

Report to  
South Hams District Council  
and  
Department of Communities and Local Government

# Releasing the capacity of communities to contribute to the provision of affordable rural housing



September 2008

## **NOTE**

This report relates mainly to 2007/08 but has been updated to refer to events up to September 2008. National policy on community land trusts was in development in this time and following this report a consultation process on CLTs was started by Department of Communities and Local Government. South Hams District Council was developing and consulting on a number of Development Plan Documents with very specific reference to rural affordable housing.

The report is intended to refer to events up to 30 September 2008 either directly or as footnotes but there are inevitably some inconsistencies between the dialogue with the parishes which took place during 2007/08 and the situation at the time this report is dated.

## **ACKNOWLEDGEMENTS**

Thanks is given to all the parishes in South Hams who have been giving up their time to be involved in this project and consider what role Community Land Trusts might play in meeting affordable housing needs in their parish. A list of the parishes involved is at Annex 1. Their time, effort and enthusiasm have been essential to this work and their commitment is gratefully acknowledged. This applies especially to Newton & Noss, East Portlemouth, Stokenham, Frogmore & Sherford and Cornworthy who have taken their proposals one step further by looking to develop specific proposals through engagement with housing and planning officers. Thanks is also given to staff at South Hams who have helped with this project and all the other presenters and participants, including several SHDC Councillors, who attended and participated in the CLT seminar.

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*September 2008*

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## **EXECUTIVE SUMMARY**

1. This report was commissioned by South Hams District Council to investigate the issues around the governance and accountability of Community Land Trusts. The research which took place mainly during 2007/08 looked to identify barriers to delivery and consider if and how these could be resolved.
2. The methodology for the project involved working with South Hams Council and local communities to identify outstanding questions, providing the required information and identifying what role CLTs could play in delivering affordable housing. Governance and accountability are important as they both need to be demonstrated if local authority officers are to be able to support CLTs and to prove to charities and finance providers that a CLT represents a safe pair of hand.
3. A number of communities in South Hams have been able to engage successfully with these accountability and governance issues. They have shown that they have the skills to tackle the technical issues: to identify sites, develop an understanding of the planning policy framework, consider tenure and design, resolve local disagreements and find local solutions. However, additional support for this work is still required.
4. Not all parish communities will be able to set up a community land trust either because they are too small or there is insufficient local support or interest. One option would then be for parishes to join together. Another is that the role of the parish might be to help identify the need and site and to bring in a housing association to carry out the development. Figure 3 (see 2.46) provides a comparison of the CLT and housing association routes and the advantages of each: in essence the housing association route is tried and tested and provides greater certainty and simpler access to housing grant while the CLT route maximises community engagement and support.
5. The message for communities is therefore that CLTs could provide a way of meeting local affordable housing needs through a locally accountable organisation with effective governance. However the necessary policy and support measures need to be in place, to enable this to happen. To deliver a successful CLT project, communities may need to be patient and determined to succeed. This must begin with a dialogue with the local authority on where a CLT might fit into their planning and affordable housing policies.

6. For local authorities, experience from elsewhere shows that CLTs can be part of the solution to affordable housing provision and a process of engaging with local communities can bring added resources and knowledge to bear on the problem. They will however face a “chicken and egg” problem: until they give communities support to set up CLTs they will not know what part they can play but giving that support depends on considering and deciding in advance how CLTs can fit into complex planning and housing policy frameworks.
  
7. Local authorities could use the findings of this report to help them decide what role, if any CLTs could play in delivering affordable housing in their areas. Once a corporate commitment has been established, protocols and policies need to be developed and agreed internally for community and/or CLT involvement. These policies will need to be tested with pilot communities; and adopted more widely if these pilots succeed. Such pilot projects may require local authorities to support innovations which may fall outside previous policies and ways of working; but this is how innovation occurs.
  
8. It should also be noted that this project has taken place while national policy on CLTs has been still developing and while the legal and technical framework which CLTs need, if they are to operate without placing undue strain on local volunteers, is still being put in place. Where CLTs have been set up elsewhere, it has been through a combination of local community and local authority policy commitment to find ways through to a successful conclusion; there is no well-trodden path to follow. Government therefore could assist CLTs through the establishment of a supportive policy framework. Consideration should also be given to financial measures, including access to funding and finance required to deliver both specific projects and capacity building amongst both local communities and local authority staff.
  
9. In considering the option of a CLT as against the more conventional delivery route by a housing association, the following comparison may be useful:

	<b>Registered housing association</b>	<b>Community Land Trust</b>
Finance	<p>Access to Social Housing Grant</p> <p>Access to very substantial private finance and often at submarket rates.</p> <p>Own funds available for development costs</p> <p>Ability to generate own cross-subsidy from sales programmes (in some cases)</p>	<p>Will have to identify sources of development and long term finance</p> <p>Private finance likely to be at above market rates because of lack of track record and limited asset base; but potential to access funding from ethical banks, charitable foundations and trusts at submarket rates.</p> <p>More complex route for access to SHG</p> <p>Might raise finance from community via shares or loans</p>
Development skills	<p>Range of high level development skills</p> <p>Professional fees may be lower because of economies of scale in procurement</p> <p>Capacity to fund and capitalise pre-development costs and write them off if</p>	<p>Limited experience dependent on community but range of skills often available</p> <p>May have access to pro bono professional help but this must be</p>

	necessary	managed carefully in view of liabilities May be able to work with smaller firms with lower fee scales
Working in partnership with large developers	Now main route to procurement	Opportunities limited in rural areas but could be recipient of turn-key affordable housing as part of a development condition
Identifying suitable sites and land-owners	Identify opportunities across a district or sub region Priority may follow opportunity	Focus on identifying site for a particular community: knowledge of and contact with local landowners a possible advantage.
Community engagement	RSLs have transparent and accountable system of allocation through a nomination agreement. Anecdotal evidence about households who have or have not been housed may need explaining/addressing through dialogue with the community and can be time and resource intensive Some very large RSLs may be seen as remote, while others may have a reputation for community development or for acting as community anchors. Communities may wish to be more engaged in the allocations process and Section 106 agreements.	Community can be more supportive of CLT provision, because they believe CLT will deliver affordable housing for local people. They often want to be engaged in provision and involved in (or in some case have control of) allocation process to ensure local priorities met. However, any allocations policy must be transparent and comply with anti-discrimination legislation.
Rent levels	Access to SHG to bring rents down to HC target levels to help low income groups (although 60%-75% of new residents generally in receipt of benefit) Can cross-subsidise from sales and other activities.	Unlikely to be able to charge less than £90-£110pw (67%-80% market rents) even with cross-subsidy as access to SHG at a level sufficient for social rented housing is unlikely without registration with Housing Corporation and hence more likely to have a role in the intermediate market.
Part-equity	Shared ownership product can involve sales down to 25% of open market value but is generally at 40-60%. Combined with a rent at 2 - 2.75% unsold equity this may make the housing unaffordable, especially in areas of very high open market values. In some instances has not provided affordable homes in perpetuity because of staircasing to higher ownership levels; recycling of funds across the RSL's area; and rise in re-sale price with property inflation	Declaration of Trust lease - rent can be 0% or 1% - can block staircasing if funds could not be recycled in the community - could (but subject to securing the mortgage providers' agreement) be kept affordable by linking value to average earnings not house prices Aim to provide homes affordable to identified local needs and salaries, rather than relating to a % of value

Summary	<p>Effective methodologies for delivering programmes of housing to rent and shared ownership.</p> <p>Not always focused on helping particular small communities (although some RSLs have focused on rural housing as a specialty).</p>	<p>Focus on specific localities and local needs with community support</p> <p>Cannot as easily access SHG and cannot provide low rent: but could partner RSL.</p> <p>Can look to address concerns over the loss of young people who do not get housing: single people (unless they are “vulnerable”) and young couples who generally receive a lower priority for social housing than families</p>
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## RECOMMENDATIONS

The recommendations arising from this report are addressed to a number of different bodies and agencies:

### Local Communities:

- Be confident that you can have an effective role in providing or facilitating rural affordable housing. The more detailed information and examples in this report and elsewhere may assist you in this.
- Inform yourselves about local planning and housing policies, and work within them wherever possible.
- Provide information with any planning application which involves a CLT that answers the questions which the local authority will wish to see addressed about accountability and governance: explain fully how a CLT would work if that is the option proposed.
- Develop a business plan and a housing allocations policy to demonstrate to stakeholders and funders what housing and community needs are being met and how.
- Maintain a dialogue with local authority officers as your scheme progresses.

### Local Authorities:

- Look to the flexibility within the planning system and give significant weight to demonstrated community support for innovative schemes.
- Consider offering training on CLTs to staff, councillors and communities.
- Develop and consult on a protocol for parish and community-level involvement in rural affordable housing delivery.
- Explore and understand the different roles that CLTs could play in influencing and helping to deliver affordable housing.
- Come to a corporate view on if, and how, CLTs should be supported in your area (e.g. through recognition in relation to planning policies designed to achieve affordable housing; and by agreeing housing allocation policies which can achieve what a CLT aims to achieve but still fall within the context of local housing policies).

- Consider combining the housing needs survey work of rural housing enablers with a more proactive role to create solutions which could be either through a housing association or a CLT.
- Adopt a model section 106 agreement based on the DCLG model and including a mortgagee in possession clause to simplify issues for lenders and hence provide better choice for those seeking part-equity mortgages.

#### Government:

- Develop an agreed legal definition of a CLT to provide certainty and clarity on this issue<sup>1</sup>. The definition must include reference to the governance and accountability requirements of a CLT.
- Develop provisions to enable CLTs to be exempted from the Right to Buy/Acquire in all circumstances not just on rural exception sites.
- Include a mechanism to amend the Leasehold Reform Act 1967 to safeguard a CLT's ownership and use of buildings in perpetuity against leasehold enfranchisement by individual occupiers.
- Restore long-term funding for Rural Housing Enablers which are so essential for demonstrating local need.
- Provide a threshold below which small organisations receiving limited social housing grant for community led rented and part-equity schemes are not subject to disproportionate ongoing regulation and controls.

#### Housing Corporation<sup>2</sup>:

- Promote small community-led affordable housing projects by CLTs in rural England as a separate complementary affordable housing initiative with reduced procedural requirements.
- Utilise existing powers to make grants and or loan finance available to community-led housing providers.

#### Housing Associations:

- Utilise your expertise to support CLTs and put this to practical use in providing technical support to lay-led CLTs.
- Provide financial support from your own resources to facilitate the CLTs perhaps by including a project in the HA core business and transferring it to the CLT upon completion as a 'turnkey' contract.
- Consider developing a CLT support service, possibly on a county or sub-regional level.

#### Charitable trusts and foundations and private finance providers:

- Support the formation of the CLT Facilitation Fund<sup>3</sup> and in addition provide bespoke support to individual CLTs.

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<sup>1</sup> The Housing and Regeneration Act 2008 enacted in July 2008 included a definition in clause 79.

<sup>2</sup> Now part of the Homes and Communities Agency.

- Encourage private finance providers to make mainstream commercial finance available to CLT projects.

Charity Commission:

- Provide guidance for CLTs seeking charitable status about the accompanying information to be attached to the application to avoid delay in replying to queries.

Mortgage lenders:

- Accept the Declaration of Trust lease as providing enough security for a mortgage.
- Assist the CLT movement by providing mortgages on leases where value is linked to average wages or to a proportion of property value rises rather than open market value.

Landowners:

- Support CLTs by providing access to land, recognising that affordable housing provision is essential for sustainable rural communities and the evolving planning agenda is intended to provide housing to meet local needs.

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<sup>3</sup> The £2m CLT Fund was launched in September 2008 by the Tudor and Esmée Fairbairn Charitable Trusts and Venturesome, providing small technical aid grants, pre-development loans and development loans.

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1. **Introduction**

**This section introduces this research project, the issues of governance and accountability it looks to address and the outcomes of the project. It sets out**

- **the issues the research will explore**
- **the methodology adopted**
- **how this research links with other ongoing CLT related projects**

## **The Research**

- 1.1 South Hams District Council was awarded Beacon Status for Affordable Housing in 2005-06. This enabled the Council to bid for some research funding for three projects looking at issues around increasing the delivery of affordable housing - land leasing, the impact of second homes and the potential of CLTs.
- 1.2 This is the CLT project report for which the research work was carried out by Wessex Reinvestment Society (WRS) during 2007/08. The project was aimed at investigating the potential role of Community Land Trusts (CLTs) and to explore and resolve issues around their governance and accountability arrangements.
- 1.3 In order to explore these issues and consider practical solutions to the governance and accountability issues of CLTs it was decided to adopt a case study approach. This involved working with communities in South Hams and helping them navigate through the mechanisms required to deliver CLTs on the ground; while at the same time enabling the communities to gain an understanding of the complex planning and housing policy framework, and the local authority to gain an understanding of CLT mechanisms.
- 1.4 The project was thus able to identify the necessary circumstances required to enable CLTs to undertake a delivery role. Working around possible affordable housing projects had the added benefit of bringing closer the delivery of more affordable housing and giving communities a focus for their discussions. It also enabled the local authority to examine if and how CLTs could play a role in affordable housing delivery.
- 1.5 The content and conclusions of this report have been informed by working closely with a number of rural communities in South Hams specifically the communities of Newton & Noss, Stokenham, Frogmore & Sherford and East Portlemouth. This project has enabled each of these communities to consider if and how a CLT might contribute to the provision of affordable housing locally. The process involved both identifying potential sites and then considering if a CLT was the most appropriate method of delivery.
- 1.6 This process enabled questions around governance and accountability of CLTs to be teased out and unpacked in relation to specific proposals. The project also found

that there are other issues around CLTs including financial and legal arrangements, compliance with planning and housing polices and the differences between the different types of CLTs that also needed to be addressed for delivery to occur. The national, regional and local context in which a CLT would have to operate therefore provided another important consideration.

## **Methodology**

1.7 In response to the brief, WRS put forward a methodology comprising 5 components:

1.7.1 to identify and have initial discussions with three communities to establish their “baseline”. The baseline would if possible include:

- i. a completed housing needs survey (by the rural housing enabler (RHE)).
- ii. an awareness of what the community needs to be sustainable and the role affordable housing might play in this.
- iii. community support for the proposal to take action to provide affordable housing and a means of ongoing communication whenever it might be necessary (e.g. notice board, website).
- iv. a steering group of individuals and organisations who have come forward which includes representation from the parish council and any other agencies that might usefully be involved.

1.7.2 ongoing engagement and capacity building

1.7.3 mutual learning opportunities, with participation by a wider group of communities, through a seminar

1.7.4 discussion with SHDC officers on the planning and housing policy implications and relating these to governance and accountability

1.7.5 a report on the lessons learned

1.8 This project did not intend to establish any specific Community Land Trusts (CLTs) but it was identified that communities were likely to wish their involvement to be based around a practical rather than a theoretical opportunity wherever possible. As such the project looked to identify ways that barriers identified could be overcome and to identify ways to take specific projects forward. Working directly with communities on specific projects offered a way to tease out specific questions around CLT governance and accountability, and made the exercise a practical one rather than merely theoretical.

1.9 A total of 35 days was allocated to the work: 9 days for working with each community and 8 for joint working, liaison with SHDC officers and the report.

1.10 Throughout the process was guided and supported by SHDC Housing and Planning officers.

1.11 Following an initial meeting with SHDC, it was agreed that, rather than select three parishes from existing information available to SHDC, all parishes should have the opportunity to put forward information about their present position and aspirations. It was also decided that contact should be maintained with more than just the three

communities so that others could contribute, share ideas and learn from each other as the project progressed.

### **Links with other Research**

- 1.12 At the same time as this piece of work was in progress,
- Community Finance Solutions (CFS) was undertaking the second year of a National Demonstration Project to support pilot community land trust projects in seven counties across England.
  - the Government published its Housing Green Paper and the Housing & Regeneration Bill<sup>4</sup>
  - the Devon Affordable Housing Group was considering how CLTs might be supported across the county
- 1.13 The CLT National Demonstration Project was carried out jointly by Wessex Reinvestment Society (WRS) and Community Finance Solutions (CFS) at the University of Salford. This project, with funding from the Carnegie UK Trust and the Housing Corporation, supported community-led affordable housing projects in seven counties of England (and a similar number of urban projects) to identify the obstacles to be overcome, develop legal documentation, and identify sources of finance. This work culminated in a conference on 30th April 2008 which included the publication of reports on the urban and rural work.
- 1.14 A number of the CLTs supported by this project have been able to secure planning permission and agreed section 106 agreements with their local planning authorities, notably in West Dorset, Purbeck, Torridge and Ribble Valley. These examples are detailed more fully in the final report on the rural CLTs supported by the National Demonstration Project which is entitled "*Then we will do it ourselves*". A copy of this report can be downloaded for free from <http://www.communityfinance.salford.ac.uk/pdf/Rural%20report%20compressed.pdf>
- 1.15 The national work can be seen as complementary to the work in South Hams, as communities nationwide were able to access the legal and financial models under development. This South Hams report with its focus on the governance and accountability issues could inform these pilot projects and also draw on their experiences of addressing the governance and accountability issues that they had encountered.
- 1.16 After this project began, the Government published its Housing Green Paper "Homes for the Future: More Affordable, More Sustainable" which proposed that the housing shortage should be tackled mainly by increasing supply through existing mechanisms but also drawing in new affordable housing products and new providers. Community Land Trusts were mentioned as one of a range of additional measures. To attempt to move forward these proposals, the national demonstration project put forward a draft legal definition<sup>5</sup>.

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<sup>4</sup> Enacted in July 2008 as the Housing and Regeneration Act 2008.

<sup>5</sup> At annex 6 is Clause 79 of the Housing and Regeneration Act 2008 which largely followed this draft.

