

APPENDIX 4:

Statutory Powers & Provisions



Statutory Powers & Provisions

NHDC must identify and deploy the correct statutory power(s) to pursue a property acquisition or development opportunity. The primary Acts of Parliament and their provisions acknowledged by the Property Acquisition & Development Strategy are outlined in this Appendix.

Section 111 Local Government Act 1972:

- Provides that without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.

Section 120 Local Government Act 1972:

- Permits NHDC, as a local authority, to acquire land (including buildings) by agreement for the purposes of:
 - any of their functions under this or any other enactment, or
 - the benefit, improvement or development of their area,whether situated inside or outside NHDC's area.
- Where two or more councils acting together would have power to acquire any land (including buildings) by agreement by virtue of this section, one of those councils is permitted to acquire the land on behalf of both or all of them in accordance with arrangements made between them, including arrangements as to the subsequent occupation and use of the land.

Section 1 Localism Act 2011:

- Confers on local authorities a general power of competence:
 - a local authority has power to do anything that individuals generally may do.
 - to do it in any way whatever, including:
 - power to do it anywhere in the United Kingdom or elsewhere,
 - power to do it for a commercial purpose or otherwise for a charge, or without charge, and
 - power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.

Section 4 Localism Act 2011:

- Set outs limits on doing things for commercial purpose in exercise of general power:
 - The general power confers power on a local authority to do things for a commercial purpose only if they are things which the authority may, in exercise of the general power, do otherwise than for a commercial purpose.
 - Where, in exercise of the general power, a local authority does things for a commercial purpose, the authority must do them through a company.
- Defines “company” as:
 - a company within the meaning given by section 1(1) of the Companies Act 2006, or
 - a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.