

## Appendix 1

### BACKGROUND

#### 1. Public Housing Policy

- 1.1 In the years immediately before and after the Second World War Municipalities in London built substantial numbers of homes which were designed to be rented at or below the prevailing market rent to those in regular employment. This new housing was designed to be affordable to people on average wages but of a better quality and in more abundant supply than was available in the existing privately owned rented sector. It is worth remembering that it was not until many years after WW2 that more people owned rather than rented their home.
- 1.2 High levels of public house building under both Conservative and Labour Governments continued up until 1979.
- 1.3 From the mid-1980's, the supply of funding that had previously flowed to local authorities to build municipally owned housing came to an end and instead a policy of subsidising council tenants to buy their homes was introduced.
- 1.4 At the same time the effect of a succession of legislative provision and legal judgements some arising from the impact of the influential documentary "Cathy come home" led to a substantial increase in the responsibilities of Councils to house people in housing need and a significant reduction in their ability to let according to factors such as local connection and ability to pay the rent etc.
- 1.5 The combination of an increase in obligations to house, but a decrease in the ability to provide new supply, meant that Council housing had by the mid-1980s become largely a tenure available only to those in economic or social need. This combined with the industrial restructuring of the 1980s which led to the loss of huge numbers of manual jobs often filled by Council tenants resulting in a situation where, in most boroughs, the majority of Council tenants were in receipt of benefits.
- 1.6 This benefits dependency continues to this day and has a distorting effect on housing policy and provision. Under Labour the benefits system was by default used as a way of pushing additional investment into housing though this resulted in spiraling increases in rental levels in the private market as Councils were unable to house everyone for whom they were responsible within their own diminishing housing stocks
- 1.7 It also being worth adding that from the 1970s to the 1990s Councils in London generally did a very poor job of managing and maintaining their stock as reasonable places to live. In so doing undermining the image of publicly owned housing and further encouraging a cycle of decline as it became a less popular and socially accepted type of tenure.
- 1.8 Publicly subsidized housing in the UK has been given different names over recent years none of which really describe the product accurately.
- 1.9 Since 1979 grants to housing associations (and latterly at a relatively small scale to Councils) and the planning system have been used to deliver below market priced housing.

- 1.10 In London most new below market price housing is delivered as a result of section 106 agreements, with developers being required to deliver affordable housing as part of new housing developments. The subsidy effectively coming from an informal tax on land value.
- 1.11 In recent years this housing has been variously called Social Housing, Target Rent / Council or Housing Association rented and Affordable Rented housing. The nomenclature changing according to level of subsidy envisaged but it all being sub market price of some type. In planning terms affordable housing also embracing shared ownership and discounted market sale housing of which the new Starter Homes product is a variant.
- 1.12 Since the 1990s Local Authorities in London have to greater and lesser degrees focused on redeveloping and remodeling their larger 1960s and 70s housing estates, most of which were built in a non-traditional manner and have suffered from poor maintenance. This estate regeneration offers an opportunity to increase supply given the comparatively low density of many such estates, and enables the creation of mixed communities with a greater range of tenures and income levels.

## **2. Housing Market**

- 2.1 The London housing market is very different from that of most of the country in that outside London most people on average incomes can afford to buy houses and in a whole swathe of the country what are essentially controlled Council rents are little if any lower than the prevailing market rent. This means that home ownership is affordable to most working people and it is feasible to move between the municipal and private rented sectors, given that most Councils have waiting lists measured in the low hundreds rather than the thousands of many London Boroughs.
- 2.2 The West London housing market is extremely buoyant, from a seller's perspective, with price increases continuing to out strip RPI by a significant factor.
- 2.3 This however means that in most of the sub region an annual household income of in excess of £75k is required to enter the housing market.
- 2.4 This has increased demand in the private rented sector which has grown substantially in the last ten years albeit through a proliferation of small buy to let landlords . The increase in demand for rented property increasing prices and reducing the supply of lower cost / quality accommodation.
- 2.5 This in turn creating an increase in evictions from the private rented sector as landlords look to increase rents and cease to offer accommodation to those on low wages being topped up with benefit payments.
- 2.6 In recent years successive Governments have attempted to subsidise home purchase in various ways either to help restart the housing market post the 2007 crash or to counteract the ensuing difficulties with the supply of mortgage finance. None of these measures have had any significant traction in London due to the very high market entry price.

