

# Empowering communities: making the most of local assets

An officer companion guide



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## **Acknowledgements**

Annemarie Naylor, Head of Assets, Locality  
Charles Woodd

# Introduction

In communities across the country we know that local people are concerned about losing locally valued assets and associated services – from inner-city community centres to village pubs and post offices. They are becoming all too familiar with the neighbourhood blight caused by empty or under-utilised land and buildings on their high streets. At the same time, councils are facing intense financial pressure on both capital and revenue funding, resulting in the need to maximise the use of publicly-owned land and buildings, or dispose of them and the associated costs, wherever possible.

Through the introduction of the **Community Right to Bid in the Localism Act 2011**, Government has reignited local discussions about how we can make the most of assets to meet community needs in a challenging economic climate. This certainly isn't a new conversation. Back in 2007, Barry Quirk set out his vision in *Making Assets Work* about how communities could be revitalised through an increase in the community ownership and management of assets. "The over-riding goal is community empowerment", he said, and "in a sense, we are moving from an assumption that the state's role is to try and solve all social problems, to one where the state's role is to help communities solve their own problems."

The Localism Act provides just one of the tools to translate this vision into a reality. Today, more than 154 councils in England have community asset transfer strategies and policies. Locality's Asset Transfer Unit itself has worked with two thirds of local authorities in England and has supported 1,500 individual community asset transfer initiatives.

This guide aims to provide support to officers and introduces the full suite of tools available to unleash the creativity, innovation and growth flowing from community asset ownership and management. It draws on learning from across the local government sector to explore how these tools can be used by communities to turn liabilities into assets and problems into solutions. It recognises that there are risks, but there is also extensive good practice about how to successfully manage these. All of this information, alongside the extended case studies available at [www.atu.org.uk](http://www.atu.org.uk) should help you when preparing relevant policies and processes.

This guide is accompanied by a complementary councillor guide, which is also available at [www.local.gov.uk](http://www.local.gov.uk) and [www.locality.org.uk](http://www.locality.org.uk)

Councillors as leaders within their communities will play a central role in helping to broker discussions about how to make the best use of local assets. Councillors have the democratic legitimacy to bring together their council, other statutory authorities, local voluntary and community groups, local businesses and other private landowners to build a constructive partnership.

We'd encourage you to share a copy of that guide with all councillors in your authority so that everyone can contribute to:

- mapping assets in your local area to identify land and buildings valued by communities
- building a shared understanding of the community's needs, ambitions and capacities
- reducing wasteful conflict by increasing transparency and appreciating the pressures that public bodies may face to reduce operational costs and generate finance from the disposal of surplus assets
- considering together how assets might be developed in a way that could be sustainable in either public or community hands
- stimulating creative ideas for the co-location of services, and the transformation of services, based on community enterprise.



# Part 1: Community asset transfer

## What is community asset transfer?

Community asset transfer involves transferring the ownership of land or buildings from a statutory body to a community organisation at 'less than best consideration' – that is at less than its full market value – in order to achieve a public benefit. It is underpinned by Treasury guidance (in 'Value for money and the valuation of public sector assets', HM Treasury 2008) which makes clear that councils do not own land for its own sake. Instead, assets are held for pursuing policy objectives, and the valuation of a publicly owned asset is based on the interests of society as a whole, rather than those of the council alone.

The transfer of assets to communities is not 'new'; an independent survey of local authorities in England, conducted by SQW during January 2012, concluded that more than 75 per cent of councils are now consistently engaged in the transfer of assets to communities – with asset transfer initiatives in England reported to have increased by around 40 per cent during 2011. Around 20 per cent of asset transfers directly benefit deprived communities, whilst more than 35 per cent are underway in rural areas (ATU Evaluation wave 3, Local authority officer survey).

Transfer to a local community organisation can unlock community enterprise, volunteer commitment, local intelligence, and risk capital to test new approaches and opportunities, which can then attract the necessary capital investment to create a thriving community hub. Emergent trends are best illustrated by some examples of community asset transfer from around the country.

## Enabling a redundant public building to thrive again

As pressure increases on the public finances, and public structures change, there are a growing number of public assets which no longer have a current use. These can include town halls, made redundant by local government reorganisation, schools undermined by shifting demography, or courts replaced by modernisation. Many are listed buildings – thereby limiting the options for cost-effective redevelopment. At the same time, they are often centrally located at the very heart of neighbourhoods where space for community activity is at a premium.

### **Glendale Gateway Trust, Northumberland**

Glendale Gateway Trust was set up by the local community in 1996 following a village appraisal which made a number of recommendations – including the need for a community resource centre. The Trust embarked upon the development of the Cheviot Centre to meet the community's needs. A derelict building was provided by community asset transfer on a long lease from Berwick Borough Council, and Glendale Gateway Trust raised £750,000 for the conversion works. The Cheviot Centre was officially opened in 2001 by HRH the Prince of Wales. At the heart of the local community, the Cheviot Centre provides meeting, exhibition and office space for a range of voluntary and community organisations. It also houses the tourist information centre. Building on its successful community engagement and asset development work, the Trust continues to stimulate local economic growth and regeneration. It now holds £1.4 million worth of assets, generates £143,000 annually in income from its assets, and employs ten people. The latest venture for the Trust is an asset transfer of the former library (now housed within the Cheviot Centre) – the site is due to be transformed into two affordable housing units.

