Annex 1

Link to the White Paper, “Strong and Prosperous Communities”:-

http://www.communities.gov.uk/index.asp?docid=1137789

The Quirk Review

An AMP Network Briefing Note

This briefing note covers:

‘Making Assets Work’ – The findings of the Quirk Review of community management and ownership of assets (Launched 15/05/2007)

http://www.communities.gov.uk/index.asp?id=1510515

‘Opening the Transfer Window’ – The government’s response to the Quirk Review (Launched 22/05/2007)

http://www.communities.gov.uk/index.asp?id=1510746

The **‘Consultation on Community Assets Fund’** (Sent out in March 2007, with a closing date of 23rd June for responses)

http://www.cabinetoffice.gov.uk/upload/assets/www.cabinetoffice.gov.uk/third_sector/community_assets_consultation.pdf

1. Making Assets Work

Communities Secretary Ruth Kelly announced in September 2006 that there was to be a review of the community management and ownership of public assets which was to be chaired by Barry Quirk. The ‘Quirk Review’ terms of reference were to find ways to overcome barriers to community management and ownership of assets, taking into account the need to manage risk. The Quirk launch was held in Sheffield at the Burton Street Project

http://www.burtonstreet.org.uk/ a community based regeneration organisation in North Sheffield which has brought back into use, a dilapidated Victorian school which is now used by up to 2,000 people every week. Burton Street is one of the examples, within the Quirk report of what can be achieved.

The three principal conclusions from the report are that:

1. asset transfer should take place where it can realise social or community benefits, without risking wider public interest concerns,
1. the benefits of community ownership of assets can outweigh the risks involved, in appropriate circumstances, and
2. risks can be minimised and managed by drawing on the experience of others.

Despite this positive message, many property professionals in local authorities will be nervous of the risks, and wary of promoting asset transfer. Is such a reaction appropriate, or should we be looking at the bigger picture in advising our authority on how to respond to this initiative?

There are clear implications for local authorities when considering transfer of the management or ownership to the community of one of its buildings. It is important to properly and thoroughly assess these implications. As property professionals we have an ability to look at the practical issues and identify potential risks.

Where our skills may not lie, is in assessing the potential benefits that asset transfer may bring to a particular community. Therefore it is incumbent on us to inform, advise, and work with others within, and outside our organisations, so that a wider view of the potential risks and benefits may be taken.

During the course of the review for 'Making Assets Work', a number of issues were raised both directly to the review group and also to us. These are real issues of concern, that it is hoped will be dealt with in more detail within further guidance to be published. Here is a selection of some of the key issues that were raised.

1. **Once a building has been transferred it could be 'lost' to the community. How can we know that the needs of today's community represent those of tomorrow?**

Quirk says: *The expectations of the parties should be clearly documented, and the governing instrument of the community group should reflect the benefits that the parties desire to achieve for the 'whole community'. Restrictions can be imposed as an 'asset lock' preventing inappropriate use of the asset.*

We say: *This is an opportunity for local authorities to introduce a corporate approach to reviewing their asset portfolio and balancing the pressures of maximisation of capital receipts with the need to achieve community benefits through asset transfer. It is essential that we engage with our colleagues in our community development teams to ensure the development of a genuine holistic approach at the local level.*

2. **Buildings that could be transferred to the community often require significant capital investment to bring them back into use or to sustain continued use. How will this be funded?**

Quirk says*: There are some funding sources available in addition to local authorities and charitable foundations including the new £30m Community Asset Transfer Fund. Transferring assets to the community provides collateral which opens up new funding opportunities e.g. from commercial banks.*

We say: *No single source of funding can meet all circumstances, and it essential that the financial implications of transfer are thoroughly considered to enable all opportunities to be identified. Potentially community groups have the opportunity to apply for a number of funding sources unavailable to local authorities. Each circumstance could be very different requiring a positive and robust approach where authorities work with community groups to develop realistic business cases. Authorities need to identify potential short and longer term savings (and potential costs) as well as contribution to strategic outcomes associated with transfer and introduce these all into the consideration.*

3. **Managing, developing and sustaining building use is a technical business; do the local community have the required skills and capacity and are they aware of their full responsibilities in managing the asset?**

Quirk says: *A skills and capacity building programme is to be launched to include organisational development on community management and ownership of assets. This will include a capacity building programme for local authorities on asset management. There will also be access to the community organisations to a national pool of expert advisors relating to the transfer and management of land and buildings and the involvement of specialist financial expertise where appropriate. Guidance will be published covering all aspects of local authority asset management along with a tool kit for local authorities and other public bodies on risk assessment and risk management in asset transfer to communities.*

