



## National Issues Affecting Brownfield Development / Contaminated Land Remediation

Dr Richard Boyle, Brownfield Technical Consultant

Brownfield Team, Design & Sustainability  
Homes and Communities Agency

*East Land Quality Forum*  
John Clare Theatre, Peterborough  
Thursday 30<sup>th</sup> September 2010

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## Outline



- Issue 1: The Economy
  - Private Sector
  - Public Sector
- Issue 2: Contaminated Land Regime
  - Part IIA Statutory Guidance
  - Soil Framework Directive
- Issue 3: Planning Regime
- Issue 4: Localism Agenda
- Issue 5: Removal of 'Unnecessary' Regulations

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## What Is The Homes And Communities Agency?



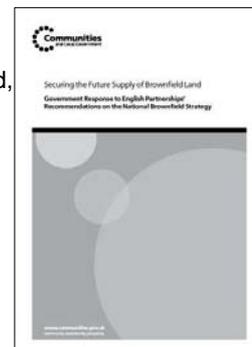
- HCA operational from 1<sup>st</sup> December 2008; more than just a merger:
  - Numerous functions from Department of Communities & Local Government
  - English Partnerships
  - Housing Corporation
  - Academy for Sustainable Communities
- “National Housing and Regeneration Agency”, with vision is about creating an opportunity:
  - *“For people to live in homes they can afford, in places where they want to live; and*
  - *For local authorities and communities to deliver the ambition they have for their own area”*
- Approximately £5.5BN per year to spend on housing and regeneration
  - Money can be used for a wide variety of purposes, at a wide variety of times
  - Have the power to *“do anything it considers appropriate for the purposes of its Objects or for purposes incidental to those purposes”*
- Largest regeneration agency in Europe by a considerable margin

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## Specific Areas Of HCA Work



- Brownfield Team
  - The Government’s Specialist Advisor on Brownfield Land and advise on all issues affecting brownfield land, including contamination
  - Interface with Government’s other land use policies
  - Aim to try to streamline the development of land
    - SuRF-UK, skills (SILC), DoW ICoP, CL:AIRE
- Development and regeneration
  - Come onto this later



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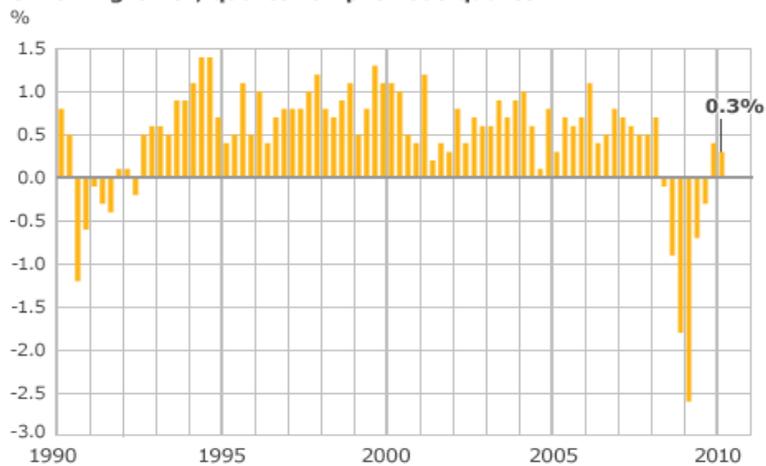
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## Recent UK Economic Activity GDP

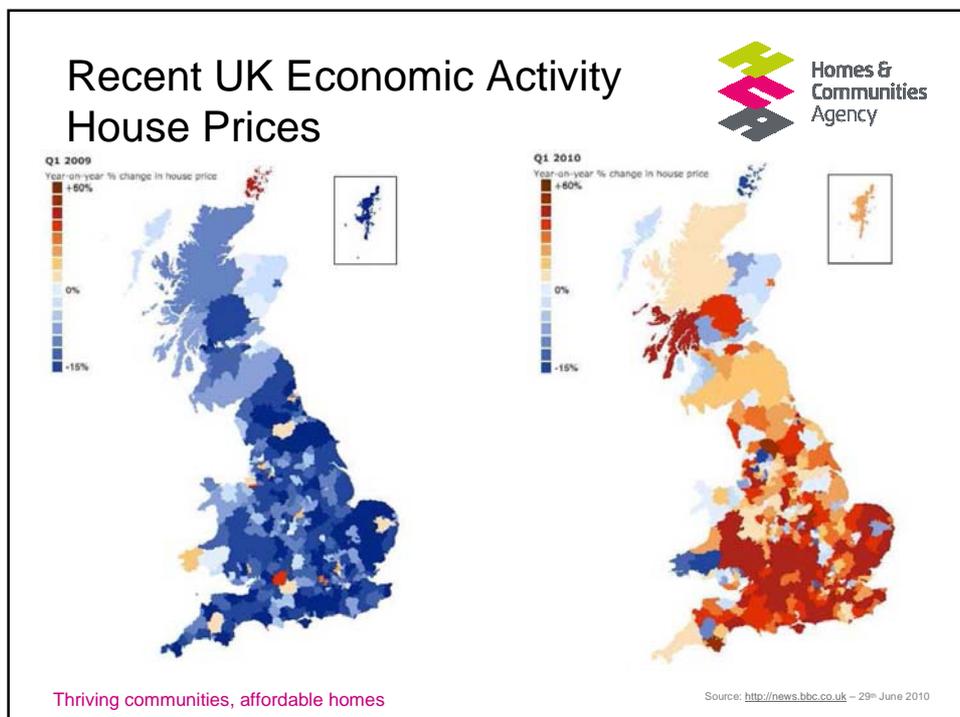
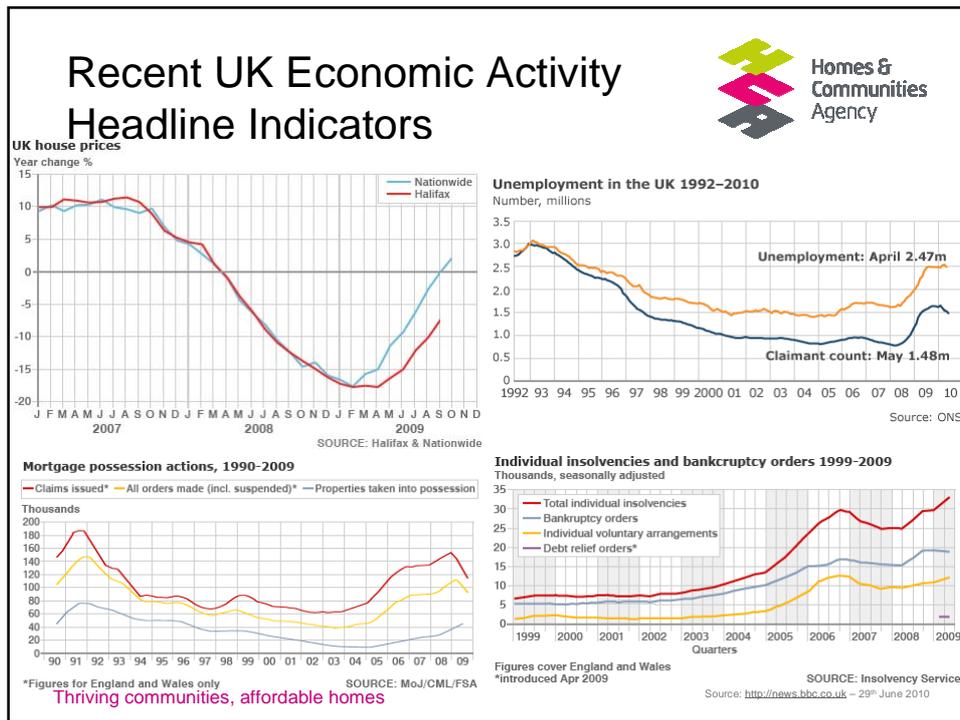


UK GDP growth, quarter on previous quarter



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Source: <http://news.bbc.co.uk> - 29<sup>th</sup> June 2010



## Effect on the Contaminated Land Industry



- Generally in 2007:
  - 60-80,000 employed
  - ~£350M sector
    - ~£1.3BN environmental consultancy market
    - Remediation reported to be ~£1BN
  - Graduates pass into sector relatively easily
  - Lots of movement between jobs and for career progression
  - Capability to move onto projects quickly
- Generally in 2009:
  - 45-65,000 employed (20-25% cuts)
    - Still on going redundancies, partially mitigated by short-time working, pay cuts, wage restraint or pay review deferrals
  - ~£100M sector
    - ~£0.9BN environmental consultancy market
    - Remediation £?BN
  - Lack of employment of new graduates
  - Little movement of staff (fear?)
  - Slow to be able to respond?
- However, some businesses have grasped the opportunity and expanded/employed people

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## Effect on the Development Industry



- Generally in 2007:
  - Total 175,000 residential units, highest since 1990 (163,000)
  - 77% brownfield average
  - 43 units/hectare
  - Speculative purchasing and sales off-plan
  - Flats common
- Generally in 2009:
  - Total 118,000 residential units, down by 38% (private down 42%)
  - 80% brownfield
  - 45 units/hectares
  - "Sell one, build one"
  - Few flats
  - Developments "mothballed"



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## HCA Intervention



- Development and regeneration
  - Regenerated 377Ha of brownfield land last year
    - Mainly in the most deprived areas of England
  - Started building 90,000 houses in last 9 months
    - Mainly in the most deprived areas of England
  - We are somehow involved in the majority of developments in England and, in some places, have been the only 'developer' operating



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## The Future of the Public Sector



- It's all change! And it's going to be smaller
  - Comprehensive Spending Review – 20<sup>th</sup> October 2010
  - Announce what each area of government has for next 4 years
    - Implications won't really be apparent until Christmas 2010
    - Most organisations told to plan for 25%, 40% or 50% cuts
  - Aim to reduce Government Dept – currently ~£960BN (~75% GDP)
    - Predicted spend £697BN in 2009/10, with £149BN borrowed
    - Not the aim to save these amounts – just 'structural deficit' of 'only' £86BN!
      - The 'cyclical deficit' should naturally be paid off with improving economy
    - Tax rises to cover ~1/4 whilst cuts ~3/4
- Is this a good thing?
  - Unknown – Ireland just re-entered recession, apparently as a result of similar percentage cuts, but they were arguably in a worse state of affairs
  - Market has responded well to all announcements
  - So has the International Monetary Fund (IMF) who have called it "essential" and predicted UK growth even with cuts of 2% in 2011, rising to 2.5% in the medium term

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## The Future of the Public Sector Departments



- Total predicted Government spend £697BN in 2009/10
- Total Departmental budget ~£387.8BN
- Likely outcomes for Departments
  - Protected:
    - Department of Health ~£106.4BN, mostly NHS, although 'efficiency savings' must be made of ~£20BN by 2014 to offset rising costs
    - Overseas Aid ~£7.7BN
  - Rest much smaller, most important for this sector:
    - BIS £21.2BN annual budget, unknown cuts
    - CLG £33.6BN annual budget, first to agree cuts, apparently ~30% on housing, regeneration and associated revenue (staff) costs. Not programme costs or budget to Local Authorities, RDAs, etc as these affected by other Dept's
    - DEFRA £2.9BN annual budget, apparently also agreed, unknown cuts
      - CL Capital Grants down from £17M to £10M, review next year (~£7M?), un-ring-fenced and transferred to EA.

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## The Future of the Public Sector NDPB



- Likely outcomes for Non-Departmental Public Body (NDPB)
  - Quango's (Quasi-Autonomous Non-Governmental Organisation)
    - Some 925-1,150, depending on sources
  - Homes and Communities Agency
    - Expected staff cuts of 30-40%. Similar in programme expenditure. London transferred to Mayor 2012 (?). Loss of £1.1BN already.
    - Difficult to predict, but referred to as "the people to go to when you want to get something done" by MP's
    - "Investment and enabling agency"
  - Regional Development Agencies
    - Severe cuts and some will go entirely – southern ones? Done by 2012.
    - Where will money and land go? Offer opportunities, but also liabilities. Local Enterprise Partnerships (LEPS) to replace some functions. Some things transferred to Local Authorities, others nationalised



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## The Future of the Public Sector NDPB



- Likely outcomes for Non-Departmental Public Body (NDPB)
  - Health Protection Agency
    - Scrapped.
    - Saved functions transferred back into Dept or into 'Public Health Body' by 2012 – but what?
  - Environment Agency
    - Unknown future, but all DEFRA ministers have agricultural background!
    - Likely to be significantly smaller, merge with Natural England?
    - What will they have as their priorities?
      - Unlikely to be CL?
        - » CLEA team seconded back until ~March 2011
        - » Now has complete control over assessment and allocation of CL Capital Grants
    - Likely to protect flooding?
    - Push 'Better Regulation' to save costs?
      - DoW ICOP has shown industry can be trusted

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## Outline



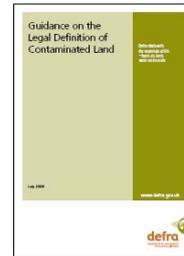
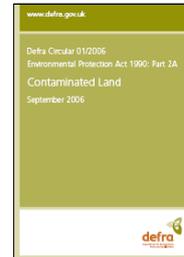
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## Part IIA Statutory Guidance



- Assists in understanding the legislation so that “holders” can abide by the law, whilst regulators can bring prosecutions:
  - DEFRA Circular 01/2006 introduced radioactivity
- Not terribly clear, so “clarification documents” issued:
  - “Guidance on the Legal Definition of Contaminated Land” (July 2008)
  - “Guidance on Making Decisions under Part IIA of the Environmental Protection Act 1990”
    - Due early 2010, but postponed due to announcement to review the Statutory Guidance

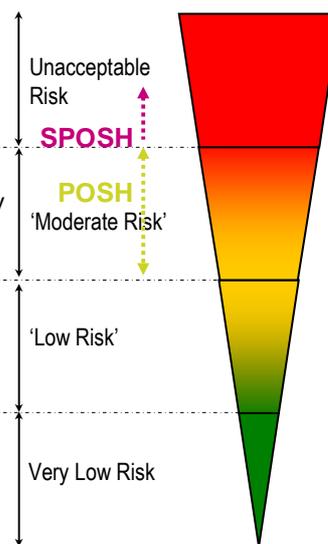


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## Part IIA Statutory Guidance



- Proposals:
  - Fundamental re-write and shorten (~200 pages to ~70)
  - Reminder that regime was designed:
    - To target the worst land
    - As last resort, when all else fails / is unlikely
  - Introduce 4 “categories” of land:
    - Obviously so CL ← 2 x Unsure if CL
    - Obviously not CL
  - POSH seen as defining point
  - Short, non-technical plain-English risk outline
  - ‘Background’ contamination
  - CW significance outlined
  - Possible to ‘un-Determine’ sites
  - Split out radioactivity?



- Consultation - Nov 2010, issue Spring 2011

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## EU Issues



- Soil Framework Directive
  - Last of seven Thematic Strategies in accordance with 6th Environmental Action Programme
  - By far the most difficult to implement
  - Considers 7 factors:
    - Threats to soil:
      - Erosion, compaction, landslides, organic matter decline, salinisation and sealing
    - Threats from soil
      - Contamination
  - Blocking Minority still stands
    - Austria, France, Germany, Netherlands and UK
  - What are the “Stumbling blocks”?
    - Not just CL issues, but affects development and especially seen as having significant impacts to agriculture
    - Soil argued as not being a cross-boundary issue, so why EU ‘interfere’?

