on Tuesdays and makes arrangements for the rest of the week to suit colleagues' circumstances and organisational requirements.

Conor said that *'I think for me it's the flexibility that's the key strength of hybrid working. It allows me the opportunity to organise my workload in a way that means I can select the environment in which I wish to perform certain tasks, whether that be in an office with colleagues nearby to support me, or if it's a task that requires concentration and quiet, I can work from home where I am able to focus very intensively on the task at hand. I think overall it provides a better work life balance and a better quality of life, as it allows me to avoid rush-hour traffic a few days each week and I can then use that time to undertake other activities in the morning. I tend to find that on the days that I work from home my output is higher too and I can get a lot more project based work done'.*

As a newly qualified chartered surveyor, Conor says that he *'would caution surveyors quite early in their careers, and especially APC candidates, from too much working at home. Much of the learning and experience that we need is picked up, almost by osmosis, in an office environment where we are working closely with colleagues and listening to debates and conversations in the office itself which you would not necessarily obtain whilst working from home. Moreover, with the best will in the world, I think working from home/hybrid working can make it much more difficult to ensure that you are gaining all the necessary, relevant experience for your APC and wider professional development- this is particularly true when your line manager or supervisor is busy, and it can be a lot easier for everyone to be together in an office.*

I think from a wider perspective it can be slightly more difficult to feel part of a bigger team when you're spending less time with your colleagues as a group and, particularly as we come into winter, it's easy to feel more isolated. I think there is also something to be said around understanding your colleagues' working arrangements and ensuring that meetings and conversations are happening in the right environment at the right time. Given this, I think it's quite right and appropriate that you pencil in catch ups with colleagues just to understand their workload and how they're getting on, so that those sort of informal conversations continue as they would in an office environment.

I think lastly I would say that with the increased flexibility that hybrid working provides, there does become a much greater potential for the blurring of our work lives and home lives when conducted in the same place and so, somewhat ironically, something that is implemented to help us to achieve a greater work/life balance can do the opposite if it's not carefully monitored. For that reason, when I'm working from home, I always work in the same location and have a very deliberate practice of turning my laptop on and off and putting away my work devices in the evenings and weekends so that the mental association with these is prevented and I'm not thinking about work all of the time'.

Planning for hybrid

During Covid, organisations had to rush to make hybrid working work. However, this does not mean that the mode of hybrid working settled upon is the right mode for the future. Organisations need to plan ahead to ensure that they are making hybrid working work for their organisation and culture. This will require a combination of the right amount of flexibility when remote working, a workplace that promotes collaboration, and a positive working environment and IT systems that tie the two together effectively.

One respondent working in the public sector commented that *'hybrid working has allowed many large companies to question the amount of office stock they have and to consolidate their offices to provide efficiencies. This in itself has brought about challenges as remaining office space is having to be re-fitted to not only accommodate staff from other offices, but to allow employees the choice of how they work when they are in the office. It's not just about rows of desks and some meeting space anymore, it's about IT upgrades, collaboration space, more informal meeting space and smaller breakout areas for one on one conversations, work booths and phone booths for those virtual meetings and private phone calls. Companies need to look at their office space and ask if the space enables hybrid working for optimum efficiency and performance'.*

Hybrid working in the long run also requires efficient senior management, organisation-wide communication, and buy in from employees. If one of these three key tenets falls down, then hybrid working just won't work and organisations risk alienating employees, reduced productivity and losing key talent.

A focus on wellbeing at work is also being built into future workspace strategy. Alongside flexible working arrangements, this will help to retain employees and create a positive workplace culture.

A good example of a building that promotes wellbeing is 22 Bishopsgate. This has been designed around people and includes various on-site services, such as a gym, wellbeing studio, food market, restaurants and a viewing platform.

In conclusion, as with anything, hybrid working remains hotly debated and there is no one size fits all solution. Only with employee level engagement and robust leadership will we see the best coming out of hybrid working. It will certainly be interesting to see in the coming years how both public and private sector organisations continue to embed hybrid working within their overall operations.

VICARAGE FIELD CPO
A summary of the recent decision not to confirm the CPO

Below is a brief summary of the presentation made at a webinar by Lambert Smith Hampton in November 2022. Please be aware that the notes are put together by the Editor, not LSH personnel. Thanks to LSH for providing the basic notes.

The site and the scheme

The site is of 31,878 sq. m. in Barking town centre. It is currently an early 1990s shopping centre, described as "gloomy" and "outdated". Additional land included in the scheme is retail and residential properties, a hotel and a vacant health centre.

The redevelopment scheme included:

- 5 clustered towers reaching up to 36 storeys – 855 residential units, of which 10% was affordable, hotel, and commercial
- a 6-8 screen cinema and a music venue
- community uses including primary school and health centre
- a food hub acting as the public face of Billingsgate, Smithfield and New Spitalfields markets.

The scheme was promoted by the London Borough of Barking & Dagenham, which also owned the freehold of 85% of the Order Land. The developer was a special purpose vehicle owned by PBBE, a global fund manager, including a real estate fund.

The timelines are important to this case:

- January 2017: outline permission for CPO scheme granted (reserved matters still outstanding at date of inquiry)
- March 2018: resolution authorising officers to negotiate indemnity agreement and prepare CPO
- July 2018: resolution authorising the making of the CPO subject to completion of legal agreement
- March 2021: Indemnity agreement and agreement for lease completed
- June 2021: CPO made and submitted for confirmation.

A 3-year gap between resolution and making the CPO is highly unusual, which the council stated was due to negotiations on the legal documents and private acquisitions. The indemnity agreement should have been in place before the resolution to make the CPO.

Fulfilling the fundamental tests for CPOs

There are three fundamental tests to be satisfied to confirm a CPO:

There must be a compelling case in the public interest for the CPO

- The public benefits should outweigh the interference in the right of the owner to enjoy their property free of interference from the state
- Must be likely to contribute to the improvement social, environmental and economic wellbeing of the local authority area

There must be no material impediments to the CPO scheme coming forward

- The promoter should be able to show that it has or will be able to secure funding, planning permission and any other consents required to deliver the scheme

Compulsory purchase should be a <u>last resort</u>

- Attempts should be made to acquire the CPO land by agreement
- Consideration should be given to alternatives which deliver the same benefits without the need for CPO.

In summary, the Inspector found that:

- there is an "obvious and desperate" need to comprehensively regenerate Barking town centre
- the scheme would deliver that regeneration including social, environmental and economic wellbeing
- the scheme would create a "transformative change to the town centre" promoting "vibrancy and activity"
- given "the substantial benefits in the public interest there is an <u>extremely compelling</u> case for the acquisition of the Order Lands".

With regard to viability and funding, a scheme must be deliverable to justify confirmation of a CPO: it must be able to demonstrate that it is viable or that there is gap funding available if it is not.

It should be noted that CPO Guidance is unhelpful: "[T]he greater the uncertainty about the financial viability of the scheme, the more compelling the other grounds for undertaking the compulsory purchase will need to be".

Viability assessments by the developer and the council during consideration of the planning application in 2016 showed that the proposed scheme was "substantially unviable" with a residual value of just £400,000, equivalent to just 1% of Existing Use Value. No updated viability assessment was provided for the CPO inquiry, on the basis of commercial confidentiality. In fact, the developer justified this by claiming it had a different approach to assessing viability than a standard Red Book appraisal.

It was suggested that although the costs of the CPO process had been underwritten, there was no commitment to build out the scheme.

Observations

Some observations may be made to smooth the way for a successful CPO order:

<u>Viability: Implications:</u> Town centre regeneration CPOs may now be more difficult to achieve, especially given the decline in the retail market and construction cost pressures. However, stalled schemes may hopefully be avoided. Public sector funding will be crucial for estate renewal, and there will likely be less private sector involvement unless there is a commitment to delivery by way of an indemnity agreement.

There are proposals in the government's Levelling Up and Regeneration Bill to amend CPO procedures, by introducing the conditional confirmation of CPOs, and maybe these will have a role to play in these situations.

<u>Stakeholder engagement</u>

In order for regeneration schemes to proceed, the Guidance says that acquiring authorities should <u>consider:</u>

- Providing full information about the proposed timetable and what the process involves
- Appointing a specified case manager
- Keeping delay to a minimum in promoting the CPO
- Seeking to enter into agreements specifying minimum levels of compensation
- Providing advice and assistance on relocation
- Providing a "not before" date for compulsory purchase
- Funding professional fees of stakeholders to enable negotiations to take place.

Comments and lessons

Firstly, were the criteria for the three fundamental tests met? It appears that because of the level of uncertainty as to whether the scheme would proceed, the developer did not engage in proper negotiations. There were significant time gaps, both in completing legal agreements and between the grant of planning permission and making the CPO (4.5 years), for which the Inspector considered there was no reasonable excuse. In contrast, the stakeholders were only told about the intention to make a CPO 10 days in advance.

Communication channels were not established and there were multiple points of contact across different firms; the relocation strategy for displaced businesses and residents was only produced after the inquiry commenced and only the multiple commercial interests were offered the opportunity to relocate back on site; there was limited information on phasing. Finally, the negotiations for private treaty acquisitions to avoid a CPO were "patchy".

Of lessons learnt:

- Funding is crucial – you cannot acquire interests without a budget, but you can be creative in doing deals
- Set up a land assembly working group to manage/supervise negotiations – with defined roles and responsibilities
- Produce an effective relocation strategy
- Owners and occupiers hate uncertainty – consult, discuss, keep owners and occupiers informed and don't treat them as obstacles to be overcome.

This decision should be contrasted with the Ebury Estates CPO 2022 where an earlier scheme had been vociferously opposed: *"The Authority responded through a very intensive programme of engagement directed towards realisation of the Scheme. The engagement embraced a range of undertakings and commitments to stakeholders and consistent with national, Mayoral and Authority best practice. These included offers to move to alternative accommodation and various re-housing/right-to-return commitments aimed at keeping the original community together…"*

Gill is the current interim global Head of Candidate Support which comprises three teams in UK & Ireland, AEMEA (Americas, Europe, Middle East, and Africa), and APAC (Asia Pacific). The purpose of Candidate Support is to ensure enrolled candidates on all routes to membership understand the requirements of the RICS, are prepared for assessment, and are supported in their well-being. All support provide by the teams is free-of-charge.

RICS CANDIDATE SUPPORT TEAM Helping you to become a Member of the Royal Institution of Chartered Surveyors

Gill Quinn Gquinn@rics.org

This article comes at an apposite time, when ACES is considering how best it can support junior staff who have embarked on a career of chartered surveying. Some of us believe that our members, working together, are well placed to offer help and assistance [see also Sara's & Zaman's article in this issue of ACES' Terrier].

Did you know that in the UK there are around 18,000 land, built environment, valuation, and estate professionals currently on a route to become a member of the RICS? The value of a RICS qualification has never been greater – from wider industry recognition and enhanced career opportunities, to access to the latest professional insights, guidance and technologies.

Some of you reading this are already working towards becoming an MRICS or AssocRICS and understand the hard work and commitment that this asks of you. We know that many candidates can often feel a bit isolated in their journey, and this is particularly true of candidates working in organisations such as local authorities, where access to peer support and networks can be harder to find than in, say, an estates or surveying firm.

