



South Hams DC's proposal to establish a District CLT

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1. Introduction

- 1.1 SHDC has invited us to provide a report detailing the process of setting up a District CLT to facilitate partnerships between CLTs and RPs. The stated brief is as follows:
 - a) A step-by-step outline of the stages involved and timings
 - b) Costs to set up and ongoing operations
 - c) Resources required and organisational structure
 - d) Issues over governance and relationship with the Council
 - e) Its operation in terms of a dual mandate ref the initial briefing paper 'Housing Delivery - District CLT Process Sept 2023'
 - f) Acting as an interface between local CLTs and RPs to manage the early-stage consultation and scheme concept development;
 - g) Acting as a local CLT where there is not one in existence and holding freehold to the site
 - h) If the Council enters into a Strategic Partnership with an RP, how/if the District CLT could administer that (possibly as a consultant Development Manager to the Council receiving a fee)?
 - i) Process involved in registering as an RP
 - j) Benefits of a District CLT
 - k) Risks/Issues to consider e.g. Right to Buy not applicable on exception sites?

- 1.2 Our understanding is that the Council's purpose in proposing a District CLT is a response to the following issues:
- a) *Perpetuity*: To ensure units retain an affordable tenure in perpetuity, avoiding Right to Buy by stepping in as the freeholder where a no local CLT exist
 - b) *Technical advice*:
 - To implement a community led delivery solution that produces viable schemes.
 - To unlock stalled council sites/assets that are suitable for housing.
 - To actively pursue other potential opportunities that arise at a town/parish level.
 - To formulate viable schemes that meet the aspirations of each community's objectives, including prioritising social rent, design quality, energy efficiency and biodiversity.
 - c) *To attract RP partners by overcoming the following perceived deterrents*:
 - Additional time and resource required to bring forward developments due to consulting on and incorporating a diverse range of views and tenures.
 - The decision-making process can be very slow due to the number of stakeholders involved in a project.
 - Issues with finance as there are break clauses for the CLT to purchase at x point in the future.

2. Background

- 2.1 The model of a partnership between a CLT and an RP was designed by Middlemarch a decade ago and has been developed to the point where, today, it is regarded as one of the most replicable and scalable models of Community Led Housing (CLH). An account of the reasons for its creation and success can be found in the Middlemarch case study on the Community Led Homes website¹.
- 2.2 The model is recognised as being particularly effective at providing affordable homes in tourist hotspots and it is no coincidence that, through Middlemarch's support for local CLT/RP partnerships over the past decade, there are now many more CLTs in Devon than in any other county - see Figure 1.²

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<https://www.communityledhomes.org.uk/sites/default/files/inline-files/Partnerships%20between%20Community%20Led%20Housing%20organisations%20and%20Registered%20Providers.v5.1.mci%20%281%29.pdf>

² https://drive.google.com/file/d/1h1TeFwk1My1_mwz8E2vo1KAj6qWboFar/view?usp=sharing

National CLT Network members, October 2022 - counties with 5 or more CLTs

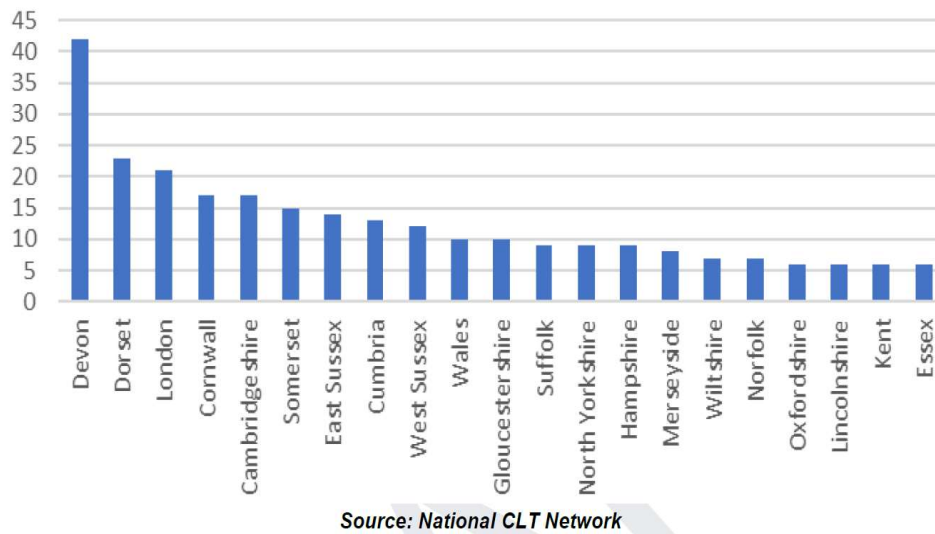


Figure 1, extract from Middlemarch’s research report to Team Devon

- 2.3 The CLT/RP partnership model was cited in the recent LGA-funded report by Localis³ and in a press article by Tom Chance, CEO of the CLT Network on the 21st September (see Annex A). Middlemarch is also working with the CLT Network, Homes England and others on a ‘Growth Lab’ initiative looking at how to scale CLT/RP partnerships across other parts of England.
- 2.4 There is no research available into the success or otherwise of a District CLT. In the time available we have collected the following information:

Name of District CLT	Date Incorporated	Status	Notes
Cornwall CLT	13.3.07	RP and CBS	Started with homes for discount sale under resale price covenants. Now increasingly providing grant-funded homes for rent as an RP.
East Cambridgeshire CLT	10.11.17	Charitable CBS	Two projects to date, one for discount sale and the other under a management agreement.
West Somerset CLT	5.2.16	CBS	No homes provided to date.
Windsor & Maidenhead CLT	6.8.21	CBS	No homes provided to date.
London CLT	23.5.07	CBS	Specialise in homes for discount sale under resale price covenants.