- 1.17 CFS argued that a definition in law would help facilitate planners understanding of the role of CLTs might play in meeting affordable housing requirements; would reassure landowners selling to CLTs; provide a definition for Housing Corporation when considering the possible extension of social housing grant to bodies other than RSLs; and would enable CLT schemes to be excluded from the Leasehold Reform Act 1967 (and as subsequently amended). The lack of an agreed definition was found to be an obstacle to CLTs delivery during both the national CLT demonstration project and this South Hams study.
- 1.18 Another legal issue identified during both projects was the need to include amendments to the Bill to make it possible to exclude geographical areas from the effects of the Leasehold Reform Act so that affordable housing can be kept more permanently affordable. This is something many CLTs have been keen to secure, and whilst the provisions remain in the Bill, there is no specific reference to types of bodies that might be excluded.
- 1.19 Annex 7 of this report is an extract from the report of the CLT National Demonstration Project which details the full recommendations of the national demonstration project. Many of the recommendations mirror the findings of this study. This would seem to indicate the importance of the national context in both identifying and addressing some of the concerns around CLTs, and particularly their governance and accountability that play out at the local level.
- 1.20 This South Hams project has also fed into, and been informed by, work commissioned by Devon Affordable Housing Group (DAHG) under the direction of the Devon Local Strategic Partnership (DLSP) to look at the role and opportunity for an “Umbrella CLT” which would provide support to CLTs across the county. An umbrella organisation might be concerned not only with the development of affordable housing – generally the number one priority of local communities – but also with other assets needed in their community (workspace, a local shop, community building, green space etc).
- 1.21 A particular issue of relevance to this project was the potential for an umbrella group to offer assistance to a CLT in difficulty, and the potential for them to step-in on an interim, temporary or even permanent basis. Such an option could help address concerns stakeholders might have around the longevity of CLTs in terms of governance and accountability. This could allay concerns around issues of the capacity of CLTs in the mid to long-term, in particular as landlords (or part-owners) and their ability to manage any housing that is built (rent arrears, tenant disputes, repairs and such like).
- 1.22 Towards the end of 2007 DAHG selected Community Council for Devon and Devon & Cornwall Housing Association (DCHA) as the organisations best able to explore further and potentially to deliver an umbrella CLT service, although delivery of the project remains subject to funding. Proposals under consideration by Devon County Council (DCC) could provide funding for a full-time post and funding for pre-development work. If established, the umbrella organisation would provide

CLTs with support in relation to community engagement, property development, finance and legal issues and would also provide a means of holding assets where communities are not yet ready to take them on, or receiving assets if a local CLT group breaks down.

## 2. Definition of a Community Land Trust

Before considering the issues around governance and accountability in CLTs it is useful to establish what a CLT actually is. This section covers:

- What is a CLT?
- How does a CLT work?
- How is a CLT funded?
- How does a CLT secure land?
- How does a CLT secure planning permission?
- How does a CLT deliver affordable housing?
- What are the differences between CLT and RSL provision?

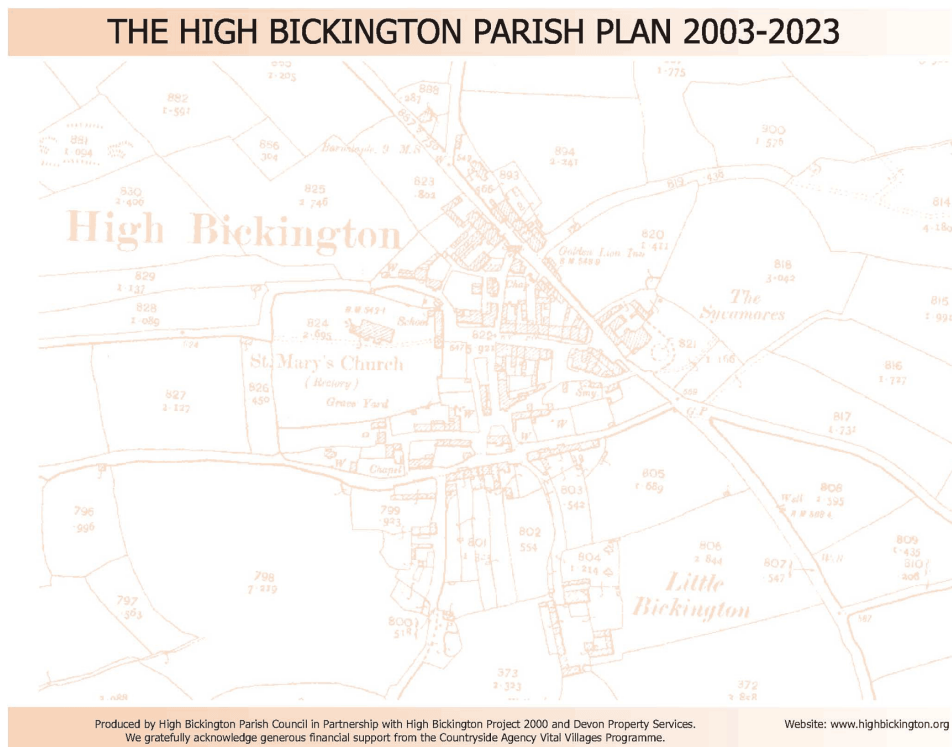
### Historical background

- 2.1 CLTs are not a new idea: communities have owned and managed assets for generations. An article on the history of community land trusts can be found on the CLT website at [www.communitylandtrust.org.uk/documents/history\\_and\\_background.pdf](http://www.communitylandtrust.org.uk/documents/history_and_background.pdf)
- 2.2 Almshouses are perhaps one of the earliest examples of provision by a community for the housing needs of the less well off in the parish and they have proved to be extremely durable, with the oldest still in existence dating from 990AD. 1,800 small trusts remain managing 30,000 homes and probably run by less than a dozen local people in each case. Examples also stem from the 19th Century and early 20th Century with perhaps the largest CLT set up in Letchworth Garden City where it still holds much of the land not sold for housing and derives an income from the commercial and business premises which is used for community benefit.
- 2.3 Scotland has led the way more recently with support for communities to buy and own estates. One success story is the Isle of Gigha Trust where new affordable homes, support for existing and new businesses, a wind turbine and other measures have increased both the population and the school roll. The Community Land Act 2003 and the Community Land Unit run by Highlands and Islands Enterprises provide a framework of support for communities who want to follow the same path
- 2.4 The number of CLTs set up in England is small however with Stonesfield in Oxfordshire, set up in 1983, the leading example. Here affordable rented homes were built on an exception site and later a former glove factory was bought to provide a crèche, workspace and post office. Once debts were repaid, the CLT has moved into surplus and now uses its revenue income to employ a youth worker.
- 2.5 The main recent inspiration for the expansion of CLTs has come from the United States where the movement is well-developed and flourishing with Burlington CLT in Vermont perhaps the leading exponent. The objective is the same as is proposed in the UK: to hold part of the value of the land on behalf of the community to provide permanently affordable opportunities for housing, mainly through low cost

home ownership, in that community. The Institute of Community Economics ([www.icedt.org](http://www.icedt.org)) suggests on its website the reason why the movement there is growing:

*“These communities differ in many ways, but all of them are concerned about what will happen to the homes after the first owners leave. For low-income communities suffering from disinvestment..the primary goal is to sustain owner-occupancy and prevent a return to absentee ownership. For communities where property values are rising.. the primary goal is to limit resale prices so the homes will continue to be affordable for lower income households. All of these communities recognize that just producing affordable housing is not enough. They need some way to control what happens to the housing in the long run. The community land trust gives them a way to do this. We wanted to be able to revitalize those neighborhoods without making them unaffordable to the people who lived there.”*

- 2.6 CLTs have been (and continue to be) about more than just providing affordable housing. However, a lack of affordable housing in a community has often been *the* motivating force that has brought people together to try to reverse community decline. More broadly a CLT’s focus is on “place-making”: helping to put in the place the assets which the community needs but which the market is failing to provide. Such assets could also include workspace, community buildings, retail units, green spaces, community woodland or allotments.
- 2.7 As an example of a wide-reaching CLT, High Bickington Community Property Trust arose out of an opportunity provided by Devon County Council to the community to buy land from an adjacent county farm and to develop a plan for all the facilities



needed to make the community sustainable. Their proposals, based on very extensive and very well supported consultation with the whole community, include

affordable housing to rent and for part-equity, housing for open market sale, workspace, a new school, a community building linked to the school and a community woodland<sup>6</sup>. Other CLTs are focusing on providing workspace rather than affordable housing.

### **Definition**

- 2.8 DEFRA's Rural Affordable Housing Glossary defined a Community Land Trusts as "independent non-profit trusts which own or control land in perpetuity for the benefit of the community". A copy of the full glossary can be downloaded from (<http://www.info4local.gov.uk/documents/publications/477527>).
- 2.9 In July 2008, a statutory definition of CLTs in England was agreed, as clause 79 of the Housing and Regeneration Act 2008 (annex 6).
- 2.10 The definition should allow pro-active local authorities to include supportive policies on CLTs within their documents, without first having to try and establish their own definition of what a CLT actually is. The national definition can also be easily referred to in housing, planning, financial and other policies and guidance at a national, regional and local level. It should enable a shared understanding as to what is, and what is not a CLT. Such clarity may give planners, housing officers, local communities and landowners more confidence in the product available and enable a more supportive policy framework to be developed.

### **How does a CLT work?**

- 2.11 Community Land Trusts (CLTs) are established in communities to acquire fixed assets and then hold them in perpetuity for local use. They work on a non-profit distributing basis, raising money from new sources and unlocking other resources. They can provide and manage housing, workshops, community buildings and green space.
- 2.12 CLTs can also build new facilities, or be established to take over the running of existing facilities, such as the village shop. In some cases a CLT therefore offers a viable option to save an essential community facility threatened with closure.
- 2.13 The CLT approach to developing new facilities is that land is acquired directly by the CLT and developed for the long-term benefit of the community. The CLT is involved in both creating the asset and in managing its subsequent use. By retaining ownership and a degree of control CLTs have the potential to make community-led projects affordable. In order to do so they will need a means to acquire the homes or the land on which they are to be built below open market value.

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<sup>6</sup> The project has required the community to retain their determination over a period of nearly 10 years. After the first planning permission was called in and over-turned, a new application was submitted and granted full permission in Spring 2009..

- 2.14 The planning system offers two ways for land to be developed at lower than open market value for housing: first, through restrictions on new development which require that a certain proportion of affordable houses are provided as part of a larger development; and secondly where new housing development is allowed on condition that the homes are affordable in perpetuity, or any revenue/subsidy repaid is recycled for replacement affordable housing provision in the same community.
- 2.15 CLTs may also acquire land and property through transfer from public bodies or as a result of gifts or grants.

### **How is a CLT funded?**

- 2.16 The success and affordability of a CLT scheme will be dependent on a cost effective scheme. When the project involves building new houses (or facilities) the two key components of land and building costs will have the most impact on whether the scheme is affordable when completed. However there are other costs including fees, charges and interest which must also be considered, although these are unlikely to be much more than 15%-25% of total costs.
- 2.17 CLTs are well placed to win the good will of local landowners, adopt new construction methods and explore savings that may derive from local procurement or self build.
- 2.18 Whilst some 'pro bono' support for initial development costs such as site investigations may be forthcoming, the full cost of provision will need to be financed both to achieve the physical development of the project and to realise a plan for the long term survival of the CLT. Resources will be required to:
- Build the capacity of the CLT itself and in particular, provide pre-development finance to work up the feasibility of developing projects.
  - Meet the development finance costs of projects on site which, for many CLTs will be their first scheme being promoted by a new organisation with little or no track record for the delivery and/or management of affordable homes.
  - Provide long-term finance where rental housing is being provided.
- 2.19 CLTs, many of which will have charitable objects, can be an attractive vehicle for the receipt of grant aid particularly given their mandate to make community-based projects more affordable, and secure their long term stewardship by the community. They are also an attractive vehicle for locally based community investment finance opportunities, for example, through an Industrial and Provident Society (I&PS) with appropriate rules. The example of Ford Hall Farm is detailed in the box below and there are examples elsewhere where communities have been able to purchase farmland and upland areas in particular with a mixture of bridging loans and community finance. Moelyci Environmental Centre ([www.moelyci.org](http://www.moelyci.org)) is an example of such a scheme.

- 2.20 Finance and other resources could come from the private, public or voluntary sectors. A combination of resources is likely to be required. Setting out the full funding package for the CLT in the short, medium and long term is likely to be a key task in generating support and funding for the project.

#### **Raising finance from the community**

The Industrial and Provident Society shares route has been used to raise funding from the community at large for the purchase of Ford Hall organic farm and is regularly used by Energy for All to raise funds for wind farm developments. The I&PS can offer shares without the costs associated with a company limited by shares. Investors recognise that they are also getting a “community return” as well as a more conventional return. For those buying Ford Hall Farm shares, the aim is to preserve the farm by spreading its ownership: but investors are not expecting to receive any dividend on their investment. In the case of wind energy, a rate of return of 5-7% is common. The rate of investment return available can thus vary considerable but has to be commensurate with the other “value” investors perceive and on how secure the investment is.

Web reference: [www.fordhallfarm.com](http://www.fordhallfarm.com)

#### **How does a CLT secure land?**

- 2.21 Acquiring land is one of the most difficult aspects for a CLT to implement. Landowners, when requested to transfer land will need to be persuaded that there is appropriate benefit for them when making the transfer and that the asset transferred will be properly stewarded. Typically landowners sell land for affordable housing schemes on exception sites at around £5,000 per plot although in areas of extreme scarcity higher prices are sometimes paid. Where the Local Plan or Local Development Framework lays down a clear requirement for a percentage of affordable housing to be provided as part of a larger development, land may be available at nil cost or property may even be required to be made available at less than build cost.
- 2.22 Circumstances where landowners may be persuaded to transfer or sell their land include:

#### Transfer of the public realm

When there is a major development that includes new parks, community facilities etc. there could be a role for a CLT to adopt them by securing a transfer of ownership and enabling local people control over their management and services. The CLT would then provide for the continued upkeep and servicing of the land or building. This would be financed through charges to residents, users and/or businesses. Such a transfer is unlikely to include housing (although green spaces or play spaces might be part of a housing transfer in an urban area) but does fit very much within the

“place-shaping” role that CLTs generally see for themselves. It might provide a basis for taking on other roles, services and assets.

#### Transfer of under utilised public assets

A CLT could acquire assets currently owned by Government and its agencies and by local authorities or other public sector bodies, for example former hospital sites, brownfield land and farm land. The land could be transferred to a CLT specially set up for the purpose. The CLT can then act as a developer perhaps in partnership with the private sector to provide affordable housing and other social amenities, delivering benefits which achieve public sector objectives.

#### Developer contributions from Section 106 of the Town and County Planning Act

Planning Authorities can use legal agreements (“Section 106” agreements) to require developers to make appropriate contributions to local infrastructure costs resulting from their development, which could include provision of education facilities, contributions to road or transport infrastructure or the protection of important habitats. Most often though s106 obligations include a requirement that a proportion of the new homes in a development over a certain size threshold are provided as affordable homes. Where justified by an adopted policy, contributions can also be sought for other social and community benefits. Most commonly these are for the provision of public open space, highways or footpath improvements and contributions to educational or community facilities. A CLT could be a beneficiary of these contributions through the transfer of land and buildings or a commuted cash sum.

#### Development on sites that would not normally be considered suitable for housing

Rural local authorities are expected to have an ‘exception site policy’. This allows for housing development on sites that would not otherwise secure permission for housing because they will deliver affordable homes which are required to meet a proven local need. As the developments are allowed as an exception to normal policy, land values are kept low, because open-market housing would not be allowed in such a location. Sites can therefore be purchased nearer to agricultural or “horse paddock” value than open market value. A demonstration of local housing need, usually through a parish or village level housing needs survey is required to support an exception site development. These are often conducted in partnership with the parish council, the local authority and the independent Rural Housing Enabler (RHE).

Local authorities may also choose to support a scheme that falls outside the policies in the development plan if they have a good reason to do so. Such reasons must be ‘material planning considerations’ and can include a clearly demonstrated housing need and/or clear evidence of community support. Such sites are ‘departures’ from the adopted plan and as such are subject to specific departure procedures.

A CLT can use the reduced land value to provide affordable rural housing. A willing landowner, who would not normally be granted planning permission for housing on their land may be satisfied with a land transfer price for affordable housing which would still be well above its existing (usually) agricultural use value.

Holsworthy Community Property Trust took over and sold its first five homes through an affordable housing obligation on a development in the centre of the town. Following the success of this project, they were approached by the council for ideas as to how to use “commuted sums” i.e. financial contributions paid to the Council by developers to assist in affordable housing provision, on small developments where the affordable housing requirement could not be achieved within the site itself. HCPT suggested reviving the “do-it-yourself-shared-ownership” scheme where individuals apply to be accepted as in need and then find a home to purchase on a part-equity basis on the open market. They take out a mortgage at the level they can afford and HCPT buys and holds the remaining equity using the commuted sums. When the leaseholder sells – or buys the remaining share – the funds are returned to HCPT for use by another household. Holsworthy CPT has so far used this route, using commuted sums to give three local households in need the chance to identify and purchase a home to meet their needs.

- 2.23 There are thus a range of land acquisition mechanisms that a CLT could use. These methods are also not mutually exclusive. In some situations a successful CLT project will utilise two or more of these mechanisms. In addition the CLT provides a vehicle for broad-based community involvement in land ownership and management.

#### Recommendation to land-owners (including public authorities):

- Support CLTs by providing access to land, recognising that affordable housing provision is essential for sustainable rural communities and the evolving planning agenda is seeking to provide housing to meet local needs.

#### **How does a CLT secure planning permission?**

- 2.24 Within the planning process there are four ways to deliver new housing developments: windfalls, allocated sites, exception sites and departures. The requirements and justification in planning terms is different for each method, as summarised below.

##### Windfalls

Windfall sites are where an application is received and permitted for land within the development boundary. Examples of such schemes could include infill sites, redevelopment of existing sites and building on land previously used for other uses e.g. derelict employment sites, intensification etc.

In planning terms, the key point here is that the principle of new development within the settlement boundary is accepted. Discussions at development control stage therefore relate to the detail of the scheme rather than the principle of it.

As CLTs need access to land or buildings at below market value, windfall sites are unlikely to be a major source of sites for CLTs as they generally provide open market housing. However, where (as in South Hams) there is a policy requiring an affordable housing contribution, the developer will have to ensure the required proportion of affordable housing is delivered or pay a commuted sum; and the CLT could be the agency to receive it.

### Allocations

Allocated sites are proposed through the plan-making process. They result from a comprehensive assessment of alternative sites in the locality and have been subject to extensive public consultation including a Planning Inspector hosting an Examination in Public into the plan.

Allocated sites are therefore essentially sites, identified on a map, where the principle of a development has been agreed. The appropriate local development plan document will normally include a specific policy for each allocation. For example:

*'Site X will include 2 ha of employment land and 50 new houses of which 25 will be affordable (15 rented, 10 intermediate).'*

Allocated sites can be brownfield or greenfield. They can be within the development boundary or outside it. However, it is standard practice for the development boundary to be moved to incorporate the allocated land as part of the allocation process.

CLTs could look to acquire allocated sites or work in partnership with other developers including housing associations to provide the affordable and possibly even open market homes. However, this is likely to be a significant undertaking.

### Exception Sites

National Guidance, in Planning Policy Statement 3: Housing (and the preceding document - Planning Policy Guidance 3) explains that local authorities (in rural areas) are expected to include an 'exception site' policy in their local development plans.

Exception sites allow for schemes of 100% affordable housing to be permitted, in line with the adopted plan (but as an exception to the normal presumption against development in the countryside/outside development boundaries).

