

Pre-election statement by the Highbury Group on Housing Delivery 2019

Policies on housing supply for the next Government.

Summary of key points

1. The need to focus on providing more affordable homes

* Government should not further inflate effective demand for market homes. Such an approach wastes public sector resources and inflates housing prices, making housing even more unaffordable to the majority of households. The critical challenge for any future Government is to significantly increase housing supply for those who do not have the resources to access the housing market.

* The incoming Government should switch subsidies for sub-market homeownership, shared ownership and so called 'affordable rent' at up to 80% market rent to social rented homes and other homes at target rent levels or lower. There needs to be a fivefold increase in the national housing investment programme.

* The official definition of affordable rented housing should be changed to cover only housing where costs (rent and service charge) do not exceed 30% of the net household income for households in the lowest income quartile.

* The loss of existing social housing supply needs to be stopped. Right to Buy should be terminated in England and has already been achieved in Scotland and Wales.

* Government should move the balance of subsidy from subsidising consumption through welfare benefits to subsidising new homes through investment.

2. Using existing public bodies more effectively

* Local Authorities should have a more proactive role in ensuring the delivery of new homes. Key issues are:

a) the ability of Local Authorities (LAs) to raise capital and revenue funds;

b) grant from central government to LAs that do not have investment capacity.

* New housing and infrastructure organisations are required where existing organisations cannot deliver even with enhanced powers and funding.

Any such organisations should be established for the long term – for example for 30 years. They should be established in collaboration with existing local statutory bodies within the area; They should operate within a structure of clear democratic accountability, and they should have powers to raise private finance and receive grants and loans from central government and other public sector bodies such as Homes England and the Mayor of London.

* All resource allocation from central government to LA or LA groupings should be related to evidence of need and not based primarily on bids and bilateral negotiations.

3. Strategic planning

* LAs within functional urban regions should be required to use combined authority powers to prepare a sub-regional plan, based on a sub-regional needs assessment and sub-regional development capacity study.

* Government should determine LA groupings, to remove the potential for a LA to opt out. This would replace the Duty to Co-operate provisions of the Localism Act, 2011.

* Local Enterprise Partnerships (LEPs) should be incorporated into the new sub-regional planning structure – there is no need for separate bodies which have no statutory powers or duties. Incentivised voluntarism does not work.

4. Land Assembly and Compulsory Purchase

* LAs should allocate land for housing and other development purposes as at present (but working on a combined authority sub-regional basis).

* LAs should have the power to acquire development land (whether or not it has planning consent) at close to existing use value, discounting hope value, based on existing use value and a fixed premium.

* Where the landowner is not willing to sell on this basis within a fixed period, the LA should have power to CPO at existing use value.

5. Development viability and planning gain

- * Viability assessments should be required and fully published for all developments to justify development output.
- * Central government should set the norm profit margin (no greater than 15% and regularly updated to reflect changing market conditions).
- * Land costs should be treated on the basis of existing use value (EUV)
- * A proportion of any profit over time above a fixed threshold should be returned to the LA.
- * LAs should take equity shares in the value increment of private development, so that increased value on resale can support investment by the LA in affordable housing and infrastructure.

6. Development finance

- * LA wholly owned companies and joint venture partnerships should be able to borrow outside public sector borrowing limits subject to demonstrating compliance with prudential borrowing requirements.
- * The government should establish a housing and infrastructure development financing bank, to provide finance for projects within the National Infrastructure Plan.
- * The government should establish a Municipal Investment Corporation to assess major projects and help package

funding for local authorities. Funding should be in the form of grant rather than loan where necessary. Public sector bodies should only dispose of assets to support public policy objectives and should normally retain equity in any asset disposed.

7. A tax regime which supports the effective use of housing supply

* The option of introducing a tax on land which is appropriate for development, including both allocated and consented land, where development has not commenced, should be considered. This would encourage the landowner to bring the land forward for development to be progressed. However, such a mechanism needs to avoid stalling development or increasing the price of completed homes. Any such policy needs to be combined with the ability of the LA to acquire the site should the landowner and developer fail to progress development within a specified timescale and to strict time limits attached to the validity of planning consent. This is sometimes referred to as a 'use it or lose it' policy.

* LAs could take an equity share in residential development, which could capture value uplift not captured currently by planning obligations and Community Infrastructure Levy.