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## EU Issues



- Soil Framework Directive
  - What are the “stumbling blocks”?
    - Lots of new Directives, some have a lot of overlap (water, waste, mining, environmental liability). Not settled in, so how will they work?
    - Short time periods and very unclear/woolly
    - Very expensive
      - Pay for the newer member states do to the work, so effectively pay for more than your problem
  - Belgium Presidency until 31/12/2010
    - Pro-SFD, but not progressed anything, but lots of discussion to try to build consensus
  - Future?
    - Hungarian and Polish Presidencies in 2011
      - Pro-SFD, but considered unlikely to progress as have wider issues
    - Wait to see how other Directives settle in and if SFD is needed
    - Split out into two SFDs?
      - Threats TO and FROM soil?
    - Growing consensus that soil is a local or national issue, so it is not right that EU should consider it

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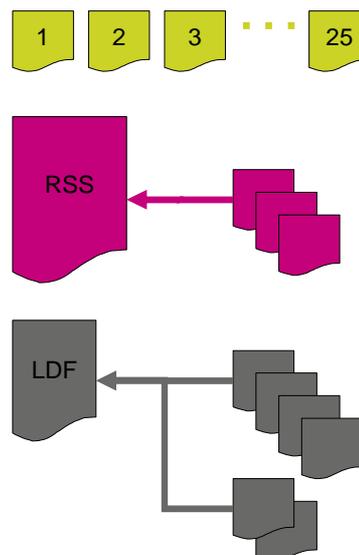
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## Planning Regime



- Central Government
  - PPS/PPG
  - Policies
- Government Office for the Regions
  - Regional Spatial Strategy
  - Evidence base
- Local Planning Authority
  - Local Development Framework (Core Strategy)
  - Evidence base
    - SHLAA, ELR, OSR, etc
    - Retained policies
- Planning Applications



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## Planning Regime



- Most contaminated land assessed and remediated through Planning Regime
- Seen as very cumbersome, slow and has been subject to Central Government 'bullying'
- 'Radical' changes:
  - Infrastructure Planning Commission – Scrapped by 2012
    - Forward planning issues for infrastructure of 'national importance'
  - Central Government targets – Scrapped with immediate effect
    - e.g. 3M new houses by 2020, 2M by 2016
  - Regional Spatial Strategies – Scrapped with immediate effect
    - Split national targets into regions
  - Government Offices for the Regions – Scrapped by 2012
    - Worked out how to deliver the regional targets

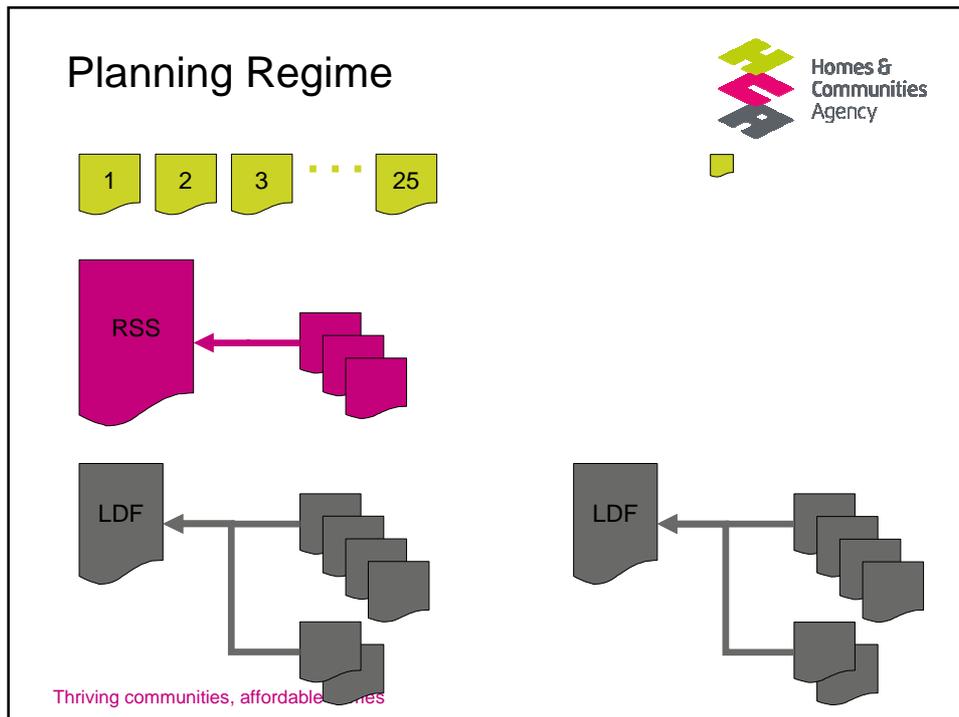
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## Planning Regime



- Central Government should offer Planning Policy, Local Government should deliver, so:
  - Withdrawal of Planning Policy Statements (PPS) and Guidance (PPG)
    - Biodiversity and Geological Conservation, PPS9
    - Flooding, PPS25
    - Contaminated Land, PPS23
  - Replace with a short overarching policy
    - None of these massively important considerations for planning
    - What space / emphasis will be given to them?
    - For contaminated land, what standard will sites have to be:
      - 'Safe' or 'Suitable for Use'?
    - If done right:
      - Pass responsibility of risks back to the developer/land owner
      - Local Authorities should only be checking done a good job, not that there are no risks
      - Raise remedial targets
      - Save money

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## Localism Agenda



- Driving force in Coalition:
  - Localism – Conservatives
  - Liberalism – Liberal Democrats
- This is ***THE*** National Vision!
- What does it mean?
  - Transfer away from Big Government to Big Society
  - If considered nationally, it is 'failing'
  - If considered at Local Authority level, it could be failing
  - Therefore, decisions taken and delivered at Parish Council or Community level?
- Will this include:
  - Contaminated land risk assessments and remedial standards?
  - Flood risk assessments?
- Localism Bill scheduled for 2012 and will probably be the largest and most wide-ranging piece of legislation to go through Parliament ever!
  - This is the one that will remove all the 'powers' from NDPBs or existence

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## Removal of 'Unnecessary' Regulations



- Consensus within Coalition that there are too many regulations / much legislation
  - Affects citizens
  - Affects, especially hampering, business, hence stifling growth
- Aim to remove unnecessary and/or, if reasonable, unliked ones
- Coalition will want to add their own regulations, but they have said that they will not increase the overall amount
- Opportunity to say what you would like to removed
- However, also very important to say what you would like kept!

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## Conclusions?



- Times are hard!
- Times are likely to remain hard!
- Things are changing!
  - Part IIA Statutory Guidance will hopefully:
    - Target the correct sites that are considered to present most risk
    - Enable faster decisions to be made
    - Enable and 're-frame' the:
  - Planning Regime, but:
    - How will Planning Regime work?
  - What does Localism mean? How will it work?
- Uncertainty in the short to medium term ... but it offers opportunities:
  - Enables industry to work together to tackle the problems where we haven't been able / allowed to in the past
  - Encourage 'Better Regulation'
- Say what regulations you don't like / consider are overly burdensome
- But don't forget to say what you do like louder!

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Thank you for Listening  
Any Questions?



Dr Richard Boyle, Brownfield Technical Consultant  
Brownfield Team, Design & Sustainability

Email: [Richard.Boyle@hca.gsx.gov.uk](mailto:Richard.Boyle@hca.gsx.gov.uk)

Telephone: 01925 644 821

Mobile: 07767 424 447

Address: Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington, WA3 7QH

Web: [http://www.homesandcommunities.co.uk/brownfield\\_land](http://www.homesandcommunities.co.uk/brownfield_land)

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# Brownfield Regeneration in Challenging Times:

# Technical Challenges

**Paul Nathanail**  
University of Nottingham &  
Land Quality Management Ltd

[paul@lqm.co.uk](mailto:paul@lqm.co.uk)

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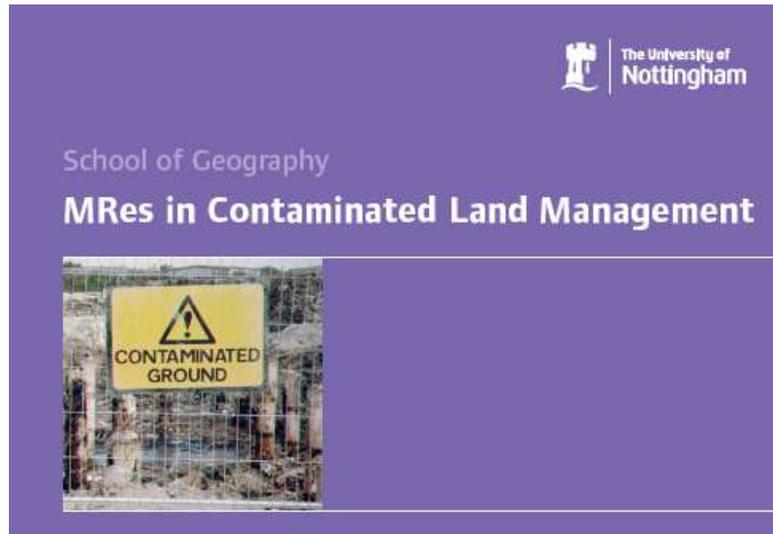
# What technical innovation would you most like to see?

- SMS 07970 843 061 with your name and suggestion

# A CLO says...

- “these are *interesting times* for all kinds of reasons, lots of different things seem to have come together, and I feel generally positive and generally optimistic that a more considered assessment of what it is we’re meant to be doing and how best to do it in terms of contaminated land, across the industry, will result”.

# Nottingham eMasters in Contaminated Land Management



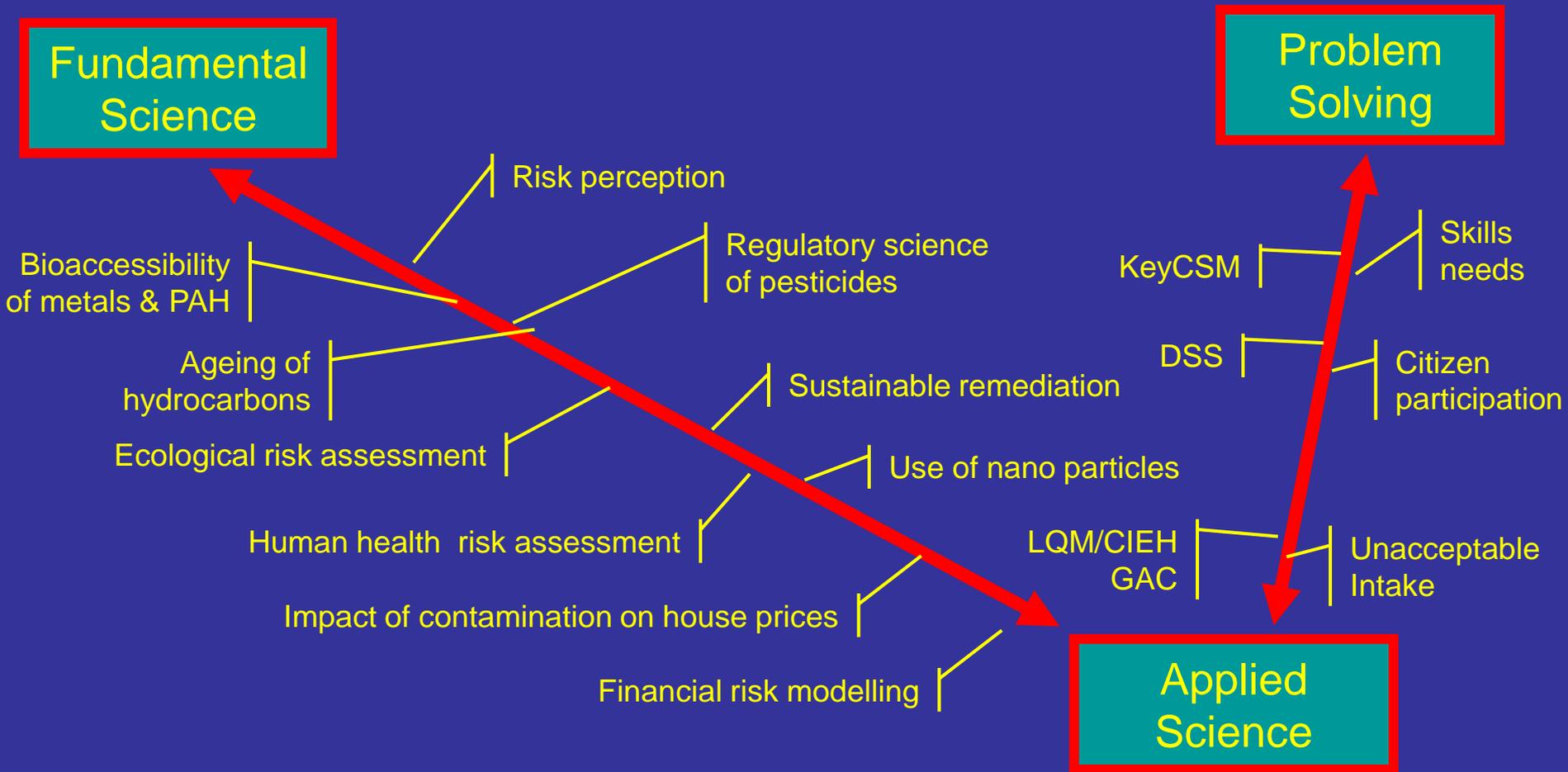
- Unique vocational masters aimed at practitioners & regulators
- Delivered totally online
- Applicable worldwide



New Orleans, 19 November 2009

Set up funded by EPSRC Integrated Graduate Development Scheme

# Technical advances: our bread and butter work



# What is a brownfield?



sites that

- have been affected by former uses of the site or surrounding land;
- are derelict or underused;
- are mainly in fully or partly developed urban areas;
- require intervention to bring them back to beneficial use; and
- may have real or perceived contamination problems.

CABERNET (2006)

[www.cabernet.org.uk](http://www.cabernet.org.uk)

**Can you spot the brownfield?**

SMS 07970 843 061

# Do we regenerate brownfields?

*“Sustainable brownfield regeneration is the management, rehabilitation and return to beneficial use of brownfields in such a manner as to ensure the attainment and continued satisfaction of human needs for present and future generations in environmentally sensitive, economically viable, institutionally robust and socially acceptable ways within the particular regional context.” (RESCUE 2005)*



# What is regeneration?

“the process of turning round deprived communities in decayed neighbourhoods” (Brown, 2003).

The town of Famagusta, Cyprus was abandoned by its ca. 60,000 residents after the Turkish invasion in 1974; it is the largest urban brownfield in Europe

# Do we regenerate brownfields?

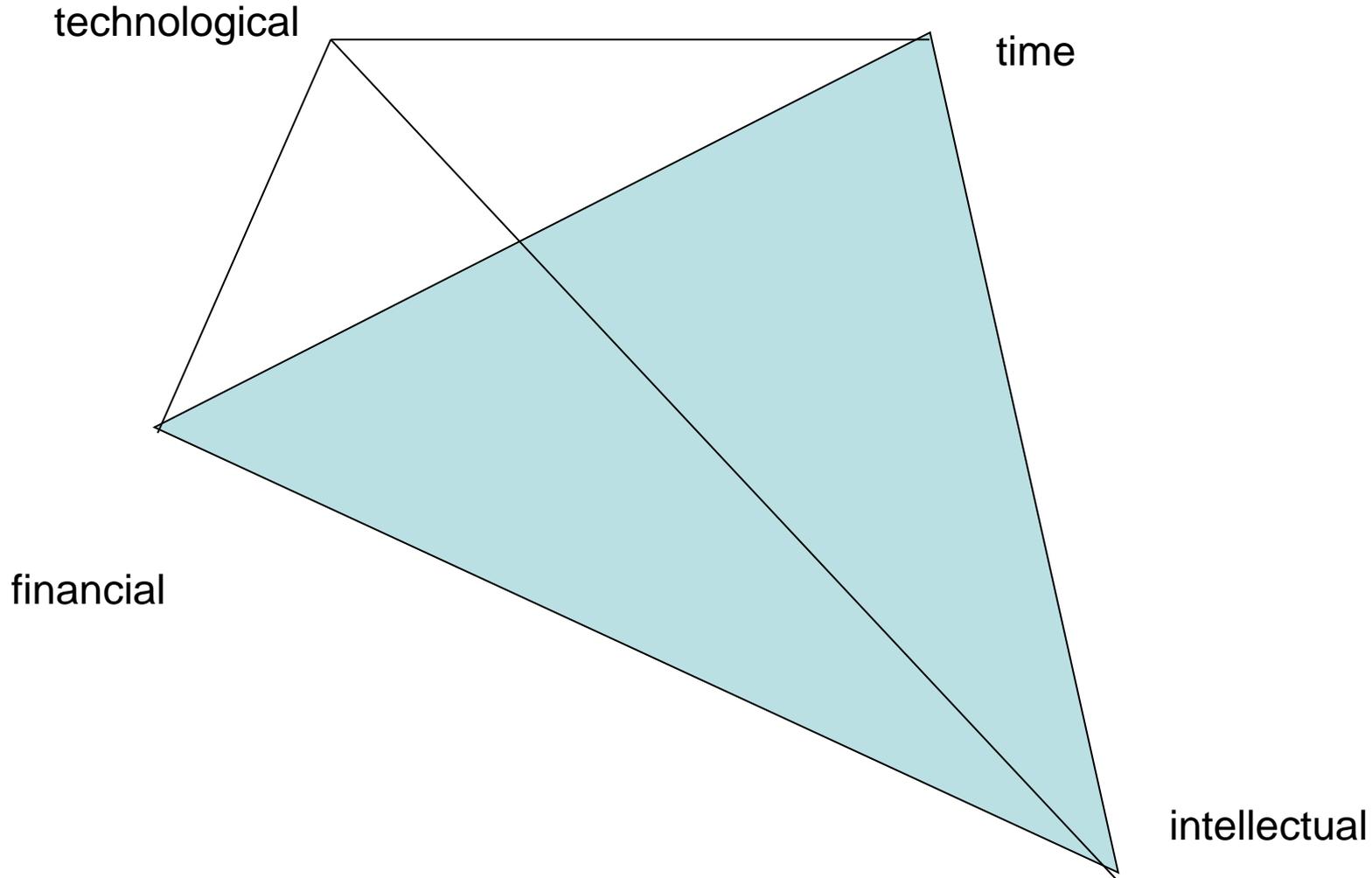
- NO!
  - *We reclaim, remediate, renovate, restore* them
  - *We revive, revitalise, reinvent [i.e. regenerate]* communities, lives, people
- A means to an end...
  - ‘Sustainable’ communities

Regeneration: “the process of turning round deprived communities in decayed neighbourhoods” (Brown, 2003).

## 7 habits of effective regeneration

1. People matter - absolutely
2. Places for people
3. Having a *shared* Vision is vital
4. There is *no I* in team
5. Build and they will come
6. Waste is a resource in the wrong place
7. Leaders serve others now and in the futures

# Technical challenges: A capital idea



# These are interesting times...

- Shrinking workforces
- Shrinking budgets
- Variable time pressures
- Less financial capital
- Less social capital
- Slower 'blue sky' technical innovation
- And yet ...