- 2.7 Shared ownership products offered by Housing Associations have however been relatively popular though their purchasers remain the least happy of any group in the housing market and there are real issues as to whether shared ownership in a rapidly inflating market is a strong economic option for the purchaser as they are unlikely to stair case out of the property.

### **3. State Benefits**

- 3.1 In most London Boroughs over 60% of Council tenants are in receipt of state benefits of some form.
- 3.2 UK Welfare policy has since 1945 historically recognized housing costs as a separate class of expenditure and under the National Assistance Act and the 1973 Social Security included a specific housing allowance in benefits. Since 1982 Councils have administered a system of payments linked directly to housing costs know as Housing benefit. This benefit paid to both the unemployed and those in the lowest paid work.
- 3.3 Today, a substantial part of the national benefits bill goes on paying Council rents and historically Councils have been, in practice, able to largely pass increases in their rent levels on to Government due to the number of tenants in receipt of Housing Benefit. Though successive Governments have sought to force the inflation of Council rents to bring them closer to market and particularly housing association rents.
- 3.4 An easy way for Government to reduce national benefit expenditure is to force the reduction of Council rents. Another is to cap the levels of individual benefits paid so that the full costs of more expensive properties are not paid.
- 3.5 The latter approach has considerable significance in high cost areas like London and means that those on benefits cannot afford to live in certain places and property types.
- 3.6 Current Government policy will mean that most people on Housing Benefit will not be able to live in large swathes of London within the next ten years.
- 3.7 This has lead to more people becoming homeless either as a result of their benefit not covering their housing costs or their landlord deciding to increase rent levels in response to new demand from people who would traditionally have bought. These households are presenting to their local authority in increasing numbers.
- 3.8 Under the current system local authorities housing someone on benefit in the private sector get a payment from Government but in most cases this no longer covers the actual cost of renting a property in London creating an immediate revenue budget loss for the authority of, in many cases, £100 per week per person. Many Local Authorities having in excess of 1000 households at any time who they have a duty to house but have not been able to permanently accommodate.

## **4. Specific Implications of the Housing & Planning Bill**

### **Starter Homes**

The Bill provides the statutory framework for the delivery of starter homes. It defines starter homes as:

- A new dwelling
- Available to first time buyers under 40 years of age only
- At least 20% less than market price
- To be less than the price cap (£250,000 outside London and £450,000 in London)
- To be subject to restrictions set by the Secretary of State in regulations.

Local planning authorities will have a new duty to promote the supply of starter homes, and to prepare reports about the actions they have taken under the starter homes duties. The legislation effectively prioritises Starter Homes above all other affordable provision, restricting local authorities' ability to negotiate other low cost home ownership products through section 106 and other planning agreements.

The Bill will also allow the government to set regulations requiring starter homes to be included on residential sites as a condition of securing planning permission. The regulations may also specify that certain types of residential development should be exempt, or that certain areas should have a higher starter home requirement, or that local planning authorities should have discretion about certain requirements. These regulations will be issued at a later date.

The government's intention is that the 20% price reduction will be locked in for only 5 years. This has been controversial as it means that after 5 years the owner can sell at open market value. If the 5-year limit on the reduction is maintained, it will have put upwards pressure on house prices (in the same way as other initiatives such as Help to Buy) because it puts more purchase capital into the market, as a result of the 20% windfall.

### **Implications**

Reports suggest that the provision of Starter Homes and the 'automatic permission in principle' which underpins them will rely very heavily on the plan-making process and will not therefore apply retrospectively to current allocated development sites. The planning minister, Brandon Lewis, indicated at a select committee appearance on 9th November that councils will continue to negotiate the provision of starter homes as part of s106 agreements in much the same way as overall tenure is agreed with developers at present. These negotiations, however, will be subject to new regulations mandating a proportion of Starter Homes on 'all reasonably sized sites' and will effectively top-slice affordable housing provision. The British Property Federation has warned that this may in effect 'kill off' the emerging build to rent sector.