* Stamp Duty should be replaced by a tax on the capital gain on disposal of land and property.

* Council Tax should be restructured to remove bandings and to staircase the tax rate in relation to property value, with much higher rates of tax for higher value properties and for a

tax supplement for properties which are vacant or significantly under-occupied (based on two or more surplus bedrooms). Local authorities should have the power to determine local council tax rates and central Government imposed constraints on council tax increases should be removed. This would both reduce local authority dependency on central government and increase local democratic accountability.

* Business Rates should be reviewed as part of a programme of further devolution of financial powers to LAs. LAs should have additional tax raising powers, for example in relation to levying a tourist tax on hotels and Airbnb accommodation.

8. Regulation and standards

* There should be more comprehensive mandatory regulatory standards for all housing covering construction, physical standards, fire safety and management. These should be enforced.

* There should be regulation of the private rented sector, including regulation of length of tenancy and rents. Local authorities should have new powers in relation to taking over the management of privately rented properties which are in breach of regulatory standards.

9. Climate Change Proofing

* All new construction and refurbishment of existing residential dwellings needs to have regard to the most efficient use of energy and water. New construction should aim to be carbon-neutral. Use of construction materials should have regard to targets to reduce embodied carbon.

* The carbon challenge targets recently published by the RIBA should be endorsed by Government.

* Location of new development should aim to maximise use of public transport with cycling provision and where possible, pedestrian access to local facilities.

Supporting Argument

Introduction

The Highbury Group is an independent group of specialists from public, private and independent sectors with a membership drawn from housing, planning and related professions; it offers advice and makes representations to Government and other agencies on planning and housing, with the aim of maintaining and increasing the output of housing, including high quality affordable housing (see footnote for membership).

The key purpose of the group is to promote policies and delivery mechanisms, which:

- * increase the overall supply of housing in line with need;
- * ensure that the supply of both existing and new housing in all tenures is of good quality and affordable by households on middle and lower incomes;
- * support the most effective use of both existing stock and new supply;
- * ensure that housing is properly supported by accessible infrastructure, facilities and employment opportunities.

1. The need to focus on providing more affordable homes

a) Government should not further inflate effective demand for market homes.

Such an approach wastes public sector resources and inflates housing prices, making housing even more unaffordable to the majority of households. Subsidising one select group to become homeowners just disadvantages other prospective home owners both now and in the future. The critical challenge for any future Government is to significantly increase housing supply. The focus needs to be both on:

- * reducing the price of homes in the market available to first time buyers; and, even more critically,
- * increasing the supply of new homes for those who do not have the resources to access the housing market.

This means that the majority of new homes, especially in higher cost areas, should be homes for rent, not homes for market sale or rent, or which are only marginally submarket rent or sale.

b) Funding new social rented homes

The first action for any incoming Government should be to switch subsidies for submarket home ownership, shared ownership and so called 'affordable rent' at up to 80% market rent to social rented homes (i.e. at homes at 'target' rent levels or lower).

The long- term objective should be to move away from the current position of increasing expenditure on welfare benefits to households so that they can access unaffordable housing. Instead, investment subsidies should be used to make housing affordable by lower income households without dependence on welfare support. This is a much more effective use of Government resources, and focuses investment on public sector assets rather than funding short term consumption by individual households. It is, however, important to recognise that this will not be a short term transition. Housing benefits have to be maintained to support market rents until a significant additional supply of genuinely affordable housing is available to, and accessible by, lower income households. Cuts in the rate of Local Housing Allowance should be reversed. The definition of affordable housing is housing where costs (rent and service charge) do not exceed 30% of net household income of lowest quartile households (this was the definition included in the original 2004 London Plan).

c) Stopping the loss of the existing social housing stock:

The loss of existing social housing supply needs to be stopped. The continuation of the Right to Buy provisions acts as a disincentive to Local Authorities who are either directly or indirectly supporting the provision of new social housing. Reforms to Right to Buy such as changing eligibility rules or modifying discount arrangements are insufficient. There can be no justification for subsidising individual capital gain from subsidised disposal of public assets. It reduces the availability of council homes for future households in need. It leads to significant expenditure from the public purse (through housing benefit) to provide temporary accommodation for such households in the private sector. No reforms will ensure the funding of equivalent replacement homes from the sales receipts. Therefore, the Right to Buy should be stopped in England, as it already has been in Scotland and Wales.