# These are interesting times...

- Faster dissemination of knowledge
- Democratisation of knowledge
- Greater mobility of staff and equipment
- Population migration
- Greater awareness of what makes for success
- A generation of experience
- Distillation and codification of 'wisdom' and empirical evidence base

# Regeneration

- Spatial planning
- Architecture
- Contaminated land management
- Engineering
- Facilities management
- Marketing, promotion, branding
- Regulation, policing

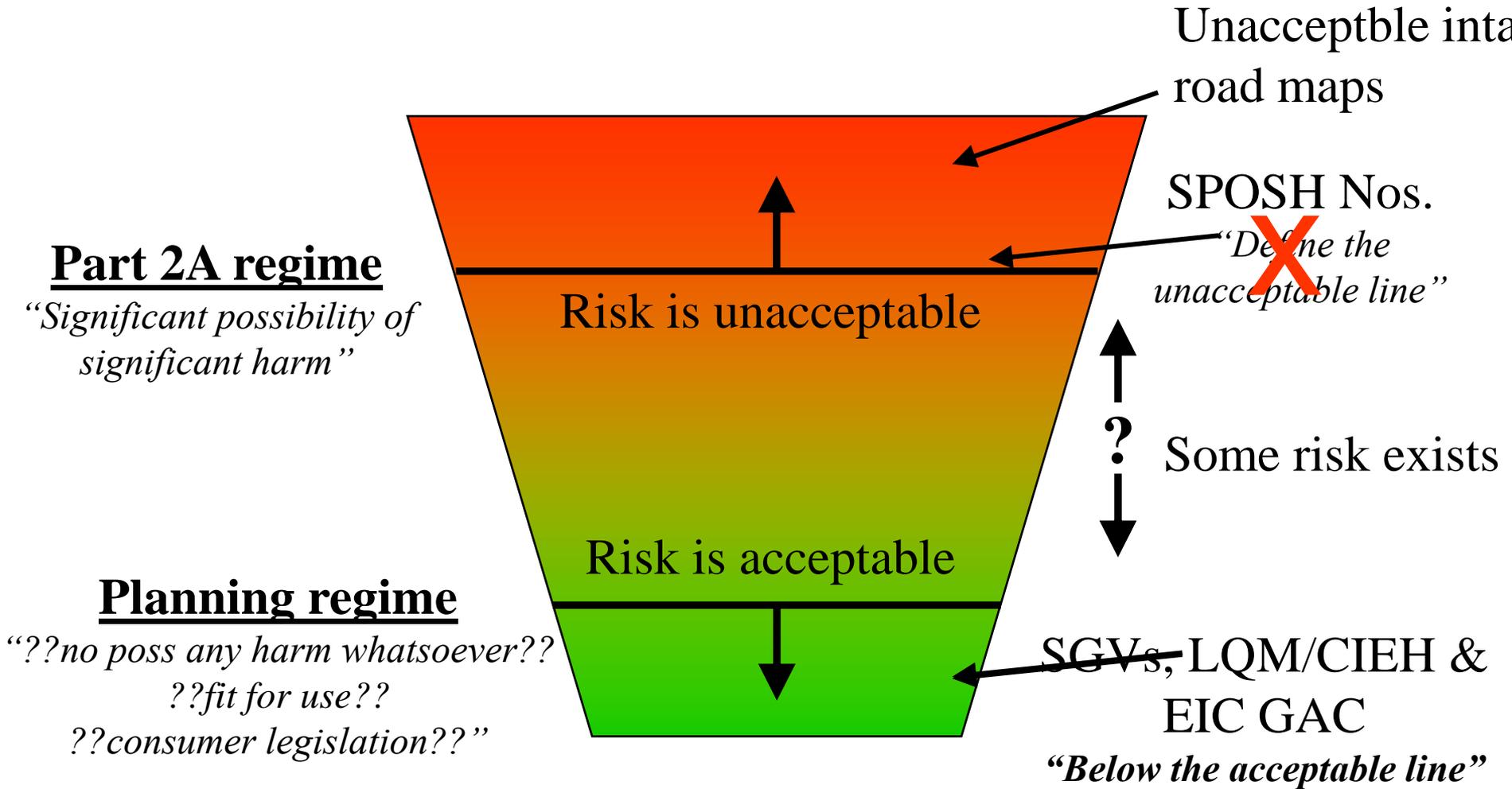
# Experts RIP

- Expert:
  - someone who knows a lot about very little
- Contaminated land:
  - Industrial processes
  - Engineering, environmental and hydro-geology
  - Environmental chemistry
  - Toxicology and epidemiology
  - Archival research
  - law

# Long live problem solvers

- What condition do I have?
  - Able to diagnose the problem
- What condition do I wish to have?
- How could I get to that condition?
  - Aware of the range of solutions
- How should I get to that condition here and now?
  - Able to prescribe, procure and deliver the 'right' solution
- Perhaps we call such people 'masters' or '*specialists*'

# Levels of risk



# Comparison against assessment criteria is an asymmetric test



Planning (PPS 23)  
Developer has to prove site is safe,  
fit for use and as a minimum cannot be  
determined under Part 2A



Part 2A Environmental Protection Act  
(SPOSH)  
Local Authority has to prove significant  
possibility of significant harm



“The best solution is **remediation** that eliminates and/or controls unacceptable risks in a safe and timely manner, and which maximises the overall **environmental**, **social** and **economic** benefits of the remediation work.

We call this sustainable remediation”

**SURF-UK, 2010**

# Minimising uncertainty

**Spatial variability is REAL and needs to be understood;  
cannot be minimised**

- Better desk studies:
- Better site investigations:
- Better conceptual modelling

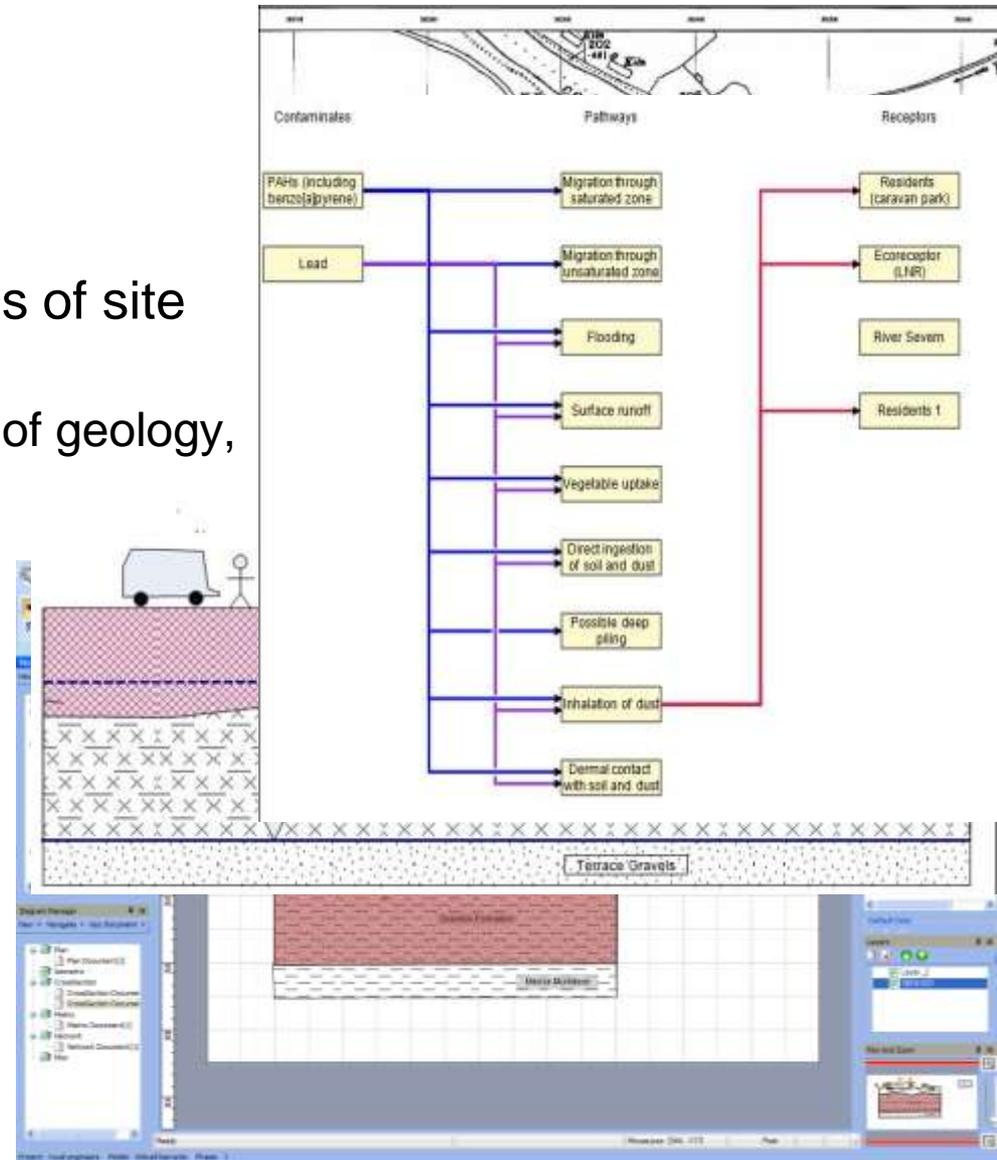
*NB Better = fitter for purpose*

# So where will technology help us?

- By better understanding of the problems
- By better use of existing information
- By better integration of existing experiences
- Better prioritisation of research: key contaminants, parameters, sensors
- Better characterisation
- Better monitoring of site and remediation
- Better targeting of intervention

# A good conceptual site model should comprise...

- Graphics to understand 4D features of site
  - plan (top down view of the site),
  - cross section (vertical distribution of geology, water table, NAPL, plumes)
  - Changes with time
- Topological representations of pollutant linkages
  - Matrix diagram
  - network diagrams
  - show how sources, pathways and receptors are topologically related
- tabulated or free form text
  - details site history and geology



# A petrol retail station in Bramcote (About 400m from my home)

Microsoft Excel - SRT\_rev2

File Edit View Insert Format Tools Data Window Help

Type a question for help

**SOIL/SOURCE RESULTS**

Instructions:

- Enter your data here.
- Use this default value or override with *your own*.
- Calculated value. You cannot change this.

Recommended flow:

Main → Input → Technology → Results

Show Inputs << (Last Screen)

\* Normalize metrics to see more, go back to Inputs to adjust & compare, (Gt) or (t).

**Non-normalized**  
*Calculations in natural units*

Carbon Dioxide Emissions to Atmosphere

tons CO<sub>2</sub> lbs CO<sub>2</sub> per lb

Excavation		
SVE	240	42
Thermal	410	72

\* See SRT v.2 Known Issues

Normalize?  Yes  No

Check Data for Soil & Soil Technologies

WARNING: User inputs are needed to complete the calculations. Technologies are listed below. Tabs requiring attention are marked with an "X". Go to the appropriate tab and add or adjust data if you would like to complete the calculations for that technology. If the inputs remain unchanged, the SRT will display a dash ("-") where the tool is unable to calculate a value.

Re-check, after updating SRT tabs

Tab Name	InputSoil	Technology Design*
Excavation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Soil Vapor Extraction	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Thermal Treatment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Note: No SVE calculation if depth to groundwater < 3 feet or soil type is Clay.

Note: Thermal Treatment module displays "X"s because it is disabled.

\*Excavation = EXDesign tab; Soil Vapor Extraction = SVDesign tab; Thermal Treatment = Thermal Design.

Technology Cost		
dollars	dollars per lb contam	lost hours
80,000	7.3	
140,000	12	0

**SRT**

MainScreen / InputSoil / EXDesign / SVDesign / ThermalDesign / **OutputSoil** / InputGW / PTDesign / EBDesign / ISCODesign / PRBDesign / MNADesign / OutputGW

Ready

18:16  
22/05/2010

# Cornerstone Church, former MFI site, Castle Boulevard, Nottingham

Microsoft Excel - SRT\_rev2 cornerstone MFI site

File Edit View Insert Format Tools Data Window Help

Type a question for help

**SOIL/SOURCE RESULTS**

Instructions:

- Enter your data here.
- Use this default value or override with **your own**.
- Calculated value. You cannot change this.

Recommended flow:

```

Main → Input → Technology → Results
    
```

Buttons: Show Inputs, <<Last Screen

\* Normalize metrics to see more, go back to Inputs to adjust & compare, go back to Main (Tier 1/2 or GW), or Exit.

**Non-normalized**  
*Calculations in natural units*

	Carbon Dioxide Emissions to Atmosphere		NO <sub>x</sub> *	SO <sub>x</sub>	PM <sub>10</sub>	Total Energy Consumed		Technology Cost		lost hours
	tons CO <sub>2</sub>	lbs CO <sub>2</sub> per lb contam	tons NO <sub>x</sub>	tons SO <sub>x</sub>	tons PM <sub>10</sub>	Megajoules	kWh	dollars	dollars per lb contam	
Excavation	81.	14.	0.62	0.0006	0.03	1,100,000.	310,000.	510,000.	43.	
SVE	250	44.	0.26	0.24	0.048	1,300,000.	360,000.	88,000.	7.3	
Thermal	410	72.	1.2	2.	0.38	3,800,000.	1,100,000.	140,000.	12.	0.

\*: See SRT v.2 Known Issues

Normalize?  Yes  No

**Normalized/Cost-based**  
*Results converted to dollars*

	Total Energy Consumed		Technology Cost	
	Megajoules	kWh	dollars	dollars per lb contam
	1,100,000.	310,000.	510,000.	43.
	1,300,000.	360,000.	88,000.	7.3
	3,800,000.	1,100,000.	140,000.	12.

Technology Cost

dollars	Scenarios
470,000.	
69,000.	
100,000.	

Technology cost = Non-normalized technology cost total

RBDesign / MNADesign / OutputGW / R6

18:23  
22/05/2010

# Closing thoughts...

- Sustainability: A journey, not a destination
- Insanity: continuing to do what you have always done and expecting a different outcome
- Decoupled growth
- Think global, act local
- Don't sweat the small stuff
- Big hand small map won't do
- The devil is in the detail



**Thank you for the invitation and for your attention**

**[paul@lqm.co.uk](mailto:paul@lqm.co.uk)**

University of Nottingham, Jubilee Campus

# *Planning and Climate Change*

Planning and the New Coalition Government: Katrina Hulse

Planning and Climate Change: Roland Bolton

# *PLANNING AND THE NEW COALITION GOVERNMENT*

Katrina Hulse BA (Hons), MA, MRTPI

# *Key Points*

- Devolution of power and greater autonomy to local government and community groups
- Abolition of Regional Spatial Strategies
- Consolidated National Planning Framework
- Abolition of Infrastructure Planning Commission and replacement with democratically accountable, fast track process for major infrastructure projects
- Maintenance of Green Belt and other environmental protections such as SSSI's with addition of new designation to protect local areas

# *Devolution of Power*

In terms of planning this means:

- Collaborative democracy
- Local Authorities to use collaborative democratic methods in drawing up plans
- Significant local projects to be designed through a collaborative process that has involved the neighbourhood
- Potentially fast tracking planning applications where significant majority of immediate neighbours do not object

# *Abolition of Regional Spatial Strategies*

- Revoked by Communities Secretary Eric Pickles – 5<sup>th</sup> July 2010
- Revocation considered premature – no transitional arrangements in place
- Unclear how the new Government proposes to deliver housing, climate change agenda and infrastructure
- Number of legal challenges to the revocation of RSS – most notably Cala

## Requirement for strategic thinking beyond local level if delivery of issues such as:

- Transport
- Waste Management
- Flood Protection
- Housing

Most pressing concerns at the moment are housing delivery, climate change, economic recovery and the loss of bio-diversity – these cannot be dealt with at the local level

# *National Planning Framework*

- Coalition Government proposes to provide a consolidated National Planning Framework
- No details yet but Secretary for Communities and Local Government Bob Neill has reiterated the Government's desire to see a shift away from central to local decision making
- Considers existing system of PPGs/PPSs are piecemeal and it is the intention of the Government to present a consolidated national planning framework covering all forms of development
- Potentially represents a more holistic approach to the delivery of national planning policy

- Current system provides a number of PPS/PPG's that offer detailed technical guidance eg PPS23 Planning and Pollution control
- Dilution of this guidance is of concern – Environmental Industries Commission has recently expressed concern that what the Government is proposing provides less clarity
- Role of PPS23 (and other similar PPG/PPS's) useful in providing a signpost to essential sources of critical information and clearly indicates roles and responsibilities of all parties
- Is there the potential to have a system similar to the Welsh system?

- Potential for a National Planning Framework to provide a focused framework to support ‘localism’
- TCPA consider such a framework could address many of the economic, infrastructure and housing issues England needs to address by:
  - Guiding national infrastructure investment
  - Improving the economic balance across the country
  - Providing strategic guidance on housing needs and demands
  - Overarching strategy on transport investment
  - National Framework could potentially give certainty for local decision making

# *Abolition of Infrastructure Planning Commission*

- IPC was established on 1<sup>st</sup> October 2009
- Remit of the IPC was to streamline the Planning System for nationally significant infrastructure projects
- IPC will be abolished by the Coalition Government through a Decentralised and Localism Bill
- IPC will become a Major Infrastructure Unit with its own special character within a revised departmental structure

# *PLANNING AND CLIMATE CHANGE*

Roland Bolton BSc (Hons), MRTPI  
Senior Director

# *Climate Change, Contaminated Land and Localism*

- Impacts
  - Loss of funding streams
  - Loss of expertise
  - Loss of income
  - New opportunities
  - Further increase in complexity of climate change policies at local level
- Continuing issues
  - Conflict of PDL locations and at risk areas regarding climate change

# *Local Policy : Peterborough's Policy on Resource Efficiency*

- a. Proposals for large residential development\*\* and all major\* non-residential development must demonstrate that:
  - each residential unit to be delivered meets CSH4 from the adoption of this Core Strategy to 2013; meets CSH5 from 2013 to 2015; and meets CSH6 from 2015 onwards as a minimum\*\*\*; and
  - non-residential development will be compliant with a BREEAM/Eco-building assessment rating of at least 'Excellent'\*\*\* from the adoption of this Core Strategy; and
  - at least 15% of the demand for energy will be met from on-site provision and by renewable means, and/or from a decentralised renewable or low-carbon energy supply\*\*\*\*, from adoption of the Core Strategy; rising to at least 40% from 2016 and at least 50% from 2020\*\*\*.
- b. Proposals for major residential development\* must demonstrate that:
  - they comply with the current proposed minimum national timeline and standards, which, for residential development, are CSH3 by 2010; CSH4 by 2013; CSH6 by 2016; and
  - at least 10% of the demand for energy will be met from on-site provision and by renewable means, and/or from a decentralised renewable or low-carbon energy supply\*\*\*\*, from adoption of the Core Strategy; rising to at least 25% from 2016 and at least 50% from 2020\*\*\*.

