

Improving Planning for and the Delivery of 21st Century Large Garden Communities

A paper by Garden City Developments CIC¹

July 2020

*‘We want to see vibrant mixed-use communities where people can live, work, and play for generations to come- communities which view themselves as the conservation areas of the future. Each will be holistically planned, self-sustaining and characterful’.*²

For several years, government has been encouraging local authorities and private developers to promote purpose-built new garden communities. Government recognises that these can make valuable contributions to meeting pressing housing needs across the country. Furthermore, with the nation facing a deep recession, the construction of more garden communities, faster, could make a significant contribution to the nation’s economic recovery efforts. Garden City Developments CIC has prepared this paper to highlight the modest legislative and more substantial policy changes it believes are required to deliver large garden communities. These should be included in the Government’s forthcoming proposed planning reforms.’³

We conclude that if government wishes to promote the development of large garden communities (by which we mean ones with over 10,000 homes) it can do so with only modest legislative reforms and enhanced policies. First, government should open up to promoters of large garden communities the Development Consent Order planning regime established by the Planning Act 2008 for nationally significant infrastructure projects, to allow the promoters to obtain consent for the garden communities in that way. Secondly, government should partner with local authorities to establish New Town Development Corporations under the New Towns Act 1981 and use the procedures under that Act to designate, consent and fund large garden communities.

Our paper has five sections:

- What are large garden communities and why are they important now?
- What must be the prime features of the government effort to accelerate large garden communities?
- How can Development Consent Orders be used to enable the delivery of large garden communities?
- How can conventional and locally-led development corporations established under the New Towns Act 1981 be used to deliver large garden communities?
- Conclusions and recommendations.

Our paper draws on recent research that we commissioned from Professor Janice Morphet and Dr Ben Clifford of the Bartlett School of Planning, University College London (UCL). This included a review of recent literature and contributions from the individuals listed in **Appendix 1**, most of whom are connected with Garden City Developments CIC. Appendix 1 also contains some information about Garden City Developments CIC. The UCL research report is contained in **Appendix 2**.

¹ See Appendix 1 for details about Garden City Developments CIC.

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805688/Garden_Communities_Prospectus.pdf, August 2018

³ <https://www.gov.uk/government/news/pm-a-new-deal-for-britain>

What are large garden communities and why are they important now?

1. Government defines garden communities as places that provide a community with a clear identity, are built at scale to allow the community to function self-sufficiently on a day to day basis, and with capacity for future growth. They will be well-designed vibrant mixed communities that support a range of employment, retail, recreational and community facilities. They provide a wide range of high-quality homes with a full mix of tenures including affordable housing. They will be healthy places and promote public transport, walking and cycling. Garden communities will be planned by local authorities in partnership with private developers⁴.

Garden communities: not 'sylvan suburbs'

2. Garden communities provide job opportunities, attractive parks and open spaces, transport infrastructure, footpaths and cycle routes, schools, health centres and sports and leisure facilities. They are well served by public transport and make provision for the long-term stewardship of community assets.⁵ Thus, garden communities are not just 'sylvan suburbs' or residential neighbourhoods. Garden communities are developed by capturing some of the significant uplift in land value (arising from the allocation of greenfield land for housing) to meet the costs of transport infrastructure, social facilities and the amenities that make a complete community. In 21st century Britain, town and country planning laws, policies and practices determine the size and location of garden communities, the high level vision, the mix of uses, and the extent to which the increase in land value is re-invested in the community.
3. In this paper, we are concerned with larger and what can be regarded as nationally significant garden communities, generally 10,000 homes or more. This is because most smaller, garden communities are unlikely to include provision for significant investment in office, industrial, and warehouse developments. Thus, they are not large enough to make it possible for those living in the communities to work there and provide the full range of social and leisure facilities. And most smaller garden communities are unfortunately still being planned on the assumption that residents will travel by car to work and for most of their other daily needs.^{6 7 8} Thus, smaller communities are less suitable for those on low and moderate incomes.
4. Research by Lichfields in 2019 highlights that of the 49 projects considered by the government as 'garden communities' ranging in size between 43,000 and 1,500 homes, only a third have planning permission or an allocation in an adopted local development plan, a third are in emerging local development plans and a further third have no planning status at all.⁹ If all these schemes are developed, they would provide just over 400,000 homes. However, the larger schemes are struggling to make their way through the planning system. Of the 33 schemes with under 10,000 homes, 30 had some form of planning status. However, of the 16 schemes with over 10,000 homes, 6 had no planning status. Furthermore, Uttlesford has subsequently been reduced from 18,500 to 5,000 homes and the proposals for the North East Garden Communities have been drastically scaled back.

North East Essex garden communities: political commitment - inspector rejects two of three

5. Moreover, recent efforts by three North Essex district councils and Essex County Council to promote a linked group of three garden communities (providing some 43,000 homes) have demonstrated how local development plan preparation procedures are not suitable for bringing large schemes forward. For over five years, these councils worked closely together to build and sustain a strong political commitment to the communities, established a joint company to prepare detailed plans and financial appraisals (at a cost of well over £4million) and progressed the project through the a joint local development through to examination.
6. Then in mid-2020, the Inspector found reasons to reject two of the three proposed communities. He was not convinced that the whole project would be deliverable over two or more decades. Also, he was not

⁴ <https://www.gov.uk/government/publications/garden-communities>

⁵ <https://www.gov.uk/government/publications/garden-communities>

⁶ Harrabin, R. (2020) <https://www.bbc.co.uk/news/uk-england-53050801>

⁷ Transport for New Homes (2020). <https://www.transportfornewhomes.org.uk/wp-content/uploads/2020/06/garden-village-visions.pdf>

⁸ <https://www.england.nhs.uk/ourwork/innovation/healthy-new-towns/>

⁹ How does your Garden Grow? A stock take on planning for the Government's Garden Communities programme <https://lichfields.uk/content/insights/how-does-your-garden-grow>

presented with evidence that government would commit to constructing the necessary national trunk road improvements (even if the appropriate proportion of the costs would be met from the garden communities). This experience demonstrates that for the larger garden communities that will be developed over a long period, the current local plan system brings considerable uncertainty with it. It is a very costly (both in political and financial capital) high risk way to promote large garden communities, which few will wish to pursue.¹⁰

Large garden communities: contributing to national economic recovery

7. We see the potential for every large garden community scheme to make a significant contribution to delivering the Government's target of 300,000 homes per year.¹¹ Once planning consent and land rights are secured, and construction commences, large garden communities deliver – for at least 15 years and often for longer – they are a 'gift that keeps on giving.' Conversely, as it often takes many years to secure a consent for a large project, and many schemes are abandoned, these are opportunities delayed or lost altogether.
8. As the nation attempts to recover from the Covid-19 pandemic and the consequent recession, these delayed and lost opportunities are particularly important. Recent research by Savills and Shelter is predicting that housing completions will be down by 85,000 in 2020. In the worst-case scenario, housing completions could be down by 125,000 in 2020.¹² This expected reduction in delivery represents a third of the 255,000 of housing completions in 2019.¹³ Over five years, this reduction could be 318,000 homes.¹⁴
9. The Prime Minister is committed to a 'New Deal' approach to public works investment¹⁵ and has also announced his intention to change the planning system through a policy statement by his Secretary of State for Housing, Communities and Local Government.¹⁶ This provides an opportunity for the government to place an accelerated garden communities programme at the heart of the nation's recovery effort. Some large communities may already be winding their way, very slowly, through the local plan preparation process. Others will be new sites. And, as John Walker and Lee Shostak argued provocatively in *Housing Today* last month, if government were minded to promote 40 garden communities each with a capacity for an average of 25,000 homes, this would create plots for an additional 1,000,000 homes to meet the demand for owner occupation and address shortages of affordable housing.¹⁷ And these communities would be designed to enable healthier lifestyles and contribute to building a zero-carbon Britain.^{18 19 20}

What must be the prime features of the government effort to accelerate large garden communities?

10. For well over a decade, government has been promoting the merits of garden communities. Those contributing to this paper are clearly of the view that renewed government efforts are needed to progress larger schemes. In our view, these efforts must have the following features:
 - Clear government commitment to large garden communities;
 - Effective local authority and government working partnerships;
 - Fast track processes to determine suitable locations and identify sites;
 - Provision for private developers and large housing associations to promote schemes;
 - Strong collaborative delivery organisations, with clear democratic accountability for the outcome, capturing some of the land value uplift; and

¹⁰ North Essex Authorities Inspector's post hearing report https://www.braintree.gov.uk/downloads/file/9294/ied022_-_inspectors_post-hearing_letter_to_neas_-_15th_may_2020

¹¹ R. Booth 'Coronavirus slump could delay building of 300,000 homes' Guardian 30th June 2020

¹² M. Lawford 'Coronavirus chaos means Britain could lose 318,000 new homes over five years'. Daily Telegraph 30th June 2020

¹³ J. Gardiner 'Housebuilding volume to drop by 84,000' Housing Today 30th June 2020.

¹⁴ L. Greenwood The Savills Blog 30th June 2020 <https://www.savills.co.uk/blog/article/301680/residential-property/what-impact-will-covid-19-have-on-future-housing-supply-in-england-.aspx>

¹⁵ B. Johnson 30th June 2020 <https://www.gov.uk/government/news/pm-a-new-deal-for-britain>

¹⁶ MHCLG, 12 March Press Release <https://www.gov.uk/government/news/robert-jenrick-plans-for-the-future-to-get-britain-building>

¹⁷ Walker, J. Shostak, L. Housing Today 17 July 2020 <https://www.housingtoday.co.uk/comment/use-the-new-towns-act-to-liberate-land-for-one-million-new-homes/5107046.article.paywall>

¹⁸ Building Better, Building Beautiful Commission: <https://www.gov.uk/government/groups/building-better-building-beautiful-commission>

¹⁹ Homes for Health: <https://www.gov.uk/government/collections/housing-for-health>;

²⁰ <https://www.england.nhs.uk/ourwork/innovation/healthy-new-towns/>

- Strategic infrastructure underwritten by government but where appropriate, part funded by private investors.

We briefly describe each of these features – or tests – below. Then, we outline two distinct ways that government could meet all or most of these tests with modest legislative reforms and enhanced policies: 1) open up the use of Development Consent Order procedures to approve large garden communities; and 2) use New Town Development Corporations established under the New Towns Act 1981 as delivery organisations.

Clear government commitment to large garden communities

11. In the past, government commitments to secure the development the Olympic Park, London Docklands, most other urban development projects (as in Tyneside, Manchester, and Liverpool) and the original 27 new towns were backed up by clear concerted actions. Private developers invested in these schemes because they were confident that government wanted success and were prepared to invest up front where necessary to create confidence. By contrast, whilst government embraced promoting garden communities over a decade ago, the various prospectuses, programmes and policies have not demonstrated a similar depth of government commitment to delivering them.
12. The North East Essex experience was the starkest example of why this is a problem. Even though MHCLG funded most of studies undertaken by the local authorities, a Planning Inspector was not able to recommend approval of all three garden communities because there was no evidence that government had made a long term commitment to securing their delivery. More widely, since 2007 the plethora of government garden community initiatives has generated much promoter interest but the schemes still face significant barriers. Progress is often dependent on winning another MHCLG funding competition.
13. Our experience tells us that the key to bringing forward large garden communities is for government to make a ‘whatever it takes’ commitment to ensuring the delivery of specific schemes. In certain circumstances (see below) this means that a government commitment to promote a large garden community in an area will be a starting point for an emerging new local plan. All the other requirements below illustrate how government can do this – if it wants to.

Effective local authority and government working partnerships

14. Our experience also tells us that government must establish effective working partnerships with local authorities if a large garden community is going to be successfully developed. It is worth remembering that it was Buckinghamshire County Council that first promoted a new city in North Bucks, now known as Milton Keynes. Local authorities for many of the new towns welcomed, both formally and quietly, government’s designation decision. And for all of the new towns, the expanded towns, and other large urban expansions, some form of partnership between government and the local authorities was key to success.
15. Today, in a few cases, local authorities have successfully promoted a large garden community over many years by working in partnership with government. (Cherwell’s efforts to secure government support for Bicester is probably the best example.) As in North Essex, we understand that government is providing some financial support for initial planning and some development costs for most schemes defined as garden communities from a variety of different MHCLG ‘deals’ or other budgets and/or from Homes England. However, the relationship between government and a local authority is not a true partnership of equals. The local authority is always a very junior partner as they have no security of a long term commitment from government for helping to fund social and transport infrastructure, affordable housing, and/or land acquisition when needed. Instead of the current ad hoc approach to funding, it would be more sensible to build a strong constructive working relationship between government and a local authority based on shared ownership of a funded delivery organisation and delivery plan as set out below.

Fast track processes to determine suitable locations and identify sites

16. In our view, the task of defining the location for a large garden community is an exceptionally difficult challenge facing government. Today, the local plan preparation process -- as defined principally by the Town and Country Planning Act 1990 -- is the only way that locations for large garden communities can be identified. Whilst the need for, and nature of, wider reform of this legislation is well beyond the remit of this note, we confidently advise that it is not the best way of making decisions about the locations and scale of large garden communities.
17. There are three simple reasons why we say this. First, it can easily take 15 years or longer to develop a large garden community and viability or delivery studies so far into the future must, at best, be regarded as highly speculative. Secondly, often large projects involve investments in strategic transport infrastructure; it is not possible for local government to commit to planning and forward funding those investments so far into the future. Thirdly, in almost all cases, a large garden community has important impacts for several local authorities and a 'duty to cooperate' is not a duty to agree. Often neighbouring local authorities struggle to reach an agreement, particularly when the project falls within more than one local authority.
18. There is a widely shared view that the nation needs a more strategic approach to planning to determine the right locations of large scale garden communities.²¹ National settlement strategies, regional plans, joint sub-regional plans, plans for combined authorities, or possibly even county (or large unitary authority) structure plans, are all suitable mechanisms for identifying where large projects could be located, especially when based on effective collaboration²². Whilst, in the long run, this view might have some merit, we do not believe that it is helpful to rely on such mechanisms now. Moreover, we already have some broad strategic frameworks such as the proposals for the Oxford-Milton Keynes- Cambridge Arc.²³ These provide a starting point for quickly determining the suitable locations for large garden communities.
19. Thus, it is our view, that promoters (including government, local authorities and private developers) should bring these forward sites outwith the local planning process. Fast tracking large garden community projects is an important element of the nation's recovery plan. We set out two approaches below.

Private developers and housing associations will build most housing but could promote schemes

20. Today, and in the foreseeable future, the master or umbrella developer of any large garden community will be disposing of most sites to private housebuilders, and non-profit housing associations. They will build most of the homes for rent and for sale. However, when a housebuilder, a housing association or a private consortium wishes to promote a site for a large garden community they can only do so via the local plan system. In our view, as part of a commitment to fast track large garden communities, private/non-profit organisations should have the opportunity to promote their schemes directly to central government. Ideally this would be in cooperation with local authorities – even if the authorities do not formally endorse the project. How this could be achieved is set out below.

Strong delivery organisation capturing some of the land value uplift

21. Large garden communities are developed over at least 15 years and often over a longer period. As with any complex property development project, responsibility for implementing the scheme is best vested with a single organisation. This body would establish a vision for the community, secure the preparation of a master plan, and then formulate a delivery programme. They would secure the necessary investment to deliver the programme, procure the essential strategic transport infrastructure, ensuring that schools, health facilities and amenities are built, and dispose of sites to housebuilders. They would be responsible for maintaining high standards of design and construction.
22. Sometimes this principal or umbrella developer role can be performed by a private developer, or by a local authority, or by some form of special purpose development corporation. The recently amended New Towns Act 1981 makes provision for both centrally and locally controlled development corporations. This is one of

²¹ E.g. the recent Barton Willmore (with others) report *National Infrastructure & Development Planning Review: Can Development Consent Orders Help Meet The Challenges Of Our Time?* (July 2020): see [Development Consent Orders](#).

