



# DRAFT NPPF CONSULTATION RESPONSE, SEPT 2024

We are sharing this DRAFT response in advance of the deadline to:

- Inform submissions made by our members and others,
- Gather feedback to improve our final submission.

We will publish our final submission on our website in September.

## INTRODUCTION

The Community Land Trust Network is the official charity supporting Community Land Trusts (CLTs) in England and Wales. We are a membership body and represent 360 CLTs with over 2,000 affordable homes and other assets, and which have plans to deliver 7,000 more homes.

The key government policies that community-led development can assist with include:

- **Increasing social house building.** Three quarters of CLT homes built, and in the pipeline, are let for social or affordable rent, and are protected from the Right to Buy and Right to Shared Ownership. CLTs have been adept at providing additional supply in rural areas and on smaller urban sites overlooked by other providers; winning community support in sensitive locations such as the Green Belt and National Parks; and increasing the proportion of social rent homes on larger schemes initiated by others.
- **Building community wealth.** Community-led development gives local communities new tools to play a part in our national renewal. They can build assets, but also agency, capability and wealth. CLTs are overrepresented in the most deprived parts of each region of England. One in four have developed other infrastructure alongside housing including community centres, workspace and renewable energy generation.

- **Diversifying the housebuilding industry and raising quality.** The potential for community-led development has been recognised by ministers, by the Radix Housing Commission chaired by Kate Barker, and in recent years by the Bacon Review and the Building Better Building Beautiful Commission. A more diverse and competitive industry, with a greater focus on quality, will be essential to build 1.5 million homes in this Parliament.

We welcome recognition of community-led development in the National Planning Policy Framework, and make the following proposals to increase the number of additional homes delivered by the community-led housing sector. Paragraph references refer to the draft new text.

## RESPONSES TO CONSULTATION QUESTIONS

**Question 47:** Do you agree with setting the expectation that local planning authorities should consider the particular needs of those who require Social Rent when undertaking needs assessments and setting policies on affordable housing requirements?

**Question 48:** Do you agree with removing the requirement to deliver 10% of housing on major sites as affordable home ownership?

**Question 49:** Do you agree with removing the minimum 25% First Homes requirement?

Yes, to all three. CLTs set out to build homes that meet the needs of their local community. These needs vary considerably across England. It is inappropriate for national policy to determine that tenure mix. It would also be helpful to have a proper assessment of the needs of social rented housing at a community level, across England.

We would also propose some further changes to support these:

1. Amending paragraph 20(a) to read 'housing (including **the full range of** affordable housing)'.
2. Amend paragraph 61 to read 'that the needs of groups with specific housing requirements, **including for affordable housing**, are addressed'.
3. Amend paragraph 61 to clarify that affordability is related to, or determined by, the relationship between local incomes and rents/prices.
4. Amend the definition of 'Affordable housing for rent' to clearly distinguish between Social Rent and other forms of affordable rent; to define these in terms

of relationships with incomes, as Lord Best proposed in the Affordable Housing Commission; and require that provisions are made to ensure the homes remain affordable for future eligible households.

**Question 51:** Do you agree with introducing a policy to promote developments that have a mix of tenures and types?

Yes. However, we would like to see all forms of self-commissioned housing included in this.

Currently paragraph 63 requires this mix of needs to be assessed, and includes demand for people wishing to commission or build their own homes, but not groups wishing to pursue community-led development. We propose it is amended as follows: 'people who rent their homes, ~~and~~ people wishing to commission or build their own homes, ~~and~~ groups wishing to pursue community-led development of homes'.

Paragraph 69 should also cover this, so that it would say 'plots sold for custom or self-build ~~or~~ community-led development'.

Paragraph 66 could also create an expectation that major development meets some of the identified local need for people to commission or build their own homes, and groups wishing to pursue community-led development of homes.

**Question 54:** What measures should we consider to better support and increase rural affordable housing?

Community-led development has been responsible for a significant uptick in rural affordable housing, particularly social housing. This is most marked where we have been able to develop the financing, partnerships and delivery capabilities, as well as the right local planning policy context.

### **Affordable housing requirements on small sites**

We propose that paragraph 65, exempting small sites from affordable housing requirements, is deleted. It is an arbitrary policy that makes assumptions about viability, and has a particularly damaging effect on the supply of rural affordable housing where small sites are often the predominant form of development.