Planning officers will need to be satisfied that the way the housing is provided meets the tests of their exception site policy which usually includes the

requirement for the applicant to demonstrate community support for the scheme and to show how the housing provided will meet a demonstrated local need and remain affordable in perpetuity.

### Departures

Departure Sites are where the local planning authority is convinced that there is a good reason to depart from the provisions of the adopted plan.

2.25 How a CLT needs to engage with the planning process is likely to depend on which delivery routes is to be used. In general terms any application for a CLT scheme would be likely to benefit from the following supporting information being submitted with an planning application:

- Background information explaining what a CLT is, how it works, and what it is trying to do
- Demonstration of community support for the scheme
- A clearly evidenced housing need (ideally through an independent parish level needs survey) and an explanation of how the scheme proposed meets that need
- A well-designed scheme that respects the local area and is acceptable in terms of highways, landscape constraints etc.
- A landowner willing to make the land available at the price needed to enable the scheme to happen
- An explanation of the funding package to show the scheme is viable, ideally in the short, medium and long term
- An explanation of how the houses built will be managed and how they will remain affordable and available to local people, including what would happen if the CLT was wound up.

2.26 Most local authorities offer pre-application discussions with a development control officer. There is sometimes a charge for this service. Some CLT groups may need to secure professional planning advice from a consultant. Planning Aid (see [www.planningaid.rtpi.org.uk](http://www.planningaid.rtpi.org.uk)) can offer free planning advice to those who cannot afford consultant's fees.

### **How does a CLT deliver affordable housing – what are the tenures?**

2.27 The Department for Communities and Local Government's Planning Policy Statement 3 (PPS3) defines affordable housing as follows:

#### ***Affordable housing is:***

*'Affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Affordable housing should:*

- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.*
- Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision'.*

**Social rented housing is:**

*'Rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime. The proposals set out in the Three Year Review of Rent Restructuring (July 2004) were implemented as policy in April 2006. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Housing Corporation as a condition of grant.'*

**Intermediate affordable housing is:**

*'Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out above. These can include shared equity products (eg HomeBuy), other low cost homes for sale and intermediate rent.'*  
*These definitions replace guidance given in Planning Policy Guidance Note 3: Housing (PPG3) and DETR Circular 6/98 Planning and Affordable Housing.*

*The definition does not exclude homes provided by private sector bodies or provided without grant funding. Where such homes meet the definition above, they may be considered, for planning purposes, as affordable housing. Whereas, those homes that do not meet the definition, for example, 'low cost market' housing, may not be considered, for planning purposes, as affordable housing.....*

*...The terms 'affordability' and 'affordable housing' have different meanings. 'Affordability' is a measure of whether housing may be afforded by certain groups of households. 'Affordable housing' refers to particular products outside the main housing market.*

2.28 In relation to rural affordable rural housing, it says:

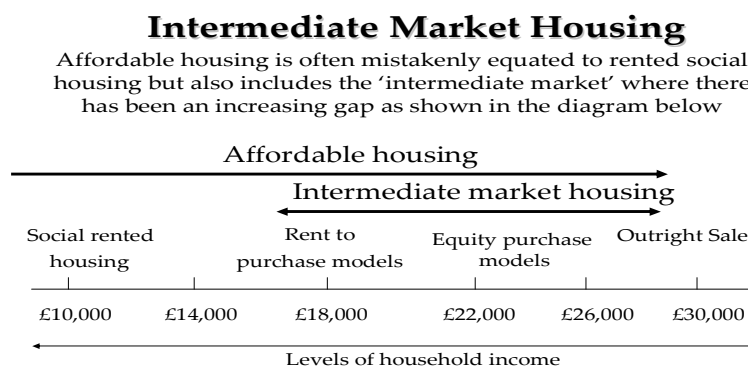
*"In providing for affordable housing in rural communities where opportunities for delivering affordable housing tend to be more limited, the aim should be to deliver high quality housing that contributes to the creation and maintenance of sustainable rural communities in market towns and villages. This requires planning at local and regional level adopting a positive and pro-active approach which is informed by evidence, with clear targets for the delivery of rural affordable housing. Where viable and practical, Local Planning Authorities should consider allocating and releasing sites solely for affordable housing, including using a Rural Exception Site policy. This enables small sites to be used, specifically for affordable housing in small rural communities, that would not normally be used for housing because, for example, they are subject to policies of restraint. Rural exception sites should only be used for affordable housing in perpetuity. A Rural Exception Site policy should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities".*

2.29 CLTs have an important contribution to make in supplementing and complementing the role of registered social landlords and other social housing providers in facilitating and delivering additional affordable housing within this definition. There is a significant and growing gap between the provision of social housing on the one

side and the open market on the other. This ‘intermediate housing gap’ requires an innovative approach to the acquisition of land, design, construction and financing of homes to help secure vibrant, active, inclusive and sustainable communities.

- 2.30 In helping to meet these needs, CLTs would be assisting local authorities in delivering their statutory responsibilities and strategic housing role: local housing strategies should look to meet the needs of a wide range of households with different levels of income who are unable to access the open market not just those in very acute need.

Figure 1: Illustration of Intermediate Housing Needs



- 2.31 A range of income groups are now unable to afford homes in their own rural communities due to either high rents or high house prices or both. In some communities the supply of smaller market housing has been reduced through significant extensions, or replacement dwellings (see section 5: Newton & Noss in particular have identified this issue). Many communities and landowners are interested in ways that compliment existing provision and ensure ‘intermediate’ homes for local needs are provided, which remain affordable in the long term (see for example “*Affordable Housing and the Intermediate Housing Market*” by Steve Wilcox, published by Joseph Rowntree Foundation in 2005).

- 2.32 Intermediate housing can be part-rent, part-buy, or intermediate (sub-market) rented. The Buckland Newton Community Land Trust, for example, plans to build both part-equity homes and homes for intermediate market rent. Rented homes may not be available in smaller rural communities but equally a majority of households – even those who could not afford part-equity – aspire to ownership both for the extra security and so that weekly outgoings build an equity stake. Mortgages may be hard to come by, especially for self-employed people or those who have not been employed for long, and especially at a high percentage of value, following the credit crunch. A rented option which could be switched to part-equity may be more helpful to people in these circumstances. However, the scheme will need to be viable and this may be a constraint on rented provision as rents will have to be high enough to service the debt which may make them unaffordable.

2.33 There are a number of models under which CLTs can provide or facilitate affordable housing and ensure the houses provided remain affordable. These are set out in the table below and range from leases and equity sharing mechanisms to rental models coupled with equity stakes for tenants. More detailed information is available on the CLT website

[http://www.communitylandtrust.org.uk/documents/landtrust\\_copy.pdf](http://www.communitylandtrust.org.uk/documents/landtrust_copy.pdf)

Figure 2: Options for CLT affordable housing delivery and future management and sales

	CLT position	Occupier position
<b>PART-EQUITY DISPOSAL</b>		
Equity mortgage (house)	Provides equity mortgage to occupier to enable remainder of value to be purchased. The equity mortgage is repaid on sale with the value related to a share of open market value.	Owns freehold; purchases partly with a mortgage at affordable level and partly with an equity mortgage. May or may not pay low (0.5%-1% unsold equity) rent in addition. Leasehold enfranchisement not applicable but could demand right to repay equity mortgage.
Shared ownership lease (flat)	Owns freehold or long leasehold and grants long lease to occupier.	Owns part-equity under shared ownership lease and may or may not pay low rent in addition
Resale price covenant	Certificate must be obtained from CLT on each resale to confirm sale was at the agreed % of open market value	Owns freehold but value is restricted to a percentage of open market value and Land Registry require a certificate to that effect on each sale
Declaration of Trust lease	Owns freehold. Grants lease to the occupier and the CLT itself jointly under a declaration of trust so CLT is party to the lease and can block leasehold enfranchisement	Owns part-equity leasehold interest
Restricted staircasing shared ownership	Owns freehold. Grants lease to the occupier which requires the CLT's consent to the purchase of further shares or may give the right to buy some extra	Owns part-equity leasehold interest

	shares but limited to a maximum percentage <i>[depends on legislation to amend Leasehold Reform Act]</i>	
RENTAL DISPOSAL		
Assured shorthold tenancy	Landlord with repairing responsibility	Tenant with security for initial 6 months or other defined period only
Assured tenancy	Landlord with repairing responsibility	Tenant with indefinite right to security
Tenancy Plus	Agreement to return to tenant at end of tenancy any surplus of management and maintenance income in excess of actual cost	Tenant with indefinite right to security plus right to any surplus income
Rent-to-equity	Grants 20 year tenancy agreement under which tenant has repairing responsibility but money set aside from rent, debt repayment and (potentially) the increase in the sum that can be borrowed as a affordable mortgage is paid as cash sum when tenant leaves; or converts to part-equity tenure	Tenant with repairing responsibility. Must pass tenancy agreement directly to incoming tenant
MUTUAL MODEL		
Mutual home ownership	CLT holds land (or equivalent). Mutual home ownership coop (MHOC) borrows funds to build homes and takes out a collective mortgage repaid from rents.	Tenant of MHOC but also co-owner through coop share. Right to a share in the debt repayment and a part of the value increase when they leave. Manages homes through coop management company.

2.34 In all cases the CLT has nomination rights in accordance with the policy it has agreed with the local authority when a vacancy occurs. This may be included in the Section 106 agreement.

2.35 In all the part-equity models, it is generally the aim of the CLT to keep the home affordable in perpetuity. It has been of concern to communities, the landowner who sold the land and planners that some housing association shared ownership schemes

have become unaffordable over time where values have risen faster than wages; or further shares have been bought taking ownership to 80% (or even 100% in non-rural areas).

- 2.36 The Declaration of Trust and Restricted Staircasing models are designed to enable the CLT to avoid the Leasehold Enfranchisement Act requirements and to refuse the purchase of further shares thereby keeping the home at the original percentage of value. In the early 2000s house-price growth greatly outstripped wages so that an initial 50% share in a property, which was affordable originally, ceased to be so as house prices doubled but wages rose only 25% ([www.statistics.gov.uk/CCI](http://www.statistics.gov.uk/CCI)).

Recommendations to Government:

- Develop provisions to enable CLTs to be exempted from the Right to Buy/Acquire in all circumstances not just on rural exception sites; and
- Include a mechanism in legislation to amend the Leasehold Reform Act 1967 to safeguard a CLT's ownership and use of buildings in perpetuity against leasehold enfranchisement by individual occupiers.

- 2.37 CLTs generally wish to build into these leases a clause which links the increase in value to the Average Earnings Index not to open market value. The aim of the clause (which is routinely used in the USA) is to ensure that as values increase a proportion of that increase in value stays with the CLT so that it can be retained and recycled for the benefit of the local community. Mortgage providers however have so far resisted this clause although one Building Society at least has now agreed it and it is hoped others may follow.

Recommendations to mortgage lenders:

- Accept the Declaration of Trust lease as providing enough security for a mortgage.
- Assist the CLT movement by providing mortgages on leases where value is linked to average wages or to a proportion of property value rises.

- 2.38 The CLT is intended to be a very long lasting entity like the almshouses referred to in the introduction. To be operationally sustainable it needs both

1. to provide affordable housing solutions at a capital purchase cost and/or rent that can be afforded by those it is trying to help
2. to provide itself with enough income to meet the costs of managing the homes and the small ongoing costs of annual returns and meetings.

- 2.39 The development cost must therefore provide some form of “dowry” to set up the CLT and provide it with funds in the bank to be able to deal with its business cash

flow and cope with a short term shortfall of income, for example from rent arrears. It must also make sure it can recover transaction costs, for example whenever part-equity homes are sold to a new resident or when tenancies change over.

### **How does a CLT safeguard and manage its assets?**

- 2.40 CLTs operate according to their governing instrument. Typically they are either charitable companies limited by guarantee (CCLG) regulated by Companies House and the Charity Commission or Industrial and Provident Societies for Community Benefit (IPS) regulated currently by the Financial Services Authority.

#### A CCLG (Buckland Newton CLT, drafted by Trowers and Hamlins)

“The Objects of the Charity are [*within the geographical area served*]:

- a The provision of houses or hostels and any associated amenities for persons in necessitous circumstances upon terms appropriate to their means,
- b The maintenance, improvement or provision of public amenities,
- c The provision of facilities for recreation or other leisure time occupation in the interest of social welfare with the object of improving the conditions of life for the residents of the area of benefit,
- d The advancement of education and vocational training amongst the residents of the area of benefit and the creation of training and employment opportunities by the

#### An IPS for community benefit (CDS Co-operatives model rules drafted by BDB Law))

“The Society is formed for the benefit of the community. Its objects shall be to carry on for the benefit of the community of [*geographical area*], the business of acquiring, holding, developing and leasing land and property for permanently affordable housing and asset based community development and the business of securing the maintenance, improvement and creation of

- amenities for the community; and
- the wellbeing of those who live and work in the community and,
- to enable people to build thriving, inclusive communities through the democratic ownership and stewardship of land and other assets.

“The Society shall seek in the delivery of its objects to acquire and retain interests in land and property within the area of the community and to actively manage such ownership to

- retain asset value for the benefit of the community,

- 2.41 In both cases the rules provide an “asset lock”: for a CCLG, the assets are required to be used to meet the organisation’s charitable objects and in the event of winding up, the assets must be transferred to a body with similar objects. An IPS is also bound by its objects which can only be changed with FSA consent and which require a 75% majority of members at two successive Extraordinary General Meetings (EGMs) (i.e. meetings of all members called for this express purpose).
- 2.42 An additional clause can be built into the CCLG model to provide for a “constitutional custodian” who might be the parish or district council. This clause gives to this body 25% of the voting rights when rule changes are proposed and 50% when a motion for winding up is proposed.
- 2.43 For both types of bodies separate membership categories can be created, most often threefold: the community at large, residents/potential applicants and stakeholders. The proportion represented on the board can then be varied: one model used is one third of each membership category; another gives the community 50% of Board places.
- 2.44 Directors of both types of organisation have a legal obligation to act within the terms of their memorandum and articles and any “bye-laws” they themselves draw up for how the business of the organisation will be conducted.
- 2.45 An allocation policy as to how applicants are selected for vacancies in both part-equity and rented homes is obviously an important policy which will also need to be agreed with the Local Authority. For a CLT that is using the CCLG route, the Charity Commission will also want background information about the need for affordable housing more generally and the needs to be met may have to include information about incomes and the inability of CLT residents to afford local market housing to ensure that the aims of the CLT are indeed charitable.

Recommendation to the Charity Commission:

- Provide guidance for CLTs seeking charitable status about the accompanying information to be attached to the application to avoid delay in replying to queries.

**How does the CLT route compare with delivery via a housing association?**

2.46 The following table sets out the advantages and disadvantages of a CLT housing providing affordable housing compared to a traditional Housing Association/RSL.

*Figure 3: Comparison of affordable housing delivery by housing association or CLT*

	<b>Registered housing association</b>	<b>Community Land Trust</b>
Finance	Access to Social Housing Grant Access to very substantial private finance and often at submarket rates.	Will have to identify sources of development and long term finance Private finance likely to be at above

	<p>Own funds available for development costs</p> <p>Ability to generate own cross-subsidy from sales programmes (in some cases)</p>	<p>market rates because of lack of track record and limited asset base; but potential to access funding from ethical banks, charitable foundations and trusts at submarket rates.</p> <p>More complex route for access to SHG</p> <p>Might raise finance from community via shares or loans</p>
Development skills	<p>Range of high level development skills</p> <p>Professional fees may be lower because of economies of scale in procurement</p> <p>Capacity to fund and capitalise pre-development costs and write them off if necessary</p>	<p>Limited experience dependent on community but range of skills often available</p> <p>May have access to pro bono professional help but this must be managed carefully in view of liabilities</p> <p>May be able to work with smaller firms with lower fee scales</p>
Working in partnership with large developers	<p>Now main route to procurement</p>	<p>Opportunities limited in rural areas but could be recipient of turn-key affordable housing as part of a development condition</p>
Identifying suitable sites and land-owners	<p>Identify opportunities across a district or sub region</p> <p>Priority may follow opportunity</p>	<p>Focus on identifying site for a particular community: knowledge of and contact with local landowners a possible advantage.</p>
Community engagement	<p>RSLs have transparent and accountable system of allocation through a nomination agreement.</p> <p>Anecdotal evidence about households who have or have not been housed may need explaining/addressing through dialogue with the community and can be time and resource intensive</p> <p>Some very large RSLs may be seen as remote, while others may have a reputation for community development or for acting as community anchors.</p> <p>Communities may wish to be more engaged in the allocations process and Section 106 agreements.</p>	<p>Community can be more supportive of CLT provision, because they believe CLT will deliver affordable housing for local people. They often want to be engaged in provision and involved in (or in some case have control of) allocation process to ensure local priorities met.</p> <p>However, any allocations policy must be transparent and comply with anti-discrimination legislation.</p>
Rent levels	<p>Access to SHG to bring rents down to HC target levels to help low income groups (although 60%-75% of new residents generally in receipt of</p>	<p>Unlikely to be able to charge less than £90-£110pw (67%-80% market rents) even with cross-subsidy as access to SHG at a level sufficient</p>

	benefit) Can cross-subsidise from sales and other activities.	for social rented housing is unlikely without registration with Housing Corporation and hence more likely to have a role in the intermediate market.
Part-equity	Shared ownership product can involve sales down to 25% of open market value but is generally at 40-60%. Combined with a rent at 2 - 2.75% unsold equity this may make the housing unaffordable, especially in areas of very high open market values. In some instances has not provided affordable homes in perpetuity because of staircasing to higher ownership levels; recycling of funds across the RSL's area; and rise in re-sale price with property inflation	Declaration of Trust lease - rent can be 0% or 1% - can block staircasing if funds could not be recycled in the community - could (but subject to securing the mortgage providers' agreement) be kept affordable by linking value to average earnings not house prices Aim to provide homes affordable to identified local needs and salaries, rather than relating to a % of value
Summary	Effective methodologies for delivering programmes of housing to rent and shared ownership. Not always focused on helping particular small communities (although some RSLs have focused on rural housing as a specialty).	Focus on specific localities and local needs with community support Cannot as easily access SHG and cannot provide low rent: but could partner RSL. Can look to address concerns over the loss of young people who do not get housing: single people (unless they are "vulnerable") and young couples who generally receive a lower priority for social housing than families

### 3. Accountability and Governance

This section sets out the issues around governance and accountability that this research project has explored and unpacked . It covers:

- What role for CLTs?
- What is governance?
- What is accountability?
- What does this mean for CLTs?

#### The Role of a CLT in providing affordable housing

- 3.1 For both the community and policy makers at local, regional - and national - level there are two sets of questions to be answered:
- Can CLTs *in principle* have a place in the delivery of affordable housing (and other locally controlled assets)?
  - If so, does the CLT set up by this particular community have the appropriate accountability and governance to meet the policy objectives?
- 3.2 The main purpose of this research project was to find out how appropriate governance and accountability for CLTs could be established so that they could be accepted as suitable bodies to play a part in the delivery of affordable housing.

