DEVELOPMENT OPTIONS AND PROCESS

community led housing london

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CONTENTS

GUIDE SUMMARY

This short guide is based on the National Housing Federation's Development guide for smaller housing associations, and is intended to advise community led housing groups on:

- Various development options
- Development project management
- The development process and timescales
- Long term management options

HOW TO READ THIS GUIDE

Throughout the guide, there are links to useful documents and websites for further reading as well as a resources section at the end.

Links throughout the document look like this

If at any point you would like advice and guidance, you can contact us at info@communityledhousing.london

DISCLAIMER

Our team and associate Advisers encourage groups to think openly and clearly about their objectives and how to achieve them. The information in this guide is for general guidance and is not legal, financial, or professional advice.

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DEVELOPMENT OPTIONS

Housing schemes can have a range of different tenures, and be designed for different kinds of households. However, in property development terms, the main variables will depend on the following:

- Is the scheme on land already owned by your CLH organisation, or does land/property need to be purchased?
- Do you have control over who your key suppliers (such as the design team and construction team) are to be, or not?
- Do you have control over the design and development process from the start, or are you purchasing something that is partly/fully designed, and may be partly/fully built, by others?

LAND-LED SCHEMES

A land-led scheme is one where the CLH organisation is independently purchasing the site or already owns the land / property.

This means the CLH organisation can choose who will be their consultants and building contractor. The CLH organisation has control over what will be built, when it will be done, and who will do it (within financial and other constraints, of course). The CLH organisation will be taking on development risks, and has a range of options for development project management (see next section). This is what most people understand as “development”.

PACKAGE OR TURNKEY SCHEMES

Package deals are where a contractor or developer owns or controls the land. It usually involves negotiating a purchase price and a construction contract and simultaneously entering into the land purchase and construction contract with that company. They may be two separate cross-referred contracts or set out in a single ‘development agreement’.

In a typical package deal, the contractor or developer may have obtained an outline planning permission, so the design work is limited to obtaining a detailed planning permission, and negotiations over the construction specification. So you retain control over some design and construction standards and when it will be built, but not who will build it.

Turnkey arrangements (or similar **off-plan purchases**) are where a constructing developer offers to sell completed homes at an agreed price to a housing organisation. All design, build, and cost risk (and control) are with the constructing developer. There is usually no choice over design or who will do the work. Although there may be some choices over kitchen and bathroom fittings and some finishes in an off-plan purchase. These arrangements mean homes can’t be occupied while they are being built.

It is common for larger housing associations with development capacity and experience to sell some of their completed homes to a smaller association within a development partnership.

Most **Section 106 schemes** are off-plan purchases. Although they can sometimes be package deals or the purchase of recently built housing. Most Section 106 schemes involve a private housebuilder seeking best offers for a bulk off-plan purchase of dwellings that have been fully designed and specified by the housebuilder.

ENABLING DEVELOPERS

Some CLH groups such as the Older Womens' Co-Housing (OWCH) have persuaded developers or housing associations to offer a turnkey or package arrangement for them. The developer or housing association acquires the land and funds the planning and development process, whilst offering some choice in design layout and designers to the CLH group, on the understanding that they will be the end purchasers. A legal commitment to purchase completed units at an agreed price will reduce the risk to a developer, and give the CLH group more say over the design and development process. Without such a commitment the CLH group will be relying on the goodwill of the developer and may find the developer sells some or all of the completed homes to others.

There are a handful of "**Enabling Developers**" who consider working in this way, sometimes even seeking a CLH group or collection of individuals around a site they may own or control. This is sometimes referred to as custom build.

PURCHASING BUILT HOUSING

An off-the-shelf purchase is when the CLH organisation buys completed dwellings that are ready to live in. These may be new-builds that have just been completed, a refurbishment of older buildings into new homes, or the purchase of existing housing.

As these are a purchase of the finished product, you obviously have no control over what was built. The only question is whether you want to buy the homes now.

Many established housing co-ops purchased historic "street properties" and may have subsequently carried out repairs and alterations.

- → The Drive Housing Co-op and Quaggy MHOS are more recent examples
- → Walterton & Elgin Community Homes and other organisations have acquired whole estates from the council.