Land prices in most areas of West London will support one and two bedroomed Starter Homes. These will only be affordable to households with an above average income and will not benefit working households on lower incomes. On average, one bedroomed homes will be affordable to households earning from £34.5k, just below the median household income for the borough, up to the GLA's First Steps income threshold (currently £71k for 1 and 2 bedroomed homes and £85k for 3-4 bedroomed homes). Unsurprisingly, affordability is more limited for larger, family sized properties.

## Self-build and custom housebuilding

The government sees this as a neglected housing sector and aims to double the number of self-build and custom built houses by 2020. In many European countries, custom built homes provide a more significant contribution towards the supply of new homes. The government are keen to support the expansion of this sector to capture its full potential.

The Bill supplements the duties already introduced earlier this year through the Self-build and Custom Housebuilding Act 2015. This Act requires the council to keep and publicise a register of:

- (a) individuals,
  - (b) associations of individuals (including bodies corporate that exercise functions on behalf of associations of individuals),
- who are seeking to acquire serviced plots of land in the authority's area in order to build houses for those individuals to occupy as homes.

The new Bill supplements the Self-build and Custom Housebuilding Act 2015 Act by giving local authorities a new duty to grant permission on enough serviced plots of land to meet the demand for self-building and custom building in their area. These provisions have implications for land supply particularly within London where high density strategies for housing delivery increasingly rely on comprehensive development schemes and an activist approach to site assembly.

## Implications

Self-build and custom housebuilding provide a valuable niche housing option to the range currently available to residents. However, even with the additional support provided by the Bill, Self-build and Custom Build homes are still likely to only provide a small contribution towards new housing supply. If there was sufficient interest, the council could work with a Community Interest Company to deliver self-build homes, which could help provide training and skills, though this would involve a considerable commitment from those involved.

## Additional Measures to improve the Private Rented Sector

The Bill provides greater powers for local authorities to identify and tackle rogue landlords with measures including:

- **Banning Orders** via a tribunal- to ban a person from:
  - letting housing in England;
  - engaging in letting agency work that relates to housing in England;
  - engaging in property management work that relates to housing in England; or
  - doing two or more of those things.
- **A more stringent “fit and proper” person test for landlords** letting out licensed properties, including HMOs, to help ensure that they have the appropriate skills to manage such properties and do not pose a risk to the health and safety of their tenants;
- **Rent Repayment Orders**-the Bill will grant tribunals powers to make repayment orders to deter rogue landlords who have committed an offence

- **Creates a national database of rogue landlords**, which local housing authorities will be responsible for maintaining
- **Additional powers to recover abandoned properties** without the need for a court order.

### **Implications**

These proposals are welcomed as they will help the council deal with the worst parts of the sector. However, it will be vital to make sure that local authorities are given the resources they need to enforce the new measures.

## **Extension of the RTB to Housing Associations and Sale of Vacant High Value Local Authority Housing**

### **Implementing the Right to Buy on a Voluntary Basis**

Following the deal struck between the government and the National Housing Federation, housing associations will extend the RTB to their tenants on a voluntary basis. The Bill will enable the government to:

- make payments to associations to compensate them for the cost of the discounts on offer
- publish 'the home ownership criteria' (a set of rules for the extension right to buy)
- direct the Homes and Communities Agency to monitor associations' compliance with the criteria.

The government has confirmed that housing associations can keep the receipts in 'cash' rather than grant form. However, there is still significant concern over whether the new policy will deliver one for one replacements, given government statistics show that the replacements for RTB have fallen substantially short of this target after the previous reforms under the Coalition government. Given the government's refocusing of affordable housing, it is likely that a substantial proportion of re-provision could be Starter Homes or other low cost home ownership products, rather than rented social housing.

### **Implications**

Losses of affordable housing in West London could be in the order of 3000 over the next 5 years. As things stand, Local Authorities will lose the ability to insist that homes sold by associations under the extended RTB will be replaced in West London, since there is at present no means to replace sold homes in London let alone higher value areas.

### **Sale of vacant high value local authority housing**

The Government is committed to requiring stock retaining local authorities to sell "high value" homes as they become vacant. The government intends to use the funds raised to support the extension of the RTB scheme and also to help create a fund to support the construction of 400,000 homes on brownfield land (Brownfield Regeneration Fund). The provisions contained in the Bill will enable the government to set out a definition of 'high value' homes and create a duty on local authorities to consider selling homes that meet this definition when they become vacant.