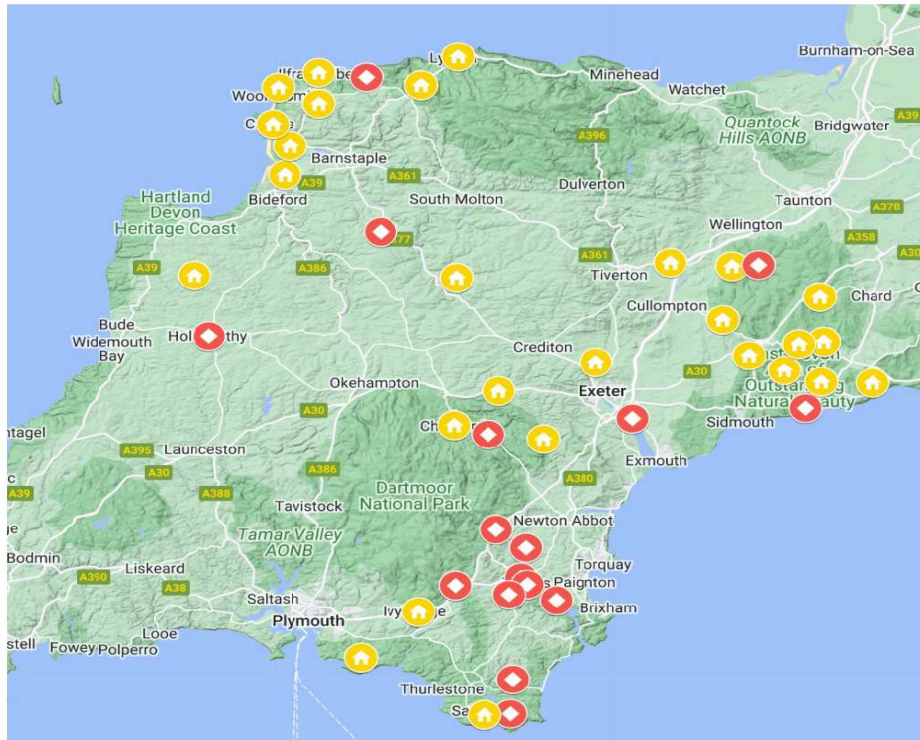
3 The Council’s purpose in Proposing a District CLT

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<https://www.localis.org.uk/research/brightness-edge-town/#:~:text=Brightness%20on%20the%20Edge%20of%20Town%20is%20the%20final%20report,in%20the%20current%20political%20debate.>

Technical advice

- 3.1 The classic 'Middlemarch' model for CLT/RP partnerships is to establish a local CLT in every community, advised from start to finish by experienced technical advisers. This has driven the number of CLTs in Devon to the highest of any county (see Figure 2).



Development models used by CLTs in Devon in October 2022.
Independent projects are in orange, partnerships with RPs are in yellow.

Figure 2, extract from Middlemarch's research report to Team Devon

- 3.2 Figure 2 shows that most of the CLT/RP partnerships in Devon are outside South Hams while most of the independent CLTs are inside the district. This is because other districts in Devon – notably North Devon, East Devon, Torridge and Mid Devon – used their 2016/17 CHF allocations to support CLT/RP partnerships with revenue and capital whereas South Hams used it to support a Local Housing Company model of CLH and independent CLTs.
- 3.3 The relatively high number of independent CLTs in South Hams has meant that the district has experienced an unusually high number of stalled or abandoned projects.
- 3.4 Had these projects been guided by experienced technical advisers from the start, evidence from other districts in Devon suggests they would have moved forward more quickly and their projects would have been more financially viable. There is a myth that CLT projects are inherently slow but this was explored by Sheffield Hallam University and the Nationwide Foundation in 2021 and found to be untrue, providing projects are properly supported: "... significant up-front investment (in both revenue and capital) is put into securing future sites for housebuilders, potentially decades before those sites get built-out. Added to this, these timescales for private development do not have a comparator for the group formation stage that many CLH

schemes start with. All this suggests that the six-year average for CLH developments (sometimes used as a 'rule of thumb') does not look excessive at all."⁴

- 3.5 The experience of Middlemarch is that the group formation, community engagement, and legal incorporation of a CLT can be done in parallel to progressing the housing project (site search, investigation into levels of housing need, etc) and therefore the additional time spent carrying out these activities does not need to significantly impact on the pace of the project. Furthermore, the experience of Middlemarch is that CLT volunteers, when well advised on projects that have a high chance of being viable, will proactively drive a project forward, creating momentum that other stakeholders and partners must match
- 3.6 ***We understand that one purpose of a District CLT in South Hams would be to provide technical advice to local CLT/RP partnerships and agree that such support is critical to ensure that CLT projects are initiated and progressed quickly and viably. Recommendations for the resourcing and provision of this advice are provided in Section 4.***
- 3.7 ***We understand that another purpose of a District CLT is as a vehicle for investment by the Council in pre-development work up to feasibility stage, after which an RP partner would meet the cost of taking the project through to a planning application. The provision of pre development finance is crucial for the growth of CLT/RP partnerships, both in terms of empowering community groups to lead their own projects (appoint design team and other professionals) and in attracting suitable RP partners. RPs are more likely to consider CLT/RP projects if 'de-risked' by CLTs meeting the cost of some or all of the pre-development costs and generating local support. The proposal to invest in CLT/RP partnerships is commended as a way to remove barriers for CLT/RP partnerships likely to contribute to the growth of CLH. Recommendations for the scale of investment are provided in Section 4.***