You may not know that at RICS we have a dedicated Candidate Support Team in the UK whose sole purpose is to help any candidate, in any organisation, on any route! The support we provide is free-of-charge, and includes daily Teams' Drop-ins where you can meet the team and ask us anything, book a 1-2-1 call, access our free live and recorded webinars, find our latest podcasts, and of course, you can always call or email us for help too. We aren't surveyors, so we can't advise you on professional practice, but what we can do is help you navigate your way through the process to become qualified and prepare you as ready as possible to get that final assessment under your belt.

And because life, career, and all those other things that tend not to go away just because you are doing your Assessment of Professional Competence or AssocRICS, we can also support your well-being in other ways: we work really closely with Lionheart, the RICS charity, and can signpost you to their help, such as financial, and emotional support; we run joint webinars on developing confidence, managing anxiety, and improving presentation skills for your assessment. We can also help if you want us to take into account any special considerations to make your assessment as fair as possible.

We can point you in the direction of complimentary CPD, as well as signposting you to other RICS products and services. And we encourage all those seeking membership to join a local Matrics group so that you can access CPD, build your network, meet other professionals who can support you, and just get to know others in your region that you can share your journey with [Ed – and ACES members].

We normally look after candidates after

they have enrolled, but if you haven't signed up yet to become a candidate, we can put you in touch with the right people to advise on the best route for you, depending on your qualifications and experience. Not all Chartered or AssocRICS Surveyors have a degree, and many come through the apprenticeship route. And some candidates joined on one route, and switch to another – that's something else we can advise on, especially if it has been a while since you signed up.

You can find a mine of information on our website at RICS Assessments, but in the (very likely) event you just can't find the bit you need, get in touch with us at ukicandidatesupport@rics.org. or join one of our Candidate drop-in (office.com) sessions, and if we can't help, we will make sure we put you in touch with the people who can.

So if you are recently enrolled, or have been waiting for all the planets to align before you submit for your assessment, we would love to hear from you.

ACES' YOUNG SURVEYORS RICS Awards and the future of the profession

Sara Cameron FRICS CMgr MCMI AIWFM and Zaman Sheikh LLB (Hons) MSc AssocRICS

Sara is Corporate Manager Strategic Property at Babergh & Mid Suffolk District Councils and ACES Senior Vice President. She has 25 years' experience in the built environment. She was elected to RICS Governing Council and the Eastern regional boards between 2017-2021 and remains involved with the RICS at a grass roots level, supporting APC candidates and encouraging a diverse talent pool into choosing surveying as a career.

Zaman was Estates Surveyor – Asset Management & Strategic Property, Babergh & Mid Suffolk District Councils when he spoke at ACES' National Conference. He has a law degree and a MSc in Real Estate Finance and Investment. He has completed the Estates Gazette Future Leaders Programme, where he delivered a talk about reasonable adjustments in the workplace. Zaman is an advocate for diversity in the profession. He has since moved on to work at Southend on Sea Council.

Firstly, Sara let me know the names of public sector surveyors winning RICS Awards in Autumn 2022, which goes to show how rewarding a career in the various spheres of public practice can be. Zaman was a panelist for two sessions at ACES' National Conference in September and the points he made are outlined in the second part of this article, on the future of the profession, in particular in relation to ACES.

Sara - RICS Young Surveyor of the Year Awards

I am pleased to say in 2022, Zaman won the RICS Young Surveyor of the Year Award (YSOYA) for Assets and Facilities Management.

Jack Glover in my team was a finalist in that category too. We already have a plan for putting him forward again next year and that will involve him getting involved with extracurricular activities such as ACES and RICS Matrics.

It is also worth noting that Mitchell Spencer from Wolverhampton City Council won in the Commercial Property category and Kelly Smith from the Valuation Office Agency (VOA) won in the Valuation category.

Usman Javid from the VOA was nominated in Mentor of the Year; Stephanie Taylor from the Department for Education was a finalist in Project Management; Alexander Anrude from the Royal Borough of Kensington & Chelsea was a finalist in the Residential category.

So on the whole, it was a good night for the public sector and we had a great night celebrating!

I am extremely keen to champion ACES and get to know our future members (FACES) and encourage them to enter YSOYA in 2023 and beyond. There is also opportunities to get their mentors nominated [Ed – ACES' RACES group].

It could be argued that the public sector provides better support for young surveyors

but hasn't always been recognised by RICS for it. Sara, with her RICS contacts, will continue to work towards better recognition of the public sector's contribution to the profession.

The future of the profession

Surveying is a great job to be in: there is developing a mindset of collaborative working, which is necessary in these challenging times, such as high street regeneration. But we need to solve the current problems in construction and real estate. Skills are needed from diverse communities, whose individuals may have radical fresh ideas. The only way you can do this is by generating awareness of opportunities, such as going into schools and educating children from a very early age about what the property profession is about.

I come from a family of doctors and medics. I was coerced into going into the legal profession and really fell into surveying. There is a need to remove stigmas from many aspects of property and skills. For instance, we need more electricians and energy efficiency specialists, and the range of construction related skills. The only way is to remove the stigmas understood by communities, to change the mindset that they are just seen as trades. It needs to be explained that they are valuable skill sets. People are scared of what they don't understand, so this is a big challenge.

Another challenge is how make the profession attractive to a diverse people. There is an array of roles in the public and private sectors. Considering the 15-minute neighbourhood, there is an uncapped local talent which should be a part of any regeneration scheme. Some people in their communities will have a great sense of purpose for their area; they know their local area and can participate. This could be a solution for high streets and regeneration in general.

ACES' members and the RICS have an obligation and opportunity to show future generations how exciting a career in real estate can be, the impact they can make, and sell it to people – as an area that they can really change. On a large scale such as Canary Wharf, you can be part of, get skills, and transform areas that completely changes lives.

It is also the responsibility of property-related organisations to generate awareness and improve communications about the opportunities. Both the RICS and RTPI have funds which support disadvantaged groups and individuals from diverse backgrounds. However, this is not general knowledge at the sixth form level in schools: the professions need to shout about it.

Another important element is leadership, influence and sharing the vision. Leaders have a duty to translate leadership into action, to present a clear business case. This is not easy, as there are often political constraints and different views.

ACES, through 'FACES' is trying to engage further in this challenge, and myself and Sara are involved. However, there is a real need for diversity, equality and inclusivity, and recognising how much that can bring to the profession and built environment. Real estate is a very creative profession which needs new ideas to tackle key challenges. Diversity needs to be called upon in every area – race, religion, disability. I have a key phrase which means a lot to me: "diversity and inclusivity doesn't just mean inviting me to the party - it means asking me to dance."

DAN MEEK, RURAL BRANCH

Meeting on 16 November 2022

The ACES Rural Branch held its second meeting of the year at the Farmers Fayre, Stoneleigh on 16 November 2022. The meeting was attended by 18 delegates from 13 different local authorities. The members' database is growing all the time and with highly topical agenda items and guest speakers, the events are becoming not just a valuable networking forum, but a platform for quality targeted CPD.

The meeting kicked off with a presentation from Savills on their 'Property services hub and virtual estate office'. The presentation focused on the reactive maintenance helpdesk service and statutory compliance testing and inspection programmes, which was a useful reminder to all of the importance of having a robust system in place to ensure estates are managed in a legally compliant manner.

The meeting then considered the RICS Consultation on the Valuation of Woodland. Delegates considered that the draft Professional Standards document was pragmatic and well reasoned. It was therefore considered unnecessary to make a formal response to the consultation on behalf of ACES.

<u>The Rock Review 2022</u>

Arguably of more significance and direct relevance to ACES Rural Branch was 'The Rock Review: Working together for a thriving agricultural tenants sector'. The 125-page report containing 84 recommendations was published in October 2022 by the Tenancy Working Group (TWG), Chaired by Baroness Kate Rock. The report had two objectives - the first was to look at how the new government financial schemes should be accessible, open, and flexible to tenant farmers; and the second was to look at longer term changes that would ensure a robust, vibrant, and thriving agricultural tenanted sector for the future. Unsurprisingly, council farms featured heavily in the report.

In the context of council farms, the report quoted the earlier alarming findings of the Campaign to Protect Rural England (CPRE) report in 2019, which stated that the acreage of council farms across England had plummeted from 426,695 acres in 1977 to just 208,000 acres in 2018. From 2010 to 2018 the amount has declined by over 15,000 acres (7%) [Ed – see four articles from CPRE in ACES' Terriers 2020 Spring-2022 Spring].

The following text is an extract from the TWG report relating directly to council farms.

County council farms, where they still exist, provide a low-risk, low-cost entry pathway for young farmers or new entrants who do not necessarily have the capital to begin their farming career. It is also clear that DEFRA recognises the value of county farms to new entrants and progressive tenants as well as the ability of those farms to deliver wider public benefits.

In 2020, according to the Central Association of Agricultural Valuers Agricultural Land Occupation Survey, around 60% of all fully equipped holdings, that tend to have longer length Farm Business Tenancies, were on county council land.

(The CPRE report had previously noted the significant role council farms play in this sector, stating "Availability of equipped farms to rent in the market is limited but council farm estates are structured to provide mainly land with buildings and/or homes. As such and for their scale they have a disproportionate value for supporting the most talented into farming who may lack capital. They play a distinctive public service role to rejuvenate farming and ultimately to de-risk the supply of skilled, resourceful and passionate people into the sector and potentially, if such links could be forged, onto other institutional and private estates").

Unfortunately, as council budgets became stretched and councils have started to make net-zero carbon commitments, the objectives for retaining land have changed. Councils are seeing land assets as something that can be sold for short-term income or used to meet their own climate commitments. What this means is that the council land bank, and therefore the land available to new entrants, has shrunk significantly. Many rural councils no longer have starter farms.

County council land assets have been, and deserve to be, retained as strategically important for the agricultural sector as a key resource for maintaining a pipeline of new entrants to the sector.

To ensure that these strategic assets do not continue to be sold off, the government has a role to play supporting councils to not sell their land to fill budget gaps nor take on farmers who pay the highest rent, as this will often be more established farmers than new entrants.

Councils need to be supported to integrate net zero and biodiversity targets into their land use plans and work with tenants to deliver on environmental targets and aims to level up the rural economy. Councils should also be supported to access relevant expertise and make investments in council farm infrastructure.

From a purely economic standpoint, this may look like a sub-optimal return from an asset however, when including the value to the future of the farming sector, the increase in rural opportunities and green jobs, and the potential impact on the rural economy, the return on these assets is in their long-term value to our nation's food and environmental security.

Starter farms are one aspect of the career progression. However, if farmers start and remain on county council land for their entire career, land will continue to be locked away from new entrants.

To mitigate this, the sector needs to consider how it can deliver progression pathways for successful new entrants to take farmers out of county farms and into the private rented sector. Effectively this takes 'next generation' or 'first generation' farmers towards the 'highly experienced' new entrant category. These progression farms should be supported by private, charitable, and institutional landowners and could be supported by public incentives.