PREPARING FOR DEVELOPMENT

GROUP GOVERNANCE

New development schemes can be risky and it is your responsibility to ensure you do not take on more risk than your organisation can deal with, and adequately manage the risks you do take on.

BUSINESS PLAN

Larger housing associations will have a development strategy across their programme of projects. For smaller CLH organisations, undertaking development rarely or as a one-off, this will follow your vision and objectives and set out the why, what, where, how, how much, when, and who of the development. The strategy should be realistic to avoid compromises and disappointment later on. It should identify:

- Why homes are to be developed – your objectives.
- What type of homes (dwelling mixes and tenure mixes), and preferred scheme size.
- Where the preferred sites or areas are, and where you would not develop.
- How the schemes will be developed - whether the preference is to develop land-led schemes, or to enter into package deals or purchase off-plan. All these approaches have different risks and benefits, so you should decide on your preferred route or mixture of routes.
- How much the average dwelling costs could be and consider your ability to borrow or fund the project, and the availability of grants or other subsidy.
- When schemes should be delivered (which may be related to the timing of loans).

You should also identify how the key risks will be controlled and managed.

DEVELOPMENT MANAGEMENT OPTIONS

Your business plan development strategy should also consider “who”. This would cover the expected people to do the work, and their different roles. The question of “who does the development project management” is important. Other roles depend on the development route (eg there is no need to hire a design team if buying dwellings off plan). Options would usually include:

- **CLH organisation directly managing the development** may be desirable early on if there are relevant skills in the group, but you may find that the technical experience and time demands are greater than expected, particularly as a larger scheme progresses.
- **Commissioning a development manager** (freelance or part of a practice) with the right experience to manage the project and help with the selection, appointment and management of the design/technical team. This role may or may not include grant administration services. If not, you may undertake that task yourselves.
- **Commissioning the development team in another organisation** such as a larger housing association for them to provide a service to your organisation, typically consisting of project management, grant administration (if they are a Registered Provider) and hiring and managing the design team.
- **An Enabling Developer or Housing Association** would typically carry out their own development project management, as well as taking development risk as above.

Development Options >>	Land-led schemes		Package Deals with Enabling Developers
Dev / Project Management Options >>	**CLH organisation with no development support hiring consultants directly**	**Development Manager (DM) contracted by CLH organisation**	**Enabling Developer / HA agreement with CLH group**
Land Ownership during development	CLH organisation would need ownership of the site in order to borrow and build. (price and timing of payment may be negotiated separately).		Developer/HA may need ownership of the site in order to borrow and build. [CLH group's relationship with the landowner may be crucial]
Fund Raising & Borrowing	CLH organisation would raise all funding / finance	CLH organisation would raise all funding / finance with the support of Development Manager.	Developer/HA would finance the total development costs. Cost of bespoke elements may need to be raised by CLH group or committed to legally.
Costs	Professional team (excluding DM) + construction cost + 10-20% Risk Margin allowance	Professional team (including DM) + construction cost + 10-20% Risk Margin allowance	Professional team + construction cost + 10-20% Profit on Costs (to cover for risks). Some risks can be taken by CLH group, eg if end purchase is committed to.
Control of design & end product	CLH organisation would manage the design team and contractor.	Development Manager would manage the design team & contractor on behalf of the CLH organisation to ensure vision is met and help ask pertinent questions.	Developer/HA would control the design team (as they would be paying). Design development may include CLH group input, particularly if there is a commitment to purchase the built scheme.
Planning and Construction Risk	CLH organisation would take on all the project risks and manage them. You can control how to deal with potential cost increases, whether that means changes to the design, viability or affordability. You may insure against some risks or pass them on to the contractor (for a fee).	Development Manager would help the CLH organisation to manage project risks, including increases in cost Any risks you have chosen not to pay for or pass on to the contractor would be closely monitored and mitigated.	If a price and a design can be fixed in advance, cost risk can be limited. If costs are fixed but a design is not, there may be 'value engineering' beyond the control of the CLH group. If costs increase and designs do not change this may affect the viability or affordability, if end purchase isn't committed.
Handover	The CLH organisation would retain the freehold / long leasehold of the site, and sell some or all units to individual residents and/or a Registered Provider.		Developer/HA would sell built scheme to CLH group or members and/or a Registered Provider.

