



Department for Levelling Up,  
Housing & Communities

# Community Land Auctions Workshop

As part of DLUHC's Plan-making Reforms:  
Consultation on Implementation

Developer Contributions Team

12 September 2023  
Planning Advisory Service Event



## Aims of the workshop

- The aim of this workshop is to:
  - Seek feedback and views on DLUHC's policy proposal on Community Land Auction (CLA) arrangements.
  - Invite questions and feedback to inform the development of CLA regulations, which will set out how CLA arrangements will operate.
  - Provide stakeholders with further information on CLA arrangements with a view to seeking volunteer piloting authorities in the future.
- This workshop looks at **Chapter 13** of the *plan-making reforms* consultation (questions 39 & 40).
- Consultation responses will inform the preparation and content of CLA regulations. We intend to consult on the draft CLA regulations in due course.



- The Levelling Up and Regeneration Bill (LURB) provides the legislative framework – policy detail to be set out in regulations (subject to further consultation on the draft CLA regulations).
- Part 5 of the LURB provides for the **time-limited powers for CLA arrangements**, expiring 10 years after the first CLA regulations are made.
- The Infrastructure Levy (IL) will be the main mechanism to improve land value capture and address problems arising in the current system of developer contributions, and is to be introduced through a ‘test and learn’ approach.
- CLA arrangements provide the opportunity to pilot a further innovative approach in certain areas.
- We expect CLA arrangements will be piloted by a small number of LPAs, who will volunteer to participate.
- CLAs will dock into the new local plan-making process (as set out in Schedule 7 to the LURB). Our intention is to have regulations, policy and guidance in place by Autumn 2024.



- CLAs provide an **innovative approach for identifying land for allocation for development which seeks to improve land value capture for the benefit of local communities.**
- The value of land typically increases at numerous points in the development cycle, for example:
  - When land is allocated for development in a local plan
  - When planning permission is granted
- LPAs currently capture a proportion of this value uplift via s106 or CIL (and in the future, IL), but there can be **uncertainty**. Both section 106 and CIL rely on LPAs making assumptions about the premium required by a landowner to release their land for development.
- Landowners, developers, and LPAs all try to secure an element of this uplift. If there is insufficient value to capture for any of the parties then **development may not occur.**



- **S106 agreements:** Developers may pay more for land than is necessary, and seek to negotiate down their developer contributions, to ensure development remains viable.
- **CIL (and IL):** When setting rates, LPAs balance the desirability of getting money from developers with the need to ensure that development remains viable and land will continue to be brought forward for development. If LPAs **set too high a rate, no development will come forward; too low a rate means that the LPA won't capture as much as they could** from the system.
- **CLAs:** Seek to 'discover' the actual price at which an individual landowner is prepared to sell their land, rather than making broader assumptions about the average premium needed like the approaches above.



## Proposed CLAs process – brief overview

- This is a brief overview of the Governments current envisaged process for CLAs which are still subject to the design of regulations.
- Piloting LPAs will **invite landowners to submit a price at which they are willing to sell their land** when putting their land forward for allocation for development in the local plan.
- Once that occurs, and an option agreement has been entered into, the **piloting LPA decides which land to allocate** in their emerging local plan by considering a range of factors, that consider the suitability and appropriateness of the site, as in the current system.
  - Unlike the conventional local plan-making process, **piloting LPAs will be able to consider the financial benefits that are likely to accrue from a site when making decisions surrounding site allocation.**
- Piloting LPAs will be required to **consult** on the proposed land allocations and submit the plan for **examination**.
- Once the local plan has been adopted and sites are allocated, the piloting **LPA can sell the options over the land they have allocated for development.**
- If the option is sold, the piloting LPA **keeps the amount the successful bidder has paid** for the option, and can spend these 'CLA receipts' on infrastructure (including affordable housing), in accordance with CLA regulations.



## Site identification

- As part of the site identification and selection process, **landowners ‘bid’ to have their land selected for allocation in an emerging local plan** by stating the price at which they would willingly sell their land for development.
- The offer from the landowner, once an option agreement is in place with the piloting authority, becomes a legally binding option (known as a “**CLA option**”).





## Incentives for landowners

- In the area of a piloting LPA, land will be brought forward and allocated for development in the local plan through the CLA arrangement.
- By competing against other landowners for an allocation in the plan, land prices should be reduced. In areas where there are landowner monopolies – CLAs may not work quite as well.
- CLAs are a time-limited measure, so landowners could choose to wait out the pilot. But, landowners who wish to have their land allocated in the next local plan would need to enter the CLA arrangement by offering a CLA option over their land at a price of their choosing, subject to limited exceptions.
- Sites which come forward for allocation outside of a CLA arrangement will be treated as a windfall site, and we intend that they will be required to pay developer contributions to ensure that piloting LPAs can capture a similar amount as if the same site had come forward through the CLA arrangement.
- We are exploring how CLA arrangements will work in different circumstances, for example; where land is already subject to an option.