The county farm acts to de-risk the new entrant by allowing them to build up experience and prove their ability to farm successfully. A private, charitable, or institutional estate should then have the confidence in the new entrant to offer a portion of their estate to these developing or aspirational farmers who want to grow their businesses.

The TWG wants to see a geographically diverse collection of county council starter farms accessible to new tenant farmers, with connections to progression farms in the private sector.

It is pleasing to note that much of the TWG thinking echoes the narrative of the ACES Rural Branch 'Rural Estate Asset Management Planning – Good Practice Guide'!!

The TWG Key observations include:

- New entrants often bring new ideas, new energy, new ways of doing things, and an adaptability that is needed in the farming and land management sector
- Access to tenancies is vital for new entrants, especially those with no background or experience in farming, to start land-based businesses, but new entrants struggle to meet the upfront business start-up costs and high rents to compete in the land market
- Supporting new entrants relies on four pillars of: advice, experience, access to finance, and access to land
- There are three broad categories of new entrants to agriculture that require different levels of support across the four pillars: first generation, next generation, and highly experienced
- The industry itself has a large role to play in making space for and supporting new entrants and progression opportunities from starter farms to full time tenancies.

The TWG recommendation stated that the government must do more to support county councils to maintain their land assets for new entrants and the long-term security of the tenanted sector.

The report also recommends DEFRA should launch a consultation on agricultural tenancy reform in 2023. ACES Rural fully intends to respond to this consultation in due course.

As reported in the previous update, Devon County Council and Cornwall Council had collaborated with the School for Social Entrepreneurs, Duchy College, the Duchy of Cornwall and Clinton Devon Estates to make a bid for funding to run a new entrant support scheme pilot, designed to deliver a robust skills development programme for new entrants to the farming industry. It is of significant note that the bid is one of only two bids to have been successful and approved by DEFRA in the rural land based opportunities sector, and one of five in total.

The 'around the patch' sessions of the meeting once again highlighted the hugely diverse and often untapped potential strategic value local authorities have in their rural estates. Members presented a wealth of live case studies from around the country that enabled councils to solve 'in house' challenges around biodiversity net gain, carbon capture though tree planting, and better soil and peat management; nutrient neutrality; renewable energy generation (solar and wind); and other vital economic, social and environmental initiatives that could not be delivered without owning such a land-based resource.

ACES Rural Branch at national level

A representative from ACES Rural attended a special virtual ACES meeting on 16 December to participate in an ACES Future Vision workshop.

ACES Rural Branch has been invited by the Department of Digital, Culture, Media and Sports to sit on the telecoms industry working group to discuss and advise on issues for the site providers associated with telecoms infrastructure and rollout.

ACES Rural has also been asked to put forward a representative to participate in the Welsh Government Sustainable Farming Scheme Tenancy Working Group. A Welsh ACES Rural member has kindly volunteered and we will watch with interest how this intervention develops.

A liaison meeting between ACES Rural and the Tenant Farmers Association is to be convened for the new year.

GERRY DEVINE, WELSH BRANCH

Welsh Branch review of 2022

Spring Meeting, 16 February

We kicked off our 2022 programme with a virtual meeting. Sam Rees, Senior Public Affairs Officer, RICS Wales, gave us an update on RICS matters. These included talks with Welsh Government on various aspects of building safety, e.g., building 'passports', fire risk and remediation post-Grenfell; RICS Guidance on potential flood risk and mitigation measures in Wales (Fairbourne in Gwynedd is generally recognised as the most 'at risk' settlement in the UK from sea-level rise due to climate change); discussions with universities in Wales regarding the provision of RICS-accredited courses in estate management and other surveying related disciplines; news of support for APC candidates and online CPD packages. There followed updates from ACES Council in January, several Welsh Government matters (remote hubs and planning for a return to the office, data mapping in Wales, skills training, etc.). Asset management matters included discussions on home working arrangements and provision of equipment (workstations, desks, chairs, laptops), contributions towards energy costs (even more relevant now!) and hybrid or agile working models.

After the lunch-break, Chris Brain provided two hours of CPD on public finance (CIPFA LASAAC exceptional consultation on the revised IFRS 16 rules for leases), asset management (International Building Operation Standard issued by RICS on 1 February), performance reporting (new legal requirement for local authorities in Wales), commercialism (use of the General Power of Competence for regeneration, e.g., of failing shopping centres), climate change (RICS Responsible Business Framework and the Whole Life Carbon Assessment for the Built Environment, as well as a free course on 'Energy and Carbon in the Built Environment' by the University College of Estate Management for built environment professionals (https://www.ucem.ac.uk/energy-and-carbon-in-the-built-environment/ and measurement standards (International Property Measurement Standards (IPMS) and advised that an

Exposure Draft for all buildings had just been issued by the IPMS Coalition (of which RICS is part).

President's Branch Visit, 18 May

The Welsh Branch welcomed ACES President, Chris Rhodes, who joined remotely.

In his President's address, Chris gave a strong message on the importance of ACES for us all and the fact that we can all learn from common themes. He previewed the National Conference and closed by looking forward to a proper live Welsh welcome for the AGM and luncheon in Cardiff on 17 November [Ed – see write ups in this issue of ACES' Terrier]. There was feedback from ACES Council meeting held on 8 April, including an update on RACES, and C-19 which will create an issue on rating lists, particularly for offices and retail hereditaments. Discussion followed of some recent Forum items and replies, and the President urged all members to continue to review Forum topics regularly and to provide replies and information where possible.

Geoff Bacon, CLAW Asset Management and Estates Group Leader, reported that climate change and back to the office were the main topics of discussion at the last CLAW meeting. There was recognition that work pressures are impacting on the succession of officers and general attendance at CLAW meetings.

Sam Rees, RICS Wales, provided updates on building safety, the Leaseholder Support Scheme and retrofit assessment proposals, Conflict Avoidance Pledge and Process, decarbonisation and retrofitting and the Built Environment Carbon Database.

On Welsh Government (WG) matters, we were advised that WG Skills and Training had some limited budget for sustainability training courses, and the Land Release Fund would run over a number of years, possibly enabling stage payments for regeneration schemes. Valuation and estates and asset management discussions covered events on council land, progressive agile working and changing contracts for staff to become permanent home workers, mapping of woodlands in Wales, and what LAs were doing in their areas towards achieving net zero carbon in the battle against climate change.

Chris Brain delivered his customary two hours of inimitable CPD with news on finance (new borrowing guidance just out from Debt Management Office), asset valuation (update on the CIPFA LASAAC exceptional consultation, and recent volatility in construction costs potentially causing material uncertainty in DRC valuations), asset management (Institute of Welsh Affairs report on community groups in Wales accessing land and property assets, WG investment in school kitchens as part of its plans to roll out free school meals to all primary school children.

Chris put forward his top five local government asset management challenges, considering why asset management doesn't happen, where improvements can be made, what can be changed, the employment of a 'blue ocean strategy', its implementation, and the repeated practice of good asset management to turn things around; commercialism (Uttlesford DC's new commercial property strategy in response to borrowing rules changes: until now Minimum Revenue Provision has not been charged on borrowing but rules on that were changing); and climate change (EV charging infrastructure, initiatives in LB Camden and Newport City in Wales, the impact of supply chains on councils' carbon emissions, and the value of green spaces).

Late Summer Meeting, 7 September

Just under 40 people logged in for our CLAW and ACES Property and Estates virtual meeting, with a few more joining in for the afternoon CPD session.

The Chairman urged a strong attendance from Welsh Branch members at the forthcoming national AGM. Tony Bamford reported on C-19 as well as rating and taxation matters and the Branch Secretary congratulated Welsh Branch member Helen McLeod-Baikie from Pembrokeshire on becoming one of the new presenters for the SAM diploma course.

A topic raised locally - objections to disposal of public open space (POS) - while this may at first seem straightforward, it was soon evident it is rather more complex and generated much discussion and debate, even to 'how do local authorities define what is POS?'

RICS accredited Real Estate Course – the Chairman reported significant progress in the discussions with University of South Wales (USW). The Branch Vice-Chairman, Clive Ball, has good private sector contacts and USW was welcoming of the support, not only from the Welsh ACES network and RICS, but also from the private sector. The course modules had been agreed and the aim is the course will be available from September 2023.

Nigel Thomas, Head of Estates Expert Services at Welsh Government spoke on WG matters, advising that the Land Release Fund funding is still available this year, mainly for affordable housing. The Chairman suggested there is a debate to be had around funding for transfers of land from the General Fund to HRA; sometimes there was a gulf in opinions of value. He also queried whether there was funding for decarbonisation and car sharing projects. On the topic of in-site mapping, Nigel reported that due to changes of ministers, the roll-out had been put on the back burner and so support for e-PIMS would continue for the time being.

Following on from the presentation in November 2021, Ana Harries from Data Cymru provided an update on data gathering, saying that the informal consultation had now been completed. Data would be split for operational and non-operational property and would be looking at the size of the estate, costs of the estate, maintenance backlog, etc. The Chairman reflected that there had been hours spent debating KPIs in CLAW meetings in the past, but diversity of portfolios and the purposes for which they were held meant it all seemed rather meaningless in the end. Performance data can also be a struggle as years can vary greatly, e.g., for CO2 emissions, having a meaningful context is key.

Following from the Institute of Welsh Affairs report (see CPD in May, above) Lyn Cadwallader, Chief Executive, One Voice Wales, had been invited to speak. One Voice Wales is part of Ystadau Cymru (Wales Estates) and is the representative body of Town and Community Councils (T&CCs) in Wales, many of which have taken on responsibility for assets under Community Asset Transfers in recent years. Lyn said these T&CCs lacked the expertise to deal with assets, do not understand asset management, and do not have the resources to support it. One Voice Wales is a body to collect data (e.g., on running, maintenance and capital cost), to help T&CCs understand the issues and to support these smaller councils when they need more advice. Lyn appealed to LAs to provide the data and technical support to T&CCs, but recognised that unitary authorities are under pressure too and suggested partnership working with T&CCs jointly to use a building as an alternative to transfer. The Chairman thanked Lyn and commented that while buildings were seen as assets, they could also be a big liability for smaller councils and community groups.

Victoria Camp, from the Welsh Government Energy Service explained that it is funded by WG to help towards achieving net zero targets. It supports and advises community and public sector organisations in Wales in promoting energy efficiency to reduce energy use and in developing local renewable energy projects to cut carbon emissions and provide cost savings, income generation and wider community benefits.

Chris Brain covered the Intergovernmental Panel on Climate Change Report 2022; Local Area Energy Plans ("A LAEP is the preferred combination of technological and system changes we can make to the local energy system, to decarbonise heat and local transport and realise opportunities for local renewable energy production" and guidance on creating a LAEP at catapult.org.uk); nature recovery (Nature Positive 2030 – a report by the five statutory nature conservation bodies of the UK: Natural England, Natural Resources Wales, NatureScot, Northern Ireland Environment Agency and Joint Nature Conservation Committee; how the Biodiversity Duty Plan required under s6 of the Environment (Wales) Act 2016 can be integrated into your corporate property strategy; carbon reporting (Welsh Government Net Zero Carbon Reporting Guide v2, July 2022, to help monitor and report progress towards a carbon neutral public sector by 2030); energy inflation (a look at forecasts, predictions and estimates of the effect of energy costs on the general rate of inflation and the potential impacts on businesses including the supply chain for the public sector); and Keeping the Lights On (an energy saving matrix exploring what we can all do to save energy).