The Bill will also allow the government to estimate the amount of money it would expect each individual authority to receive, in each financial year, from sales of high value homes.

Local authorities will be able to enter into an agreement to reduce the amount of the payment, so long as the money is spent on housing or on things that will facilitate the provision of housing. Though at the moment, this is on basis of a two for one arrangement which will be extremely challenging unless boroughs build out of borough in places where values are lower. In the absence of any agreement between a borough and Government on resupply, the LA will be required to pay any amount due from the sales to the Treasury. Details of both the definition of high value homes and the mechanism by which the government will calculate the amount owed by each stock retaining authority will be published at a later date. Though it appears this will be done on the basis of volume of stock in certain down price bands and turnover rate over last three years.

## **Implications**

During the summer, some research was undertaken by Liverpool Economics to assess the impact of the government's proposals across 25 London boroughs. They estimated that 1,588 homes would be sold by these 25 authorities in the first year of the policy. This number will decline slightly over time, resulting in 7,341 sales in the first five years and 13,361 in the first ten years. However the detail of the formula to calculate what is included in 'High Value' sales is not yet available.

## **Pay to Stay; Mandatory Rent for High Income Social Tenants**

Social landlords are already able to voluntarily charge those households earning £60,000 and above full market rent. The government is now legislating to lower the threshold and make it mandatory to charge higher rents to those earning above the new, lower threshold currently defined as with a household income of over £30,000 per year, and over £40,000 in London.

The government is currently consulting on how the taper will work and on expected administrative costs. Boroughs are tending to respond that the minimum threshold for household income for London (£40k) is set too low and fails to take account of differing housing markets and home sizes. A household with an income of £40k can afford a maximum rent of £162 per week, regardless of the size of property. The policy will impact particularly on families and larger households living in council homes, with the potential for disproportionate impacts on some religious and ethnic groups.

## **Implications**

The percentage of market rent that is affordable will differ depending on the property type and area. As part of the response to the consultation, London Councils are suggesting that the taper starts where a household can afford the max LHA rate for the area (lowest 30th percentile) ending where they can afford full market rent. There are very few areas or property types in West London where a household with an income of £40k can afford full market rent. Our suggestion would be that different areas have a differing threshold with a taper from £42k rising to at least £100k for larger properties in expensive areas.

## **Planning reforms**

The key changes are:

- **Neighbourhood planning** – the Bill intends to simplify and speed up the neighbourhood planning process to support communities that seek to meet local housing and other development needs through neighbourhood planning, by

introducing a timetable by which local authorities must undertake key neighbourhood planning functions. It also allows the Secretary of State to intervene in decisions on whether to hold a referendum on an Neighbourhood Development Order or a neighbourhood plan and requires local authorities to notify local neighbourhood forums of any planning applications in their area.

- **Local planning** – gives the Secretary of State further powers to intervene if Local Plans are not delivered with sufficient speed.
- **Planning in Greater London** –this will devolve further powers to the Mayor of London to call in planning applications of 50 homes or more
- **Information about financial benefits**- this ensures that potential financial benefits of certain development proposals are made public when a local planning authority is considering whether to grant planning permission (including CIL).
- **Local registers of land and permission in principle** – creating a duty for local authorities to hold a register of various types of land, with the intention of creating a register of brownfield land to facilitate unlocking land to build new homes; and giving housing sites identified in the brownfield register, local and neighbourhood plans planning permission in principle, and providing an opportunity for applicants to obtain permission in principle for small scale housing sites.
- **Planning permissions** – This is a significant change to the planning system and, while containing additional duties/burdens, it could be a beneficial change. Essentially there are two new provisions:
  - **A duty to hold a register of brownfield land capable of being developed for housing**- The DCLG are looking to make this as light a burden as possible by essentially using the existing Strategic Housing Land Availability Assessment process that is carried out as part of Local Plan making to form the register. This is unlikely to deliver any additional housing as most sites will already have been allocated as suitable for housing.
  - **The concept of permission in principle**. The cost of obtaining outline planning permissions is seen as a barrier to entry for small house builders. This new concept (permission in principle) will automatically attach to sites on the Brownfield Register and can be granted on application to small sites (less than 10 units). It is also posited that this measure will improve developer access to finance by providing certainty of the end use. Again, this seems unlikely in London where permission for housing is essentially certain except in specifically designated areas such as green belt and Strategic Industrial Land .
- **Nationally significant infrastructure projects** – this allows developers who wish to include housing within major infrastructure projects to apply for consent under the nationally significant infrastructure planning regime. The current system prevents this.
- **Planning performance**- 50% of major applications already have to be determined within statutory time periods. The Bill now provides for underperformance measures to be extended to minor applications too (likely also to be set at 50%) and to PIPs. “Fixing the Foundations” sets out the government’s intention to publish league tables, setting out local authorities’ progress on providing a plan for the jobs and homes needed locally. Targets will also be set for Starter Homes. In London, it is reported that the Mayor of London is planning to fix a target of 25% for affordable homes in