### **Turning a marginal public service into a viable community service**

As discretionary public services come under increasing pressure from revenue budget reductions, and councils and communities are being called upon to reinvent traditional

public assets and services to ensure they are cost-effective and responsive to need in the modern context, community asset transfer can provide a viable alternative by applying a different business model that is based upon enterprise, multi-purpose use, volunteer staffing support and social investment.

### **Crofton Park Library, Lewisham**

When many libraries in Lewisham were threatened with closure in 2010, social enterprise Eco Computer Systems bid to save these valuable services, which were a focal point for local communities. Following an open procurement process they now manage three library buildings located in deprived inner London wards in the borough. This includes the Crofton Park Community Library where demand is strongest amongst families with young children and a core group that use the free Internet access. Eco Computer Systems have created an integrated community hub providing book loans, children's reading initiatives and activities. It is diversifying to deliver additional services which meet local needs such as a community café, computer recycling facility and rooms for hire which also generate new income streams.

Open for 40 hours a week including two evenings and all day Saturday, it is run by 35 volunteers with plans to employ a part-time hub manager. In the future, it will include pre-employment support projects and IT training, a 'pop up' cinema, community radio station and local history facility which will bring an increasing number of visitors.

## Multiple asset transfer

The urgency with which local authorities are seeking to rationalise their use and ownership of assets has stimulated exploratory work in relation to multiple asset transfer prospects around the country. To that end, the Asset Transfer Unit has been working with a number of local authorities to explore the potential for them to rationalise revenue spending and reconfigure services underpinned by the transfer of multiple assets to communities. Cross-subsidy can also provide the solution, where income-generating assets such as work-space units subsidise community facilities that would otherwise be unsustainable were they transferred in isolation.

### **Broadly, multiple asset transfers fall into three categories:**

- place-based: looking at the transfer of a mixed portfolio of assets in a particular local authority or smaller geographic area to underpin new community enterprises
- service-led: exploring transfer options related to specific types of service eg libraries. This element has strong links to service redesign and modernisation
- asset type: identifying multiple transfer options for specific types of asset eg community centres or sports facilities.

Ordinarily, multiple assets are transferred in parallel to a number of different organisations – for example, in those areas like Warwickshire and Buckinghamshire, where the local authority is supporting the establishment of community managed libraries. However, councils are also beginning to explore multiple asset transfer to community consortia or Special Purpose

Vehicles – for example, Northampton Borough Council in relation to some of its community centres:

<http://www.atu.org.uk/Stories/Northampton>

### **St John's Community Centre, Mildenhall, Suffolk**

The St John's estate, on the fringes of Mildenhall in west Suffolk, consists of social housing with an ageing community centre which has become uneconomical to operate. A partnership of Keystone Development Trust, Orbit Homes and Forest Heath District Council has developed a scheme to build a new centre and twenty-plus homes on nearby land. Keystone will own and operate the new centre and 2-3 houses to rent as a 'counterweight' to support the running costs of the facility; the rest of the homes will be social housing.

The idea of a 'counterweight' strategy emerged whereby a liability (such as a community centre) would be transferred with land or property to generate income to cross-subsidise the costs of community facilities. The land or property does not have to be on the same site as the community centre; the more economically viable the better. This arrangement means that the local authority does not have to continue to provide revenue.

# Key learning points

Much has been learned in recent years about how to maximise the benefits and limit the risks associated with community asset transfer initiatives. Key lessons include:

- **A strategic approach within the local authority provides for transparency, ensures consistency, and enhances the authority's asset management capability**

A growing number of local authorities – approximately one third – now have formal Community Asset Transfer strategies as part of their approach to asset management. Key to this is often the creation of a single 'gateway' – that is a designated officer as a first point of contact for asset transfer enquiries – who can co-ordinate activity across council departments. With the introduction of the new Community Rights through the Localism Act, this will become even more essential to deliver synergy with other related policies.

This approach also helps to ensure that the authority's broader approach to asset management takes proper account of the social, economic and environmental value that can arise from asset transfers, and the support that a transfer on discounted terms can give to an asset's long-term sustainability via community ownership and use. Within this context, it is relevant

to note the importance of social, as well as economic and environmental, value recognised in the Government's recent Best Value Statutory Guidance. Further guidance on the development of a Community Asset Transfer strategy is available from [www.atu.org.uk](http://www.atu.org.uk)

## **A partnership approach at local level helps to maximise the use of public and community assets for social benefit**

Developing partnerships, both with other public bodies and voluntary and community sector organisations, can help to ensure that best use is made of community assets. It builds a shared understanding of the community's needs and the pressures that public bodies may face to reduce operational costs and generate finance from the disposal of surplus assets. It can stimulate creative ideas for the co-location of services, and the transformation of services through the adoption of new models based on community enterprise. It can reduce wasteful conflict by increasing transparency and mutual understanding. An Asset Transfer Partnership Routemap is available via: <http://tinyurl.com/3gfauoc>



- **A thorough understanding of the nature and rationale for social enterprise helps local authorities to assess the added value of community ownership**

Financial viability is as important to a social enterprise as it is to any other business. However, social enterprises combine the market disciplines of the business world with the public interest motivation and profit retention of a socially-based organisation. That is why community asset transfer offers particular opportunities for supporting ongoing community services, since many enterprise activities can make use of a building – for instance room rental, provision of office accommodation to other statutory or charitable organisations, or conferencing and catering facilities. Asset transfer has indeed supported and enabled a much wider range of social enterprise development, including the provision of training, advice and care services, health businesses, catering enterprises, arts and culture, and incubation space for start-up businesses.