Perpetuity

- 3.8 In a rural district like South Hams, the development of affordable homes by an RP in almost all parishes is protected from the Right to Acquire and the Right to Shared Ownership through statute. The Housing (Right to Acquire or Enfranchisement) (Designated Rural Area in the South West) Order 1997⁵ lists protected parishes. This means that irrespective of whether or not a CLT holds the freehold, rented homes developed in these parishes cannot be sold to their tenants when developed by an RP.
- 3.9 The only parishes in South Hams that do not benefit from this protection are Ivybridge, Kingsbridge and Totnes. In practice, any development beyond the settlement boundaries of these three towns would be protected by S106 Agreements as either entry-level exception sites or departure sites. The same applies to Salcombe and Dartmouth which also benefit from statutory protection outside their settlement boundaries. As examples, Salcombe CLT's project is in the protected rural part of the parish while South Dartmoor Community Energy's development east of Ivybridge is actually over the border in Ugborough which is a protected parish.
- 3.10 The effect of this statutory protection for most parishes and, through S106 agreements, for development beyond the settlement boundaries of the larger towns,

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<https://nationwidefoundation.org.uk/wp-content/uploads/2021/10/Speed-of-Development-Briefing-Note-Final.pdf>

⁵ <https://www.legislation.gov.uk/uksi/1997/621/made/data.xht?view=snippet&wrap=true>

means few if any opportunities for affordable homes will depend on a CLT being the freeholder to prevent sales to tenants. This is unlike the situation in cities like London where there will be development opportunities but no protections from the Right to Acquire and Right to Shared Ownership without those conferred by a CLT freeholder.

- 3.11 The only places where there would be a risk of the Right to Acquire and Right to Shared Ownership are within the settlement boundaries of Ivybridge, Totnes, Kingsbridge, Salcombe and Dartmouth. In practice, the only opportunities within these towns will be publicly owned sites available at a discount from market value – such as the Council’s land in Kingsbridge. For this site and any other publically owned sites within these towns, a CLT would be required as the freeholder but, based on experience, we are confident that local CLTs could be established there (and Salcombe already has one).
- 3.12 ***We understand that one purpose of a District CLT in South Hams is to protect new affordable rented homes from being acquired by their tenants. There is no imperative to establish a District CLT for this purpose because of the protections widely provided by statute and S106 Agreements.***
- 3.13 ***We understand that another purpose of a District CLT is to ‘step-in’ where there is no appetite for a local CLT, in order to acquire the freehold of homes, thereby protecting them from being sold to their tenants. As we say above, there is no imperative for this in South Hams either because, in our experience, there is always interest in setting up a local CLT, often much to a parish or town council’s surprise. This confidence is based on our experience of establishing over 75 CLTs over the past 13 years in places ranging from 350 to 25,000 in population. At public meetings, we find that volunteers always come forward in response to a presentation about the benefits, motivated by their determination to improve and protect their communities.***
- 3.14 ***If, like Cornwall CLT, the District CLT were to become an RP in due course, it would tend to want to directly develop projects itself in order to build its asset base and, in that sense, begin to operate less like a CLT and more like an RP. We discuss the implications of a District CLT becoming an RP in Section 5.***

Attracting RP partners

- 3.15 RPs currently partnering with CLTs in South Hams are Aster (Transition Homes CLT and Salcombe CLT) and Teign (Newton & Noss CLT at Collaton Park and Butts Park). The Salcombe CLT and Butts Park projects have been fully supported from the start by Middlemarch and the Collaton Park and Transition Homes projects have been supported to the extent necessary to apply the CLT/RP partnership model.
- 3.16 Aster and Teign were early adopters of the partnership model and we have worked with them on many projects: 15 with Aster and 8 with Teign. The de-risking of projects through the grant-funding of pre-development costs and provision of experienced technical advice has been an attraction for them. However, they also both have a principled commitment to working closely with communities in places where new affordable homes might otherwise go unprovided. See Annex B for Aster’s CEO’s commentary in Inside Housing.
- 3.17 We have worked with several more RPs over the last decade but few are active in South Hams.

- 3.18 The Middlemarch experience is that many RPs are simply not interested in CLT partnerships under any circumstances because they prefer to own the freehold of projects and develop them themselves. Some cite concerns about the mortgagability of long-term leases; concerns that have proved unfounded by the regular partners. Others have thresholds for the number of homes in a project which makes relatively small projects ineligible and others are so small they lack the capacity for more than one occasional project. Middlemarch regularly reviews the appetite for new RPs to partner with CLTs. e.g. recently Middlemarch was able to broker a partnership between Sovereign HA and Creekmoor CLT in Dorset, with Sovereign previously having shown no appetite for partnerships.
- 3.19 Partner RPs look for technical advisers who have the experience to look after their interests as well as the CLTs'; in other words a full brokering role. Key to this is an adviser's understanding of the pressures on RPs including the importance of a capital funding strategy to ensure that projects have a positive NPV and a favourable cost:value ratio. The Middlemarch experience has been that successful partnerships involve technical advisers supporting the CLT but liaising regularly with RP colleagues to ensure that the projects are a) fundable; b) as easy as possible to deliver; c) enjoyable for RP staff; and d) result in a scheme that the RP will be proud of (and able to showcase to their stakeholders).
- 3.20 What can be achieved with a strategic approach to CLH has been shown in North Devon⁶. The district had no experience of CLH before the 2016/17 CHF allocations but has worked strategically with us to create CLT/RP partnerships in Woolacombe, Georgeham, Braunton, West Down, Parracombe, Ilfracombe and, soon, South Molton.
- 3.21 At least three of these projects are partnered with the same RP and are being grouped through a two-stage tendering approach with one contractor. No formal procurement contract exists beyond the one between the RP and the potential builder because maximum flexibility will be needed to accommodate any slippages in the timelines of individual projects. The Council backs the programme with a revenue and capital funding strategy, including topping up the RP's strategic partnership grant allocation from Homes England. The revenue funding includes pre-development costs and start-up grant at the group stage to enable a CLT to incorporate as a legal entity and engage with the local community.. There is a CLH board within the Council attended by Middlemarch as overall coordinators of the program. This co-ordinated approach would be possible in South Hams as an alternative to the District CLT proposal.
- 3.22 *We understand that the Council is keen to create more capacity through RPs for CLT/RP partnerships in the district. We agree that high quality technical advice is required to attract RPs and, in particular, experience of the RP sector and its constraints. Aster and Teign have reported that they are at or near capacity at the moment with their CLT projects but will no doubt be interested to hear more about South Hams' strategic approach to grouping projects. There may be new entrants to the model if a certain volume of projects can be guaranteed, along with financial support. We make recommendations about the resource implications in Section 4.***

