



Chartered
Institute of
Environmental
Health



Commission on Housing Renewal and Public Health Final Report

December 2007

Terms of reference

To examine the need for and role of clearance of residential property and the relocation of displaced occupiers as a means of improving the health of occupiers and the overall quality of the housing stock.

The review will be undertaken in the context of energy inefficient homes, the Decent Homes standard, housing market renewal, the introduction in early 2006 of the Housing Health and Safety Rating System (HHSRS) and the selective licensing of privately rented accommodation.

The review will examine:

- The positive and negative environmental and health impacts of clearance
- The social and economic impacts of clearance
- Issues of capacity and skills within the environmental health profession to tackle clearance programmes
- Identify good practice in securing the clearance and replacement of poor quality housing

The Commission is inviting submission of evidence from local authorities and a wide range of organisations and individuals for consideration. There will be a literature review as part of the activities of the Commission.

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Foreword

It is questionable whether some of our housing built in the early part of the 20th century or earlier can meet current needs in terms of health and safety of the occupiers and also environmental efficiency

This report is a welcome contribution to the debate about housing renewal and replacement that started with the proposals for the Housing Market Renewal (HMR) Pathfinder areas but has since broadened.

This final report follows from the Interim Report of the Commission published last autumn, taking account of comments made on that document.

Since publication of the Interim Report, and even more in recent months housing has moved up the political agenda at the national level. However much of the talk has focused on increasing supply (house building) and affordability particularly for first time buyers. There has been little about condition or renewal of the older stock.

Yet 1.07 million vulnerable households live in non-decent homes with 4.8 million private sector homes classed as non-decent. There seems to be an assumption that housing has an infinite life, but it is questionable whether some of our housing built in the early part of the 20th century or earlier can meet current needs in terms of health and safety of the occupiers and also environmental efficiency. Unfortunately the housing market does not truly reflect housing condition or environmental impact.

Indeed the working of the housing market is at the root of many problems. A house is an asset that can appreciate in value while at the same time being allowed to deteriorate. In the same way land can increase in value without any improvement or development. The market can thus act against the longer term public health interest and the wellbeing of occupiers of poorer quality housing.

It is my hope that this report will lead to discussions between the CIEH and the Housing Minister and her officials on how 'gradual renewal' can be put into practice. That it will also provide some pointers to environmental health practitioners (EHPs) and local authorities as to how the process of renewal can be implemented within the existing legal framework so as reduce the impact of bad housing on health.

Finally I hope the CIEH Council itself will act to ensure that its members are suitable equipped to contribute effectively to housing renewal as a means of improving public health.

In conclusion I would like to thank John Bryson, Stephen Battersby and the other members of the Commission for their work and deliberations over the past 20 months leading to this report.



Alan Higgins
CIEH President

Introduction

The Commission was established in 2005. The Commission has met four times and a workshop was held at Sheffield Hallam University in January 2007. An Interim Report was launched at the CIEH Annual Conference in 2006 on which further comments were invited.

Following the first meeting in January 2006 the Commission has proceeded by way of a literature search and by inviting submissions. Letters inviting submissions were sent to every local authority in England and Wales and to a range of other organisations and individuals considered to have an interest. A press release was also issued by the CIEH when the Commission was established which also invited submissions. Subsequently those local authorities that had made housing Compulsory Purchase Orders (CPOs) or had been actively involved in urban renewal were contacted with more specific questions on housing renewal.

The Interim Report of the Commission was published for two main reasons. Firstly, the initial response from local authorities was disappointing. This may be a reflection of the fact that few members of the environmental health profession currently working in local government have experience of housing renewal. Relatively few practitioners are working within the Housing Market Renewal (HMR) Pathfinders.

Secondly, housing renewal is a complex issue that has required considerable deliberation. This has become increasingly apparent as the Commission's work progressed. The publication of an Interim Report provided an opportunity for wider comment, discussion and debate on the interim findings, which have contributed to the final report.

However, many of the interim conclusions and recommendations remain valid. In the time that has elapsed since the establishment of the Commission there has been a number of changes at the policy level and this report addresses some of these, even though not originally or directly part of the terms of reference.

The Commission recognises that the situation at ground level is fluid and can change more rapidly than policy. What has become increasingly obvious is that although the CIEH is concerned with public health and environmental sustainability, the workings of the housing market mitigate against a collective approach to housing renewal.

Too often environmental health practitioners are not sufficiently involved at the strategic level and in particular in local strategic partnerships (LSPs) and local area agreements (LAAs).

This final report sets out the main arguments that have been propounded for increasing the rate of replacement, and also counter arguments. These have been identified from the literature search and submissions to the Commission. The report is primarily concerned with private sector housing but also draws on experiences from clearing and replacing estates of socially-rented housing.

The report raises a number of issues about the approach to housing renewal and its impact on public health and provides our final conclusions and recommendations.

Our recommendations are directed at central, regional and local government, at practitioners engaged in housing renewal and finally at the CIEH itself.

1.0 Background

It is now widely acknowledged that housing affects health. Britain has around 40,000 excess deaths each winter. The magnitude of the winter excess was found to be greater in people living in poorly heated dwellings

The background to the deliberations of the Commission are summarised as follows:

- Much of the housing in England and Wales was built when society's housing needs and expectations were very different. 21 percent of housing stock in England was built before 1919. Over 42 percent of the private rented sector is of equal age, although 72 percent of pre-1919 stock is owner occupied. Please see Table 1 on page 31
 - In the past 'slum clearance' by the state was seen as important to improving public health, but the outcome was not always achieved
 - Rather than develop a continuous programme of gradual renewal of older housing there has been sporadic bursts of large-scale clearance programmes interspersed by periods when the emphasis has been on large-scale improvement programmes
 - The pendulum has swung to an almost exclusive focus on renovation, supported by various forms of grant including enveloping or group repair*, and now renewal assistance that may be by way of loan packages. The current levels of activity are demonstrated in Tables 5, 6, 7, 8 and 9 on pages 33-35. Few local authorities have seen housing clearance on any scale as a realistic option (perhaps also reflecting the change in tenure patterns). The tables show that since 2003 the number of dwellings demolished has increased by two and a half times expenditure, however expenditure on demolition has increased by over four and a quarter times
 - The exception to this has been in towns in the North and Midlands, where there has been a failure of the housing market despite past public expenditure to maintain the stock. Housing Market Renewal (HMR) Pathfinder schemes have been established with an increased emphasis on clearance as part of a more
- balance package of regeneration. For example on Merseyside at one time the total number of demolitions proposed was over 32,000, with some of the highest levels being in the HMR area for Liverpool, Wirral and Sefton¹
- However the Office of the Deputy Prime Minister (ODPM): Housing Planning Local Government and the Regions Committee said in its *Empty Homes and Low-demand Pathfinders* report in 2005 that the Pathfinders include only about 50 percent of areas with serious problems of low demand and the other areas are not receiving any additional support²
 - The Department for Communities and Local Government (DCLG) has reported that only "4,100 homes have been demolished under the HMR Pathfinder programme since 2002 – less than one percent of the housing stock in these areas". To this extent the main focus of the Pathfinders remains one of refurbishment and 17,000 properties have already been renovated by 2006
 - It is now widely acknowledged that housing affects health. Britain has around 40,000 excess deaths each winter. The magnitude of the winter excess was found to be greater in people living in poorly heated dwellings³
 - The English House Condition Survey (EHCS) 2005 recorded that 709,000 vulnerable owner-occupier households and 362,000 vulnerable private renting households lived in non-decent homes. The thermal comfort criterion is the most commonly failed of the four criteria. Some 780,000 (25 percent) of vulnerable households in the private sector live in homes that fail to provide adequate thermal comfort under the Decent Homes criteria. See Tables 2, 3 and 4 on pages 31-32
 - In the *40% House* report from the Environmental Change Institute at Oxford University⁴, it was suggested that the worst houses, around 14 percent of the

* Enveloping was a technique first devised in Birmingham whereby the local authority acted as agent on behalf of owners and let a single contract for the renovation and repair of the external 'envelope' of a terrace or group of properties. The Local Government and Housing Act 1989 integrated this technique into mainstream legislation on housing renewal as 'Group repair'

current stock, should be removed through a targeted demolition strategy with care taken not to invest money in upgrading those homes that will ultimately be demolished. This scenario requires demolition rates to be increased to four times current levels, rising to 80,000 dwellings per annum by 2016[†], reducing the average life of a house to 300 years

- Conversely, the Sustainable Development Commission has argued that existing buildings could house more households in better conditions and with better resource efficiency than at present. The Commission has argued that government policy on climate change and energy efficiency actively supports the environmental improvement of existing buildings⁵
- The Stern Review on *The Economics of Climate Change*⁶ for HM Treasury warns that climate change is a serious threat and demands an urgent response. If we do not act the overall costs and risks of climate change will be equivalent to losing at least five percent of global GDP each year. If a wider range of risks and impacts is taken into account, the estimates of damage could rise to 20 percent of GDP. In contrast, the costs of action – reducing greenhouse gas emissions – can be limited to around one percent of global GDP each year. The investment of the next 20 years will have a profound effect on the climate in the second half of this century and into the next
- The Royal Commission on Environmental Pollution (RCEP) twenty-sixth report, *The Urban Environment*, concludes that it should be a fundamental requirement of government policy that towns and cities become more environmentally sustainable and healthy places to live. Such aspirations will not be met unless:
 - Urban management is guided by an explicit policy for the urban environment; Health and wellbeing are recognised as being inextricably linked with environment

- Urban growth and renewal are planned within environmental constraints
- The environment is placed at the heart of urban design, regeneration and management
- There is an integrated approach to the urban environment that takes account of social, physical and economic factors
- There are incentives to reduce negative environmental impacts
- Knowledge, capacity and skills to reduce environmental impacts and promote health and wellbeing are increased and maintained

Government policies and initiatives include:

- The New Deal for Communities (NDC) is a key programme in the government's strategy to tackle multiple deprivation in the worst affected neighbourhoods in the country, so that the poorest communities have the resources to tackle problems in an intensive and co-ordinated way. Similarly, the HMR Pathfinders initiative came out of the Sustainable Communities Plan, published in 2003, to tackle low housing demand and housing abandonment over the next three years. £500 million is being made available for some of the worst affected areas
- Public Service Agreement 7 (PSA 7) on Decent Homes was extended to include private sector homes – by 2010, 70 percent of vulnerable households should live in Decent Homes and 75 percent by 2015. In 2004, 994,000 private rented homes were considered non-decent⁷. Table 6, on page 33, provides further information
- The Regulatory Reform (Housing Assistance) Order 2002, which gave local authorities discretion as to what assistance they can give for renovating housing, also requires that they publish a private sector housing policy to fit in with the wider housing strategy⁸

[†] The 40% House scenario achieves a reduction of carbon dioxide emissions from domestic households to 40 percent of 1996 levels by 2050

- The introduction of the Housing Health and Safety Rating System (HHSRS), under the Housing Act 2004, and also incorporated into the Decent Home standard (the impact of which has not been assessed). For dwellings to be included in a clearance area they must contain at least one Category 1 hazard as defined by the HHSRS
- The Housing Act 2004 which more reflects the World Health Organisation's[†] definition of health, which includes psychological injuries and distress
- Warm Front, the Government's main grant-funded programme for tackling fuel poverty, launched in June 2000, replacing the Home Energy Efficiency Scheme
- In December 2006 the DCLG launched the Code for Sustainable Homes, providing a national standard for sustainable design and construction. The code sets minimum standards for energy and water use, and in England replaces the EcoHome scheme developed by the Building Research Establishment (BRE). The code uses a star rating from one to six, where one star is the entry level, above the level of building regulations, and six stars is the highest level, reflecting an exemplar development which is carbon neutral
- A revision of the manual on Neighbourhood Renewal Assessment (NRA) in 2004[‡]. The updated manual takes into account changes in the housing and regeneration agendas. Guidance on Housing Market Assessments (HMA)¹⁰ is also available. HMA and NRA are seen as a two-tier package
- The core aim of the newly established DCLG to develop sustainable communities[§]
- Promoting partnerships, i.e: strategic partnerships or service delivery partnerships. Local Strategic partnerships (LSPs) are non-statutory, multi-agency partnerships which match local authority boundaries. The agreements bring

together public, private, community and voluntary sectors allowing services to support one another. Local Area Agreements (LAAs) set out priorities for an area agreed between government and the local area (the local authority and the LSP). In February 2007 the DCLG published guidance on new LAA arrangements^{**}. Local authorities and strategic partnerships are encouraged to use this to inform debate, identify what they might need to do to prepare for and implement changes

- Issuing for consultation a draft Supplement to Planning Policy Statement 1 (Delivering Sustainable Development) on *Planning and Climate Change* in December 2006 which set out how spatial planning should contribute to reducing emissions and stabilising climate change (mitigation) and take into account the unavoidable consequences (adaptation). Spatial planning, in providing for the new homes, jobs and infrastructure needed by communities, should help places with lower carbon emissions and resilient to the climate change

[†] The Constitution of the World Health Organisation defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity"

[§] DCLG defines sustainable communities as places where people want to live and work, now and in the future. They meet the "diverse needs of existing and future residents, are sensitive to their environment, and contribute to a high quality of life. They are safe and inclusive, well planned, built and run, and offer equality of opportunity and good services for all"

^{**} www.communities.gov.uk/pub/329/DevelopingthefuturearrangementsforLAAs_id1506329.pdf

2.0 The housing market

Too many homes are not physically able to meet the needs of the 21 century even though they have an inflated market value because of their location

One of the fundamental problems for the renewal of older housing identified by the Commission is the housing market and house price inflation, which affects the cost of renewal. House prices have risen even in the HMR Pathfinders, particularly after the announcement of government funding for the initiative. As the CIEH President Alan Higgins says in his forward to the Interim Report:

“Too many homes are not physically able to meet the needs of the 21 century even though they have an inflated market value because of their location.”