#### Defining Governance and Accountability

The meanings of these terms assumed here is:

Accountability is taken to be the acknowledgement and assumption of responsibilities for actions and refers to the way in which the CLT relates to its stakeholders. These are numerous and varied and include those who set it up; those who facilitated its acquisition of assets; those with local political accountability; and the households and community it intends to help.

Governance is the set of processes, customs, policies, laws and institutions affecting the way people direct, administer or control an organisation. Governance structures set out how the organisation will be controlled and managed and how its staff and Board members behave. Good governance is about managing the organisation in accordance with its organisation's objects and also about managing it effectively.

- 3.3 Section 2 of this report sets out the ways in which CLTs can work. There are different options for the legal structure; for how the objectives are worded; for how the land is acquired; and for the tenures offered.
- 3.4 At the current stage of CLT development however, the questions around the principle of a role for CLT in affordable housing delivery, and how such a role could be practically delivered are interdependent. Knowing if CLTs are a "good idea"

depends on being assured that they can be accountable and well governed. Because the number of CLTs remains small, the body of evidence from other pilot studies particularly around whether or not they can be well governed and accountable is still limited.

- 3.5 For the community, this could mean that the only way of proceeding, is to float the idea through the parish planning process or at specific public meetings to see what support it gets and who is willing to be involved. From a local authority perspective the first question on supporting the principle of a CLT may not be easily answered in the affirmative without first going on a journey with a pilot group of communities to see if the accountability and governance questions around CLTs can be answered. Both of these ways forward will take time and effort.
- 3.6 Before heading down the path towards a CLT, the different stakeholders are likely to want to consider and address the following questions:

#### For Communities

- Would a CLT be an effective way of meeting the housing needs that have been identified?
- Who are the individuals and organisations who could be brought together as stakeholders to form such a CLT?
- Would they be able to commit to it the required time and effort?
- Are the stakeholders best brought together through a charitable company limited by guarantee or an Industrial and Provident Society for community benefit?
- What liabilities will the members/shareholders and Board members have if things go wrong?
- What partner support can be called upon to make sure the right decisions are taken?
- Which policies and tenure arrangements can most effectively make the housing affordable in perpetuity?
- How will the CLT deal with the mechanics of finding a site; understanding the local planning policy; liaising with the planning department; procuring the development; and finding the finance – through voluntary effort or through partners?
- How will the CLT select and prioritise applicants for the homes in a way which is accountable to the stakeholders and how does the CLT's allocation policy relate to that of the local housing authority?
- Will the people the CLT is trying to help be able to afford the rent, or the mortgage in the case of part-equity?
- How can the homes be built to be sustainable, minimise their impact and keep their running costs down?

#### For Local Planning Authorities

- Can CLTs generally be an acceptable method of delivery on exception sites, or do additional criteria need to be developed?

- Can CLTs make a genuine contribution to “place-shaping” and building sustainable communities?
- What happens if CLTs fail – is there another organisation to which the asset could be transferred?
- Are there supplementary planning policies needed that would describe the potential role of CLTs or can the existing framework accommodate them as an option, or pilot option?
- Will the specific delivery mechanism that a particular CLT has chosen enable it to secure and maintain its interest in the land, and maintain affordability in perpetuity?

#### For Local Housing Authorities

- Can local needs provision fit within the choice-based lettings policy and the Housing Strategy?
- Is there a model local allocations policy which would enable a CLT to target a defined part of the housing needs identified in a local housing needs survey?
- Does the particular CLT have the governance needed to ensure the homes continue to be well-maintained and available into the future, to follow the tradition of the almshouse trusts?
- Do the CLT’s procedures ensure accountability?

#### For Regional/National Policy Makers

- Can CLTs be a significant component of affordable housing delivery programmes?
- Do they represent an efficient use of resources?

3.7 Given that (as section 2 of this report details more fully) various mechanisms already exist for CLTs to use, the demonstration of proper accountability and good governance become a large part of the answer to all the questions raised, whether from the perspective of the community or other stakeholders. When it comes to the funders who might support the CLT, whether these are charities, public agencies or commercial lenders, the question of who runs the CLT, what experience they have and who holds them accountable will play a large part in their decision whether or not to support the CLT. The draft definition of a CLT includes a requirement for democratic accountability to the community it aims to serve.

#### **Accountability**

3.8 The issues the CLT must address change over time. In the short term there is a need to clarify the housing needs to be met, involve people in the organisation, find a suitable site, secure planning permission and find a way to make the homes affordable to those the CLT aims to help. In the medium term, development and finance issues become the focus. When the scheme is complete, long term property management and the sustainability of the organisation are the main issues to be addressed. The CLT needs to be set up so that it can be accountable through all

these stages; and it needs to have the governance arrangements that enable it to be effective at handling this wide range of topics.

- 3.9 The CLT's main accountability comes from its membership and Board. CLTs are independent bespoke legal structures. Membership of a CLT should be open to groups such as:
- members of the community
  - the local authority
  - the parish council
  - local business representatives
  - the local housing association partner (if applicable)
  - CLT residents
  - those wishing to endow land or property for the CLTs defined geographical area.
- 3.10 The members elect the Directors who run the CLT on a day-to-day basis and the governance system should ensure a healthy balance on the Board to protect the communities' long-term interests. Where givers of land (e.g. public authorities or private landowners) have committed significant assets, their inclusion as a constitutional custodian' (who has 25% of the votes in the event of a proposal to amend the rules) can be a desirable feature.
- 3.11 Community Land Trusts are about releasing the capacity of communities to contribute to the provision of affordable housing by acquiring and preserving land value for community benefit. The CLT approach is that the land is owned by an established legal entity which is going to hold and use it for the benefit of the community. In so doing they will be accountable to a number of national and local institutions. These include the registration authority for the legal model, planning authority, strategic housing authority and funders, and to the local community as a neighbourhood manager. Each of these is dealt with in turn below.
- 3.12 If the CLT is a charity, it can be a Company Limited by Guarantee or a trust. In both cases it would have to register with the Charity Commission. A CLT can also be an Industrial and Provident Society registered with the Financial Services Authority and as such is an 'exempt' charity. Non Charitable CLTs can take the form of a community interest company. In making the choice between charitable and non charitable vehicles, CLTs will need to consider their tax position and which model provides the best 'asset lock'. A Company Limited by Guarantee which also seeks registration as a charity and an Industrial and Provident Society for Community Benefit are the two most frequently used models. The CLT would thus be accountable as an organisation to its registration authority (the Charity Commissioners for a charitable company or trust; the Financial Services Authority for an I&PS). It will have to secure their consent, as well as that of its members, to any change of rules and must submit annual returns.
- 3.13 Local people would need to put in their own time to identify potential sites that willing landowners may be prepared to dispose of on terms appropriate to the development of affordable housing. To do this effectively they need advice from the

Planning Department to help them choose between potential sites. This research project has benefited from the advice of South Hams Planner Officers who have made comments informally on site plans submitted by the communities. Once a site is developed and in use, the local planning authority will hold it accountable through any section 106 agreement which sets out what is to be regarded as affordable housing in the context of a particular planning permission and how the housing is to be offered to local people.

- 3.14 In establishing a CLT it is essential that the housing need identified locally by the CLT fits within the District Council's affordable housing policies. First and foremost local housing need must be identified. The local housing authority will hold the CLT accountable to implement the allocation policy as it has been drawn up and agreed, with a right of appeal built into the process.
- 3.15 In order to meet the housing objectives of the CLT and to meet the planning requirements, the housing created should be permanently affordable. In order to achieve this there are a number of issues that the Trustees will need to consider and resolve. These may also need to be explained to potential funders. Such issues are likely to include: how much money does the CLT need to pay for the development? Can it afford to provide rental housing? How much equity will it need to sell to meet these costs? Does selling this amount of equity meet the affordable homes target?
- 3.16 The key question that needs to be answered for both the CLT and its funders is 'Can your development be financially viable without sacrificing the affordable homes target?' If it does, it can potentially be financed. Funders will have their own accountability requirements not least to establish whether the CLT is retaining enough equity value and/or generating enough surpluses to be sustainable in the long-term. Funders will only provide grants and loans if they are persuaded that the organisation can be held responsible for the use of the funds; and can properly account for them to show they have been used to achieve the stated purpose.
- 3.17 Finally CLTs like any other landlords have statutory obligations to meet. Some CLTs might see themselves as primarily landowners focussing on their land management function but other CLTs could take a wider role in neighbourhood management, providing a consistent focus for locally based good management to encourage the right mix of facilities for their locality.

## **Governance**

- 3.18 In addition to having a representative membership it is also essential to have a wide skill base amongst the lay directors and this should include:
- lay leadership drive and skills
  - ability to identify and negotiate potential sites with landowners
  - ability to develop a business plan
  - ability to act as client for the development/procurement process

- understanding of housing and planning policy and of the tenure options to be provided to meet the needs identified in the housing needs survey
- long-term management & stewardship of the asset being created.

3.19 In any election to its board, the CLT must remind members of the need to elect a board which has the range of skills required. The board will also have co-option powers to bring in additional skills to identify gaps, which might follow a skills audit of existing members.

3.20 Good governance will include keeping all those to whom the CLT is accountable informed and involved.

3.21 The membership base discussed in the Accountability section of this chapter will be important too when considering the longevity of the organisation. A broad and supportive membership can be the source of new members to maintain the board when existing members leave or retire - or become exhausted.

3.22 The business plan of the CLT will be the key document which all those involved in running and/or supporting the CLT will turn to in deciding if the organisation has the capability to take on and deliver the proposed project. It can include within it all the issues discussed above and, as a living and evolving document, include new issues as they arise. (Examples of business plans can be found on [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk))

## 4. Changing Context

This research has occurred during a period of great debate at a national, regional, sub-regional and local level around the issues of affordable housing delivery. This ongoing discussion has helped to inform and clarify the questions around Governance and Accountability of CLT and the answers to some of these questions. The section outlines the contextual issues affecting debates around the role and remit of CLTs at the:

- National Level
- Sub-Regional Level
- Local (South Hams) Level

### The National Context

4.1 At a political level, all three major parties at Westminster have advocated the need for communities to be empowered to take on and solve local problems. As well as delivering supplemental affordable housing, CLTs they can also be the foundation stone for other community activities. They therefore fit well with the agenda for greater community involvement and control which the Government is advocating, (although not always consistently). Components of this policy agenda include the Action Plan for Community Empowerment published in October 2007; the Local Government and Public Involvement in Health Bill currently going through Parliament which will give “well-being powers” to parish councils; and support for the recommendations of the “Quirk” report which advocates the transfer of local authority assets to community control.

4.2 There are five issues that national policy makers are looking to address

#### (a) Community entrepreneurs

CLTs are currently being established on an ad-hoc basis but a common ingredient is lay-led leadership by local people who are committed to making a difference in their community. To succeed, they need to be given practical support and encouraged to overcome the obstacles that, inevitably, will need to be negotiated along the way.

#### (b) Land availability

The pioneering CLT projects have acquired land/property assets in a number of ways. These include exception sites for rural affordable housing, commuted sums from developers’ planning agreements and the transfer of public assets. It is important to publicise these successful initiatives as this will persuade other rural landowners to similarly provide land and property.

#### (c) Robust legal models to protect a trust’s assets in perpetuity

The existing CLT projects have been using legal and financial arrangements that are not designed for them. There is a need to introduce specific legal and financial

frameworks for CLTs if they are to flourish. The most important requirement is to establish a mechanism to safeguard the CLT's ownership and use of building in perpetuity against leasehold enfranchisement by individual occupiers.

This is currently subject to consultation by government and it is hoped that the issue can be resolved through a broad definition of "restricted areas". If not an alternative (and second best) solution will need to be designed utilising the experiences of the pioneering CLT projects.

(d) Technical capacity

The combination of leadership and technical capacity gives the context and motivation to provide rural housing. Lay people involved in the leadership of CLTs may be too busy or they may not have the skills to be confident in managing the physical development process. Appropriate human capacity can be achieved in a number of ways including the direct recruitment of dedicated staff for individual CLTs or for a cluster of CLTs such as the examples in Cornwall and Northumberland. A practical alternative is not to employ staff directly but to engage a housing association. Housing associations already have staff with the necessary physical development expertise.

(e) Funding

Resources will be required from the private, public and voluntary sectors to:

- Help finance the rental housing that CLTs produce.
- Build the capacity of the CLTs themselves and in particular, provide pre-development finance to work-up the feasibility of developing projects.
- Meet the development finance costs of projects on site which, for many CLTs, will be their first scheme and be promoted by people with little or no track record of development.

To kick start this process the CLT Fund was established in September 2008. The fund will consider meeting:

- Pre-development costs up to £30,000 to pay an architect to design a scheme and secure planning permission, together with any necessary site investigations.
- Up to 30% of development finance, to meet any shortfall in what a commercial bank or building society will provide because of limited security.

and also provides some funds for technical support. Details can be found at [www.tudortrust.org.uk](http://www.tudortrust.org.uk) and [www.esmeefairbairn.org.uk](http://www.esmeefairbairn.org.uk).

- 4.3 Section 3 of this report includes a list of questions which both the community and policy-makers will have to address in deciding both on the principle of CLTs as a component of policy and on whether a CLT is a good solution in the specific context. As this section illustrates, the context for these decisions has not remained fixed over

the duration of this project and a number of measures are still needed if the CLT route is to be one that can be followed routinely.

## **4b The Sub-Regional context**

- 4.4 There has also been increasing interest in the opportunities presented by CLTs at a sub-regional level, especially in Cornwall, Devon and Dorset. This interest has been from both the policy development side particularly around opportunities for establishing enabling bodies, and through working on specific schemes and projects.

### **Cornwall**

- 4.5 Like much of the South West Region, Cornwall suffers from high second home pressures which have driven up prices while at the same time having a relatively low wage economy. Cornwall Rural Housing Association (CRHA) has been seeking to tackle these problems through a conventional housing association route but focusing particularly on small rural communities. In partnership with local authorities, it has successfully supplemented this work with homes provided with Second Homes Tax funding. As a third strand of working, they are now also promoting and supporting CLTs across the county and their first scheme is well on its way to completion. The model used includes a strong self-build element: the local authority funded the construction of serviced ground floor slabs which were transferred to the ownership of the CLT while the selected self-builders have built and financed with individual mortgages the remaining construction work – which has therefore been affordable. With a number of districts, especially North Cornwall, a further 10-12 schemes are now moving forward, mainly on exception sites, and some of them also on land transferred from local authority ownership at nil cost.
- 4.6 The policy development initiative which has helped to create this success is the support given by CRHA to be a CLT “umbrella”, to support specific schemes and projects across the county. Funding has come mainly from Cornwall County Council and from a national charity to fund a CLT Development Manager post at CRHA together with associated on-costs. This has now been further supported with a £1m loan fund from the County Council to fund pre-development costs before sites and purchased and meet development costs where bank finance will not stretch.

### **Devon**

- 4.7 Holsworthy Community Property Trust (HCPT) was set up in 2005 by the Market and Coastal Towns group that had prepared the Community Plan for Holsworthy and its surrounding villages. Its aim was to provide more affordable housing for local people which the MCTI group had identified as the top priority. It has now completed its first two projects. The first involved the transfer from the developer of a site in the centre of the town of five completed flats which were required to be affordable under the s106 agreement. HCPT bought the homes with loans from Charity Bank and Venturesome and sold them at 70% open market value to young households with employment in Holsworthy but insufficient income to secure housing except on a part-equity basis.

- 4.8 The second project involved the transfer of “commuted sums” (off-site capital contributions towards affordable housing by developers of small schemes) to HCPT which it has used by offering 3 local households the opportunity to identify and buy a house suitable for their needs by means of HCPT providing an equity mortgage – repaid only when the property is sold – to bridge the gap between the house price and the mortgage the household could afford. The CLT now have plans for new developments on land owned by Torridge DC in the surrounding communities.
- 4.9 High Bickington CLT was one of the first CLTs to be set up nationally. It has attracted membership of 180 people in a village of some 700. It arose through a community response to an offer from Devon County Council to the community to put forward proposals for how it would make use of a vacant county farm (including the farmhouse) if the land were made available to them. The proposals, developed through a participative community design process, included limited housing for sale, intermediate market housing, social housing, workspace, a new school, a community hall, sports-field and a community woodland. After securing planning approval from Torridge DC and plaudits from SWRDA and visiting Government Minister, the planning approval was called in and rejected by DCLG on the recommendation of the Inspector at the call-in public enquiry. Although they have been working on the project for some 5 years, the community are, undaunted, putting forward a new planning application with support from the County Council to meet their share of the infrastructure costs for the school in advance of the finance for its construction and to provide grants from Second Homes Tax and their capital programme.
- 4.10 Alongside these housing-led CLTs, Devon County Council’s Reinvestment Service which has worked as a partnership with Wessex Reinvestment Trust and Business in the Community, has been supporting the development of community-led projects to provide workspace and community space, in Ivybridge, Princetown, Okehampton and elsewhere.
- 4.11 To try to systemise this support, the Devon Strategic Housing Partnership used some funding from the Devon Local Area Agreement to investigate the need and support for a CLT “umbrella” to support new schemes across Devon, on the lines of the arrangement in Cornwall. Devon and Cornwall Housing Association together with the Community Council for Devon have been appointed to investigate this further and will be seeking the funding to make it happen during 2008/09.

#### Recommendations to Housing Associations:

- Utilise their expertise to support CLTs and put this to practical use in providing technical support to lay-led CLTs.
- Provide financial support from their own resources to facilitate the CLTs perhaps by including a project in the HA core business and transferring upon completion as a ‘turnkey’ contract.
- Consider developing a CLT support service, possibly on a county level

## **Dorset**

- 4.12 West Dorset and Purbeck Districts share a Rural Housing Enabler. Before the recent increase in funding, affordable housing needs had been identified through surveys which exceeded by a factor of 12 the funds available, before even half the communities had been surveyed. The implication was that it could be 20 years before any particular community reached the top of the queue for affordable housing provision by which time it might already have lost its younger people: and might no longer be sustainable.
- 4.13 Two villages, one in each district decided to pilot the CLT approach to try to shorten this timescale. They were both determined that any homes built should go to the households the community felt should have priority because of their local connection; and to make sure that the homes are built sustainably and have low running costs. A low build cost was critical to be able to achieve these objectives and the communities took on the challenge, in partnership with the district council, to find a new low cost sustainable build method, using a local builder.
- 4.14 The CLTs have had to solve a range of problems in partnership with their local authority partners as the proposals have been taken forward. Both schemes are, at the time of writing this report, at the stage of having set up CLTs, bought the land, secured planning permission and signed a section 106 agreement. West Dorset DC and Synergy Housing are providing development finance and Charity Bank longer term finance: three building societies have agreed to provide mortgages. Despite the best efforts to minimise costs they have now risen to £1,250 per m<sup>2</sup> and in order to proceed, some additional grant support, from Housing Corporation or elsewhere, is now going to be needed.