the capital's key housing zones and opportunity areas. While this may improve delivery in more expensive central areas, it will effectively prevent local authorities from being able to negotiate up the number of affordable homes on a development above the 25% threshold.

- **Urban Development Corporations-** the government see these as good delivery agents and so are looking to make it easier and quicker to set them up.
- **Compulsory Purchase-** A wide range of changes that are the result of a consultation last year. These are broadly supported and DCLG state that it was the most widely supported consultation they have ever undertaken. However it just sorts out the current CPO regime and does not extend it to give effect to initiatives such as "use it or lose it", but further changes are still under consideration.

## **Implications**

The main impact is likely to be that developers seek to renegotiate existing s106 agreement and remove affordable rent components and include greater use of Starter Homes at the expense of other forms of affordable housing. The Greater London Authority (GLA) is concerned that potential quotas for Starter Homes would leave The Mayor unable to fulfil his pledge to get 250,000 Londoners into shared ownership within the decade. The Mayor is now pushing for the power to set his own targets for Starter Homes in London.

The Bill will result in additional performance monitoring duties to be published in the Annual Monitoring Report, with only limited practical benefit. Likewise, imposing a statutory time limit for the determination of neighbourhood designation applications is unnecessary as timescales should reflect local conditions to ensure due consideration to each application. Government guidance already makes clear that councils should set out and share a decision making timetable which provides clarity for applicants.

Some of the provisions will be beneficial, namely the changes to the Compulsory Purchase rules, which are designed to speed up and reduce the costs of the process, helping to bring more land forward for development.

It will be important that Councils lobby to ensure that the new burden to provide a register of brownfield sites is fully funded to cover the costs of councils preparing, publishing and updating the proposed register. The introduction of a sequential test for brownfield land would help councils to ensure developers prioritise brownfield sites.

## **Financial**

There are a number of broad financial implications arising from the provisions contained in the Bill.

### **Impact on Housing Revenue Accounts**

- Each borough will have modelled the impact on its HRA of the 1% rent cut. There will also be impacts from the sale of high value stock, which reduces rental income, and the introduction of Pay to Stay. The impact of these latter policies is harder to quantify.

## **Affordable Homes Delivery**

The pressures upon Borough HRAs and constraints imposed by the Bill may impact on funding to existing and planned new build and estate regeneration schemes. In addition, the national Affordable Homes Programme is being refocused to fund the provision of low cost home ownership products, rather than homes for social or affordable rent.

November's joint Spending Review and Autumn Statement announced that funding for the housing budget will be doubled to £2bn from 2018-19. However, there is no additional funding available as part of the 2015-18 Affordable Homes Programme (AHP). This means that any remaining funding from the current AHP will be realigned to the government's priorities set out in their "Five Point Plan" to:

Deliver 400,000 affordable housing starts by 2020-21, focussed on low cost home ownership.

Launch a pilot of the Right to Buy with five Housing Associations.

Accelerate housing supply and get more homes built

Extend the Help to Buy: Equity Loan scheme to 2021 and create a London Help to Buy scheme, offering a 40% equity loan in recognition of the higher housing costs in the capital.

Charge Higher rates of Stamp Duty Land Tax (3%) on the purchase of additional residential properties, such as buy to let properties and second homes, from 1 April 2016.