²² Better Planning Better Transport Better Places, CIHT *et al*, 2019

²³ <https://www.gov.uk/government/publications/budget-2020-documents>

the two options that we explore further below. In our view, if a special purpose vehicle in the form of a development corporation is established, the board governing this organisation must include:

- members appointed by the local authority(ies) where the project is located;
- members appointed by government if the project relies on investment from government; these members bring relevant development experience and knowledge of government; and
- members appointed by the private developers (land owners) if it is anticipated that they will retain an equity interest in the project by virtue of their ownership of the site.

These members would serve as directors of the special purpose vehicle with a fiduciary duty to achieve the objectives of the organisation.

23. All large garden communities will invest a significant proportion of the increase in land value (arising from the allocation of greenfield land for residential development) in the infrastructure, facilities, and amenities that make a community. If a local authority already owns the site, they can make decisions about the proportion of the land value increase that they will invest in the community and the proportion that they will retain for wider purposes. If the land is in private ownership, then the local authority and/or the special purpose vehicle will use their various planning powers (principally section 106 agreements and Community Infrastructure Levies) to capture some of the uplift, which is far from satisfactory. But experience from the New Towns suggests that the best way to capture more of the uplift for investment in the garden community is to use the New Towns Act 1981, designate the land, establish a development corporation with powers to purchase the land compulsorily, and then enter into negotiations with private landowners. This option discussed further below.

Strategic infrastructure underwritten by government but may be part funded by private investors

24. All large garden communities will need significant public investment in strategic infrastructure including a primary road network, effective public transport, schools, health facilities and other amenities. Normally, but not always, private utilities can be relied upon to invest in surface and foul water drainage, water and electricity supplies, and telecommunications. Most large communities will also require investment in off-site transport network improvements. If the investment is to come from the public sector, this will be a combination of grants and loans and the loan portion can be repaid through the uplift in land value. Moreover, for large garden communities in South East England, and in some other regions, it is likely that pension funds, insurance companies and other sources of patient private capital would welcome the opportunity to enter into joint ventures to fund much of the infrastructure needed for a large garden community provided that government underwrites part of the risks.
25. The research undertaken to inform this paper (reproduced in Appendix 2) and the Lichfields research²⁴ suggests that it is possible to gain consent for smaller garden communities (typically up to 5,000 homes) using establish local plan-making/planning application processes. This usually takes at least four years and often much longer; promoters find it is time-consuming, costly and frustrating. Yet, for smaller garden community schemes, the extant system does work although it could work faster and better. Also, local authorities are bidding for, and often securing, Housing Infrastructure Fund and other MHCLG grant/loan support for these smaller schemes. Sometimes we see it is possible to bring forward schemes with between 5,000 and 10,000 homes although we are not convinced that extant procedures work effectively. This is particularly the case when the scheme falls under the jurisdiction of two or more local authorities or is being promoted exclusively by a private developer without local authority support.
26. However, we are in no doubt that for larger garden communities (generally with 10,000 homes or more) modest planning and other reforms are needed in two respects. First, government should open up to promoters of large garden communities the Development Consent Order planning regime established by the Planning Act 2008 for nationally significant infrastructure projects, to allow the promoters to obtain consent and powers for the garden communities in that way. Secondly, government should partner with

²⁴ How does your Garden Grow? A stock take on planning for the Government's Garden Communities programme <https://lichfields.uk/content/insights/how-does-your-garden-grow>

local authorities to establish New Town Development Corporations under the New Towns Act 1981 and use the procedures under that Act to designate, consent and fund large garden communities.

27. These reforms would each provide an alternative means to establish strong delivery organisations for large garden communities; they would also each provide a new way for the communities (including their underlying infrastructure requirements) to be given planning consent and all necessary powers including for the compulsory purchase of land. If these reforms are accompanied by stronger longer term government policy commitments to their use, this will prove to be much more effective and faster than relying on the existing local plan-led planning system for delivering large garden communities.

How could Development Consent Orders be used to enable the delivery of large garden communities?

28. Bringing forward large garden communities as nationally significant infrastructure projects (NSIPs), and thus consented through Development Consent Orders (DCOs) would enable large garden communities to take advantage of the benefits of that regime; namely:
 - a. enabling all the legal powers and consents needed to bring forward a large garden community to be obtained at the same time and under one umbrella - including planning, land powers, highways powers, rail and environmental powers - rather than needing a complex web of powers and consents obtained over time;
 - b. certainty as to timing - with the maximum examination and decision-making time periods largely fixed; and
 - c. bringing all stakeholders on board within those timeframes and that overall framework, including utilities, as they are all subject to the same time limits and a DCO can set out the overall framework within which subsidiary approvals are to be given by those stakeholders later on.

National Policy Statements

29. However, another key benefit of the DCO regime, which would need to be updated to ensure that large scale garden communities are also able to utilise it, is that NSIPs are brought forward against the backdrop of a series of 'National Policy Statements' - policy statements which set out the Government's identification of need for certain types of infrastructure and the policy tests against which individual proposals are judged. National Policy Statements are the primary document against which NSIP proposals are judged but they also perform the crucial role of ensuring that the examination of NSIP proposals does not need to involve a debate as to the 'need' for the infrastructure - if a development meets the relevant criteria set out in the relevant National Policy Statement, then there is a presumption that it is needed and objectors cannot raise this as a point of argument.
30. In the context of the difficulties of bringing forward large scale housing under the tests currently set out in the NPPF, and the political controversy of proving that such housing is needed with the development of local plans, including large scale housing as a new NSIP category would need to be accompanied by an additional National Policy Statement covering large scale garden communities along with other major housing requirements. Such a new National Policy Statement could 'reset' the policy debate in respect of the 'tests' that a large garden community proposal would have to pass, setting the framework against which delivery, infrastructure and long term stewardship matters could be developed by project promoters. For example, the National Policy Statement could set criteria for what is required in respect of levels of non-car accessibility, the balance between housing and employment, high standards of design and sustainability, community participation and stewardship. Furthermore, from a policy perspective, a link could also potentially be made between large garden community NSIPs and the allocation of HIF funding to further enable deliverability.
31. An important element of developing a National Policy Statement would also be to consider to what extent it would be a 'spatial' document rather than just setting general policy and assessment tests for large scale housing developments. In our view, there does need to be a spatial element given that the question of housing 'need' is a vexed one that is affected by a range of local issues usually considered in a local plan

process. Such questions of locally assessed need will therefore 'rub up' against the national 'need' for large scale housing set out in general terms in a National Policy Statement. Therefore, in order for these reforms to work in practice, any National Policy Statement would need to have a spatial dimension, stating not only that there is a need for large scale communities, but also that they are needed in specific broad areas (but not locations). This would then 'trump' the local assessed need considerations – as the National Policy Statement would establish not only that large scale developments are needed, but the broad areas where they are needed.

32. The question would then become as to how a spatial element could be brought forward in a National Policy Statement, given the inherent political nature of such a decision. In our view, this is best and most effectively done by using the evidence base and work by Government and local authorities to identify key local authority areas where more housing is needed, but then set policy tests that a proposed large scale garden community would have to meet to demonstrate during the DCO process that it should be consented in the specific location proposed. Such areas could, for example:
- a. be relevant Housing Market Areas where there is an identified housing shortfall and thus a need for larger settlements to meet that need;
 - b. embrace work undertaken by the National Infrastructure Commission, where key corridors such as the OxCam Arc have been identified as needing to harness infrastructure development to promote economic growth;
 - c. tie into work undertaken by LEPs and combined authorities; or even
 - d. relate to existing and future garden community programme projects.
33. Our suggestion is that Government should be able to make the political decision, building on work already undertaken, that certain local authority areas are suitable, without determining specific locations and the consequential local political considerations that could arise. We note that other recent publications from Barton Willmore, Copper Consultancy and Womble Bond Dickinson, and Lichfields, have also encouraged the use of government planning policy to help direct settlement locations.

Local factors accommodated by the DCO regime

34. Looking beyond the policy-setting stage to actually taking large scale garden communities through the DCO regime, there are other important matters to be considered. It is to be appreciated that large garden communities are long term projects that will have a large impact on a local authority for many years. As such, it is important the local community and local authorities can play a role in masterplanning, delivery and stewardship over the short, medium and long terms; essentially ensuring that there is some form of local accountability for the garden community promoter in return for the certainty and benefits of the DCO regime.
35. To that end, it is important to note that the DCO examination process does include scrutiny of an applicant and whether they are a suitable body to obtain the powers sought, including in particular in relation to any proposed compulsory acquisition. There is no statutory or guidance requirement as to who is to be an applicant for a DCO, but it is for the applicants to demonstrate during the examination that it is appropriate for them to be granted the broad powers included in a DCO. We note, however, that if government did consider it appropriate to do so, they could legislate for any National Policy Statement for large scale communities to specify appropriate applicants, or indeed set out policy tests that applicants would have to meet to be able to be granted powers.
36. An important benefit of DCOs is not only that roles in masterplanning, delivery, governance and stewardship can be facilitated through the wording of the DCO itself, or through references to framework documents that can be fleshed out over time, but also that the related structures and processes will then have a statutory footing, meaning that they become a statutory requirement of the project. Coupled with the ability of a National Policy Statement to set policy tests or expectations for such matters, the DCO regime would actually help focus minds on bringing certainty to them, something which is sometimes lacking under the conventional planning regime.
37. These controls can also be applied to the land aspects of bringing forward large scale garden communities. This is particularly where the promoters (which could be private sector developers) need to obtain powers of compulsory acquisition but may wish at a future date to transfer them to a successor. Not only are these

types of matters tested during DCO examinations, given the strict tests set out in statutory compulsory acquisition guidance, but it is common for DCOs to include provisions requiring guarantees to be put in place and approved by local authorities to ensure the payment of compulsory acquisition compensation.

The need for flexibility

38. An important element of large scale garden communities is also the need for their evolution to be flexible over time as commercial, political and land influences change - for example, being able to change a district centre from one side of a community to the other. There is no reason why the DCO regime could not provide for this, although we recognise that currently the regime generally struggles to deal with a promoter's ambitions for flexibility when they come under the spotlight of the examination.
39. But this is not something which requires a change in law to deliver; it is merely a change in practice that should be promoted by government, encouraged by changes to formal guidance and Planning Inspectorate Advice Notes advocating that this flexibility is possible and desirable as long as it can be shown not to cause unacceptable environmental or community impacts. Importantly, we would suggest that this should be applied to wording not only in respect of the 'scheme' that is brought forward but also in terms of the procedures that a DCO is able to create for facilitating a degree of change during detailed design and delivery.
40. Clearly the limit to these changes is that they would only be able to take place within the 'red line boundary' for the project; but allowing this wording to be brought forward will be an easy but vital way to facilitate large scale projects, including housing, to be able to be developed over many years with flexibility, without having to waste examination and decision-making time on considering whether the flexibility is appropriate. Furthermore, given the context of climate change, it will facilitate promoters being able to bring forward management and monitoring schemes that are adaptive to changing climate and technologies over time rather than being stuck to the environmental baseline at the time of decision. We also consider that at the same time government should legislate to make it easier to change DCOs after they have been put in place, in a similar way that the 'section 96A' process was introduced into the conventional planning regime.

Accountability and the local community

41. Equally, it would be essential for the DCO to contain mechanisms and safeguards to ensure that delivery of high quality development and stewardship is assured for the long term, and in a way that can guarantee high quality even when circumstances change. Under such an 'adaptive' approach, now beginning to be used in relation to environmental monitoring and mitigation, the "Master Developer" would, as a minimum, have to be accountable in a meaningful way to the appropriate public body, most likely the local planning authority, for delivering all of the promised qualities of the scheme. That accountability must include active participation by a range of stakeholder parties including the local community in scheme build out and implementation, and in considering the need for and designing any changes to the scheme. It should also allow for agreements about additional funding and corresponding changes in the returns which accrue to each party. The body to whom the developer is accountable must also have the right to refuse agreement to any changes which it considers unnecessary and harmful.
42. Whilst we appreciate that these matters will require strong political decision-making, we believe they demonstrate that, albeit with some fairly minor changes, the DCO regime would be a very effective way to consent and provide an overall framework for the delivery of large scale garden community proposals.

How could conventional and locally-led development corporations established under the New Towns Act 1981 be used to deliver large garden communities?

43. The 1981 New Towns Act (as amended) provides for two separate routes for establishing development corporations. The first and 'original' route is for Parliament to designate a site and to establish a new town development corporation (**NTDC**) to deliver the project with a mix of government and private investment. The second, a 'new' route, is to create a locally-led new town development corporation (**LLNTDC**). The latter must comply with the New Towns Act 1981 (Local Oversight Authority) Regulations 2018.
44. The key distinction between the two models can be deduced from the names. The LLNTDC route provides for a locally-led model whereby an oversight authority made up of one or more local authorities may be appointed by the Secretary of State to oversee the development of the new town. In practice this means

that the oversight authority may exercise some of the Secretary of State's functions under the NTDC route, meaning it may have a role to play in areas including planning, land acquisition and borrowing.

Process for designating the site and establishing a NTDC

45. There are two elements to the establishment of a NTDC under the 1981 Act: the designation of an area of land as the site for the new town and the establishment of a development corporation in respect of that site. The Secretary of State must consult with key stakeholders before designating an area of land as the site of the new town; this includes local authorities and residents. That is the only statutory requirement before the Secretary of State can make an order designating the site of the new town. The other strand is establishing the development corporation itself in respect of that site. Again, there is a statutory requirement on the Secretary of State to carry out consultation with, for example, local authorities and residents. Once that has been undertaken, the Secretary of State may by order establish a development corporation which will have the purpose of developing the site being designated as a new town.
46. The final orders cannot be made unless a “draft designation order” has been approved in advance by Parliament. In the past, the Secretary of State would appoint an independent inspector to consider the boundaries of the site proposed in the draft order. Following a public inquiry, the inspector would make recommendations and the Secretary of State would consider these recommendations and whether to amend the site boundaries. The Secretary of State would then make the final orders.

Process for establishing a LLNTDC

47. Generally speaking the process outlined above for NTDCs applies equally to LLNTDCs in terms of consultation, designating an area and establishing a development corporation and the Parliamentary process. However, the MHCLG guidance on the 2018 Regulations gives greater detail on the process for establishing LLNTDCs.²⁵ This makes reference to the local authority or authorities developing the LLNTDC proposals and making an application to the Secretary of State. This is a departure from the NTDC route where local authorities do not have the same role in terms of, for instance, driving the proposals from an early stage and making an application.
48. It is helpful to consider this locally-led facet to the establishment of LLNTDCs in the context of the mayoral development corporation (MDC) route. Under that model, a Mayor may designate an area of land as a mayoral development area (following consultation) before notifying the Secretary of State of the designation and the name to be given to the MDC for the area. When the Secretary of State receives this notification, he/she must establish a MDC for the area. We consider that in this respect the LLNTDC route should be aligned with the MDC route given that the two routes are analogous in terms of being locally-led. This would be beneficial in ensuring a more straightforward route for establishing LLNTDCs which would give greater certainty in terms of the delivery vehicle for the development of areas.

NTDCs and planning

49. In terms of planning control, a NTDC may submit to the Secretary of State proposals for the development of land within the area of the new town. After consulting with the relevant local planning authority (and any other relevant authority), the Secretary of State may approve the proposals either with or without modification. The Secretary of State then makes a special development order (SDO) which grants planning permission for the development in accordance with the approved proposals. That permission is subject to any conditions specified in the SDO. In the past, in considering whether to establish an NTDC, the Secretary of State would review any extant local plans but there was no expectation that the general area, or a detailed site, would have been proposed for allocation in a local, county or sub-regional plan.