If it is retained, the paragraph should be amended as follows: 'other than in ~~designated rural areas~~ rural communities with populations of 3,000 or fewer and in all National Parks and Areas of Outstanding Natural Beauty' because the designated areas are too tightly defined. Alternatively, designated rural areas could be redefined in this way.

Related to this, text could be added to follow paragraph 58 stating that s106 contributions will not be sought for small sites providing 100% affordable housing, except for those that relate specifically to the development of the site. While sub-paragraph 58(c) should ensure this proportionality is applied, in the experience of our members contributions to e.g. health and education are still sometimes sought which delay and make unviable schemes providing homes for people already in the parish and already using those services.

### **Weight for Community-Led Development in protected landscapes**

One issue in some rural areas is the great weight given to conserving and enhancing landscape and scenic Beauty in National Parks, the Broads, AONBs and Heritage Costs. This protection is important, but there is no equivalent weight given to the interests of communities living in those landscapes.

This fails to reflect the duty of National Parks to foster the social and economic wellbeing of the local communities, and of the Broads Authority's duty to have regard to the economic and social interests of those who live or work in the Broads. (No equivalent duties apply in AONBs, but the issues remain much the same, and the NPPF's overriding emphasis on sustainable development should apply.) The Government's vision and circular on National Parks and the Broads makes clear that affordable housing should be supported in these areas, and states the Government's "expectation is that new housing will be focused on meeting affordable housing requirements, supporting local employment opportunities and key services"<sup>1</sup>. This is precisely the kind of development that community-led applicants propose, led by and supported by the local community, to meet existing local needs and secure the sustainability of their settlement. But the NPPF protection often leads to planning officers recommending against community-led development of this kind because of the weight given to landscape protection.

We propose, after para 182, to add: "~~Community-led developments on exception sites in communities with housing affordability pressures within National Parks, the Broads,~~

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<https://www.gov.uk/government/publications/english-national-parks-and-the-broads-uk-government-vision-and-circular-2010>

Areas of Outstanding Natural Beauty and Heritage Coasts should be given great weight."

Or, rather than community-led development specifically, this could refer to rural exception sites and community-led exception sites being given great weight.

### **Market homes**

Landowners - encouraged by agents - are prone to exploiting a perceived ambiguity in the policy regarding the inclusion of market housing in rural exception sites. One simple way to address this would be, through an NPPF policy, guidance or an NDMP, to indicate that the assumed Benchmark Land Value for rural exception sites is £10,000 per plot, or up to five times Existing Use Value, and that local planning authorities may wish to set a local benchmark informed by this.

While the NPPF recognises a proportion of market homes may be included in exception sites to make them financially viable, it doesn't recognise the role that market homes can play in securing land opportunities. Several CLTs have struck deals with landowners whereby the farmer gets to build/receive a couple of homes for their family alongside the affordable homes.

So in Annex 2, glossary, add: "Rural exception sites:... for example where essential to enable the delivery of affordable units without grant funding *or where landowners need to be incentivised by providing them with a dwelling or plot without compromising or adding to the cost of the provision of affordable housing.* "

We would support proposals for an exception site 'planning passport', which could separate the principle of development in terms of location, size and tenure mix, from later detailed matters. This could reduce risks and costs for the applicant and planning authority, both barriers to small-scale rural development.

We also support calls for a National Development Management Policy for Rural Exception Sites. Recent research found they are only being used in one in six rural planning authorities<sup>2</sup>, and a national policy drawing on best practice could increase its use by a range of providers including community-led developers.

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<https://www.ucl.ac.uk/news/2024/feb/only-one-six-rural-councils-made-use-affordable-housing-option>

**Question 56:** Do you agree with these changes? [to the definition of community-led development and the size cap for community-led exception sites]

Yes.