## **Other Sub-Regional work**

- 4.15 In Somerset, West Somerset DC have been working in Carhampton and Withycombe parishes with land provided by the Crown Estate conditional on two-thirds of the development being affordable housing. There is an aspiration for a very sustainable scheme meeting level 4 of the Code for Sustainable Homes standards. The need however is almost entirely for low cost rent and the net scheme cost, even with the cross-subsidy from 10 sales, will be too high to achieve this. A probable way forward is to convert most of the scheme to social rent but a small, part-equity, CLT element may remain.
- 4.16 In Gloucestershire, a part-time officer has been appointed to promote CLTs across the county. In the former Avon authorities ("West of England") there are ongoing discussions about using CLTs to meet particular needs.

## **The South-West overall**

- 4.17 CLT activity has been greater in South West England than in the rest of the country and several schemes are well-advanced. A common feature of these schemes is

perhaps the approach that has been adopted of proceeding on the basis that CLTs might make a contribution and going forward in partnership to resolve the problems through “action research”: there is no successful template yet which can simply be adopted in another local authority’s area.

- 4.18 These schemes show that both communities and local authorities have been able to address some of the questions around CLTs set out in section 3 of this report. Their success depends on a willingness on the part of both the community and the local authority to work together to make the CLT a reality notwithstanding the gaps that remain in the support mechanisms, and the evolving planning and housing policy framework.

#### **4c. The Local South Hams context**

##### **Affordable Housing Issues in South Hams**

- 4.19 South Hams has a considerable shortage of affordable housing. High property values with an average house price around £250,000 are allied with wage levels which are only 75% of the national average, so that average prices are 15 times the average local wage. High prices are driven in part by the number of second homes which comprise 10% of total stock and 40% in some parishes. Holiday cottages also form part of the housing stock reducing further the proportion available to local people. The attractive environment and a shortage of development land available in many rural and seaside locations are further factors. The acute shortage of affordable homes has an impact on the balance and viability of local communities.
- 4.20 South Hams has adopted a strategic approach to affordable housing delivery. It has ranked its corporate objectives and identified that affordable housing is the top priority. This prioritisation was supported by the enhancement of the affordable housing delivery team, which has brought staff together as a multi-disciplinary team with an affordable housing remit, to enable delivery of affordable homes through inputs to the whole process - from policy making to decision taking in planning, negotiating section 106s and, where appropriate, working with the Housing Advice team to nominate people to the new houses provided.

##### **The Planning Policy Context**

- 4.21 The Planning Policy Framework for South Hams is evolving as the national planning system changes to the new Local Development Framework (LDF). The LDF is essentially a suite of policy documents, each of which can proceed on its own time line. Each document must be prepared with ongoing community and stakeholder engagement. The submission stage of the document is then subject to a statutory consultation period where representations on the 'soundness' of the plan are sought. This is then followed by an Examination in Public held by the Planning Inspectorate. The Inspector then issues a binding report, any required changes are made and the document is then formally adopted by the Local Planning Authority.
- 4.22 In South Hams Local Development Documents (LDDs) are at various stages of preparation<sup>7</sup>. Of particular relevance to Affordable Housing are:
- Core Strategy- Adopted December 2006 which sets out the spatial locations of new housing developments across this district
  - Affordable Housing DPD – adopted September 2008 which sets out policies with regards targets and thresholds for affordable housing provision, the type, size and tenure of units required, and includes an 'exception site' policy
  - Affordable Housing SPD - adopted September 2008 which provided more guidance on the South Hams affordable Housing policies will work in practice.

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<sup>7</sup> As at July 2008.

- Site Allocations DPDs for the four market towns and the Rural Areas

### **Looking for Solutions**

- 4.23 The local authority has adopted a strategy which involves working in partnership with RSLs, developers and local communities; using Council assets, both funding and land resources where possible; a designated team to enhance capacity; and promoting rural housing by linking 'development' skills with planning and housing expertise.
- 4.24 Some achievements to date include early progress on the LDF with the Core Strategy adopted in December 2006 including a strategic target of 50% affordable housing. The Sherford new community Area Action Plan has been adopted (August 2007) and also includes a 50% affordable homes target.
- 4.25 South Hams approach to the problems around affordable housing has been recognised with the award of Beacon Status for this topic<sup>8</sup>. It has also sought to pass on its experience through input into the Rural Affordable Housing Commission and making representation to the Matthew Taylor Review of Rural Affordable Housing.

### **CLTs and the Local Authority Planning and Housing Roles**

- 4.26 South Hams is also committed to looking to explore ways to deliver affordable housing through innovative means. There is therefore a need for innovation and creative thinking. However it believes it must be balanced with the need to consider the protection of the high quality environment and environmental sustainability of potential sites.
- 4.27 Local authorities can find themselves in a difficult position. As a planning authority, national guidance requires them to plan for mixed and balanced communities. This requires new development to be directed to the most sustainable locations, which usually means (in priority order) cities, towns and then larger villages.
- 4.28 Local authorities housing functions and the limited resources available to deliver affordable housing means that often priority must be given to these households in greatest housing need, often those needing renting accommodation. These may not be the same people that a CLT would look to house. CLTs may wish to focus more on local connection and getting a foot on the ladder through some form of shared ownership, or even outright sale of the property, albeit that the CLT would retain the freehold.
- 4.29 This returns to the issue raised in Section 3 of this report, as to what role if any CLTs could play in delivering affordable housing and how this would work in practice. It also raises another issue around prioritisation and resources, namely: How can a

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<sup>8</sup> Planning Resource on 22 August 2008 in reviewing South Hams Development Plan Document described it as "no blunt instrument".

local authority demonstrate its commitment to innovation while still delivering its headline priorities?

- 4.30 WRS would suggest that in order to address this question CLTs must offer additionality: they are not ‘competing’ with mainstream affordable housing provisions by RSLs and others, but can compliment and add to it.

Recommendation to local planning authorities:

- Look to the flexibility within the planning system- and use it to permit departures, and/or give significant weight to demonstrated community support for innovative schemes.

- 4.31 Local Planning Authorities could usefully acknowledge that:

- CLT can meet a particular segment of need – often new households, young people, recently employed
- CLTs can offer both part-equity homes and intermediate market rented homes
- CLTs can have high levels of community support, and may be seen by some as preferable to RSL provision because of the local stewardship agenda
- CLTs can link with other community provisions: shops, play space, village halls, green space

- 4.32 Local authorities may need to introduce training on CLTs to up-skill their staff to have a fuller understanding and awareness of CLTs and the role they can play. Such training should ideally involve a multidisciplinary approach including policy and development control planners, housing officers and other related services such as legal, land valuation and community engagement services.

- 4.33 Councillor training may also be useful.

- 4.34 For small authorities, especially those in rural area, joining up with neighbouring authorities, sub-regional training networks and local branches of professional organisations may offer economies of scale for training on this and other issues.

- 4.35 Visits to successful CLT schemes by officers and or members could also help dispel some of the myths and concerns around CLTs.

- 4.36 In addition communities who propose to set up a CLT to develop affordable housing should be aware of the competing pressures on local authorities and do their best to provide the local authority with the information they need to enable them to support a CLT scheme. The information provided should cover in particular how the scheme will be made affordable to those identified in the local needs survey, and kept affordable in perpetuity. Scheme promoters should also be mindful of planning policies and the different requirements relating to windfalls, allocations, exceptions, and departure routes to delivering a CLT, as outlined in Section 2 of this report.

4.37 Ongoing dialogue between scheme promoters and the local authority should be encouraged. It is important to note that this may include policy planners, housing enablers and development control officers depending on what stage the project is at. Pre-application advice is strongly recommended.

Recommendation to local planning authorities:

- Consider offering training on CLTs to staff, councillors and communities.

## 5. Case studies in South Hams communities

This section details the part of research that involved hands on work with the local communities. It sets out the methodology for this phase of the project, and the main issues identified:

- Demonstrated Local Housing Need
- Local Capacity and Skills
- Governance and Legal Accountability
- Affordable Housing Definitions
- CLT Housing Allocation Policies
- Financial Barriers
- Long-term Management
- Engagement with the Local Authority
- Methods of Delivery

From the experience of working with the case studies communities this section also considers wider issues around CLT delivery on:

- Risk
- Access to Finance

### **Working with Communities: Methodology**

- 5.1 It was felt that in order for communities to be able to engage with the issues around governance and accountability of CLTs a live project in their area would be required. Such a project would enable an exploration of the issues around CLTs to be set within a local context. This was essential as it was felt that parishes would only engage with the project if it represented a real, rather than a theoretical exercise.
- 5.2 The issues that were to be addressed at this stage of the project included:
- Whether there is the local capacity and skills to run CLTs.
  - What form of governance CLTs can have and how they will be legally accountable.
  - Whether a CLT can meet the Government definition of affordable housing in Planning Policy Statement 3.
  - Whether a CLT allocation policy can be devised which fairly balances local demand and wider housing need
  - Whether the financial barriers can be overcome and how CLTs will undertake long-term management.
- 5.3 All 64 parishes in South Hams were contacted by letter to ask if they would be interested in involvement in this pilot project, to explore the establishment of a CLT in order to meet local affordable housing needs. They were asked to reply using a brief pro forma indicating if they could meet the three basic initial requirements:

- they have an enthusiastic group of people willing to take the project forward
  - they have identified the need
  - they have a site which:
    - a) can be purchased at a price not too far from agricultural value and
    - b) which the planners are likely to accept as a suitable location
- 5.4 12 responses were received which are detailed more fully in Annex 1. Most of the respondents believed they could meet these initial criteria.
- 5.5 Interviews were then held with each parish with a view to identifying up to three who could take the lead and develop approaches which other parishes could follow. However it proved difficult to select the parishes on the basis of the information available as the suitability of sites had not been fully explored with the planners. Parishes were asked to submit (or re-submit) a plan seeking initial guidance on its potential.
- 5.6 Setting up CLTs is a complex process. A flowchart was circulated as part of a newsletter to the parishes to explain the various steps they will have to go through and the support available.
- 5.7 Following on from the interviews it was decided that detailed work should focus on three lead parishes, with the other parishes kept informed through a newsletter and forums. This culminated in a seminar event at the Seven Stars Hotel in Totnes which explained the progress (including successes and difficulties encountered) by the three 'path-finder' communities. The aim of this event was to share best practice and enable other communities and the local authority to learn from each other.
- 5.8 The next phase of the project was to work with a leading group of parishes to progress their possible CLT schemes using identified sites. This was to enable the issues which had been identified to be explored with the communities and some initial ideas developed for resolving these and finding a way forward.
- 5.9 This phase of the project proved more difficult than expected for several reasons. The principal two were that:
- sites identified as suitable for CLTs in planning terms were also suitable for other types of housing provision, including housing association schemes. In some instances this resulted in perceived competition between a possible CLT scheme and a more traditional 'exception site' proposal;
  - the projects were taking place in a real time situation, against an emerging and evolving policy context.
- 5.10 The issue of competing methods of delivery resulted in the need to consider whether a CLT was the most appropriate form of development on these sites. This served as a source of frustration to some communities who were wishing to explore the role of

CLTs as additional to RSL provision. The focus of this phase of the project therefore moved from specific CLTs delivery to affordable provision more generally.

- 5.11 Another factor was that planning policies were emerging through the Local Development Framework system. Work to progress Local Development Documents through their statutory processes was ongoing. The status of existing and emerging policies and the changing weight that could be attached to them added a further level of complexity to the discussions. In some instances discussions around progressing sites as exception sites was also part of the evolving development plan policies.
- 5.12 However, the case studies communities have been able to make some progress in answering many of the issues and questions posed in this report. For the three 'lead-communities' this progress is summarised. More remains to be done.

### **The Case Study communities**

5.13 The initial circumstances of the three case study communities were as follows:

- At Newton & Noss the Parish began in 2003 to seek to identify the affordable housing need systematically and brought in Plymouth University to undertake a detailed housing needs study and to make an assessment. A steering group looked at potential sites and identified the one they believed could proceed as the landowner was willing to sell and had realistic expectations for the development value of the site.
- Stokenham/Frogmore & Sherford which are adjoining parishes have both had housing needs surveys completed by the Rural Housing Enabler. This identified a need for 40 and 27 Households respectively in the two Parishes. Both have been pro-active in looking to identify sites and willing landowners.
- At East Portlemouth an existing property owner already rented out homes personally and expressed a willingness to donate these properties to a Charitable Trust which would form the core of a CLT. The Landowner also had a field in the village which she was willing to donate where new homes could be built for local people.

### **Locally Demonstrated Housing Needs**

5.14 Housing needs surveys have been fundamental in each community in turning anecdotal evidence of shortage and need into hard evidence.

#### **Recommendation to Government:**

- Restore national funding for Rural Housing Enablers which are so essential for demonstrating local need

- 5.15 In Newton and Noss two issues around their local housing need emerged. The first was that they had conducted their work on housing needs some time ago. The second issue was that the Council had also received correspondence from interested parties in the form of letters and responses to the Rural Areas Development Plan Document (DPD) Issues and Options stage questioning the level of housing need in Newton and Noss. The local authority therefore felt that a new housing needs survey was warranted. (The survey forms for this were sent out in June 2008.)
- 5.16 Stokenham is identified as a local centre in the adopted Core Strategy, meaning it is considered a sustainable location for new housing development (including a required proportion of affordable housing provision). The housing needs survey there has been completed ([www.stokenham-pc.gov.uk](http://www.stokenham-pc.gov.uk)) and provides the base document for demonstrating that there is a housing need to be met and informing decisions on how this should occur. The need in Stokenham was found to be for almost entirely social rented housing. A housing needs survey has also been completed for Frogmore & Sherford and shows a need for both social rented and part-equity housing with useful information about income levels and hence more precisely what household incomes any part-equity scheme or intermediate market rent scheme should accommodate.
- 5.17 A housing needs survey was published in March 2008 for the Parishes of East Portlemouth, South Pool and Chivelstone by the rural housing enabler. It found a need for 14 affordable homes across the three parishes over the next three years. This survey provides the evidence of housing need which is a pre-requisite for the community's proposed CLT scheme to be considered.

#### **Local capacity and skills to run the CLT**

- 5.18 At Newton & Noss a Community Housing Working Group had been formed under the authority of the Parish Council. This comprised a group of six local people who came together to investigate the options available for providing some new houses for local people. This work included providing a guide to house purchase options and available schemes including both housing association and CLT provision. In particular the Working Group agreed to "examine in detail the practicalities of forming a CLT or Community Development Trust (CDT) to develop, own and manage the properties, thus ensuring that the properties remain within the local community in perpetuity with some control over who should be the occupants".
- 5.19 At Frogmore & Sherford the parish was involved in the Housing needs survey carried out by the rural housing enabler. The need for 27 homes which was identified is a very large number for such a small community. Around 70% of the needs identified were for rent but there was a significant need for part-equity housing for people on incomes up to £30,000. The parish council worked with a local landowner who was prepared to make land available for an affordable housing scheme and facilitated contact with the planning authority. There was an initial wish to consider a CLT so that the needs of people who could afford part-equity would be considered as there was some dissatisfaction that the previous

development which had taken place in the centre of the village and which included affordable housing was seen as having helped mainly people from surrounding parishes not from Frogmore & Sherford itself.

- 5.20 At Stokenham the parish also came together around a housing needs survey. The needs which emerged were nearly all for social rented housing although there were particular needs the community was concerned about: the local farm shop was finding it hard to recruit staff and had been discussing how they might have access to affordable housing for those who work there. The farmer offered a piece of land provided some of the homes built could be let and part-sold to his staff. Following the survey a number of other sites were identified by people from the community and the parish sought to open a dialogue with the planners about which sites might be suitable for affordable housing and if a CLT component might be appropriate. One large allocated site designated as suitable for housing finally came onto the market during the project and the parish sought to explore with the planners whether a CLT might be the agent of delivery for part of the affordable component; and to operate on the basis of an allocation policy which recognised local employment as a factor when setting priorities.
- 5.21 Initial discussions subsequently took place about the option of a joint CLT set up Frogmore & Sherford and Stokenham which could focus on part-equity housing which might otherwise not be the local housing authority's priority.
- 5.22 At East Portlemouth the local landowner has embedded the proposal into the local community by encouraging three other local people to join her as 'founder trustees'. A Company Limited by Guarantee has been formed 'Waterhouse Housing for East Portlemouth' which has had the support of the Parish Council. This initial group of local people will manage the organisation and have the responsibility to meet their legal obligations as Company Directors and Charitable Trustees.

### **Governance and legal accountability**

- 5.23 A CLT must be an incorporated body with limited liability. The main options are an industrial and provident society for community benefit or a company limited by guarantee which registers as a charity. The latter is more likely. This is the step taken by East Portlemouth where the Directors have rapidly obtained charitable registration.
- 5.24 At Newton & Noss no formal steps were taken to set up a legal entity but the principles for setting up a CLT by the community were agreed upon.
- involve the local community in both development and management of the homes.
  - protect the homes for community benefit in perpetuity by virtue of the legal form and rules of the CLT
  - enable the affordability of the homes to be protected in perpetuity, with stronger protection than has existed in the past for shared ownership housing.

- 5.25 Frogmore & Sherford and Stokenham did not arrive at the point of discussing the choice of legal entity.

### **Planning Policy Issues**

- 5.26 In Newton and Noss there is acute pressure within the development boundary from second homes and as a result of properties being converted and extended so that fewer and fewer small dwellings remain. Sites just beyond the development boundary generally have high hope values which in part arise because the Development Plan does not entirely rule out open market housing in new locations not identified in the Plan. The community's task has therefore been to find a site without open market hope value. This has been made somewhat easier as the Council was proposing a new exception site policy through the Affordable Housing DPD which referred to the need for exceptions site to be "well-related" to community services and facilities rather than "to adjoin" the development boundary<sup>9</sup>.
- 5.27 The community used their local knowledge to identify all possible development locations and then to eliminate sites which would be either too expensive because of their hope value or too poorly located to be acceptable to the planning authority. From this process they identified land on the hill above the village, adjacent to the council housing which was built in the 1930s, and a little way outside the main development boundary. After lengthy dialogue, the planning officer has indicated the site could be regarded as "well-related". Securing this land for the recommended guideline figure of £5,000/plot is still not a foregone conclusion however because of the lack of options and the aspirations of the landowner.
- 5.28 The local plan adopted by South Hams District Council in 1996 contained few housing allocations. Since that time the need for affordable housing rose to the top of the local agenda, but too few sites were available. To address the pressing need for affordable homes the Council decided not only to prioritise the plans needed to make site allocations in the South Hams LDF, but also to proactively consider suitable sites as "departures" ahead of those plans where they would deliver significant amounts of affordable homes. Two such "departure" sites have been delivered and the Council is considering several others, including at Newton and Noss if negotiations for the land identified there could not be progressed at a price commensurate with affordability<sup>10</sup>.
- 5.29 In Frogmore and Sherford, a landowner had already put forward proposals for a significant development including both affordable housing and housing for sale. The parish supported the principle of affordable housing – but not open market housing, or development at a scale originally proposed. A smaller exception site scheme is now being developed following the housing needs survey. This was instrumental in persuading the planning officer that an exception scheme could be

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<sup>9</sup> This policy has now been adopted.