In a letter to the Commission following the publication of the Interim Report a CIEH Past-President, Roy Emerson, stated that with present inflation on house prices the Commission cannot solve the insoluble and that no government, local authority or private company can afford clearance on the scale required.

It is interesting that Mr Emerson asks why inflation is deplored in other areas of the economy but applauded in the housing market. How much stress, anguish and ill-health is caused by the seemingly endless increase in acquisition costs and unaffordable mortgages?

There has been a number of calls in recent times for a change in the taxation system that could bring downward pressure on house price inflation and could also provide an alternative to funding local government**.

Professor Peter Malpass of the University of the West of England** reported figures from the Halifax that the total value of owner-occupied dwellings in 2005 was £3.4 trillion, with mortgages against the stock of £967 billion – leaving almost £2.4 trillion privately owned free equity. It is estimated that the value of residential stock has tripled since 1995.

Allowing for inaccuracies, these are large figures and part of what has been described as “the conspiracy of house price inflation”. Some policy makers believe that this privately owned free equity can be used to meet welfare requirements – the notion of asset based welfare.

Unfortunately this wealth tends not to be in the right place or in the right hands. Even when it is, it is not easily released, as has been found out by local authorities attempting to move to loans from grants following the Regulatory Reform Order (RRO) in 2002. Tables 7, 8 and 9 on pages 34-35 show that loans have not filled the gap between the grant figures before the RRO and subsequently.

Annex 1 considers one way that reform of the tax system could be used to discourage the continuing rise in house prices.

Land Value Tax (LVT) has been proposed as a fairer way not only of raising local taxation but as a way of limiting increasing house prices. It is anticipated that such a tax would also increase the release of land holdings for new development as the vacant land would be taxed.

Renewal, even as part of a coherent strategy, becomes unaffordable as the market rises over the period of the strategy, as was commented in the workshop: “a market downturn may resolve some of these issues of affordability”.

The HMR Pathfinders and similar initiatives around low demand and a coherent approach to housing renewal on health and environmental grounds require that the market cycles be addressed. The Commission believes that the introduction of a LVT could help that.

** See for example: “The case for taxing land” Dave Wetzel, *New Statesman*, 20 September 2004 and “A case for taxing land” Samuel Brittan, *Financial Times*, 9 December 2005

** Roof July/August 2006

LVT is not a ready-made option for reforming the tax system, funding local government and addressing soaring house prices. But it should be considered further by the Government. Anything that seeks to address inequalities justifies further evaluation. There are issues that will need to be addressed – for example the problems that might face those who are asset rich but income poor, but that is a problem for any taxation system including the current Council Tax.

3.0 Legal complexities

Legal complexities mean the process can be time consuming, allowing for further decline in the area

The Interim Report did not consider the legal framework for housing renewal in great detail. However, there have been a number of cases that suggest the legal provisions are complex and easy to get wrong. The Interim Report made reference to the complexities and Compulsory Purchase Orders (CPOs) and the Planning and Compulsory Purchase Act 2004 and it was recommended that the Government should provide relevant guidance to local authorities clarifying the respective roles of housing clearance area CPOs and CPOs that have been made under planning legislation, which can have similar objectives⁵⁵.

Annex 2 considers the legal complexities in more detail and some of the cases considered exemplify the confusion and complexity. Following the Pascoe case in Liverpool it was widely reported and assumed that this case involved redevelopment associated with the New Heartlands HMR Pathfinder.

Yet as *The Guardian* special report on 14 March 2007 pointed out, the case involved redevelopment of one of the main corridors into Liverpool from the motorway system and the “urban decay and deprivation” in the area affected did not reflect well on the city that will be the European City of Culture in 2008.

The case also exemplifies how the correct legislation must be used as the basis for the proposed actions.

The cases considered in Annex 2 serve to indicate a number of points summarised below:

precluded, even where the local authority and the Secretary of State have acted correctly

- Legal complexities mean the process can be time consuming, allowing for further decline in the area
- Local authorities have to ensure that all affected properties in the clearance area have been fully inspected and the inspection details recorded. When using powers under the Housing Act authorities must be able to display that they have acted rationally and have taken account of the NRA methodology
- Local authorities need to ensure that they keep up-to-date with clearance areas and compulsory purchase generally

- The issues and procedures are complex and interference with property rights also has to take account of the requirements of the European Convention on Human Rights. Legal challenges may not be

⁵⁵ For details on the CPO procedures see *Compulsory Purchase and Compensation Compulsory Purchase Procedure*, ODPM (now DCLG), October 2004

4.0 The arguments for replacing older housing

It has been argued that in the long-term, the health of those living in older and colder housing will only be secured by replacing the worst of the housing stock with modern, warm and well-designed housing

In summary, the arguments put forward for an increased rate of clearance of housing have been suggested as:

4.1 Health improvements

It has been argued that in the long-term, the health of those living in older and colder housing will only be secured by replacing the worst of the housing stock with modern, warm and well-designed housing.

The operating guidance for the HHSRS contains hazard profiles for all the 29 hazards¹¹ following detailed research. The profiles contain statistical averages for hazard scores as assessed from analyses of data that revealed the likelihood of occurrences and the spread of harms in the population.

While for many hazards at the national level there are relatively low likelihoods of an occurrence (largely the least serious class IV harms), for the hazard of excess cold, the likelihood of an occurrence and the serious nature of the health outcomes indicate that statistically an average pre-1920 dwelling scores over 1,000, meaning it is a Category 1 hazard. That does not mean that all pre-1920 dwellings are excessively cold, but nevertheless it does show that much of our older housing has an adverse effect on health.

The guidance also shows that, for all dwellings in the housing stock, the likelihood of damp and mould causing harm is 1 in 464 and for falls on stairs 1 in 245. The impact on health services resulting from unhealthy housing conditions can be substantial.

Table 3, on page 32 shows the average energy efficiency in the housing stock using the Standard Assessment Procedure (SAP). Reference has already been made to the number of excess winter deaths, many of these related to the poor quality of the housing stock. Yet submissions to the

Commission indicate that despite thermal comfort being one of the major reasons for dwellings not meeting the Decent Homes standard, energy efficiency has not been a major factor in determining actions on housing renewal. Perhaps the Home Energy Conservation Act (HECA) strategy is not seen as part of mainstream housing considerations. This may change with the introduction of the HHSRS.

There is a complex relationship between cold homes and ill-health, fuel poverty and climate change. Table 4, on page 32 shows that in 2001 854,000 private sector dwellings still had a SAP of less than 20. The English House Condition Survey (EHCS) 2004 reported that 3.7 million or 21 percent of private sector homes fail the thermal comfort criterion of the Decent Homes standard, while 0.9 million or 23 percent of social sector homes fail the criterion.

The English House Condition Survey (EHCS) 2005 reported that 4.8 million or 27 percent of private sector homes fail the Decent Homes standard, while 1.2 million or 29 percent of social sector homes fail the criterion.

In 2005 4.4 million homes or 20 percent failed to provide adequate thermal comfort – which remains the most common cause for failing the standard. 73 percent of non-decent homes fail this criterion, while 59 percent fail on this criterion alone.

However, there has been considerable improvement in insulation and heating since 1996. Nevertheless the energy efficiency of social sector housing is substantially better than in the private sector. Table 3 on page 32 indicates that on average in 2005 the private rented sector is more energy efficient than the owner-occupied sector; in previous years the sector had been worse.

However, the buy-to-rent of new build properties may explain this at least in part. It is probable that the chances of achieving improvements to secure adequate energy efficiency and a reduction in carbon emissions will be remote for the worst housing, even if physically possible. Many of those living in the poorest housing will try to take any improvements in energy efficiency by way of improvements in comfort and better health and will not reduce energy consumption. It can be argued that the only way to achieve both better health and reduce carbon emissions from the domestic sector is to replace those houses rather than renovate.

According to the National Institute for Health Clinical Excellence (NICE)¹², there is review-level evidence that rehousing people from 'slum' areas can improve self-reported physical and mental health outcomes in the longer term (18 months).

The HHSRS could also be used to assess dwellings at the design stage, as a dwelling may be constructed to comply with Building Regulations but could still contain serious and even Category 1 hazards. Evidence from environmental health practitioners (EHPs) is that this is occurring. This situation is not new however. It was possible to construct a dwelling that could be assessed as unfit for human habitation yet still complied with the Building Regulations. For example the Building Regulations do not require windows to be installed, but set out requirements if they are.

4.2 Environment efficiency

It has been argued that in order to improve the environmental performance of the housing stock and not just the energy efficiency, then action has to be made at an area level. This has been the case with Group Repair and Renewal Areas. But, in

these cases the concern was more with remedying disrepair and visual appearance, rather than necessarily improving overall environmental performance – which may have been limited to loft insulation and modern heating systems and similar to work falling within the Warm Front programme.

Little consideration was given to the environmental impacts of the works supported with grant aid. At the same time (as illustrated by Table 1 on page 31) 80 percent of the housing stock is over 25 years-old already and 50 percent was built before 1960 when housing standards and building control in many parts of the country was substantially less than has been the case since.

It could be argued that action at an area level with local authorities working to clear older inefficient housing with housing that will be more environmentally efficient, using less water and energy, is the way forward.

Local authorities can use their powers under both housing and planning legislation to secure the availability of sites which can be developed with environmentally efficient housing by private developers.

4.3 Sustainable communities and wellbeing

The greater use of planning powers^{***} and the outcome of the housing market renewal initiatives has helped bring the issue of clearance to the fore.

Under the current provisions in planning law, a local planning authority must not exercise the compulsory purchase power for the redevelopment of land unless they think that the development, re-development or improvement is likely to contribute to the achievement of the promotion or improvement in the economic, social or environmental wellbeing of the area. Local

^{***} s. 226 1(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

authorities have used these powers, in addition to those in the housing Acts to acquire land and clear areas of older housing.

One of the issues has been that in some areas associated with market failure, the communities are no longer sustainable and indeed social capital has already been lost. In some areas there has been an increase in the proportion of private rented housing, with the landlords demonstrating less responsibility than perhaps in other parts of the local authority area. In order to help create a sustainable community, it is necessary to replace some of the housing and redevelop with new housing to provide a more mixed-tenure community. Renewal can therefore make a positive contribution to the development of social capital. Indeed the community may actually want the housing to be replaced.

Community groups are part of the social capital. Irene Milson and Mary Huxham of the Windermere Dovetail and Camelot Tenants' and Residents' Association in Liverpool argued¹³ that residents in the Welsh Street area had been campaigning for inclusion in the HMR Pathfinder and that 72 percent of residents wanted the houses to be cleared. These houses were built 125 years ago as "short-term housing with no foundations over a web of rivers". They said that conservationists and critics of the clearance proposals "don't have to deal with properties that are damp, decaying and expensive to heat – let alone collapsed Victorian sewerage systems, now over ridden with rats". The Commission considers that activities of such community groups perhaps indicate that clearance and redevelopment can contribute to a gain in social capital.

In comments made on the Interim Report Gary Kirk, Chief Executive of Meden Valley Making Places (MVMP), a not-for-profit housing regeneration project between

Bolsover and Mansfield District Councils, agreed that the link between health of communities and renewal is rarely made. He stated that poor quality and poorly designed estates can contribute to poor health: "older estates with inadequate street lighting, front doors straight onto pavements and the presence of alleyways and side entrances contribute to feelings of lack of safety," he said. Mr Kirk also stated that the framework of LSPs is an ideal body to pull the links between housing and health together.

4.4 Social change

The nature of social change can be recognised when considering the situation in Liverpool. Chris Holmes¹⁴ (former Director of Shelter) points out that the number of empty properties in Liverpool doubled between 1985 and 2001 and that this was also happening in other towns and cities as a reflection of a changing economy. Liverpool had an over-supply of small terraced houses and a larger proportion than any other city. These properties were built in the 19th century for workers on the docks and associated industries, which even if still operating, employ many fewer people today. Indeed the DCLG reports that even though £20 million has been spent on renovation in the Welsh Street district, homes still remain empty because not enough people want to live there.