In closing, Chris reminded us about his new book: 'The property Strategy handbook' – Building a local authority property strategy in six easy steps, available on Amazon.

Branch Annual General Meeting, 17 November

The Welsh Branch held its AGM in City Hall, Cardiff before the ACES National AGM.

In his report, outgoing Chairman Geoff Bacon, said he was pleased that the Welsh Branch was growing, with just over 40 members now. He had found ACES good value during the pandemic, where sharing best practice and experiences had been of great help in the day job, but warned more challenges lie ahead as the country faces a difficult economic position. Local authorities are now receiving details of the Covid inquiry - how it was dealt with, how and why decisions were made. ACES played an important role in dealing with the C-19 emergency and it will also do so at the inquiry. Geoff concluded by stating that he had enjoyed the past two years as Chairman, thanked all members for their support and Chris Brain for providing the superb CPD at branch meetings.

Clive Ball was voted as Chairman, Ben Winstanley as Vice-Chairman. There being no other volunteers or nominations, Gerry Devine was re-elected as Branch Secretary and Treasurer. Clive Ball and Gerry Devine will represent the Branch at ACES Council. Incoming Chairman Clive Ball wished to record his thanks to Geoff, past Chairs Lorna Cross and Jonathan Fearn, and Branch Secretary Gerry Devine.

HEATHER HOSKING, LONDON BRANCH

On-line meeting 30 September

13 people attended the meeting, chaired by Neil Simon.

Discussion – the future of our branch meetings

This item had been included on the agenda because of the poor attendance at recent meetings, both those held on-line and in person. Over recent years, meetings have been held bi-monthly on a Friday afternoon. There was a discussion over whether changing working patterns meant that far fewer people are now available to attend on a Friday afternoon, and whether a different day should be trialled. It was acknowledged that Monday might also be a challenging day for a meeting, and Tuesdays, Wednesdays or Thursdays were preferred. There was also discussion around the best time of day to hold the meeting.

Members generally felt that face to face meetings were best, giving people a chance to have informal discussions before and after meetings. There was also a view that people taking up new senior roles within organisations might not be aware of the value of attending ACES meetings.

There was also agreement that the CPD content of the branch meetings should encourage attendance. There was discussion about the venues for forthcoming meetings, and a suggestion that we could approach our commercial partners to propose that they could host some of our meetings and provide CPD speakers, in a similar way to the Avison Young hosted Espresso Meetings at its city office. It was agreed that a survey of branch members be undertaken.

The survey will also encourage members to take on the to be vacated roles of vise chair, secretary and treasurer.

2022 ACES National Conference – feedback

Everyone who had attended the conference in Sutton agreed that it had been very well organised, with an excellent range of high quality presentations. Thanks were passed to Chris and the team who had supported him in making all the arrangements.

There was some discussion about whether it was still appropriate to hold the conference over two days and whether people were able to afford this time from their schedules. One member suggested that it would be useful to have a quiet "touchdown" space where people could use their laptops or make urgent calls during the day, and it was agreed that this was an excellent idea, and would be put forward as a suggestion for future events.

RICS matters

A Panel meeting was arranged for 6 October, being attended by public sector surveyors, including representatives from Pembrokeshire and Derbyshire County Councils, the Essex County Fire and Rescue Service and the GPA.

Exchange of information

- There is an accelerated programme for the civil service to exit central London offices, with a target of reducing to no more than 16 core buildings in central London. The GPA is taking advantage of any lease events, such as lease breaks and is identifying receiver sites for the staff being relocated, which are likely to be in outer London locations or national locations. This work is linked to the Places for Growth agenda, and will also take account of the targeted reduction of 91,000 civil servants over the next 3 years
- A member reported that there is a focus on decarbonisation schemes, but that bidding for funding and implementation is very expensive. Education representatives are considering whether a joint approach to allocation would be better
- A new member representing Guys and St Thomas's Hospital Trust reported that the Trust is anticipating a difficult winter. Therapeutic services are being moved from core sites wherever possible, and relocated in the community, to free up accommodation to cope with the anticipated demand
- A project is being introduced at a NHS facility to digitalise records and upgrade IT, which is giving rise to the need for large scale training in buildings which must be in close proximity to operational buildings
- One district authority is requiring senior staff to be in the office for at least 3 days a week, while more junior staff must attend at least 2 days a week. The council is joining in a scheme with its upper tier to create co-working spaces, allowing staff from public authorities to book desk spaces using a web app. Welcome packs have been provided for each location.

Editor note: thanks to Heather for regularly submitting the notes of London Branch meetings. I am hoping that her successor will be equally efficient!

JACQUELINE CLARK, EASTERN BRANCH

Branch AGM 2 December 2022

The Branch AGM was held at West Suffolk House, Bury St Edmunds and was attended by between 20 and 30 members and guests, including 3 speakers.

Chairman's report 2022

Outgoing Chairman, Brian Prettyman, gave the following report (abridged).

The moment has come for me to stand-down as Eastern Branch Chair. I consider it to have been a privilege to have held this role, particularly through some quite momentous times. I believe I stepped into the role in 2016, so I think it is high time that you should have someone else.

I thank those that have helped me over the years:

- When I took over Duncan Blackie was secretary, later replaced by Sara Cameron. They have both provided sterling work and should be thanked for the excellent CPD programmes and in helping the branch membership to grow
- More recently, Jacq Clark has provided essential support to the secretary post, especially when Sara was not available
- Throughout my tenure Richard O'Connell has changed the arrangements of collecting cash on the day to a streamlined system to the advantage of all. Richard is also standing down, leaving our finances in a strong and healthy condition
- Finally, I must thank all of you branch members.

I will also mention some of the things that have happened during my chairmanship:

1. Eastern Branch has produced 2 ACES presidents, Neil McManus and Simon Hughes, soon to be three with Sara. This demonstrates the strength and importance of Eastern Branch at the national level
2. We had a fantastic National Conference at Downing College Cambridge in 2018. Sadly, Peterborough had to be cancelled due to Covid but was replaced by an excellent virtual event. Sara has some hard acts to follow but I am sure she is up to it
3. The biggest challenge was of course Covid. I am proud of how in the face of adversity the branch came together and has gone from strength to strength. Initial informal on-line meetings grew into regular sessions (at one stage weekly) where members provided each other with support and advice. These updates have now evolved into monthly virtual catch-up sessions, and, judging by strong attendance, they still provide value to members and their employers with an extended agenda, including new ways of working for staff and working environments. This is creating new opportunities for us as property professionals to look forward and use our skills and experience to make a real difference to our organisations and the people we serve.

So, in summary over the handful of years that I have been your chair, we have: changed the ways and frequency we meet; changed the way we fund ourselves; grown in size and influence; and …. while the world around us has changed dramatically, we have been resourceful and energetic. Sadly, given the bleak financial outlook, I think some equally demanding challenges lie ahead, but I am sure Eastern Branch will step up to it.

In many ways I am sad to be stepping down. Alan Richards, Southend-on-Sea City Council replaces me. We look forward to bringing the next generation of public sector surveyors forward: we have fantastic talent within our ranks. So I would urge you all to support the FACES Eastern Branch motion later in this meeting [Ed – see towards end of report].

Secretary's report 2022

Eastern Branch continues to have a busy line up of events with monthly virtual catch-up sessions, as well as more formal branch meetings. There isn't a formal agenda and whoever is leading the session tends to prompt open discussion among attendees by suggesting currently topical issues, including recent transactions and market trends, building cost inflation, MEES and climate emergencies and carbon reduction, and how accommodation is being adjusted to reflect new ways of working. The sessions are sometimes supplemented by speaker presentations on the opportunities presented by biodiversity net gain and offsetting, and practical measures to support carbon reduction, and the very topical Sizewell C supply chain.

We had our first face to face branch meeting in 2 years at Cambridge Guildhall on 24 June which included a visit from ACES National President Chris Rhodes, and presentations on MEES by Ben Strange, Mobius Building Consultancy [Ed – see full article in this issue of ACES' Terrier], and the latest REVO survey "How can we deliver the renaissance of our towns, high streets, and shopping centres?" presented by Dr Steve Norris of Lambert Smith Hampton [Ed – Steve also presented at ACES' National Conference, see full report in 2022 Autumn Terrier].

The branch meeting held at Cambridge Guildhall on 21 October was well attended. The theme for the event was Infrastructure, with a presentation from Anglian Water's Ryan Rogan and Victoria Scott: "Strategic Pipeline Alliance Bury St Edmunds to Colchester pipeline". This is a significant project bringing water down from Hull through the eastern counties to Essex, providing resilience for the future. The second presentation came from Suffolk County Council's Michael Moll on "Nationally Significant Infrastructure Projects and Sizewell C – lessons learnt".

Proposal to AGM - FACES Eastern Branch

"Future ACES" (FACES) is an ACES National initiative to encourage and support more junior staff in public sector property functions. The Eastern Branch could build on, and develop, this to help cultivate and retain new talent in our region. Examples of this help and support could include:

- Encouraging junior staff to attend and participate in branch and virtual meetings
- The branch and individual branch members can help provide mentoring, advice and guidance e.g. mock APC interviews and work experience in areas not covered by their employer
- Juniors should be encouraged to network among themselves to provide peer to peer support and information exchange (ideally having their own programme of events as well as branch ones. They might, for example, meet after branch meetings and the networking lunch, link up online, etc.
- The branch can offer some juniors the opportunity to shadow and support branch officers (secretary and treasurer) providing a "win-win", with the branch benefitting from additional officer support, and possibly better continuity planning, and the junior getting experience and wider networking opportunities.

My understanding is that junior staff , such as apprentices, APC trainees, graduates, do not qualify for standard ACES membership so we, as a branch, would need to create an informal network.

The approved proposal to AGM is that:

1. FACES-EB is created as an informal body under ACES Eastern Branch
2. Members of the FACES-EB grouping be invited to attend branch meetings and catch-ups
3. FACES-EB are not charged a membership fee
4. FACES-EB are not (say for a trial of the next 2 years - thereafter to be reviewed) charged for attending branch meetings, providing they have a sponsor who is a full member of ACES Eastern Branch (only one junior per sponsor)
5. Eastern Branch to lobby ACES Council to consider the creation of a different level of membership to include more junior members of staff.

Three presentations followed the formal activities. Raymond Lynch, Market Curators, provide a view of what the future could hold with a talk about "Markets and food halls – A catalyst for town centre regeneration" This was followed by Simon Cartmell, Corporate Land Manager, Suffolk County Council who gave an interesting update on farming, particularly significant with the changing emphasis on food production. Our last presenter was Harry Watts, Sec Storage Managing Director, giving an insight into "Vertical farming".

The next branch meeting is on 24 March at Mildenhall Hub. Monthly virtual meetings will continue.