<sup>10</sup> Adoption of site allocation plans in the South Hams LDF will mean that the justification to consider "departures" will significantly diminish

agreed. The landowner may be hoping it may set a precedent for further development which might not be affordable but the parish should be able to be reassured that a small exception site does set a precedent for further growth in the village. Any further application would have to be considered on its merit and would be likely to necessitate consideration as an allocation through the plan-led process.

- 5.30 Stokenham is a large parish with very substantial affordable housing needs ([www.stokenham-pc.co.uk](http://www.stokenham-pc.co.uk)) and where a significant number of new houses will be proposed on allocated sites as part of the plan-making process. There are a number of options therefore as to how affordable housing could be delivered. Any allocated site would have to make a significant contribution to the strategic requirement for 50% of all new housing to be affordable homes. The proposed Affordable Housing DPD<sup>11</sup> policies would be looking to require any site in a village to provide 60% affordable housing. As well as these allocated sites there are also other potential 'windfall' and 'departure' sites for which the planning authority might also grant permission if there is local support and if the percentage of affordable homes is high enough.
- 5.31 East Portlemouth is a small hamlet (in an area identified as having one of the ten highest average house prices outside London) which the Development Plan does not identify as a village and as such has no development boundary. There are already some rented homes provided by the local philanthropist who also owns the plot of land on which more could be built: the existing and new homes would all be transferred to the control of a CLT. The only route through planning however will be as a departure from the Development Plan. This will require a very strong case to be made that would override the policy presumption against development in this area.
- 5.32 All the case studies demonstrate the advantages for local authorities in empowering parishes to take on the task of finding suitable sites and willing landlords; and the potential advantages this brings of having affordable housing schemes supported rather than opposed by the local community. However, it has also shown the difficulties in finding a site that is seen as acceptable by planning officers.

### **Affordable housing which meets the definition in Planning Policy Statement 3**

- 5.33 Paragraph 2.26 includes the definition of affordable housing in Planning Policy Statement 3 and CLTs will have to demonstrate that they can comply with these requirements.
- 5.34 It should be said first and foremost that the motivation of the lay volunteers in the case study communities was to meet the housing needs that they have themselves perceived as required locally.

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<sup>11</sup> The policy confirmed in September 2008 requires 50%, 55% and 60% affordable housing on strategic/planned sites, in towns and in villages respectively with stepped requirements on all windfall sites depending on their size.

- 5.35 In Newton & Noss, there was a perception that many local people were unable to live in the community and the council homes which had existed had nearly all been sold off. The group were very conscious however that shared ownership at 50% or 60% of open market value was still going to be too expensive for households on incomes of £20,000 or less and that there was likely to be a need to find grant or subsidy.
- 5.36 One idea they had was to provide smaller 2-bedroom homes for sale (or for sale at 80% of open market value to provide the community with some control) to enable people in large homes to “down-size” as they move into their retirement. The conversion and extension of existing properties has left very few smaller homes in the village. These sales would provide the cross-subsidy needed to make an innovative CLT project viable and also fulfil a very clear “local need”. South Hams planning staff disagreed that homes provided at 80% market value to meet a shortage of small homes could be seen as within the terms of PPS3 and their initial response was that they were not prepared to recommend a departure to members for this purpose. The CLT would have to challenge these views if they wished to pursue their idea
- 5.37 The community were keen on the idea of mixing social rented homes built by a housing association with CLT homes, thus meeting a wider spectrum of needs and benefiting from the housing association’s development expertise.
- 5.38 At Stokenham and Frogmore & Sherford it was the needs of those in employment or in potential employment in the local area that the CLT might be created to help. This would supplement social rented provision and help keep the communities viable. On an allocated site in a Local Centre site a mix of open market, intermediate and social rented housing would be expected. For Frogmore & Sherford an exception site would be required to provide only rented or intermediate part-equity housing.
- 5.39 In East Portlemouth the concern was to supplement and compliment the existing rental housing provision in an isolated rural community particular to meet the needs of those in local employment. The issue for the Local Group is how to resolve this common sense approach with Development Plan policies under which any new housing in this location would be in conflict with both existing and emerging planning policy.
- 5.40 For East Portlemouth therefore there were tensions around if and how the local authority could take account of the community’s wishes in a way that will enable them to override the policy presumptions against development in the location proposed. The community needed to demonstrate that their proposal represented a local solution to a local problem that does not set a dangerous precedent or lead to open-market housing by the back door.
- 5.41 Housing association delivery is a tried and tested method of delivering affordable housing, whereas CLTs are a newer concept to many professional officers. At Newton & Noss, a CLT would either need to demonstrate that it offers the same safeguards in terms of affordability and meeting local housing needs or construct a

tenable argument that they are doing something different, to meet a different kind of housing need. For Newton and Noss, there remains an outstanding issue as to if and how the community can influence the affordable housing delivery method. Can the tension between Housing Association and CLT provision be resolved?

- 5.42 For Stokenham, the outstanding issues relate to how best the community can engage with the LDF process. Does wanting a CLT change how you would respond to planning consultations? Could a site be acceptable for a CLT that might not be acceptable for other kinds of delivery mechanisms, and can the planning system (or other mechanism) secure this?
- 5.43 The motivation of the communities and their aims – for affordable and sustainable housing in perpetuity – would seem to sit with the overall aims of PPS3. However, discussions continue as to if and how the local planning authority can be assured that local communities are themselves well-placed to understand and respond to their own housing needs, and if and how the planning system offers the local authority the flexibility to support such schemes.

#### **CLT Allocation Policy**

- 5.44 The needs identified by the parishes are local and raises the question of if and how a housing allocation policy can be devised which balances this local housing need and aspiration with the wider housing needs of the district. The starting point for this is to survey the local housing need through a parish level survey and publish the results in a transparent manner. In Newton & Noss a survey was commissioned from the University of Plymouth directly by their 'Community Housing' Working Group whereas in Frogmore & Sherford and East Portlemouth these were commissioned in conjunction with the District Council from the Community Council of Devon.
- 5.45 In addition to the Housing Needs Surveys it is essential that a CLT also agrees a housing allocation statement with the District Council. Whereas the motivation for establishing the CLTs may relate mainly to a wish to meet particular local housing needs, a critical accountability for the CLT will be that the housing provided is affordable to the households identified by the survey; and that they have access to it through an appropriate local housing allocation policy. Annex 5 provides an example of what such a policy might look like. In addition to seeking agreement with the Local Housing Authority, Directors when seeking charitable registration also need to be explicit about the needs they are seeking to provide for.
- 5.46 Another issue is that in giving their support to the development of a site for affordable housing, the community will want to be reassured that the households identified in the survey will be assisted. At Frogmore there is disappointment that a housing association is only proposing to provide social rented homes not part-equity: the social rented need is much greater numerically but the community are concerned that the needs of young families and working single people on average incomes are catered for at the same time. A similar pattern of need exists in the other communities too.

- 5.47 In the present economic circumstances, the community will also need to check that mortgages would be available to people to purchase part-equity homes and that the households concerned can afford the level of outgoings required. This means tailoring the equity purchase required to local incomes and putting in place allocations of mortgages before the scheme is built.
- 5.48 The issue of tenure mix brings to the fore the potential tension between the housing strategy and planning policy. The housing strategy relates to all housing tenures but limited resources often have to be prioritised and focused on improving the housing circumstances of those whose housing needs are assessed as being the greatest. Planning policy has an aim of achieving sustainable communities for which the priorities may not be the same as the housing strategy.
- 5.49 In the past Local Plans have sometimes allowed new market development in the hope this might make the school and local shops more sustainable. As a strategy it has often not had the anticipated effect with the homes proving too expensive to local people and being sold instead to people from outside the area. The new residents continue to use services from elsewhere and may include second-home buyers and people who are retiring, who may add to local service demand rather than assisting the viability of a school.
- 5.50 One way of resolving these conflicts could be to enable arguments around allocations to be made on a case-by-case basis, community by community. If the community accepts the need for more affordable housing in the parish and there is strong enough support in the community for a particular site to be developed on an exception or departure basis, this could be regarded as sufficient enough reason, a 'material consideration' in planning terms, to grant planning permission and to work with the local authority to develop a cascade mechanism within the s106 which the community and the CLT can both support and help to implement. In this way housing and planning policy can work together rather than coming into conflict. Approval of this type of development is intended to be conditional on only local needs being met. The case studies indicate that the communities are willing to be involved to make sure the conditions are fulfilled and that conditions can be set out which both the community and the local authority should be able to sign up to. The role of the community in championing and explaining local needs does however need to be recognised. Trust can break down if a scheme is supported by the parish only to find that the part-equity option is not locally affordable or few of the people housed come from the local community. Close liaison with, and support from, planning and housing officers at the local authority is therefore critical throughout the process.

### **Financial barriers and long-term management**

- 5.51 At Newton & Noss a sketch plan has been produced by the landowner showing how a possible layout for 15 homes could fit on to the identified site. Based on the housing needs identified and trying to make the scheme viable it was proposed that there would be 10 family homes for rent for those with household incomes of less

than £20000, 3 family homes for part equity purchase for those on incomes up to £35000 and 2 part-equity homes for sale at 80% open market value for existing owner occupiers in the parish wishing to move to a smaller and more manageable property. A financial forecast was completed to demonstrate how the costs would be recovered but this was not taken forward given the uncertainties surrounding the proposed site.

- 5.52 At East Portlemouth a financial appraisal was undertaken by a Director of the CLT to demonstrate the financial viability of their proposals for the new Charitable Trust. The key consideration was to ensure that once the new homes were completed that there would be sufficient income to meet their outgoings. This will include mortgage repayments, and management and maintenance charges.
- 5.53 The existing rented cottages in East Portlemouth have a high annual maintenance costs and to ensure the financial viability of the new enterprise it is proposed that one of the existing tenants of the existing cottages be re-housed in a new home and the cottage sold to raise a capital receipt. This will be used to provide a dowry for the charity for the upkeep of the remaining three cottages but also to reduce the borrowing costs for the six homes to a level where affordable rents can be charged.
- 5.54 At East Portlemouth the directors have arranged a loan facility with a social enterprise lender to meet their estimated costs of developing the proposal to provide the new housing. This is to meet their professional costs i.e. architects, planning, fees etc prior to getting the new houses on site. In order to demonstrate their ability to repay, the lender had to be satisfied about their long-term management of the project. Arguably, local organisations holding assets on behalf of the community have proved robust: housing associations emerged from similar origins, while Almshouse Trusts managing small numbers of homes have remained unchanged for many centuries.
- 5.55 Stokenham and Frogmore did not reach the stage of financially modelling a CLT. The exception site in Frogmore is likely to be brought forward by a housing association, using more traditional financing routes although using a CLT for a phase two remains something the local community would like to explore further.

#### **Conclusions from case study communities.**

- 5.56 These case studies demonstrate that several South Hams communities have the lay leadership and skills and that, with appropriate support, can contribute to the provision of affordable rural housing. All the communities have either instigated or have been involved in their housing needs surveys. They have all identified potential sites within their community and at Newton & Noss and East Portlemouth formed their own governance and accountability arrangements and have addressed the financial viability issues of their respective proposals. Each of the communities, in conjunction with the District Council, now needs to consider the different site delivery methods which will include codifying the financial viability and housing allocation policies with the District Council.

- 5.57 At Newton & Noss, and Frogmore, agreements would need to be reached between the housing association as developer and the prospective CLT. A suggested way forward is a phased approach- with the CLT supplementing and complementing the traditional housing association provision with a subsequent phase 2 project.
- 5.58 At East Portlemouth a departure from planning policy will need to be justified although much of the work to support this has been identified through the case study.
- 5.59 At Stokenham (and elsewhere in the District e.g. Totnes) the preferred way forward is to engage with the LDF site allocations process.

### **Other Lessons learnt from engaging with the communities**

- 5.60 The experience of working with these case study communities has also identified some wider issues around CLT delivery, notably engagement fatigue, the ability of a local authority to take on a CLT enabling role, risk and access to finance.
- 5.61 Working with the communities in South Hams has shown that the willingness and ability of a community to engage with processes as complex and difficult as CLTs must not be taken for granted. The process may be a long one: there is a need to undertake a local housing needs survey, gain community support for the principle of affordable housing development, set up a steering group to examine the options, find a site, negotiate with landowners, negotiate with planners – and all before the process of buying the land and building the homes can begin. The community therefore needs to realise it may be a long haul and that there are no “quick fixes”.

### Consultation Fatigue

- 5.62 “Consultation fatigue” can occur when communities are repeatedly asked if they want the affordable homes in principle and are then consulted over a long period about different sites none of which come to fruition. Previously enthusiastic people can lose interest as a result of the delay or as a result of being asked the same question a number of times, or not being given satisfactory responses within a reasonable time. Consultation fatigue is therefore a potential concern for CLT groups. However, none of the groups that have participated in this study have shown symptoms of this: although there have been frustrations around dealing with and understanding the local authority planning process. If CLTs are to be supported this will involve finding a way to provide them with the support they need including an enabling policy framework.
- 5.63 Support for the communities needs to be in place if they are to take on and explore the CLT mechanism. In the case studies, individuals took upon themselves responsibility to steer the concept forward in their local communities and where appropriate to raise funding and form governance structures. The issues identified by this phase of the project were twofold: first there was a need to understand the Local Authority’s housing and planning policies and secondly the individuals concerned needed technical advice as to how to progress their intentions. While

Wessex Reinvestment Society (WRS) was able to provide some guidance as part of the project, that support and independent enabling work needs to be continued if projects are to be brought to implementation.

5.64 WRS would suggest that local authorities who wish to support CLTs as a way of delivering housing and affordable housing in their areas should develop a supportive policy framework for this. Such a policy might include:

- A corporate policy in which CLTs are a recognised component of affordable housing delivery.
- Recognition that parishes/communities have a place in the process of affordable housing delivery whether in liaison with a housing association or through a CLT.
- Ongoing advice from the Local Planning Authority on site selection. Consideration could also be given to the independent facilitation of this process, perhaps with a role for Rural Housing Enablers.
- Identification of an appropriate source of technical support for CLTs in delivering affordable housing schemes. This could be an appointed local housing association, a CLT support agency or a district council enabling officer or team.
- A model housing allocation policy which would apply to CLTs wishing to provide local needs housing.

5.65 To implement successfully policies like these there must be willingness by the CLTs that are established to respect the Local Authority's strategic housing and planning obligations and for the Local Authority in turn to have confidence in community led solutions. This depends on there being effective local leadership which can mediate between community needs and wishes and wider policy of districts (and Government) which have an even stronger basis in the democratic process.

#### The Issue of Risk

5.66 Despite, their long history, CLT are still seen by many as an unconventional approach to affordable housing delivery. Local authorities have worked with RSLs over many years to deliver new affordable housing. Delivering housing through CLTs may be seen as 'risky'. Innovative methods tend to take longer to implement than mainstream ones. Community engagement requires more time than community consultation. Communities may even prefer not to be involved if it means the affordable housing arrives sooner.

5.67 On the other hand, there may be community resistance to affordable housing schemes which are seen as imposed from outside. Outside bodies may find it difficult to locate suitable sites for development where not only is the site suitable but the landowner is willing to sell for a viable price. Communities are often suspicious that the housing will not in the end help the people they perceive as most in need of housing. For example, local young people or people who have secured local jobs but are living in caravans or sharing rooms may not be the highest priority for the local housing authority even when local needs are prioritised over district-wide ones.

- 5.68 Some communities have also seen both rented housing and shared equity housing move onto the open market (as a result of the right to buy and the right to acquire, and through stair casing) are wary that this could happen again. There are risks therefore as well in pursuing the mainstream route in that local opposition may make it difficult and time-consuming.
- 5.69 Another aspect of risk is that the work involved in producing a sketch scheme and applying for planning may be abortive if the site cannot in the end be secured. RSLs are often financial strong enough to cope with writing off such abortive costs, or may be able to secure some pre-development design work at risk. For CLTs to be able to secure planning on a selected site they will be likely to need £10k-£30k to pay an architect, undertake a site survey and meet the planning fee. CLTs will therefore need charitable grants to meet these costs in case they are abortive, or a soft loan from an RSL or a local authority or some other source<sup>12</sup>, which is repaid if the scheme proceeds and written off if it does not.
- 5.70 Where the local authority does decide to give support to the development of CLTs, resources and procedures will need to be put in place to enable this support to occur. There are now significant paper and web-based resources offering advice, case studies, “open source legal documents” and general information on CLTs which can be accessed. However, in coming to a decision, visits to successful schemes may be a useful tool to aid understanding of CLTs and there may be benefits in working with partners, especially sub-regionally to gain an understanding of the complex issues.
- 5.71 If a decision is taken to support CLTs, staff and Councillors will need some training on how this might be done. There will need to be a multi-disciplinary approach as it may include policy planners, housing enablers and development control officers depending on what stage the policy and individual projects are at.