We say: *It is essential that a full skills audit is undertaken as part of any asset transfer, so that the authority and the local community can have confidence that the building will be well managed. It is also important that the respective responsibilities of the parties are clearly established, agreed and documented. Whilst help is available to community organisations it may be that an authority develops its own local guidance and support for community transfer in its own area. At the launch of the Government's response to Quirk, Phil Woolas warned that this was not an excuse for local authorities to simply transfer liability for their worst performing assets to the community sector.*

4. **Local authorities finances are finite, budgets are being continually stretched and there is continual pressure to maximise capital receipts. Is this in direct conflict with the transfer of assets to the community?**

Quirk says*: Local authorities have a duty to promote well being in their communities. The case studies show that asset transfer can bring real benefits to neighbourhoods, giving them a sense of civic pride and an engagement with others in the community. Asset transfer has to be seen as a mechanism to achieve corporate goals.*

We say: *A balance has to be reached. In some cases, the transfer of an asset may deliver your strategic asset objectives. In other cases the two may be in conflict. Poorly prepared authorities will not be able to identify the difference between the two. It is essential that all authorities develop robust option appraisal approaches so that community benefits can be assessed objectively against corporate objectives and potential efficiencies.*

5. **What are the implications for those authorities who don't take seriously requests for community management and ownership of assets?**

Quirk says: *Where a community organisations requests to take over a building is not taken seriously they can involve the elected councillor, who will be able to address this through a 'Community Call for Action'. If the request from the organisation is for the transfer of vacant, derelict or underused land or buildings, then recourse is available through a Public Request to Order Disposal (PROD). Discussions are also taking place with the LGA about how* *they can ensure that Local Authorities take requests for community management and ownership of particular assets seriously.*

We say: *It is hard to gauge the likely response from the community sector, in terms of the numbers of assets that will be involved. Nevertheless authorities need to prepare themselves for approaches. If an authority is not taking a strategic view of its property assets, and is not certain why certain assets are being retained and has inadequate performance data across the portfolio, it will be less able to respond in an informed way to such approaches.*

6. **How can authorities protect the use of public money, where a public body has made a grant or disposed of the asset at less than market value?**

Quirk says: *Historically clawbacks have been imposed by authorities, meaning that an authority could clawback the proceeds if the asset were to be sold or any profit generated from the asset use. This has acted as an impediment to community organisations from using assets as collateral for borrowing. DCLG will take a lead to encourage central government departments, local authorities and other public bodies to review their approach to clawbacks*

We say: *Again it is a question of striking the right balance. If the purpose of an asset transfer is to facilitate securing external funding, and that funding will Re quire collateral, then clearly the nature of any 'protection' for the authority needs to be carefully structured. Risk has to be balanced with potential benefits.*

7. **What about the efficiency agenda is there a workable balance between generating capital receipts and disposing of public assets at less than market value?**

This is probably one of the areas where the questions are still left unanswered. Quirk doesn't really provide any solution, probably because there aren't any. This is where two government polices seems to be at odds and local authorities may feel pressure to resist approaches from the community sector in order to achieve projected capital receipts and softer community benefits and outcomes will often be more difficult to identify than financial hard facts. This is where authorities will need to be quite imaginative in their approach and look at each and every instance. It will be far too easy to say 'no' each time, based on simple financial criteria. It is fair to say this is where the much overused term 'thinking outside the box' really should come into the consideration.

2. Opening the Transfer Window

The government's response to Quirk was launched by Phil Woolas MP at a Development Trusts Association symposium in London

http://www.dta.org.uk/whatsnew/symposium07.htm .

In short, the government are accepting the recommendations of the Quirk in full and 'Opening the Transfer Window' sets out their outline proposals for how these will be implemented. Phil Woolas stated that the proposals were 'common sense' and that Gordon Brown was 'personally committed to this agenda'. There was an extremely interesting question and answer session at the end of the event and the audience was very much dominated by ‘third sector’ organisations. Indeed it is fair to say that local authority property professionals came in for a bit of criticism from one or two of the delegates. One in particular referred to how he had contacted asset managers in two authorities since the launch of the Quirk report and neither had knowledge of the review and suggested that it was unlikely that they would dispose of any property to the community sector at less that market value. This was clearly not an isolated case and we need to be prepared to examine every approach on this nature in an open, objective and fair manner. The government’s proposals for implementation of the Quirk findings fall into seven main areas as follows:

1. **Raising awareness of the review findings and sharing ideas on how to apply them** – Clearly if the DTA delegates experience is anything to go by, there are still property professionals within Local Government who haven’t head of the Quirk Review. The government propose to use a number of existing channels to get the message to the various stakeholders and the Asset Management Network is mentioned as one of the key partners in doing this. Our June 2007 events in particular will focus on the outcomes of the report and its implications and future events will provide an update on how this initiative is developing.