Council Control - the CLT as a sovereign entity

⁶ <https://www.districtcouncils.info/north-devon-community-led-housing/>

- 3.23** A CLT is not a legal entity but takes the legal form of a Community Benefit Society, Charity or Community Interest Company. The Financial Conduct Authority will only allow such entities to call themselves CLTs if they meet the legal definition⁷ set out in section 79 of the Housing and Regeneration Act 2008. Groups wishing to establish a CLT must adopt an appropriate legal form structured in the correct way to meet the legal definition.
- 3.24** Part of the technical support that Middlemarch provides to community groups is to advise on the best legal form to meet the aspirations of local people - which often includes establishing a legal entity that can deliver an affordable homes project for local people and then having a vehicle that can take on other community assets when required. Parracombe CT, for example, established its CLT as a non-charitable community benefit society because it wished to deliver affordable homes for local people, acquire the lease of the community hall, and develop a community shop in the village
- 3.25** One part of this definition is that “The members of a trust control it.” This means that, as a CLT, the organisation must be open to membership from people who live and work in the community (and potentially from further afield if the constitution allows). The members elect the board and, in that sense, control the organisation, even if the board then makes the operational decisions between general meetings.
- 3.26** The Council envisages that a District CLT would be ‘the development manager for the Council’ but, while the constitution could allow the Council to nominate board members, the democratic structure of a CLT would prevent any one party from having majority control. In that sense, the Council might have a vision for how the CLT would operate in its provision of services, relationships with RPs etc but, as a sovereign organisation, the CLT’s elected board would determine its strategy.
- 3.27** A further consideration is that the experience of setting up CLH Hubs around the country over the past few years showed that, where a support service was closely aligned with a local authority, it was affected by the reputation of the local authority, most often negatively. Research has shown that one of the motivating factors for local people in planning and delivering CLT led affordable homes is to take ownership of an important local project and not leave key planning and development decisions to outside bodies, such as the local authority. This negative perception of technical support did not occur where a local authority’s enabling service was present alongside an independent technical advice service. In our experience, communities in South Hams have strong views about the Council’s role in community-led housing, stemming from the strategy that was in place to deliver the 2016/17 CHF allocations. Research by Power to Change found that community led housing support providers should take care to maintain the independence of their service:

‘Where the Community Led Housing Enabling Hub is hosted by another organisation, steps should be taken to ensure transparency in funding and governance of the Hub so communities and partners are confident that the advice and support they receive is impartial. For these reasons CLHEHs should not normally be hosted by a local authority or other public sector body.’
(Duncan P. & Lavis J. 2018)

⁷ <https://www.legislation.gov.uk/ukpga/2008/17/section/79>

3.28 We understand that the Council envisages a District CLT as a vehicle for investment by the Council in pre-development services. We make recommendations about the constitutional implications in Section 4.

4 Resource Implications

Incorporating a District CLT

- 4.1 Community groups wishing to establish a community land trust usually receive advice on the most suitable legal entity to meet their current needs and future aspirations and then engage with a body that can help them to incorporate the legal form. For Middlemarch supported projects this work is included in the start-to-finish technical support provided for groups, and contributes to the building of trust between the enabling service and community group. Occasionally Middlemarch provides advice solely on the group stage of the project (community engagement, group formation, project planning, establishing a legal form).
- 4.2 Most community groups opt to become community benefit societies (which can be either charitable or non charitable, depending on the aspirations of the community) and engage with a registration service (such as the Community Land Trust Network incorporation service or Co-operatives UK). The costs are £200 to £700. Registration with the Financial Conduct Authority takes 15 working days once they have received the correct signed paperwork and fee. If more legal advice is required, or a more complex arrangement is sought, community groups engage professional legal support for structuring and registering the most appropriate legal form. Such advice can be provided by Wrigleys Solicitors; or Anthony Collins LLP with costs ranging from £1,000 to £5,000 depending on the complexity of the work involved (and deviations from a standard model). Registering a charitable incorporated organisation, if this is the choice of legal form, with the Charity Commission can often take several months.
- 4.3 The proposal for a District CLT to facilitate the provision of affordable homes rather than other assets suggests that a charitable entity (either a charitable community benefit society or a charitable incorporated organisation) would be the most suitable legal form. This is because charitable status will enable the CLT to benefit from many tax exemptions, enabling it to use more of its income for community benefit. Many local CLTs opt for a non charitable legal form as it allows them freedom to trade (e.g. to develop, manage and maintain community shops, pubs and renewable energy projects) and deliver projects with community benefit that are not recognised as charitable or pass the public benefit test. This also includes any housing provided that is not affordable rent - a certain amount of home ownership products (e.g. shared ownership; discount market home ownership; self build homes) are allowed for charities as trading to support the charitable activities (the affordable rental homes), but this must be minimal and care must be taken otherwise the CLT would lose its tax benefits. If the District CLT wished to deliver a significant proportion of home ownership products then charitable status would be unlikely.
- 4.4 The proposed District CLT would be required to state its geographical area of benefit, for example South Hams District, and then, in order to meet the legal definition of a CLT, anyone living or working in the area of benefit would need to be given the opportunity to join as a member. Those members would then control the CLT. This is usually done by the mechanism of members joining the CLT for £1. Those members then control the CLT by standing as a board member and/or voting in the board at each annual general meeting. The first board of the CLT is usually a group of willing community members