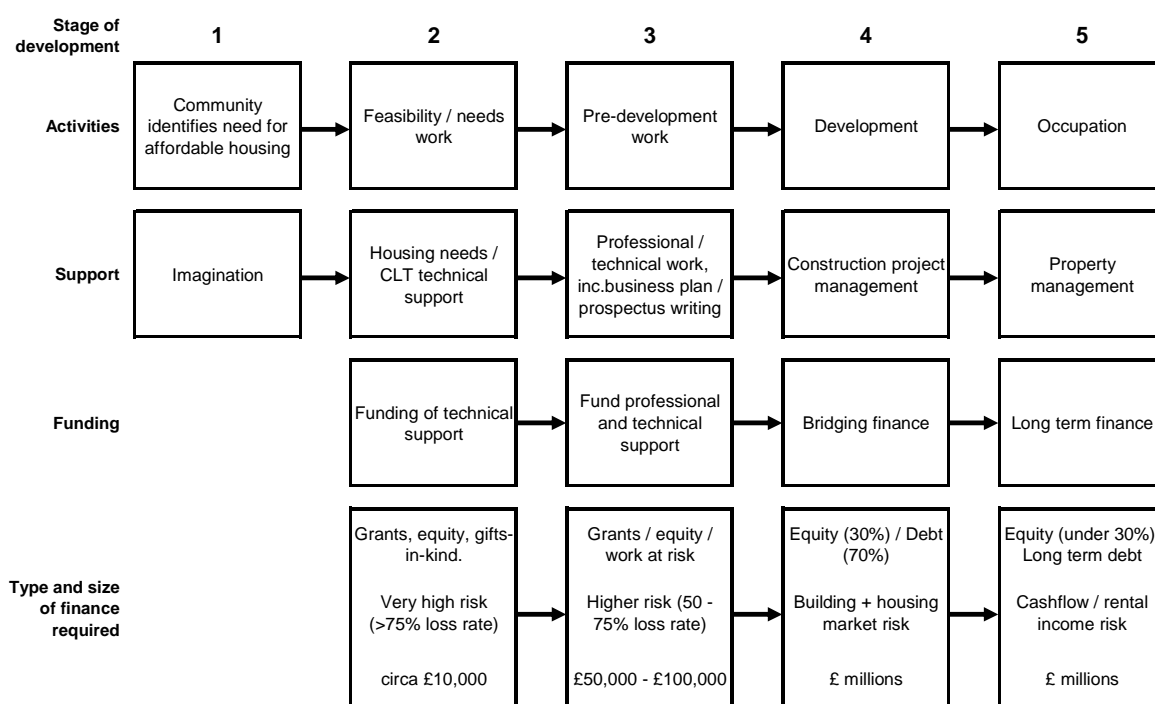
### **Access to Finance**

- 5.72 The pioneering phase as set out in the case studies has helped to identify a series of activities necessary to make CLT schemes happen, along with an emerging pattern of needs for financial and non-financial support. In one of the case studies such funding has been found by using the security provided by an existing asset. In another the parish are confident they could secure funds from local people to meet the cost once they are sure the project has a good chance of proceeding. Nevertheless, for CLTs to be taking on schemes on a regular basis, there needs to be a routine way of accessing such funds.
- 5.73 A national “facilitation fund” for CLTs is the solution proposed which would provide finance for this work, repaid with a premium only if the scheme proceeds. The nature of these needs (magnitude, financial risk and likely instrument) is shown in the bottom row of Figure 4 below.

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<sup>12</sup> The CLT Fund was established partly for this purpose, in September 2008.

Figure 4: Activities and support to make a CLT happen



5.74 Work is ongoing to make these funds available on a national basis by autumn 2008.

Recommendations to Charitable trusts and foundations and private finance providers:

- Support the formation of the CLT Facilitation Fund and in addition provide bespoke support to individual CLTs.
- Encourage private finance providers to make mainstream commercial finance available to CLT projects.

5.75 In view of the “credit crunch” funding for part-equity purchasers is also an issue that will need to be addressed. The fact that the freeholder is a CLT (which are bodies that mortgagees are not yet generally aware of); the nature of the declaration of trust lease; the terms of the section 106 agreement; low percentage shares; and a local needs requirement are all circumstances that the CLT will need to explain to potential lenders when securing mortgage allocations for purchasers. 100% first –

time buyer mortgages are now much less frequently available and a deposit of 10% is often a requirement which will exclude a number of would-be purchasers. The CLT will need to be able to show it has overcome these problems (as will an RSL) before committing itself to a site purchase.

- 5.76 Other issues related to how a CLT might go about providing affordable homes are set out in section 2. As well as the issues discussed here, the CLT will need to make sure its Business Plan explains how delivery will be achieved and how the risks will be overcome

Recommendation to Government:

- Provide a threshold below which small organisations receiving limited social housing grant for community led rented and part-equity schemes are not subject to ongoing regulation and controls.

Recommendations to Housing Corporation:

- Promote small community-led affordable housing projects by CLTs in rural England as a separate complementary affordable housing initiative with reduced procedural requirements; and
- Utilise existing powers to make grants and or loan finance available to community-led housing providers.

## 6. Conclusions and Recommendations

This section details the conclusions reached and recommendations for action. It is broken down into recommendations for:

- communities,
- local authorities,
- Government,
- housing associations,
- funders, charitable trusts and others

- 6.1 The parish planning and local housing needs survey processes have identified the scale of the problem of local affordable housing for parish councils and the local communities they serve. There are a significant number of communities who are motivated to be proactive and help put affordable housing in place.
- 6.2 Local communities in South Hams have shown themselves capable of:
- organising themselves informally and formally to drive their aspirations forward.
  - identifying and promoting local housing need.
  - identifying sites where affordable local needs housing could be built.
  - identifying and negotiating with willing landowners
  - providing a lay-led focus on finding a way of meeting the needs of their locality which, for RSLs, may be just one locality among many.
  - raising resources to put these aspirations into practice.
  - despite the complexity, having the tenacity and skills to proceed.
- 6.3 Local planning processes and strategic housing frameworks are complex and to enlist the support of communities in establishing housing need and in site-finding requires a significant investment in staff time by the Local Authority to help them understand and use the tools available.
- 6.4 CLTs can supplement conventional affordable housing for certain income groups but are likely to find it difficult, if not impossible to be able to help those on the lowest or least secure incomes. CLTs therefore do not offer a universal solution. They can however provide a complementary, rather than an alternative, means of provision to conventional social housing
- 6.5 The housing CLTs can provide is primarily of value in housing younger people whether single, couples or families – who are in work and stand little if any chance of being housed in social housing because of their lower statutory housing need priority. This chimes with the motivation of lay volunteers who often place special importance on being able to retain young people so that the community itself can be sustained and local jobs and school places filled.

- 6.6 CLTs accord with a number of government agendas – for instance civic empowerment, double devolution, community asset ownership, place shaping. By providing communities with the ability to control assets they can generate income, develop skills and build confidence. These government agendas combine with local initiatives to help communities to remain, or become, sustainable.
- 6.7 In the UK the CLT model is being successfully demonstrated in a number of rural communities. Rural Housing Enablers in some counties act as CLT facilitators and some dedicated CLT project workers are appearing. There are many difficulties to be overcome in helping more CLTs get off the ground and in general they will have a longer lead time than traditional RSL led solutions due to:
- Capacity building
  - Access to technical advice
  - Access to finance
- 6.8 There is now a fairly clear understanding of the role of CLTs in rural areas, the need they can fulfil and the challenges they typically face. CLTs have a number of identified support needs. Their role could be clarified and enhanced by the proposed Devon umbrella body or by the support of an RSL with an interest in community development and innovative approaches to the provision of intermediate market affordable housing solutions.
- 6.9 Based on the legal models work of the CLT national project, homes leased for part-equity under a “declaration of trust” by a CLT should remain more securely “affordable in perpetuity” than traditional models of shared ownership. CLTs can also ensure any staircasing receipts are reused in the same community. There is an aspiration to link the value of part-equity to wages indices rather than house prices.
- 6.10 Local people cannot be expected to put in the time and commitment required to support the process of affordable housing provision unless they have a role which is defined and recognised, and the path to setting up a CLT is as free of obstacles as possible. To achieve this, local authorities will need to put in place transparent and understandable planning and affordable housing policies and to ensure that appropriate community technical aid is put into place if they want CLTs to play a role.
- 6.11 The following recommendations are suggested as the measures necessary to enable governance and accountability issues to be dealt with effectively, by communities in setting up CLTs and by local authorities in responding to them. They are complemented by the recommendations made elsewhere in this report to Government, Housing Corporation, grant and finance providers and the Charity Commission which are collected together at the start of the report. These general recommendations were also made in Community Finance Solutions’ rural case-studies publication “Then we will do it ourselves”: a full list is at Annex 7.

## Local Communities

- a Draw confidence from the experience of other communities who have decided to initiate action to provide affordable housing: in the end no other agency can give as much attention or priority to meeting those needs as the community itself.
- b Be aware of the policy context and seek to understand the competing pressures on local authorities so that the proposed solution is working so far as possible with the grain of local council policies rather than against them. The planning policy context can be complex (be mindful of the planning policies requirements relating to the different ways of delivering a CLT- windfalls, allocations, exceptions, and departure routes described in section 2.23) but the introduction of the Community Plan process and the role of Local Development Frameworks in delivering the Community Plan provides a good context for community involvement. Pre-application advice on the planning context is recommended and above all do not be afraid to ask for planning policy clarification!
- c Provide the local authority with information about how the scheme proposed responds to the needs survey, how the housing will be made affordable and how it will be kept affordable in perpetuity – plus any other relevant information - to enable them to make informed decisions. Be prepared to answer any additional questions about the scheme, related to how it will meet the needs, how the development process will be managed and how the CLT will look after the completed homes.
- d If a decision is taken to set up a CLT, a starting point may need to be to clarify whether it forms part of the local authority's policy framework and if not, to assist officers and members in finding out what CLTs are and how they have worked elsewhere
- e Make sure the CLT
  - can demonstrate its accountability to the community at large
  - has the skills and capability on its Board to take on the role
  - considers how it will sustain the skills needed
  - draws in additional expertise needed, such as from a housing association or a county-wide umbrella body
- f Ongoing dialogue with the local authority should be established and maintained involving officers from all relevant departments
- g A business plan should be developed for the CLT covering all aspects of the delivery choices and where the finance will be found including a description of how pre-development funds will be raised and who will provide the individuals with mortgages. This will be a valuable document to demonstrate effective governance when in dialogue with any stakeholders or potential supporters.

- h Draw up an allocation policy using the examples available from other CLTs and agree this with the local housing authority taking account of existing waiting list, choice-based letting and local needs allocation policies.

### **Recommendations to Local Communities:**

Communities seeking to provide or assist in providing affordable housing in their parish should:

- Be confident that they can have an effective role in providing or facilitating rural affordable housing using the information and examples in this report and elsewhere.
- Inform themselves about local planning and housing policies, and work within them wherever possible.
- Provide information with any planning application which answers the questions the local authority will wish to see addressed about accountability and governance: explain fully how a CLT would work if that is the option proposed.

### Local authorities

- i Local authorities should develop, consult on and publish a protocol for parish-level involvement in the evolving strategy for rural housing delivery which lays emphasis on
- the housing needs survey as the baseline document which demonstrates what provision (if any) is required and what “affordable” means in the specific context;
  - the need for the parish to set up a process of community engagement so that they can demonstrate the extent to which they can speak for the community as a whole;
  - clarification of how the district will communicate disagreement with parish-led proposals;
  - the potential role of the community in identifying suitable sites for development which take account of local concerns and may benefit also from local knowledge about ownership;
  - the need for planning and housing policies to be communicated in a way which enables them to be related to the specific local issues (admittedly no easy task);
  - the way the district will respond to a community-led process of site identification;
  - the way the district will involve the community in decisions which may be taken once a site is identified as in principle acceptable for affordable housing including
    - by whom the price will be negotiated (the community may be in the strongest position to keep the price affordable);
    - the mix of housing between different sizes;

- the mix of housing between different tenures;
  - the selection of an RSL to advance the scheme;
  - whether the CLT or other options would be appropriate in the circumstances.
- j Housing needs surveys should be the basis for a programme of action to deliver affordable housing to meet the needs identified, with a CLT a potential option alongside the RSL route. An effective way of achieving this would be for rural housing enablers to retain some responsibility for continuing to work with the communities where needs have been identified until solutions are found.
- k Local authorities need to be responsive to communities looking to assist in finding solutions to local affordable housing shortage and ensure communities have relevant, accurate and up-to-date information about the housing and planning policy framework.
- l Parishes should be consulted by the housing provider (whether this is an RSL, a private developer or a CLT) in deciding the type, tenure, size and detailed affordability of affordable rural housing to be developed in response to a needs survey.
- m Councils should decide if they wish to include CLTs in their LDF policies as potential agents for affordable housing delivery; and publish a policy which either includes or excludes them after providing appropriate opportunities for consultation.
- n Local authorities should consider whether or not to recognise CLTs as an appropriate delivery body for affordable housing weighing the risks of mainstream RSL route against the CLT route: and the benefits of a tried and tested method against the benefits of involving the community.
- o Housing departments should work with the housing provider and the parish involved in each scheme to draw up an allocation policy for the rural affordable housing they develop which seeks to integrate wider issues related to community well-being and sustainability with those of housing need.
- p Where CLTs are included in planning policy as potential agents for the delivery of affordable housing, the planning authority should publish criteria setting out
  - whether developers/land-owners will be given a choice about whether they can reach an agreement with either an RSL or a CLT or whether this will be a planning policy decision
  - under what circumstances a CLT may be seen as a particularly appropriate vehicle
  - what the CLT will need to demonstrate (which might be based around the recommendations for communities in section 6.11).
- q A model s106 agreement suitable for CLTs should be drawn up, including a clause exempting a mortgagee in possession from the affordable housing

requirements to simplify issues for lenders and hence provide better choice for those seeking part-equity mortgages

6.12 These recommendations to local authorities are summarised in the following box.

**Recommendations to Local Authorities:**

- Develop and consult on a protocol for parish and community-level involvement in rural affordable housing delivery.
- Explore and understand the different roles that CLTs could play in influencing and helping to deliver affordable housing.
- Come to a corporate view on if, and how CLTs should be supported in their area (e.g. through recognition in planning policies designed to achieve affordable housing; and agreeing housing allocation policies which take account of community priorities).
- Consider combining the housing needs survey work of rural housing enablers with a more proactive role to create solutions which could be through either a housing association or a CLT.
- Adopt a model section 106 agreement based on the DCLG model and including a mortgagee in possession clause to

## **Annexes**

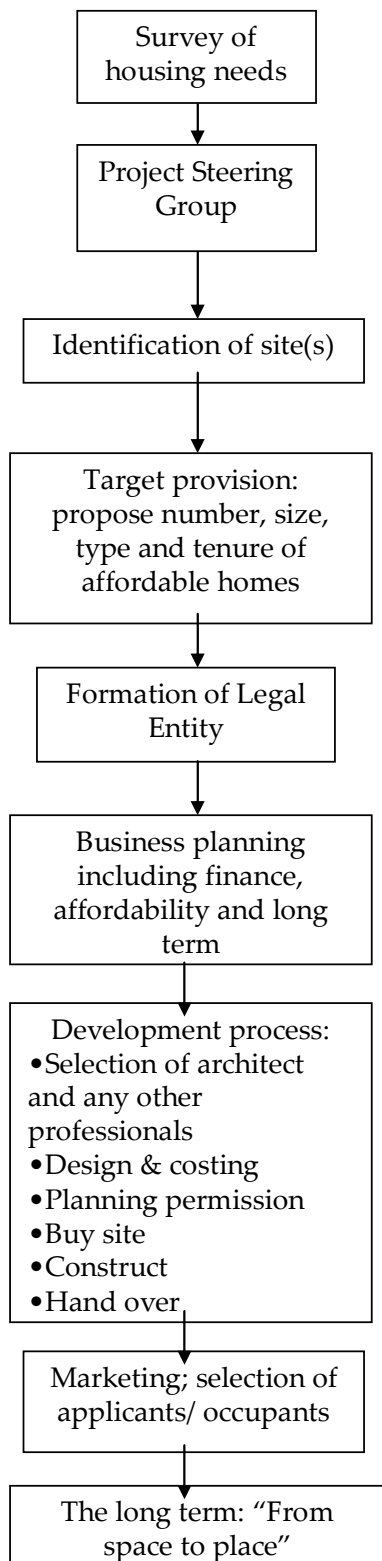
1. Parish responses to the initial questionnaire
2. Planning options: advice given to parishes
3. Flowchart circulated to parishes
4. Draft statement to demonstrate how compliance with PPS3 might be achieved
5. Draft housing allocation statement
6. Proposed legal definition of a CLT
7. Recommendations from CFS report on rural CLT pilots *“Then we will do it ourselves”*

### Annex 1: Parish responses to initial questionnaire

Parish	People?	Need?	Site?	Comments
Frogmore & Sherford	Yes	Maybe	Maybe	Two well-attended meetings held, with enthusiasm; needs survey completed and results expected in April; local farmer is considering offering land for affordable homes. (SHDC officer has been involved)
Holne	Yes	Yes	Yes	Survey being done. Holne and Scoriton affordable housing working group has made contact with SHDC
Loddiswell	Yes	Yes	Yes	Parish council members to lead; parish plan shows need; local farmer has offered land in the village to SHDC. LDF identifies Loddiswell as suitable for 20 houses
Malborough	Yes	Yes	Yes	Survey commissioned for April. SHDC owns site; others possible
Slapton	Yes	Yes	Yes	Parish council members to lead; parish plan shows need; local farmer has offered land to SHDC. LDF identifies Slapton as suitable for 10 houses
Stokenham	Yes	Yes	Yes	Willing people but group changes as sites change. RHE study done. 2 possible sites. Also developer quota site at Chillington but not thought to be addressing community need.
Totnes	Yes	Yes	Maybe	Interested in project: definite need "goes without saying"; great number of local residents would be interested in progressing further. Overwhelming support for any initiative that provides affordable housing
Ugborough	No	Maybe	Maybe	Parish council see affordable housing in rural areas as an important challenge.
Modbury	Yes	Yes	Two possibles	Working group examining as part of parish plan; survey identified 51 households seeking starter home to rent in next 5 years (housing for local young people one of top 3 parish plan issues); SHDC owned land off Galpin Street and part of Recreation Ground possible subject to covenants
Newton & Noss	Yes	Yes	Yes	Existing active Trusts plus individuals; house prices 2x South Hams average; two sites identified. Substantial report from Community Housing Working Group
<b>NOT INTERESTED</b>				
Dean Prior	No	No	No	4 provided recently: and only just managed

				to find local people.
Ivybridge	Not completed			Supports initiative but land around town either held by developers under options; or located in rural parishes

**Annex 2: The flowchart included in a leaflet circulated to parishes (Note: this includes references to policies and practices which no longer apply.)**



**Housing needs surveys**

You will already know Sue Hitchcock based at Community Council for Devon and most of you will have a needs survey. Based on the survey you will need to decide provisionally the scale and mix of housing you would like to see provided e.g. 6 homes, 3 for rent and 3 for part-ownership. Sue will be able to help you think this through.

**South Hams Affordable Housing Team**

Rachel Bland, who you have all met, will be leading the project to help you take your scheme forward. Her speciality is planning and she will be helping to agree which sites might be agreed as exception sites for local needs housing or quota sites for a mix of housing for sale and rent

help draw up a standard section 106 agreement  
assist in negotiations with SHDC (where site is SHDC owned)

**Legal entity**

If the proposal is for a separate legal entity, standard rules which have been designed to be suitable for CLTs are available (an exhibit 11 on the [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk) website discusses the options).