Long Term Options >>	Ownership Arrangements	Stewardship Arrangements	Management Only
Long term Ownership and Management (see page 16 for more)	The CLH organisation can sell leases to residents and/or issue tenancies. The CLH organisation would need to maintain long term debt for rented units.	The CLH organisation can sell leases to residents and/or a Registered Provider to issue any tenancies. The RP would maintain long term debt for rented units.	A Registered Provider may have ownership and be the landlord for any tenancies, and enter into a management agreement with the CLH group to manage those homes. The RP would maintain long term debt for rented units, and expect a regular payment from the CLH group.

DEVELOPMENT MANAGEMENT BASICS

The tasks of managing the development project are all done continuously. If you have some relevant skills, you may be able to manage a simple project at the early stages.

As projects become more complex, it may be advisable to obtain development management services from a variety of sources (larger housing associations, freelancers, or private practices). You should understand project management tools and techniques, even if you have a specialist.

PROJECT GOVERNANCE

Good governance of projects requires the CLH organisation to periodically check whether the project continues to be worthwhile, so you can cancel it if necessary. Such checks would normally happen before entering a significant commitment.

Before any significant work is put into a project, your board or core group should state and agree on the objectives of the project. People can have different ideas about why the project is being undertaken, which can lead to disagreements and require changes. Changes later in a project's life are much more painful in terms of time and money.

Objectives can be easily articulated for some areas (e.g. financial) but can be more difficult for 'softer' aims. However, it is essential that they are stated, otherwise it is impossible to check if the project is successful or not.

BEING THE CLIENT

Your CLH organisation is ultimately paying for the entire project, and you will be looking for your project team to give you what you've asked for. Being a good client involves:

- Knowing what you want (not making it up as you go along).
- Recruiting technically competent people focused on helping to get what you want.
- Briefing the team fully and clearly on what you want (and anything you don't want).
- Allowing the team enough time to do their work properly (rushed work is not good).
- Making decisions quickly, after asking questions to understand the implications.
- Dealing with change promptly.
- Paying the team on time.
- Reviewing consultants' performance and giving praise or criticism.

DEVELOPMENT MANAGER ROLE

Whether it is carried out by the CLH group or not, the development manager role is holistic, and involves understanding what is required, planning how it is to be done, recruiting consultants for technical work and managing them, managing stakeholders, risk, change, and bringing the new housing into operation.

APPOINTING CONSULTANTS

Consultants provide you with information, solutions and advice on technical issues. Typical consultant roles are listed in the glossary. For land-led schemes, a full technical team will be needed (designers, contractors, solicitors, valuers and other specialist for more complex schemes). If purchasing already designed housing, you would still need a solicitor and valuer.

Where different specialists are contributing to the project, ensuring coordination and integration of who is responsible for which issue or element of design is a key part of development management.

Consultant briefs and contracts need to clearly and comprehensively describe the services required, the timescales and fee payable, and should be in place before substantial work. We may be able to help.

Consultants are usually selected on a competitive basis. Direct negotiation with a consultant can raise transparency concerns. So negotiated appointments should involve research and other impartial advice.

Occasional reviews of consultant performance are useful. You should raise dissatisfaction neutrally, to work out if it is well-founded or based on misunderstanding. If well-founded, the point will have been made. It is bad practice to treat people aggressively. While complementing good work generates goodwill and motivation.

→ How to work with consultants has more detail on selection and management.

PROJECT PLAN AND PROGRAMME

Having a well-prepared plan will help the project come close to budget and deadline at the required quality, rather than turning out as it turns out. Development should be carefully planned before commitments are made.

The simplest form of planning is to produce a Gantt chart. This lists the tasks/activities to be done, the best order to do them in, who will do them and their start and finish dates. This allows predictions of key milestones.

As well as the technical work, you should consider the time spent making decisions, communicating with stakeholders, and managing the project.

We have a template spreadsheet for a typical CLH project, although there is specialist software that automates updating.

Without the ability to track actual progress against a plan, the project manager will not know whether they are on schedule or behind. So rectifying action cannot be taken early, and has less chance of success.

