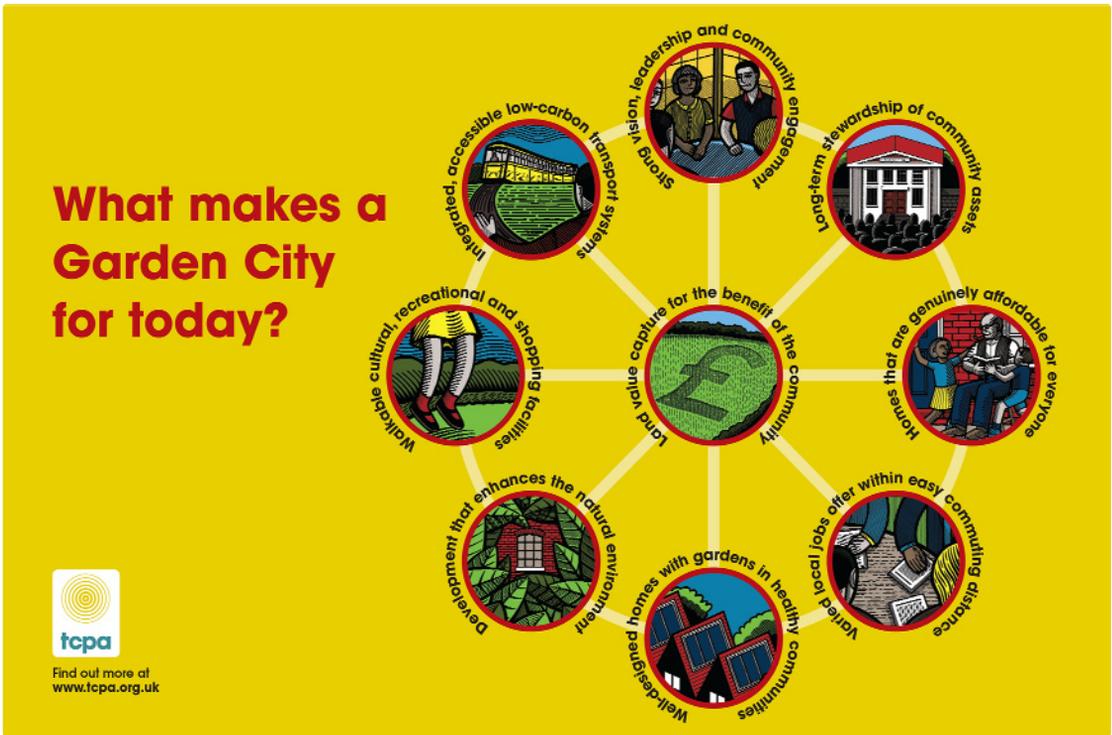


# on stewardship



The TCPA's current graphic summary of key Garden City Principles

Ebenzer Howard invented the Garden City by assembling ideas he had garnered over several years and putting them in 'unique combination'. A fundamental feature of the Garden City is that the land, once assembled at as close as possible to agricultural values, would be held in trust. The idea is that the rising value of the land as the Garden City develops is used to pay development costs (including interest on loans) and in due course can yield a return sufficient to pay for the 'maintenance' (the stewardship) 'of all necessary public works – roads, schools, parks etc.',<sup>1</sup> as well as for pensions, social welfare, and much else for the residents.

The TCPA's publication *Creating Garden Cities and Suburbs Today* (2013) places 'community ownership of land and long-term stewardship of assets' as a current 'key Garden City Principle'<sup>2</sup> in the resurgent interest in Howard's invention and the possibility of smaller-scale derivatives that might approximate to his vision without (we hope) devaluing or debasing it.

England's National Planning Policy Framework (NPPF) states at para. 52 that:

*'The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or*

*extensions to existing villages and towns that follow the principles of Garden Cities.*<sup>3</sup>

The book published by the RIBA in 2017, *The Art of Building a Garden City*, by the TCPA's Kate Henderson, Katy Lock and Hugh Ellis, advises that, in contemporary terms:

*'Most community assets, services and the public realm could be managed by a stewardship body. Certain services and assets will already be run by the local authority: the role of a stewardship body that has evolved through the development process is to add value for the community, by managing assets and providing services which supplement those already provided by the council.'*<sup>4</sup>

Ten generic forms of stewardship body are set out,<sup>5</sup> it being noted that there may be more than one type active in the Garden City at any one time, and that the form may change over time. Most common are management companies, which in my experience can vary from being wholly commercial businesses, to ones that are in part or wholly owned by the members (the residents), and to ones that are not-for-profit or even registered charities. The authors say that it is advisable to 'start early' in setting them up to secure the benefits from Section 106 or other forms of planning gain; to engage the public in the process of their establishment; and to think strategically and in the long term about stewardship arrangements.

Income may be secured by endowment (cash or property or both, calculated to be capable of yielding an income to cover the stewardship costs in perpetuity), and/or by levying a quarterly or annual service charge, and by generating income from activities events or by enterprise (such as bulk-buying energy).

The government's prospectus which invites proposals for 'locally-led Garden Villages, Towns and Cities'<sup>6</sup> is supported by *Application Process Guidance*.<sup>7</sup> This says that 'governance proposals' must be addressed, including answering this point: 'What are the management and stewardship proposals for the proposed Garden Village?'

If a developer leaves some private communal areas of benefit to a group of residents, a commercial management company is likely to be engaged, and it will levy a service charge which the residents are required to pay. Legal covenants attached to the properties enforce the requirement to pay (typically a property may not be sold if there are unpaid bills – including interest – from the management company). The calculation of the service charge, and the quality

of the work performed, can be a matter of dispute between the residents and the management company. The degree to which residents (or their representatives) have shares in the management company, or some other responsible role in the running of the company, can vary. But all this is working at the intimate local scale and with private assets.