Assisting community organisations to develop a viable business plan for their particular circumstances has been essential, although it does emphasise the importance of the council having the necessary expertise within its staff. This is a new area for many involved in public service, so an openness to new ideas and approaches is vital for success.

Experience has also shown the importance of the terms of a particular transfer. The local authority's willingness to offer a freehold transfer or long lease at a low

or peppercorn rent is a critical way of recognising the likely social benefits of the transfer. It will depend partly on the authority's readiness to put a fair value on that benefit, and partly on the reassurance offered by a recipient organisation's 'asset lock'. An asset lock is a legal mechanism for ensuring that the organisation's assets and income are retained to serve the local community, rather than siphoned off for private profit. A realistic assessment of the time that carrying through a transfer can take will also smooth its passage.

- **Peer learning and the sharing of experience can maximise benefits and cost-effectiveness by avoiding the unnecessary duplication of effort**

Through the Advancing Assets Programme and the Asset Transfer Unit, local authorities and community organisations have been able to learn from each other's experience. The Unit has generated a vast amount of technical guidance material, drawing both on the practical experience of local partners, and the expertise of specialised organisations working in this field. This material includes legal document templates; guidance tailored to the transfer of swimming pools, heritage buildings, parks and green spaces, libraries and sports facilities; a route map for the transfer process with linked resource materials; and a wide range of case studies. All of these resources, together with links to other specialist organisations who deal with particular types or aspects of asset transfer, can be accessed via [www.atu.org.uk/](http://www.atu.org.uk/)

Additional opportunities for peer-learning geared to the particular needs of local authorities include the CIPFA asset management network, and the practical guidelines on local authority asset management published by RICS. The latest addition to that series, on the disposal of public assets at less than best consideration, was published by the RICS in January 2012.

- **The timely commitment by local authorities of practical help and initial risk capital to help test new approaches can lever in external finance and yield substantial long-term benefits**

The most difficult hurdle that most community groups face is obtaining the initial risk capital to assess project feasibility and develop a business plan before they have established a track record to support their case. This is particularly true of social enterprises, as they may be operating at the forefront of social innovation.

**There are many ways in which local authorities can help:**

- by providing support 'in kind' such as access to property management and accounting expertise within the council

- by making small grants for initial pre-feasibility and feasibility work
- by offering short licenses and leases in the early stages of a transfer, while its viability is being tested
- by providing high quality information on the maintenance requirements and costs of the building in question
- by recognising the longer timescales that community organisations need to work to, if they are to have the support and involvement of their communities
- by offering sale or lease terms that are appropriate and proportionate to the social nature of the organisation, rather than what would suit a profit-making business
- by recognising the value of investing initial capital, as this could be the reassurance needed for the project to attract further capital finance from social and private investors.

Further information on managing risks can be found at: <http://tinyurl.com/yj2l2v8>



# Part 2: Community right to bid

## What is the community right to bid?

The Localism Act introduces new requirements on certain local authorities, and a new right for communities in respect of ‘assets of community value’. This is also referred to as the Community Right to Bid.

In many places across the country, when local amenities such as community centres, libraries, village shops, markets or pubs have been threatened with sale or closure, parish councils and community groups have successfully taken them over. This has often been with the active cooperation of local authorities, through a process of discounted asset transfer. However, in some cases, where the owner of land or buildings has sought to sell them on the open market, community groups have faced significant challenges.

In particular, communities often need more time to organise a bid and raise the necessary finance to bid competitively than their private sector counterparts. The new provisions in the Localism Act are designed to afford eligible local bodies and community groups the time to prepare a bid before the owner of a listed asset of community value can dispose of it.

## How is it meant to achieve its purpose?

The Act requires local planning authorities to maintain a list of land or buildings which meet its definition of an asset of community value. Nominations can come from parish councils or local voluntary and community bodies. When the owner of a listed asset wishes to dispose of it, the Act introduces a delay (or ‘moratorium’) before he or she can do so, to give any interested and eligible community groups the time to prepare a bid. However, at the end of the moratorium period, the owner can sell to whomever they choose at a price agreed with the buyer.

## What is an asset of community value?

The Act defines ‘community value’ as the use of an asset to ‘further the social wellbeing or social interests of the local community’. The term ‘social interests’ includes in particular, though not exclusively, cultural interests, recreational interests and sporting interests. It then provides three alternative determinants as to whether a building or other land can be deemed an asset of community value.