MANAGING RISKS

Planning projects involves making many predictions. Risk management involves considering where these may be wrong, and what the effect might be on cost, time, work, and objectives. Where the potential effect is noticeable, you may do further work to reduce the uncertainty and/or impact. Risk mitigation can come at a price, and it is a judgement if it is worth implementing, or whether risks are better off being taken. For those risks that are to be controlled, the mitigation/control work will need to be put in place, either upfront or only if a risk crystallises in the future.

All these judgements and actions should be documented in a 'risk register' which is regularly reviewed and updated.

There should be some stated 'tolerance' around approved costs, income, timescale and quality to avoid micro-managing.

MANAGING STAKEHOLDERS

Stakeholders are people with an interest and influence in the project, such as funders, neighbours, board members, council officers, councillors, etc. They need to be carefully managed, which means identifying them, and planning how best to maximise their support and/or minimise their antagonism. This will require a lot of communication. Like managing risk, this is a continuous process.

MANAGING CHANGE

Development projects never run strictly to plan. If change is well managed, the disruption on budget and schedule are minimised. A formal change control process involves evaluating requests for change in writing before a decision is taken. This only applies to requested changes, not changes required by external factors.

THE DEVELOPMENT PROCESS

This section outlines a land-led scheme where the site needs to be purchased. Other development options will follow a similar process, with others undertaking certain stages, and the CLH organisation committing to purchase the scheme at different points.

The main technical activities of developing housing will happen in an iterative sequence. The national CLH alliance label these "Site, Plan, Build, and Live" stages. The RIBA stages are also commonly used. "Group" stage activities start before development and continue throughout. The stages involve several workstreams in parallel, often going round with increasing levels of resolution towards the built project. The table below shows activities that may happen in parallel, although it can be read from left to right.

Most of the work will be done by appointed consultants, working under the project manager. Key decisions should be taken by the CLH group, with more minor decisions delegated to the project manager.

Indicative timescales are for a CLH group with efficient decision making and no major stumbling blocks.

		Housing workstream / Project management	Property / Legal workstream	Design / Technical workstream	Finance / Funding workstream	
SITE searching	RIBA 0	Survey household affordability / equity and set project criteria	Systematic site search - One or more realistic sites identified	Desktop checks	Apply for early stage funding from the hub	
	RIBA 1	Appoint small prof team (Arch, Surveyor)		Establish site capacity / feasibility, viability	Financing strategy	3-6 mths
		Proposal / business plan	Engage Landowner - support in principle			
SITE agreeing	RIBA 2	Agree allocations policy if needed	Develop purchase terms, MoU / HoT	Pre-app, Surveys - refine proposal (QS, Eng etc)	In principle finance/ funders letters	6-9 mths
		Approach RPs for long term management	Landowner approval (eg borough cabinet)		Viable funding, fundraising for gap	
	RIBA 2-3	Appoint Solicitor and Accountant	Draft contracts subject to planning & finance		Apply for 'plan' stage revenue funding	6-9 mths
			Exchange contracts or sign agreement to lease		Equity in place if needed for Exchange	
PLAN	RIBA 3	Appoint Full professional team		Prepare planning application		12 mths
		Sec 106 negotiation, incl allocation policies		Planning deliberation / negotiation. Approval		
	RIBA 4	Planning conditions		Planning conditions, Technical Design		12 months
				Set contractual & technical requirements	Finalise finance if needed for purchase.	
				Tender for contractor		
			Land purchase completed	Tender assessment & contract award	Finance / Funding terms agreed for completion	
BUILD	RIBA5-6		Prepare construction contract	Prepare for site start (mobilisation prelims)	Draw down of Development Finance	2 yrs
				Construction, handover		
LIVE		See **Long term Management Options**				

FINDING A SITE

All development needs a site, and it is difficult to make progress on concepts without identifying one or more realistic sites.

Some CLH organisations already own land. New development opportunities can come through a variety of sources including systematic searches of areas and land ownerships, public land disposal initiatives, and talking to people you have established relationships with. Opportunities may also come from private builders looking to sell what they are building or have built.

You should consider a site finding brief or criteria as part of your business plan. It should describe your ideals and red-lines, with a sense of affordability. This avoids wasting time on unsuitable 'opportunities'.