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# Clarificatory questions



## Assessment of land put forward for allocation

- The piloting LPA will decide which land to allocate in their emerging local plan by considering a range of factors, that consider the suitability and appropriateness of the site, as in the current system.
  - Unlike the conventional local plan-making process, the **piloting LPA will be able to consider the financial benefits that they are likely** to accrue from each site when making decisions surrounding site allocation.
- **Financial benefits include the benefits that a piloting LPA will or could derive from a CLA option**, allowing option prices to be taken into account as part of the land allocation process for a local plan.
- How, and the extent to which, financial benefits may be taken into account, including how they are to be weighed against other factors, will be set out in CLA regulations.
- The existing requirement to prepare local plans with the objective of contributing to the achievement of sustainable development as per Section 39 of the PCPA 2004, will remain.



## Discussion

1. This model relies on competition between landowners. To what extent do you think landowners will compete with one another in practice?
2. To what extent should financial considerations be taken into account by CLA-piloting authorities when deciding to allocate sites in the local plan, and how should this be balanced against other factors?
3. Are there any circumstances in which land should still be able to come forward for allocation in the local plan without having to go through the CLAs process?



## Consultation and examination

- Piloting LPAs will be required to **consult on the proposed land allocations** in their draft local plan before the plan is submitted and **independently examined in public**, in accordance with the local plan preparation procedures (as modified by Schedule 7 to the Bill).
- We set out in our May 2022 LURB policy paper, that there will be a requirement for **two mandatory consultation windows** before plans are submitted for independent examination.
- The examination of local plans where a CLA arrangement is in place will be the same as the examination of local plans in areas where CLA arrangements are not being piloted, with **one difference**: an Inspector will also be permitted to take into account any financial benefits that the piloting authority has, will or could derive from a CLA option when deciding whether or not the plan is sound.
- We will set out in CLA regulations how, or the extent to which, financial benefits may be taken into account when deciding whether the plan is sound, including how any financial benefit is to be weighed against any other relevant factors.



# Discussion

1. Are there any elements of the Community Land Auctions process which will be difficult to align with the normal process for non-piloting authorities?



## Plan adoption and auction

- Local plans will need to include policies setting out the type of development that will be acceptable on allocated sites, which will provide certainty to developers and communities.
- These policies may also set out on-site infrastructure requirements, or requirements relating to affordable housing, and how other local and national policies will be applied.
- In some circumstances, supplementary plans could also build on existing policies in the development plan, for example, to set out a design code or masterplan for a site allocated in a local plan.



## Plan adoption and auction

- Once the local plan is adopted and sites are allocated, the piloting LPA has essentially three choices for auctioning the land it has allocated for development:

### Choice 1:

- **LPA sells the CLA options** on land that has been allocated in the plan.
- If the CLA option is sold, the LPA keeps the amount the successful bidder has paid.
- The successful bidder owns the option and can exercise it (to purchase the land) by paying the original option price to the landowner.

### Choice 2:

- **LPA exercises the option**, paying the original option price to the landowner to purchase the land.
- LPA can sell the land it now owns.
- If the land is sold, the LPA receives the amount the successful bidder has paid.

### Choice 3:

- **LPA exercises the option**, paying the original option price to the landowner to purchase the land.
- LPA owns the land, and can apply for planning permission to develop the site in line with local plan site allocation policies.

- If planning permission is granted by the piloting LPA, then the land may be developed in accordance with that permission.



# Discussion

1. Do you have any views on how the auction model should work?
2. What views do you have on the three 'choices' set out? Which do you think is most likely an LPA would do?





- Piloting LPAs will be able to spend CLA receipts in accordance with CLA regulations.
- The Bill requires CLA regulations to set out that LPAs must spend CLA receipts on **supporting the development of an area by funding infrastructure, or on funding the operation of CLA arrangements in relation to its are**".
- There is a non-exhaustive list of "infrastructure" in the Bill, replicating the list set out for the IL.
- Piloting LPAs *may* be required by CLA regulations to prepare and publish a CLA Infrastructure Delivery Strategy (IDS).
- A CLA IDS would seek to make the use of developer contributions (including CLA receipts) more strategic, providing piloting LPAs with an opportunity to work closely with infrastructure partners to plan and fund new infrastructure.



# Discussion

1. What information do you feel is needed to allow for strategic planning of infrastructure in CLA-piloting areas??
2. How can we make sure that infrastructure providers can effectively influence infrastructure priorities across an area piloting CLA arrangements?



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## Next steps

The consultation is open until 18 October 2023 and we would massively appreciate your responses on Citizen Space.

Following the end of the consultation period we are considering setting up an expert working group – please let us know if you would be interested in being part of this and helping with further policy development.



- The consultation is open until 18 October 2023
- Respondents are encouraged to use Citizen Space: <https://consult.levellingup.gov.uk/planning/plan-making-reform-consultation/>
- Please direct any CLAs-related questions to [DeveloperContributions@levellingup.gov.uk](mailto:DeveloperContributions@levellingup.gov.uk), with [planmakingconsultation@levellingup.gov.uk](mailto:planmakingconsultation@levellingup.gov.uk) in copy.
- Questions related to the wider consultation should be directed to: [planmakingconsultation@levellingup.gov.uk](mailto:planmakingconsultation@levellingup.gov.uk)