### **Definition of Community-Led Development**

On the definition, we would propose the following further amendments:

Community-led developments: A development ~~instigated and~~ taken forward by ~~or with~~ [1] a not-for-profit organisation set up and that is primarily for the purpose of meeting the ~~housing~~ social, economic or environmental [2] needs of its members and/or [3] the wider local community, rather than being a primarily commercial enterprise. The organisation is created, managed and democratically controlled by its members. It may take any one of various legal forms including a community land trust, housing co-operative and community benefit society. Membership of the organisation is open to all beneficiaries ~~and prospective beneficiaries~~ [4] of that organisation. The organisation should own, manage or steward the homes in a manner consistent with its purpose, for example through a mutually supported arrangement with a Registered Provider of Social Housing. The benefits of the development to the specified community should be clearly defined and consideration given to how these benefits can be protected over time, including in the event of the organisation being wound up.

[1] This reflects cases where a development is instigated by another party - typically a landowner, private developer, housing association or council - and a community-led organisation becomes involved as a partner. The community-led component could be the whole development, or a portion. For example, Kennett Garden Village is a community-led development of 500 homes, in which a CLT has been a partner from the early stages of masterplanning and will own 60 homes and all the open space and amenities, but it could be said that it was instigated initially by the private landowner and local authority.

[2] Community led developments aren't always exclusively for housing, and organisations often have a wider set of purposes. For example, Calder Valley CLT is currently pursuing the development of an enterprise centre with 23 affordable office units and 19 affordable homes. This amendment is particularly helpful in relation to the community led exception site policy in providing a further distinction between those and rural exception sites, which are purely for housing.

[3] We support this proposal from the UK Cohousing Network which clarifies that not all community-led housing groups have meeting the wider needs of a local community as

their primary aim. Groups may form to meet their own needs, and may or may not have additional vacancies for first occupants to meet the needs of the wider community local to that site.

[4] We support this proposal from the UK Cohousing Network which clarifies that, for most cohousing communities (and housing co-operatives), prospective residents are not able to join as members on the same terms as current residents and cannot comprise a majority that takes control of the organisation.

### **Community-led exception sites**

On the size cap for community-led exception sites in footnote 39, we support this proposed amendment as an improvement on the existing text. A number of community-led developments exceed the current cap, particularly when providing new publicly accessible open space or meeting high housing pressures in the local area. However, we would prefer for the NPPF to take a more flexible approach not requiring a specific limit to be set in a development plan. We propose that footnote 39 be deleted, leaving the local planning authority to determine through policy or decisions whether an application is 'proportionate in size'. Local policy could clarify this, and the application of the exception site 'planning passport' could further reduce cost in risk in testing the principle of a particular application.

We would also ask that paragraph 74b to apply the policy to land within settlements as well as adjacent to them. Paragraphs 70 and 73 already make general provision for the allocation of small sites, and decisions on windfall sites, both within and adjacent to settlements. The requirement in paragraph 74b to not compromise protections for important assets apply equally within and adjacent to settlements - to AONB landscape and open spaces within urban areas, and so on.

There is no reason why the policy should be any more of a threat or problem within or adjacent to settlements. But there is good reason to think the opportunities apply in both cases. Indeed, in its response to the previous consultation in December 2023 the Government stated that the policy was introduced to 'address the concerns of respondents who felt that it should be more straightforward for community groups to bring forward affordable housing in urban areas'<sup>3</sup>. Community-led development of infill

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<https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy/outcome/government-response-to-the-levelling-up-and-regeneration-bill-reforms-to-national-planning-policy-consultation#chapter-5--a-planning-system-for-communities>

sites has proven capable of increasing supply on land such as disused garages, poor quality open space, intensifying existing buildings, and back gardens. In all cases potentially controversial development has been designed with, and led by, local people. But despite paragraphs 70 and 73 these sites still carry considerable planning risk, and it can be challenging to acquire sites at a cost that makes affordable housing viable. The purpose of the community-led exception site is to give weight to proposals that come from the community and that will meet local needs, and to permit development that would not normally be permitted outside of a site allocation. In so doing, similar to rural exception sites, it can help bring land forward at a lower value, compatible with achieving - for example - a higher number of social rent properties with less grant. It also reduces planning risk and cost, and so improves access to finance; these three factors are critical barriers for undercapitalised community-led developers.

As it stands, despite the government's statement, the current policy does nothing to make it more straightforward for community groups to bring forward affordable housing in urban areas.