→ Our Finding a Site guide has more on what to look for and how to go about it.

As a minimum you should look at:

- The arrangement and heights of buildings in the immediate neighbourhood
- Relevant planning policies or applications
- Land Registry for ownership, boundaries, easements, restrictions or mortgages.

Before opening negotiations with the landowner you will need to properly prepare in order to negotiate effectively. This can mean establishing basic feasibility, site capacity and viability, and considering your financing strategy.

SITE CAPACITY / FEASIBILITY

Development and design is an iterative process of refinement from broad outline ideas through to detailed lists and instructions for construction. The RIBA 'Plan of Work' Stage 1 is about research and options appraisal. We may be able to highlight constraints and estimate how many homes a site can accommodate. An *architect* can produce layout options, and advise on the need for **desktop investigations** or a 'Phase 1' study from an environmental / *engineering* consultancy, usually covering:

- Site history (to assess contamination risk)
- Local geology (from maps), to give an idea of the bearing capacity of the ground
- Hydrology, to indicate likely water-table level, and rough flood risk assessment
- Records of waste/pollution incidents
- Utility searches (pipes, cables etc)
- Searches about rivers and flood risk
- Site walkover (to look for signs of drainage or contamination).

Be careful not to get carried away with design work, as the purpose is to gain some understanding of whether and how much the site can be developed and cost implications.

FINANCIAL VIABILITY

Financial modelling and viability appraisals help identify whether costs are recoverable, and the scheme achieves what you want. They are key to deciding whether to continue.

→ Our Financial Appraisals guide provides more information on how they work.

The output of an appraisal is only as reliable as the input estimates. The margin of error of initial estimates may be +/-30% or more. Even after extensive investigations, estimates will only be accurate to within +/- 5-10%. So the results need to be interpreted in that light.

It is very important that estimates on capital and revenue costs, development timescales and future income are based on sound, prudent professional advice from *valuers* or chartered *surveyors*, and not on hope and optimism that "make the scheme work". It can be tempting to change the inputs to produce the required output, but this can have financial consequences in future.

FINANCING AND FUNDING

Few organisations have enough cash for the capital costs of acquiring or developing new housing, so they are mostly funded by debt.

→ Our Development Finance guide provides more information on debt and equity.

How you will fund the scheme needs to be considered, and how much debt can be taken on will need to be assessed in your financial appraisal. For rented housing, the debt is likely to be repaid after several decades, and may well lose money for the first 10-15 years.

Contacting lenders at this stage may be a good idea, as there may be particular requirements for your financial appraisal.

AGREEING A SITE

Opening negotiations with proposals for site capacity, constraints, appraisal, and a funding strategy will demonstrate your credibility. This can be combined with your Business Plan for an overview of your organisational objectives, housing allocation policies, and long-term plans.

Initial negotiations will establish if the two parties appear to be sufficiently close to able to reach agreement for you to do further work. In a competitive scenario this may mean you are the “preferred bidder”. There may be an in-principle approval to negotiate, a Memorandum of Understanding (MoU), or outline Heads of Terms (HoT) to give you confidence to carry out further work.

RIBA Stage 2 design and feasibility led by your *architect* will support negotiations. You should seek to fix a preferred layout, possibly in discussion with planners, and obtain an initial cost estimate from a *cost consultant* or *quantity surveyor*.

Intrusive ground investigations or a ‘Phase 2 study’ can be carried out with permission from the landowner. They would look at:

- Topographical survey of levels and slopes, man-made features, boundaries, drains or voids, trees, water courses and levels
- Mineral and chemical ground composition
- The level of groundwater
- Protected species or invasive plants
- Detailed structural and services survey for existing buildings which are to be retained

The feasibility studies will allow the risk register to be populated meaningfully.

In the light of this work, improved estimates of capital cost, sales income, and timescale will feed into the financial viability appraisal to see if it appears that the scheme comes within acceptable financial thresholds. The thresholds should reflect your financial capacity and risk appetite. Metrics such as profit/loss, payback period, net present value (NPV), or internal rate of return (IRR) are often used. Changing these thresholds and key assumptions is like moving the goalposts and not comparing like for like.