**Industrial and Provident Society**

A version is available at [www.highbickington.org](http://www.highbickington.org) The CDS Co-operatives model provides for 3 classes of members is registered with the FSA and costs £400 instead of £950

**Company limited by guarantee**

Holsworthy CLT and Buckland Newton CLT. Alison Webster can send you an electronic version or contact the solicitors involved in both, [jacton@towers.com](mailto:jacton@towers.com)

**Technical aid**

Bob Paterson ([robertjpaterson@crookedoak.co.uk](mailto:robertjpaterson@crookedoak.co.uk)) and Steve Bendle ([sjbendle@tiscali.co.uk](mailto:sjbendle@tiscali.co.uk)) are funded by South Hams to provide technical aid. The support is intended to help guide you through the various stages and put together a business plan which will secure delivery of the affordable housing

**Toolkit**

Community Finance Solutions at the University of Salford has developed a CLT Practitioner’s Guide which reflects the technical aid process opposite. The Guide can be purchased directly from the University at £65.00p (plus postage). Please contact Jennifer Powell on 0161 295 4454 or email: [j.e.powell@salford@salford.ac.uk](mailto:j.e.powell@salford@salford.ac.uk). The twenty “exhibits” that accompany this Guide including a sample Section 106 agreement and a legal advice note on the choice of legal entity are now downloadable (free) at [www.communitylandtrust.org.uk](http://www.communitylandtrust.org.uk)

**Annex 3: Planning options: advice given to parishes - planning options for affordable housing sites in South Hams**

Location of site	Planning potential	Timescale	Type of housing	Requirements
Site within development boundary and designated for housing	Permission likely but will require 50% percent affordable if more than 5 [under discussion] homes	Depends on landowner /developer	Developer will be required to deliver homes at a price that makes them “affordable”; usually through a partnership with a Housing Association	Community preference for a CLT rather than a housing association; or lack of Social Housing Grant to enable an HA to buy.
Site well related to a village development boundary	Exception planning permission could be considered	Quick – months	Affordable homes only	
Site less well related to village boundary but available at the right price;	Planning authority could be asked to agree a “departure” along similar lines to an exception site	Could be quick – 6 to 12 months but depends on a strong case	Affordable homes only	Proof that no better sites exist Arguments why development could be appropriate
Site not within village boundary but landowner anticipates future inclusion and will wait for higher price	Planning authority could be asked to agree a “departure”	Could be quick – 6-12 months but depends on strong case	“1/3 <sup>rd</sup> /1/3 <sup>rd</sup> /1/3 <sup>rd</sup> ”	Proof that no better site exists Proof of need for mix in order to persuade landowner to sell Proof that the local need exists for all three tenures
	“Plan led” solution: planning authority could be asked to consider allocating a site in the relevant Local Development Document	Slow: following consultation in summer 2007.could take 2 years for any alterations to be agreed	Proposed policy likely to be that any sites for housing contribute to SHDC’s strategic affordable housing target of 50% within which it is anticipated that 60% is	Will depend on policy adopted by Council to deliver its housing development targets Transfer of land or completed homes to CLT will depend on CLTs being designated as suitable

	part of the consultation in summer 2007 on alterations to the development plan to be adopted in 2009		rented and 40% intermediate (part-ownership or sub-market rented)	providers of affordable housing
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## **Annex 4: Draft of a statement a parish might use to demonstrate how compliance with PPS3 might be achieved**

### **Background**

Research carried out for the parish council has shown that {parish} urgently needs more affordable housing for local needs, for those who need to rent and people who want to buy but cannot afford local prices.

Incomes for those in work locally are low. A couple who are both full-time, earning the minimum wage, would be earning around £20,000 but jobs are often part time and both partners are not always in work. Household incomes around £15,000 or less are typical and jobs may be seasonal: renting may be the only option.

The community has also identified a need for people who are “capital rich but income poor” living on relatively small pensions but in properties which are now too large for their needs. Because a high proportion of small homes in the parish have been extended to provide additional living space, homes to which people could “down-size” within the parish are extremely limited.

The community has carried out a comprehensive search around the villages to try to identify land which might be suitable to be granted planning permission in order to meet these needs, either as an exception to the Development Plan or as a small scale departure from it. To be suitable a site needs to be both well-sited in relation to the existing settlement; and available to purchase at a price which will enable affordable homes to be built. Because of the potential for very high land values if open market development were to be allowed, sites around the centre of the villages are not available. However a site at [location] is owned by a landowner who is willing to sell at £5,000 per plot and the site is immediately adjacent to this previous development.

This site has therefore been identified by the community as providing the only current opportunity where the parish’s affordable housing needs to be met.

### **Development proposed**

A sketch plan has been produced showing how a possible layout for [number] homes could fit on the site.

Based on the needs identified it is proposed that these should provide:

- [number] two- and three-bedroom homes to rent, generally for those with household incomes of less than £20k per annum.
- [number] two- and three-bedroom homes for part-equity purchase for those on incomes of £18k-£35k
- [number] two-bedroom part-equity homes for sale at 80% open market value for existing owner occupiers in the parish wishing to move to a smaller and more manageable property

A financial forecast of [cost] including land, construction, fees, interest and all other costs based on construction over a 12 month period is attached at the end of this section. A central assumption is the build cost of [price] based on [comparable].

The development could be built in one or two phases.

The figure work at the end of this section shows how the cost would be recovered through part-equity sales, [number] of which would be to existing owner-occupiers who need to down-size; and rental provision which would service a loan held by the CLT, representing the cost less the part-equity sales. As discussed above, rented homes for those in work but on low incomes are the identified priority: a minority of local people in need of housing could afford mortgages.

### **Affordable housing in perpetuity**

The aim of the community land trust will be not only to develop the affordable homes required but to make sure they remain available into the future.

It will therefore be important both that the organisation itself is robust and that the homes can be kept affordable.

### CLT governance

The CLT will be an incorporated body with limited liability. The main options are for an Industrial and Provident Society for community benefit or a company limited by guarantee which registers as a charity. The latter is the more likely. However in both cases the nature of the body provides an “asset lock” in having objects which require it to hold the property for the benefit of the local community. The Financial Services Authority regulates I&PSs and the Charity Commission regulates charities. If the CLT were ever to wish to dispose of property, this would involve demutualisation in the case of an IPS which requires a 75% vote by the whole membership and the consent to the FSA to the change. Consent would only be granted if there were exceptional reasons. In the case of a charity, Charity Commission consent would be needed to a change of rules and, if this moved the organisation away from its stated charitable purposes, consent would not be granted. In the event of financial difficulty leading to liquidation, the Commission would require that the assets should be passed to another organisation with similar objects.

Further protection could be built into the rules if required for example to give a “constitutional custodian” a 50% weighting of all the votes in the event of a vote for liquidation or a change of critical rules. The local authority could play this role for example.

CLTs will also generally wish to embed themselves in the community by having an open membership from which the board is elected. This could include electorates (e.g. community, residents of the housing provided and stakeholders) each of which

has a specified number of board places; or a single membership on the same terms for all members whether a corporate body or an individual. As examples, High Bickington CLT (an IPS) has 180 members from which the Board is elected. Buckland Newton (a charitable CLG) has a board comprising 6 community members, 1 resident and 2 stakeholders, the parish and the district councils.

*Appendix to annex 4: statement of viability – estimated build cost*

**Build cost**

Number			2-bed4p	3-bed 6p	Eco-barn	TOTAL	
	Size	£/m2	£/m2	75	100	0	15
		2-bed	3-bed	£	£	£	£
Land				4,500	6,000	0	75,000
Legals				360	480	0	6,000
Build		850	750	63,750	75,000	70,000	1,012,500
Infrastructure				4,500	6,000	0	75,000
Fees		6.00%		4,095	4,860	4,200	65,250
VAT				1,102	1,324	919	17,642
Planning				250	250	0	3,750
Building regs				300	400	0	5,000
Employer's agent		1.50%		1,024	1,215	1,050	16,313
Housing assoc costs				270	360	0	4,500
Guarantees				1,058	1,058	0	15,863
Finance fees				540	720	0	9,000
NNCLT costs		1.50%		1,183	1,415	1,127	18,902
NNCLT contingency /dowry		1.50%		1,183	1,415	1,127	18,902
Marketing/sale				400	400	0	6,000
Interest		6.75%		2,371	3,161	0	39,514
Grant				0	0	0	0
				<b>86,885</b>	<b>104,057</b>	<b>78,422</b>	<b>1,389,135</b>

*Appendix to annex 4: statement of viability – estimated income from part-equity sales and rent*

<b>Income from 80% sales to “down-sizing” households</b>		
		2-bed4p
		£
Values		300,000
Sales at 80%		240,000
Total 80% sales	2	<b>480,000</b>

*Required household income*

Affordable part-equity sales	3-bed	120,000	£31,579
	2-bed	100,000	£26,316
	2-bed	90,000	£23,684
Total part-equity sales		<b>310,000</b>	
<b>Overall sales (80% and part-equity)</b>		<b>790,000</b>	

**CLT mortgage on rented homes**

	Rents	
	2-bed	3-bed
Net	£75.00	£85.00
Management and maintenance	£30.00	£30.00
Gross	£105.00	£115.00
	£	£
Repayable Mortgage	60,000	68,000
Number	6	4
Totals	360,000	272,000
Overall CLT loan		£632,000
<b>Overall income from part-equity sales and a loan repaid from rents</b>		<b>£1,422,000</b>
<i>Surplus</i>		<i>£32,865</i>

## **Annex 5: DRAFT HOUSING ALLOCATION STATEMENT**

[Name of CLT] has been established to promote and support economic and social life in [location] and the surrounding parishes through the property it controls. It holds interests in housing and community facilities because it believes that, without them, the community will find it much harder to grow and thrive.

### **'Intermediate market' homes**

Property prices in [location] are beyond the means of most local people unless they have existing capital to invest or sufficiently high incomes. [CLT]'s aim is to provide housing at a price that can be afforded more nearly from household income alone and in particular it wishes to make it possible for those with employment or employment opportunities in the area to live close to their place of work so that job vacancies can be filled, the community can function.

These homes are intended to appear to those who live in them as little different from a home purchased on the open market: except that they are more affordable either for rent or by shared equity purchase. Properties become available from time to time when the existing residents decide to move. This statement describes how [CLT] will decide to whom available properties should be offered.

### **[CLT] and the District Council Housing Register**

[Name] District Council operates a Housing Register which is used as a basis for deciding priorities for making offers to those who are in need of housing in the District, either with the Council or with one of several Registered Social Landlords (RSLs) with homes to let or for shared ownership sale in the area. Both the Council and RSLs mainly operate a "points system" which aims to give priority to those identified through the choice-based lettings scheme who are homeless, overcrowded, in insecure or poor condition housing, paying excessive rent, have a medical condition and various other factors. Demand greatly exceeds supply at present.

[CLT] recognises all the factors which make up the Housing Register as important when setting priorities. However, the homes which [CLT] has available are made available on a rental or shared equity basis as local needs housing which are likely to be more suitable for people in work who can afford the outgoings that these schemes require.

## **[CLT] Local Needs Housing criteria**

In considering applicants who want to be considered for one of the homes in which [CLT] holds an interest, the following eight criteria will apply:

*The first three criteria must be met in all cases*

### 1. Inability to afford outright purchase

Only those whose household income and capital are insufficient to buy the home they need on the open market will be considered.

### 2. Ability to afford a CLT home

Homes are made available under both rental and shared equity. [CLT] will require proof of household income, capital and other financial commitments so that the outgoings to which a resident would be committed are related appropriately to their means.

### 3. Family size accords with the home available

Because of the high demand, in general applicants will only be considered for homes that meet their family need e.g. a family with one child may only be allocated a 2-bedroom home. Account will nevertheless be taken of expected changes and of factors such as visiting relatives or former partners.

*The final five criteria will be used where necessary to decide priority between more than one applicant:*

### 4. Local employment

Existing employment or an offer of employment in rural settlements within a 10 mile radius of [location] with greater priority accorded to those working within 5 miles.

Those without employment or an offer of employment but who can show that they have good prospects of securing a job will also be considered.

### 5. Local connection

Those with a dependent relative or with non-dependent relatives who could assist with childcare or similar needs, living within 15 miles of [location] will receive additional priority as will applicants who can demonstrate that they will be an asset to the local community.

### 6. Local residence.

This includes people who have left [location] or are working in the Parish and surrounding area or have strong family links as well as those already living in the area.

7. Points score on(or according to) the Housing Register

Applicants on the housing register will be considered particularly those people who have indicated that their areas of choice include [location] and surrounding Parishes.

8. Length of wait

Those who have applied to be considered and who have been waiting longest will receive higher priority if all other factors are the same

### **Deciding priority**

The CLT will maintain a list of applicants in order of the date of application. When a home becomes available, contact will be made with all those who meet criteria 1 – 3. The CLT may also place local advertisements so that all who might wish to apply have the chance to do so.

Those who wish to be considered will be asked to update their details and offered the opportunity to visit the property. Those who remain interested in the property will then be asked to advise the CLT within 5 days of their visit or at most 10 days of being offered the opportunity to visit.

Taking account of criteria 4 – 8 the CLT will then nominate the applicant who in the CLT's sole discretion:

- A. meets criteria 1 – 3,
- B. justifies receiving greatest priority under criteria 4 – 8.

In broad terms the CLT regards criteria 4 – 8 in order of decreasing importance. For example, a high priority under criterion 4 or 5 would be seen as more important than criterion 8; but if there were equal weight under criterion 4, criterion 8 would then become the deciding factor.

However the CLT reserves the right to assess the weight of circumstances under each of all the criteria from 4 to 8 and to recognise particular individual circumstances.

### **Liaison with the District Council**

The CLT will work closely with the District Council, which has statutory responsibility for the well being of the local community, and will take account of their views in considering the weight to accord to criteria 4 – 8.

You should be aware that the CLT will inform the District Council of all offers of housing made which could have implications if you are also on the Housing

Register. It should be noted that that within [location] and adjacent parishes, that [name] Housing Association and other social landlords may also have housing available at affordable rents or under a shared ownership scheme either via the Housing Register or via their own waiting list.

**Annex 6: Housing and Regeneration Act 2008, clause 79 – definition of a Community Land Trust**

79. English bodies

- (1) In this Part “English body” means—
- (a) a registered charity whose address for the purposes of registration by the Charity Commission is in England,
  - (b) an industrial and provident society whose registered office for the purposes of the Industrial and Provident Societies Act 1965 (c. 12) is in England,
  - (c) a registered company which has its registered office in England,
  - (d) a community land trust which owns land in England, and
  - (e) any other person (whether or not a body corporate registered under the law of the United Kingdom) which—
    - (i) is not a Welsh body within the meaning of section 1A of the Housing Act [1996 \(c. 52\)](#), and
    - (ii) makes available, or intends to make available, accommodation in England.
- (2) In subsection (1)(d) “community land trust” means a body corporate which satisfies the conditions below.
- (3) In those conditions “local community” means the individuals who live or work, or want to live or work, in a specified area.
- (4) Condition 1 is that the body is established for the express purpose of furthering the social, economic and environmental interests of a local community by acquiring and managing land and other assets in order—
- (a) to provide a benefit to the local community, and
  - (b) to ensure that the assets are not sold or developed except in a manner which the trust’s members think benefits the local community.
- (5) Condition 2 is that the body is established under arrangements which are expressly designed to ensure that—
- (a) any profits from its activities will be used to benefit the local community (otherwise than by being paid directly to members),
  - (b) individuals who live or work in the specified area have the opportunity to become members of the trust (whether or not others can also become members), and
  - (c) the members of the trust control it

## **Annex 7 Recommendations made in CFS policy document “Then we will do it ourselves”**

*[Note: this is an unamended extract from a document which has already been published and inclusion does not imply endorsement by SHDC. Several have also been superseded*

*The recommendations were broken down into stakeholder groups to reflect the role that each group could play in enabling housing delivery through CLTs.}*

Recommendation to:-

### Government:-

- Recognise the capacity of rural communities to develop affordable ‘intermediate market’ housing projects that are supplementary and complementary to mainstream provision.
- Include a legal definition of CLTs in legislation at the earliest opportunity.
- Include a mechanism to amend the Leasehold Reform Act 1967 to safeguard a CLT’s ownership and use of buildings in perpetuity against leasehold enfranchisement by individual occupiers.
- Restore funding for Rural Housing Enablers which are so essential for assessing local need
- Provide a threshold below which small organisations receiving limited social housing grant for community led rented and part-equity schemes are not subject to ongoing regulation and controls

### Housing Corporation:-

- Promote community-led affordable housing projects in rural England as a separate complementary affordable housing initiative.
- Utilise existing powers to make grants and or loan finance available to community-led housing provider, accepting that small organisations cannot be subject to the .

### Local authorities:-

- Promote community-led affordable rural housing projects utilising the CLT mechanism as an alternative to housing association provision.
- Encourage local planning authorities to grant exception planning permissions on schemes utilising the CLT mechanism.
- Encourage the drafting of housing allocation statements that set local housing need priorities acceptable to both the CLT and the local authority.
- Through Local Strategic Partnerships encourage the formation of, and provide funding for, county-wide CLT support services

to contribute to local delivery of the community strategy in relation to both affordable rural housing and community engagement. This approach could also help encourage consistent planning and asset transfer policies across the county.

- In the new bidding round for rural housing enablement, consider combining the housing needs survey work of rural housing enablers with a more proactive role to create solutions through either a housing association or a CLT
- Come together to adopt a common approach to section 106 agreements, ideally based on the DCLG model and including a mortgagee in possession clause (or by using two otherwise identical options, one with and without), to simplify issues for lenders and hence provide better choice for those seeking part-equity mortgages

#### Housing Associations:-

- Utilise their expertise to support CLTs and put this to practical use in providing technical support to lay-led CLTs.
- Provide financial support from their own resources to facilitate the CLTs perhaps by including a project in the HA core business and transferring upon completion as a 'turnkey' contract.
- Consider developing a CLT support service, possibly on a county level

#### Charitable trusts and foundation and private finance providers

- Support the formation of the CLT Facilitation Fund and in addition provide bespoke support to individual CLTs.
- Encourage private finance providers to make mainstream commercial finance available
- Support the continuation of FONDT's Northumberland project and the dissemination of the model through DTA to development trusts elsewhere.

#### Charity Commission

- Provide guidance for CLTs seeking charitable status about the accompanying information to be attached to the application to avoid delay in replying to queries

#### Mortgage lenders

- Accept the Declaration of Trust lease as providing enough security for a mortgage
- Assist the CLT movement by providing mortgages on leases where value is linked to average wages or to a proportion of property value rises

### Community Finance Solutions

- Secure funds to research who is housed by CLTs as compared to housing associations
- Place examples of agreed allocation policies on the website
- Place information provided to Charity Commissioners to secure charitable status on website

### Other organisations

- Other county-based organisations such as Land for People could increase their effectiveness by securing a housing association or development trust partner.