25

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721078/New_Towns_Guidance.pdf

LLNTDCs and planning

50. Under the 2018 Regulations, the LLNTDC must submit to the oversight authority (not the Secretary of State) for approval proposals for the development of land. Where the oversight authority is the local planning authority (or is authorised to act on behalf of the local planning authority), the oversight authority may adopt the proposals as a local development document and make a local development order (LDO). The LDO will grant planning permission for any development of land in accordance with the approved proposals.
51. We consider that an efficient and streamlined route for granting planning permission in a LLNTDC's area is through the use of LDOs. This is supported in MHCLG's guidance which refers to this route as a means of 'securing high quality development at pace within clear parameters'. The LDO route would obviate the need for developers to obtain planning permission under the conventional local plan-led process. Further consideration of LDOs in terms of proposed changes to the model is set out below.
52. A related point is that the MHCLG guidance mentioned above considers briefly the status of a site in relation to the local plan process at the point of designation. It states that, in general terms, MHCLG expects that local authorities will only seek a LLNTDC designation after, or close to the point at which, a proposed new town site(s) is included in an adopted local plan. We consider that this general approach is a contributing factor as to why there are still no LLNTDCs in existence and it does not necessarily need to be the case that a proposed site is included within an adopted local plan before it can be designated. We believe that if this general approach was not taken it would help to accelerate the creation of LLNTDCs and therefore the development of large scale garden communities.

Local Development Orders (LDOs)

53. We consider that a number of changes to LDOs should be taken forward by MHCLG as part of the current planning reforms process. A short summary of the key proposed amendments is set out below:
 - a. Allowing a LDO to apply to more than one local planning authority area (e.g. one local development order could apply to the whole of a LLNTDC's area even if it straddles the areas of two or more local planning authorities);
 - b. making clear that if it can be shown that no Habitats Regulations Assessment (HRA) is required or that with appropriate mitigation and compensation no HRA issues will arise, that local development orders are able to be brought forward;
 - c. providing statutory timescales for decisions on LDOs; and
 - d. allowing landowners, private sector developers, public bodies and statutory undertakers to bring forward local development orders on their own basis (i.e. to apply to the local planning authority for one) rather than relying on local planning authorities to bring them forward.

NTDCs and LLNTDCs: compulsory acquisition of land, acquisition value and infrastructure investment

54. A NTDC may acquire certain types of land compulsorily. This is undertaken by means of an order made by the NTDC which is submitted to and then confirmed by the Secretary of State. The various types of land include land within the new town and land adjacent to the new town for purposes connected with developing the new town. The same power and process applies in respect of LLNTDCs, although an oversight authority steps into the Secretary of State's role for certain functions related to land acquisition except that the confirmation of any proposed compulsory acquisition remains with the Secretary of State.
55. Most of the land acquired by the original new town development corporations was bought at existing use (normally agricultural) value. The development corporation then borrowed funds from government to service this land and provide facilities and amenities. They would dispose of the serviced land to developers and others at market value and the corporation captured this increase in value to repay the government loans.
56. Although the New Towns Act 1981 has not been used for several decades, we believe that it would be a powerful, very effective instrument for promoting garden cities. This is examined further by Walker and Shostak in *Housing Today*.²⁶

²⁶ Walker, J. Shostak, L. Housing Today 17 July 2020 [https://www.housingtoday.co.uk/comment/use-the-new-towns-act-to-liberate-land-for-one-million-new-homes/5107046.article \(paywall\)](https://www.housingtoday.co.uk/comment/use-the-new-towns-act-to-liberate-land-for-one-million-new-homes/5107046.article (paywall))

Conclusions and recommendations

57. The lack of a long-term vision from and funding by central government is the route of the problem. Political will at all scales is central to the consent and delivery of garden communities. Central government needs to put its money and long-term commitment behind brave local initiative just as was done with the New Towns.
58. The route using established plan-making procedures as defined by the Town and Country Planning Act is not effectively supporting the consent and delivery of large garden communities, because it is not sufficiently long-term, lacks an adequate strategic framework and does not create the certainty to allow key players to commit early enough.
59. Irrespective of any wider reform of the planning system (e.g. through a nationwide system of zoning) the government may propose, targeted reforms are needed to better support the consenting and powers required for the delivery of large garden communities.
60. Planning considerations are intrinsically linked to delivery issues. Long-term commitment to infrastructure funding and appropriate delivery vehicles are essential to the delivery of large new garden communities.
61. Government needs to energetically commit to large garden communities and get on and do it.
62. **We therefore recommend that:**
 - a. **government should provide a strategic planning context for long term, large scale garden cities;**
 - b. **unless infrastructure providers state that it is impracticable to provide the necessary services at a reasonable cost, the assumption should be that the infrastructure required will be delivered to support a large scale garden community (either self-funded or through a national agency) over the period of its delivery;**
 - c. **government should open up to promoters of large garden communities the Development Consent Order planning regime established by the Planning Act 2008 for nationally significant infrastructure projects, to allow the promoters to obtain all necessary powers and consents for the garden communities in that way subject to government issuing clear guidance on the broad range of provisions that it would expect to be contained in Development Consent Orders to ensure accountability for high quality delivery in the long term and community involvement;**
 - d. **government should use the New Towns Act 1981 to designate sites and establish development corporations to deliver large garden communities using the LLNTDC route - with a strong resource commitment from government. For those locations where the LLNTDC route is not possible or appropriate for whatever reason, government should be prepared to establish development corporations under the conventional route, i.e. as NTDCs;**
 - e. **government should establish LLNTDCs at an early stage on the request of local authorities and should not wait to do so based on the progress of the relevant local plan;**
 - f. **to ensure that planning permission in a LLNTDC's area can be granted in an efficient and streamlined manner, LLNTDCs should seek to make use of LDOs as an alternative to using the local plan process; and**
 - g. **refinements should be made to the LDO model to ensure that its flexibility and effectiveness is further enhanced in order that LLNTDCs can fully benefit from the model. Suggested changes include allowing a LDO to be made across more than one local planning authority's area; allowing landowners, private sector developers, public bodies and statutory undertakers to apply for local development orders; and providing for statutory timescales for decisions on LDOs.**

Appendix 1

Garden City Developments CIC

Garden City Developments CIC ('GCD') is a community interest company (so a not-for-profit organisation) incorporated in 2013. Its directors are three former trustees of the Town and Country Planning Association - Lynda Addison OBE, Sir Brian Briscoe and Lee Shostak OBE - and Robbie Owen, a planning partner of Pinsent Masons LLP.

The formal objects of GCD are to work in a variety of ways with a range of partners to create new settlements in England based on Garden City principles, as advocated by the Town and Country Planning Association. GCD seeks to deliver new settlements with outstanding design and environmental standards, having full regard to best practice in sustainable development (water, energy, transport, food, health and security) to provide balanced communities where people can have a home in an environment that is attractive and has good access to amenity, employment and community facilities.

GCD is focused on helping local authorities and landowners who believe that 'there must be a better way' to apply the TCPA Garden City principles in real situations, to bring about large scale sustainable development which will produce attractive environments in which people and businesses can thrive. GCD's approach lies in supporting local leadership, a greater sharing of risk and greater confidence of good standards of delivery. It aims to help the local authority broker agreements with landowners, developers, infrastructure investors and the local public to build greater confidence through shared vision, risks and rewards that can be seen to be deliverable.

We would like to thank the following for their contributions to this report through interviews, notes and authoring:

Lynda Addison, OBE
Sir Brian Briscoe
Robbie Owen
Lee Shostak, OBE

Stephen Ashworth
Allen Duff
Ian Piper
Ian Vipond

Richard Bayley
Hannah Hickman
Dinah Roake
John Walker

Appendix 2

Research report by Professor Janice Morphet and Dr Ben Clifford, University College London

Improving the Planning and Delivery of 21st Century Garden Communities

Professor Janice Morphet and Dr Ben Clifford

July 2020

Introduction

'We want to see vibrant mixed-use communities where people can live, work, and play for generations to come- communities which view themselves as the conservation areas of the future. Each will be holistically planned, self-sustaining and characterful'.²⁷

'Garden Communities' is the language of this government for the delivery of large scale, purpose built new settlements to meet the pressing housing need of this country. The characteristics of these new settlements have been defined as places that:

- provide a community with a clear identity and attractive, sustainable environment;
- provide a mix of homes including affordable and self-build; and
- have been planned by local authorities or private sector in consultation with the local community

Importantly, Garden Communities are also envisaged as providing: job opportunities, attractive green space, public realm areas; transport and infrastructure, including roads, buses, cycle routes; community infrastructure including schools, community and health centres and a plan for the long term stewardship of community assets.²⁸

There is a **key role for the planning system** in setting the vision and expectations for Garden Communities. Done properly, planning is also essential in ensuring quality, effective and timely delivery. Yet, recent research from Lichfields highlights that of the 49 projects designated as 'Garden Communities' (totally 403,000 homes), only a third have permission or an allocation in an adopted plan, a third are in emerging plans and a further third have no planning status at all.²⁹ Recent experience in North Essex has further evidenced that the current planning system is not currently optimised to support Garden Communities. There is a clear need to further optimise the planning system for Garden communities. ***This is about how you do planning and how you better enable planning to take a view on delivery.*** It is not about a need to fundamentally reform the planning system or about a narrative that sees planning as a regulatory block to development.

This Insights paper from Garden Cities Developments CIC (GCD)

- is a call to Government to better use the planning system to enable the Garden Communities it needs and wants. It is intended as a direct contribution to the Government's consideration of planning reforms referred to by the Prime Minister as 'A New Deal for Planning'³⁰;
- it identifies key principles (or tests) that are needed to enable the consent and delivery of Garden Communities and considers how effectively these tests are met within current planning mechanisms; and
- recommends how the planning system can be better optimised to provide a smooth, logical and transparent pathway from vision to delivery.

The paper is structured as follows:

1. What are Garden Communities and why are they important now?
2. What are the planning and delivery issues that need to be resolved in developing new larger Garden Communities?
3. Why aren't Garden Communities being sufficiently supported by the current planning system and how could the system be strengthened?

²⁷

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805688/Garden_Communities_Prospectus.pdf

²⁸ <https://www.gov.uk/government/publications/garden-communities>

²⁹ How does your Garden Grow? A stock take on planning for the Government's Garden Communities programme

<https://lichfields.uk/content/insights/how-does-your-garden-grow>

³⁰ <https://www.gov.uk/government/news/pm-a-new-deal-for-britain>

4. What needs to change if Garden communities are to be delivered through the planning system?
5. Conclusions and recommendations
6. Appendix 1 : contributors to this *Insight*
7. Appendix 2 : What options are available for planning and delivery of Garden Communities?

This paper, researched and written by Professor Janice Morphet and Dr Ben Clifford of the Bartlett School of Planning, UCL, was commissioned by GCD – a community interest company established in 2013 to help with the establishment of new Garden Communities. It has drawn on literature, interviews and written responses from GCD’s board members and other selected contributors (listed at Appendix 1).

What are Garden Communities and why are they important now?

The continuing need for new housing supply in England has supported a range of initiatives from governments over the last fifteen years. These have included changes in the planning system such as the way in which local plans are prepared³¹ and the expansion of permitted development rights that have allowed the conversion of offices to housing³² and house extensions without planning consent. More recently, in June 2020, there have been relaxations to allow the development of two additional storeys on existing blocks of flats³³. There have also been incentives to local authorities to provide new housing through the New Homes Bonus³⁴ and support for housing developers and market purchasers through Help to Buy schemes³⁵ which supports between 36% - 48% of sales of the five largest housing developers.³⁶ The creation of Homes England has been a channel for loans for infrastructure to support housing development sites and other direct mechanisms to promote housing site sales.

At the same time, there have been concerns about the slow levels of build out and completion of housing on larger sites by private developers, as discussed in the Letwin Review,³⁷ and the scale of re-negotiation to reduce contributions and social housing, requested by those promoting housing schemes following the receipt of planning permission. There have also been rising concerns about the quality of completed housing development.³⁸ This has led to the majority of English councils taking more direct action to provide housing directly so that they are able to guarantee the provision of a greater range of housing, built to higher quality standards and to contribute to their reduced government funding to run other services.³⁹

In this period, governments have once again promoted the role of new Garden Communities to provide housing in ways that both contribute to meeting housing needs but are in large scale settlements to deliver communities and not just housing. These Garden Communities are not ‘sylvan suburbs’ but a way of planning long-term for communities using the uplift in land value to provide the infrastructure that is needed for their development. These Garden Communities, particularly where they are expected to be larger than 10,000 homes, are able to provide the social and economic infrastructure to support their residents including leisure, health, schools, retail and social networking spaces whilst also providing locations for employment and business as well as adequate green infrastructure. Rather

³¹ NPPF 2012, NPPF 2018/9

³² Clifford, B., Ferm, J., Livingstone, N., & Canelas, P. (2018). Assessing the impacts of extending permitted development rights to office-to-residential change of use in England. RICS, London.

³³ <http://www.legislation.gov.uk/ukxi/2020/632/made>

³⁴ <https://www.gov.uk/government/publications/new-homes-bonus-final-allocations-2020-to-2021>

³⁵ <https://www.help2obuy.gov.uk/>

³⁶ <https://www.insidehousing.co.uk/comment/comment/will-the-coronavirus-crisis-force-genuine-reform-in-the-housebuilding-sector-65936>.

³⁷ <https://www.gov.uk/government/publications/independent-review-of-build-out-final-report>

³⁸ Living with Beauty report of the Building Better Building Beautiful Commission <https://www.gov.uk/government/publications/living-with-beauty-report-of-the-building-better-building-beautiful-commission>

³⁹ Morphet and Clifford 2019 <https://www.rtpi.org.uk/media/2043/local-authority-direct-delivery-of-housing-ii-continuation-research-full-report.pdf>

than providing a range of individual residential neighbourhoods, Garden Communities are concerned to create new places that can provide the potential for further growth in the future.

Garden Communities have emerged as a preferred approach for new communities and have been in a long tradition of new community development in the UK:

- new communities were developed privately and publicly in the 1930s including Metroland and Becontree;
- new towns model led by development corporations, enabled and supported by direct investment by government and recouped over a period of time.
- local authority led initiatives for similar but smaller scale development for expanded towns
- using Comprehensive Development Areas in development plans such as South Woodham Ferrers in Essex, that was developed using planning powers by local authorities and included the ability to use compulsory purchase orders (CPO) to create a settlement of 17,500 people.

Ecotowns were introduced in 2007 and attracted a range of interest, although the financial crisis the following year meant that these were then difficult to progress. However, as Henry Cleary, the former civil servant responsible for this programme remarked, 'it is surprising and reassuring to note that, despite the changes in the planning system, in 2020, 11 of the original 18 sites considered for eco-towns have now progressed to achieve a local plan allocation and consent for 1,000 homes or more'.⁴⁰ In five of these eco-towns, housing construction is underway and, in two eco-towns, notably Bicester, has been delivered. In order to progress to an eco-town designation, all proposals considered at the long list stage had to undertake a sustainability appraisal and a financial viability study. They were also required to have a standards-based approach to development. In Bicester, through a joint approach with A2Dominion, over 6,000 homes are proposed and are now well underway in their delivery. Of those other schemes still being pursued, the majority have consent or are proposing development of up to 1,000 homes and many have moved into the Garden Communities programme. Marston Vale in Bedfordshire was withdrawn from the eco-town programme but the site is now allocated within the Central Bedfordshire Local Plan and a planning application for 5,000 homes has been submitted.

The withdrawal of government-led support for schemes for New Towns has been replaced by other public-private ventures including an urban development corporation (UDC) in Ebbsfleet in an evolved form. Some smaller development, based on multiple neighbourhoods such as that in Sherford in Plymouth for 5,000 homes has been led by private house builders supported by Government loans via Homes England and its predecessor bodies have also been involved in developing public private schemes in Cranbrook (Devon) and Northstowe (Cambridgeshire). These new communities have been developed using hybrid powers and have been more reliant on masterplans and planning consents than plan-led approaches to create their basis for development and investment. Another example is Eddington in north west Cambridge which is being developed by Cambridge University to provide 3,000 homes with a range of tenures and rents and 2,000 rooms for postgraduate students in a new neighbourhood with commercial and other infrastructure including schools and open space using a master planning approach⁴¹.