ALISON HEXT, HEART OF ENGLAND BRANCH

Notice

The Heart of England Branch has not met since I submitted my last report. It is due to host ACES' President, Helen Stubbs, at its next meeting, which is also planned to be entirely in person for the first occasion in some time. Telford and Wrekin Council will be hosting the meeting in Telford. We look forward to seeing as many members and guests as possible to this meeting and to welcoming Helen to Heart of England Branch.

For details and to attend the meeting please contact me on ahext2@worcestershire.gov.uk

Membership update - We welcome as a new member to ACES Heart of England Amanda Badman from Cannock Chase District Council.

Dates for next meetings

Branch: 9 February 2023 Telford and Wrekin Council, in Telford

Branch: 1 June 2023 tbc

AGM and Branch: 2 November 2023

WHAT IS A *RIGHT OF LIGHT*?

A Right of Light or an 'Ancient Light' is a form of easement.

It is defined by Stephen Bickford-Smith, Andrew Francis and Elizabeth de Burgh Sidley (2000:13) as the right to receive '*...sufficient natural illumination from the sky through defined apertures in a building to enable use of the interior areas receiving light... for ordinary purposes... which may normally be expected...*'.

WHAT IS AN EASEMENT?

WHAT IS AN EASEMENT?

An Easement is defined in Halsbury's Laws of England as:

'*... a right annexed to land to utilise other land of different ownership to do something on that land (not involving the taking of any part of the natural produce of that land or any part of its soil) or to prevent the owner of the other land from utilising his land in any one of a limited number of ways*' (Bickford-Smith, Francis, de Burgh Sidley, 2015:1).

Quite simply, an easement is a right to use a person's land for the benefit of another person's land. Easements include a *right of way*, a *right to lay and maintain drains* and a *right to sufficient light*.

Easements can be both positive and negative (Bickford-Smith, Francis, de Burgh Sidley, 2000:1).

A Right to Light is a *negative* easement.

THE ESSENTIAL INGREDIENTS OF AN EASEMENT...

Over time, a series of tests were devised by the courts which can be used to establish whether a Right to Light (and other form of easements) exists:

- there must be a dominant and a servient tenement;
- the easement must benefit the dominant tenement;
- the dominant and servient tenement must be held in separate ownership; and,
- the easement must be capable of forming the '*subject matter of a grant*' (Bickford-Smith, Francis, de Burgh Sidley, 2000:6).

KEY INFORMATION

WHAT IS AN 'APERTURE'?

An *aperture* is an opening within a building. In the context of Right of Light, a '*defined aperture*' is referred to as an opening, whose 'purpose is to admit light', such as a window or a glazed door. It does not, however, include unglazed doors (Bickford-Smith, Francis, de Burgh Sidley, 2000:39).

WHAT HAPPENS IF A DEVELOPMENT OBSTRUCTS SOMEONE'S RIGHT TO LIGHT?

An obstruction of a person's Right of Light is categorised as a *nuisance* and as such, the implications can be serious. In most cases, the plaintiff can claim damages in the form of monetary compensation. In other (rarer) cases, an *injunction* (equitable damages) can be awarded, which can involve the alteration or even total demolition of an offending building.

WHAT IF I HAVE PLANNING PERMISSION, SURELY THIS PERMITS DEVELOPMENT IF APPROVED?

Potentially not. *Why?*

Planning powers are exercised in the interest of the public. As such, they do not protect the interests of one person over the activities of another (Bickford-Smith, Francis, de Burgh Sidley, 2000:195). A Right to Light is classified as a *private law*.

HOW IS A RIGHT TO LIGHT CREATED?

Like other forms of easements, a Right to Light can be acquired by:

- *Prescription*; and,
- *Express Grant* (Wollaston, 2012)

However, in most cases, a Right to Light is acquired through ***prescription***.

To demonstrate a *prescriptive* Right to Light, it may be necessary for the plaintiff to demonstrate:

- access to and use of natural light in the building;
- that the light is enjoyed; and,
- that the *aperture* has had uninterrupted enjoyment for at least 20 years (although in some cases, very near-to 20 years may be considered sufficient time) (Wollaston, 2012).

50:50 RULE—A METHOD OF MEASURING NATURAL LIGHT

The '*50:50 Rule*' involves calculating the percentage of a room's area which can receive adequate natural light. Light calculations are gathered at '*working planes*'. If natural light received on adequately lit '*working planes*' is reduced by 50% as a result of an offending development, then it may be deemed an actionable injury (Right of Light Consulting Chartered Surveyors, 2021).

Historically, a 'Waldram Diagram' was used to determine whether natural illumination is adequate for normal purposes (Bickford-Smith, Francis, de Burgh Sidley, 2000:30), however, it is now calculated using industry-based software.

It is important to reiterate that the '*50:50 Rule*' is a rule of thumb — it is not a *law*. However, it is generally recognised as an acceptable method of measuring light levels in most Right of Light cases (Right of Light Consulting Chartered Surveyors, 2021).

SOME COMMON MISCONCEPTIONS WITH A RIGHT TO A LIGHT

- a land without buildings has no right to receive light;
- a Right of Light does not constitute a right to a view;
- a Right of Light does not protect you from '*prying eyes*';
- protection is only offered to '*defined apertures*', not the building themselves; and,
- a Right of Light does not constitute a right to receive '*direct solar radiation for energy purposes*' (Bickford-Smith, Francis, de Burgh Sidley, 2000:14-15).

FOCUS CASE

HOW IT CAN AFFECT DEVELOPMENT – DENNIS REGAN –V– PAUL PROPERTIES LTD [2006]

- Paul Properties Ltd (P) (the defendant) had plans to develop a five-story block of apartments opposite R's Brighton home.
- Dennis Regan (R) (the claimant) expressed concerns about the development's potential impact on his Rights to Light. P instructed a surveyor. P's surveyor reported that the development would unlikely give rise to any actionable injury. Following this advice, P proceeded with construction of the development.
- R appointed his own surveyor. R's surveyor determined that R had suffered a significant reduction in light, from 65% 'well-let' to 42% 'well-lit'. The diminution in value of R's house was assessed to be £5,500.00. Conversely, for P to scale back their development and reinstate R's natural light, the cost of works was assessed to be in the region of £40,000.00.
- This case went to the High Court.
- P contended that the 50:50 rule is not the *law* but a '*rule of thumb*' and, as such, there was no nuisance.
- R submitted that once an infringement had been established, the default position was an injunction. R also noted that there was evidence of P acting in bad faith, which supported this claim.
- The courts held that R had satisfied the tests set out in '*Colls –v– Home & Colonial Stores LTD*', and R's enjoyment of natural light was indeed significantly compromised by P's development. However, the courts held that damages were appropriate in lieu of an injunction. The judge based this decision on '*Shelfer –v– City of London Electric Lighting Co*', stating '*it would be oppressive to P to grant an injunction, and that the injury to R's legal rights was small, capable of being estimated in money and could be adequately compensated by a small money payment*' (Westlaw UK, 2021).
- In addition, it was held that contrary to what R had stated, P had acted in good faith (Westlaw UK, 2021).
- R was not satisfied with the High Court's decision to award damages in lieu of an injunction, so R decided to appeal the decision via the Court of Appeal (Civil Division). R was determined to get his injunction.
- The Court of Appeal granted R's injunction. This is because a reduction in light could not be classified as a '*small injury*' to R. Although it may have been possible to quantify the injury in monetary compensation, it would not be possible to adequately compensate R by a '*small*' monetary payment. In addition, the Court of Appeal stated that the preceding judgement was misdirected in putting the burden of proof on R. The judge ruled that it was not down to R to persuade the courts why he should be awarded an *injunction* instead of *damages*. The judge also noted that R should not suffer as a result of P's poor advice provided by his surveyor, when R had actioned on correct advice (Westlaw UK, 2021).

IMPORTANT CASES

SHELFER –V– CITY OF LONDON ELECTRIC LIGHTING COMPANY [1895]

This case established that the primary remedy for the interference of an easement is an injunction. The judge set out the following as '*good working rules*':

- if the injury to the claimant's legal rights is small;
- can the injury be estimated in money;
- is money appropriate; and,
- would it be oppressive to the defendant to grant an injunction (Right of Light Consulting Chartered Surveyors, 2021).

COLLS –V– HOME AND COLONIAL STORES [1904]

An important precedent case, which established the guiding principles of law that forms the '*basis of Right to Light claims*' (isurv, 2020). This case signifies that parties have a right to sufficient light for '*comfortable use and enjoyment of his house as a dwelling-house... or for the beneficial use and occupation of the house if it is a warehouse, a shop or other place of business*' (Right of Light Consulting Chartered Surveyors, 2021).

MIDTOWN LTD –V– CITY LONDON REAL PROPERTY COMPANY LTD [2005]

This case demonstrated that artificial light is not a substitute for natural light (Right of Light Consulting Chartered Surveyors, 2021).

OTHER IMPORTANT CASES INCLUDE

- ***Alteration of an aperture – Ankerson –v– Connelly [1907];***
- ***50:50 Rule – Deakins –v– Hookings [1994];***
- ***Injunction can result in total demolition – HKRUK II (CHC) –v– Heaney [2010]; and,***
- ***Dishonesty & acting in bad faith – Ottercroft Ltd –v– Scandia Care Ltd and Dr Mehrdad Rahimian [2016].***

TAMARES (VINCENT SQUARE) LTD –V– FAIRPOINT PROPERTIES (VINCENT SQUARE) LTD [2007]

This case set out a series of principles for calculating *damages*:

- the *damages* must be a fair result between both parties;
- the context must be kept in mind;
- the (dominant) party who prevents the development has a significant bargaining position;
- if in a significant bargaining position, said party can expect to receive a fair portion of the likely development profits;
- if no evidence of profits is available, an estimate will be awarded for the loss of amenity;
- if there is evidence of likely profits, then the courts should award a fair percentage of the likely profits;
- the award in profits should not be so large as to render the development unviable; and
- after consideration of the above, the court needs to consider whether the award '*feels right*' (Right of Light Consulting Chartered Surveyors, 2021).

JOHN READ, NORTH EAST BRANCH

The North East branch held its AGM on Remembrance Day using a virtual format. At the meeting, the executive officers made their usual reports; branch fees and rules were agreed; and the branch thanked Melanie Jackson who stood down as Branch Chair, with Andrew Holtham taking over in the role during the meeting. Helen Stubbs also stepped down as Branch Secretary and the branch thanked her for the work she had put in over the last few years, and particularly for keeping the branch active during the pandemic.

The activity of the branch in 2022 has been very much in the virtual format, except for the July meeting which was a physical meeting held in York. This meeting allowed the return of that pre-pandemic activity - NETWORKING - and had a good level of CPD content, with speakers covering Brexit and its effect on investment markets, planning issues around nutrient neutrality, and valuation updates.

Future meeting format was a subject discussed at some length at the AGM. It was clear from those attending that there was an appetite to get back to normal pre-pandemic business and set up a programme of in-person meetings at locations across the branch area. We hope to issue more on this in due course but provisionally for 2023, the branch is looking at locations in the North East (March), South Yorkshire (June), and North Yorkshire (November). In addition to this, the branch hopes to be involved in the Presidential Conference in support of Helen Stubbs in her role as ACES President.