### **NDMP for Community-Led Development/CLES**

We think a National Development Management Policy for community-led exception sites would be beneficial. It could expand upon these points. It could also provide guidance on the circumstances when sites would be suitable for a community-led exception site and not for a rural exception site, protecting the latter as a vital source of affordable housing for rural communities. For example, in the Government's response to the previous consultation in December 2023 it stated that in the context of this policy 'we recognise that the development may include other supporting land uses', but this is not explicit in the NPPF text. A NDMP could expand upon the range of land uses that may be supported through a community-led exception site, which would may lead to circumstances where a rural exception site would not be a suitable policy mechanism.

We propose that one or more NDMPs could clarify the relationship between exception site types as follows:

- RES = sites adjacent to or within rural settlements, assumed to be 100% affordable with provision for some market housing where this is needed to make the scheme financially viable.
- CLEs = in a rural context, sites that provide broader proposals to meet communities' needs including non-housing assets that would not qualify as a RES; and in an urban context, other sites adjacent to larger settlements and within settlements.



This distinction would be further aided by amendment [2] to the definition of community led development.

**Question 57:** Do you have views on whether the definition of 'affordable housing for rent' in the Framework glossary should be amended? If so, what changes would you recommend?

Yes.

We propose to remove the implication that only Registered Providers can provide forms of affordable rent, or social rent, housing.

The NPPF was changed in 2018 to define affordable housing for rent as being provided by a landlord that is a registered provider.

We understand and fully support the Government's drive to improve the regulation and oversight of affordable housing for rent, and agree that in the main providers should be registered with the Regulator of Social Housing. But unregistered landlords have long provided an important service, and local authorities have been minded to grant planning permissions and offer capital grants where they deem the provider meets an appropriate threshold.

Registering with the regulator is an onerous, time consuming and expensive process for very small, volunteer-run organisations, especially those just starting up. The annual fee, now at £600, can also be prohibitive for organisations developing a very small number of homes. One CLT began with two homes, which means it has to collect £300 from each tenant to cover the fee. We have raised this issue but the regulator declined to make any accommodation. The regulatory system is simply not set up for micro-sized providers like these. It is a particular issue for start-ups, and in small rural communities where locally-rooted providers are unlikely to ever develop a stock larger than 10 or 20 homes.

The timing of the registration system, and of planning decisions, can also create a catch-22 situation. The regulator requires that new registrants are 'intending providers', and states in its guidance: 'the regulator would not expect to register an applicant if their business plan forecast shows a period of longer than 12 months after registration

before the applicant will become a provider of social housing.<sup>4</sup> It is extremely unlikely that a CLH group could apply for and obtain a planning consent and then start and complete the construction within 12 months of registration. So it is very unlikely that a group working on its first project could present to a planning authority as an RP, only as one part-way through the application process. Planning authorities may take the view that this is insufficient, given the risk that the application is rejected. Indeed, this situation has recently arisen with a new housing co-operative, Gida, which was set up to take 58 homes on a large scheme in Haringey developed by Peabody.

Local planning authorities have previously permitted non-registered landlords to qualify, either on a case-by-case basis or with reference to a local policy with appropriate tests. For example:

- Leeds City Council accepted a number of community organisations onto its affordable housing list as long as they have been approved in writing by the Chief Planning Officer, who would test they are financially robust, committed to future investment in the city, can protect affordability in perpetuity, and have satisfactory management in place. This has included Leeds Community Homes, a CLT that was taking 19 affordable homes as part of the s106 agreement with a private developer.
- Scarborough Borough Council recognises non-Registered Providers such as independent local charitable trusts in their 2022 Affordable Housing SPD, whereby they expect equivalent arrangements to affordable housing as provided by a Registered Provider, giving Almshouses as an example.
- Glendale Gateway Trust, a CLT in Northumberland, developed and managed 4 homes while unregistered. This developed the organisation's capacity, expertise, policies and procedures which put it in a good position to later register with the regulator ahead of developing a further 18 using Homes England funding.
- Seavingtons CLT in Somerset was gifted 3 homes for rent by a local landowner developing homes on his land and uses a local managing agent to look after the properties and tenants. It has no further development plans and very little capacity to engage with the registration process.
- Not a planning matter, but Bristol City Council will provide capital grants to non-registered providers subject to their meeting some Management and

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<https://www.gov.uk/government/publications/register-and-de-register-as-a-provider-of-social-housing/guidance-for-new-entrants-on-applying-for-registration-as-a-provider-of-social-housing#intending-providers>

Governance standards. These are based on the RSH's 7 standards but with a lighter touch and an emphasis on self-certification.