The White Paper *Our Towns and Cities: The Future*¹⁵ identified some of the social changes that influence urban living characterised by people living longer, having fewer children and with many more people living alone. This results in the need to accommodate an extra 3.8 million extra households by 2021. While this indicates a need for more housing that meets modern requirements, it does not of itself imply that all existing housing has to be retained.

The Commission for Architecture and the Built Environment (CABE) acknowledges that some homes are “simply beyond their sell-by date” and that money spent in past decades on refurbishment and facelifts has not worked

Indeed, it may be that local authorities, by working with partners, will be better able to provide additional housing by clearance and redevelopment.

A report on the housing markets in the M62 corridor¹⁶ (by the Centre for Urban and Regional Studies at Birmingham University (CURS)) identified the impact of regional planning and national housing investment policies which, while reflecting social change, accentuated inequalities of housing supply and demand. Planning authorities had actually encouraged people to move out to new housing on greenfield sites.

4.5 Market failure

Market failure is a problem that has brought the issue of clearance and replacement to the fore. The HMR Pathfinders initially suggested a need for substantial demolition, and to replace cleared houses with housing that would be more attractive and would reverse the move away from the area. The key to decision-making is to have sound information. This can be obtained via the Housing Market Assessments (HMA) on which the DCLG has issued guidance.

However, the Commission has a concern about this approach and the focus on market led initiatives, as the housing market rarely reflects issues of public health.

4.6 Obsolescence

For many years various commentators have referred to ‘obsolete’ housing. The term ‘obsolete housing/obsolescence’ has been used by DTZ Pleda¹⁷ to describe housing which is redundant and/or surplus to requirement, because there is no reasonable expectation that it can meet the housing needs or aspirations of local people.

The Commission for Architecture and the Built Environment (CABE) acknowledges that some homes are “simply beyond their sell-by date” and that money spent in past decades on refurbishment and facelifts has not worked.

In such areas the move to more radical solutions is understandable. Indeed, even those organisations that have argued against the level of clearance reported in the Pathfinders have accepted that clearance is an appropriate option in certain circumstances. Such circumstances are where housing is in poor condition (or fails to meet modern aspirations) and cannot be brought up to a modern standard at reasonable cost and/or where there is no current demand and/or expected future demand for housing in the neighbourhood.

It is also interesting that Shelter, in its submission to the Commission, made it clear that it does not oppose demolition in principle. Shelter suggest that demolition and replacement can result in an improved housing stock that is more flexible, better meets the demands of today’s households, and is more environmentally sustainable. The Commission also believes that housing built to comply with the highest environmental standards should be cheaper to run.

5.0 The counter arguments

Professor Power argues that the future of cities lies in ‘smart growth’ whereby the expansion of cities is contained and existing neighbourhoods are intensively regenerated

A number of arguments have been put forward as to why older housing should not be cleared and replaced.

5.1 Decision process is flawed

It is not clear that the right questions are always asked at the right time. Communities are not always fully involved in developing options for intervention, and consultation may only occur once a decision has been made. The emphasis in the use of the Housing Market and Neighbourhood Renewal Assessments is on market values not public health.

As an example of how decisions can be perceived, the Civic Trust says that residents in Toxteth, Bootle and Granby, in the New Heartlands, (Liverpool/Sefton/Wirral) HMR Pathfinders have contacted them because they have serious reservations about process, governance and lack of community representation or independent advice available to them.

They question why certain streets were earmarked for demolition, feel that the strategy has actually exacerbated abandonment, and that there has been collusion between Registered Social Landlords (RSLs) and the city council in decanting and voiding properties. Furthermore, since the declaration of Liverpool as European Capital of Culture 2008, house prices in the area are said to have gone up and this was not taken into account in devising the strategy.

The Commission is of the view that fundamentally the issue should be about public health and wellbeing. However, in the NRA process, when comparing options, the emphasis is on market values. Rarely is any health impact assessment undertaken.

5.2 Past mistakes will be repeated

The problem of large-scale clearance in the past has been the housing that replaced the so-called slums. For example, Chris Holmes has charted the impact of large-scale clearance and replacement in Liverpool with large public housing projects in Speke, Kirkby (Knowsley) and Skelmersdale. Much of the replacement housing built by local authorities did not provide adequate long-term solutions, often becoming undesirable. Indeed, Nick Raynsford MP (former Minister of State for Housing and Planning) said post war solutions “laid the foundations for the very problems which we are now wrestling to overcome”.

It is large-scale clearance that led to such mistakes. Advice back in 1975 from the then Department of the Environment (DoE)¹⁸ stated “a more watchful management of renewal should in future avoid the need for crash programmes of rehabilitation or widespread redevelopment”.

Professor Anne Power has pointed out that part of the problem is that Britain has doubled the number of homes since the Second World War, but the core of the cities, which are efficient places to live, have smaller populations than at any time. This is exacerbated by building at much lower densities (250 homes to a hectare in 1900 and 25 homes to a hectare in 2000), which leads to urban sprawl and the decline of urban areas. Shrinking household size and lower density “have played havoc where with land use and urban form¹⁹”.

Professor Power argues that the future of cities lies in ‘smart growth’ whereby the expansion of cities is contained and existing neighbourhoods are intensively regenerated.

In the Commission’s view this concept is not inconsistent with gradual renewal that involves some clearance and replacement.

Replacement within the existing boundaries of the towns and cities that can help repopulate existing urban communities.

5.3 Impracticality and lack of skills

The *40% House* report suggests that “demolition rates should be increased to four times current levels, rising to 80,000 dwellings per annum by 2016” which represents a substantially increased clearance programme. This would be impractical, not least because, as has been recognised by many professionals and politicians, the necessary skills to secure this are currently not available to or in local government. This is not just a matter of lack of experience within the environmental health profession. The current levels of clearance are given in Table 1, on page 31.

In one submission referring to clearance area Compulsory Purchase Orders (CPOs) several areas were highlighted where there were skills shortages:

- Limited experience of officers in private sector housing
- Limited experience of housing CPOs in the estates section of the council
- Valuation/negotiation function was outsourced, but was managed by estates – although the arrangement worked well it was seen as expensive
- Very limited experience within the council’s legal section – they had to employ locum who was very knowledgeable and this worked well but again this was found to be ‘extremely expensive’

The ODPM Select Committee² report on empty homes and low demand pointed out that the Government had made it easier for local authorities to identify the owners of properties and to prepare a CPO in the Planning and Compulsory Purchase Act 2004. However, there is a lack of staff with

experience of the CPO process. Outside the Pathfinder areas the problems are likely to be worse.

The Commission goes further and believes that a range of skills are necessary, not just by those within the environmental health profession. Environmental Health Practitioners (EHPs) need to be equipped to be a part of the housing renewal team, but should also be better able to identify those skills necessary to make the process more effective, starting from the development of renewal options within a community or area.

A further question is whether the construction industry has the capacity to rebuild replacement housing at the necessary rate, given that there is currently a problem providing affordable housing at the rate necessary to meet housing demand.

5.4 Loss of social capital and blight

Social capital can be considered in simple terms as the glue that holds communities together. According to the World Bank, social capital refers to the norms and networks that enable collective action. Increasing evidence shows that social cohesion – social capital – is critical for poverty alleviation and sustainable human and economic development²⁰.

The key indicators of social capital include social relations, formal and informal social networks, group membership, trust, reciprocity and civic engagement. Social capital is generally understood as the property of the group rather than the property of the individual²¹.

It is argued that clearance of areas of housing causes dislocation and fracturing of the social cohesion that is a part of social capital. Shelter has expressed concern at the potential for disruption and the trauma

of losing a home. However, for some areas, the loss of social capital has presaged deterioration in housing and the environment.

5.5 Timescales

The submission from one local authority suggested that the time taken to get a decision on bids for funding of clearance work from the regional government office could be problematic. The perceived delay can generate a lot of ill-feeling with residents and undermine schemes, especially where house values are rising.

As there are many different owners in areas of private sector housing subject to clearance, the process is necessarily more protracted than if a substantial proportion of the properties are in a single ownership, particularly where the local authority itself is the main owner.

One of the major issues facing local authorities and communities when housing renewal includes some element of clearance is the 'managed decline' of the area until demolition can be secured, because this can often take a long time.

In one submission it was suggested that such areas attract people who behave in an anti-social or even criminal way. It has been recognised by the authority that this decline should have been better planned and managed, and that this should be seen as an additional management cost.

Managing the process through to clearance and replacement, whether or not tools such as selective licensing are used, requires resources and specific skills. In the view of the Commission, local authorities need to ensure that account is taken of this from the outset.

5.6 Costs and funding regime

There are two related problems associated with housing renewal and replacement. One is the squeeze on funding available to Local Housing Authorities (LHAs) (particularly outside the Pathfinder areas), which calls into question the ability of local authorities to fund clearance.

The second is the relatively low market value of existing properties compared with the cost of the new houses for those displaced by clearance, particularly when they wish to remain as owner occupiers.

Flint and Cole found an average shortfall of £35,000 between the cost of buying a new home and the compensation received by homeowners²². Paradoxically, although relatively low, the costs are high enough to make clearance and replacement expensive in the short-term. Tables 5 and 6 on page 33 indicate that even where it is widely recognised that houses in an area have come to the end of their useful life, they still have a value.

Even in the poorest neighbourhoods house prices now make clearance prohibitively expensive given the inevitable constraints on funds.

As one submission pointed out, there is little point moving an owner occupier from one unfit house to another unfit house in another part of the town because this is all that they can afford.

Regeneration plans should include the timely availability of low cost, mixed tenure, new homes, involving equity share or loan models. These are now being developed, but even so the gap between cleared and new values can still make clearance seem an expensive option.

When a sample of local authorities with experience of clearance were asked to weigh the various determining factors on whether or not to pursue clearance, cost factors ranked highest

In addition to the acquisition costs, the local authority has to pay compensation^{***}. For people displaced, the total package may not be sufficient to acquire a suitable alternative home. Yet, for the local authority the total sums will be substantial. In addition where there is a compulsory purchase order, absentee landlords who are not entitled to home loss payment will be entitled to basic loss payments^{***}.

This expenditure has to be met by local authorities under the new system of housing finance – where a local authority will be free to make its own borrowing decisions according to what it can afford. It will need to take account of the totality of the level of government support when setting its ‘prudential’ borrowing limits for the forthcoming financial year.

Therefore, activity will be limited to some extent by what a local authority can afford. In the short-term and long-term, public health needs may be ignored.

When a sample of local authorities with experience of clearance were asked to weigh the various determining factors on whether or not to pursue clearance, cost factors ranked highest. Other factors such as the running costs of dwellings after the action, upheaval for residents or loss of social cohesion and social capital were generally not seen as crucial to decisions.

Those local authorities that have been able to clear and replace private sector housing have had the security of funding. For example with Single Regeneration Budget (SRB) and HMR funding, they had confidence that money would be available to purchase properties when needed. This allowed the local authority to speak openly and with confidence to home owners.

If local authorities and their partner

organisations have developed a coherent, fully costed approach with all the evidence to show the potential gains for the community, why should there not be guaranteed continuity of funding? In such circumstances these are the organisations closest to the communities affected.

One of the concerns raised in the workshop was that within the Pathfinders specifically, increasing constraints are being applied. For example the Audit Commission has said that relocation grants should not be used.

If the intention is to give HMR Pathfinders a ‘clean sheet’, and with the Regulatory Reform Order (RRO) local authorities are supposed to have total discretion, they should therefore be allowed to do what works, meets the needs of residents and is the most cost effective approach, and without additional constraints being imposed by external agencies.

Some officers feel that they are being constrained from what they know is working, while being pushed into the use of policy tools that they know will cause problems.

5.7 Adverse health impacts

Shelter, in its submission, expressed concern about the detrimental effect on people’s health. According to the National Institute for Health and Clinical Excellence (NICE) there is review-level evidence that rehousing people from ‘slum areas’ can adversely affect self-reported health outcomes in the short-term (9 months)¹².

Currently, there is a lack of review-level evidence on the effectiveness of rehousing from a socially isolated area or from substandard housing in improving health.

It is also reported that currently there is a lack of review-level evidence of the

^{***} As from 1 September 2006 the maximum prescribed was £40,000 and minimum is £4,000 (The Home Loss Payments (Prescribed Amounts) (England) Regulations 2006 SI No 1658)

^{***} The Land Compensation Act 1973 (LCA 1973) was amended by the Housing and compulsory Purchase Act 2004 so that certain landlords may be entitled to claim 7.5% of the value (or £75,000 whichever is the lesser sum) where a dwelling is subject to a compulsory purchase order (s.33A LCA 1973)

effectiveness of interventions, involving rehousing or housing improvement combined with neighbourhood regeneration initiatives, in improving health outcomes.