# *Leicester City CS Policy 2. Addressing Climate Change*

1. Code for Sustainable Homes Level 3 will be required as a minimum standard. This will be increased progressively over the plan period to support the Government's longer term aspiration for new homes to achieve Level 6.
2. Best practice energy efficiency and sustainable construction methods, including waste management, should be incorporated in all aspects of development, with use of locally sourced and recycled materials where possible, and designed to high energy and water efficiency standards.
3. Wherever feasible, development should include decentralised energy production or connection to an existing Combined Heat and Power or Community Heating System.
4. Development should provide for and enable, commercial, community and domestic scale renewable energy generation schemes. Development of large scale renewable energy schemes will be considered in all suitable locations, including Green Wedges.

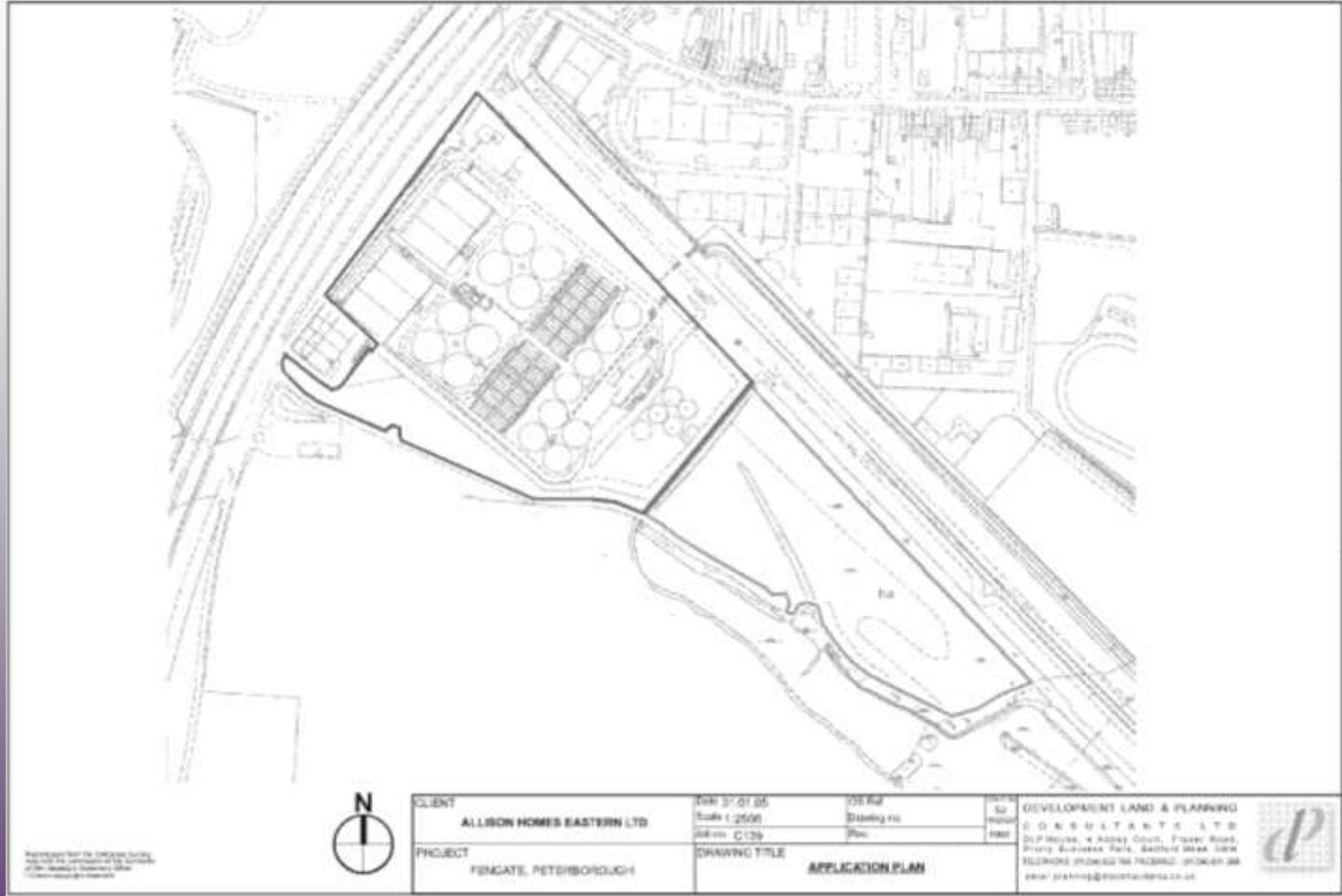
# *Powerful incentives for development*

- The Rt Hon Greg Clark MP Minister for Decentralisation

*The second element to the reforms we are making is to ensure there are powerful incentives to local communities that engage in development - whether for housing or commercial development.*
- Estimated revenue flows after 6 years:
  - 500 dwellings a year = £6 million a year
  - 1,000 dwellings a year = £12 million a year

(based on CLG matching council tax revenue estimated at an average of £1,000 a dwelling for six years)

# Case study: Fengate Peterborough



# Case study: Fengate Peterborough



# *Case study: Fengate Peterborough*

- Issues
  - Flood Risk
  - Impact on Fauna
  - Timing for receiving grant funding (£2m)
  - Section 106 payments
  - Deliverability

# Case study: Beeley Street Sheffield



# *Case study: Beeley Street Sheffield*



# *Case study: Beeley Street Sheffield*

- Flood Zone 3
- Decision by Secretary of State:

The Secretary of State concludes that the proposed development conflicts with policy CS67, and is additionally not in accordance with national policy on flooding as set out in PPS25. However, having taken into account the regeneration benefits of the proposal, along with its sustainability and the contribution it would make to housing supply and potentially to affordable housing supply, he considers that these benefits outweigh the conflict with the development plan and national flooding policy.

# *Future Directions*

- Localism
  - Climate change policy /housing requirement/allocations all set at local levels
  - Issues of timing of delivery also a local issue
  - Decisions regarding the degree of risk that residents are exposed to also decided at the local level.
- A proactive role for local government
  - Release land for development on edge of urban area outside of flood risk zones
  - Use the funding to grant aid remediation or possible acquisition of PDL sites
  - Reclaimed sites as new linear parks in urban areas
  - Reclaimed sites as development sites
- A reactive role for local government
  - Retrench to the past policies
  - Secure land/house price inflation via under provision of supply
  - Use of development control rather than expand into new areas of activity

# Brownfield Regeneration in Challenging Times – Legal Issues

Andrew Wiseman

Head, Environmental Law



Law firm of the year



STEPHENSON HARWOOD

- Planning
- Part 2A
- Corby
- Who is liable?

- Contaminated Land –v- land contamination  
(land affected by contamination)
  - What is the difference?

- PPS 23
  - Planning and Pollution Control - Issued in 2004
  - "... **quality of land .... and potential impacts** arising from development, possibly leading to impacts on health, is capable of being a **material planning consideration .....**"
  - "Where pollution issues are likely to arise .. developers should discuss their proposals with both the planning and pollution control **authorities ...**"

- "LPAs should .... normally require at least a desk study ..... If the potential for contamination is confirmed, further studies by the .. developer to assess the risks and identify and appraise the options for remediation should be required"
- "The remediation of land affected by contamination through the granting of **planning permission ... should secure the removal of unacceptable risk and make the site suitable for its new use. As a minimum ... the land should not be capable of being determined ... under Part 2A...**"

- Model planning conditions
  - Issued in May 2008
  - Support of CIEH
  - 5 stage approach

- *The Leeds case*

- Technoprint –v- Leeds City Council [2010] EWHC 581 (Admin)
- Planning permission granted to Archbold Carshop Ltd for 12 flats - that permission was challenged by the Claimants
- CLO advises planner that "applicant has not demonstrated that the site would be suitable for the proposed use. .... [w]e require the submission of at least a Phase 1 ..... Depending on the findings .....it may be appropriate .... to submit a Phase 2 ..... I would recommend that you obtain the information ... prior to granting permission".

- Phase 1 obtained and the CLO recommended they be asked for a Phase 2 in support of the planning application.
- Planner didn't ask for it but 2 months later asked CLO if he could condition a Phase 2. The CLO was told the application had to be determined in two days time so they agreed to a condition although said they would prefer the investigation up front.
- No clue as to why it had to be determined.
- Six conditions used to deal with land contamination

- The Judge said ".... [i]t was unreasonable for planning permission to be granted when so many issues relating to potential land **contamination were unresolved. .... [a]** reasonable local planning authority would **have demanded much more information .....** before deciding to grant permission rather than grant permission subject to conditions when the extent of any potential problem was **simply unknown. .... [I]and contamination was not identified as some peripheral issue ... it was ... one of the main issues for consideration"**

- Where are we now?
  - PPS
  - Model conditions
  - the localism agenda

- The Statute
  - The Environmental Protection Act 1990 Part 2A
  - **"Contaminated land is ... land which appears to the local authority ... to be in such a condition, by reason of substances in, on or under the land that significant harm is being caused or there is a significant possibility of such harm being caused or pollution of controlled waters is being or is likely to be caused"** (s.78A(2))
  - **"what harm is ... significant, whether the possibility of significant harm being caused is significant [or] whether pollution of controlled waters is being or is likely to be caused shall be determined in accordance with guidance issued ... by the Secretary of State .."**

- The Guidance
  - Some statutory and some non statutory
  - DEFRA Circular 01/2006 issued September 2006 but very similar (save for radioactivity) as the original DETR 02/2000
  - Annex 3 statutory, the rest is non statutory guidance

- Government guidance on the legal definition of contaminated land
  - Issued in July 2008
  - "[L]ocal authorities can use their judgement and expert local knowledge to reach reasonable **decisions** ..... **The broad aim is to strike a** reasonable balance between protecting people's health and the environment, whilst ensuring that unnecessary socio-economic and environmental burdens are kept to a minimum"
  - "it is quite possible that different suitably qualified people, each acting reasonably, could reach different conclusions and make different decisions when presented with the same evidence."

- Where now?
  - a consultation on new guidance
  - no change major changes?
  - Can still progress sites
  - Local authorities have to act reasonably in their decision making

- Good practice back then ..... or maybe not.....?
- Knowledge changes
- Hindsight is wonderful
- Political pressures inform decision making
- Where has it left us?

- Negligence or is it hindsight?
- What should be expected?
- What were you asked to do and what did you agree to do?
- Can you be a Class A person?

- Exclusion Test 1
  - “issuing any statutory permission .... required for any action or omission by reason of which some other person appears ..... To have caused or knowingly permitted the ... pollutant in question” (D48g)
  - “taking or not taking .... enforcement action” (D48h)
  - “providing ....engineering, scientific or technical advice to ....another person.....for the purpose of assessing the condition....or...establishing what might be done...by way for remediation...” (D48i)
  - “carrying out an intrusive investigation ...where...it is itself a cause of the existence...or continuance of the...pollutant linkage...and the client is not a member of the liability group” (D48j)

# **Andrew Wiseman**

## **Head, Environmental Law Team**

### **Stephenson Harwood**

andrew.wiseman@shlegal.com

020 7809 2528

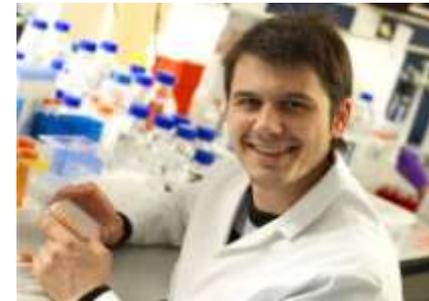
07833 093 344



Law firm of the year



STEPHENSON HARWOOD



# Regional Prospects

## George Bennett

# What I will cover

---

1. Economic geography
2. Regional changes – impact on delivery
3. Case studies
4. Opportunities – sources of growth



# Economic geography of the East of England

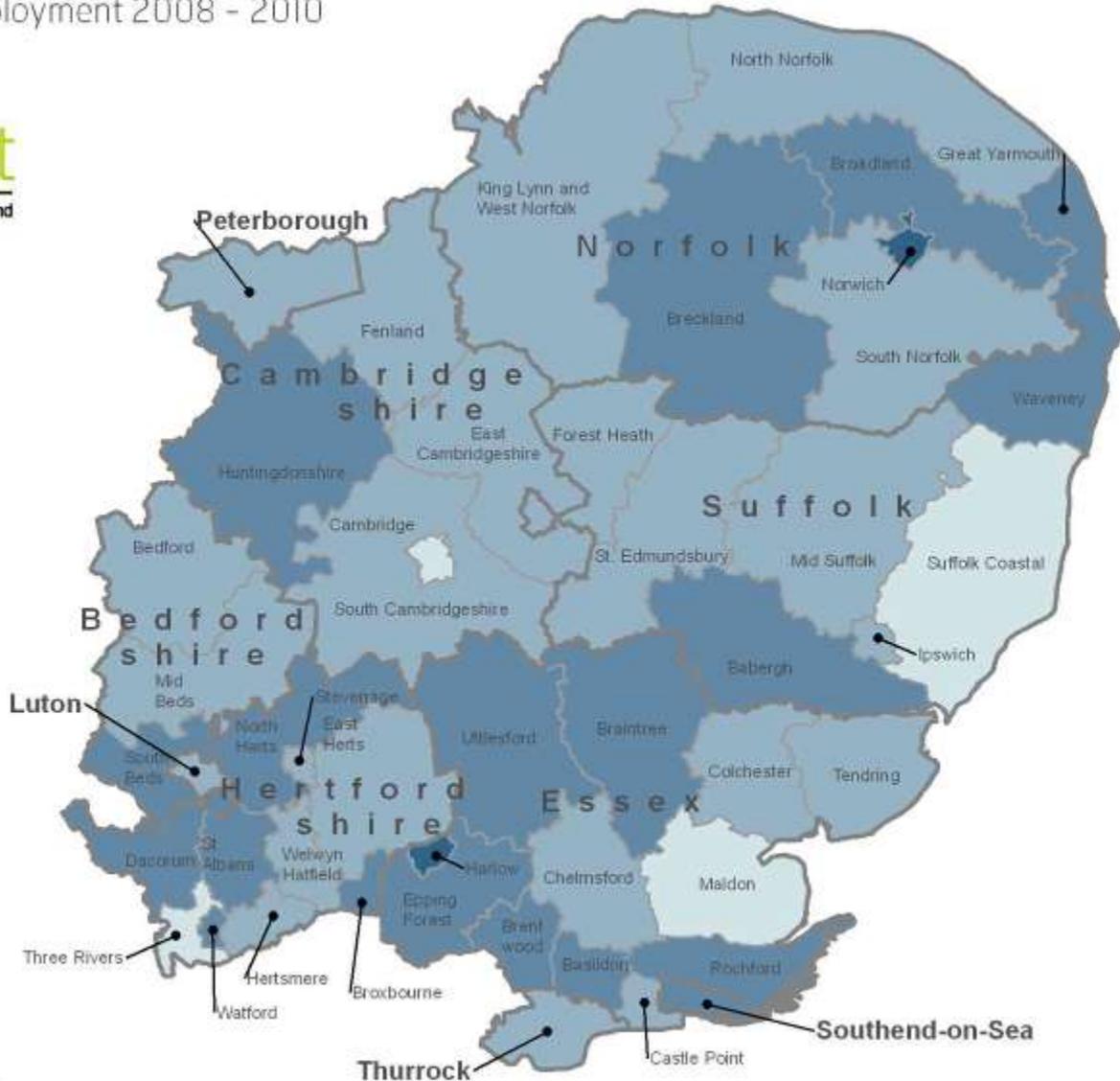
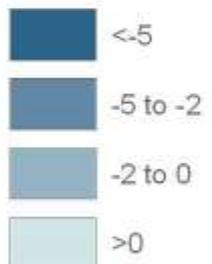
# Estimated lost c. 75,000 jobs in recession

East of England Forecasting Model - Spring 2010 Baseline Forecast

Forecast decline in total employment 2008 - 2010



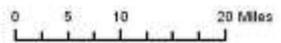
Legend (per cent)