There are more projects like those above in the works that are being hindered by the NPPF's definition.

To maintain the spirit of the current policy, but provide planning authorities the leeway to exercise their judgement, we propose, in Annex 2, glossary, to add: "the landlord is a registered provider *or other provider deemed appropriate by the local planning authority*"

**Question 58:** Do you have views on why insufficient small sites are being allocated, and on ways in which the small site policy in the NPPF should be strengthened?

Yes. Our research and experience, and the conclusions of the Competition and Markets Authority, suggest a number of factors from the point of view of the local planning authority:

1. Resources. Capacity is strained in LPAs already, and the amount of work involved is a barrier. The LPA needs to identify the sites, establish ownership, study technical constraints and opportunities, consult and then process the significant volume of public comments, and then defend them in the local plan examination. It is easier to do this with fewer, larger sites. This can be mitigated by effective partnership working with local or regional SME forums, but this depends on landowners and developers having the time to engage in this way without knowing if it will result in new site opportunities.
2. Politics. Consulting on dozens of small sites can also ignite more local opposition if there is no groundwork to voice - other than the planner's - through the call for sites and allocation process advocating for community needs around each site.
3. Affordable housing. There is less incentive to allocate sites with fewer than 10 homes, where there is no obligation to provide affordable housing, and small sites above 10 homes may still not generate enough value to provide much affordable housing without grant. This has been a growing problem in recent years owing to tough market conditions, and exacerbated by the withdrawal of increasing numbers of Registered Providers from the market for small numbers of s106 homes.

4. Policing. It is too easy for developers and master developers to circumvent the intention of the policy for subdivision, as the Letwin Review observed. For example, we have heard cases of plots being marketed to SMEs for self and custom build in locations and at prices that make them unviable; upon receiving no bids, they negotiate away the requirement with the LPA.
5. Reporting. There is no regular reporting of performance, and no reliable local or national data on the proportion of development coming forward from SMEs and on small and medium sites.
6. Definitions. LPAs can interpret it as 10% of sites, which has a diminished effect compared to 10% of homes being delivered on small sites. The phrasing '10% of their housing requirement' is not sufficiently clear. There is also uncertainty around precisely what constitutes a 'medium' site, and inconsistency in paragraph 71 which talks of small and medium sites, but in sub-paragraph (b) only refers to small sites.

Taken together, these point to a lack of gain relative to the work and the political controversy involved. Windfalls soak up a degree of pressure, but come with added planning risk for the applicant.

We believe community-led development could address some of these issues. Communities have proven adept at identifying sites and winning local support, including in sensitive locations such as urban open space, back gardens and garages. They have delivered high levels of affordable housing, and been able to step in to pick up s106 homes in some cases where RPs showed no interest (something that would be helped by amending the glossary definition, as noted under question 57).

There are also barriers for applicants in taking forward small sites, which add to the reluctance of local planning authorities in investing resources into allocating them. The Competition and Markets Authority concluded that the length and uncertainty of the planning process, and the complexity, cost and information requirements, were significant barriers for SMEs. Our evidence submission echoed this. We pointed out that raising the £10k per home cost is extremely difficult in a discretionary system beset by delays, and especially when you are applying on windfall sites. It is no accident that a disproportionate share of our pipeline has come through rural exception sites, and hopefully in future through community-led exception sites following the success in East Cambridgeshire.

We would also note that SMEs already account for around 10% of the market<sup>5</sup>, and so if the policy is intended to drive diversification then it ought to be higher.