More recently, there have been concerns about the effects of the Covid-19 pandemic on the UK economy with specific consequences for the completion of the Government's target of 300,000 homes per year.⁴² While many construction sites were the last economic activities to close down and among the first to re-open after lockdown, research by Savills and Shelter is predicting that housing completions will be down by 85,000 in 2020. In the worst-case scenario, housing completions could be down by 125,000 in 2020.⁴³ This expected reduction in delivery represents a third of the 255,000 of housing completions in 2019.⁴⁴ Over five years, this reduction could be 218,000 homes or 15% of the

⁴⁰ H. Cleary 2020 Eco-towns – ten years after. *Town and Country Planning* June/July 2020 pp 184-189.

⁴¹ R. Moore <https://www.theguardian.com/environment/2017/sep/10/building-trust-into-greener-housing-north-west-cambridge-development>

⁴² R. Booth 'Coronavirus slump could delay building of 300,000 homes' *Guardian* 30th June 2020

⁴³ M. Lawford 'Coronavirus chaos means Britain could lose 318,000 new homes over five years'. *Daily Telegraph* 30th June 2020

⁴⁴ J. Gardiner 'Housebuilding volume to drop by 84,000' *Housing Today* 30th June 2020.

total.⁴⁵ Savills indicate that this is both because of lower productivity on building sites as a consequence of social distancing and through lower market demand. This could mean a loss of 116,000 construction jobs. Within this, the number of social rent homes built in 2020 could be 4,300, which would be the lowest annual figure since the second world war. At the same time, research by IPPR is showing that one fifth of those renting their home consider their position is at risk if they cannot pay the rent or move on to home ownership.⁴⁶

The context of the Covid-19 pandemic comes against a longstanding concern that England is not delivering sufficient homes. The housing crisis is not, however, just about the overall number of units that are delivered but also where they are delivered, their affordability, and their design and quality. There have been increasing concerns about the place-making and beauty of new housing development⁴⁷. There is also widespread recognition that the design of settlements can have dramatic impacts on public health, our climate resilience and upon sustainability⁴⁸. Garden communities are able to contribute to all these policy challenges through a design-led approach to delivering a significant amount of new housing.

The Prime Minister is committed to a 'New Deal' approach to public works investment⁴⁹ and has also announced his intention to change the planning system through a statement by his Secretary of State, Robert Jenrick⁵⁰. This creates a major opportunity for the government to launch further support for realising the delivery of Garden Communities in a range of ways. In a number of potential locations, the preliminary work may already have been completed as part of the Government's Garden Communities initiative.⁵¹ Overall, 49 Garden Communities have been designated with 403,000 homes⁵² and 47% of sites have been allocated or had permission at the time of designation. However, as the recent report by Lichfields has shown, of the 49 projects designated as 'Garden Communities' (totalling 403,000 homes), only a third have permission or an allocation in an adopted plan, a third are in emerging plans and a further third have no planning status at all⁵³. Recent experience in North Essex has demonstrated that for the larger and longer-term new settlements proposed, the Local Plan system is too uncertain to support the levels of housing needed.⁵⁴ For all Garden Communities, there are opportunities to provide support for the post-Covid-19 economic recovery plan using existing legislation but there needs to be changes in the ways in which they are able to progress through the planning system and the way in which they are supported by central government for their subsequent, long term delivery.

What are the planning and delivery issues that need to be resolved in developing new larger Garden Communities?

As part of the preparation of this *Insight* we have talked and received submissions from a range of those who have had experience in the planning or delivery of new communities both in the past and in the present. Those who have contributed are shown in Appendix 1. While not all agreed on every point, there was a considerable consensus around a number of key issues. Above all, they are of the

⁴⁵ L. Greenwood The Savills Blog 30th June 2020 <https://www.savills.co.uk/blog/article/301680/residential-property/what-impact-will-covid-19-have-on-future-housing-supply-in-england-.aspx>

⁴⁶ L. Murphy Renting beyond their means? The role of living rent in addressing housing affordability. IPPR 30th June 2020.

⁴⁷ Building Better, Building Beautiful Commission: <https://www.gov.uk/government/groups/building-better-building-beautiful-commission>

⁴⁸ Homes for Health: <https://www.gov.uk/government/collections/housing-for-health>

⁴⁹ B. Johnson 30th June 2020 <https://www.gov.uk/government/news/pm-a-new-deal-for-britain>

⁵⁰ R. Jenrick Plans for the future to get Britain building 12th March 2020

⁵¹ MHCLG 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805688/Garden_Communities_Prosp ectus.pdf

⁵² Lichfields (2019). How does your garden grow?

file:///C:/Users/Janice/Documents/ucl/planning%20research/GCD%20CIC/interviews/how-does-your-garden-grow_a-stock-take-on-planning-for-the-governments-garden-communities-programme.pdf

⁵³ How does your Garden Grow? A stock take on planning for the Government's Garden Communities programme

<https://lichfields.uk/content/insights/how-does-your-garden-grow>

⁵⁴ North Essex Authorities Inspector's post hearing report https://www.braintree.gov.uk/downloads/file/9294/ied022_-_inspectors_post-hearing_letter_to_neas_-_15th_may_2020

view that Garden Communities are a way of delivering sustainable places for people to live and work in the 21st century. As such they represent a better way to plan, promote and deliver housing in communities rather than through housing estates on the peripheries of existing settlements. The key issues they raised are discussed in turn below.

Size matters

While new settlements of 5,000 homes can create neighbourhoods and some social and environmental infrastructure, there was a view that it was only through larger settlements of more than 10,000 homes that these could include a range of jobs and the opportunities for economic growth that will be needed as England emerges from the Covid-19 pandemic. These larger Garden Communities can also provide the kind of social mobility that was available through the new towns. By providing a range of housing and facilities they enable households to stay in places and grow with them. However, these larger communities, that of necessity will be delivered over the longer term, are not recognised as a scale of strategic development within the local planning system. These larger scale Garden Communities are needed to create better, more integrated and beautiful places but they cannot demonstrate the ways in which all their associated costs for delivery, including infrastructure, will be found using current viability methods applied in the local plan examination of soundness. While larger settlements have more to offer in the longer term, their contribution is being hampered by short term appraisal techniques.

Government commitment to delivery is essential

The Garden Communities that are being progressed all have some government commitment for their development and planning costs. This is essential funding to progress developments at this scale. Some have funding loans from Government growth, devolution and city deals to support the development of required infrastructure, particularly in relation to transport. Many Garden Communities have had funding from Homes England through HIF Loans for specific sites and schemes as part of these larger development proposals which may be considered by Planning Inspectors at Local Plan Examinations of soundness. However, the way in which government funding is being made available for this infrastructure is piecemeal and scheme related and there is no requirement to link these scheme funds to Local Plans and their associated Infrastructure Delivery Plans (IDPs). The Garden Community promoters, particularly of larger settlements, have no security of a long-term government commitment to funding loans for land acquisition, development and infrastructure. The land required may not always have to be acquired by those promoting the Garden Communities, but there will be locations where these powers and supporting funds are needed. This was the approach taken in the delivery of New Towns, UDCs and CDAs tied to the delivery of the development plans. The funds that were provided by the Treasury were repaid over time and operated as long-term capital loans that were made to support the delivery of the whole of the community.

Without exception, those who have been involved in this *Insight* have confirmed that this is the only way a large development at a scale of more than 10,000 homes will be able to be securely developed over time. They also consider that New Towns were successful in delivering over 2 million homes in communities that have now become established. Further, the longer planning, development and commitment of New Towns have the benefit of being able to weather the economic cycles that will be encountered in long term delivery of Garden Communities. The commitment of the government to Garden Communities has to be established so that it is robust over the longer-term delivery programme. Garden Communities also need political commitment centrally and locally and there is a need to recognise that there will be political issues in their delivery.

The variety of Garden Community initiatives since 2007 has resulted in some success but this is where local authorities have taken a lead particularly in acquiring land for the development. Many of the larger schemes have encountered and continue to face barriers to delivery. While Government may be supportive of the designation of pilot projects, this is not the same as having commitment over a long period of time that provides funding and wider investment support that is secured from the outset. The designation process of New Towns created this Government support over the time of their

development and it appears to be the only model where long term commitment to development can be assured over the 30-40 year period that is required to develop a major, large new Garden Community. While there may need to be some regulatory updating changes in the methods of designating the site and creating a board whose responsibility is delivery backed by investment funds, this appears to be the only secure model available for larger settlements over the longer term. The view of those involved in this *Insight* is that the government needs to fully get behind all Garden Communities as it did with New Towns. New Town Development Corporations also proved capable of being the engineer and create multiple investment opportunities for private sector developers and businesses of all sorts.

Local authority and community involvement are critical to the success of larger Garden Communities

There are roles for the community, the landowners, developers and politicians in designing and developing Garden Communities and to take long term stewardship of the place – its shared and public spaces and the way it works. New approaches to providing homes such as homesteading can be included as well as inviting other partners into places such as higher education institutions and the small business community. In taking a longer-term approach to providing the infrastructure in a new place, led by a development corporation, it is possible to give Garden Communities some confidence of the way forward and that there is a commitment to delivering a community not more estate housing.

While the role of central government is regarded as critical in the development underpinning Garden Communities, so is the role of local authorities. This has been emphasised through a consideration of the main models available for the delivery of Garden Communities as set out in Appendix 2. These include local plans, planning applications and requests for designation of new LLNTDCs as in Milton Keynes as part of the delivery of the CAMKOX corridor. This would be in addition to the four Development Corporations including a Cambridge new town in the corridor proposed in the March 2020 budget⁵⁵. The implementation of Milton Keynes has always been plan-led and supported by the local authorities working with government and the private sector. While there were criticisms of early new towns' development corporation boards, for not being democratic or properly involving existing local authorities, this approach has evolved. The same criticism was made of Urban Development Corporations but the joint approach in Ebbsfleet demonstrates that it is possible to operate using a different model. Here the local authorities retain the plan making function while the UDC is responsible for development management decisions. However, amongst those contributing to this study, there were a range of views expressed about whether this UDC model could be applied more widely. There was much greater support for the role of Mayoral Development Corporations for the delivery of Garden Communities as these have both plan making and development management powers. As in the case of many of the Garden Communities projects, it has been shown that local councillors are willing to support these large new settlements. Securing local political support appears to be important for Garden Community implementation, rather than as an being imposed onto local communities.

Community involvement is critical. Most new settlements are developed from an existing settlement. Those existing residents will inevitably experience upheaval, construction traffic and will not always have easy access to new facilities. The work that has been undertaken by scheme promoters on the implementation of the NSIP A14 Cambridge to Huntingdon Improvement Scheme through a Development Consent Order has shown that a different approach is possible which can be flexible and meet people's concerns throughout the development phase.⁵⁶ Nearby and effected communities can also have funding for improvements as part of an overall approach to place as in Bletchley, an established community in Milton Keynes.

In order to support the delivery of Garden Communities, local authorities need to be more supported by central government, funded appropriately, given powers to raise their own funding through fiscal

⁵⁵ <https://www.gov.uk/government/publications/budget-2020-documents>

⁵⁶ Clifford and Morphet 2019

methods and be regarded as part of the state. The costs of promoting a Garden Community at the local level needs government support because while it is part of the Government's delivery objectives, in practice, it is both expensive and risky. The delivery of (larger) Garden Communities cannot rely alone on local planning powers as they currently exist.

Garden Communities need a delivery plan

One of the key tests of soundness within the local planning system is that of deliverability. This has to be evidenced in a number of ways including through the IDP and viability assessments for the immediate period of the plan's life, that is 5-15 years. The delivery large communities will extend over 30-50 years and cannot meet local plan delivery tests using these methods. When considering how New Towns, UDCs, MDCs and CDAs have been delivered, in addition to their development plans, they have also all had a strong component of project and programme management to deliver the plan as set out. This delivery plan can be likened to an enhanced IDP but may need to be extended to include specific commitments to future aspects of infrastructure delivery. In the NPPF (2019) there is a requirement to have a longer term IDP lasting for 15 years. This is a good opportunity to align the delivery plan with these commitments from government through 'deals' and other partners including private landowners but they cannot operate over the whole period of the development of larger Garden Communities. This longer-term delivery plan can also give confidence to investors and some sense of the destination to be reached. It is more than a masterplan, an SPD, an LDO or a planning application and closer to the agreements for delivery with developers in the New Towns and CDAs. The view expressed to us was that Garden Communities, or the plans that underpin them, will not succeed if the delivery of the infrastructure is dependent on others. Further, there is a need to create an organisational focus on the delivery of the Garden Community, which is harder if it is just falling onto the local authority as part of their business as usual as opposed to a specific delivery vehicle.

Private sector involvement in Garden Communities board can be very helpful

When the New Town development corporation boards were established, they included a number of leading figures from banks, corporate finance and pension funds. These representatives of the private sector were willing to be involved in what they viewed as highly valuable public sector led projects and that the governance structure through the boards were set up in ways that ensured commitment to delivery over the extended period of time that was necessary for completion. Private sector involvement in areas of particular expertise, such as housebuilders, can obviously complement the expertise of the public sector in other areas such as placemaking and community leadership.

Beautiful design and internal space standards are critical to community buy-in for all types of housing development

While many communities recognise the need for new housing, they are less certain about the quality of what will be provided. The community groups that oppose development, as in North Essex, are not convinced that the resulting development would be anything other than the kind of estate development provided by a volume housebuilder, or does not place an unacceptable burden on existing infrastructure without adequate new provision (to which we turn below). There was a view strongly expressed that public sector leadership of Garden Communities was the only way in which design quality for the whole development could be guaranteed, regulated and funded. While it is recognised that the private sector has a major role to play in the delivery of Garden Communities, most of those involved in this *Insight* were of the view that they should not be in the lead if quality was to be assured to communities. Communities need to see what the benefits are to them both in the short and longer term.⁵⁷

The government has addressed this issue through its Building Better Building Beautiful Commission, and it has recommended that all local authorities should adopt a design code. It may be possible to go further than this. In South Woodham Ferrers, the use of the Essex Design Code was a requirement of

⁵⁷ <https://www.transportfornewhomes.org.uk/wp-content/uploads/2020/06/garden-village-visions.pdf> ; Better planning, better transport, better places 2019 https://www.ciht.org.uk/media/10218/ciht-better-planning-a4_updated_linked_.pdf

land sale and development and this supported the development of over 13,000 homes. The Bicester eco-town has a standards-based code that is part of the development requirements and the NHS healthy new towns initiative,⁵⁸ that includes a number of Garden Communities that have adopted commitments to design quality and infrastructure provision, will support healthy lifestyles.

Garden Communities – leadership and governance?

The focus on leadership of Garden Communities provided by the public sector with an associated delivery team was considered to be paramount to successful implementation. The New Towns model provided one way of achieving this by taking the whole community into account and not just building housing for those working elsewhere. The New Town approach did not just focus on 'bricks and mortar' but also included community development and community buildings. Additionally, there were strong views expressed that local authorities should always be on the development corporation board. This approach is apparent in some Garden Communities such as Whitehill and Bordon and is seen to be a significant component of the Urban and Civic approach in Alconbury Weald. Governance needs to be inclusive, but leadership is critical.

For larger Garden Communities of over 10,000 dwellings, there was a consensus that these should be led by the public sector. This did not mean that all development within them was public sector investment. However, the continuity and commitment over time and the leadership of place was seen to be a significant guarantor of the quality of delivery. For smaller Garden Communities, public sector delivery leadership is also considered to be important and is evident in the variety of ways being used to support their progression.