- The main (or ‘non-ancillary’) **current** use of the asset meets the definition of community value AND ‘it is realistic to think that there can continue to be a non-ancillary use of the [asset] which will continue to do so’, though it does not have to be used for the same purposes.

- Where an asset is not in current use in a way that meets this definition, there is a time in the **recent past** when an actual non-ancillary use of the asset met the definition AND 'it is realistic to think that there is a time in the next 5 years when there could be a non-ancillary use' that will meet the definition.
- The regulations exclude from listing:
  - residences, including gardens, outbuildings and associated land
  - licensed and some unlicensed caravan sites
  - operational land of statutory undertakers.

The provisions explicitly exclude assets whose current or recent past use does not meet the definition of community value, even if the use to which an intended community purchaser wishes to put the asset is clearly of community value (eg a long-derelict site, which an enterprising community group wishes to develop as a community facility). It makes no explicit provision for assets whose use is or has been purely economic, although it allows a case to be made for assets and their related businesses (such as a shop or pub) on the basis of their role in promoting social wellbeing. It also provides for the exclusion of assets whose community value is clearly ancillary, such as an agricultural field which is used once or twice a year for a village carnival. The Act will not allow for every council office to be listed, since assets must meet the definition outlined above to qualify.

## What new rights does this give to communities?

The Act gives parish councils and local community groups the right to nominate assets which they believe meet the definition of an asset of community value. Regulations provide for a wide range of voluntary and community bodies to be able to nominate assets of community value, including neighbourhood forums (as defined for the purposes of neighbourhood planning) and unincorporated groups, although the latter are required to have at least 21 members on the electoral register for the local authority area or a neighbouring authority's area. All voluntary and community bodies making nominations must be able to demonstrate that their activities are wholly or partly concerned with the local authority area where the asset sits or a neighbouring authority's area.

Local authorities and other public bodies cannot make nominations themselves. Instead, they must consider any such nomination, and if in their view it meets the definition, move to list it. Then, if and when the owner decides to dispose of a listed asset, the parish council for the area or an eligible community group can indicate whether they wish to bid for the asset within an interim six week period. If any do so, there will be a six month window (starting from the owner's original notification of an intention to dispose) in which interested community bodies can prepare a bid for the asset.

It is important to help community groups to recognise the opportunities presented by the Act but also manage expectations, as it does not give them a right of first refusal to buy an asset or force a sale. However, owners can dispose of a listed asset to a community group during the moratorium at a price agreed between them. For this purpose, regulations define community groups as including the parish council for the area where the asset is situated (if there is one), and non-profit-distributing groups with a local connection, which are charities and/or companies limited by guarantee, community interest companies or a community benefit society (IPS).

### **Cranleigh Village Hospital, Surrey**

First established in 1858, Cranleigh was the first village hospital in the country, made possible by subscriptions and donations from local people. The community have continued to provide practical and financial support, even after the hospital passed to the newly formed NHS in 1948. The League of Friends was formed a few years later when it was clear that state provision was going to struggle to keep pace with local requirements. As recently as the mid 1980s, the hospital was significantly expanded through the generosity of local people. Over the years there have been attempts to close all or parts of the hospital as a result of shifting NHS priorities. While these have been successfully opposed locally, the community decided to either bring the hospital back into community ownership or to build a new hospital. Land was donated for the latter, and after 15 long years of negotiation, a new health facility will be built. However, the fear is that the old hospital may not be needed by the NHS, and the community is determined that it should be returned to them to help older people remain in their own homes for as long as possible. The community is eager to utilise the Right to Bid provisions in the Localism Act to ensure that over 150 years of community investment is not lost.

## Making the right to bid an opportunity, rather than a burden

Some may at least initially see this new community right as an unwelcome additional bureaucratic burden, imposed at a time when resources are scarce. However, it offers a valuable tool, alongside others, which can contribute to the building of a more strategic approach to managing assets with social, economic and environmental objectives in mind. To work, this must be based on constructive partnership working between the local authority itself, the other statutory authorities with a presence in the area, local voluntary and community groups and local businesses and other private landowners.

Financial pressures are forcing all owners of assets, whether public, voluntary and community sector or private, to think more strategically about how they use their assets, in order to ensure that they maximise value and minimise cost. This is of particular importance both for local authorities, and for other public bodies which own assets in their area. The assets affected might include redundant schools or health service buildings, redundant courts, underused civic buildings, or town halls that served local authorities that no longer exist. They might also include underused buildings, municipal buildings where maintenance or other operational costs are high in relation to the current use, or land which is currently derelict or blighted by deferred or unfunded redevelopment. Some may be buildings for which there could be a valuable continuing community use, which could be sustainable using a different business model to that required by public ownership and operation.

At the same time, there may also be important or iconic assets which either offer a community service, or could do so if put to a different use, but which their private owners wish to dispose of. Widespread recent examples have included village shops not able to compete commercially with the local supermarket or where the owners wish to retire, village pubs considered unprofitable by commercial pub chains, and derelict buildings with iconic local importance such as Hastings Pier, which offer huge opportunities for local regeneration and social enterprise, given the required investment.