Date Created: June 2010

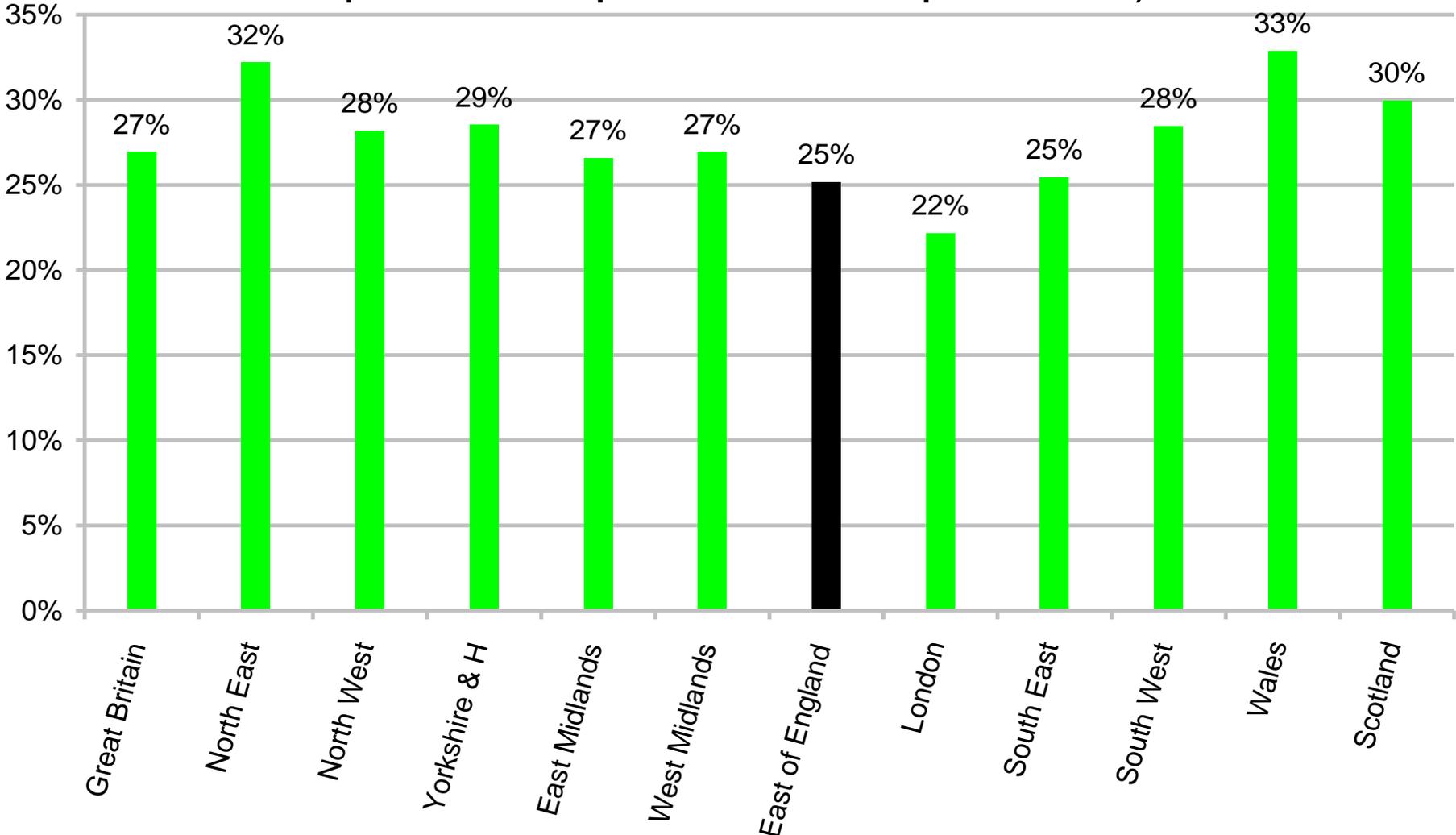
Source: East of England Forecasting Model

Map created using OS OpenData TM. Contains Ordnance Survey Data. © Crown Copyright and database right 2010.



# East of England less vulnerable on public sector job cuts... but will still feel an impact

Percentage of total employment in public services (note – includes both public and private sector providers)



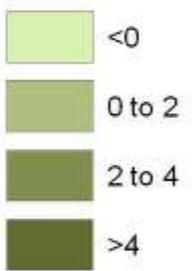
# Uneven recovery forecast

## East of England Forecasting Model - Spring 2010 Baseline Forecast

Forecast growth in total employment 2010 - 2013



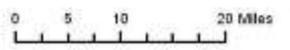
Legend (per cent)



Date Created: June 2010

Source: East of England Forecasting Model

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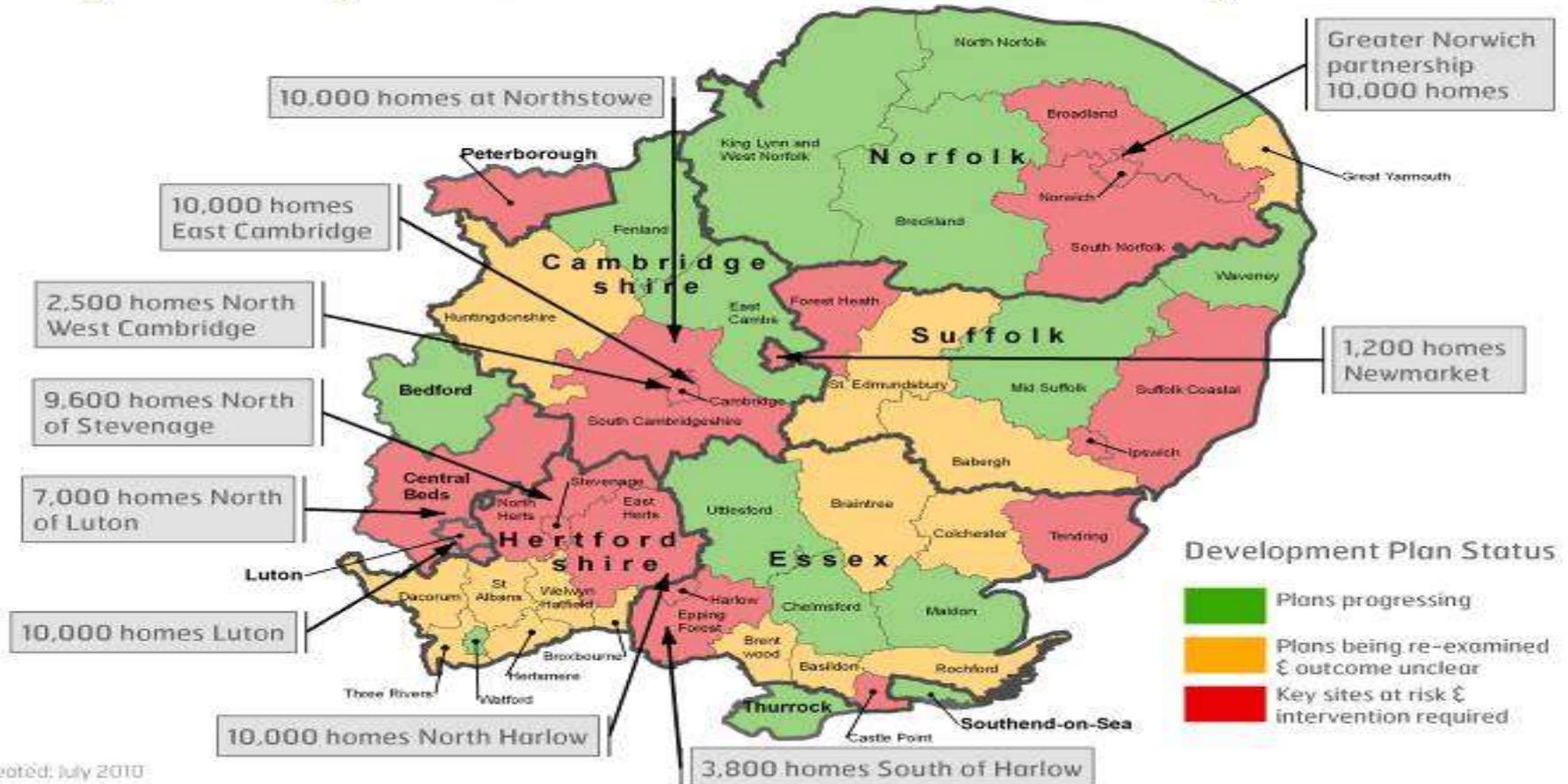
# housing deficit



- **Long housing waiting lists in urban areas:**
  - region's share of households on local authority waiting lists is lower than the national average of 8.2%
  - However rates for Peterborough (13.8%), Cambridge (15%), Great Yarmouth (14.5%) and Norwich (13.6%) are all more than double the regional average.
  - At 18.1%, the rate for Harlow is higher than for most London boroughs
- **Housing conditions are poor in some areas:**
  - Regional rate (17%) below the national average of 26.2% for homes below a “decent standard”,
  - Rate for Southend is estimated to be 59%. Stevenage (55%) and Basildon (46.5%)
- **Housing affordability** remains a significant problem despite the recession

# Development stalled – funding challenge and legislative uncertainty

## Strategic Housing Allocations at Risk in the East of England

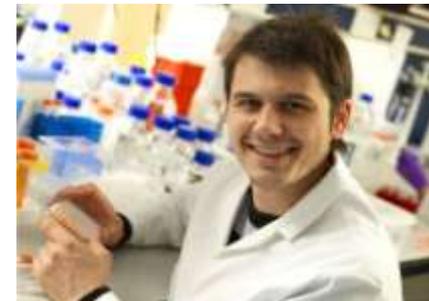


Date Created: July 2010

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# land-use and commercial property

- Large amounts of previously-developed land available for redevelopment
- Need to accelerate regeneration plans and delivery
- Profound changes in commercial property stock in the last decade
  - Decline in industrial/factory floorspace
  - Rapid expansion of warehousing
  - Agglomeration of retail floor space in major urban centres (e.g. Cambridge, Thurrock, Norwich)
  - Moderate growth in rateable office space across the region with the exception of Herts (-10%)
- Under supply of sites for high value activities?



## Changes in regional public sector

# Regional Delivery (past and present)

- RDAs and HCA have committed to joint working together on:
  - prioritising programme investments to deliver RSS targets
  - methodologies and mechanisms for Investment Planning to prioritise public investment within each sub region
  - appropriate capacity and capability to deliver strategically driven programmes of intervention

# Investment Planning

## Single Conversation

- Target is comprehensive coverage by March 2011
- Have started in:
  - Greater Norwich area
  - Peterborough
  - Chelmsford
  - Cambridge area authorities
  - King's Lynn and West Norfolk
  - St Edmundsbury
  - Basildon
  - Castle Point
  - Central Bedfordshire
  - Dacorum
  - Stevenage

## Integrated Development Programmes

- Started in 06/07 in:
  - Greater Norwich/GNDP
  - Peterborough
  - Chelmsford
  - Cambridgeshire
  - Haven Gateway
  - Luton (and old South Beds)
  - Harlow
  - King's Lynn and West Norfolk
  - Great Yarmouth and Lowestoft
  - Bedford Borough
  - TGSE



# Capacity

- URCs
  - 1<sup>st</sup> East
  - Harlow Renaissance
  - Renaissance Southend
  - Opportunity Peterborough
- Inspire East
  - Design Review
  - Excellence Framework

# Brownfield delivery

- *2003-2007 EEDA remediated 20% of the total brownfield change in the region (170 Hectares)*
- *2007-2009 124 hectares*
- Example projects

# Beacon Park, Gt Yarmouth

- 55 hectares remediated by EEDA / GYBC joint venture.
- Mixed use (office, industrial, leisure and residential)
- EEDA funded innovation centre and managed workspace



# Ipswich Waterfront

- largest single regeneration project in the East of England
- EEDA investment over £53 million
- Felaw Maltings
- Cranfields Mill
- IP- City
- University of Suffolk





# Opportunities –sources of economic growth

# Innovation Insight: key messages

- + East of England is UK innovation leader: No. 1 performer in 9 indicators
- + Region in top 3 UK regions/nations for 21 out of 36 indicators
- + Ideas/research – but also high rates of innovation amongst businesses
- + Untapped potential – the region doesn't convert innovation lead into leading GVA performance
- + Skills profile of the region – main performance concern

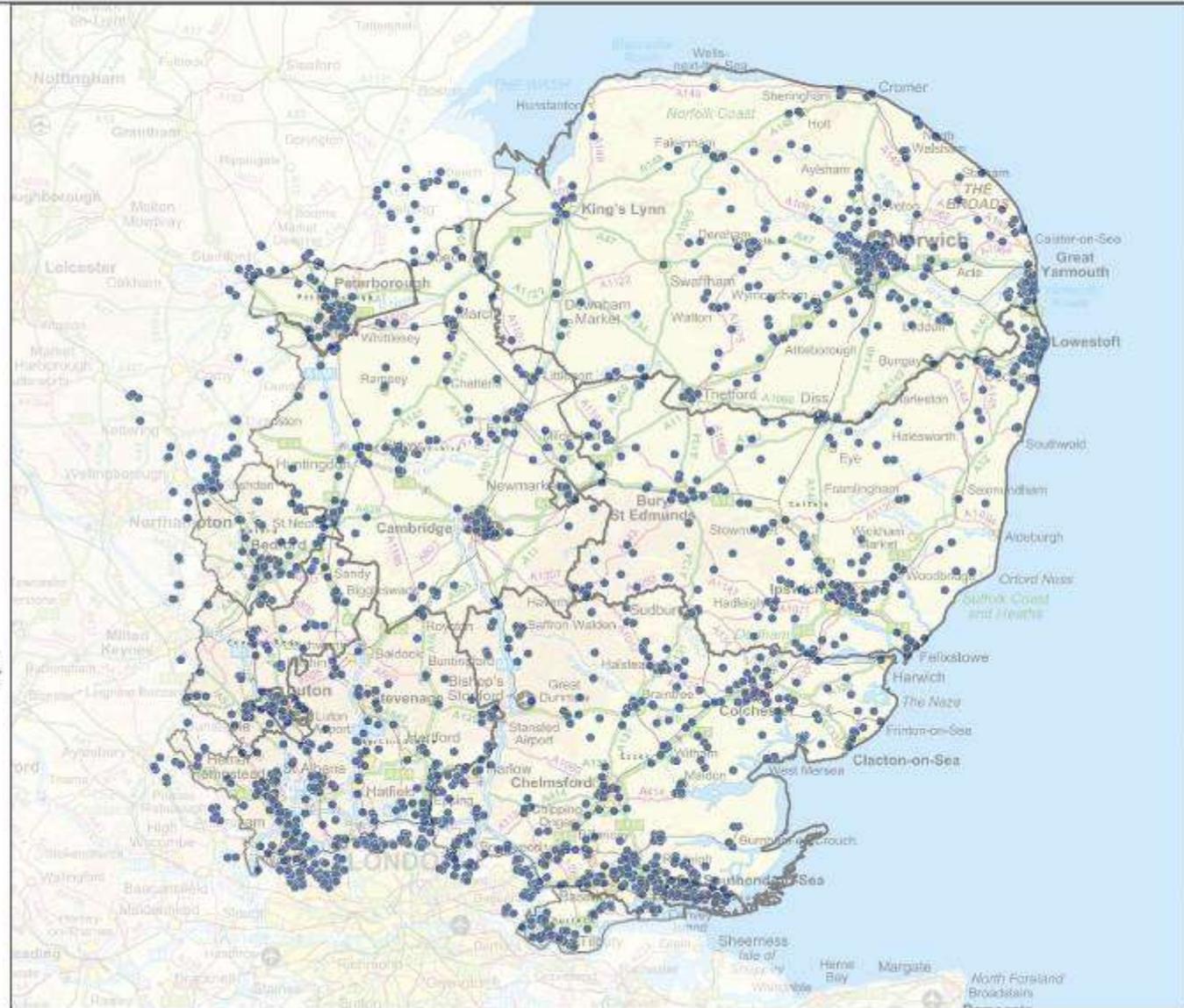


# Case study: Offshore Wind



- Round 1 Projects
- Round 2 Projects
- Round 3 Projects

# Distribution of LCEGS companies in the East of England



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EEDA. Ordnance Survey license number  
100031105 (2010)

Source: EEDA Low Carbon Innovation  
Evidence Base: Map shows companies  
within the Low Carbon Environmental  
Goods and Services sector.