2. **Demonstrating how Asset Transfer Can be done** – A demonstration programme is to be set up between June 2007 – March 2008 working in 20 selected areas developing models of effective partnership between Local Authorities and community sector organisations. The successful models will be promoted more widely from April 2008 onwards.

3. **Strengthening Bottom up pressure** – This refers to the use of Community Calls for Actions and ‘PROD’ powers already covered earlier within this briefing. The government propose to monitor the effectiveness of these mechanisms and explore whether further ways will need to introduced to ensure that communities have the levers and opportunities they need.

4. **Developing Specialist Advice** – Two key areas of interest in this section. The first that updated Asset Management guidance will be drafted by April 2008 in partnership between LGA, RICS, and ourselves. Secondly a new resource will be available from April 2008 providing checklists for risk management on www.togetherwecan.info

5. **Resources** – Government will bring together potential funders to explore the opportunities for more collaboration within this area and consider what extra support may be provided in the future.

6. **Promoting the Benefits** – This refers to the on-going promotion of this initiative over the next 3 years using a variety of methods and channels. One suggestion is through ‘a reality TV format’ to promote the concept to the wider public.

7. **Reviewing Achievements and Measuring Success** – The government will continue to monitor and measure achievements in the future. In particular the original Quirk review team will be re-convened in 12 months to consider the impact of the recommendations so far. The document goes on to include a

chapter listing partner organisations and contacts of which we are one and then provides a timeline for implementation for the proposals.

Consultation on Community Assets Fund

Much has been said about the Government's proposed £30 million to support partnerships between local authorities and community-led, third sector organisations. The fund is intended to offer capital to refurbish assets and will be managed by The Big Lottery Fund on behalf of the Office of the Third Sector. The consultation document sets out some of the underlying principles that will govern the fund and request views on some of the aspects of how the fund will work in practice. Responses are due by 23rd June 2007; a summary of these, and final criteria for the fund will be announced, together with guidance, application information and timescales in the Summer.

The fund will be confined to covering capital expenditure on refurbishment and the consultation document includes seven key principles that govern the way the fund will work. In short these are:

1. A flexible approach is required

2. Grants will be made to strong partnerships between local government and the third sector reflecting the range of needs of the local community.

3. Partnerships must demonstrate strong community endorsement

4. Any proposal needs to be as part of a strategic/corporate approach to asset management.

5. Approaches need to have robust business cases that aim at long term financial stability

6. Risk will be managed using safeguards such as business planning, independent expert advice, feasibility studies, ongoing financial agreements and robust governance arrangements.

7. Refurbishment must include consideration of environmental issues and the reduction of running costs. In addition financial intermediaries will be required to draw in further investment and expertise and, bids will need to link with capacity building programmes to provide organisational development support.

There are 10 consultation questions which range from the average amount per project to, how the fund can influence future policy. We've highlighted a few below for consideration

Question 1 envisages the average size of grant to range between £250,000 and £500,000.

Question 3 relates to eligible assets and the document states that this will have a broad definition providing an asset transfer would fulfill the principles stated earlier in the document. One question we are being asked by local authorities is when and, to whom the money will be available. Although there are no details of this, one comment was made at the DTA Symposium which inferred that money would not be given to local authorities prior to transfer.

Questions 5 to 7 look at how funding should be allocated, whether wide distribution across authorities, targeted at specific areas, or to promote a range of different types of approaches and proposals for innovation. We would encourage all authorities to look at the consultation document and I know that the Office of the Third Sector are keen for as many views and responses as possible.

Quirk - In summary

The message is clear there are barriers and risks to transfer of assets but these can be overcome, minimised or managed, there is plenty of experience to draw on and sufficient existing legislation to allow it to happen. However, in order to achieve success all parties have to work together – there needs to be political will, managerial imagination and a business focused approach from the public and community sectors.

The Quirk review tells us that communities and councils have the potential recipes, ingredients and guidelines to make this work but they need to discover for themselves the particular mix which makes the most sense in their unique circumstances.

We agree, there is no single answer. What works in one community may not work in another. The checks and balances in place in one area, may not be appropriate in another. Certainly the additional guidance that is planned will assist local authorities and community groups in identifying and understanding the potential risks and benefits. This is an opportunity for asset managers and property professionals to take a lead and to engage with others in advising their authorities on the best course in each particular case.