## What opportunities do these provisions offer to local authorities?

The Assets of Community Value provisions offer local authorities a valuable tool to promote partnerships and a strategic approach across their area, in a number of ways:

- **Mapping community assets** By giving communities a strong incentive to contribute to the mapping of the community assets in their area, and to consider which assets they would wish to see in community ownership, and how they might be developed in a way that could be sustainable. This could be supported by a consultative process, led by the lead authority, around how it should apply the definition of community value in the local circumstances. This, in turn, could foster a partnership approach by public and voluntary and community sector asset owners, aimed at maximising cost effectiveness in the use of public and other assets. It could provide a forum in which an authority can explain its rationale for disposing of some property

on the open market in order to generate additional finance while considering the disposal of other assets through discounted asset transfer to achieve community benefit. The Place Station has been developed by the Asset Transfer Unit to support such activities:

<http://www.theplacestation.org.uk/>

- **Demonstrating the added value of community ownership** By allowing local voluntary and community bodies more time to demonstrate that they have the capacity and resources to take on a community asset in a way that will serve local community need, and thereby also further the local authority's broader objectives for its area. Crucial to this will often be the resources that charitable and other community groups can uniquely attract (whether in terms of charitable funding, voluntary time and skills, specific tax concessions or local goodwill), and their potential to develop an alternative business model based on such factors. To help them, Locality has developed the building calculator, to help community organisations make a quick assessment of the 'whole life costs' associated with asset ownership and forward management: <http://www.buildingcalculator.org.uk>
- **Complementing the Right to Reclaim Land** By complementing the exercise of the Right in its revised form – giving communities the opportunity not only to request the sale of a particular unused or underused public asset, but to seek the opportunity to demonstrate that they can make a viable offer for its purchase and use.
- **Complementing community led planning** The Localism Act sets out how communities can get more involved in planning for their areas – specifically around creating plans and policies to guide new development. Neighbourhood Planning is not entirely new and can build on or work alongside tried and tested routes to engage the community in planning in your area. The process of community led or neighbourhood planning may well lead residents to identify particular land or buildings that they wish to zone for continuing or future use for specified community purposes, which could include education, social housing, recreation or sporting uses. While the neighbourhood plan can facilitate the introduction of planning policies in respect of particular sites or areas, the neighbourhood forum or parish council leading the neighbourhood planning process can nominate particular assets as assets of community value, so as to allow community bodies a better opportunity to purchase the asset should it come up for disposal. For more information on neighbourhood and community led planning please see 'Neighbourhood Planning: a guide for ward councillors': <http://tinyurl.com/3dlz4n4>
- **Drawing on local intelligence** By providing a basis for the development of a working partnership between the local authority and local voluntary and community bodies, since it will provide a channel whereby communities can share their very local intelligence about the needs of and resources within their neighbourhood with their local authority. This will be of particular importance in larger authorities which necessarily operate on a more strategic basis.

## What are the risks for local authorities?

- In the absence of an agreed understanding at local level of how the definition of community value should be interpreted, the local authority may find itself faced with requests for a review in response to every listing decision.
- There is a risk that the impact of compensation claims from private owners affected by the implementation of the moratorium provisions will fall inequitably on different local authorities, depending on the scale of activity under the provisions and the ownership of the assets that are listed.
- If disposal under these provisions at market value is seen by the local authority as a replacement for a process of collaborative asset transfer at a discounted price for the local authority's own assets, this could lead to voluntary and community bodies seeking to purchase assets on unsustainable terms, because they have no choice, and subsequently failing to survive.

Inclusive local discussion will help mitigate the above risks for local authorities.



### **Norden Old Library, Rochdale**

In July 2007, the Norden Community Trust was set up by a group of local people with the aim of preserving the former Norden library building for the community. The Trust purchased a 125 year lease for the building from Rochdale Borough Council on the 3rd April 2009. The aim was not only to preserve the building, but to provide a facility which would benefit the community and be sustainable for many years to come. The fulfilment of this challenging remit received a major boost when the Trust was approached by a group of local GPs who saw the Old Library as an attractive location for a new surgery (a facility for which there has been a need for over 25 years). The Doctors Surgery opened its doors on 2nd August 2010 and was warmly welcomed by Trustees and local people alike. The revenue stream from this new venture makes an important contribution to the financial sustainability of the Old Library and means that local groups can enjoy quality facilities at minimal cost.



## How can you prepare for the community right to bid?

- Consult with local partners from all sectors on how you should interpret the definition of an asset of community value in accordance with local circumstances, how partners can contribute to a process of mapping community assets, and how the data collected can be best made accessible, and how this can contribute to a strategic approach to local asset management.
- Prepare and consult on a guide for local voluntary and community bodies, and for local landowners, on how you propose to implement the Assets of Community Value provisions in your area.
- Delegate responsibility for implementing the Assets of Community value provisions, and for liaising across the authority on community assets issues generally, to one senior officer to ensure consistency of approach.
- Establish a decision-making procedure within the authority for determining whether nominated assets meet the definition.
- Publicise a plain English explanation or flow chart to explain how, why and when you will consider some of the community assets you own suitable for asset transfer and some suitable for disposal at full market value.

# Part 3: Meanwhile use

Too many town centres and high streets are afflicted by empty shops, which can contribute to a downward spiral of decline.