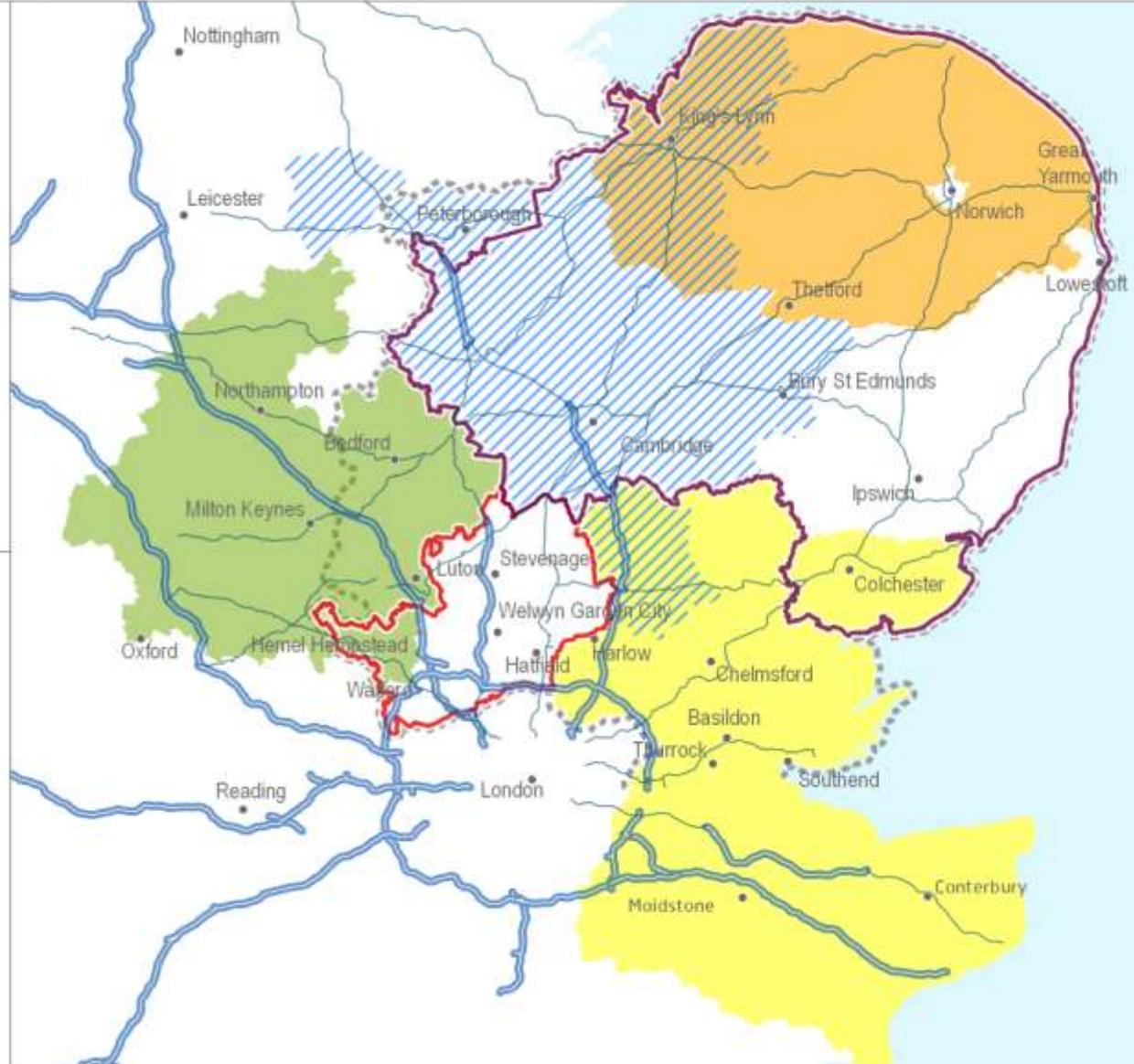


# Proposed Local Enterprise Partnerships in the East of England

**insighteast**

economic intelligence for the east of england

Map created using OS OpenData TM.  
Contains Ordnance Survey Data.  
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## Legend

-  East Anglia LEP
-  Hertfordshire LEP
-  South East Midlands LEP
-  Gt. Cambs and Gt. P'boro. LEP
-  Norfolk LEP
-  Kent & Greater Essex LEP
-  East of England Boundary

# Summary

- **Less public monies available**
- **Government investment/regional growth fund**
  - highly competitive environment
  - play growth and decline/threats story tactically
- **Need to do more for less:**

**eg Total Place, TIF, Council Tax Incentive Scheme, Public Finance Initiative, and Public Works Loans**
- **LEPs will need to tackle the effects of the recession; and determine their role / functions**

# Brownfield Regeneration and House Building: A Developers Perspective on the Economic Outlook

Ian Heasman, Associate Director of Brownfield and Sustainability  
Taylor Wimpey UK Ltd



East Land Quality Forum  
Brownfield Regeneration in Challenging Times  
30<sup>th</sup> September 2009

TaylorWimpey

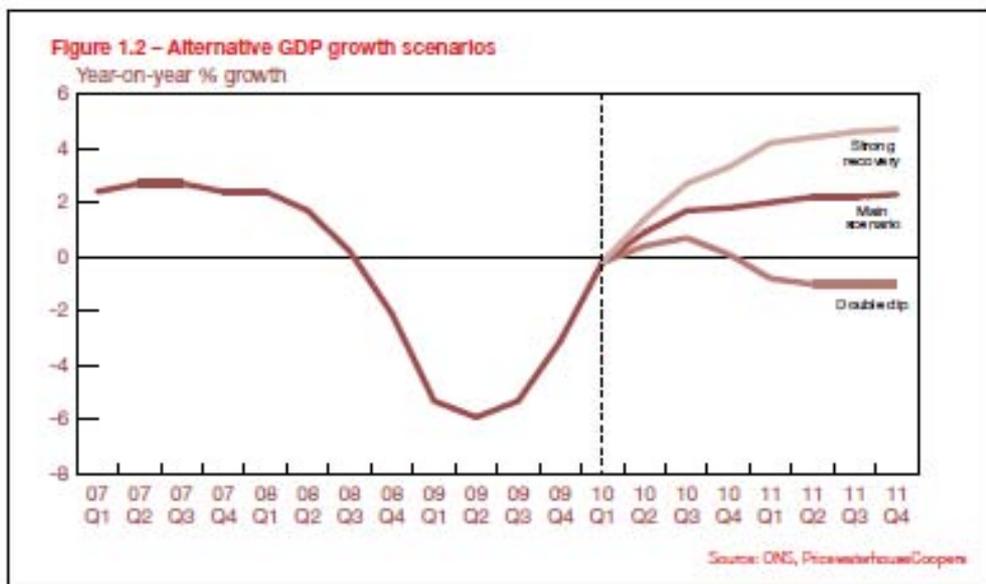
# Contents

- The Economic Outlook and the Housing Market
- Brownfield Remediation Market
- Financial and Regulatory Market Drivers
- Remediation in a Brownfield Finance Context
- Conclusion

# The Economic Outlook and the Housing Market

# UK Economic Outlook

- UK recession ended Q4 2009, modest growth is expected in 2010 improving in 2011
- While in general business confidence has started to recover some commentators have not ruled out a 'double dip'



Source: PriceWaterhouse Coopers July 2010

# UK Economic Outlook

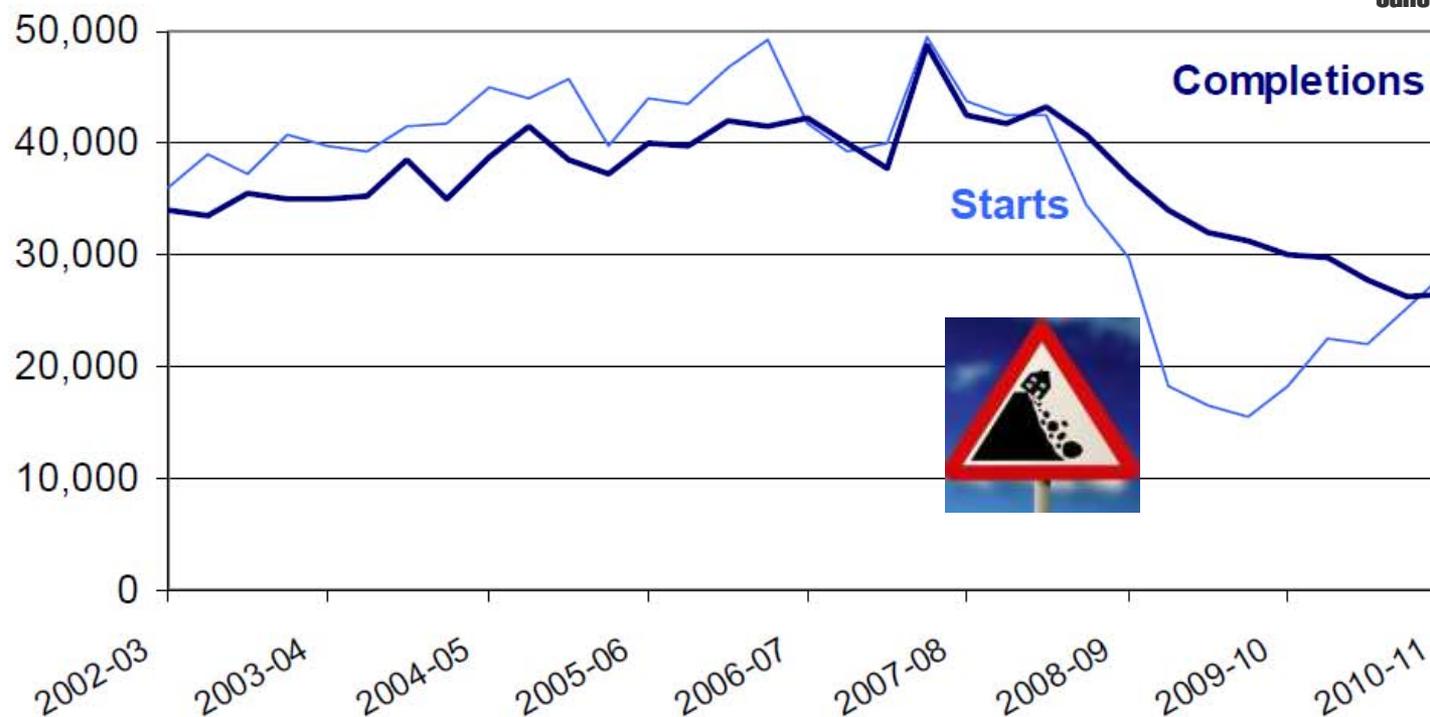
- Emergency budget including tax rises and public spending cuts generate some uncertainty
- Credit constraints continue
- China and India showing strong growth but US and Europe lagging behind
- Interest rates likely to remain low



# Housing Starts and Completions

Figure 1: Seasonally adjusted trends in quarterly housing starts and completions, England

June 2010



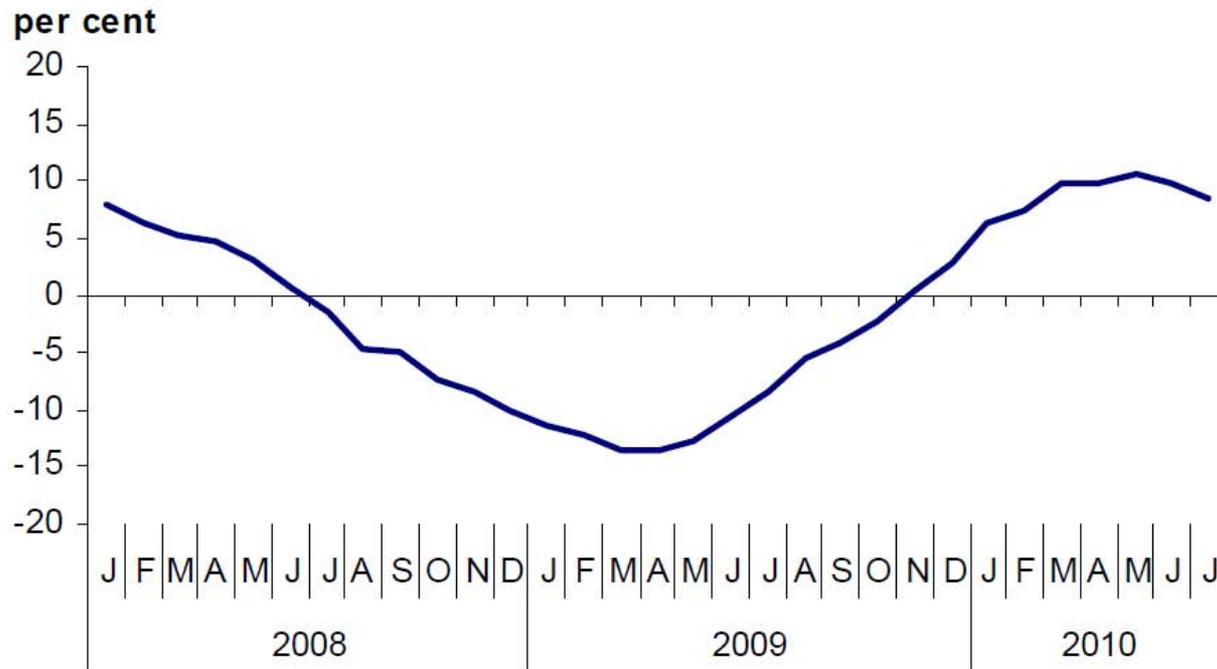
Source: CLG Housing Statistical Release June 2010

TaylorWimpey

# House Prices

## House Price Index: UK

Figure 1: UK annual house price rates of change (all dwellings)



# Housing Market

Some UK regions – particularly London and the SE – doing relatively well, many regions sluggish, still held back by:

- Confidence - continuing concerns over aspects of the down turn such as unemployment risk
- Availability of mortgage finance
- First time buyer affordability



# Land Market



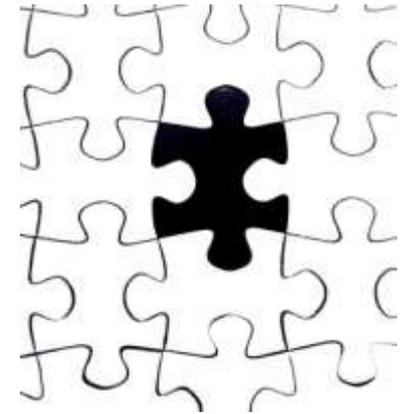
2008 / 09



**What happened**



2010/2011



Land opportunities are increasing, off-market opportunities being created

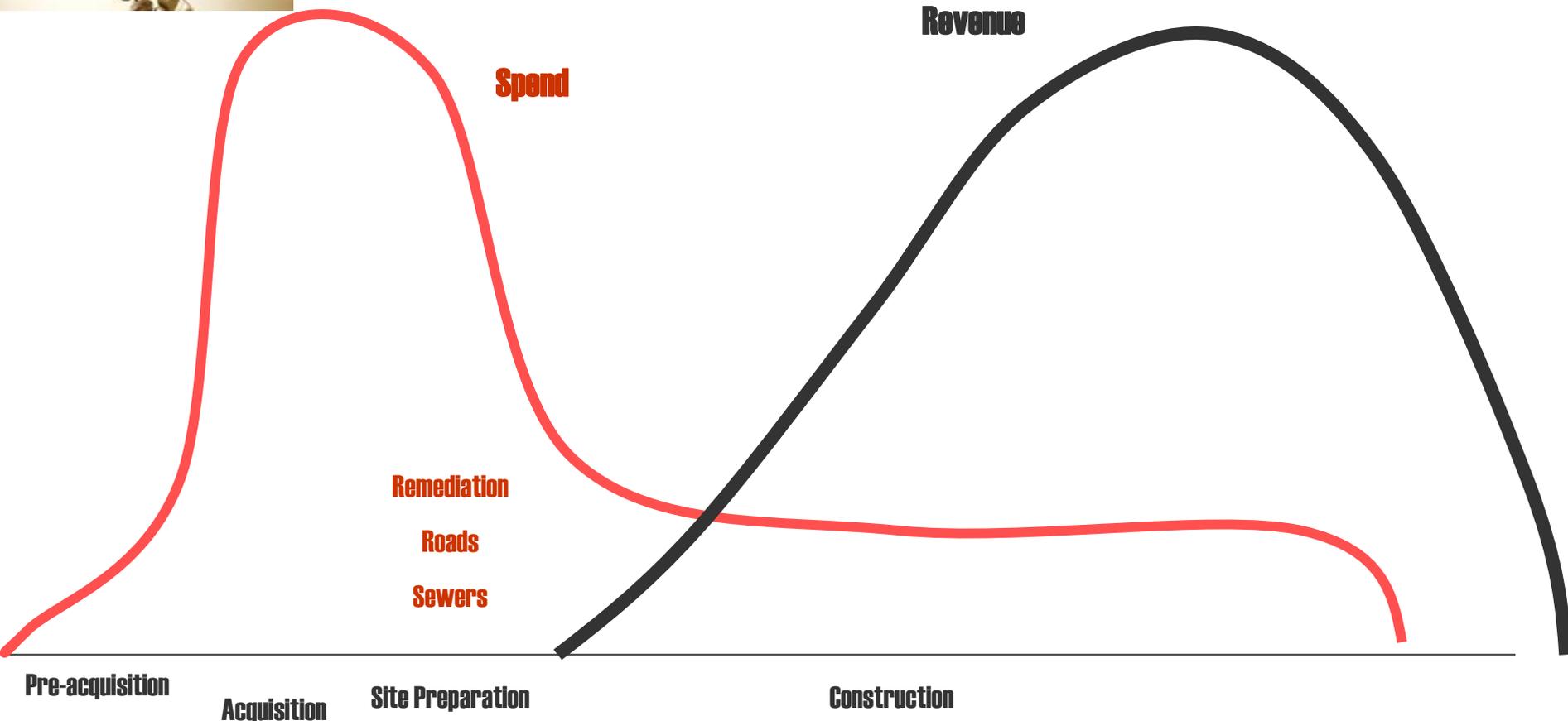
Good quality land in the right location still sells for a premium

Land with significant constraints less attractive

**What's Next**

**TaylorWimpey**

# Cash Flow



# Impact of Government Change

- Coalition: committed to increasing housing numbers
- Abolition of Regional Spatial Strategies, many RDAs and housing targets
- Provision of regional and sub-regional infrastructure?
- Long term direction of planning policy clear but concern around 'localism' (local decision making) agenda transition risk (e.g. PPS23)
- Cost cutting: Quangos? Self Regulation?
- Impact on affordable housing grants will be known in October – likely to be significant reductions
- Cuts will effect confidence in market place, jobs, investment decisions etc

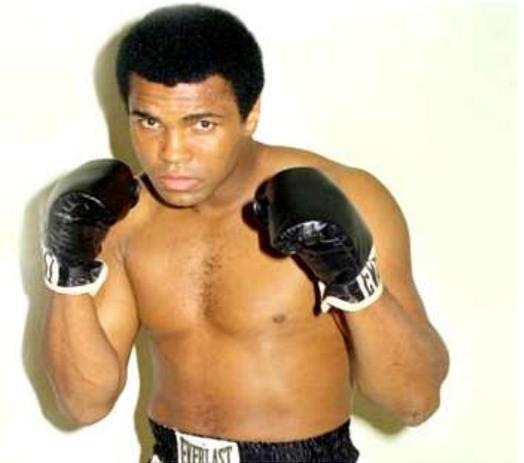
# Outlook for House Builders

- Macro-economic /market concerns remain but are reduced
- Uncertainty remains but the worst is over
- Long term supply/demand fundamentals will support house building
- Volumes are not likely to increase in the short term
- Land constraints, reduced workforce and capital expenditure