This view on public leadership leaves questions about the potential extension of the NSIP regime and the use of DCOs for developments of over 1,000 dwellings, as proposed by the Social Market Foundation (SMF). The main concerns expressed by those contributing to this study were twofold. The first was the relationship with the local community and the governance of the project as it progressed into delivery, and potential perceptions of imposition on local authorities of a national policy rather than something they are leading locally. The second was a concern expressed about the inclusion of CPO equivalent powers for major housing development promoters outside the public sector. If this approach is used, then the general view was that there needs to be a much tighter requirement for local governance and safeguards as the development progresses into delivery.

Where Garden Communities are being promoted, there is a further issue to consider about the political leadership at the local level. Where local authorities wish to support and promote Garden Communities and their electoral cycles are in thirds, that is a local election three in every four years, this can destabilise the security that four yearly electoral cycles can bring to the adoption of a plan and the establishment of a major project.

In the North Essex Authorities (NEA), there was political commitment across a wide political spectrum that should be acknowledged and recognised. This is unusual and has been sustained over a long period to support the strategic component of the local plan. While local authorities have been given a duty to cooperate on local plans since 2004, many would say that this is not a duty to agree. However, where local authorities are cooperating, including NEA but also around Bristol, their joint efforts to work together appear to be undermined by the interpretation of the NPPF. This uncertainty is unwelcome and will not encourage other councils to work together. It is also undermining the role of the planning system in its role of supporting the delivery of the places and infrastructure that communities need.

New communities can support economic recovery

A number of Garden Communities are already supporting economic development, growth and innovation; these include Cyber Central in Cheltenham and the University in Cambridge at Eddington.

⁵⁸ <https://www.england.nhs.uk/ourwork/innovation/healthy-new-towns/>

The government's support for the development of the Oxford to Cambridge Arc with a commitment to a 1 million new homes, also provides an opportunity for establishing new larger Garden Communities at infrastructure interchanges and hubs together with four new settlements as the Government has already committed⁵⁹.

It was also recognised that economic recovery will need investment in a wider range of housing provision. The market can provide private housing for sale and rent but cannot provide enough housing for those on living wage levels and key workers who need to be located in areas within higher priced housing markets. This has been recognised more fully in the NPPF (2019) and the Inspector's report on the Oxford City Local Plan approach to housing of different types marks a shift in the approaches taken previously⁶⁰. Local authorities are undertaking some of this housing provision directly through establishing companies, developing, purchasing secondary stock and through joint ventures⁶¹. They are establishing housing associations, returning to establish a housing revenue account where this is viable and 78% have established companies. They are investing in housing of all types to meet the needs of their communities. Increasingly, local authorities are moving to local plan requirements for up to 50% of new housing to be affordable including in London and Oxford and which was the case in Milton Keynes. There may be an important role for such local authority direct delivery in future Garden Communities, but this is undermined by a 'delivery blind' approach to local plan allocations which ignores the potentially different viability of such affordable housing developments. The Planning system cannot provide enough social rent housing to meet local needs through developers' contributions and this requires Government support more directly.

Site assembly and land compensation – who, how and how much?

One of the key issues concerning the delivery of Garden Communities that continues to arise is the issue of land value, compensation and land value capture. Some local authorities are using the Atlas model. The role of large Garden Communities in delivering major scale of investment requires that the delivery board has access to the acquisition of land through the use of CPOs. This land ownership can ensure the quality, pace and mix of development from the outset and work towards achieving a freestanding settlement over a period of time. This control over land also gives confidence to local communities and investors alike.

In the NEA local plan examination, this was a major issue in respect of the viability of the scheme: the speed of development and the value available to support infrastructure delivery. In the Inspector's view, expressed in his post-examination letter, where infrastructure was funded externally through the HIF, then this set aside the delivery concerns that he had. In other Garden Communities, land has been purchased by the local authority as in Cheltenham or other long-term investor. In Whitehill and Bordon, the local authority is involved in the development of 3,350 and 5,500 jobs that is being led by the Whitehill and Bordon Regeneration Company established by Taylor Wimpey for the Government's Defence Infrastructure Organisation.

The issue of land acquisition and compensation was a key concern for many of those we heard from in this study. All considered that it was important to have CPO powers available to those leading the development even if they were not used. There were different views about the role of land value capture with some expressing the position, that in their experience, by providing investment funding from government that was later paid back, then the land value stayed in public hands. Some views were expressed about the effects of compulsory acquisition on landowners, particularly where agricultural land and buildings have been in a single-family ownership for generations. Here, it was thought that disturbance payments needed to be as generous as possible and that there should be some additional payments for land value once the development surplus was made, with the remaining amount going back to the public purse.

⁵⁹ HM Government Budget 2020

⁶⁰ https://www.oxford.gov.uk/downloads/file/7288/inspectors_report_-_oxford_local_plan_2036

⁶¹ J. Morphet and B. Clifford 2019 <https://www.rtpi.org.uk/media/1976/localauthoritydirectdeliveryofhousingsummary2019.pdf>.

Some of those who wish to support the development of Garden Communities have suggested that HM Treasury could extend the private sector infrastructure guarantee to Garden Communities. Views on this approach were mixed with most lukewarm, given the current low cost of raising loans. However, this approach may be worth considering over the longer term when inflation rises, and we are at a different point in the economic cycle.

How should infrastructure be funded?

Traditionally social, physical and environmental infrastructure has been funded by the government through taxation and long-term loans for capital investment. These have been taken by HM Treasury or through the Public Works Loans Board by local authorities. Some of those engaged in contributing to this *Insight* consider that infrastructure should be funded by central government. While there have been increasing expectations that infrastructure should be funded through development alongside social housing, even in the most economically successful year these combined contributions amounted to 7% of public infrastructure investment overall. When Kate Barker undertook her study of the provision of housing through the planning system, she made an inherent assumption that social housing would be funded by the state and not through development⁶². Increasingly, provision of schools, health care facilities and utilities are expected to be funded through development despite the role of the state in their provision either directly through taxation or through the role of the utility regulators. However, more recently both Sir John Armitt, chair of the National Infrastructure Commission and Liz Peace, former chief executive of the British Property Federation and current chair of the Old Oak Common MDC in London, have both stated that the only way that England can provide the volume of housing required in the future is for local authorities to be supported in direct delivery again⁶³.

While those involved in this *Insight* did not assume that all infrastructure should be funded by the state and that development could and should make a contribution, it was agreed that this could not be expected 'up front' and should come from taxation, clawback or development agreement commitments. Without the state underpinning the investment prior to some return by developers, then the ability to provide Garden Communities is always dependent on planning negotiation rather than as a means of delivering public policy through the planning system. The delivery of the right social, physical and green infrastructure is vital to place-making and the notion of being a 'Garden Community'. Further, it was felt that there needed to be infrastructure improvements very early in the delivery of new Garden Communities, so that existing communities in the vicinity would have confidence that the new settlement would lead to infrastructure improvements rather than just burdens on existing provision. This suggests an important role for public investment to ensure high quality infrastructure secured up-front as part of the delivery role of the planning system.

Garden Communities can support meeting carbon reduction targets

Through the layout of Garden Communities, the location of their services and workplaces and access to services, they can be healthy places that contribute to meeting the Government's carbon reduction targets. Many Garden Communities are already doing this, but more can be achieved. There has been recent media coverage concerning Garden Communities locking in car-dependency.⁶⁴ This draws on a report from the group Transport for New Homes which highlights the importance of specifically securing place-making within Garden Communities which is suitable for walking and cycling, and good public transport accessibility to them⁶⁵. The former relies on an adequate planning policy framework, including design codes that are rigorously applied, whilst the latter relies on properly funded public transport infrastructure. Any planning and delivery approach should allow for this in order to help contribute to climate change commitments but also make healthier places for future inhabitants. The

⁶² Barker, K. (2004). Barker Review of Housing Supply. https://webarchive.nationalarchives.gov.uk/+http://www.hm-treasury.gov.uk/barker_review_of_housing_supply_recommendations.htm

⁶³ Sir John Armitt quoted in The Times 8th July 2020 ; Liz Peace twitter July 8th, 2020.

⁶⁴ Harrabin, R. (2020) <https://www.bbc.co.uk/news/uk-england-53050801>

⁶⁵ Transport for New Homes (2020). <https://www.transportfornewhomes.org.uk/wp-content/uploads/2020/06/garden-village-visions.pdf>

NHS Heathy New towns project has demonstrated that these settlements are popular with purchasers embracing healthy principles, higher standards and objectives⁶⁶.

Do we need more strategic approaches to planning to deliver Garden Communities?

There was a general view that more strategic planning frameworks are required to support the delivery of Garden Communities.⁶⁷ Strategic approaches may involve issues larger than one single local authority and high-level infrastructure across boundaries. Larger Garden Communities can create a focus of strategic sub-regional investment. Some local authorities are achieving this directly, through the preparation of joint strategic local plans which can support their wider vision. Some Mayors in Combined Authorities have planning powers but as yet have not been used to develop Garden Communities. The Mayor of London has used MDCs to promote mixed land uses. The Government has committed to 'levelling up' the powers of mayors in Combined Authorities in the Queens Speech 2019⁶⁸ and the MHCLG Minister Simon Clarke set out the Government's commitment to creating unitary authorities across England in a speech on 15th July 2020. When this occurs, it could provide a more sub-regional, strategic approach to the delivery of larger Garden Communities. Sub-regional planning frameworks establishing the principle of development for larger Garden Communities could help their delivery, with detail then left to local planning processes. There have also been suggestions that this could be undertaken through the Neighbourhood Planning process as in Cullompton in Devon and discussed in more detail in Appendix 2. This could separate debates about the principle from the detail of the settlements, which can become intertwined in local plan inquiries. However, within the current NPPF, the way that viability was assessed in these plans would still need to be addressed and this would not overcome this underlying weakness with the ability to deliver larger Garden Communities in the longer term.

Why aren't garden communities being sufficiently supported by the current planning system and how could the system be strengthened?

The central issue seems to be one of delivery and viability and how these are assured and assessed over the long-term timescale of new settlements. The planning system is not broken but it needs to change to recognise the different approaches required for longer term development, that extend beyond current local plan cycles. The role of sustainable communities is established within the NPPF as a mechanism for delivering new places. However, if the local plan system is reliant on the NPPF for the delivery of Garden Communities, then the view is that policy needs to be much firmer on the longer time scales that are needed and requires clear government backing for delivery. As noted here, there are a range of planning approaches already operational that can be used to support the delivery of smaller Garden Communities. The role of SPDs appears to be the most popular although there needs to be some support in the local plans.

There are, however, some additional specific ingredients in these successful planning approaches that are not necessarily guaranteed and available to all. The contribution to infrastructure required for a specific location through government funding provided through Homes England and different deal funding is becoming an important element of sound local plans. These individual contributions can be enough to support specific development sites, but they do not provide underpinning guarantees for larger Garden Communities. This makes the Local Plan process unstable and unpredictable for the introduction of Garden Communities and it was suggested to us that the NPPF should be reviewed to ensure much clearer guidance to local authorities and PINS on the way in which development proposed to be delivered over a 30-40 year period should be considered. At present there is uncertainty and inconsistency about the way in which Local Plan Inspectors examine assessments and the role of the private sector in contributing to these. Local plan guidance on viability (the Harman viability testing

⁶⁶ <https://www.england.nhs.uk/ourwork/innovation/healthy-new-towns/>

⁶⁷ Town Legal webinar of DCOs for housing 07/07/2020

⁶⁸ <https://www.gov.uk/government/publications/queens-speech-december-2019-background-briefing-notes>

local plans guidance) is not appropriate for the largest-scale settlements which will be built out over more than one plan period. Where the private sector is supporting a local plan or Garden Community with its own investment then this is a further consideration in establishing its deliverability. There is also a view that the re-use of CDAs might work as these provide a strong basis that is beyond a planning application and include the necessary compulsory purchase powers within them.

There are also other plan-based approaches emerging. In Mid Devon, the Culm Garden Village is being supported through the Cullompton Neighbourhood Plan that was submitted in September 2019. In this, there are proposals for 3,930 homes of which one third are to be affordable. The Garden Village includes commercial floorspace and provision for a range of supporting infrastructure.⁶⁹ The development is being progressed through a masterplan, SPD, planning application and Neighbourhood Plan. It is described by Mid Devon Council as a locally led garden village.⁷⁰ The delivery is through a local development board comprising of councillors from the district and county council that will also relate to the Greater Exeter Growth and Delivery Board and will be part of the emergent strategic plan. It will also have its own Local Delivery Vehicle, business, project and delivery plans.

For developments of up to 10,000 homes, the use of existing legislation appears to be working to obtain a planning framework or consent through the use of:

- Adopted local plans with current IDPs
- Masterplans, LDOs and planning applications
- Local plans allocations for Garden Communities supported by SPDs, Area Action Plans, DPDs and Neighbourhood Plans as appropriate
- Comprehensive development areas as in the 1947 Town and Country Planning Act
- Joint venture models between the public and private sector
- Local authority land purchase
- MDCs

AND

- HIF loans for infrastructure
- Deal funding for infrastructure and housing
- Clear and accountable long-term governance structures

For larger developments of over 10,000 homes, then more significant structures need to be put into place that have government backing and commitment for the longer term to invest in land and infrastructure and housing to create beautiful places for the future. This means using specific Government backed vehicles rather than just relying on the planning system and specific project funding, specifically

- Establishing Locally Led New Town Development Corporations for greenfield sites
- Using UDCs and CDAs for previously developed land

AND

- Allocating sites and establishing the principle of development in a local plan or more strategic sub-regional plan, so long as this is able to be assessed and examined for viability and delivery on a basis suitable for a 30-40 year timeframe and supported by funding regimes that rely on government investment funding (via a variety of means and routes) for infrastructure that is subsequently repaid through land value capture, with approval provided by planning permissions or
- Allocation of sites and establishment of the principle of development in a National Policy Statement then approval via a reformed DCO system that includes local governance, integrated community engagement during the life of the project and Government funding investment for infrastructure delivery to be repaid over time

⁶⁹ Cullompton Neighbourhood Plan 2019 <https://www.middevon.gov.uk/media/348271/cnp-final-submission-version-aug19.pdf>

⁷⁰ Culm Garden Village Locally Led Garden Villages https://www.middevon.gov.uk/media/342814/culm-garden-village-mid-devon-eoi-submission_low-res2.pdf

A further potential planning tool is a Local Development Order (LDO), which can help support the delivery of garden communities. However, we have some concerns that this is not really a tool designed for large-scale new communities based on the Garden Community principles. High quality design codes and place-making are defining principles of garden communities, and it may be extremely complex to try and provide a workable framework, with adequate safeguards and confidence in upholding these principles, through an LDO⁷¹.

How do all the planning and delivery methods interrelate and compare with each other? We have compared the models of delivery set out in this *Insight* in more detail on Table 1 below and in Appendix 2. In devising this table, we have compared the methods available using a number of factors. The first is whether powers are available to be used now without any further action by Government. Next, we have considered whether the method is ‘plan led’ that is dependent on the local planning system for its implementation. The third criterion is whether the method is reliant on central government commitment for infrastructure investment and then next whether the method is capable of supporting the development of a larger Garden Community of over 5,000 homes. We found that all methods could support economic growth. Finally, we considered the main sources of investment for promoting the Garden Community and its delivery and whether the specific approaches would support investment payback methods in the longer term.

As Table 1 demonstrates, almost all models require strong leadership from central and local government. Even where the private sector is leading development and implementation of Garden Communities, this is being undertaken in partnership with local authorities and is receiving support via grants and loans from the Government through Homes England and local ‘deals’. There also appears to be a coalescence around the preferred effective leadership models which include multi-level government – whether between the Combined Authority mayors, local authorities, neighbourhoods and central government. There is a greater participation from other stakeholders although the engagement of the utilities appears to be more uneven in the Garden Communities that are underway. There is a recognition of community engagement and the need for clear governance structures to provide confidence in the quality of delivery.