prepared to act as the founding board in order to establish the CLT before stepping down to be elected (or not) by the new CLT members at the first general meeting of the CLT.

4.5 The Middlemarch experience is that for a parish or town level CLT, local people always come forward at an early public meeting to volunteer for a CLT steering group, which then becomes the first board of the CLT.. This is because local people are motivated to volunteer for the area that they consider to be their local community. The motivations for volunteers to be on an initial steering group and founding board for the District CLT will likely be different. A recommendation if setting up the District CLT is to ask local leaders, those already involved in CLT development in South Hams and possibly those involved in parish and town councils in the district if they would like to a) volunteer for an initial steering group to work on the establishment of the CLT, and b) share the opportunity for membership with their networks to engage more local people in the initiative and ensure genuine community leadership. All steering group members should be made aware of their responsibilities relating to good governance and that they are not representing other organisations on the CLT, only the interests of the CLT.

4.6 Genuine, deep community engagement is the hallmark of a successful CLT and can ensure a diverse and committed membership. Genuine CLT community engagement should be more than consultation and should result in more homes in the places where local people wish homes to be developed. Residents and the local community can play a key role in designing, procuring, delivering and managing homes, and genuine community leadership will result in more benefits to the community, as local people become civically engaged and will also work to ensure that non housing community benefits are developed (e.g. community retail, renewable energy, or community grants schemes). A CLT board member from Christow CLT reported:

‘Christow CLT was set up primarily to enable the development of much-needed affordable homes in the village but with the completion of that project, we’ve been able to do so much more. The ground rent we receive from Teign Housing Association funds all kinds of community activities and we’ve also secured grant funding for bigger projects like a new footpath and a suite of locally-focussed climate change events and activities. We’re now working with the parish council to explore options for a community shop and plans are in progress for a second, smaller housing project.’

4.7 Most community based CLTs are run by volunteers. They receive advice on good governance and the development of suitable policies and procedures from technical advisers such as Middlemarch (e.g. data protection, membership policies, insurance matters, secretarial duties, managing finances). For a district wide CLT a more robust governance structure would need to be implemented, requiring more funding for the CLT. e.g. paid accountancy services and secretarial services. This would add to the running costs of the CLT.

Providing Technical Advice to local CLTs

4.8 Over the past few years, it has become evident that the sharing of the Middlemarch experience and good practice with other CLH hubs on how the CLT/RP partnership model works hasn’t led to them being able to support it. This is because the skills and capabilities of the hubs’ technical advisers were not usually a good fit for the role. As discussed above, in addition to experience of the development process, advisers must be able to facilitate community engagement and have a thorough knowledge of the RP sector. In our experience, support is best provided through two roles: one providing advice on incorporation and governance, and one providing project management for the housing project.

- 4.9 For the project management role, we would therefore recommend a salary of between £50-£60,000 pro rata to attract the right blend of skills and experience. We say 'pro rata' because, based on our own experience, a full-time post could support a programme of up to 30 active projects and it seems more likely that, at least in the short term, there might be fewer than 10 in a South Hams programme.
- 4.10 For the incorporation and governance role, we would recommend a salary of between £35,000-£40,000 pro rata.
- 4.11 Either or both of these roles could be delivered by the District CLT employing staff or contracted out under the auspices of a Service Level Agreement, as Middlemarch does for other local authorities.
- 4.12 Other district wide CLTs, Windsor, Ascot and Maidenhead CLT and West Somerset CLT, opted to cover a wider area in order to maximise opportunities for accessing land, but have struggled to secure sites and engage local communities. Our experience is that local CLTs are able to 'unlock' sites and negotiate on more favourable terms with local landowners as they are known people and trusted to act for the benefit of the community.
- 4.13 Our experience suggests that engagement with communities is most effectively carried out by an organisation independent of the local authority because:
- Communities with an appetite for leading a housing project in their area tend to be wary of local authority CLH initiatives, and
 - An experienced independent organisation can use a track record of success to convincingly answer the community's questions and support RPs.
- 4.14 In terms of the funds required to meet pre-development costs, we would recommend a budget of £10,000/unit (including VAT) if a project is to be taken through to a planning application or 40% of this for feasibility work only.
- 4.15 A further budget of up to £15,000/project would be required to meet a local CLT's legal costs. Alternatively, this would be incurred on each project by the District CLT if it ever had to step in and acquire the freehold of a project itself.