Sheffield Hallam ACES Prize

Finally, the branch continues to support surveying students and on behalf of the branch, a representative attended the annual prize giving ceremony in November at Sheffield Hallam University, presenting the ACES Prize.

The winning poster was titled 'What is an Easement' by James Parkin, Henry North, Matthew Pazos and Rishi Parmer. The ACES judges commented that this poster was informative and demonstrated a good level of wider reading and further depth. Overall, they thought there was a good effort by all shortlisted entries - well done.

The winning poster is reproduced on the previous page.

Other interest areas

BENTLEY MEMOIRS The Grumpy Guide to a life ~~in~~ after asset management

David Bentley bentleybunch@icloud.com

David resumes his 'Grumpy Guide', although the discerning among you will note that this episode doesn't contain a lot of asset management. Additionally, although his biography states that he isn't responsible for cooking the breakfasts, this is equally a distortion of the emerging truth…..

David was Head of Asset Management at CIPFA for over 20 years but has recently 'semi-retired' and moved to live in the Scottish Highlands north of Inverness. If you are interested in his photography website and 'Grumpy' travel guides, they can be seen at https://davidjbentleyphotography.com/ You may even be tempted to stay at his Bed and Breakfast which can be viewed at cuillichmill.co.uk; if it's any comfort, he assures me that he is not responsible for cooking the breakfasts.

When I was originally negotiating the multi million pound book deal with the editor, I jotted down what we had agreed on a piece of paper. Unfortunately, during our house move two years ago, I must have mislaid that important document and the editor is now insisting I'd agreed to more articles and as yet, I haven't seen a penny of the millions I thought were going to set me up in my retirement [Ed – I've lost that piece of paper too!].

Locals up here say that if you survive two winters then you're likely to stay. We're halfway through our second, and with minus 15 temperatures, burst pipes and even an 'ice cracked' toilet bowl, we're still just about hanging on in there. While we miss a lot of things - friends (some of them), family (some of them), access to reasonable shopping (my wife not me), West Bromwich Albion home games (this is probably a blessing), and most of all ACES conferences, the

stunning scenery and different pace of life more than makes up for it.

The chef

For those who don't know where we are, the B&B including Shepherd's Hut (both eligible for an ACES discount) is about 30 minutes north of Inverness. For those of you who have been glued to the 'Traitors' BBC programme, we're only a mile away from the castle where most of the conspiracy takes place, and many of the locations they use are our regular dog walks.

It's been a busy first season at the B&B and so far more or less everything has gone to plan. At the start of September the month looked fairly quiet, so there was an opportunity for my wife, Leila, to pop off to London to see her brother and sister for a few days while I was working for CIPFA. While the self contained Shepherd's hut remained open during this time, the idea was to block off the bed and breakfast, so the prospect of anyone having to endure a breakfast served up by yours truly would be safely averted.

I personally don't think my cooking is too bad, in fact in a poll of just myself (the kind of approach the current government seems to rely on) it got an unanimous vote of approval. However if you ask the rest of the family, for some reason they don't share my enthusiasm, and up until now I've been barred from making breakfast, or indeed going anywhere near the kitchen when we have any guests.

While I do help in making beds and cleaning rooms, my main role in the B&B enterprise seems to be more of the helpful handy person. For those who remember the Two Ronnies, I'm the chap who would roll up in brown overalls (not that I've got any) to fix something. So far that's included unblocking sinks, changing light bulbs, refitting a tilt and turn window (that one of our guests somehow managed to get loose from its mountings and was holding on to in desperation to stop the whole thing falling out of the frame), rescuing errant spiders that were unwittingly terrorising our most recent visitors, and latterly sorting burst water pipes.

Now Leila looked at the calendar when we booked and paid for the flights to London, but when we looked again a few days later, someone realised that they had looked at the wrong week and we had actually got guests at the B&B for two of the nights when that someone was away. Now I am never one to apportion blame, so all I will say is it was one of us that was at fault.

So we had a problem. Two unsuspecting German guests arriving in a few days with only me to cook breakfast for them and a current booking.com score of 9.7 that was in severe jeopardy. Cue Leila to change from experienced science teacher to emergency food tech teacher, while I made copious notes of precisely what to do, when to do it and how it should look. This was followed by a practical examination where the management assessed my culinary and table laying skills/competencies. In most things I passed the clinical assessment: the air fryer takes away the more variable approaches to frying bacon for example (I have a tendency to overcook it evidently). The table laying was passed almost with a 100% score, although I nearly made an error by selecting mugs instead of posh cups and saucers (we're not a Travel Lodge you know).

My problem however has always been eggs. I can't remember being cruel to an egg when I was younger, but clearly I must have done something so wrong that they sit in the dark recesses of their egg boxes and plot against me. It's clearly no coincidence that so many villains in films have egg shaped heads.

I have no issue with boiled eggs, omelettes and scrambled eggs; you just time the boil in the former case, and in the latter two, bash them about a bit and they don't really get much chance to cause mischief. But fried eggs and (god forbid), poached eggs are on another malevolent level. My tutor quickly conceded that poached eggs would be a bridge (or poach) too far and we took them off the menu. Fried eggs, on the other hand, are a Scottish breakfast staple and I was not getting out of that one, so it was imperative that I could get the better of the wee little beasties. It's not that I can't fry an egg, it's just that I struggle to fry an egg and keep the yellow bit intact. Many a time I've delicately cracked the blighter, gently emptied the contents into the frying pan, only for the perfect yolk to explode as soon as my back is turned. I did manage one perfect yolk within the practical exam, only to mess up the Cuillich Mill flip that my tutor deems essential to finish the top off perfectly.

The dreaded days arrived, Leila catches a flight south and I await for our victims (sorry guests) to arrive. So how did it go I hear you cry?

Well fortunately on both days they picked a menu that I would have happily played my joker on. Tomatoes (roasted with a bit of oil and black pepper),

mushrooms (fried to perfection with a knob of best butter) and eggs (well and truly scrambled before they could put up a fight). All this accompanied by croissants, toast (with home made jam), fresh fruit, cereal and yoghurts. They amazingly enjoyed it so much that they booked two extra nights, when fortunately Leila would be back if they changed their minds and ordered something more exotic. They even commented on how good the breakfasts were in their review.

So there you go, our booking.com score is safely intact and our German guests have even vowed to come back again and stay for longer. Normal service is resumed, and if you are wondering who will cook you a magnificent breakfast if you should ever book in at the B&B, well I can say for certainty it was only a fleeting moment of success, as I've been relegated once again to the virtual brown overalls and Leila has vowed to check, recheck and recheck again the calendar next time she has to leave me in charge of anything.

The tour guide

Many people up here have touristy type of summer jobs; even so there are still lots of attractions struggling to get staff during the busy tourist period. It's probably this shortage that encouraged a local tour operator to employ me part time as a guide for passengers from cruise ships looking for a day trip to local attractions. Leila reckons it's because I'm 'a hive of useless boring information', but I'm sure she really meant 'useful' and 'fascinating' and just got her words mixed up. And before you ask, no, I don't have to wear a kilt.

Invergordon (6 miles from us) is visited by lots of large cruise liners each year as the deep water harbour allows passengers to disembark, sample an action packed day in the Northern Highlands, and get back on board in time for cocktails with the captain. Some of the cruise ships can house in excess of 3,500 passengers (and a similar number of crew), so as Invergordon itself has a population just shy of 4,000, the town does get slightly swamped when one of these leviathans of the sea arrives. This is where the tours come in. You can opt for an overpriced official cruise ship half day tour, in a coach packed to the brim with fellow cruise passengers. Or if you're more discerning and want sophisticated, you can book a full day minibus tour from a local operator which will adapt to ensure you get to see the things you're interested in. It will certainly be at a more refined pace, with an interesting, pleasant and charming guide. Unfortunately the interesting, pleasant and charming guides get booked up really quickly so you might be left with me.

So far, I've guided mainly Americans and Germans. My limited German consisting of "You are very beautiful", "Where is the hospital" and "Four halves of chicken and chips please" probably isn't sufficient for a whole day's tour, so it's a good job all the Germans so far have been fluent English speakers. My pronunciation of Scottish names is improving, however - 'Glenmorangie' as in something that is very orange but with an M in front, and Urquhart Castle as in Urcut like something us Brummies would say when we're going to the barbers. Other popular stops include Cawdor Castle, Culloden Battlefield and Dunrobin Castle as well as many local secrets that only us locals know about and the main coaches never get to see.

While I sometimes struggle with my dates, and can get my Hectors and Hugos mixed up, in general it seems to be going OK. I'm particularly proud of my solo re-enactment of the Battle of Culloden [Ed – maybe the author photo is his re-enactment?], and my knowledge of 'Outlander' has dramatically improved. The only complaint I've had so far (tongue in cheek) is that I wasn't wearing a kilt.

Mind you, if they saw me in a kilt, they would have something to complain about then.

ACES

The Terrier
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Simon qualified as a chartered surveyor in 1980. He started his career in the commercial field, moving to private practice in 1983. In the mid-1990s he joined Great Yarmouth Borough Council and in 2006 moved to Waveney District Council (now East Suffolk Council). He retired in 2018.

MORE MUSINGS
You never know when you will bump into someone or something from your past!

Simon Eades

After 30 years later looking back on times past, some things are absolutely clear while others needed a prompt. My life and professional career were at a crossroads when I started work at Great Yarmouth Borough Council (GYBC) in 1996 after my previous life in private practice. The work in private practice was for many clients both individual and corporate. Each client had their own professional advisors – solicitors and accountants – and when I had any questions that needed answers, then I turned to the client who would either answer or direct me to the respective advisor. Over time I developed my own professional friendships, with many in Norwich – and beyond – and over time some of these advisors were happy to recommend me to their other clients.

The principal difference when I started at GYBC was that there was only one client and the various officers to which I relied upon for advice were close at hand in the town hall. My role at Great Yarmouth was essentially a management role dealing with the estate that was owned by the council. This was a change from my previous role. The range of the properties was varied, and I had the opportunity to value a wide range of property. There was normally no need to go to outside advisors, but I soon found that in valuing council owned properties, particularly residential, there was the need both to renew old relationships and make new with the various firms of chartered surveyors in the town, to ensure that I had the correct comparable evidence.

The real difference from my earlier experiences in private practice was the time that was often needed to secure formal approval.

In many instances in the past I could report the final negotiations to the client and receive formal approval the following day or day after and then instruct the client's solicitor, hopefully the same day. I had some initial difficulty with the council committee process but soon acknowledged that this was the way of the council and I would have to accommodate the procedure.

One of my roles at GYBC was assisting in the acquisition of vacant land and buildings to bring them into use. The council had devised an Empty Homes Strategy to encourage owners of vacant properties to transfer them to the council, so that they could be transferred to housing associations, which would carry out the renovation of the properties and make them available to rent.

The Empty Homes Strategy was devised by a group of officers from various separate departments, each with professional interests involved with the task of identifying vacant properties and reducing the numbers on the Housing Waiting List.

The Empty Homes Strategy was published in March 1999 and revised in April 2001, and summarised as follows:

Identify owners and encouraging them to bring their property back into use, by:

- Grant aid
- Purchase by private investors or housing associations
- Rent guarantee schemes
- Compulsory purchase or other enforcement powers, as a last resort.