As you have a greater understanding of the likely benefits and risks (uncertainties) around time, cost and benefits, you can prepare a **business case** on whether to develop the scheme to the next stage or not. It is not unusual to re-visit the project objectives and/or expected standards and amend them. There are tensions between wanting the scheme to work and being careful about future implications. The business case should be considered by your board and forms the baseline against which project progress/outcomes should be reported.

Formal valuations from a qualified *valuer* may be sought by landowners or lenders. There are several standard assumptions that form the basis of a valuation, which differ for “market value” or an “existing use value”. It is important to check the assumptions hold true. Valuation reports should be prepared in the light of all the physical, legal, and planning information available. This usually means that if there was an initially agreed price this will need to be renegotiated.

Heads of Terms will need to be refined / prepared in light of the feasibility work. This can be the most difficult phase of the negotiation process.

COMPLETING THE DEAL

Once heads of terms have been agreed on the principles, a further round of negotiation on points of detail is likely because of questions raised by both sides' *solicitors* when translating the heads of terms into draft contracts. If the previous negotiation phase strained the goodwill between the parties, this can also be a difficult phase.

Conveyancing enquiries will have identified what land-law risks come with the site and if acceptable solutions have been found, the report on title should confirm that the you will obtain good and marketable title, and can use the property for its intended purposes.

In most cases you are likely to agree delayed completion, or a conditional sale subject to planning and finance. Although development finance will not be approved until you have planning permission, you should have in principle agreement from senior lenders, and be fundraising from other lenders, applying for grants and finding ways to bring your equity in place if needed for exchange of contracts.

DESIGN DEVELOPMENT

A full planning application can be made at the end of RIBA Stage 3. For schemes procured on a design and build basis, your design team will produce design information up to the end of Stage 3 and hand this to the contractor's design team for them to undertake the Technical design (RIBA Stage 4).

The biggest design decisions are taken in the earliest stages, but the number of design decisions increases exponentially through Stages 1, 2, 3 and 4, with approximately 60% of the total design work occurring during Technical design (Stage 4). Requirements during Stage 4 are usually in a document called the Employer's Requirements.

Proposed designs will need to be reviewed against your requirements and to ensure that letting, sales, management and maintenance problems are designed out as much as possible. You may wish to consult a small housing association for their input on this.

PLANNING PERMISSION

The two main permissions needed by law are:

- Planning permission, and
- Building control (for building regulations)

Depending on the nature of the work, other permissions/consents may be needed for:

- freeholders permission (if in your lease)
- listed buildings (listed building consent)
- demolition (Section 80 consents)
- working near a party wall (from neighbour)
- working near a watercourse (from the EA)
- closing or diverting a right-of-way (from the council highways team, known as Sections 247 and 248 consents)

The planning system considers how land should be used and looks in detail at your proposals. Permission is needed for physical development, a change of use, or if an existing dwelling is being subdivided. Permission is not usually needed for repairing existing property. Certain small-scale changes are deemed 'permitted development', and only need notification.

Planning Policy expresses the local planning authority's ambitions for change and development over the next 5-15 years.

Planning applications are reviewed against these policies. Planning is a negotiation over whether the proposals are sufficiently compliant with planning policies and other 'material considerations'. Planners may ask for changes and it is for you to decide whether to agree (in the hope of getting a quicker permission) or to resist and argue that the scheme should be approved anyway. If the scheme is rejected, you can appeal and ask for a planning inspector to re-run the assessment. Appeals usually mean time delays and further costs.

Pre-application meetings with planning case officers prior to submitting a planning application can be helpful in identifying planning policies of special interest to the council, and/or contentious aspects of the scheme so you know whether the application may be difficult. You should consider if it might be worth holding a public consultation even though it isn't mandatory.

Approval may be obtained in a single 'full application', or in an outline application followed by one or more 'reserved matters' applications, which is more often used for larger phased developments.

Design and access statements should be submitted as part of the planning application. This is an opportunity to highlight the careful thought that has gone into the design, gaining support from the planning officer.

As well as the proposed designs, the application form and fee, you will need to provide a range of supporting information. This can be an extensive list of reports which can be time consuming and costly to assemble, for which you should make allowance in the budget.