Attracting RP Partners

- 4.16 We understand that the Council is thinking of a risk-sharing approach to pre-development costs with RPs; the model being that:
- a) The Council meets the feasibility costs up to pre-app through the District CLT;
 - b) The RP meets the cost from feasibility to a detailed planning application;
 - c) The RP repays the Council's feasibility costs when it has achieved a financially viable project⁸; and
 - d) The Council forgoes part or all of its feasibility loan if this is required by the RP to achieve viability⁹
- 4.17 Almost all CLH projects are funded by RPs with a grant allocation from Homes England together with a combination of the RPs' own resources (from RCGF and asset sales) and local authority capital top-up; often between £20,000 and £40,000/unit. This means that,

⁸ For an RP, a project's financial viability is secured at the point when it simultaneously completes the land contract and enters into a building contract.

⁹ Viability for an RPs means a project that meets its threshold Net Present Value (which will be a monetary value equal to or greater than zero) and its threshold Cost:Value ratio (which will be percentage equal to or less than 100%).

in practice, by foregoing its loan, the Council will simply be reducing its capital top-up by the same value. Accordingly, this is more of an internal decision for the Council than a risk-sharing issue.

- 4.18 We also understand that the Council is considering a procurement agreement with a single RP to partner and deliver a number of projects. We would suggest that a formal, competitive process is used to invite interest from RPs and then evaluate responses; probably early on to gauge the RPs' views about how a procurement agreement might be structured.
- 4.19 As part of this exercise, it would be important to agree a template form of lease to be entered into with local CLTs or for any projects where the District CLT might need to act as freeholder.¹⁰
- 4.20 We understand that the Council would seek to recover fees charged for the District CLT's services. The most attractive proposition for an RP would be to fully repay these fees at the point when the financial viability of a project is secured i.e. when land and build contracts are simultaneously completed. The fees would therefore be payable at the same point as the feasibility costs.
- 4.21 It would be important for a partner RP to view the technical advice service provided by the District CLT as good value for money if they were to agree to reimburse costs that, for a traditional RP-led project, wouldn't be incurred.
- 4.22 The organisational structure of this arrangement would be as follows:

Party	Funds	Advises	Reimburses	Contracts
SHDC	SHCLT	-	-	With SHCLT for loan and repayment
SHCLT	Feasibility Studies	Local CLTs	SHDC	With SHDC for loan and repayment With RP for services rendered
RP	Planning application and capital costs, including land price.	SHCLT and Local CLTs	SHCLT	With SHCLT for services received With Local CLTs for funding, development and operation of homes
Local CLT	Legal services	Wider community	-	With solicitor for legal services

- 4.23 An alternative to this approach would be to channel the Council's funds through a technical adviser contracted to the Council through a service level agreement. This is the

¹⁰ Our view is that the District CLT would not need to act as freeholder, unless it becomes an RP in which case, like all RPs, it seeks to build its asset base.

approach taken by several local authorities in the region and we have separately provided the Council with the format of a typical SLA.

5 Benefits and Risks

- 5.1 In our view, the main benefit of a District CLT is as a forerunner of a District RP. This District RP could be designed to fill a gap in the market for delivering relatively small projects, either directly or in partnership with Local CLTs. As a largely rural district, many new projects will be sized to suit smaller communities and there is a dwindling supply of RPs willing to undertake such projects, particularly since South Devon Rural HA closed its development programme. As an example, Cornwall now supports two small RPs: CRHT and CCLT.
- 5.2 We have a presentation on the issues to consider in planning to become an RP¹¹ and have also recently completed a review of CLTs' experience of the RP registration process¹². It is not a step to be undertaken lightly and Annex C sets out the differences in roles and responsibilities between a CLT partnering with an RP and a CLT registering as an RP. We can explore this further with the Council if it would be of interest.
- 5.3 In all other respects, we believe that it would be simplest for the Council to contract out the technical advice (including the commissioning of feasibility studies) and RP procurement services without a District CLT intermediary. This model has been used successfully in many other authorities. North Devon provides an example from a district very similar in landscape, property values and second home ownership to South Hams.
- 5.4 The main risk of a local authority setting up a body like a District CLT is that it is compromised by association with the Council, damaging communities' confidence in the process. As an experienced lawyer in the sector remarked to us recently about the provision of technical services: "Once a Council gets involved, in my experience it gets very tricky." This was an unsolicited remark, completely unrelated to this proposal.

6 Next Steps

- 6.1 These are what we see as the next steps:
 - a) A business and feasibility planning stage. Consider the number of projects and homes that might form an initial programme, ideally with some information about locations, housing need and tenure.
 - b) Calculate the revenue required to incorporate a District CLT, to provide technical advisers and to fund pre-development costs to feasibility stage.
 - c) Calculate the capital required to provide top-up grant for these projects.
 - d) Once SHDC has approved funding for the CLT to recruit a steering group to drive the project forward. The steering group may wish to commission legal advice if necessary on the establishment of the CLT and its relationship with SHDC.
 - e) Establish the nature of partnership/collaboration with SHDC and other stakeholders.
 - f) Steering group and SHDC to engage with RPs for an informal discussion about their appetite to partner on this programme.
 - g) If one or more RPs would be interested, formally agree on the sort of projects each would prefer in terms of size, geography, rural/urban, tenure etc.
 - h) Commence operations.

¹¹ <https://drive.google.com/file/d/1uXjImHaoQfrkdEbKkd6aTOP3molrCj0Z/view?usp=sharing>

¹² https://drive.google.com/file/d/1Zyh7HMhFLW7EvZF6RcfuHk_PDSld8Ma/view

Tom Chance is chief executive of the Community Land Trust Network

Do community land trusts hold the key to building social in tourist hotspots?

COMMENT 21.09.23 BY TOM CHANCE

Housing associations can find allies in local communities, if they are willing to share control and cede ownership of the land, writes *Tom Chance*



Picture: Alamy

Housing associations can find allies in local communities, if they are willing to share control and cede ownership of the land.