Table 1 How do the models of delivery compare?

Approach	Powers available?	Plan led	infrastructure investment commitment from gov	Supporting economic growth	Creating communities over 5,000 homes	Investment lead	Payback investment
New towns	yes	yes	yes	yes	yes	gov	yes
LLNTDC	yes	yes	no	yes	yes	Gov/private	yes
UDCs	yes	possibly	yes	yes	yes	Gov/private	possible
MDC	yes	possibly	possibly	yes	yes	Mayor	possible
Strategic sub-regional plan	yes	Yes	No	Yes	Yes	CA	possible
Local plan	yes	yes	no	yes	yes	LA	possible
SPD	yes	yes	no	yes	yes	LA	possible
DPD	yes	yes	no	yes	yes	LA	possible
Planning application	yes	possibly	no	yes	yes	Private	possible
LDO	yes	no	no	yes	yes	mixed	possible
NSIP/DCO	no	no	part	possible	possible	private	yes

All of these approaches require the certainty of a clear planning framework which is supported by guaranteed infrastructure funding that stretches beyond support for specific projects. These can be achieved by Government at little or no costs in the longer term. Having a clearer statement of policy for Garden Communities as a means of delivering better and make beautiful places to aid economic

⁷¹ PAS 2019 LDO Case study research and analysis <https://www.local.gov.uk/sites/default/files/documents/2018%20Case%20Study%20Research%20on%20Local%20Development%20Orders.pdf>

recovery, with the expectation that these will be implemented over 30-40 years, is a necessary shift required in the NPPF. Investors need confidence in the planning system and those responsible for implementing Garden Communities, that extend beyond political and economic cycles. While funding to support the development of Garden Community plans and proposals in the Government's current sponsored programme is welcome, it is not robust enough to support long term delivery, particularly if not exclusively, of the larger Garden Communities.

As this *Insight* has learned, the Garden Communities in the current government programme have survived various rounds of government initiatives and have been able to re-present their approach to meet successive changes in requirements. This long-term commitment needs to be recognised and less time spent of re-framing an existing Garden Community proposal to meet the next initiative that government introduces. Having a group of Garden Communities eager to participate in each new initiative round gives the Government some guarantee of interest in the proposals but it is wasted time and effort to continue to re-purpose existing approaches in order to meet a different set of requirements when a more fundamental Government commitment is required in practice.

The use of the DCO route for the delivery of Garden Communities has a number of supporters in the planning community.⁷² It has some benefits including the joint consenting regime, ability to use compulsory acquisition and use over land, and the ability to take over utilities' delivery if providers do not perform in time. However, it is also acknowledged that there would need to be many changes in the functioning of the current DCO regime if it is to be offered as a delivery option for Garden Communities. Firstly, there would need to be central government guidance about how DCOs can be used for Garden Communities.⁷³ There would also need to be a National Policy Statement or equivalent (since the establishment of the need for the development in these is central to the regime's attractiveness) approved by Parliament and, like the existing NPS, there is considerable discussion about the spatial and non-spatial approaches taken by existing NPS. The current NPS are now also very out of date. Ministerial indicative timescales for the review of NPS at the point of their introduction have not been met and now, in some cases, these NPS are being undermined by Judicial Review. There is a consensus that there needs to be local support and agreement for a DCO route to be taken by a local authority and then the use of a local governance model which is transparent for their promotion and implementation.

It is also the view, of those contributing to this study, that there would need to be a major reform on the relationship between the DCO and the Local Plan, which at present has little or no legal relationship. There has been a suggestion that a Development Corporation could use the DCO route for delivery but this would duplicate existing powers and be a further step removed from the local community. The most important consideration in using a DCO is to establish the principle of development which will have to come from an adopted local plan or from a National Policy Statement. This means that the NPPF will need to be reformed to consider development for a 30-40 year period if the DCO is to be used as a delivery device.

The DCO approach does not overcome the need for government support and proper government funding for infrastructure. In comparison, a number of those who have contributed to this *Insight* favour a Locally Led New Town Development Corporation over a DCO for a range of these reasons and because the governance arrangements are already available through existing regulations. In this case, the reform required is not to the DCO regime but instead in the local plan regime, for example in the NPPF and viability guidance so that they better suit the assessment of projects of these size and duration. There may also potentially be benefit from the principle of such large-scale developments being established through a sub-regional framework rather than a local plan. This may be something which could emerge with proposed local government reform in England.

⁷² <https://simonicity.com/> ; Can Development Consent Orders help meet the challenges of our time? http://www.bartonwillmore.co.uk/BartonWillmore/media/Main/news/intell/2020/DCO%20YOPA/Can-DCOs-help-with-the-challenges-of-our-time_Digital-Final.pdf

⁷³ Michael Humphries QC Town Legal webinar 07/07/2020

Under the existing planning system, we think there is merit in a locally led approach whereby the allocation is in a local plan and the delivery is through a Locally Led New Town Development Corporation. However, this can only work for large new Garden Communities if there are changes to how viability / delivery is assessed through the plan-making process, particularly if the designation of the LLNTDC is dependent on that local plan adoption or allocation. However, if there are disruptive large-scale reforms of the town and country planning system implemented by government, such as abolishing local plans and/or implementing zoning approaches, then this could cause uncertainty and delay for many years and this would hold-up delivery of these new Garden Communities.

What needs to change if Garden Communities are to be delivered through the planning system?

There are ways in which the delivery of Garden Communities could be supported through small changes in existing legislation including:

- Introduce strategic sub-national plans associated with Mayoral Combined Authorities which would establish the principle of development for large new settlements
- Apply NSIPs with a specific NPS for new settlements then a DCO that includes specific governance requirements
- Apply NSIPs with policy framework provided by a local area action plan, then a DCO
- Extend HM Treasury's Infrastructure Guarantee scheme to Garden Communities
- Strengthen strategic planning as expected through the Government's 'levelling up' agenda in the forthcoming English Devolution and Recovery White Paper that provides clear commitment to specific Garden Community locations
- After revising the NPPF's approach to Garden Communities in the planning system, establish Locally Led Development Corporations with Government funding
- Use local design codes to include standards for room sizes, orientation, external space and siting as mandatory components of the planning system for housing delivery
- Extending direct delivery by Homes England
- Extend the role and use of Mayoral Development Corporations with specific deal funding for housing MDCs
- Repurposing Housing Associations to use their development and delivery capacity to deliver through Garden Communities

More radical changes which could potentially support the delivery of Garden Communities include:

- Reform of UCO to manage Garden Communities land more directly in same way as zoning
- Use Local Plan 'lite' with Garden Communities as a specific zoning
- Create new JV model as in Netherlands and Scandinavia
- Mobilise NPPF strategic planning policies into strategic plans supported by delivery deals as part of the outcome of the English Devolution and Recovery White Paper
- Create core financial incentives for local authorities supporting development in Garden Communities by repurposing New Homes Bonus
- Encouraging more developer and house builder engagement in Garden communities by repurposing the Help to Buy scheme
- Funding – implement IFRS so that local authorities can use their assets to create investment

Conclusions and Recommendations

1. The lack of a long-term vision from and funding by central government is the root of the problem. Political will at all scales is central to the consent and delivery of Garden Communities. Central government needs to put its money and long-term commitment behind brave local initiatives just as was done with the New Towns.
2. The TCPA route in its current form for plan making is not effectively supporting the consent and delivery of Garden Communities, because it is not sufficiently long-term, lacks an adequate strategic framework, and does not create the certainty to allow key players to commit early enough.
3. Wholesale reform of the planning system (e.g. through zoning) is not the answer. The fundamental building blocks are already there, but targeted planning reform, together with real commitment to use the existing planning mechanisms more effectively, is needed to better support the consenting and delivery of Garden Communities.
4. Planning considerations are intrinsically linked to delivery issues. Long-term commitment to infrastructure funding and appropriate delivery vehicles will aid the passage of new Garden Communities through the planning system
5. Government needs to energetically commit to Garden Communities and get on and do it.

Recommendations:

- a. Consider how the TCPA local plan system can be streamlined and reformed to better enable local plans and their examination, to consider allocations for Garden Communities and delivery in the longer term. This would be improved by the provision of a strategic planning context and reforms of viability assessment methods for long-term, large scale garden cities.
- b. Unless the infrastructure agencies say that a scheme cannot work the assumption should be that the infrastructure required will be delivered to support Garden Community (either self-funded or through a national agency) over the period of its delivery.
- c. Support the designation of locally led NTDCs, with a strong resource commitment from government.
- d. Consider if revised DCOs should be available as another consenting mechanism, i.e. as an alternative to local plans and TCPA permissions in cases of nationally significant proposed new garden communities.

Appendix 1 Insight participants

We would like to thank the following for their contributions to this *Insight* through a range of means including interviews, conversations, written material and comments:

Lynda Addison
Stephen Ashworth
Richard Bayley
Brian Briscoe
Allen Duff
Hannah Hickman
Robbie Owen
Ian Piper
Dinah Roake
Lee Shostak
Ian Vipond
John Walker

Appendix 2

What options are available for planning and delivery of Garden Communities?

There are a number of ways in which Garden Communities can be delivered using the planning system and these are considered below. We also consider other potential planning mechanisms for delivery including the Planning Act 2008 Development Consent Order approach, which at present is only able to be used to deliver 500 homes ancillary to a Nationally Significant Infrastructure Project development but has the potential to be used to deliver Garden Communities with some legal changes. Alongside planning mechanisms, delivery may be supported by other funding mechanisms that could be used including funding Housing Associations to support the delivery of Garden Communities or to re-focus government schemes such as Help to Buy into Garden Community projects. Following this review of the mechanisms available, we undertake some analysis of the potential of these approaches to deliver Garden Communities in ways that support national need and can be used within the Government's New Deal in the immediate future and to support the economic recovery of the country in the longer term.

Plan-led approaches within the existing planning system

In its toolkit, Homes England has set out four key approaches to the delivery of Garden Communities through the local planning system.⁷⁴ These are through the use of broad locations in local plans, strategic site allocations in a local plan or allocations DPD, an Action Area Plan through the mechanism of a DPD or a site-specific SPD. Each of these is considered below but what is clear is that the majority of these approaches are dependent on the adoption of a sound local plan.

Using the Planning and Compulsory Purchase Act 2004

The 2004 Act together with its accompanying National Planning Policy Framework (NPPF) (2012, 2019) and Planning Practice Guidance provides the mechanism within which local plans are prepared and then used for the determination of planning applications within each local authority. Where local authorities do not have an adopted plan, then they can use their past and emerging plans to determine planning applications. Through these Local Plans, local authorities are required to allocate housing land to meet housing need for at least a five to seven-year period. Following the government's introduction of the NPPF (2019) local plans are now required to take a more strategic and long-term approach. The Homes England toolkit suggests that Local Plans can be using in identifying the strategic demand and location of Garden Communities rather than being used for more short-term provision.⁷⁵

In 2004, the planning system changed from one that was prepared on the basis that all the proposals within it would be delivered by third parties, to spatial planning where local authorities have a responsibility for the plan's delivery.⁷⁶ In part, this is reflected in the preparation of an accompanying infrastructure delivery plan (IDP) that indicates the committed investment proposals for social, environmental and physical infrastructure for at least the immediate five-year period following the plan's adoption and then rolled forward on a regular basis.⁷⁷ The intention of this short time horizon was that IDPs should not be 'wish lists' of projects and nor should local plans be developed on an assumption that most of the infrastructure would be provided through contributions from development schemes included within the plan.

In examining the Inspector's letters of all sound plans in 2017 -2018, it was found that IDPs are required to adhere to some common characteristics if plans are to be found sound.⁷⁸ These IDPs include proposals from a range of infrastructure providers and are not solely reliant on developers'

⁷⁴ <https://www.gov.uk/guidance/garden-communities/planning-policy>

⁷⁵ <https://www.gov.uk/guidance/garden-communities/planning-policy>

⁷⁶ Local Plan Tests of Soundness <https://www.gov.uk/guidance/local-plans> ; Shaping and Delivering Tomorrow's Places Effective Practice in Spatial Planning RTPI 2007 J. Morphet et al

⁷⁷ J. Morphet 2016 Infrastructure Delivery Planning. Policy Press

⁷⁸ J. Morphet RTPI SE 30th April Canterbury

contributions for their delivery. They need to be up to date to the point of the submission of the plan for examination. In this and a subsequent review, the vast majority of infrastructure was for detailed and specific schemes, was funded and in organisational capital programmes. Where IDPs were not accepted, the proposals were too general and not specifically funded. Inspectors undertaking examinations sought evidence of infrastructure providers being engaged throughout the plan preparation process and also expected the IDP to be a matter included in the duty to cooperate. Inspectors also expected IDPs to be directly linked to other delivery programmes adopted by the Council and the Local Plan was expected to demonstrate the Council's role in the delivery of the IDP. Some local plans included standards for the delivery of infrastructure in the future, existing capacity and the trigger points for additional provision.

However, since the NPPF (2012) there has been an assumption that social housing provided within local authority areas should be delivered through development contributions derived through s106 negotiations, based on viability assessments of local plans and individual planning applications.⁷⁹ The government's data indicates that in the most economically successful years, developer contributions of national infrastructure and social housing combined was 7% of the total investment nationally in 2007-2008 and this has been delivered through the negotiation of specific planning applications within the context provided by the local plan.⁸⁰

This approach to physical infrastructure delivery as part of the local plan and within NPPF (2012) has generally worked well, with much of the transport infrastructure being provided through 1980 Highways Act s278 agreements with the Highways Authorities and not counted as development contributions. There have, however, been concerns about the timing of infrastructure delivery and the relationship between this and community acceptance of large new development. Furthermore, the recent examination of the North Essex Authorities (NEA) plans in 2019/2020 has demonstrated that the NPPF (2012) approach appears to have some weaknesses when supporting the planning and delivery of larger longer-term investment for Garden Communities which require far greater up front infrastructure investment. The proposals contained in the three local plans for Colchester, Braintree and Tendring for over 40,000 homes over a 20-50-year period⁸¹ were supported by government funding to develop their proposals. The councils had an agreed strategic element in their local plans which is also consistent with the approach now being used in NPPF (2019). However, despite government support and the use of the NPPF required approach, the councils found that the examining inspector took an approach which was more akin to that being used in a 1990 Town Planning Act s78 appeal for a planning application rather than follow the approaches that have been used in other local plan examinations when considering infrastructure delivery. Rather than examining the proposals on a planning policy basis, the Examining Inspector used his own interpretation of viability assessments in the application of the delivery test in a detailed way for the whole of the development including beyond the end of the plan period. He also dismissed assessments of viability for land acquisition and the way that it could underpin major national infrastructure investment and build out rates of new housing. The Inspector found the strategic elements of the plan for Colchester and Tendring sound including its Garden Community but found the other plans unsound and unable to proceed. Given the extent of Government support and funding for these specific projects, this response appears unlikely to give confidence to other local authorities seeking to progress a Garden Community through their local plan in this way.

As our interviewees have indicated, it would have been possible for the three councils who were also working with a fourth (Uttlesford), to have taken a different approach. They could have prepared a joint plan as in North Northamptonshire which has identified seven Garden Communities with a combined delivery of 25,000 dwellings but this would not have dealt with the infrastructure and viability issues. The councils could have used the opportunity of a Locally Led New Town Development Corporation (LLNTDC), introduced as an option by the government in 2018, although the NEA

⁷⁹ R. Grayston 2017 Slipping through the loophole How viability assessments are reducing affordable housing supply in England. Shelter.