The challenge to the council was that if the current owners were not willing to transfer ownership by private treaty at market value then the council would have the opportunity to implement compulsory purchase powers. The difficulty was that few in the council had experience in compulsory purchase negotiations. I had included the fact when I applied for the post that I had very limited experience and recall stressing that my experience related solely to the disturbance to a small retail unit caused as a result of the acquisition by the Acquiring Authority of the area in front of the unit. The amount of compensation was extremely small and I have the feeling, some 40 years on, that the actual fee that I was entitled to claim was greater than the value of the land taken!

My protestations were not heeded, and I was invited to assist in the implementation of the Empty Homes Strategy. In most instances my help was not necessary. The majority of the owners approached were happy to assist the council in transferring ownership and my only involvement was in advising the council should the matter proceed beyond private treaty.

There were two particular cases I was involved with that stand out.

The first was a pair of terraced houses where the council's intention was to transfer the properties to a housing association to take on the obligation to renovate and improve them and make them available for rent. The property was acquired under powers contained in the Acquisition of Land Act 1981 under a Compulsory Purchase Order granted in 2001. The property was brought to the attention of the council in March 1999 when the ward councillor received complaints from constituents concerned at the unkempt appearance of the houses and the detriment caused to the area as a whole. In May 2000, one of the two properties was broken into and the council secured the property on police advice.

An inspection by the Empty Homes Officer following the securing of the property confirmed that the house was furnished and appeared to be used mainly for storage; calendars in the property suggested that it had not been occupied since 1995. This was confirmed by local residents prior to the inquiry and the owners did confirm that this was the case, but they had every intention of returning to the property. However, this did not occur.

The following month I carried out an inspection of the property that had been secured by the council. I was unable to inspect the second property as it was occupied by squatters. My evidence to the Compulsory Purchase Order inquiry in September 2000 advised that there were several areas of attention required to bring that property up to a standard acceptable to the housing association. The report that I provided to the council's solicitor and incorporated in the papers submitted to the CPO inquiry commented both on the condition and the values. I was asked to indicate the value of the property in its present condition and a value on the assumption that the defects that were identified were remedied. The calculation of the values involved discussions with others in the council and also with the local chartered surveyors to maintain full and accurate internal records and also to seek comparables from external parties.

The result of the CPO came some nine months after the inquiry when the Secretary of State confirmed the Order, after concluding that there was a compelling case in the public interest for the compulsory purchase of the order properties. The Secretary of State also considered whether the public interest was outweighed by the interests of the objectors. He accepted the Inspector's conclusions and concluded that any interference with the rights of the objectors would not be disproportionate to the public benefits which would result from the compulsory purchase of the order properties.

The property was transferred to the council and shortly afterwards ownership was conveyed to the housing association.

I did not have as much involvement with the second case. This property comprised 2 former substantial brick built mid 19th century 3-storey terrace houses with concrete tiled roofs, internally linked to form a 16-room guest house. The guest house failed to meet fire regulations and obtain the necessary fire certificate in 1995 and was subsequently on the market during 1997 and 1998. In August 1999, a fire occurred in the building following an arson attack. The property was secured at the expense of the council.

In 2000 the Grade II listed property was sold by auction and efforts to make contact with the new owner were sporadic. The council decided to serve a CPO and the current owner made contact with the council on the final day that an objection could be made! Efforts were made to assist the new owner in steps to renovate the property but no further constructive negotiations took place. The inquiry took place in October 2002 and the Secretary of State confirmed the CPO in December 2002. The property was transferred to a housing association whose intentions, at that time, were to divide the property vertically into two 5/6 bedroomed family houses.

I commented earlier that the committee officers involved were both knowledgeable and expert in their appropriate fields. The two legal representatives were a delight to work with and I have to admit that one of the disappointments when I left Great Yarmouth was that it would be unlikely that I would work with them again. However, as fate would have it, the council's solicitor had developed working relationships with other councils. When I moved to Waveney District Council in 2006, I became involved in a much larger site assembly exercise in Lowestoft, which eventually resulted in the use of compulsory purchase powers. I feel that my involvement in the Empty homes Strategy some five years earlier helped reinforce my understanding of compulsory purchase and working with the same solicitor.

I first met the planning officer when I worked in private practice. He was then at another district council in Norfolk but decided to go into practice on his own account. I acted for the landlord when he established his first office. He joined GYBC three or so years after me. In due course he joined a major firm of Lowestoft builders and our paths crossed many times thereafter.

What does this article illustrate?

I think it demonstrates that you never know when you are likely to meet up with someone or something from your past. The movement from private to public sector may suggest to some that "never the twain will meet". Friendships made last for life and you never know when your past will catch up with you!

It also demonstrates that on some occasions initiatives that start from a simple idea can be successful, albeit having a modest effect. Furthermore, there was satisfaction working with fellow professionals and others keen to put into practice a scheme that was successful.

SELWYN – THE EARLY YEARS
The bank clock (1971)

Dave Pogson

Dave has kindly written more episodes for Selwyn. I for one have grown quite fond of him over the years, with his believable 'near the knuckle' stories.

For 50 years until retirement Dave practiced as a surveyor in Lancashire and Cumbria, becoming a Fellow of the RICS and working for the Department of the Environment, Lancashire County Council, South Lakeland District Council and the NPS Group. During that time, he wrote articles on surveying topics and work experiences which allowed him to introduce some controversy, humour and the odd bit of fiction. https://davidlewispogson.wordpress.com

'The Selwyn Series' and 'Herdwick Tales' that precede 'Selwyn – The Early Years' were written specifically for ACES' Terrier. Each story was a self-contained episode in the life of a council property manager from 2001 to the present day and beyond, as he approached and enjoyed early retirement from the fictional Herdwick District Council. They can still be read in back-issues of ACES' Terrier, starting from 'The Final Vote' in 2017/18 Winter Terrier.

The characters often presented controversial and outspoken opinions on local and central government policy and practice. The stories were fictitious and occasional historical background details may have been changed to fit the chronology. The views expressed were those of the author, not those of ACES. The second series ended just after Selwyn's death from old age in 2036.

'Selwyn – the Early Years' is a supplement to that original series, taking Selwyn back to the start of his career, and the same disclaimer applies. The author offers thanks to former ACES member Martin Haworth (ex-Lancashire County Council) for contributing suggestions to help improve this series.

Arthur, the Borough Surveyor of Shepdale Municipal Borough Council and his trainee, young Selwyn, were sitting in the window seat of the Wandering Tup pub on Sheepfold Lane in Shepdale contemplating their half-empty drinks. Lunch for each of them was a mutton pie with mint gravy and pickles and a pint of Rampant Ram. The place was filling up, mainly with council workers from the town hall across the road. Outside the sun shone from a cloudless late August sky but with noise and dust a constant irritant. Traffic jammed the street, which was the main A road north on the west coast of the county. Wagons ferried materials from the quarries through the town to supply the construction of the motorway extension running north from the end of the Lanchester by-pass and around the east side of Shepdale. The wagons competed for space with farm vehicles heading to and from the auction mart and abattoir, with delivery vehicles to the local shops and businesses, and with tourists seeking a way to and from their holiday destinations. The town was rammed full as tourists, and locals jostled for space on the

pavements at the busiest time of day in the busiest period of the year.

Arthur broke their silent contemplation.

'The Town Clerk sent for me today.'

'Oh aye, what did he want?'

'He's been contacted by Ulverpool Urban District Council. They need some help.'

'What kind?'

'The professional kind. They need an RICS qualified negotiator for a tricky job. They're not a big enough council to employ their own specialist and the nature of the job means that they don't want to commission a local surveyor – too much vested interest to be completely impartial.'

'What's that got to do with us?'

'The Town Clerk wants us to help them out. He can't spare me and, anyway, I'm a Building Surveyor. They want a specialist negotiator who can certify a deal. As you've recently qualified as a General Practice Surveyor he thinks that we can spare you for as long as it takes. Ulverpool will pay to cover your hours plus expenses.'

'What's the job about?'

'Some dispute with the landlord about repairing responsibility on one of their structures.'

'Sounds interesting, when do I start?'

'As soon as you like. The first task is to agree the brief, document an exchange of letters to record the arrangement, and ask them to confirm that you're covered by their council's insurance policy. I suggest that you get over to Ulverpool UDC as soon as you can. I've got a contact and phone number in the office.'

They both reached for their pints in a synchronised movement.

***

Ulverpool was a small market town further west around Herdwick Bay than Shepdale. It had a smaller local authority and with a smaller town hall. Unlike Shepdale, Ulverpool's town hall was not in the centre of town and had no clock tower above it. Sometime in the Victorian period, as the Herdwick District Savings Bank had a turret above its town centre premises, the UDC had asked the bank for consent to install a town clock in that turret. A 999 years' lease was arranged at a peppercorn rent and the council as tenant agreed to take on all the repairs to the turret part of the building that housed the new clock. All was peace and harmony for the next 100 years.

***

'Donald Ruxton is a very tricky man to deal with.'

Cecil Knowles, the Senior Clerk to Ulverpool UDC, had set out the plans of the bank and clock turret on his desk. He was a mousy little man with half-moon glasses perched on the end of his nose. He looked like he preferred sitting in smoke-filled council rooms to climbing the external ladder and cat walk to inspect the clock turret, but he'd climbed it nevertheless.

'He's the Chairman of the Board of the bank. He won't listen to reason. He won't deal with anyone that he thinks is beneath him. He's arrogant and boorish and stubborn. There are not enough adjectives to describe the man – pompous, aggressive, bombastic and self-important – take your pick or take all of them. There's only one opinion that matters and that's his. I just cannot get anywhere with him. I did think of suggesting a 50:50 split, but in the end I didn't bother as he is not for moving from his entrenched position.'

Selwyn could not imagine Cecil getting heated and falling out with anyone, but here he was clearly agitated just from recalling his experience. They had been to climb the clock tower together to inspect the structure and to try and work out how the people who had drafted the lease clauses had imagined the repairing responsibilities would work. It was a tricky area because the wording of the relevant clause made the council responsible for:

"the said District Savings Bank clock tower so far as the same is above the roof of the District Savings Bank Building with the necessary supports thereunder and the clock therein.'

The clock turret sat on two massive oak beams that spanned two walls within the bank at roof height. It was impossible to tell if the beams were there specifically to hold up the turret, or were part of the roof, since they fitted in with the nature of the surrounding construction where other similar beams had been used to support the roof. Both beams suffered from wet rot that had obviously been establishing itself over many years and the weight of the clock turret had caused them to sag at one bearing end, the turret now leaning to one side and in danger of crashing down into the street.

'My immediate advice is to have the pavement under the turret cordoned off while this dispute is resolved or someone may be killed. I don't think the occupants of the bank building are in any immediate danger, but it may be in your best interests to advise them to vacate the top floor offices just in case. Make sure that you put it in writing.

Cecil looked alarmed but nodded in agreement.

'Also, you need to check your insurance policy just in case.'

'Some good points, Selwyn. I'll arrange everything immediately.'