Planning conditions commonly accompany permissions. Some may require you to do a lot of work before you can start construction. Other conditions may need to be met before completed dwellings can be occupied. There may be a condition that you have to negotiate some community benefits, which are then secured by signing a Section 106 agreement.

Most planning conditions will need to be signed off by the planners before practical completion. Not discharging conditions will blemish the title of the property.

BUILDING CONTROL

The building regulations are nationally-set minimum standards of performance in use. They cover structural stability, fire safety, drainage, electrical safety, thermal insulation, ventilation, glazing, security and others. Unlike planning, building control is an objective application of the rules, where 100% compliance is required.

Compliance is assessed by physical inspection and testing on site of the approved designs. The inspection can be carried out by building control inspectors employed by the local council or by approved private companies. For some of the regulations (e.g. relating to glazing in windows), approved trade companies are authorised to self-certify compliance.

It is essential to have evidence of compliance with the building regulations, in the form of building regulations certificates from tradespeople, and a completion certificate (or final certificate) from the building inspector. Without it, there will be questions about the quality of the work which will affect the value of the property, and/or make it unsellable.

Construction Design Management (CDM) is less about obtaining an approval and more about fulfilling a legal duty, where failure to do so incurs criminal liability. The CDM regulations are intended to reduce the number and severity of injuries arising from construction. This is generally about site safety during construction, but also includes planning to reduce hazards in the completed building. The regulations place duties on the main actors, identifying specific roles. The client duties are not onerous, but they need to be met. They cannot be delegated to others and you must understand your obligations.

CONSTRUCTION PROCUREMENT

The term ‘employer’ is generally used in construction contracts to describe the client.

The construction contracts generally used are known as a “lump sum” or “fixed-price” contract. That means that the price is quoted before the start of work and won’t change unless the employer asks for more (or less) work, or delays the builder. Although even the slightest delays and changes can be a reason for builders to change the price.

A ’traditional’ form of procurement is for the architects and design team to produce RIBA Stage 4 detailed technical designs, schedules, and bills of quantities, and then seek quotes from builders, through a formal tender process.

‘Design and build’ is also a commonly used form of contract. RIBA Stages 2 and 3 are undertaken by the design team. The builder is then selected and given responsibility for undertaking the Stage 4 designs, and then building those designs. The ‘brief’ for stage 4 designs is a document prepared by the employer, called the employer’s requirements.

As design and build contracts mean that the interface between the technical design team and the onsite team lies within the builder’s areas of responsibility, any problems or delays on site that stem from inadequate design information lie with the builder.

The employer is not exposed to that risk. Therefore, design and build contracts expose the employer to less risk of cost increases than traditional contracts. However, there is a consequential downside. Under design and build contracts the builder has signed up to deliver the scheme for a fixed price, before the detailed design work has been started. They will therefore (perfectly sensibly) instruct their designers to produce technical designs information that are as cheap to build as possible and use the cheapest products that are compliant with the contract documents. Therefore, if your employer’s requirements are weak, design and build contracts expose the employer to greater risk in terms of housing quality at a detailed level.

If you do not have strong views about construction-level details, you may be happy to accept typical technical designs and low-cost materials and products as long as some minimum performance standards are met or the products used are from a specified range.

LONG TERM MANAGEMENT OPTIONS

The long-term management of housing needs to be considered early on.

Managing and/or being the landlord of affordable rented housing has a series of requirements that you will need to be aware of. There are a number of options for long term management, including various ways of doing it yourself, hiring service provides, and seeking partnerships with others.

Any sub-market rented housing that has received *capital* grant *from the GLA* needs to have a Registered Provider (RP) as the *immediate landlord* of those homes *at the point of occupation*.

You can still get revenue grant from the GLA. You might be able to get capital grant from elsewhere, such as the borough (channeling GLA money through the council doesn't count, but could come from the council's unspent right to buy receipts or section 106 contributions if these are not being used for their own programs)

You can still get capital grant funding from the GLA for low cost ownership tenures, or if there are plans in place for there to be an RP as the immediate landlord for rented homes when they are occupied.