We therefore suggest the following reforms:

1. Require that 10% is a baseline, consider raising it to 20%, and require that LPAs introduce higher targets where evidence supports it.
2. Clarify that the percentage requirement relates to the number of homes, not the number of sites.
3. Redefine small sites as those achieving up to 100 homes, rather than 1ha in size, as recommended by the Land, Planning and Development Federation to the CMA.
4. Adopt the Letwin Review's recommendations relating to the subdivision of large sites, with limited primary and secondary legislation via the forthcoming Planning and Infrastructure Bill to complement changes to the NPPF which require each phase of development on large sites to meet a range of needs with diversification as an explicit objective. This should include allocations of homes for community-led development as well as self and custom build homes where it can be shown there is demand.
5. Require LPAs to report on performance, including allocations, applications and decisions, and - in the context of the presumption in favour of sustainable development - consider giving additional weight to applications on small sites where LPAs are failing to meet the 10% (or higher) target.
6. Introduce a policy for Community Priority Projects. These would allow local people to propose a site/area allocation in the local plan for specific developments or services that have a spatial dimension - for example, community centres, community shops, workspaces, housing, heritage buildings and so on. They would be ring-fenced for community-led development. They would mitigate the barriers relating to resources, local politics and affordable housing, and be significantly less resource intensive than the process of allocating such sites through a Neighbourhood Plan.

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<sup>5</sup> <https://commonslibrary.parliament.uk/research-briefings/cdp-2023-0100/>

7. Amend paragraph 72 to require that neighbourhood plans allocate small sites suitable for housing to meet local needs, and indicate that some may be ringfenced for community-led development where it can be shown there is demand and this is viable, as an inducement for communities to support more local development.

We would also suggest that it may ultimately be unlikely - given the above barriers - that LPAs will allocate significant numbers of small sites. We therefore think the government should consider how more certainty could be given to windfalls. For example, Section 15F of the Levelling Up and Regeneration Act (Design code for whole area) could be used to require councils to include area wide small site allocations of land where the principle of development is acceptable (this is the system in many other countries), avoiding Councils having to flesh out specific sites and waste precious resources with limited return. Some LPAs have created supplementary planning documents to do something similar, giving more clarity - for example - as to the kinds of urban and suburban infill development that will be permitted.

**Question 78:** In what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation?

By promoting community-led development.

The Government is backing the potential of community-owned energy. The Labour Party's 'Local Power Plan' noted that community ownership can strengthen local support for new energy infrastructure, and unlock revenue to fund further local economic and climate activity. This logic can be extended to other kinds of land use considered by the planning system.

There is a growing evidence base that community-led housing achieves high standards of energy efficiency<sup>6</sup>, promotes a circular approach to the built environment<sup>7</sup> and

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[https://www.communitylandtrusts.org.uk/wp-content/uploads/2021/11/Leading\\_to\\_Net\\_Zero.pdf](https://www.communitylandtrusts.org.uk/wp-content/uploads/2021/11/Leading_to_Net_Zero.pdf)

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<https://www.circularbuildingscoalition.org/blueprint-projects/and-the-people-x-european-community-land-trust-network>

promotes sustainable lifestyles with lower carbon emissions<sup>8</sup>. Many community-led developments incorporate non-housing assets such as renewable energy, laundries and shared workspace, and aim to reduce car usage and the amount of land used for car parking while supporting sustainable modes of travel with car and bike clubs.

Community-led housing organisations also build capacity and resilience within their communities to adapt. For example, when Lancaster Cohousing designed its homes on the bank of the River Lune it chose to take a more cautious view of future flood risk. But after severe flooding in the region came to their doorsteps, they mobilised to create an emergency response plan and consider future adaptations to reduce risk. Had this been a private estate there would be no social organisation, no bank account and resources and relationships, to mobilise.

Community-led development can do more to address climate change mitigation and adaptation when pursued independently. It can also 'inject' these features into mainstream development through partnership. For example, the aforementioned Kennet Garden Village is being developed through a partnership between the landowner, the district council's housing company, Bellway Home and Kennett CLT. The latter will own and steward all the open space including SUDSs and habitats, bringing those benefits of social organisation and the prioritisation of sustainability to those tasks.

We are currently exploring this in relation to water, and 'water smart communities', through an Ofwat-funded innovation project led by three water companies<sup>9</sup>. One of three thematic priorities is exploring how community-led stewardship of water assets can better address the challenges including those posed by climate change.

A more expansive and ambitious version of the community-led exception site could provide a clear route for communities to pursue mixed-asset developments that meet these challenges.

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<sup>8</sup> <https://www.consciouscoliving.com/research-sustainable-coliving-cohousing/>

<sup>9</sup> <https://www.ewsc.org.uk/>