# Brownfield Remediation Market

# Brownfield Remediation Market

- 2008/2009 Survival!
- Internal Reviews – Lean and Mean
- 2010 consolidation and rebuilding - Increase in brownfield inquiries is starting to result in some new substantive contracts
- Many anticipate remainder 2010 to remain relatively tough – but easing towards mid 2011



# Post Recession Changes

Time



**Cost Management**

- Cash Flow
- Tax Efficiency

Risk



**Quality and Control**

- Certainty/Risk Management
- Liability Management

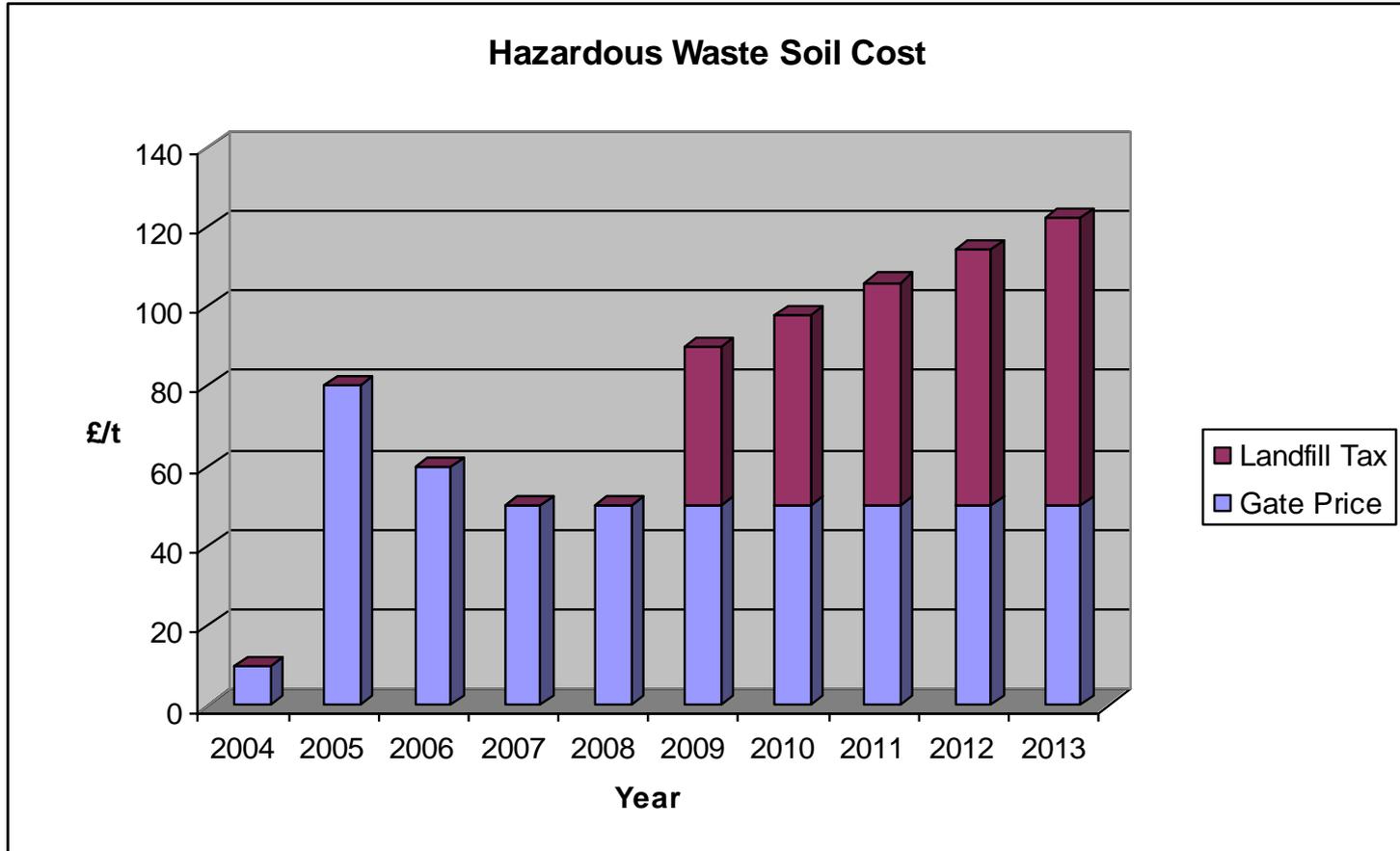


# Financial and Regulatory Market Drivers

# Planning Drivers

- 60% of dwellings on previously-developed land  
Target Remains (80% 2009) (79% 2008) (CLG)
- Brownfield first sequential test
- National Brownfield Strategy
- Planning 'reboot' might change all this?

# Taxing hazardous waste soil



# Corporation Tax Relief



**Waste Disposal  
from Remediation**



**Knotweed**

**Dereliction**



# Example - Costs 2008-2011



10,000 m<sup>3</sup> of  
hazardous waste

2008

2011

Increase



**Ex-Situ Bioremediation**

£406,000

£443,000

9%



**Soil Washing**

£707,000

£811,000

15%



**Landfill**

£774,000

£1,517,000

96%

# Tax Driven Opportunities

**On Site**

**Off Site**



EX-11

Options Appraisal



Soil Hospitals



Cluster

**TAX EFFICIENT**

**In-Situ**



**IN-EFFICIENT**

**BIG TECHNOLOGY**  
**BROWNFIELDS**  
**DIS-INCENTIVE**

# Sustainability Drivers



**Integrated Sustainability Consulting**



**Low Carbon/Waste Technologies**

**Low Intervention Approaches**

**Sustainable Contracting**

# Soil Framework Directive

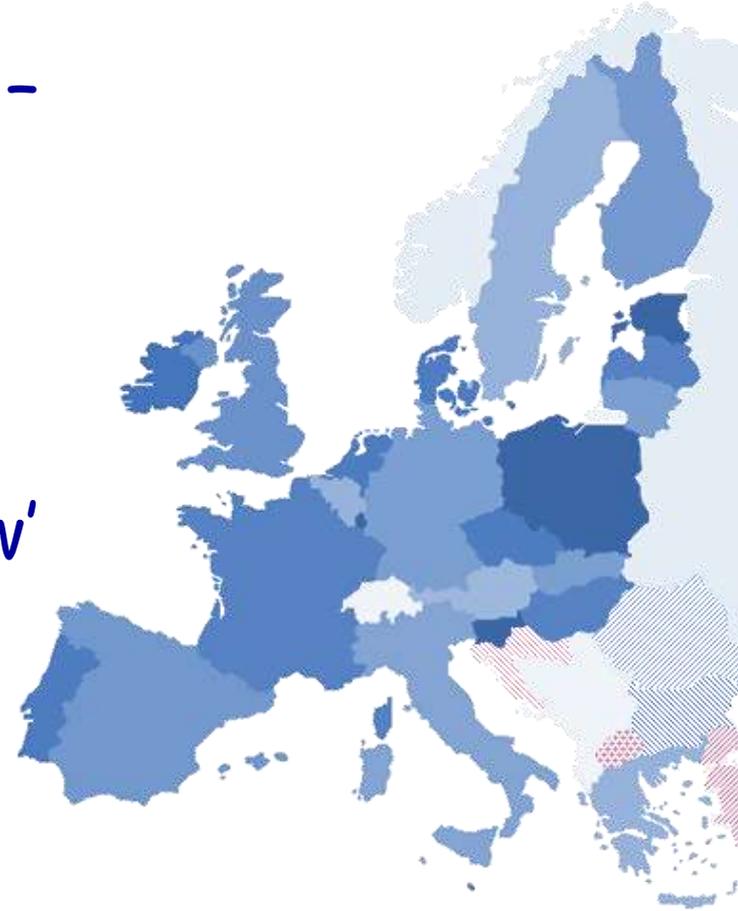
**Portuguese Text** - proscriptive -  
'what' and 'how'

**French Text** - non-proscriptive

**Czech Text** - 'what' but not 'how'

**Swedes**

**Spanish**



# Code of Practice

CL: AIRE

CONTAMINATED LAND

The Definition Of Waste:  
Development Industry Code Of Practice

[www.clare.co.uk](http://www.clare.co.uk)



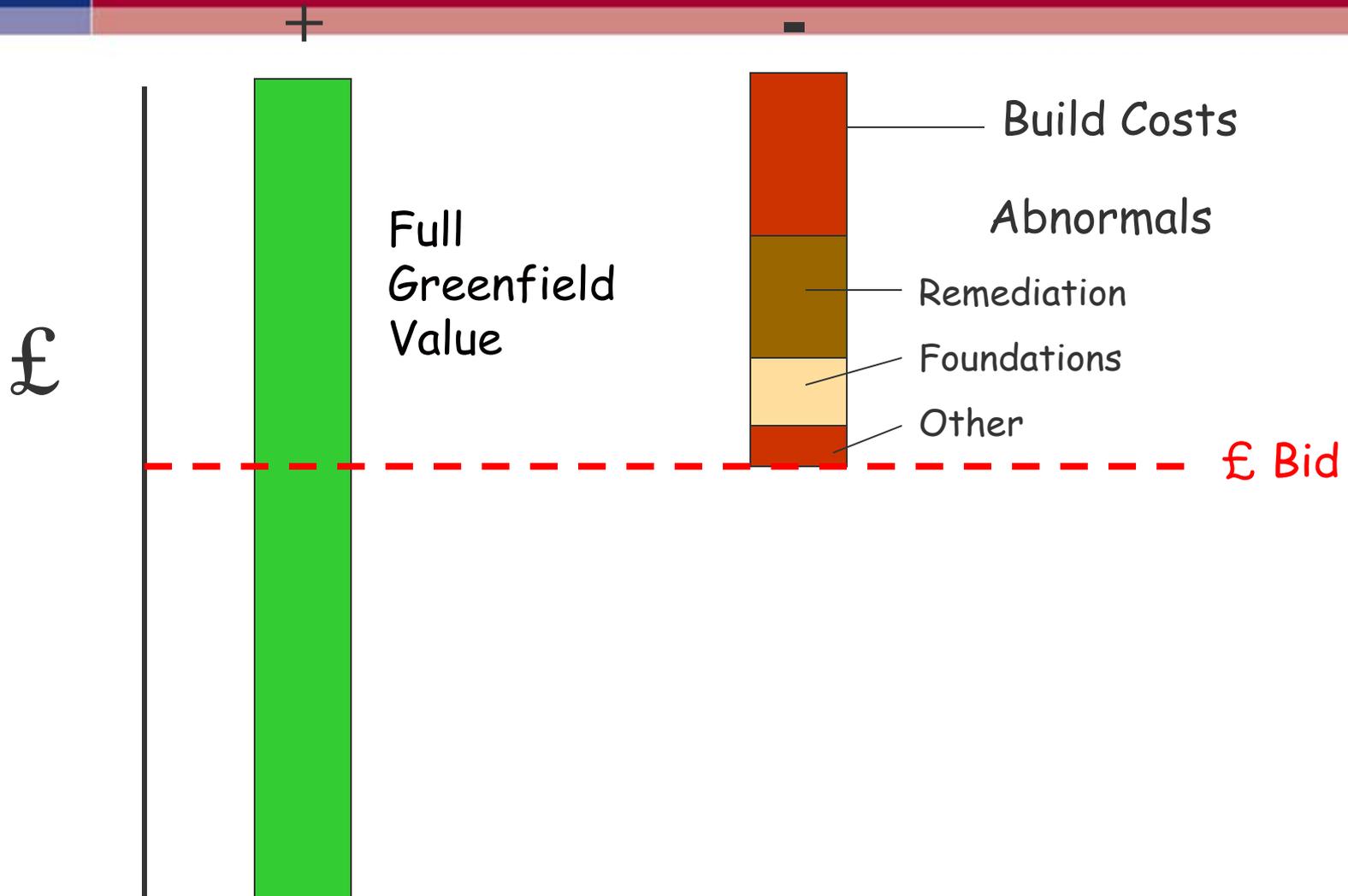
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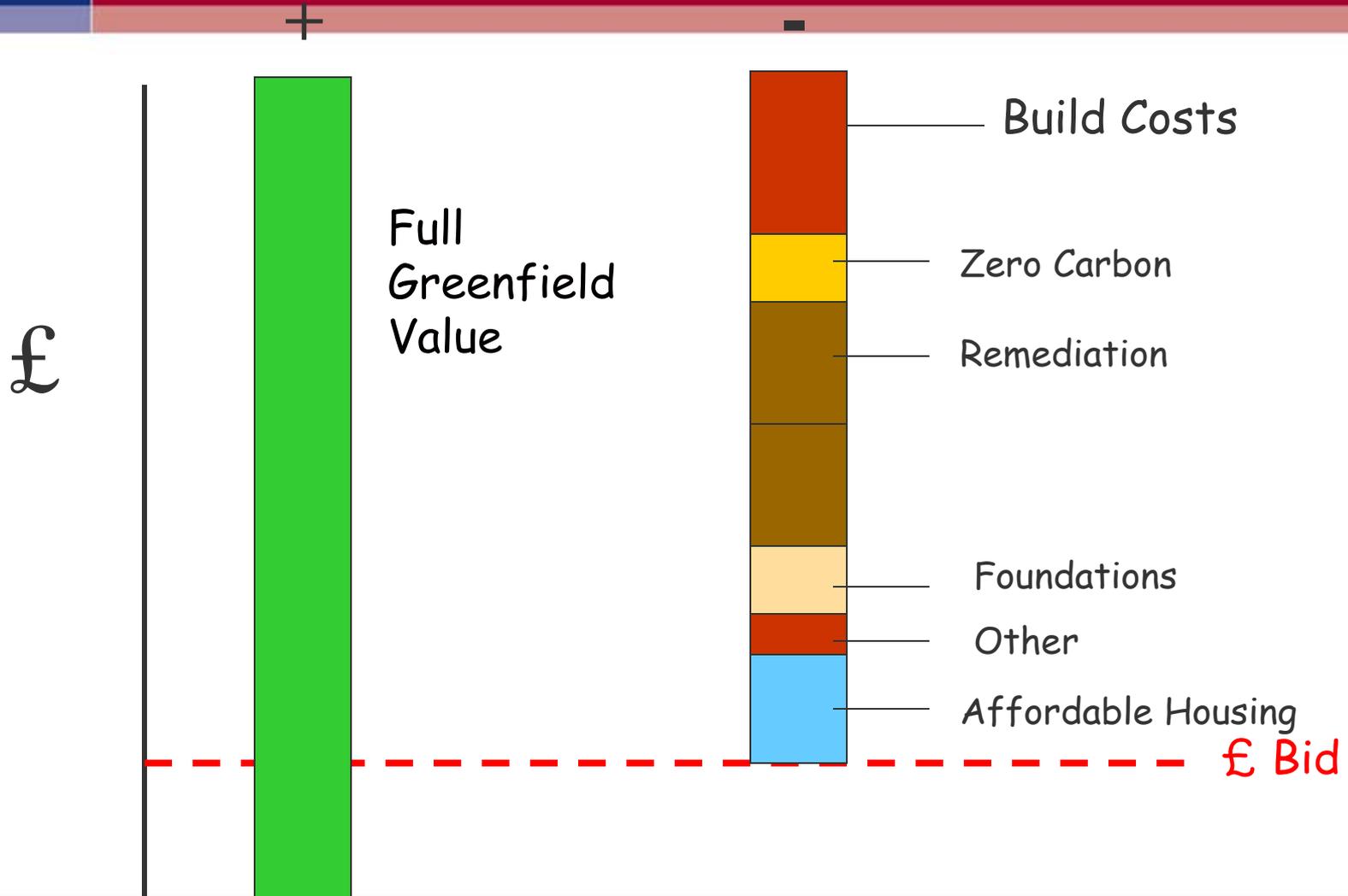
# Remediation in a Brownfield Finance Context

The ABC Model :