Here we are concerned with public green space, which is so important to the quality and healthiness of a place, especially in a Garden City. Maintenance can be seen as a costly burden in ordinary towns, with in-house teams consequently disbanded and degraded standards handed to contractors. In many places the quality of the public realm generally, and of parks in particular, has sunk to levels that are shameful and demeaning and have begun to generate a degree of local political backlash. Have we been experiencing a temporary period of squalor in the public realm while we recover from the crash caused by the bankers, or have we been led to accept a low that is actually the new normal, for ever?

Historically, public green space assets created by developers were adopted by the local council with a commuted sum in cash, calculated by a formula taking account of so many years' purchase of maintenance of different types of space. With the systematic dismantling of local government in recent decades, however, local councils are rarely willing to adopt such assets. The commuted sums were often taken as revenue and used up quickly, leaving a long-term unfunded maintenance burden. Even before the crash there was rarely enough money for the more proactive aspects of stewardship – educational or cultural programmes, for example – as distinct from just maintenance work.

Absent the local authority willing and capable of looking after public green space to a good standard, developers have to establish a management company for the purpose, or engage a larger one that will take on the public asset as part of its portfolio. To avoid the cost of paying a commuted sum, let alone an endowment to cover management in perpetuity, management companies make a service charge on the residents of the scheme that brought the public green space into being.

This approach has several serious downsides. First, the residents find that they have two service charges to pay in perpetuity – one for their intimate local private estate's common parts, and another for the public green space. This increases the costs of occupying a home. Second, management standards and service charges can be at least as disputatious as those for private areas, because the public green space will have a much wider extent and variety.

Third, the management company may be physically remote, unaccountable, and can be bought and sold (a company with the lawful perpetual right to compel its customers to pay charges set by themselves is an interesting investment for some, as with companies that have bought up ground rents). Fourth, residents paying for the maintenance of a public asset can start to feel resentment at its use by people from the wider area.

There is also the issue of fragmentation: a multiplicity of management companies in an area, with different standards and cycles of work, and differing charging regimes, will have inherent inefficiencies in running costs and will cause confusion as to where responsibilities lie.

Thus, as advised by the TCPA, creating a long-term stewardship body at the outset of a development is wise for all parties, including the developer, who can suffer reputational damage if the legacy arrangement is expensive, unpopular or inefficient.

But what happens if fragmented arrangements are already in place? Can a long-term stewardship body be created mid-way through the development and a way be found for later stages of public assets to be directed to that body? And can such a body work backwards, so to speak, and take over or absorb the fragmented arrangements created to date?

### **‘Creating a long-term stewardship body at the outset of a development is wise for all parties, including the developer, who can suffer reputational damage if the legacy arrangement is expensive, unpopular or inefficient’**

On the first question, while in the old days they were never constrained in requiring a deal to be done with their own parks department, local councils may feel constrained in requiring developers to treat with the specific long-term stewardship body now set up for the purpose (perhaps even by themselves). Ways must be found around that obstacle, or there is no point in having a long-term stewardship body at all.

On the second point, untangling existing fragmented operations looks to be a daunting challenge for a long-term stewardship body. The owners of a management company – whether commercial or even a national not-for-profit with a portfolio to manage – with the right to collect service charges in perpetuity might not be keen to sell. Inventive propositions would have to be made.

The objectives are clear: first, to ensure that the stewardship of public assets is made secure in the long term, in the hands of a responsible body; and, second, to secure the gold standard by which residents can enjoy their public assets in perpetuity without having to pay a tax for their upkeep. Playing catch up, after large-scale development has begun, will require ingenuity.

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#### Notes

- 1 Ebenezer Howard: *To-Morrow: A Peaceful Path to Real Reform*. Swan Sonnenschein, 1898, Chapter 1: ‘The Town-Country Magnet’. Reprinted (with commentary by Peter Hall, Dennis Hardy and Colin Ward) by Routledge, 2003
- 2 *Creating Garden Cities and Suburbs Today: A Guide for Councils*. TCPA, Mar. 2013. [www.tcpa.org.uk/Handlers/Download.ashx?IDMF=728ee8cf-ef8f-4c51-bc5c-8c4bbd1eab9f](http://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=728ee8cf-ef8f-4c51-bc5c-8c4bbd1eab9f)
- 3 *National Planning Policy Framework*. Department for Communities and Local Government, Mar. 2012. [www.gov.uk/government/publications/national-planning-policy-framework-2](http://www.gov.uk/government/publications/national-planning-policy-framework-2)
- 4 Hugh Ellis, Kate Henderson and Katy Lock: *The Art of Building a Garden City: Designing New Communities for the 21st Century*. RIBA Publishing, 2017, Chapter 10: ‘Long term stewardship’
- 5 Management companies, community land trusts, development trusts, community interest companies, industrial and provident societies, co-operative societies, housing associations or registered social landlords, energy service companies (ESCOs) and multi-utility service companies (MUSCOs)
- 6 *Locally-Led Garden Villages, Towns and Cities*. Department for Communities and Local Government, Mar. 2016. [www.gov.uk/government/publications/locally-led-garden-villages-towns-and-cities](http://www.gov.uk/government/publications/locally-led-garden-villages-towns-and-cities)
- 7 *Locally-Led Garden Villages, Towns and Cities: Application Process Guidance*. Department for Communities and Local Government/Homes and Communities Agency, Mar. 2016. [www.gov.uk/government/publications/locally-led-garden-villages-towns-and-cities](http://www.gov.uk/government/publications/locally-led-garden-villages-towns-and-cities)