It is reported that there is review-level evidence that housing interventions involving improvements to energy efficiency measures, such as installation of new windows rather than clearance, can positively affect health outcomes.

Other research on urban renewal issues has illustrated the interrelating factors that contribute to adverse health impacts, including uncertainty during the process and the trauma of actually moving home. This is illustrated in Figure 1 on page 31 – which relates to the Housing Action Trust (HAT) activity in Liverpool. Some 5,337 properties had been transferred to the HAT from the City Council following a ballot, so the housing was largely rented from a single landlord and consequently the renewal and rehousing process should have been less subject to delay, and uncertainty.

In most private sector housing clearance areas owner occupation is the predominant tenure, and so there may be the potential for greater stress and trauma.

5.8 If health improvement is a concern, the HHSRS will address this

It can be argued that public health is the basis for interventions under the Housing Act 2004, now that the HHSRS is the method for assessing dwellings there is less of a 'bricks and mortar' approach.

It follows that interventions under Part 1 should automatically lead to improvements in public health. In addition the Decent Homes standard requires that a dwelling is free from Category 1 (the most serious)

hazards, so that assistance should also be directed to dealing with the unhealthiest housing.

Therefore, for many areas there will be no need for radical area-based solutions such as clearance and replacement to improve public health. In any event, clearance area declarations will only be possible, at this time, where all the houses have Category 1 hazards. Yet, there may be houses in the neighbourhood that appear run-down but have a number of Category 2 hazards.

At this stage it is unclear the extent to which such areas exist. Submissions to the Commission indicate that in the past factors such as energy efficiency, noise, falls and crowding/overcrowding have not been taken into account by local authorities in determining whether or not to clear or refurbish housing. That can no longer be the case.

6.0 Good practice

It seems generally accepted that there needs to be some clearance where that is the appropriate solution, but it is the scale of clearance that is the issue

There are clearly arguments for and against increasing the rate of clearance and replacement as a means of housing renewal. It seems generally accepted that there needs to be some clearance where that is the appropriate solution, but it is the scale of clearance that is the issue.

In that context the Commission has considered what could be suggested as good practice in two aspects of the process, firstly in decision-making and secondly in the actual process of securing clearance and replacement.

In order to ensure that the decision-making is right, the second aspect needs to be considered first; only in that way will the full resource implications be taken into account.

Flint and Cole identified three barriers to demolition and replacement and relocation⁵⁵⁵:

- Feelings of powerlessness among local communities
- The inability of owner-occupiers to afford alternative properties
- The concerns and circumstances of vulnerable households

Much of the compensation issue has focused on owner-occupiers being able to remain in tenure but in superior housing to that vacated. Although owner occupation may now be the dominant tenure it should not be forgotten that there are often private tenants in housing clearance. They are particularly vulnerable and do not have the same compensation provisions.

Local authorities need to carefully consider with them how their needs can be best met. At the same time is the question of how far marginal owner-occupation, owner-occupation at the edge of affordability, should be promoted and embedded in a community.

Some elements of good practice so far identified by the Commission are as follows:

6.1 Securing clearance and renewal

Strategies, consultation and communication

- Local housing authorities need to be considering those areas of housing where local data, whether from the Primary Care Trust (PCT) or self-reported from occupier surveys, indicate residents have the greatest frequency of home related ill-health and injury, such as cold-related illness and falls. It is possible to canvass opinion regarding regeneration options using questionnaires and 'have your say' days
- Residents (regardless of tenure) need to be asked the right questions from the outset. This should be handled so that there are no accusations of a conspiracy, as have occurred in some of the HMR Pathfinders. There is no right to public funding (legal aid) to fight CPOs. In Large Scale Voluntary Transfer an authority is legally required to consult all tenants whose homes would be transferred and as a minimum should follow ODPM good practice guidance in drawing up its consultation material. Although not a legal requirement, a ballot is considered a good way of establishing tenants' views, although the DCLG is willing to consider other methods. The guidance manual on stock transfers and investment says that: "Independent Tenant Adviser (ITA) should work with tenants both before and after the ballot. A local authority should also consider what other advice (such as legal advice) tenants might need"²³. Statutory consultation for clearance areas occurs only when there is already an intention to include a building in a clearance area⁵⁵⁶ – good practice requires earlier consultation than this, for example as part of the option generation

⁵⁵⁵ See 'Security clearance', *Roof*, November/December 2006

⁵⁵⁶ Housing Act 1985 section 289

It is crucial that residents are kept informed at all stages. One method is a local newsletter which is distributed on a regular basis to all residents and other agencies including the police, PCTs, and social services

exercise in the NRA process. Where clearance is a possible option, local housing authorities should also provide support for independent advice and promote the existence of this service to residents as part of the process of engagement. This approach reduces suspicion and potential objections in the future. The regeneration project MVMP has a full time Community Participation Officer and the organisation aims to have a culture in which community engagement is achieved. As was said in the Commission's Workshop: "Most of the work needs to be done at the front end, with full community involvement from day one and that hasn't always happened, and if that doesn't happen then it is likely that the process will be unsuccessful."

- Consultation is best via face-to-face interviews with each resident, preferably in their own home, and via a project group approach. Such a project group should comprise a limited number of people including ward members, residents, advice agencies and officers. It should be established at the outset that the group itself has no executive powers but acts to listen to views, acts as a conduit for information, and functions as an aid to the decision making progress
- Consideration should be given as to how decisions will be taken and whether a postal vote for all residents, with independent scrutiny, would have merit
- It is crucial that residents are kept informed at all stages. One method is a local newsletter which is distributed on a regular basis to all residents and other agencies including the police, PCTs, and social services

After the decision has been taken

- Once a clearance area has been decided upon it is seen as good practice to set up a local office, or drop-in surgery, either within or readily accessible to the area
- A back-to-back approach of implementing the clearance and CPO powers should be used, as there is a reduction in time spent negotiating and purchasing properties in advance of any CPO resolution. Although, other opinions suggest that CPO powers should be kept in reserve for those owners where purchase by agreement has failed. If a significant bank of purchases by agreement can be made, this in itself will build up the momentum of the land assembly process. Which is the best approach may depend upon the outcome of the consultations and discussions with residents. The Commission's view is that if the decision has been made in the right way, it is a matter of which will secure clearance quickest
- The decline of an area should be managed by a dedicated local authority officer with support. The work will include serving notices for insecure property, disrepair issues and removal of rubbish. In some areas where there has been clearance of council housing, tenant liaison officers have been appointed, who are on hand to assist all residents affected by clearance and in all aspects of their relocation to new accommodation. Clearance liaison officers have also been appointed for private sector clearance areas to carry out the same function and assist owners with purchasing a different house or bidding for a Registered Social Landlord (RSL) or privately rented property. They may also assist with keeping owners up-to-date with the progress of their purchase. Flint and Cole referred to alternative approaches in Pendle Borough Council, where a consultancy was used to provide support to affected residents, and North

Staffordshire Home Options Project, part of the RENEW North Staffordshire HMR Pathfinder, devise a detailed housing plan for each affected household

- Independent valuations such as from the District Valuer should be used rather than in-house valuers, not only to value properties, but also to negotiate a sale by agreement. Where owners do not accept this valuation the local authority could offer them the alternative of another local Royal Institution of Chartered Surveyors (RICS) qualified valuation using a person of their choice. The local authority can even offer to pay for this valuation providing the owner agrees at the outset to accept the figure. In one HMR Pathfinder a revised valuation process includes the Pathfinder offering to pay for an independent valuation regardless of whether the sale proceeds. The independent valuer is then able to negotiate with the council and agree a price. In another Pathfinder panels of financial advisors and solicitors have been made available providing free and independent expert advice
- Once acquisition has been decided upon, the local authority should have in place the means to provide a dynamic approach to acquisitions. For example using an RSL partner who can offer flexibility. This approach avoids property being sold at auction to speculators whose sole aim is to hold the authority, which is unable to purchase this way, to ransom
- In at least one local authority a successful Partnership for Demolition has been developed. This project brought with it the advantage of having a specialist contractor available when required, significantly reducing the time between dwellings becoming empty and commencing demolition. The potential for nuisance arising from vandalism and other forms of anti-social behaviour has been minimised by reducing the time delay between acquisition and

demolition. In another case, advance negotiations and an agreed procedure regarding disconnections has also been found to reduce the time taken to carry out and confirm disconnections and in turn reduce the delays in demolition

- Where the clearance option is selected, the compensation package must be realistic and meet the needs of the people displaced. Discretion on disturbance payments, for example, should be used positively. The compensation offered should be the same whether or not the CPO has been made to encourage owners to sell by agreement in advance. Equally, the discretion provided by the Regulatory Reform (Housing Assistance) Order 2002 should be used positively to overcome any 'valuation gaps' and help those who wish to relocate to do so, ensuring no financial disadvantage is caused. Some local authorities are clearly doing this. One authority has now appointed a Clearance Relocation Officer to manage the delivery of the financial packages developed. It has become apparent that at present, and despite considerable efforts to develop a diverse range of packages, in general loan packages are not as attractive as grants to assist with location. Furthermore there is reluctance on the part of the lending institutions to get involved in this part of the market

6.2 Decision making

Some of the factors above are of course relevant to decision making and the NRA process:

- It is too easy to dismiss clearance and renewal as an option and the issue of health is rarely taken into account. In only one local authority submission was it reported that a rapid health impact assessment of the options was

undertaken. Similarly insufficient consideration is given to the environmental impacts of the options, including the contribution to carbon emissions and water usage

- The NRA process should take into account all the costs associated with solving the problems of the area including anti-social behaviour, infrastructure problems such as parking, crumbling drains and sewers, inability to make homes energy efficient and poor street lighting. These impacts have no obvious effect on market values and it is the enhancement of market values by which benefits are assessed. It has been suggested in one submission that if the revenue costs of resolving some of the problems in run-down areas are factored into the cost appraisals, clearance and replacement with these factors designed out would be a more attractive proposition
- The House of Commons ODPM Select Committee² said that the Pathfinders need to consult better with local communities and consider the different options for improvements, including more refurbishment of existing housing. Reiterating what has been said above, it is important that all local authorities consult more effectively with local communities when developing local, private sector housing strategies. This has led in one instance to the identification of a demand for larger and higher amenity standard properties, with a broader range of shared ownership options and affordable housing. This need could not be met through renovation of the existing stock. The Commission believes it is good practice to generate options with the active participation of the communities where there are problems and not to dismiss clearance and replacement out of hand. In developing the overall housing policy sufficient evidence should have been gathered to provide information to residents so that they can provide

informed opinion. It is a challenge to local authorities and agencies and there will inevitably be tensions between conflicting needs and aspirations and some trading off. But, without community involvement at the earliest stage the process of renewal will be more fraught

7.0 Final conclusions

Clearance and replacement of housing should be thought of as a means of supporting regeneration, improving the economic vitality of an area and as a means of establishing sustainable communities

The Commission sets out its final conclusions below:

1. Clearance and replacement of housing should be thought of as a means of supporting regeneration, improving the economic vitality of an area and as a means of establishing sustainable communities. Renewal also provides the opportunity for improving the health and wellbeing of residents. Improving health and environment efficiency should go hand in hand. However, there is little evidence to show the positive impacts and more work should be conducted on this.
2. Housing renewal is a complex issue. Difficulties arise because local authorities and their partner agencies are seeking to reconcile what may be local, regional, national and even global imperatives with individual interests which may have a shorter-term perspective.
3. Local authorities and agencies must recognise the need for a holistic approach to neighbourhood renewal. The current approach is formulaic and has evolved into a legalistic mechanism. This should be overcome. A holistic approach must be backed by a multi-sector team of professionals involving everyone from the start: architects, planners, housing and environmental health practitioners, police and community workers.
4. The introduction of the HHSRS makes the impact of housing on health and safety central to housing interventions. Improving public health and wellbeing should be the basis for interventions in poorer quality housing and EHPs who understand the links between housing and health need to be at the forefront of developing strategies for private sector housing. See Figure 2 on page 31. This is true whether the option is to demolish and replace or to renovate housing. Local authorities and their partners need to provide leadership and support and target areas to secure the necessary improvements. Individual actions alone will not make housing healthier, safer and more environmentally efficient.
5. At a time when the majority of housing is privately owned, it seems that often the environmental health profession has been unable to persuade others of the fundamental contribution of housing to public health and sustainable development, which inherently includes wellbeing. The HHSRS represents an opportunity to regain some of the lost ground, particularly as increasingly local authorities are becoming regulators and enablers rather than direct housing providers. This opportunity is further strengthened by the existence of community strategies and the creation of Local Area Agreements (LAAs) through which the role and importance of healthy housing can be demonstrated to others.
6. There is no prospect, even on energy efficiency grounds, of securing the level of clearance and replacement as advocated in the report from the Environmental Change Unit at Oxford University. The level of clearance suggested in the initial plans by HMR Pathfinders has already been scaled back significantly, largely as a result of changing housing market conditions. The housing conditions remain largely the same with tracts of identical, usually older house types but the values have changed as a result of the HMR Pathfinder focus. This is an argument for a Land Value Tax (LVT). However, the rate of clearance and replacement needs to be increased to achieve even gradual renewal. We cannot expect all the housing already more than 70 years-old to meet housing needs for another one hundred years or more without substantial interventions.