In a growing number of places, this trend has been challenged and reversed by public and private owners agreeing to allow temporary or 'meanwhile use' of their property by creative communities, on terms that ensure they can get it back if a commercial tenancy becomes available. In the interim, an empty shop or site awaiting development can become an art gallery, a short-term enterprise centre offering advice on business start-ups, a community garden, or an opportunity to test local interest and support for an innovative new project.

In doing so, it also increases footfall in the town centre areas affected by the downturn, thus attracting custom and helping to give confidence to the other remaining businesses.

DCLG's Meanwhile Lease documentation, and practical support from the Meanwhile Project, have encouraged innovation across the country. More recently, the Government published the Portas Review and established related funds to further explore approaches to revitalising town centres, complete with recommendations to promote an increase in Meanwhile Usage. For further information on the Portas review: <http://tinyurl.com/bondc9t>

## **Meanwhile Whitechapel**

Meanwhile Space Community Interest Company (CIC) initially agreed with owner Workspace Group PLC to take on a property for a minimum term of three months. However, due to the cost of business rates, Meanwhile Space CIC subsequently approached New Deal of the Mind to act as an intermediary landlord and sign a charity lease with Workspace Group PLC.

Meanwhile Space CIC then applied to the London Borough of Tower Hamlets Pop Up Shops micro-grants scheme and used the £650 awarded to cover utility bills for two months. It encouraged local projects and people to use the Whitechapel space by marketing directly from the shop and using its website, Ning Forum, Facebook and Twitter.

This resulted in local organisations such as Arts Admin, Linkage, The Taylor Gallery, Uncommonly Beautiful, Pictures on Walls, Love in a Cup and Deadbeat Collective using the space to promote their activity and sell their produce. The cost of the space was kept to a minimum so that individuals could use the shop in a relatively risk free way. The space was also kept a blank canvas so that people could explore their own ideas in full. This resulted in an ever-changing environment that attracted a huge variety of people from within the community. In 89 days it featured 37 projects and attracted 200 visitors a day, 2400 attended a 'Meanwhile at the Fair Day,' one new person was employed and two new social enterprises started.

Councils are ideally placed to promote the meanwhile use of land and buildings, support the identification of asset owners, act in a facilitative capacity towards owners and interested parties, and contribute to negotiations between community organisations, landlords and business rating agencies. They can proactively market relevant opportunities linked to public asset holdings, and provide basic information about them including: outline plans, recent utility bills, previous uses, confirmation of planning permissions and future intentions.

Ordinarily, councils market opportunities for the meanwhile management of land and buildings for up to 3 years, retain repair and maintenance obligations where they act as the asset owner, and only call for an Outline Business Case from prospective occupiers (in contrast with their approach to full asset transfer). In some instances, they also offer community organisations business rate relief to stimulate activity of this nature. Community organisations, for their part, assume responsibility for insurance and utility bills. They are also, frequently, permitted to issue sub-leases to encourage the rapid reanimation of spaces intended for longer-term meanwhile use and are called upon to animate spaces for a minimum number of days/hours each week in return.

# Part 4: The community right to reclaim land and compulsory purchase for communities

Local authorities can also stimulate longer-term creative solutions by publishing details of the assets they hold, and responding proactively to transformative expressions of interest from communities – both in relation to the new Right to Reclaim Land, and where communities call for support from their council to compulsorily purchase land and buildings to help realise their potential.

## What is the community right to reclaim land?

The Community Right to Reclaim Land helps local people ensure that public bodies do not retain under-used land or property, and is designed to get these sites back into productive use where communities request disposal in relation to plans for acquisition and transformation of the same. In particular, central government is eager that this mechanism be used to enable community-led housing and community gardening initiatives.

### It currently comprises two elements:

- commitment to transparency – giving citizens online access to information about publicly owned land and buildings
- improved reach and accountability – through reform of existing Public Request to Order Disposal (PROD) provisions.

Central government is making details about surplus public land freely available to developers, community groups and citizens to ensure that everyone gets to hear about available sites, as well as the timescales associated with their disposal. This is intended to encourage and create open competition, as well as the opportunity to promote greater innovation and diversity – in particular, in meeting housing needs.

PROD provisions already apply to local authorities. However, a statutory instrument laid on June 8th 2011 adds the Greater London Authority, Transport for London and the British Transport Police to the list of bodies (commonly called Schedule 16), whose land can be the subject of a Request, and the Government is making use of existing legislation to treat any Requests regarding Homes and Communities Agency land in the same way. The Government has secured agreement with various public bodies and others that, for whatever reason, cannot be included in Schedule 16. The Memorandum of Understanding will be voluntary, but those signing them will commit to allowing their land and property to be treated in the same way as any other Request. This means that all major land-owning local government, together with many other public bodies, are now able to be held to account for under-use of the land and buildings they own.