A new research project carried out by Localis and supported by the Local Government Association looked at the role of community land trusts (CLTs) in building social housing in popular tourist destinations in England.

These holiday hotspots are at the acute end of two challenges: demand for holiday lets and second homes mean they have very high disparities between housing costs and local wages; and their often-remote locations and strong planning protections mean they're difficult, expensive and risky places to build affordable homes.

In general, low rates of affordable housebuilding in rural areas has long been a problem. The government has acknowledged it, and parliament and the National Audit Office have flagged the issue in recent years.

The problem may only get worse, as reports suggest housing associations will cut their build pipelines by 22% in the short to medium term, in the face of high inflation and interest rates.

But housing associations can find allies in local communities, if they are willing to share control and cede ownership of the land.

“While I continue to press for government action to capitalise on ministerial interest, there is still plenty of scope for the wider social housing sector to embrace and support this approach. Communities in holiday hotspots, in particular, are crying out for partners”

Most of the early CLTs in England were in touristy areas across Cornwall, Devon, Dorset, Norfolk and Northumberland.

These remain hotspots of CLT activity today. More than 100 such communities have chosen to establish CLTs to try and provide or protect the affordable homes, workspaces, shops, pubs and other amenities that make their community thrive.

Most look to work in partnership with housing associations. Sometimes projects come through Section 106 opportunities; more often from communities taking the lead themselves. They are able to find and secure a site and – where they can raise pre-development finance from sources like the Community Housing Fund – get planning consent.

They de-risk schemes, undertaking deep community engagement to win support and persuade planning committees.

This is a key difference when CLTs are involved. CLTs give those who support new homes a vocal role and proactive power. They are often able to win the trust of their neighbours and understand local sensitivities, crucial in areas where local people place a premium on beauty, conservation and their view!

Typically, housing associations finance and build the homes, and manage them on a long lease from the CLT. They pay a small ground rent to the community. This provides a launchpad for the CLT to undertake wider community development. Many go on to save the village shop, convert disused buildings into work units or community space and more. Most also move on to developing more housing projects.

CLTs attract a different kind of volunteer from parish councils and neighbourhood planning groups, and build local trust, confidence and relationships. The housing association can be a catalyst in unlocking this capacity and confidence in the local community.

“More than 100 communities [in holiday hotspots] have chosen to establish CLTs to try and provide or protect the affordable homes, workspaces, shops, pubs and other amenities that make their community thrive”

In all, we’re aware of 41 housing associations involved in this form of partnership in England across 125 housing projects. They range from the large (Places for People), through mid-scale (Aster), to the small (White Horse). More than half of the completed CLT projects have involved a housing association partner.

In our *State of the Community Land Trust Sector 2023* report that we launched with Michael Gove, the housing secretary, in March, we set out a vision for 278,000 community-led homes in England. The vast majority would be achieved in partnership with housing associations and private developers. Mr Gove and other ministers have supported this approach strongly.

Localis’s report looks at what councils and the government might therefore do to aid that mission in holiday hotspots.

One recommendation was that Homes England should incentivise collaboration between registered providers and CLTs through grant conditionality. Homes England, and the Homes and Communities Agency previously,

encouraged and flagged this in the past, but it could do more to bring housing associations to the table. A lack of partners is a key constraint in many parts of England and Wales.

Localis also identified an issue which should be common cause between communities and housing associations: the definition of affordable housing. The thinktank recommended that the definition should move towards an income-focused approach, echoing the work of the recent Affordable Housing Commission.

CLTs are increasingly focused on social rent as the only tenure affordable to people in need in their area, especially in holiday hotspots. Planning policy and grant allocations need to follow the evidence councils and local communities can present on local incomes and needs.

While I continue to press for government action to capitalise on ministerial interest, there is still plenty of scope for the wider social housing sector to embrace and support this approach. Communities in holiday hotspots, in particular, are crying out for partners.

Tom Chance, chief executive, Community Land Trust Network

Bjorn Howard is chief executive of Aster Group

Support for community land trusts is the most important point from Labour's land report

COMMENT09.07.19BY BJORN HOWARD

Bjorn Howard argues that community land trusts are set to become a mainstay of social housing, now that both main Westminster parties have shown significant support for them.



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Community land trusts were the key point from Labour's land report, argues Bjorn Howard.

The Labour Party gave us one of the most detailed views of Jeremy Corbyn's vision for housing to date when it published its report, *Land for the Many*, in June.

In a week that saw Donald Trump visit the UK and much jostling for position among the Conservative party's list of potential new leaders, the report slipped somewhat under the radar.

But that doesn't make it any less important. We should analyse it and understand what housing policy would look like under a Labour government.

For me, the key takeaway from the document was the prominence of community land trusts (CLTs).

The report sets out an ambition for £200m of land to be in community ownership by 2030 and throughout. There is also a clear focus on putting communities at the centre of housing policy.

But Labour is by no means the first party to advocate community-led housing.

The government launched the £163m Community Housing Fund last year. Then in February this year, housing minister – and MP for one of our key regions, North Hampshire – Kit Malthouse, announced a further £6m to support the delivery of affordable homes through CLTs, enabling communities to apply for up to £10,000 to cover start-up costs, such as legal fees.

What the future holds politically in the UK isn't abundantly clear at the moment, but CLTs look set to rise up the housing agenda, no matter who is running the country.

This means that housing associations must embrace them more widely.

Aster is one of the most active housing associations for delivering CLTs in the regions in which we operate.

Our experience tells us that focusing more on them should be seen not just as something the government wants us to do, but as an integral part of the solution to the housing challenges we face.

The National Audit Office estimates that housebuilding targets for 2020 will be missed by half of England's local authorities.