Becoming a Registered Provider is an option, but fairly arduous and only likely if you have a scheme with planning permission. See:

- → Regulator for Social Housing information on becoming a Registered Provider.
- → Self-Help Housing briefing exploring the implications of RP status

Stewardship arrangements would involve your CLH organisation being the freeholder or head-leaseholder of the scheme, and leasing any rented units to an RP. You may be able to attach a few of your own conditions in the lease around performance and housing allocations, although the RP will have to comply with any regulations. You may also include break clauses or buy-back provisions in case you became an RP yourselves later on. The arrangement must work for the RP commercially, as they may be borrowing and taking the long-term risk (eg repairs, voids, arears, rents, interest rates etc). An RP who carries out their own development, may be reluctant to purchase housing they have had little say over the development of.

Management arrangements would involve service agreements where the RP contracts out some or all the management to a CLH organisation in a service agreement. Tenant Management Organisations (TMOs) work in this way. You would still need to comply with the regulatory framework, but this may be an attractive option if your objectives are to control the standard of maintenance without taking on long term borrowing. Agreeing a local lettings policy with the council could also provide influence on housing allocations.

Combining stewardship and management with an RP as the accountable landlord in between may be possible although introduces complexity for a small scheme.

Options for delivering management and maintenance include voluntarily work, employed staff, or hiring a service agency, for a mixture for different activities. The following guidance from CCH explain what is involved and options for carrying it out:

- → Housing Management Guidance
- → Repairs and Maintenance Guidance
- → Agency and Employee Management

GLOSSARY: ROLES AND RESPONSIBILITIES

Architect: produce drawings and other design information (schedules, written descriptions of work etc), in progressively greater levels of detail – from very broad outline stage designs through to enough information that the builder’s on-site team have a set of instructions of what materials and components to buy, and how to assemble them together.

Engineer: like architects, they produce design information but focus on specialist areas such as building structures, heating systems, lift systems, ventilation systems etc. Their role is the same as architects, eventually to produce information that the construction team can use on-site.

Design coordinator: This would normally be the architect, if asked to undertake this role. If there is more than one person producing design information (such as an engineer as well as an architect) someone needs to ensure that the designs don’t clash. This is a simple, but crucial role.

Cost consultant or Quantity Surveyor estimates what it will cost to build the designs produced by the design team. The quantity surveyor’s role also includes preparing tender documents and managing the tender process, and administering the building contract on behalf of their client. A quantity surveyor works on both ‘design and build’ and ‘traditional’ types of contract.

Employer’s agent: the term employer’s agent applies to the JCT Design and Build contract only. Employer’s agents are often qualified as quantity surveyors, and their role is the same as what the quantity surveyor undertakes for the client under a traditional contract – cost advice, tender preparation and management and contract administration. However, there is often also some project management responsibility.

Principal designer: this is a health and safety role, not a designing role (despite the name), and is a requirement on clients under the Construction Design Management (CDM) Regulations. Their job is to assess risks created by the designs to the construction workforce, the building occupiers and the building maintainers over the construction phase and the operational life. They prepare the pre-construction health and safety plan for the client.

Clerk of works: the quality control inspector, checking if the builders are constructing in accordance with the requirements of the client’s contract with them. Their role is to spot-check by dropping in on-site at random times. Often ex- trades operatives / supervisors themselves, they are usually poachers-turned-gamekeepers who know the common shortcuts, so know what to look out for. An extremely useful appointment.

Solicitor: (for conveyancing) undertakes the checks on various databases to gather information about the legal condition of the property being bought – who owns it, what type of ownership they have, and what restrictions or obligations apply. They summarise this research in a document called the report on title. They will also help turn the agreed purchase heads of terms into the sale/purchase contract, highlighting risks to the client. They will then manage the process of buying the property and ensuring ownership is registered with the Land Registry.

Valuer: provides advice on the value of property being bought, sold or rented.

Geotechnical consultant: undertakes investigations into the ground the client is thinking of buying, to establish its physical condition (what it’s made from, and how solid it is), as well as historic uses (to indicate if it might be contaminated), and undertake a detailed survey of the ground to establish levels and slopes.

Contact us

7-14 Great Dover Street

London

SE1 4YR

020 3096 7769

info@communityledhousing.london

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@CLHLondon

community led housing .
london