There is a need for local authorities to be more prepared to consider clearance and replacement of housing that can no longer provide healthy homes so as also to provide opportunities for more mixed communities and house types

7. However, 'gradual renewal'^{****}, which involves clearance and replacement, is a means whereby we can create mixed communities that are sustainable and also address environmental concerns. If we fail to do so we will be storing up problems for the future. The horizon cannot be limited by short-term political considerations.
8. The Royal Commission on Environmental Pollution (RCEP) has suggested that to make towns and cities more sustainable it is necessary for there to be:
 - A policy for the urban environment and its impact on health
 - An environmental contract between central and local government which also involves the private, voluntary and community sectors
 - A major programme to improve the environmental performance of new and existing buildings
 - Promotion of the natural urban environment and green infrastructure through planning policy
 - An effort to drive up a range of environmental standards – through the Code for Sustainable Homes, utility pricing and incentives to reduce waste and traffic in urban areas – and provision of appropriate skills and information

The Commission endorses the RCEP recommendations and would echo the views of the RCEP in that good quality urban areas can be stimulating and offer opportunities not found elsewhere to contribute to health and wellbeing.
9. There is a need for local authorities to be more prepared to consider clearance and replacement of housing that can no longer provide healthy homes so as also to provide opportunities for more mixed communities and house types. There is a broad range of evidence available to suggest that carried out sensitively and managed well, housing clearance and replacement can be the best option for improving public health and addressing problems of worn-out housing that cannot meet the needs of the 21st century.
10. The local housing authority approach to housing conditions can no longer be based solely on individual complaints. There needs to be an effective strategic approach towards private sector housing renewal, which contributes to public health improvement. This should be guided by the Audit Commission's Housing Key Lines of Enquiry (KLOE)²⁴, especially with regard to the local authority's wider order of priorities on re-housing, homelessness and residential relocation. Also important will be the need for new policy tools for assistance such as equity loans, home swap and other systems of support. Whether via clearance and replacement or improvement, the best way to secure healthy and sustainable housing is by an area-wide approach.
11. Residents need to be involved from the earliest stages in developing options for action whether or not the local authority is using housing or planning powers to secure redevelopments. Failure to do so will make the whole process longer which will exacerbate associated problems.
12. Lack of continuity of funding is a problem for local housing authorities, who consider that clearance and replacement should be a part of their housing strategy. The short-term costs of housing renewal prevent action on any scale that will make significant inroads.

**** Defined as the management of a continuous process of small-scale change within older housing areas – see Andrew D Thomas, 1986, *Housing and Urban Renewal – Residential Decay and Revitalization in the Private Sector*, Allen & Unwin Ltd, London

This is partly due to house price inflation. The LVT may be one means of exerting pressure on house prices by leading to increased availability of land for housing development, as well as being a more efficient way of funding local authorities. This will be more effective than the Planning Gain Supplement which is only a step on the road towards the reforms needed.

13. There is a problem of a skills shortage within, or available to, local authorities to ensure that clearance activity is carried out in such a way as to mitigate the adverse impacts of renewal. It is apparent to the Commission that clearance is not often an option because the skills are not available within the local authority to make it happen, even in those cases where clearance is seen as an option. Yet if clearance is not an option there will be no requirement for those skills to be developed – a vicious circle.
14. There is also a skills shortage within the construction industry, ensuring that replacement housing is properly constructed and that the maximum health gains can be made from renovation. The construction industry needs the skills to ensure that the replacement houses actually can achieve the six star (carbon neutral) rating under the Government's Code for Sustainable Homes (or even the five star rating). It would seem that skills training should also be a component of strategies for housing renewal and the development of sustainable communities. One comment on the Interim Report stated that more should be made of the benefits of securing local skills training and employment initiatives as a means of spreading the benefits of the regeneration process: "Increasing the wealth of communities alongside the physical regeneration of the neighbourhood will have a dramatic effect on the health and wellbeing of the community as a whole as well as the individuals within it".

15. The Commission believe that the five star rating should be the minimum requirement for all replacement housing and indeed where improvements of existing housing are undertaken with local authority support****.

16. The current guidance on the NRA methodology takes no account of health gains or global environmental impacts. Local authority and other expenditure and investment in housing renewal could actually lead to cost savings for the NHS, but no credit for this accrues in the public finances. While there may be a correlation between low house values and poor health market values are no proxy for health, wellbeing and environment efficiency.

17. Social capital is an issue that can be used to support arguments both for and against clearance. The loss of social capital may well come before, and even be a cause of housing market failure and abandonment. Equally, in other areas clearance activity can lead to a loss of social cohesion and social capital. This is therefore something that needs to be taken into account when considering options for action and will no doubt become apparent when there is early consultation with residents in a neighbourhood.

**** This entails 100% improvement over Target Emission Rate as determined by the 2006 Building Regulations Standard; Potable water consumption of not more than 80 litres per person per day; materials used for at least three out of five key constructional elements that meet Grade "in BRE Green Guide 2006; Site waste management plan and proper household waste storage; and environmentally sound surface water management"

8.0 Final recommendations

It should be recognised by all levels of government that urban and housing renewal policies require a greater public health focus and should not be based solely on supporting, or seeking to counter the workings of, the housing market

Focus on health impact

1. It should be recognised by all levels of government that urban and housing renewal policies require a greater public health focus and should not be based solely on supporting, or seeking to counter the workings of, the housing market. The impact on health should be a major component in the decision-making process on housing renewal. The Government should revise the NRA guidance manual to ensure that local housing authorities consider the health impact of the different options for action. The importance of health should also be reflected in the Housing Market Assessment guidance.

Gradual renewal

2. Given that clearance can make a positive contribution to achieving sustainable communities, the Government (DCLG and Treasury) should consider how gradual renewal can become a reality, with clearance a more realistic option for more authorities; and whether the current local government finance system is appropriate for this⁵⁵⁵⁵.
3. There is insufficient advice on gradual renewal. Despite circular advice and guidance issued in the 1970s⁶⁶⁶⁶ there is now a dearth of knowledge and expertise on how to achieve it. The Government should prepare and issue up-to-date advice to local authorities on gradual renewal, linked to a national strategy for housing and energy use.

⁵⁵⁵⁵ The DCLG was invited to submit evidence. This has not yet been received (although there was an observer to the Commission) and so comments from the Department on these conclusions and recommendations will be welcomed

⁶⁶⁶⁶ For Example DoE Circular 13/75 Housing Act 1974 – Renewal Strategies, and DoE, 1975, “Gradual Renewal” Area Improvement Occasional Paper 2/75

Improving private sector housing

4. As the Decent Home standard and PSA7 is a means of ensuring that vulnerable people live in healthier homes, it is recommended that the Government strengthen the targets for the private sector and provide further advice to local authorities on achieving such targets including how clearance and replacement can contribute.
5. Government should consider the topic of housing renewal as a public health intervention as a specific theme for future Beacon Council rounds. While certain aspects of renewal considered in this report could fall within some of the themes for round nine of the Beacon Scheme (*Local Strategic Partnerships and community engagement, and Reducing Health Inequalities* for example), the Commission considers that private sector housing renewal and public health merits its own specific theme.

Legal reform and funding

6. The Government should clarify the respective roles of housing clearance area CPOs and CPOs made under planning legislation, which often can have the same objectives, and provide relevant guidance to local authorities. This could be included in a new Planning Policy Statement to replace Planning Policy Guidance (PPG) 3. Recent advice on CPOs has been written from a planning and legal perspective – with little advice on how to implement compulsory purchase. As a lot of expertise has been lost this should be addressed in a new circular on gradual renewal.
7. Continuity of funding is a matter for the Regional Housing Boards and government offices. Local housing authorities and EHPs should work with them to develop a more strategic approach and improve partnership working across their regions. This in turn

may help address some of the problems of uncertainty of funding. However, housing renewal is not a process that fits with an annual budgetary and accounting cycle and this needs to be recognised by the Government. This point was emphasised in feedback on the Interim Report and is clearly an issue for authorities.

Local government structures, strategies and approaches

8. Local authorities should consider whether their existing structures and methods of operating, particularly the relationship between planning and EHPs, are sufficiently robust to ensure that housing renewal will deliver marked improvements in public health. The local development frameworks and local development documents, required under the revised planning legislation, should reflect this housing and health focus.
9. With the changes in the Housing Act 2004 it is recommended that where they have not already done so, local authorities should review and revise their private sector housing strategies with the genuine involvement of residents in this process.
10. Local authorities should ensure that they properly engage with residents at the earliest stage when generating options for addressing areas of unhealthy housing.
11. Where local authorities are considering options for renewal on an area basis (not just clearance) they should support the provision of independent advice via an independent adviser for residents from the earliest stage and throughout the process, giving publicity to the existence of the service. They should also consider making a ballot on options available, run by an independent body such as the Electoral Reform Society. In the long run it will make implementation easier and more effective.
12. Where clearance and replacement is the option for housing renewal, local authorities should recognise what is good practice and be prepared to put in the resources (or secure the resources from partners). This will ensure that the adverse health effects are mitigated and those that do occur are only short-term.
13. Local authorities now have wide discretion on the provision of assistance. This should be used positively as has been done in a number of authorities to provide flexible packages of assistance to ensure that, along with a compensation package, people displaced in clearance actions are not prejudiced financially and can relocate into healthy housing. Authorities and their partner agencies should be allowed to use their powers based on sound evidence and without constraint. The Government and the Audit Commission should recognise what may not seem good value for money in one community may be the only option in another.

The role of the CIEH and future policy

14. The CIEH Education and Professional Standards Board should examine the core curriculum to assess whether sufficient attention is paid to ensuring EHPs are equipped with the requisite skills to be able to contribute positively to the development and implementation of gradual renewal strategies.
15. The Council of the CIEH should support with appropriate partners the development of in-service training to ensure that qualified EHPs are equipped with knowledge and skills, enabling them to contribute effectively to the development and implementation of housing renewal as a means of improving public health and wellbeing.

The Council of the CIEH is recommended to build on the findings of this Commission, so far as good practice on housing renewal is concerned, and work with relevant partners to develop this into separate, specific guidance for EHPs

16. The Council of the CIEH is recommended to consider the merits of the Land Value Tax as a means of funding local government and housing renewal and supporting those advocating this approach to HM Treasury.
17. The Council of the CIEH is recommended to build on the findings of this Commission, so far as good practice on housing renewal is concerned, and work with relevant partners to develop this into separate, specific guidance for EHPs.
18. The Council of the CIEH is recommended to support the findings and recommendations of the Royal Commission on Environmental Pollution (RCEP) and enter into discussions with the RCEP as to how the CIEH can help put into practice the recommendations in the 26th RCEP report.

9.0 Tables and figures

Table 1 Stock Profile by tenure (England 2004)

all dwellings	owner occupied	private rented	LA	RSL	total
					<i>(000s)</i>
pre 1919	3,297	991	98	198	4,584
1919 to 1944	2,968	340	406	142	3,856
1945 to 1964	2,915	263	942	369	4,489
1965 to 1980	3,266	321	732	419	4,738
post 1980	2,834	419	157	537	3,946
total	15,279	2,334	2,335	1,665	21,613
					<i>percentages</i>
pre 1919	71.9	21.6	2.1	4.3	100.0
1919 to 1944	77.0	8.8	10.5	3.7	100.0
1945 to 1964	64.9	5.9	21.0	8.2	100.0
1965 to 1980	68.9	6.8	15.5	8.8	100.0
post 1980	71.8	10.6	4.0	13.6	100.0
total	70.7	10.8	10.8	7.7	100.0

Source: DCLG English House Condition Survey

Table 2 Decent and non-decent homes by tenure

<i>number (000s)</i>	1996		2001		2005	
	decent	non-decent	decent	non-decent	decent	non-decent
owner-occupied	8,391	5,535	10,483	4,316	11,509	3,822
private rented	752	1,246	1,072	1,101	1,464	1,003
all private	9,144	6,781	11,554	5,416	12,974	4,825
all social	2,092	2,318	2,589	1,647	2,821	1,162
all tenures	11,236	9,099	14,143	7,063	15,795	5,987

Source: EHCS 2005 Headline Report

Table 3 Energy efficiency, average SAP rating by tenure 1996-2005

	1996	2001	2005
owner-occupied	39.3	42.5	44.1
private rented	36.4	40.2	44.3
all private	38.9	42.2	44.1
all social	45.3	50.1	55.2
all tenures	40.3	43.8	46.2

Source EHCS 2005 Headline Report (SAP 2005 methodology)