⁸⁰ MHCLG The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2016-17

⁸¹ <https://www.tendringdc.gov.uk/planning/local-plans-and-policies/north-essex-garden-communities>

considered that their approach was too far developed to take this route. In any case, the 2018 Regulations for LLNTDCs together with their guidance notes⁸² indicate that in order for a local authority to request the government to designate a LLNTDC, it needs to demonstrate that the site is acceptable, with designation in a local plan as an indicator of this proof, has been consulted upon and is financially viable. The designation does not provide any specific support from the government for direct funding or infrastructure investment for a LLNTDC.

A further view is that if the three local plans had been submitted under the recently revised NPPF (2019) they may have been more successful in being found sound. This version of the NPPF has amended the approach on meeting viability tests and has also extended the infrastructure requirements in the IDP to be for 15 years. As yet, there are few examples of how this is working in practice. The report of the Inspectors' Examination the Oxford City Council Local Plan⁸³ considers funding for housing provision as part of its assessment of the plan's approach to meeting different types of housing need. In this, the Inspectors placed considerable weight on the financial contribution being made to the proposed housing delivery by the Oxfordshire Housing and Growth Deal 2018⁸⁴ for housing and infrastructure that will operate until 2031 and it appears that this has been taken as a material consideration in examining the soundness of the plan and its deliverability. This approach to the examination has also been supported because the government has committed to the development of the Oxford to Cambridge Arc⁸⁵ through the National Infrastructure Commission's proposals although no specific funding allocations had been made at the time of the examination. In Essex, the County Growth Deal agreed in 2014⁸⁶ did not identify North Essex as a growth area and did not provide supporting funding for infrastructure and housing.

Overall, there is a concern that the way in which the NPPF is being interpreted through local plan examinations and the weight being given to viability is to the detriment of longer-term land use and designation of sites for Garden Communities. Where the Inspector does not accept the viability assessments that are presented in evidence from any source – the local authority, the Government or the promoters – it should be a requirement that this is explained in more detail than a cursory dismissal in the letter to the local authority at the end of the examination. Given so much is now dependent on these viability assessments, inspectors should also be required to explain how they are approaching them and why they may or may not be acceptable. A further issue is whether a viability approach is appropriate when considering term development for the next 30-40 years. Many local authorities have indicated their intention to include a Garden Community or village in their local plan and then progress this detailed through the approach in an SPD, DPD, Area Action Plan, Masterplan and planning application. This appears to be an acceptable way forward for a number of plans but some have been the subject of Main Modification (MM) proposed by the Inspector before this approach can be progressed including Hart⁸⁷ as well as the NEA, which was also modified by the Inspector on issues related to infrastructure delivery. However, four months after the Inspector's decision on the Hart local plan, the government designated another site in Hart as a Garden Community, suggesting that the planning system and wider government policy are not in step.⁸⁸ If the planning system is designed to create certainty to support investment and development, why are different approaches being used in Local Plan examinations?

Using SPDs

⁸² New Towns Act 1981 (Local Authority Oversight Regulations) 2018: Guidance. <https://www.gov.uk/government/publications/new-towns-act-1981-local-authority-oversight-regulations-2018-guidance>

⁸³ https://www.oxford.gov.uk/downloads/download/1175/oxford_local_plan_2036_inspectors_report

⁸⁴ https://www.oxford.gov.uk/info/20283/oxfordshire_growth_board/1236/oxfordshire_housing_and_growth_deal

⁸⁵ <https://www.gov.uk/government/publications/the-oxford-cambridge-arc-government-ambition-and-joint-declaration-between-government-and-local-partners>

⁸⁶ http://www.southeastlep.com/app/uploads/ESSEX_South_East_LEP_-_Growth_Deal_and_Strategic_Economic_Plan_WEB-5.pdf

⁸⁷

https://www.hart.gov.uk/sites/default/files/4_The_Council/Policies_and_published_documents/Planning_policy/Hart%20Local%20Plan%20Report%20-%20Final.pdf

⁸⁸ Lichfields 2019 as below

Some local authorities have progressed their Garden Community through the Planning and Compulsory Purchase Act 2004 using Supplementary Planning Documents (SPDs). An SPD adds further guidance on policies within the Local Plan and can be used for matters such as design for single sites. SPDs can be material considerations in the determination of a planning application but are not part of the local plan. The Homes England toolkit suggests that SPDs for specific sites are useful as they are relatively quick to prepare and adopt.⁸⁹ They can also include design, layout, transport infrastructure delivery and phasing of the development. However, SPDs must conform to local plan policy and cannot be used to designate new sites.

Research by Lichfields⁹⁰ has indicated that at least 13 Garden Communities are supported by SPDs and one by an Area Action Plan and a further eight are supported by masterplan SPDs. An example of this is the joint approach by Cheltenham and Tewkesbury Councils who are progressing the Golden Valley development through an SPD⁹¹ following their joint core strategy which was also undertaken with Gloucester City Council.⁹² Cheltenham Council has purchased over 45 hectares of land for £37.5m on which to deliver the Garden Community including a provision of £180m to develop new homes.⁹³ Golden Valley has been part of the Government's Garden Communities programme since 2019. The Council is now seeking a lead development partner to implement the project⁹⁴ which will comprise approximately 3,000 homes⁹⁵ and Cyber Central Business Park development which is being supported by the GFirst LEP Growth Deal for infrastructure and access improvements.⁹⁶ The site is adjacent to GCHQ.

The use of SPDs may be most appropriate for smaller sized Garden Communities. The Ipswich Garden Suburb SPD is being developed to support the delivery of up to 3,500 new homes in an area defined within its Local Plan Core strategy⁹⁷ which suggests there may often still be a dependence on local plan allocations and policies, which may face the viability assessment issues already discussed but have not had the same 'show-stopping' effects as the larger proposals.

Using DPDs and Area Action Plans

Some local authorities have used Area Action Plans that can be Development Plan Documents (DPDs) as part of the local plan process. DPDs can supersede or supplement adopted local plans and can work across local authority boundaries.⁹⁸ DPDs are required to establish the principle of development, have a Sustainability Appraisal and are subject to examination in the same way as a local plan. The Homes England toolbox for the delivery of Garden Communities suggest that DPDs can be a good way to progress the detail of the Garden Community, its infrastructure requirements and viability and it will require a specific boundary to be set.⁹⁹ Homes England also consider that is a better way to engage stakeholders who will be involved in delivery.

When using an Action Area Plan, the Homes England toolkit suggests that these are useful where there are multiple landowners who may not agree to the development and where the development may take many years to complete¹⁰⁰. They are regarded as being useful for determining infrastructure

⁸⁹ <https://www.gov.uk/guidance/garden-communities/planning-policy>

⁹⁰ How Does your garden Grow? Lichfields 2020 <https://lichfields.uk/media/5638/how-does-your-garden-grow-a-stock-take-on-planning-for-the-governments-garden-communities-programme.pdf>

⁹¹ https://www.cheltenham.gov.uk/info/12/planning_and_development/1561/cyber_central_garden_community

⁹² <https://www.goldenvalleyuk.com/>; <https://www.jointcorestrategy.org/>

⁹³ https://www.cheltenham.gov.uk/news/article/2408/cheltenham_borough_council_launches_search_for_partner_to_deliver_world-class_golden_valley_development

⁹⁴ Cheltenham seeks partner for £400m Golden Valley development

<https://www.pbctoday.co.uk/news/planning-construction-news/golden-valley-cheltenham/76006/>

⁹⁵ Cheltenham Borough Council launches search for partner to deliver world-class Golden Valley Development 7th May 2020

https://www.cheltenham.gov.uk/news/article/2408/cheltenham_borough_council_launches_search_for_partner_to_deliver_world-class_golden_valley_development

⁹⁶ <https://www.gfirstlep.com/news/cyber-central/>

⁹⁷ https://www.ipswich.gov.uk/sites/default/files/Ipswich_Northern_Fringe_Garden_Suburb_SPD_v12_-_Draft_for_Public_Consultation.pdf

⁹⁸ Lichfields 2019

⁹⁹ <https://www.gov.uk/guidance/garden-communities/planning-policy>

¹⁰⁰ <https://www.gov.uk/guidance/garden-communities/planning-policy>

requirements and viability. All those local authorities using DPDs appear to be using Action Area Plans¹⁰¹ and include Garden Communities at Bailrigg in Lancaster for 3,500-5,000 people,¹⁰² Chilmington in Ashford for 5,750 homes,¹⁰³ North East Chelmsford which was adopted in 2011 for at least 3,200 homes,¹⁰⁴ St Cuthbert's in Carlisle which has a Masterplan and expected to be adopted in 2021¹⁰⁵ and Threemilestone near Truro that also has a Neighbourhood Plan associated with it.¹⁰⁶

Planning application process within the existing system

Some new settlements have been generated through planning applications, frequently set within a strategic context. Here the funding for a range of infrastructure has been provided through planning agreements with developers. The Homes England toolkit for the implementation of Garden Communities has indicated four methods of using the planning application process. These are an outline planning application, a full planning application, a hybrid planning application and Local Development Order (LDO). A hybrid application seeks outline planning consent for part of the site and full planning consent for another part at the same time. An LDO will provide planning permission for specific classes of development within a defined development area subject to specific conditions and limitations. An LDO gives some certainty to the developers and businesses in the area and can speed up the process. They are normally supported by masterplans or other defined planning documents for the area¹⁰⁷. An LDO has been used as a means to support the delivery of Graven Hill, in Bicester where the Council has formed a development company to support individuals wanting to obtain custom built homes through the mechanism of 'plot passports' within the site. The LDO has provided for 1,900 new homes on the site and those developing homes have to provide a certificate of LDO compliance to the local authority. However, the numbers delivered in this way have been small and there have been some concerns about ensuring the quality of development and the interpretation of rules.¹⁰⁸

Planning agreements can be extensive in their approach. One of the earliest using an extensive planning agreement was that in Lower Earley near Reading.¹⁰⁹ This area had been identified in a strategic growth corridor and in 1972 the landowners, that included the University of Reading commissioned a development plan that was the basis of a planning application in 1974. Permission for 6,000 dwellings was given in 1977 and, as part of the planning agreement, 8% of the selling price of the houses was given to the local authorities to provide infrastructure including roads and open spaces and there were guaranteed options to purchase school sites. Lower Earley was built out and, while some of the land was sold to a wider range of developers, it demonstrated that major settlement could be led and delivered by the private sector. While the front-end costs fell on the local authorities, the funding to support this was guaranteed.

Alconbury Weald is a new settlement on a former airfield which is proposing to develop over 5,000 homes in the next 20 years together with three new primary schools, 1 new secondary school and 290,000 square metres of employment floorspace. The scheme has outline planning consent from Huntingdonshire Council. One major centre is proposed together with three smaller centres. The scheme is promoted by the landowners Urban and Civic who are implementing the scheme with a range of developers that are obtaining planning permission for their developments through reserved matters applications. In its planning context, Alconbury Weald is being delivered through planning applications to the local authority and its contribution to housing land site allocations has not been

¹⁰¹ Lichfields 2019

¹⁰² <https://www.lancastervision.com/bailrigg-garden-village/>

¹⁰³ <https://www.ashford.gov.uk/planning-and-building-control/planning-policy/adopted-development-plan-documents/chilmington-green-aap/>

¹⁰⁴ <https://www.chelmsford.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=32049>

¹⁰⁵ <https://www.stcuthbertsgv.co.uk/LOCAL-PLAN>

¹⁰⁶ <https://www.cornwall.gov.uk/environment-and-planning/planning/planning-policy/adopted-plans/place-based-plans/truro-and-threemilestone/>

¹⁰⁷ <https://www.gov.uk/guidance/garden-communities/planning-permission> ; <https://www.local.gov.uk/sites/default/files/documents/LDO%20Guidance%20Document%20March%202019.pdf>

¹⁰⁸ Local Development Orders Case study research and analysis PAS/LGA

<https://www.local.gov.uk/sites/default/files/documents/2018%20Case%20Study%20Research%20on%20Local%20Development%20Orders.pdf>

¹⁰⁹ Ward, S. V. After the New Towns. http://www-etsav.upc.es/personals/jphs2004/pdf/230_p.pdf

included within the local plan.¹¹⁰ In 2017, Urban and Civic received a £45m loan for infrastructure for the site from the Homes and Communities Agency, the predecessor of Homes England. As part of the new development, Cambridgeshire County Council is proposing to move its County Hall headquarters to the site. The County Council is determining the planning application for the site that will include infrastructure investment.

Whilst it is possible to take a planning application-based approach to delivering new settlements, this is not in keeping with the notion of a plan-led planning system and risks a lack of strategic coordination. As well as approaches in the existing local planning system, there are other approaches to planning and delivery which might be considered.

New Towns Act 1946/1981

While the New Towns Acts have not been used to designate a new town since Milton Keynes in 1967, the provisions of the Acts remain available to be used. New Towns have provided 2 million homes since they were developed and have been recognised as a major international achievement. New Towns designations have been used for larger and integrated development to create new settlements with employment, leisure, commercial, retail and social infrastructure. What distinguishes new towns from some of the other methods of delivering new communities is that they were led and delivered by central government in consultation and, latterly, with participation with the local authorities for the areas in which they were located. While funded by government, this investment has largely been repaid and the government retained land assets which it has subsequently been able to use or sell. The new towns have been criticised for being undemocratic in their governance and for not returning the land acquired to the local authorities hosting the new towns when they were wound up as promised. However, they have provided a delivery commitment which has been used to develop at scale which has not been available through most of the other means of delivery. There have also been some more recent concerns about whether this Parliamentary designation process would meet current requirements for environmental assessment although the Government's revision of Regulations in 2018. The government is also considering an administrative reform of the role and use of all development corporations and it would be expected that these would need to in accordance with current legal requirements.¹¹¹

Development Corporations

Urban Development Corporations

Urban Development Corporations (UDCs) were included in the Local Government, Planning and Land Act 1980 specifically for two major brownfield regeneration projects – the London Docklands Development Corporation and the Merseyside Development Corporation in Liverpool. The UDC model appears to have cross party support and can bring specific focus to the delivery of change on brownfield sites in the same way as New Towns on greenfield sites and have access to central government funding for infrastructure which is regarded as a basic requirement for delivery and can be a stronger model than LLNTDCs for this reason. UDCs do not have plan making powers but have responsibility for determining planning applications.

Ebbsfleet UDC was established by Government to deliver 15,000 homes through the creation of a Garden City in North Kent in 2015.¹¹² It has some responsibility for infrastructure delivery and a budget of £275 million provided by government. The UDC has the development management functions with plan making responsibilities being retained by the local authorities. The local authorities are represented on the board of the UDC. All the public authorities involved in delivering Ebbsfleet Garden City are concerned to abide by the TCPA's Garden Community principles. Initially, Ebbsfleet UDC had no land holdings unlike the earlier UDCs although there were extant planning consents for 12,500 of

¹¹⁰ Morphet J and Clifford B. 2019 housing report

¹¹¹ <https://www.gov.uk/government/consultations/development-corporation-reform-technical-consultation>

¹¹² MHCLG 2018 Tailored review of EDC

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679763/Ebbsfleet_Tailored_Review.pdf

the 15,000 homes that are planned. However, more recently the Government has been persuaded to purchase some land around the station site that was challenging in terms of viability given specific locational infrastructure costs and this is now being developed by the UDC.

Mayoral Development Corporations

A Mayoral Development Corporation (MDC) is a statutory body created to bring forward the regeneration of a defined area. MDCs have powers to acquire, develop, hold, and dispose of land and property. They also have powers to facilitate the provision of infrastructure. MDCs also have plan making and development management powers. The powers to establish an MDC are set out in the Localism Act 2011 with application to London. The Mayor has powers to define the boundary and assign property to the MDC. These powers were extended to the mayors of combined authorities in 2017 and to LLNTDCs in 2018. Since then there have been five Development Corporations declared including that for the Olympic Park and Old Oak Common in London, South Tees and Stockport. The two London MDCs have planning functions. The Stockport and South Tees MDCs have no planning functions and these remain with their local authorities¹¹³. The South Tees MDC is focused on economic delivery with no housing included unlike the other three MDCs which have some housing. The largest amount proposed is in Stockport which is for 3,500 homes as part of a town centre regeneration scheme.