Councils and communities can obtain a simple explanation of the prescribed process, a pre-prepared form to make a Request, and details of whom to contact with any queries via <http://tinyurl.com/89v93xw>

## What are the opportunities and challenges inherent in communities deploying the right to reclaim land?

Against a backdrop of challenging economic circumstances, and particularly in areas of market failure, communities can offer a much-needed and dynamic asset development force to underpin regeneration for social benefit with encouragement from central and local government. To that end, the new rights to bid and reclaim land provide a welcome stimulus to proactive and creative community-led action – compared to the more reactive stances that are often adopted in response to the threat of an asset's imminent closure or rapid and unforeseen disposal via the open market.

The Public Request to Order Disposal (PROD) provisions are nonetheless dependent upon the provision of open and meaningful data pertaining to publicly owned assets, together with a commitment to transparency on the part of asset owning public bodies. They are also capable of pitching council against community, to the extent that communities may call for the sale of publicly owned land and buildings in relation to which local authorities themselves have developed plans.

It is therefore imperative that councils consider carefully how to make meaningful data about the assets they own available to communities (and, would-be developers more broadly). They should also take seriously their asset management responsibilities, in advance of proactive community requests, and be prepared to provide clear and compelling explanations where they seek to challenge the same in order to progress plans of their own.



### **But will the community right to reclaim land work?**

A derelict site of 100m<sup>2</sup> in a residential area is surely the type of site that the community right to reclaim land should help to bring back into productive use. However, in a major city, a local charity has been trying to acquire and develop such a site for supported housing for the past seven years. The site was originally occupied by garages, but these were vandalised and demolished, and the land has now been vacant for at least twelve years and regularly attracts anti-social behaviour. The charity occupies a neighbouring site and secured planning permission to build four flats on the land as part of its therapeutic community to support women survivors of sexual abuse. The charity has been trying to buy the land at a premium from the council for many years. However, the council has opted to retain the land as it is not deemed surplus to requirement. The charity has attempted to use the Public Right to Order Disposal provisions in order to force a sale, but the council has reiterated its intention to use the site in the future – for car parking until the land values rise and it can be sold to develop a single owner-occupied house. A review of the council's actions has found that it has acted fairly and reasonably. However, the overriding concern for the charity is that the land remains derelict at this time and could be put to a much-needed alternative use. Despite the existence of the PROD provisions, the charity can only wait to see whether the situation changes.

A number of local authorities have sought to proactively engage communities in a discussion about the productive use of the right to reclaim land. Where this is the case, they have committed to: promoting the bringing to the council's attention of land and buildings in the area that are in public ownership which are not currently used or are under-used (particularly where there is evidence to show that there are constructive alternative proposals for such sites); identifying a single point of contact within the council with whom communities can liaise; supporting communities to identify and approach site owners to encourage resolution of the situation without the use of statutory powers; as well as supporting groups to ask the Secretary of State to make use of his powers outlined in the Local Government and Planning Act (1980) to direct disposal.

It is important to note that community organisations are within their rights to ask the Secretary of State to exercise his power to direct disposal (where relevant powers permit) without input or support from the council if they so wish. The process is outlined here: <http://tinyurl.com/cdpaf1p>

## What is compulsory purchase for communities?

A compulsory purchase order by a council and future development as a community asset can often be the ideal solution. Last year, the Government issued revised guidance and called on local authorities to have particular regard for all viable requests from voluntary and community groups put to them for the compulsory purchase of land and buildings in their area covered by relevant provisions in statute.

## How does compulsory purchase for communities work in practice?

If communities want to bring a valued local asset back to use – for example, turning a boarded up building into a community centre – they are now encouraged to contact their council and ask them to use a compulsory purchase order to buy the asset. The Government has urged councils to give greater attention to applications from voluntary and community groups who know their area and often have innovative ideas to make the best of local assets. That doesn't mean special treatment or an automatic green light but, under the new guidance, local authorities have to respond formally, outlining the reasons behind their decisions.

Further details are contained in an amendment to Planning Circular 06/04 – Appendix KA: <http://tinyurl.com/68lgcvx>



Once a compulsory purchase is underway it can be combined with other mechanisms covered in this guide to subsequently transfer the asset into community control, known as 'back-to-back' transfer. But, ultimately, local authorities should aim to support communities in their asset acquisition and development aspirations to meet local needs and suit local circumstances.

### **Hastings Pier**

Abandoned since 2006 by irresponsible owners, Hastings Pier is one of the most challenging asset transfers in the country, made even more dramatic and urgent by the devastating fire of October 2010. Local people knew that the pier had the potential to give a vital boost to the local economy through job creation and small business development. Their aim was for it to once again become a hub for local community activity, but it seemed beyond their reach. Their dogged persistence has transformed the situation. Through campaigns using both traditional and social media methods, leveraging their membership and wider networks, the Whiterock Trust has built an active partnership with Hastings Borough Council, which is currently undertaking the Compulsory Purchase of the asset. The council then intends to complete a back-to-back transfer of the pier freehold to the new Hastings Pier Charity for £1. At the same time, the Trust has received £357,000 from the Heritage Lottery Fund bid for the development phase with a further £8.4m ring-fenced for restoration and initial commercial and community facilities above deck.