Table 4 Tenure and SAP rating 2001

count (000s), (row %)

	mean SAP	% of dwellings with SAP ratings of:							all
		< 20	20-30	30-40	40-50	50-60	60-70	> 70	
private	49.3	854 (5.0)	809 (4.8)	2,113 (12.5)	4,413 (26.0)	4,735 (27.9)	2,948 (17.4)	1,092 (6.4)	16,963 (100.0)
social	55.8	161 (3.8)	161 (3.9)	319 (7.6)	742 (17.8)	1,033 (24.7)	927 (22.2)	834 (20.0)	4,178 (100.0)
all	50.6	1,014 (4.8)	970 (4.6)	2,432 (11.5)	5,155 (24.4)	5,768 (27.3)	3,876 (18.3)	1,926 (9.1)	21,140 (100.0)

Source: DCLG Supporting Tables to EHCS 2001 (Using SAP 2001 methodology)

Table 5 Private sector housing clearance (numbers of dwellings)

	2002/03 outturn	2003/04 outturn	2004/05 outturn	2005/06 outturn	2006/07 planned
North East	95	239	787	820	937
North West	914	2,048	1,709	1,801	2,133
Yorkshire and the Humber	148	136	114	275	387
East Midlands	214	109	65	147	152
West Midlands	118	459	460	204	200
East of England	13	10	63	2	6
London	0	23	10	14	44
South East	21	27	11	0	4
South West	14	30	12	1	0
England	1,537	3,081	3,231	3,250	3,863

Source: DCLG Housing Strategy Statistical Appendix 2005-06 (www.communities.gov.uk/index.asp?id=1504954)

Table 6 Expenditure on clearance and demolition (£000s)

	2002/03 outturn	2003/04 outturn	2004/05 outturn	2005/06 outturn	2006/07 planned
North East	4,181	7,076	15,182	24,913	20,808
North West	19,300	42,882	76,542	94,209	99,890
Yorkshire and the Humber	2,355	1,606	2,695	18,188	17,093
East Midlands	1,919	1,206	892	1,554	3,894
West Midlands	8,476	14,186	9,683	10,078	13,299
East of England	204	0	86	95	12
London	0	25	87	4614	1,489
South East	6	4	4	0	303
South West	281	6	4	0	0
England	36,772	66,991	105,175	153,651	156,788

Source: DCLG Housing Strategy Statistical Appendix 2005-06 (www.communities.gov.uk/index.asp?id=1504954)

Table 7 Number of private sector grants

	2001/02 outturn	2002/03 outturn	2003/04 outturn	2004/05 outturn	2005/06 outturn	2006/07 planned
North East	4,074	4,046	2,669	3,057	2,608	3,172
North West	23,439	17,217	17,460	18,873	18,226	17,595
Yorkshire and the Humber	6,407	6,301	8,085	11,131	11,754	11,760
East Midlands	6,388	5,814	5,757	6,065	5,491	7,777
West Midlands	8,008	6,843	6,273	5,053	4,774	4,727
East of England	7,417	6,746	5,981	4,709	4,265	5,171
London	9,260	7,975	7,516	7,733	7,871	9,695
South East	9,429	8,389	6,453	5,180	4,877	7,021
South West	6,870	4,988	6,477	6,258	6,209	9,371
England	81,292	68,319	66,671	68,059	66,075	76,289

Source: DCLG Housing Strategy Statistical Appendix 2005-06 (www.communities.gov.uk/index.asp?id=1504954)

Table 8 Total number of loans made by local authorities for private sector renewal

	2002/03 outturn	2003/04 outturn	2004/05 outturn	2005/06 outturn	2006/07 planned
North East	0	2	49	88	521
North West	9	8	154	324	614
Yorkshire and the Humber	1	37	38	325	177
East Midlands	0	0	8	77	198
West Midlands	0	1	28	115	432
East of England	0	132	466	581	863
London	0	0	9	81	139
South East	10	2	160	196	1,393
South West	30	23	100	222	383
England	50	205	1,012	1,812	4,720

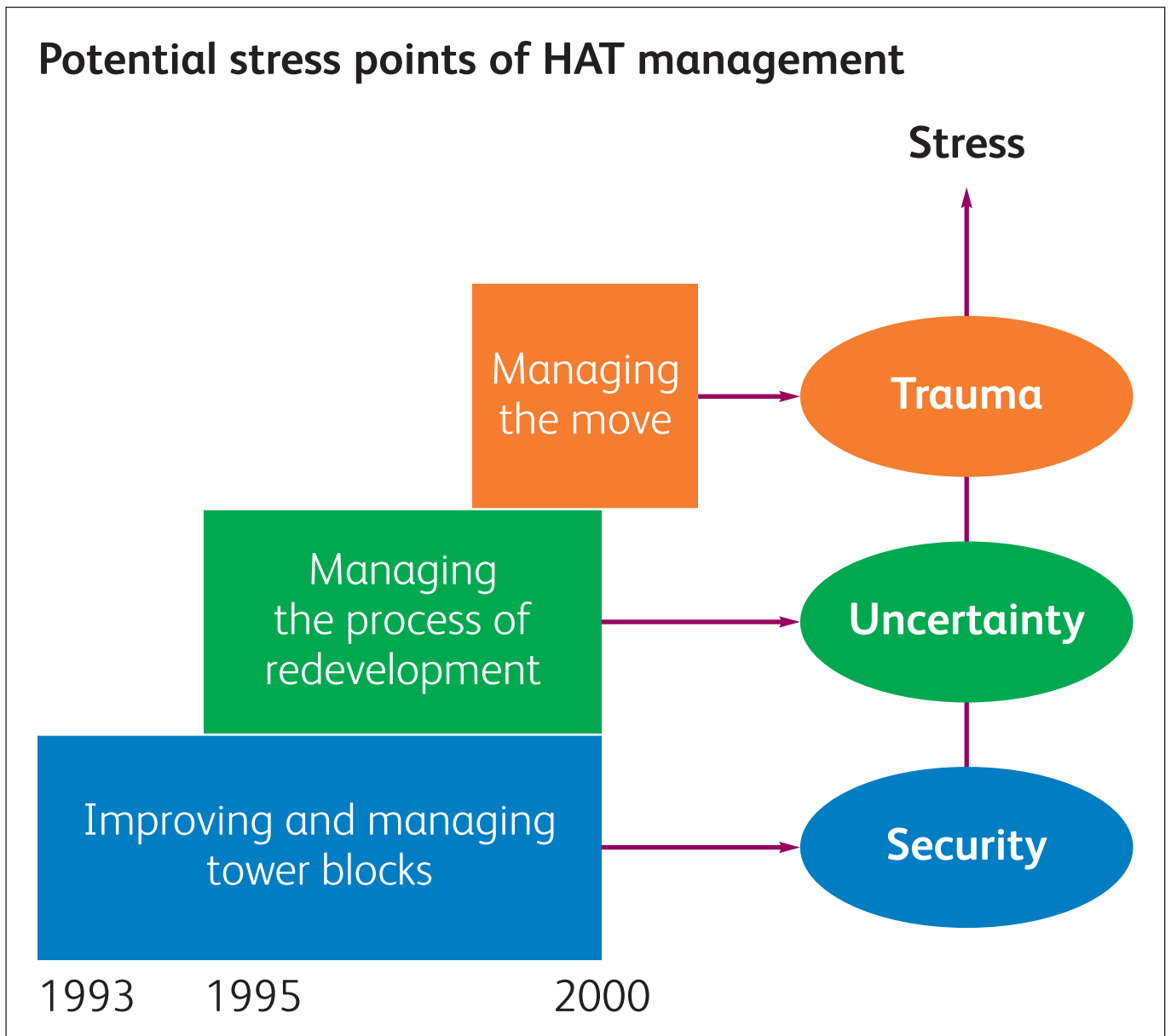
Source: DCLG Housing Strategy Statistical Appendix 2005-06 (www.communities.gov.uk/index.asp?id=1504954)

Table 9 Total number of loans made by third parties for private sector renewal

	2003/04 outturn	2004/05 outturn	2005/06 outturn	2006/07 planned
North East	1	2	2	67
North West	11	27	142	207
Yorkshire and the Humber	87	147	41	355
East Midlands	2	21	22	126
West Midlands	55	134	132	192
East of England	0	2	2	28
London	3	484	28	59
South East	41	44	58	45
South West	21	21	25	184
England	223	882	452	1,263

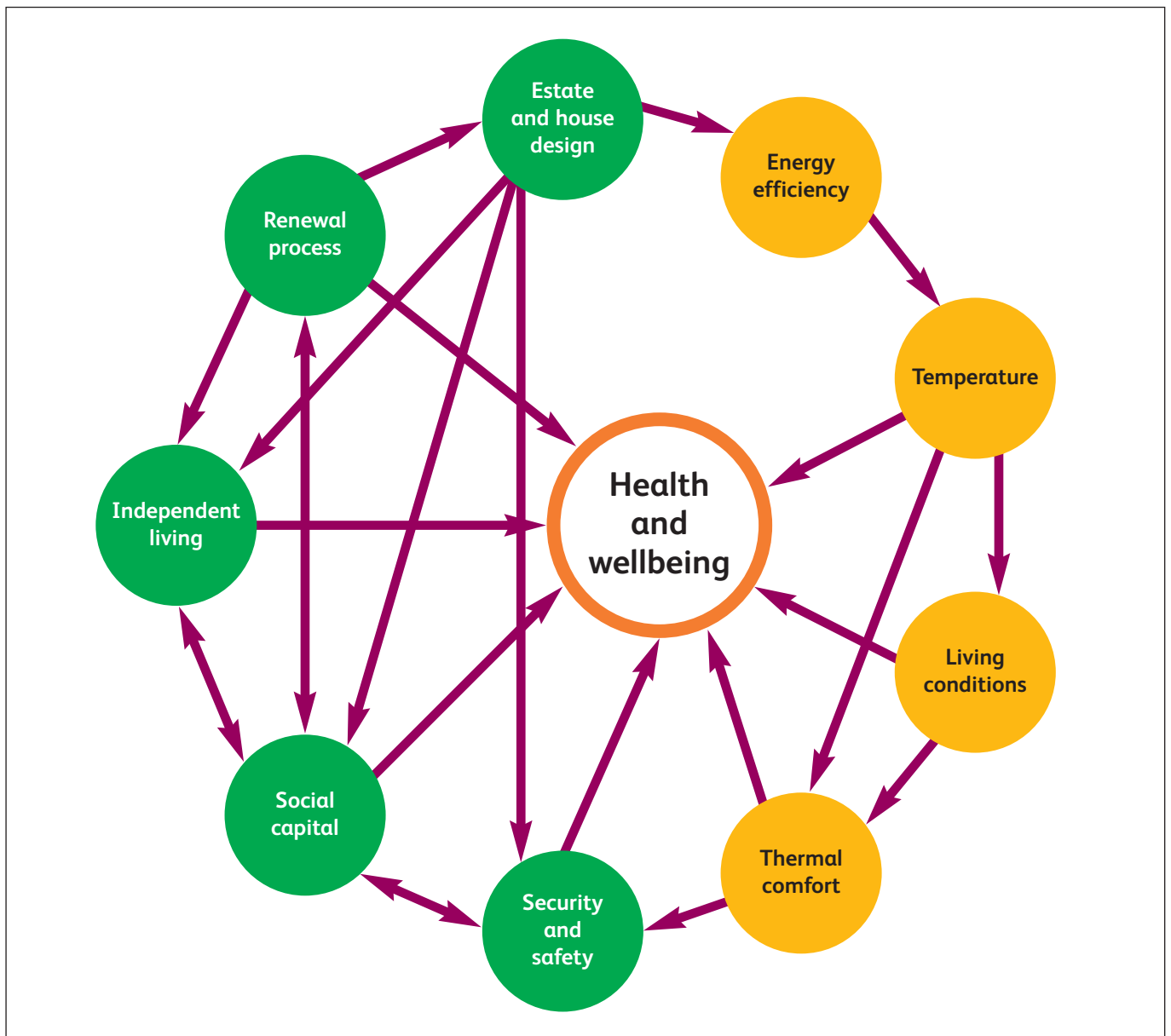
Source: DCLG Housing Strategy Statistical Appendix 2005-06 (www.communities.gov.uk/index.asp?id=1504954)

Figure 1 Health impact of a renewal process



Source: Housing and Health in Liverpool, Sheffield Hallam University

Figure 2 The components and interrelationships of health and wellbeing and housing renewal



Source: Housing and Health in Liverpool, Sheffield Hallam University

Annex 1

Discussions on the Land Value Tax (LVT)

Although rising house prices do not create wealth, they transfer resources from those who will own houses in the future to those who own them at present and who vote now

There has been a continuing obsession with home ownership since the 1980s. The Government's response to problems of an increasing gap between the richest and poorest is to increase the percentage of home ownership to 80 percent. But is this sustainable?

How can a person on an income of £15,000 afford to buy a property for £150,000? As economist Martin Weale has said^{****}: although rising house prices do not create wealth, they transfer resources from those who will own houses in the future to those who own them at present and who vote now.