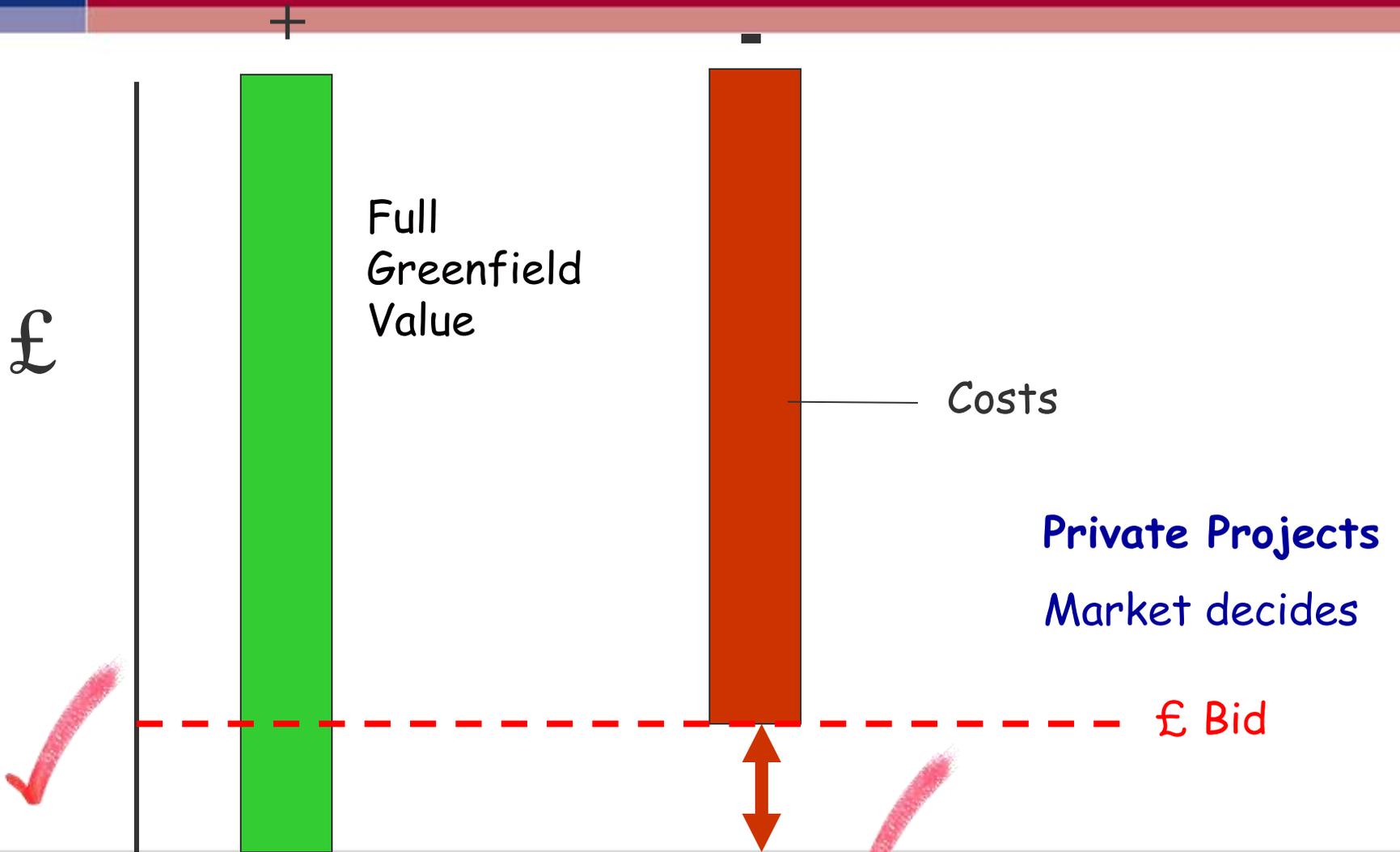
# Brownfield Finance



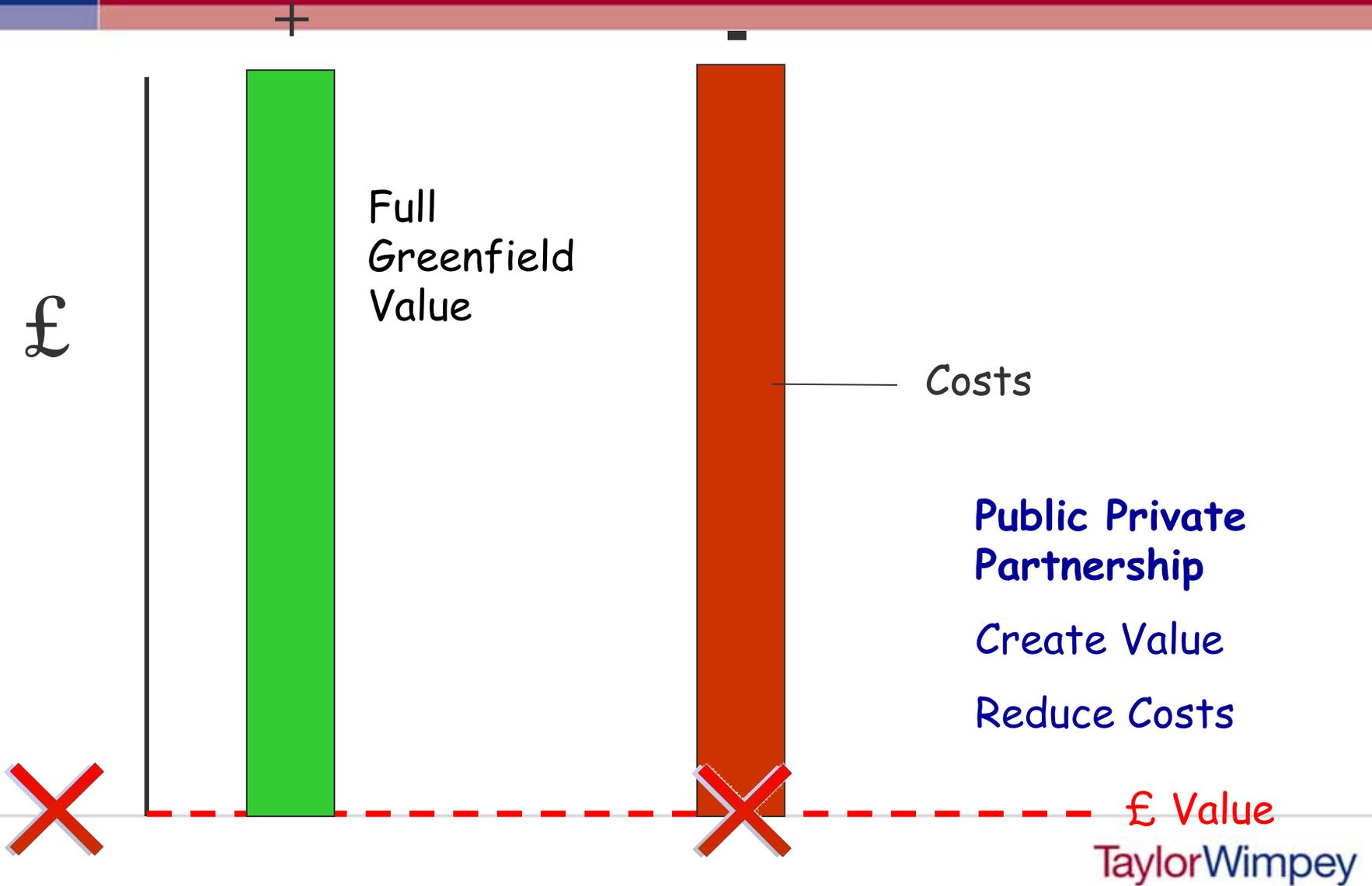
# Brownfield Finance



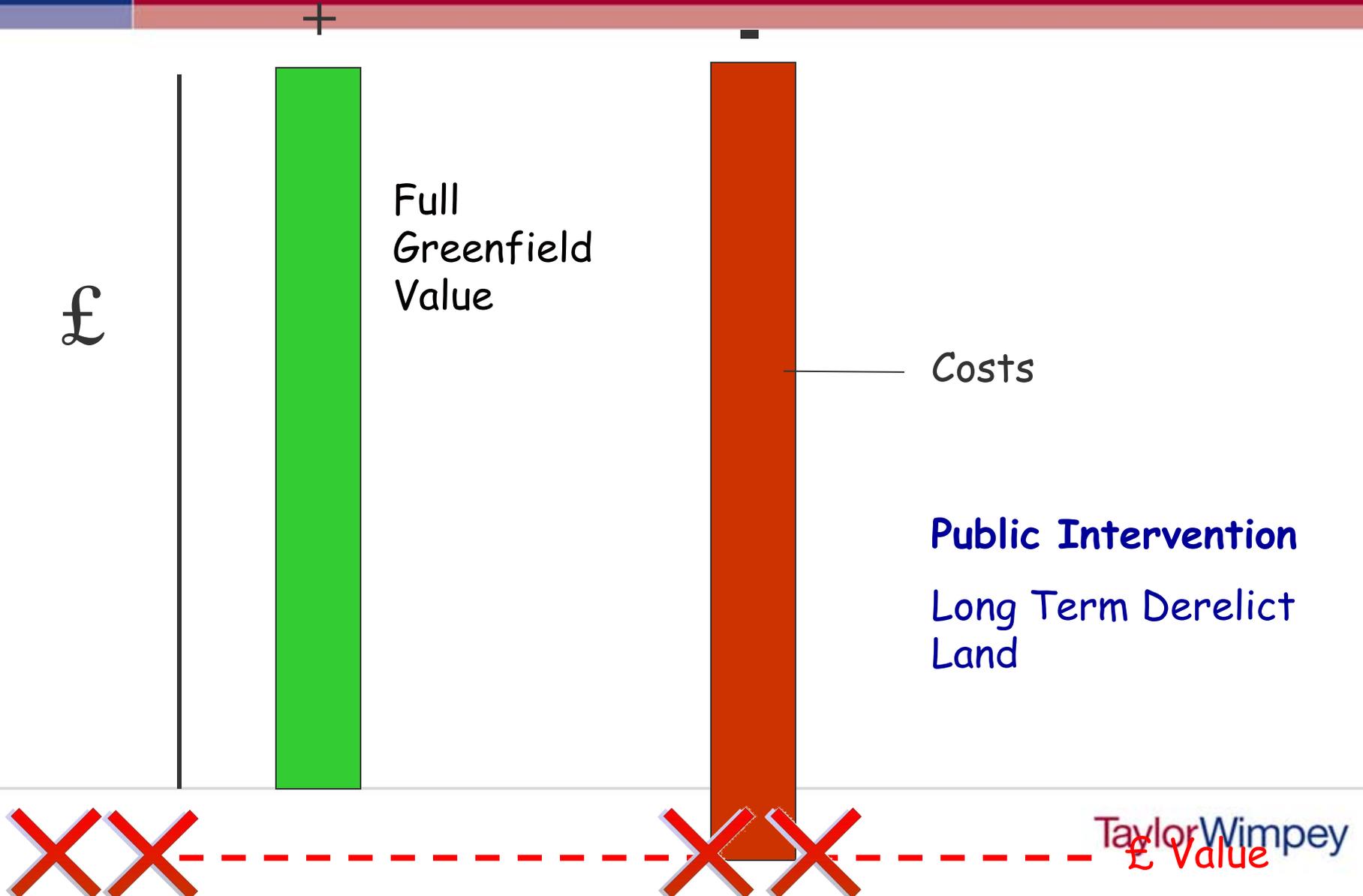
# Brownfield Finance



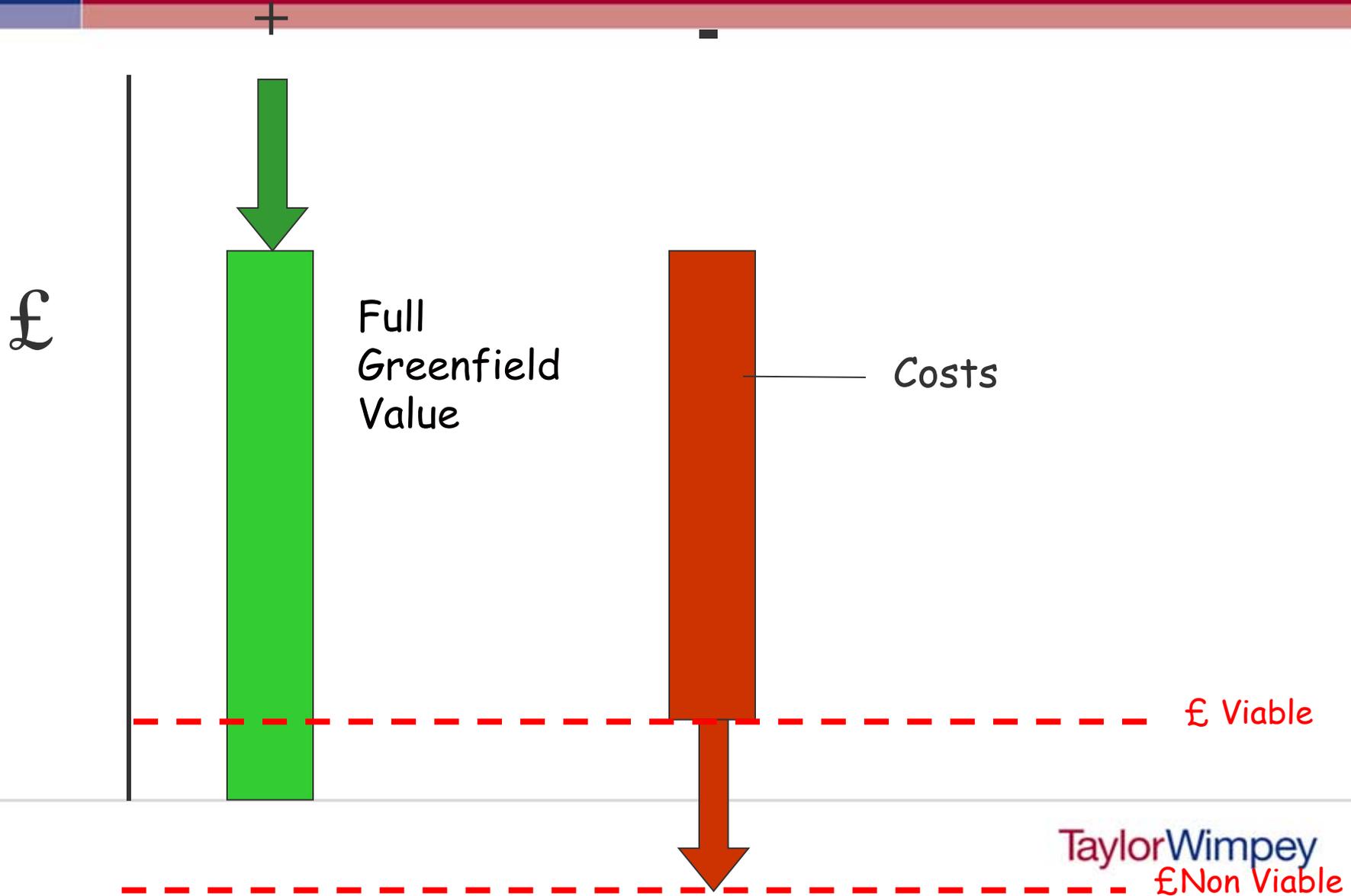
# Brownfield Finance



# Brownfield Finance



# Viability Squeeze



# Conclusions

# Conclusions

- House building sector has made a partial recovery from the worst slowdown in a generation
- Brownfield regeneration sector shared the pain
- Most people in house building and the brownfield sector believe that the worst is behind them
- However there is still uncertainty in terms of macro-economics, UK budget cuts, markets etc

# Conclusions

- Economic outlook has improved
- Land buying activity has recommenced
- Brownfield remediation sector leaner and fitter
- Financial and regulatory drivers will support the brownfield sector (but have already weakened somewhat and are likely to become weaker under the current policy framework)

# Conclusions

- The outlook for brownfield regeneration remains positive, although likely to remain tough for another 12 months
- Still some serious challenges to address:
  - > Depressed land prices and hence brownfield viability (especially heavily contaminated/constrained sites)
  - > Some macro-economic uncertainty remains
  - > Uncertainty around changes to the planning system

...thank you

# “Living in interesting times” a regulators perspective

Matt Whitehead

Technical Advisor – Contaminated Land Remediation

# Introduction / Outline

➡ Regulation – why do we do it?

➡ Challenges

➡ Regulation – How are we doing it?

➡ What does the future hold?

# Regulation – our Aims

- ➔ “To create a better place by securing positive outcomes for people and wildlife”.
- ➔ Act to reduce climate change and its consequences
- ➔ Protect and improve water land and air
- ➔ Work with people and communities to create better places
- ➔ Work with business and other organisations to use resources wisely
- ➔ Be the best we can...





# Challenges

## ➔ Hampton Review

- ➔ Reducing administrative burdens
- ➔ Effective Inspection
- ➔ Effective Enforcement

## ➔ Comprehensive Spending Review

- ➔ Review of delivery bodies
- ➔ 25 – 40% savings
- ➔ More for less..

# Solution – Better Regulation

- ➔ Focussing on Outcomes
- ➔ Using a risk based approach
- ➔ Shifting from regulatory prescription to corporate responsibility
- ➔ Using alternatives to direct regulation

# What does this mean in practice?

## ➔ A hierarchical approach to regulation

- ➔ Influence to achieve Voluntary action
- ➔ Work in partnership others e.g. Local Authorities
- ➔ Use formal enforcement action as a last resort

## ➔ Prioritising our involvement

- ➔ Concentrating on higher risk activities
- ➔ Developing alternative options for lower risk activities

# Recent Developments:

## ➔ Guidance and Standards

- ➔ Guiding Principles
- ➔ TPH & Compliance Point Guidance

## ➔ Training and Capability Development

- ➔ SiLC – Land Condition Skills Development Framework

## ➔ Alternative models for regulation?

- ➔ CL:AIRE – Code of Practice on the Definition of Waste



Interim cover. Design still to be finalised

# GPLC1 – Guiding principles for land contamination

January 2010

# What are the guiding principles?

➔ A package of 3 documents providing generic guidance

- help clarify roles and responsibilities;
- encourage good practice to promote compliance with regulatory requirements;
- guide you towards other guidance and advice

➔ Aimed at ‘problem holders’

➔ replace our guidance *Environment Agency requirements for land contamination reports.*

# What else is in the pipeline?

➔ Future updates

➔ Other guidance

- ➔ TPH groundwater risk assessment

- ➔ Setting compliance points (for R&D P20)

- ➔ Verification of remediation

# SiLC - Land Condition Skills Framework

## ➔ SiLC

- ➔ Experienced Professionals
- ➔ Clear advice & Code of conduct
- ➔ Register of Specialists

## ➔ Skills Framework

- ➔ Capabilities
- ➔ 5 Levels
- ➔ Options for development



# CL:AIRE – Code of Practice

## ➔ Guidance on the definition of waste

- ➔ Intended to maximise re-use of excavated materials
- ➔ Principles drawn from case law
- ➔ Construction of a documentary audit trail

## ➔ Role of the qualified person

- ➔ Experienced, Capable, Chartered
- ➔ Auditing of the documents and proposal
- ➔ Issuing the Declaration



# What is needed for the future?

- ➔ Better advice and guidance?
  - ➔ Better training and capability?
  - ➔ More scope for self reliance?
  - ➔ More for less.....
- 
- ➔ What do you think ?