'Do you have an architect and have you sought quotes for the cost of repairs'

'We have an architect. He has written a report and obtained quotes. I'll get you that information before you go. The council's opinion is that the beams form part of the roof and fall to the bank to repair. The bank's view is the opposite; that the beams support the turret so fall to the council to repair. Legal opinion differs on both sides. We have reached a stalemate with discussions.'

'Let me have copies of everything that you think is relevant. After I leave here, I'll call on Ruxton's secretary at the bank and arrange an appointment to meet him.'

***

'A difficult customer, eh?'

Selwyn was sitting facing Arthur in Arthur's office. The door was closed.

'I'll say. He's everything we expected and more besides. He went red in the face and virtually threw me out of his office. I thought that he was going to have a heart attack. He really does have a very bad-temper. No wonder Cecil Knowles couldn't deal with him.'

'Not you, though. Everything went to plan?'

'I think so. He really didn't like dealing with someone as lowly as me. And especially as I gave as good as I got but, unlike him, without losing my temper. He now thinks that the UDC is as implacably entrenched as he is. That neither side will back down from expecting the other side to pay 100% of the repairs and professional fees, and that we are heading for a very expensive court hearing with barristers and the lot. I think that we've pushed him far enough. I can't see him getting much support from his Board when they hear what a legal action might cost.'

'So we're ready to move to phase two. I've briefed our Town Clerk. There's nothing like the threat of legal action to concentrate the mind. Can you draft the letter on his behalf and I'll give you a second opinion on it before we ask him to sign it? I have great faith in the power of the written word.'

'Will do.'

'Now, tell me, what's his secretary like? You must have made quite an impression to get that information out of her.'

'Jackie? Very nice. She's about my age and bright. We got chatting that first time when I called at the bank to arrange a meeting with Ruxton. I took her to the Ulverpool Arms and bought her lunch and a couple of drinks. Can I put that on my monthly expenses claim as Ulverpool will be reimbursing us?'

'Why not. I'll sign it. It will be worth it to them if we get them a deal.'

'I'm seeing her again next Saturday so it wasn't as cold and clinical as you might think. It was more luck than anything. I didn't set out to tap her up for information. I think that I was pushing at an open door. She can't stand him as a boss. She's looking to transfer to the Shepdale branch if a suitable vacancy crops up. She'd rent a flat in Shepdale rather than travel if that happens, which might be good news for me. However, her saying that *'the rest of the Board would be happy to do a 50:50 split on the repairs in view of the ambiguous lease wording and only Ruxton was proving to be the obstacle'* just came out in conversation. I sensed then that we needed to put some doubts in his mind with a very strong approach in our meeting. Then later we could show him a way out with honour intact, both with us and in front of his Board, by letting him appear to win. I'm hoping that he'll bite our hands off. It's like you've always taught me, half the skill of this job is about reading people. I know it's not guaranteed to work, but he was never going to settle with me in a month of Sundays. We can't make things worse by trying, now that we know where the Board stands.'

'If we pull this off Selwyn I'll buy you a pint.'

SHEPDALE MUNICIPAL BOROUGH COUNCIL
TOWN HALL,
SHEEPFOLD LANE,
SHEPDALE,
NORTHSHIRE

TEL: Shepdale 44444
Please ask for Mr C Bowstead, Extn. 12

10 September 1971

My Dear Mr Ruxton,

In the matter of repairs to the Herdwick District Savings Bank Clock

I have had a report that you met with an Assistant Surveyor from this council recently to discuss liability for the repairs to the Ulverpool Bank clock turret and that the meeting did not match up with your expectations. I offer my sincerest apologies without reservation on behalf of Shepdale MBC and Ulverpool UDC if any offence was caused to you. It is not acceptable that a gentleman of your stature and standing should have had to deal with a junior member of my staff and had I known in advance of that intention, then I would have ensured that the matter be handled by someone at a more appropriate level.

Unfortunately, any damage that has been done cannot be undone. However, the matter that brought about that unhappy meeting can still be resolved amicably. We are both gentlemen of equal stature and standing so it should be well within our joint gift to reach a mutually acceptable resolution to the matter of the clock turret repairs without the lengthy and expensive court proceedings that the UDC now appears bent upon pursuing. Once that matter reaches court any resolution will be out of our hands and the outcome will be uncertain at best. Being a solicitor by qualification I have extensive experience of the legal system and can say with certainty that the whole court process is no better than a lottery. I am sure that you, with all your experience, will concur with that view and acknowledge that it is better for both sides to avoid such an expensive risk and the damaging impact upon our reputations that will inevitably follow from such a public dispute between two prominent and respected institutions.

If, upon mature reflection, you, Sir, are prepared to consider some movement on your part to resolve this matter, then I think that I can prevail upon the council to reconcile itself to accepting a reasonable indication of terms from you. I humbly venture to suggest that if you were to offer to meet half of the agreed cost of the repairs and associated professional fees, then I would strongly urge the UDC to accept such a magnanimous gesture on your part. That being so, I ask if you are willing to explore that possibility with your Board and persuade it of the advantages.

As things now stand, the condition of the clock turret continues to deteriorate; the danger to the public is increasing and the cost of repairs continues to rise. Whatever your reply, I am obliged to report it to the UDC. The matter will then be considered by its full council and that may well have to be in open session for democratic reasons. It is inevitable that any such discussions will be reported by the local newspaper, despite any efforts on my part to suppress it. It is quite possible, no matter how unfair it may seem, that the bank, including your good self, may be portrayed in an unfavourable light if it becomes apparent that the council is willing to reach a compromise, while you are perceived not to wish to do so. I would prefer to avoid placing you in such an unfair and invidious position. Hopefully you can see your way towards helping me to prevent such unfortunate publicity in both our interests. Your assistance in this matter, if you are minded to offer it, would be greatly welcomed and, as such, would be publicly reported to that council in a very favourable light. You have my word upon it as a gentleman and I look forward to your reply.

I remain your obedient servant,
Charles Bowstead, LLB
Solicitor and Town Clerk for Shepdale Municipal Borough Council

Jackie smiled as she dropped her handbag onto the floor and wriggled onto the corner stool at the bar of the Ulverpool Arms. Selwyn took the other empty stool next to her.

'So ... a second date. I must be doing something right,' she said.

'Well, our lunch last time wasn't really a date, was it? That was more a spur of the moment thing, or I might not have had the chance to see you again. I don't get out to Ulverpool much. What would you like to drink?'

'Well I'm glad that you asked me. Bacardi and coke please.'

The barman heard her and reached for the optic.

'How's work going?'

'A vacancy has come up at the Shepdale Branch. I've applied for it. I'll have to wait for a decision but I've already decided that I'll take it if I'm offered it.'

'And will you move to live in Shepdale?'

'Definitely. We'd be able to see a bit more of each other … if you want to. By the way, did you hear if your Town Clerk got the reply from old Ruxton? I typed and mailed it about two days ago.'

Selwyn looked around to check who might be listening. No one in the pub seemed interested in their conversation but, nevertheless, he lowered his voice deliberately as he replied,

'Not yet. Are you allowed to tell me what it says?'

'He's offered the 50:50 split that Mr Bowstead suggested. I read Mr Bowstead's letter. Did you really get an awful telling off from the Town Clerk for upsetting Ruxton?'

Selwyn resisted the temptation to brag about his plan. He was learning that Jackie wasn't the most confidential person in the world.

'Water off a duck's back.'

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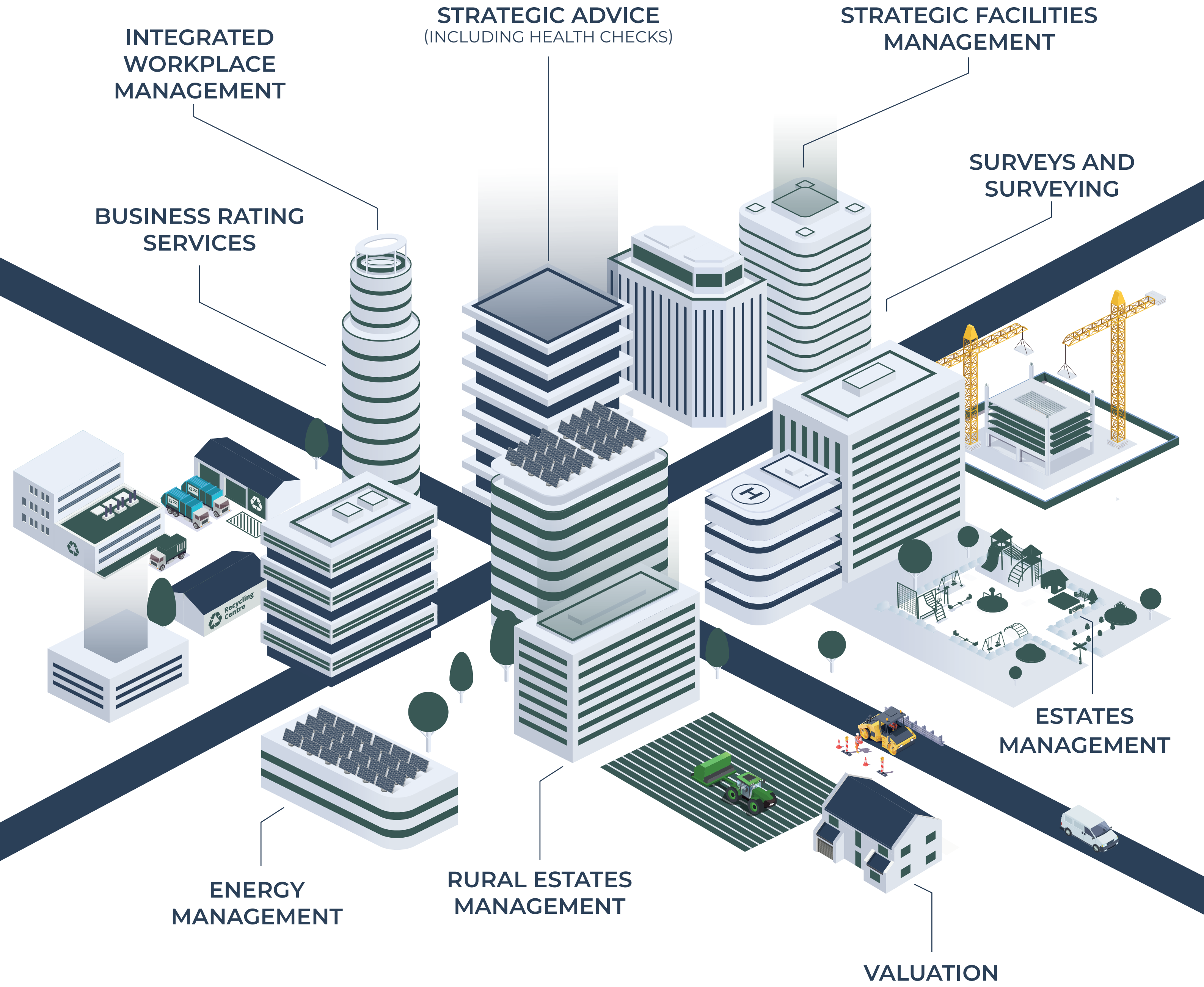

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