A government will find it difficult to introduce policies to reverse the trend in rising house prices. The voting power of the house-owning public is such that the tax treatment of owner-occupied housing is much more favourable than that of any other form of asset.

Residential property is an unproductive asset and Weale argues that the problem fundamentally is that house prices are rising in the first place. If all houses rise in price society does not get richer (Weale states that prices are 20-30 percent above the level that can be explained by supply and demand). This gap is attributed to the fact that house price gains are not taxed and so have a tax advantage.

The effect of house price inflation is also to inhibit labour mobility. This in turn can lead to social problems, as work is undertaken by those from areas (or countries) who have the mobility and are prepared to suffer poor or overcrowded housing conditions in the worst of the rented accommodation and are not looking to acquire property.

There is a growing argument for some revision of the taxation system so that

burden is shifted from incomes and profits and on to those whose untaxed gains in property values – a Land Value Tax (LVT).

This is not the same as the Government's proposed Planning Gain Supplement, which would tax landowners' windfall gains from the granting of planning consent.

Mr Weale has argued for a tax charged in residential property at one percent of its value each year, replacing the Council Tax. It has been argued for on the basis of the following illustration used by Fred Harrison, author of *Ricardo's Law: House prices and the great clawback scam*^{*****}: the Halifax has shown that in the long-run house prices increase by about 10 percent per annum.

For someone whose house is worth £1 million that 10 percent is worth a £100,000 windfall in 12 months. It does not matter how much is paid in tax over a lifetime, those taxes will be clawed back within a few years. For families that rent there is no clawback, and so the gap between rich and poor widens. One result is also the inexorable rise in house prices.

If people paid the benefits they receive at the locations where they access public services the LVT (although Harrison argues it is not a tax at all) would be a way out of this 'mess' and be more progressive. It is his view that richer people occupy higher value locations and would thus pay more but it would enable a government to remove all taxes that force those on the lowest incomes to live in poorer conditions. More importantly perhaps it reduces the pressures for the constant and rapid increase in house prices.

Chief Executive of the Work Foundation Will Hutton has argued that three years into the Housing Market Renewal (HMR) programme the results are visible^{*****}. Some

^{****} Weale M, 2006, The Housing Market and Government Policy, NIESR Economic Review No 195

^{*****} Harrison Fred, 2006 *Ricardo's Law: House Prices and the Great Clawback Scam*, Shephard-Walwyn

^{*****} *The Guardian* (Society Guardian) 14 March 2007

private investment has begun to be attracted and property prices are rising, albeit perhaps more slowly than in the surrounding areas.

However, he states: "It is a pity, in my view, that we have not developed a system of taxing the improvement in land values that the Pathfinder programmes are delivering to help them become more self-financing". A Land Value Tax could be used to make communities more sustainable.

The proponents of a LVT say it would replace not add to existing taxes and that correctly applied LVT would support a whole range of social and economic initiatives including housing, transport and other infrastructural investments. The value of every parcel of land in Britain would be assessed regularly and the LVT levied as a percentage of those assessed values.

Land in this context is taken as meaning the site alone. Any improvements or the value of buildings or any other works erected or carried out on each plot of land would be ignored, but it would be assumed that all neighbouring properties were developed as at the time of the valuation. Other things being equal, a vacant site in a row of houses would be assessed at the same value as the adjacent sites occupied by houses.

However, that valuation would also reflect the effect of public investment in an area such as in improved infrastructure or a school. The valuation would be based on market evidence, in accordance with the optimum use of the land within the land-use planning regime and change in permitted land would lead to a reassessment. It would therefore be a disincentive to hold vacant land, and therefore increase land availability, which will also have an effect on price.

***** Land Value Tax Campaign see: www.landvaluetax.org/what-is.htm

The advantages of such an approach are summarised***** below:

- A natural source of public revenue with all land making a full contribution to the Exchequer, allowing reductions in existing taxes on labour and enterprise
- A stronger economy. It will not discourage people from constructive and beneficial activities, and penalise enterprise and efficiency, but quite the reverse. LVT is payable regardless of whether or how well the land is actually used. It is a payment, based on current market value, for the exclusive occupation of a piece of land. In the longer term, this approach to revenue raising will stimulate new business and new employment, reducing the need for costly government welfare
- A more efficient land market as the necessity to pay the tax obliges landowners to develop vacant and under-used land properly or to make way for others who will
- Revitalisation of marginal areas. Economic activities are disadvantaged by distance from the major centres of population and conventional taxes such as VAT cause particular damage to the remoter areas of the country. LVT bears lightly or not at all where land has little or no value and should stimulate economic activity away from the centre
- LVT (unlike Planning Gain Supplement) deters speculative land holding and dilapidated inner-city areas are returned to good use, reducing the pressure for building on greenfield sites. It reverses the current approach, which penalises those who improve buildings with higher business rates, and rewards with lower rates those who allow buildings to fall into disrepair
- Simplicity by comparison with other taxes. Once the system has settled down, landholders will not be faced with complicated forms and demands for

information. Revaluation will become relatively simple

- No chance for avoidance or evasion as land cannot be hidden, removed to a tax haven or concealed in an electronic data system
- LVT fully and properly applied also removes the speculative element out of land pricing
- The LVT cannot be passed on in higher prices or higher rents as the tax cannot be passed on to a tenant who is already paying the full market rent

The LVT approach is not new. It goes back to Adam Smith and has been used in a number of countries, for example, Denmark and Australia and so is proven.

Annex 2

The legal complexities

The Local Housing Authority (LHA) may also declare a clearance area if satisfied that residential buildings in the area are dangerous or harmful to the health and safety of inhabitants

Under the Housing Act 1985, s.289 the local authority can only declare a clearance area if each of the residential buildings in the area contains a Category 1 hazard (as defined in the Housing Act 2004 using the HHSRS) and that other buildings (if any) in the area are dangerous or harmful to the health or safety of inhabitants of the area.

The Local Housing Authority (LHA) may also declare a clearance area if satisfied that residential buildings in the area are dangerous or harmful to the health and safety of inhabitants.

Before declaration the legislation requires notices of intention and information to be provided, including via newspapers and representations. This is the basic legal requirement, but it is the Commission's view (as set out previously) that consultation on options for dealing with an area should be undertaken much sooner in the process.

Section 290 of the 1985 Housing Act is the core provision as it makes it a duty to purchase the land within the clearance area once it has been declared. The purchase can be by agreement or compulsorily.

This section also gives a power to purchase land added to the clearance area where it is "reasonably necessary for the satisfactory development or use of the cleared land". This can include land surrounded by the clearance area or land adjoining (and contiguous with) the declared area.

A local planning authority has compulsory purchase powers in planning law if it thinks that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land – under the Planning and Compulsory Purchase Act 2004 amended section 226 of the Town and Country Planning Act 1990.

However, a local authority must not exercise the power unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following:

- The promotion or improvement of the economic wellbeing of their area
- The promotion or improvement of the social wellbeing of their area
- The promotion or improvement of the environmental wellbeing of their area

The Secretary of State can also authorise compulsory acquisition of any land adjoining that land which is required for the purpose of executing works for facilitating its development or use. The Act also provides for purchase by agreement.

Circular advice is that although the courts have held that the planning compulsory purchase power at section 226(1)(b) of the 1990 Act may be used to acquire a house that has become dilapidated, the Secretary of State would normally expect such acquisitions to be made under Housing Act powers (Circular 2/03 Compulsory Purchase Orders).

However, it can be seen that use of planning powers to help regenerate an area of housing can be attractive and the procedural requirements are simpler.

Compensation following a compulsory acquisition of land is addressed in the Land Compensation Acts 1961 and 1973 and based on the principle of equivalence.

This means that a person affected should be financially no worse off after the acquisition than before. There are three headings under which compensation is assessed:

A person is entitled to a home loss payment when displaced from a dwelling by compulsory purchase or in the other circumstances specified in section 29 of the Land Compensation Act 1973

- Compensation for 'land taken' for the owner of a legal interest in the property
- Compensation for 'severance' and 'injurious affection' and
- Compensation for 'disturbance'

The effects of the CPO on the value of a property are ignored when assessing compensation. The land (and dwelling) should be valued on the basis of its open market value without any increase or decrease attributable to the scheme of development underlying the CPO.

The value of the land is based upon what the land might be expected to realise if sold in the open market by a willing seller. However in the case of housing where there is an absentee landlord, the compensation is based on site value only (although for CPOs since 2004 there will also be an entitlement to claim a basic loss payment for persons who have a qualifying interest but are not entitled to home loss payment).

As J Beatson said in the *Burnley and Rowe* case:

"The power to acquire land for clearance under s. 290 of the Housing Act is to be contrasted by the wide ranging power under the Town and Country Planning Act.

"As well as the difference in purpose of the acquisition, there is a difference in the amount of compensation payable, in that land acquired for clearance is compensated at site value only."

A person is entitled to a home loss payment when displaced from a dwelling by compulsory purchase or in the other circumstances specified in section 29 of the Land Compensation Act 1973.

Home loss payments are made in recognition of the personal distress and

inconvenience suffered by people who are displaced from their homes as a result of compulsory purchase or under other qualifying circumstances.

Section 30(1) of the 1973 Act provides that in cases where a person occupying a dwelling on the date of displacement has an owner's interest the amount of home loss payment is calculated as a percentage of the market value of the interest, subject to a current maximum of £40,000.

Section 30(2) specifies the amount of the home loss payment in any other case, such as a tenant and the maximum here is £4,400. These sums are set out in the Home Loss Payments (Prescribed Amounts) (England) Regulations 2007 (SI 2007 No.1750).

To claim the claimant must have been in occupation of the property as their only residence either as owner or tenant for at least one year before being displaced. The claim has to be made within six years of displacement.

Disturbance payments are made to compensate for reasonable expenses incurred in moving. For example removal expenses, cost of altering soft furnishings, reconnecting movable fixtures and fittings, telephone connection charges. There is the power to make disturbance payments (under the Land Compensation Act 1973 (LCA 1973)) and these can be made even if a residential occupier does not qualify for home loss payment.

The amount of such payment depends on the actual reasonable expenditure incurred in moving home. A disturbance payment is compensation that can be claimed if the occupier is forced to move from their home in certain circumstances. Disturbance payments are intended to cover the expenses of moving. Even if the tenant does

not qualify for Home Loss Payment because they have not lived in the property for long enough, they may still be able to claim a disturbance payment. For disturbance payments the acquisition of land by the local authority does not have to be compulsory purchase, so is payable where there is acquisition in advance of a CPO being made.

Although home loss and disturbance will commonly be paid together there is a distinction. The home loss compensates someone established in a home 'for the lack of volition' of the removal. The latter is based on the cost of removal and so there is no reason why it should not be based on a comparison with the full costs incurred in the actual removal, including any surveys and legal fees and the cost of replacing to the same standard such items as carpets and curtains which are not re-usable.

It is often the amount of compensation that influences whether there are objections to a CPO, and indeed whether there is further legal action after the public inquiry to hear objections.

The basic loss payment (section 33A LCA1973) was introduced into the Act by the Planning and Compulsory Purchase Act 2004. It applies to a person who a) has a qualifying interest in land such as a landlord who has had the freehold or has had a leasehold/tenancy interest for at least a year, b) has their interest acquired compulsorily, and c) is not entitled to a home loss payment in respect of any part of the interest, in which case a payment must be made under this section by the acquiring authority. This it seems would not be payable if the purchase is by agreement.

The entitlement in the Act is the lower of 7.5 percent of the value of the interest or £75,000. The explanatory memorandum to the Bill indicated and the Act itself say that

these provisions only apply to Compulsory Purchase Orders made after the commencement of the Act. A claim has to be made for this payment.

It should also be noted that other public bodies are able to make Compulsory Purchase Orders under other provisions leading to clearance of housing (and possible blighting of areas). These further complicate the situation for the public and point to a need for a better co-ordinated approach. An approach is required that sees the matter from the public's perspective rather than administrative convenience and that whichever legislation is used the terms of the provisions have to be followed correctly.

The following cases also demonstrate not only that local authorities need to exercise care but other agencies and the Government.

Pascoe v First Secretary of State and Urban Regeneration Agency and Liverpool City Council [2006] EWHC 2356 (Admin) QB: (Admin) was an action by an affected owner-occupier for judicial review and an order to quash a CPO in Liverpool made by the Urban Regeneration Agency (operating under the name English Partnerships).

To make a CPO under the Leasehold Reform, Housing and Urban Development Act 1993 s.159(2)(b) so as to acquire land to secure its regeneration, it is necessary to establish that the land when considered as a whole is "under-used or ineffectively used". The inspector at the public inquiry had found that the land was predominantly under-used or ineffectively used, but recommended confirmation of the CPO to the Secretary of State, who in turn confirmed the CPO.