“The complexities of delivering housing, affordable or otherwise, are slowing down delivery across the country”

A report from the Green Party earlier this year estimated that London boroughs failed to deliver a planned 33,000 homes last year. Elsewhere, a BBC investigation calculated that the North West is delivering fewer than a third of the affordable homes the region needs.

The complexities of delivering housing, affordable or otherwise, are slowing down delivery across the country.

The solution is to be more innovative and varied in our approach to building homes. CLTs should form part of this strategy and can be a very effective way of supplying affordable housing in areas that aren't necessarily benefitting from the large-scale projects geared towards hitting national build targets.

I see three key areas where the strengths of CLTs can best be put to use.

Firstly, the priority for housing associations will always be to ensure that we provide adequate affordable homes.

The 'asset lock' built into a CLT's constitution means that homes remain affordable in perpetuity.

The properties are owned by the community, so prices can be set and maintained at levels that people can afford.

Secondly, a fundamental challenge is often getting a project off the ground. Local opposition to the prospect of significant construction work can significantly slow down or stop planning applications, particularly in rural areas.

CLTs are often far more effective at achieving local buy-in to a project because it is owned by the community and has its needs and concerns at its heart.

Having local people onside reduces friction in the planning application.

This means projects can get a green light when they might otherwise have not been approved if put forward through more traditional channels.

Finally, unlocking small parcels of land for development has proved troublesome for the sector historically.

While vital for local housing needs, they often aren't big enough to be a financially viable prospect for many established housebuilders and, as a result, are left undeveloped.

These seemingly small missed opportunities add up to thousands of homes across the country that don't get built.

CLTs can be a very effective way of solving this issue. They have a more social purpose than traditional developments, especially when managed by a housing association.

Their primary aim is to solve acute local housing requirement, so those running the CLT don't need to identify the same potential return on investment that a private-sector housebuilder needs to before embarking on a project.

As such, the CLT can unlock small plots that might not be lucrative enough to attract housebuilders.

It's hard to remember a time when it was more difficult to predict the UK's political future. The prospect of a new prime minister, another general election and a new, as yet undecided relationship with Europe are all seemingly up in the air at the moment.

Amid such uncertainty, the housing sector can be sure that delivering the homes the country needs will always be a priority. What's more, *Land for the Many* and the investment that the current government has put into community-led housing strongly indicates that CLTs are set to play a more significant role, regardless of who is in power.

It's vital that housing associations recognise this and do more to support and deliver CLTs across the UK.

Bjorn Howard, chief executive, Aster Group

Comparison of roles and responsibilities - headline		CLT as RP	CLT in partnership
Project Leadership	Ownership	✓	Freehold/Leasehold
	Choice of site	✓	✓
	Number and type of homes	✓	✓
	Design	✓	✓
	Allocation criteria	✓	✓
	Rent regime – social/affordable	✓	✓
	Protection from the vRtB	✓	✓
Project Finance	Capital funding – loan & grant	✓	X No financial risk – guaranteed index-linked ground rent
	Build Contract	✓	
	Viability	✓	
	Management costs	✓	
	Maintenance costs	✓	
Company Law	Surplus/deficit	✓	Limited by the scale of operation ✓
	Employment Law	✓	
	Contract Law	✓	
	Data protection	✓	
	Equalities Act	✓	
	Health & Safety	✓	
	Human Rights	✓	
	Financial Reporting Standards	✓	
Tax	✓		
Housing Law	Housing Acts	✓	X
	Tenancy Law	✓	
	Crime and Disorder	✓	
	Safeguarding and Abuse	✓	
	Repairs Legislation	✓	
	Planning, Listing and By-laws	✓	
	Building Regulations	✓	
	European Regulations and Immigration Status	✓	
Regulatory Standards	Regulatory Compliance	✓	X
	The Governance Standard	✓	
	The Viability Standard		
	The Value for Money Standard	✓	
	The Rent Standard	✓	
	The Tenant Involvement & Empowerment Standard	✓	
	The Home Standard	✓	
	The Tenancy Standard	✓	
	The Neighbourhood & Community Standard	✓	
	Ombudsman registration	✓	

Comparison of roles and responsibilities - policies		CLT as RP		CLT in partnership	
CLT policies and procedures	Member/resident involvement	✓		✓	
	Governing body election/selection	✓		✓	
	Conflict of interest	✓		✓	
	Financial standing orders	✓		✓	
	Expenses	✓		✓	
	Equality and diversity	✓		✓	
	Health and safety	✓		✓	
	Staffing inc. recruitment, disciplinary, and grievance	✓			
	Complaints	✓			
Landlord documents and records	Deed, loan & grant agreements	✓			
	Records of lettings & allocations	✓			X
	Tenancies, leases	✓			
	Lease agreements (with others)	✓		✓	Lease with RP
	Property files (dev & manage)	✓			
	Service level agreements	✓			
	VFM self-assessment	✓			
	Contractor record/documentation	✓			
	Stock condition surveys	✓			
	Asbestos register	✓			
	Repairs certs (inc gas & elec)	✓			
	Complaints records	✓			
	Member/resident surveys	✓		✓	Member surveys
	Landlord policies and procedures	Abandoned vehicles	✓		
Allocations and lettings		✓			
Anti-social behaviour		✓			
Breach of tenancy or lease		✓			
Compensation		✓			
Empty homes		✓			
Lodgers and subletting		✓			
Mutual exchanges & transfers		✓			
Procurement		✓			
Recharges		✓			
Rent arrears		✓			
Rent setting		✓			
Repairs and maintenance		✓			
Squatting and illegal occupation		✓			