Some local authorities have sought to proactively engage communities in a discussion about and productive use of their Compulsory Purchase Order powers. Where this is the case, some have committed to: promoting the bringing to the council's attention of land and buildings in the area that are in public ownership which are blighted, neglected or not in constructive use (particularly where there is evidence to show that there are constructive alternative proposals for such sites); identifying a single point of contact within the council with whom communities can liaise; supporting communities to identify and approach site owners to encourage resolution of the situation without the use of statutory powers; and carefully considering whether to make use of their statutory powers in relation to the acquisition of the site. Community organisations, for their part, are called upon to demonstrate the Business Case for compulsory acquisition, and to provide an indemnity for the relevant costs to the council (to cover the costs associated with seeking the CPO as well as the costs of compensation to the owner).

## Getting started

As recognised throughout this guide a significant amount of work is already underway in local areas to support the acquisition and development of assets by communities. The provisions in the Localism Act add to the tools that are already available to communities, rather than replacing existing mechanisms. There is clearly no 'one size fits all' route to empowering communities, but whatever your local circumstances, councils can contribute by:

- **engaging with all your local partners**, including other public bodies, local voluntary and community organisations, local residents and local business to map assets, appreciate their ambitions and capacity to shape and manage local assets
- **making as much data as possible available** about your council's assets, and encouraging other asset holders to do the same – including annual energy costs, likely maintenance costs
- **agreeing a community assets ownership strategy** referencing the tools now available to communities as part of your approach to asset management to ensure a consistency and fair access for voluntary and community organisations
- **establishing a single gateway into the council on community asset issues**, including for questions about the new Community Right to Bid

- **offering support to community organisations to develop viable business plans** to underpin the efficient and effective ownership and management of community assets, and ensuring the council workforce has the skills and capacity to appraise those plans if requested
- exploring what 'risk capital' is available locally to help communities test their ideas and generate comprehensive bids to raise investment finance and take ownership of community assets and whether the council can support **greater availability of this type of funding or provide other support 'in kind'**
- involving your **legal team at an early stage** of discussions about community asset transfer and assets acquisition to facilitate the evolution of successful projects.

### **Millfields Development Trust**

The Millfields Trust, set up in the late 1990s, is a social enterprise operating in the inner city neighbourhood of Stonehouse Plymouth. This area has been blighted for many years, and the trust aims to bring sustainable solutions enabling local people to drive forward change.

The Trust now manages 100 business units in five different buildings. Growing their asset base has not only secured its future, it has laid the foundations for a future programme of regeneration. Each year the Trust reinvests a surplus back into the community. In 2007, it produced a master plan outlining a broader range of services and frontage to the street. It addressed the issue of low levels of start-up businesses by creating a Youth Enterprise Centre to train young people and provide a space for product ideas and development.

Another initiative being considered by the Trust is the Palace Theatre – a grade II listed building which currently lies unused. They are generating a vision and action plan to save this grand building; the council's involvement will prove pivotal to the project's success.

[www.millfieldstrust.com](http://www.millfieldstrust.com)

## Further sources of information Case studies

A Plain English Guide to the Localism Act. November 2011 –  
<http://tinyurl.com/cfjb38s>

The Asset Transfer Unit –  
[www.atu.org.uk/](http://www.atu.org.uk/)

Best Value Statutory Guidance. September 2011 –  
<http://tinyurl.com/4xzwjdt>

Community Right to Reclaim Land. July 2011 –  
<http://tinyurl.com/89v93xw>

Compulsory Purchase for Communities. June 2011 –  
<http://tinyurl.com/65pc3rg>

Demonstrator Map of Public Assets. –  
<http://tinyurl.com/c6kunxu>

Making Assets Work: the Quirk Review of Community Management and Ownership of Public Assets. May 2007 –  
<http://tinyurl.com/2tdu54>

Locality –  
[www.locality.org.uk/](http://www.locality.org.uk/)

The Meanwhile Space Project –  
[www.meanwhile.org.uk/](http://www.meanwhile.org.uk/)

My Community Rights  
[www.mycommunityrights.org.uk](http://www.mycommunityrights.org.uk)

The Place Station –  
[www.theplacestation.org.uk/](http://www.theplacestation.org.uk/)

The Portas Review – An Independent review of the future of our high streets. Dec 2011 –  
<http://tinyurl.com/bondc9t>

Cranleigh Village Hospital Trust –  
[www.cranleighhospital.org](http://www.cranleighhospital.org)

Eco Computer Systems Ltd (Crofton Park Library) –  
[www.ecocomputersystems.org.uk](http://www.ecocomputersystems.org.uk)

Glendale Gateway Trust –  
<http://tinyurl.com/bto5hq9>

Hastings Pier and Whiterock Trust  
<http://hpwrt.co.uk>

Keystone Development Trust –  
[www.keystonetrust.org.uk](http://www.keystonetrust.org.uk)

Meanwhile Whitechapel  
<http://tinyurl.com/czwqv fj>

Norden Old Library –  
[www.nordenoldlibrary.org.uk](http://www.nordenoldlibrary.org.uk)



**Local Government Association**

Local Government House  
Smith Square  
London SW1P 3HZ

Telephone 020 7664 3000

Fax 020 7664 3030

Email [info@local.gov.uk](mailto:info@local.gov.uk)

[www.local.gov.uk](http://www.local.gov.uk)

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