In October 2019, the government launched a consultation on a ‘technical’ reform of development corporations.¹¹⁴ As such the government recognises the role of development corporations in the delivery of large-scale development including for new communities. In this consultation, the government is seeking views on a further role and use for development corporations beyond those already used for new towns, urban development corporations in London and Liverpool, MDCs and locally led new town development corporation (LLNTDCs). Alongside the consultation, the government invited bids for funding from a £10m pot set aside to support the development of new Development Corporations. The purpose of the consultation was to obtain views on whether it would be appropriate to draw together all the legislation of Development Corporations rather than the range and variety of powers set as currently in different legislation. The consultation proposed three potential changes – to involve the private sector, the use of development corporations in local areas and create comparable powers for development corporations.

The inclusion of the private sector in the governance of the development corporations (DC) would be the major change proposed. While being locally led, the corporations would have boards independent of local authorities and have powers over planning and compulsory purchase. The board would be made up of independent people with skills and experience of development and this consultation is concerned with the extension of these powers including the ability of DCs to enter into commercial contracts and partnerships. The DCs would be expected to be led by these from the private sector. The second element of the consultation is concerned with the potential barriers to the take up of DCs including MDCs and LLNTDCs. While the legislation requires government to approve these locally led modes of DCs, the consultation asks if these DCs have sufficiently wide scope for a whole range of development. The question in the consultation is whether all DCs should have the same powers particularly for plan-making, development management and plan approval. The consultation also requests views on whether DCs should be able to obtain CIL payments and s106 contributions where they take on planning powers from the local authorities. Finally, there are consultation questions about the role of utility provision within DCs and whether there should be more powers over this.

¹¹³ Did Stockport signify a new dawn for development corporations? Maximilian Kidd-Rossiter 12 Nov 2019
<https://lichfields.uk/blog/2019/november/12/did-stockport-signify-a-new-dawn-for-development-corporations/>

¹¹⁴ MHCLG 2019 October Development Corporation Reform Technical Consultation

While this consultation is focused on development corporations, the *Telegraph* (25th June 2020) reported that it is the government's intentions to replace all local authority planning functions with development corporations to cover the whole country.¹¹⁵

Comprehensive Development Areas

Comprehensive Development Areas (CDAs) were included as a means of supporting local authority delivery of planning proposals in the Town and Country Planning Act 1947. While this Act designated a range of land use zones for use in development plans across England, CDAs offered the opportunity to identify areas of major change where there had been bomb damage, the need to develop areas with poor conditions or layouts in town centres or for any other reasons. CDAs were used extensively in London and other cities for previously developed land. In designating the CDA in the development plan, then the local authority could use this to support land acquisition through CPOs which were frequently used to acquire small parcels of land to ensure that the whole development could be undertaken. With the end of post war reconstruction and a reduction in public funds available for major redevelopment, the use of CDAs to designate new areas of development or redevelopment were largely discontinued after 1968, although those already agreed and within delivery programmes continued until the late 1970s. Once CDAs are designated through plans, then they confer CPO powers on the local authority and do not require the approval of individual CPOs by government ministers.

CDAs have also been used for new housing delivery. In 1971, a new settlement of 17,500 people in Essex, South Woodham Ferrers was designated as a CDA and then implemented using public and private funding. It was promoted by Essex County Council (ECC) and was also an early user and exemplar for the Essex design guide.¹¹⁶ In its approach, ECC purchased the land which was in fragmented ownership, using CPOs, planned a settlement and provided the infrastructure including roads, schools and recreational facilities. Initially the land was sold to developers on a joint risk licensing scheme but when the settlement was established, the land was sold freehold.¹¹⁷ The building plots were sold to individual developers at 'enhanced development value' but within a strict building and design code enforced through covenants. More recently, in a report to the GLA, Nicholas Falk examined the potential for the revived use of CDAs to promote new areas of change and delivery through faster land acquisition in 'Capital Gains' (2018)¹¹⁸. In this report, Falk likened the processes available to local authorities designating CDAs as being similar to the London Dockland Development Corporation, that took land from the Port of London Authority and the Gas Corporation. In describing CDAs as special purpose vehicles (SPV), Falk considers how they were used for major areas of redevelopment across London including the Croydon town centre, around Kings Cross and the enabling of two boroughs to work together in Covent Garden.

Development Consent Orders

The Planning Act 2008 established a new approval system for large scale Nationally Significant Infrastructure projects (NSIPs) which had some basis in EU Regulations.¹¹⁹ In these defined categories of development, including for energy, transport and waste water, the promoter of a scheme has the opportunity to pursue a Development Consent Order (DCO) rather than a planning consent. Established in the context of the Eddington Review of transport infrastructure delivery¹²⁰, NSIPs are available to the public and private sectors for individual projects and approximately 80 different major schemes have been submitted for examination. There are some specific elements to this approach which make it different from a planning application. Firstly, it is only available for certain defined infrastructure categories. Second, the promoter does not have to establish a principle of development

¹¹⁵ Gordon Rayner and Henry Yorke Planning reforms which would have given Robert Jenrick more power are halted. The Telegraph 25th June 2020.

¹¹⁶ Ward, S. (2004). *Planning and urban change*. Sage; Ward S. 2004 After the New Towns http://www-etsav.upc.es/personals/jphs2004/pdf/230_p.pdf

¹¹⁷ S. Ward 1999. 'Partnerships' in *British Planning 50 years of Urban and Regional Policy* ed B. Cullingworth The Athlone Press

¹¹⁸ N. Falk (2018) *Capital Gains A better land assembly model for London*. Urbed for the GLA. https://www.london.gov.uk/sites/default/files/gla_capital_gains_report_.pdf

¹¹⁹ Morphet and Clifford 2017 *Infrastructure Delivery: the DCO process in context* NIPA

¹²⁰ The Eddington Transport Study HMT 2007

as is the case in the Town and Country Planning Act 1947 and subsequent legislation (which allowed land owners the opportunity to contest the development through a planning appeal process in return for removing the development rights over their own land) since the principle of development is set by National Policy Statements (NPSs). Thirdly, once accepted by the Planning Inspectorate for examination, then there has been a guaranteed time frame where the examination is conducted by independent Planning Inspectors for a six-month period and then a decision is required within the following six months. However, in the period March 2019-2020 there have been delays to Ministerial decision making for 7 schemes and overall 14 schemes or 19% have taken longer than the agreed timescale.¹²¹ The outcome of this process is a development consent order (DCO) that is drafted by the scheme's promoter and once agreed, it is included within a statutory instrument in Parliament rather than a planning consent. It also provides a mechanism to include all other consents in a single process and confers the equivalent of compulsory purchase order powers on the scheme's promoters through compulsory acquisition and rights over land. The framework for the individual NSIP applications is provided through a range of National Policy Statement (NPS) for each sector included within the system that are approved by Parliament.

In 2013, the Growth and Infrastructure Act extended NSIP powers to include industrial and commercial schemes and in order to be considered for this regime, all proposals need to demonstrate that they are nationally significant before the approach can be accepted by Ministers.¹²² In this case, this additional category did not require that there should be an NPS to accompany their submission. In 2017, through a change to the 2008 Act introduced through the Housing and Planning Act 2016, housing could be included in a DCO where it is close to the development in the NSIP and required to provide for a functional need. Guidance was provided accompanying this amendment¹²³ and limited the number of dwellings to include 500 homes as ancillary to the development.

There has been continued pressure on Government from some of those familiar with the NSIP approach that it should be extended to larger housing schemes. In 2015, Bond Dickinson and Quod commissioned a report which considered the potential benefits of such an approach and argued, on balance, that it should be applied with some urgency to help to support the government's desire for housing delivery.¹²⁴ In particular, this study pointed out the benefit of being able to use a single DCO across local authority boundaries. In 2020, there has been further discussions on the potential extension of the DCO process to larger scale housing developments such as Garden Communities. In their report, Copper, Womble Bond Dickinson and Barton Willmore have argued that there is potential to extend the legislation to include residential development subject to some specific changes.¹²⁵ These include the preparation of a National Settlement Strategy to serve as an NPS and better links with local authorities. At the Town Legal seminar on the same issue on 7th July 2020, Michael Humphries QC argued that any approach would need to be set in very strong guidance from government about its use and application.

In 2020, the Social Market Foundation, through its Unlock Britain Commission argued that many local authorities were too small or inexperienced to promote major new housing development and to provide its infrastructure in a timely way. The SMF argues that the DCO procedure should be extended to projects that are not 'nationally significant' and that it should be the method used for all infrastructure delivery within certain categories and all housing development of over 1,000 homes.¹²⁶ In order to implement this, the SMF proposes that the examination period should be shortened to four

¹²¹ National Infrastructure and Development Planning Review Can Development Consent orders help to meet the challenges of our time? Copper, Womble Bond Dickinson and Barton Willmore 2020

¹²² http://offlinehpl.hbpl.co.uk/NewsAttachments/RLP/Policy_Statement_By_DCLG.pdf

¹²³ Planning Act 2008: nationally significant infrastructure projects and housing . <https://www.gov.uk/government/publications/planning-act-2008-nationally-significant-infrastructure-projects-and-housing>

¹²⁴ H. Hickman and A. While 2015 <https://www.quod.com/wp-content/uploads/2015/09/NSIP-for-Housing-Projects.pdf>

¹²⁵ Copper, Womble Bond Dickinson, Barton Willmore (2020). National Infrastructure & Development Planning Review: Can Development Consent Orders Help Meet the Challenges of our Time?

¹²⁶ Unlocking Britain Recovery and Renewal after Covid-19 Bim Afolami MP Social Market Foundation <https://www.smf.co.uk/wp-content/uploads/2020/06/Unlocking-Britain-Bim-Afolami-June-2020.pdf>

months, as the schemes would be smaller. The SMF argues that it would then be possible to deliver these schemes with a 'high degree of certainty of success' and be ready for construction within one year¹²⁷ and that any decisions would be less susceptible to challenge through judicial review.

While the Planning Act 208 has been successful in determining schemes for NSIP projects, the numbers passing through this system are lower than expected and not all schemes have been implemented. The time taken to undertake environmental assessments and consultation prior to successful acceptance of a submission to the process by PINS taken in the planning process for these schemes has been the same as those on a more traditional route.¹²⁸ Research commissioned by the National Infrastructure Planning Association (NIPA) Insights programme has shown that DCOs can be less flexible than planning consents and this has affected their deliverability, in particular given the difficulty of amending them once made.¹²⁹ In most cases, the implementation of a DCO is supported by the subsequent use of planning applications made through the Town and Country Planning Acts system for associated development and this is acknowledged in the Copper et al report. The levels of consultation and community engagement are also an issue to be considered and this includes that with statutory consultees and landowners as well as local communities. A further NIPA study in 2019 found that consultation processes with all involved including local authorities, land owners, statutory consultees and the community were loaded towards the pre-application part of the process and largely dropped out of active engagement as they were implemented in the majority of the DCO projects, although there were some notable exceptions.¹³⁰ This research made several recommendations on improving these processes which are the responsibility of the scheme promoters. Criticism around local accountability would potentially undermine the credibility and acceptance of housing approved through a DCO approach if this is perceived to be imposed on the local community, as with eco-towns, rather than emanating through locally accountable planning processes. Lichfields, in reviewing the DCO approach, have also concluded that on balance development corporations and LDOs currently work better.¹³¹

Local delivery-led models

While the role of the Government has frequently been seen to be a core requirement, the second is the need of the local public authorities promoting Garden Communities to own at least part of the site that is large enough to have some control over development and infrastructure delivery. The ownership of land in New Towns was a central feature of their ability to deliver. In the Cyber Central/Golden Valley development, Cheltenham Borough Council has purchased the land. In Cherwell, the Council has purchased 189ha land at Graven Hill to create 1,900 homes within the eco-town principles that are being used elsewhere in their district. Another example is Otterpool Park in Folkestone and Hythe District council where the council owns the land and is working in a joint venture to deliver over 10,000 homes and where the planning application for the first 8,500 homes has been submitted¹³². Another joint venture is for the Exeter Garden community that is located in East Devon and Teignbridge.

International models

In some European states, the delivery of what are akin to Garden Communities and new towns is undertaken directly by local authorities that purchase the land and fund the development through its

¹²⁷ A. Mikhailova Exclusive: Super-sized housing developments set to be fast-tracked under post-coronavirus recovery plans. The telegraph 13 June 2020 <https://www.telegraph.co.uk/news/2020/06/12/exclusive-super-sized-housing-developments-set-fast-tracked/>

¹²⁸ Marshall T, Cowell R, 'Infrastructure, planning and the command of time' *Environment and Planning C: Government and Policy* 34 (8) (2016) pp.1843-1866

¹²⁹ J. Morphet and B. Clifford 2017 Infrastructure Delivery: the DCO process in context. [https://www.nipa-uk.org/uploads/news/\(UCL\)_Morphet_and_Clifford_-_NIPA_Main_Report_-_June_2017.pdf](https://www.nipa-uk.org/uploads/news/(UCL)_Morphet_and_Clifford_-_NIPA_Main_Report_-_June_2017.pdf) ; 2019a Consultation and Engagement in the DCO process https://www.nipa-uk.org/uploads/news/Clifford_and_Morphet_-_NIPA_II_Project_A_Report_-_Final_.pdf, 2019b Mechanisms to support flexibility: Requirements and codes [https://www.nipa-uk.org/uploads/news/Morphet_and_Clifford_-_NIPA_II_Project_B_Report_-_Final_\(1\).pdf](https://www.nipa-uk.org/uploads/news/Morphet_and_Clifford_-_NIPA_II_Project_B_Report_-_Final_(1).pdf).

¹³⁰ B. Clifford and J. Morphet Preparing a Flexibility Toolkit Project A: Consultation and Engagement in the DCO process NIPA Insights 2019

¹³¹ Following Orders: five actions necessary for DCOs and the NSIP regime to be used for large-scale housing

Matthew Spry & Nicki Mableson 07 Jul 2020 <https://lichfields.uk/blog/2020/july/7/following-orders-the-five-actions-necessary-for-dcos-and-the-nsip-regime-to-be-used-for-large-scale-housing/>

¹³² <https://www.otterpoolpark.org/about/whos-involved/>

subsequent zoning and land sales. In Germany there is a sub-regional interventionist approach to the designation of industrial and commercial parks that have ancillary housing to support the jobs being located on the designated site.¹³³ In the Netherlands, compulsory purchase does not include speculative 'hope' value (as the UK's Land Compensation Act 1961 does) so that local authorities and public bodies can buy land at a fair value, leaving sufficient financial room to deliver high-quality development with supporting infrastructure.¹³⁴

This is similar to Germany, where local authorities play a much more interventionist approach to preparing sites for development, undertaking site assembly and managing the delivery of necessary infrastructure before the site is then developed by the private sector. The uplift in land values that results is shared between the local authority and the landowners (after the infrastructure costs have been deducted). Municipalities in Germany also have the ability to zone under-utilised land, at which point prices are frozen to prevent speculation. Landowners are paid the existing value of the plot and the local authority then sells on the site following redevelopment at increased value. These powers are not always used, but their existence helps incentivize landowners to bring sites forward for development.

Having an approach whereby areas are zones for development but land prices are frozen close to current use value then means that the windfall from land value increases associated with development can be used by the local state to pay for infrastructure and affordable housing to benefit the community as well as helping ensuring high standards of

¹³³ P. Fredrich and C.W. Nam Innovation orientated land use policy at the sub-national level the case of Germany. *Studies in Regional Science* vol 43 no 2 2013223-240

¹³⁴ Murphy, L. (2020). *The Invisible Land: the hidden force driving the UK's unequal economy and broken housing market*. IPPR, London