However, the court held that this amounted to an impermissible dilution of the statutory requirement. The purpose for which the

statutory compulsory purchase power had been granted in the Act was to secure area-wide regeneration. The concept of land being 'under-used' or 'ineffectively used' in s.159(2)(b) expressly contemplated that some of the land to be acquired was being used, since otherwise it would be land that was unused.

It was recognised that in practical terms to secure regeneration of a complete area would require English Partnerships to take over the entire area in order to implement a coherent and effective plan of redevelopment.

The court said that Parliament could not plausibly have intended to restrict the agency's powers to a piecemeal or patchwork acquisition of individual plots of land in an area where regeneration was required. However, in order to meet the requirements of the provisions used as the basis for the CPO it was necessary to establish that the land, when considered as a whole, was under-used or ineffectively used.

The decisions of the inspector and Secretary of State had "plainly involved the application of a less stringent standard than that required by s.159(2)(b)" and that ground of challenge succeeded. The decision of the Secretary of State to confirm the CPO was therefore quashed.

The decision was also challenged under the Human Rights Act 1998. The second ground raised issues relating to the consideration of an individual's rights under Article 8 and Article 1 of the First Protocol to the European Convention on Human Rights (ECHR) (right to respect for his private and family life) in the context of the making of a Compulsory Purchase Order.

This challenge was upheld in part because the Secretary of State had erred and the interference with rights was not in

accordance with the law. However, overall this challenge failed because *inter alia* the compensation provisions that applied are human rights compliant.

The third ground raised issues under Article 6 of the ECHR relating to proper and effective representation at a CPO inquiry and was again unsuccessful. The court was satisfied that the claimant was given a "reasonable opportunity to present her case". Although the challenge in this case was largely unsuccessful on human rights grounds, the provisions of the ECHR do also raise considerations that local authorities and others should take into account.

In *Rowe v First Secretary of State and another*; and *Burnley Borough Council v First Secretary of State and another* QBD [2006] EWHC 798 (Admin) one of the issues related to what should be included in a CPO and whether Secretary of State is entitled to exclude demolished properties.

The court considered two applications under s. 23 of the Acquisition of Land Act 1981 challenging the validity of the decision of the first Secretary of State confirming the Cog Lane, Burnley, numbers 1 and 2 clearance areas Compulsory Purchase Order 2003, subject to the exclusion of numbers 106 to 118 Cog Lane.

In the first application, Burnley Borough Council challenged the exclusion of numbers 106 to 118 Cog Lane (that had been demolished after the clearance area resolution) from the clearance area. Mr Rowe and his father, Mr Ivor Bibbings, who had interests in the properties, are named as the second and third defendants in that application. In the second application Mr Rowe, who had carried out some works on the properties, challenged the inclusion of numbers 100, 102 and 104 Cog Lane in the clearance area.

It had also been argued that the inspector's report from the Public Inquiry was rendered unlawful because the inspector did not consider the other options open to the council, in particular renovation of the properties

In August 2004 contractors acting for Mr Rowe began the demolition of some of the properties. In November 2004 the council had instructed contractors to demolish the top half of 110 Cog Lane because the roofs of two properties had been removed leaving the properties in a dangerous state. A gable wall collapsed and the council instructed contractors to undertake further demolition. By June 2005, when a second public inquiry occurred, the houses 106 to 118 Cog Lane had been entirely demolished. The circumstances of the demolition and the work and parts played in it by Mr Rowe and the council was the subject of proceedings in the county court.

In the decision the court did not consider that it was either irrational of the inspector to take account of the fact that there was no longer a need to acquire the demolished buildings to deal with their unfitnes, or that this approach did not take account of the unfitnes of the properties prior to their demolition – a matter on which the inspector had made a finding in the light of the uncontested evidence of the council.

In the course of the hearing the court considered the point of s. 290(4). If the fact that a property had been demolished since the area was declared to be a clearance area it takes it outside the purpose of s. 290. The judgment considered that this subsection might be designed to prevent owners of properties within clearance areas from stalling legitimate exercises (by housing authorities of their power under s. 290) by demolishing some of the properties within an area declared to be a clearance area.

Moreover, unlike the jurisdictional limits set by s. 290(2) in respect of land surrounded by clearance area or land adjoining a clearance area, s. 290(4) creates no jurisdictional bar to the inclusion of demolished properties within the area.

The court was also of the view that the inspector's finding in the inquiry (which concerned the objections to that clearance area and the Compulsory Purchase Order and that Mr Rowe himself could not be relied on to renovate the properties) did not give rise to a ground of challenge under the 1981 Act.

It had also been argued that the inspector's report from the Public Inquiry was rendered unlawful because the inspector did not consider the other options open to the council, in particular renovation of the properties. The judgment was that there was no ground for relief based on this argument as the council chose to make a clearance order following use of the NRA methodology.

It was also argued that the CPO was a breach of human rights. The inspector and Secretary of State had found that Mr Rowe was unlikely to be able to complete the renovation to a satisfactory standard within a reasonable timescale. The court supported the inspector and Secretary of State who had been satisfied that a fair balance had been struck between the use of the compulsory purchase powers and the rights of the objectors and the owners.

In the circumstances it might have been easier for the local authority to have used the planning powers, as the fact that the houses had been demolished would have had little bearing on the CPO.

In R (on the application of Bennett) v Secretary of State for Communities and Local Government and Bury Metropolitan Borough Council (MBC), QBD [2007] All ER (D) Bury MBC had made a CPO under s.90 of the Housing Act 1985 in July 2005. The order related to the metropolitan borough of Bury Pimhole clearance areas, which the authority had declared in July 2004.

The authority's stated purpose of the proposed compulsory purchase were the demolition of buildings and the securing of clear areas of convenient shape and dimensions with a view to promoting the satisfactory development or use of the cleared areas

The authority's stated purpose of the proposed compulsory purchase were the demolition of buildings and the securing of clear areas of convenient shape and dimensions with a view to promoting the satisfactory development or use of the cleared areas.

The properties subject to the order included houses within clearance areas and added lands. The latter consisting of further houses, roads and combined retail and residential premises. The claimant was the lessee and long-term occupier of a dwelling under a long lease, which fell within the added lands. She objected to the order, and made written representations to that effect.

In accordance with the procedure laid down by the Acquisition of Land Act 1981, the first defendant Secretary of State held a public local inquiry into objections. The appointed inspector held an inquiry in March 2006 and reported to the Secretary of State in the following May, recommending that the order be confirmed subject to certain modifications. The order was confirmed. The claimant applied to challenge the decision.

The claimant contended that the authority had misdirected itself as to the meaning of houses unfit for occupation under s. 604 of the 1985 Act and that the decision had been unfair in that the local authority had provided no evidence regarding her specific property. She alleged that there had been no opportunity to remedy any alleged defects.

The application was dismissed. The judgment was that in all the circumstances, the defendants had not misdirected themselves nor had the procedure been unfair. The claimant had had ample opportunity before the inspector to present her objections and the inspector had been entitled to reach the decision he had on the material before him.

It should be noted that as an added land it was not necessary for the local authority to determine that the dwelling occupied by Ms Bennett was unfit. It also shows that as a general rule local authorities need to ensure that they have the fullest possible information as to the conditions of properties to be included in a CPO.

In a Lands Tribunal Case (*Oliver Peter Lawrence Nelson and Susan Margaret Nelson v Burnley Borough Council* (ACQ/93/2005) (2005)) the claimants made a reference under the Lands Tribunal Rules 1996 (rule 28) to determine the compensation payable to them by the defendant local authority for the compulsory acquisition of a property they owned.

The property, which was part of a hillside terrace, had been modernised by the claimants who had purchased it as a buy-to-let investment in 1994. The local authority had informed them that the property was to be included in a clearance area and, following an inspection, advised that the property did not meet the requirements of s.604 of the Housing Act 1985 on the grounds of structural instability and should be declared unfit for human habitation.

The owners disagreed. The local authority confirmed that the proposed after use was to provide an access road but that the intended demolition was also to address a subsidence problem with the adjoining property. A compulsory purchase order was made. The local authority offered the Nelsons £40,000 as compensation. They claimed the sum of almost £70,000 £65,000 as the open market value of the property, loss of rent of almost £2,000 and other costs. The local authority conceded that they were entitled to claim for loss of rent.

The tribunal held that the principal factor affecting the open market value of the property was its structural condition. The local authority's evidence had not proved that the property was unfit for human habitation. No structural survey had been undertaken and the need to demolish the property had not been proved. The parties had agreed that if the property was in the condition contended by the local authority then its value was £40,000. Considering comparable properties the tribunal was of the view that there was no evidence to support the Nelson's contention that the value of the property was 65 per cent more than its agreed un-modernised condition and a value of £55,000 was attributed to the property by the tribunal. Compensation of £1,170 was given for loss of rent. Including other cost items the total compensation awarded was £58,181.06.

In *R v LB Southwark, ex p. Cordwell* (1994) 27 H.L.R. 594, C.A the Court of Appeal upheld the first decision where the consideration had been given to the way in which the local authority had approached the choice between a repairs notice and a Closing Order (now it would be a Prohibition Order). Where a closing (or Prohibition) order is contemplated the cost of future repair and consequential enhancement of the value should be part of the economic assessment under the Closing Order option as well as the repairing option.

Clearly some future use is a possibility following closure. The socio-environmental appraisal was held to be necessarily imprecise, for the judgement of the local authority, and could only be challenged if the authority's conclusion was wrong in law, or *Wednesbury* unreasonable. Similarly the balance between socio-environmental and economic factors was a matter for the authority's judgement, which is not readily susceptible to judicial review.

The report from officers to elected members for a decision on what action to take should however do more than simply make a recommendation. It should put before them all the material needed to form a balanced assessment of the issues and to understand the broad considerations on which judgements in the report are made.

However, in *Taggart v Leeds County Council* (1998) H.L.R. 693 QBD it was decided that despite failings of a report to do this a decision to make a Closing Order would not be quashed. The judge found all the factors pointed compellingly to making a closing order, and the weighting of socio-environmental factors with the economic appraisal were in any event a matter of judgement for the local authority and not readily susceptible to judicial review.

In *Zaman and Bibi v Secretary of State for the Environment* (1999) 32 H.L.R. 734, QBD it was argued the local authority, in deciding to make a clearance area (under s.289 of the 1985 Act), had failed to follow the guidance that equal weight should be given to socio-environmental factors and financial matters. No sensitivity analysis was undertaken either.

The court refused to quash the decision to confirm compulsory purchase of the properties in the area after a public inquiry. Section 604A of the Housing Act 1985 did not require the local authority to follow the guidance but merely have regard to it. The court suggested that local authorities would be expected to follow it unless there is a particular reason for departing from it, but a failure to do so was not necessarily unlawful. The failures by the local authority weakened their case, but the significance of that weakness was a matter for the inspector at the inquiry to assess.

Appendix 1

Specific submissions received from or on behalf of the following individuals and organisations during the deliberations of the Commission:

- Prof Anne Power, London School of Economics (LSE) and Sustainable Development Commission
- Bury Metropolitan Borough Council (MBC)
- Commission for Architecture and the Built Environment (CABE)
- Doncaster MBC
- Ian Robinson, Consultant
- Leeds City Council
- Maurice Brennan, Birmingham University
- Rt Hon Nick Raynsford MP, former Minister of State for Housing and Planning
- Nigel Wilson, Consultant
- Dr Richard Moore, Consultant, formerly Department of Environment
- Rochdale MBC
- Sandwell Metropolitan District Council (MDC)
- Shelter
- Urban Renewal Officers Group (UROG)
- Warren Chadwick, Consultant

Further comments on the Interim Report were received from:

- Paul Beardmore, Rochdale MBC
- Roy Emerson, CIEH Past President
- Gary Kirk, Chief Executive Meden Valley Making Places
- Dave Shiner on behalf of UROG

CIEH Commission workshop attendance:

- Rachel Brisley, New Heartlands HMRP
- John Robinson, Group Director Local Environmental Services, Gateshead MBC
- David Fowler, Wakefield MDC
- Robert Ferris, Sandwell MBC
- Nigel Wilson, Consultant
- Paul Beardmore, Rochdale MBC
- Mark Dolman, Leeds City Council
- Rick Elliott, ABRA – housing regeneration consultancy and David Cumberland Housing Regeneration (DCHR)
- Sam Sykes, East Sheffield Regeneration Manager, East Sheffield Regeneration Team
- Sharon Hanbury, Bury MBC
- Denise Donnelly, Pendle BC
- David Ireland, Empty Homes Agency
- Alan Lipsombe, Wirral MDC
- Brenda Boardman, Environmental Change Institute Oxford University
- Steve Nisbet, Manchester City Council
- Neil Sparkes, Manchester City Council

Commission members present: John Bryson, Sally MacAlister, Geoff Green, Jeff Hollingworth, Stephen Battersby.

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ISBN: 978 1 904306 70 2

This report is printed on elemental chlorine-free paper, produced from sustainable forests.

Design: Sign Graphic Design



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