2. Using existing public bodies more effectively

a) The Functions of Existing Organisations.

When considering the option of establishing new organisations it is important to understand the functions and powers of existing public bodies. Homes England already has extensive powers to fund (through capital grant and repayable loans) both housing (the provision of new homes, the improvement of existing homes, and estate regeneration) and infrastructure. It has the power to fund housing associations, cooperatives, local authorities, ALMOs, and private developers who register with it and who meet its funding criteria. The Mayor has parallel powers in London. Homes England also has compulsory purchase powers. Under the Housing and Regeneration Act, the Secretary of State can designate Homes England as authority for a specified area – a power that has never been used. It was introduced as a reserve power for Government, should a Local Planning Authority try to obstruct a major strategic government initiative.

The Mayor of London has compulsory purchase powers, which are not limited to Mayoral Development Corporation areas (London Legacy DC and Old Oak Common DC), but can be applied more widely. They may be used in the case of the Mayoral Housing Zones

The Government established its own Development Corporation for Ebbsfleet, with the Secretary of State appointing the DC board. The Ebbsfleet model, having no plan-making functions and limited capacity for land ownership and land value capture, is much more restricted than Garden City or New Town models and is not necessarily appropriate for planning and managing the development of major new settlements.

One option which has been considered in regard to City Deal discussions is the possible transfer of Homes England powers and resources to city-regional groupings of authorities (using combined authority arrangements) or to individual urban local authorities. Local authorities operating under combined authority arrangements can choose to exercise plan making powers on a collaborative basis. LAs already have a range of CPO powers, so there is no need to transfer this power from Homes England. It is, therefore, questionable what additional powers either Homes England or individual LAs require. Homes England and LAs could make more effective use of their existing powers.

Current constraints relate, in fact, mainly to the financing of development:

* Government grant is insufficient, being up to a maximum of £100,000 per home, when the grant requirement may be as much as £250,000 per home in a high cost area.

* there are limitations on the ability to raise finance through taxation (LAs face restrictions on council tax increases; while Homes England has no tax raising powers);

* there are limitations on LA borrowing (Homes England has no independent borrowing capacity); and

* the financial rules relating to compulsory acquisition of land require purchase at the market value for the proposed end use, rather than the pre-existing use value.

Some of these matters are considered further below.

The key point is that, without changes to these four fundamental constraints, there is limited benefit from setting up new organisations such as Development Corporations. On the other hand there are major disbenefits, including a considerable set up cost, a hiatus during which key development decisions cannot be made until the new body is fully operational, together with, in some cases, difficult relationships with agencies from whom powers have been transferred, and concerns about democratic accountability. This is often followed within a few years with the winding down of the new agency, generally with the development incomplete, or in some cases (for example the Thurrock Development Corporation) hardly started.

b) The purpose of new organisations:

In the past, there have been three main reasons for setting up new organisations:

1. Where central government has been of the view that local government bodies are either opposed to the development proposal or that they lack the competence or capacity to take the project forward (the key justification for setting up the London Docklands Development Corporation);
2. Where the project involves development in a number of LA areas, and requires a consistent approach to delivery within a fixed timescale which is not constrained by the different policies or procedural arrangements of the existing local authorities (the key justification for the establishment of the Olympic Delivery Agency, though it should be recognised that much of the preparatory work was undertaken on a collaborative basis by the four main London

boroughs concerned) ; and

3. Where the project cannot be funded from the LA's resources or from available central government subsidy and requires private finance beyond the borrowing capacity of the LA (which is itself limited by central government controls) – this would normally require some form of private sector led body, though this may be a joint venture company in which the LA has a minority interest. In the latter case, the initiative to set up a new body may be an initiative by the local authority rather than by central government.

c) Spatial allocation of investment:

The Government still needs to determine the distribution of resources between different parts of the country and, to ensure effective use of resources, it is important that there is some link between resource allocation and resource use. The Government, and Homes England specifically, have increasingly moved away from a resource allocation system which reflects either the spatial distribution of unmet housing requirements, or the spatial distribution of the assessed development capacity. They have moved instead to a bid-based regime where the Government, through Homes England, allocates resources in response to bids made primarily on the basis of which provider can provide the most homes for the least government subsidy.

d) City Deals and competitive bidding regimes:

The City Deals approach to resource allocation, and the devolution of powers now being operated by central government in relation to individual LAs or groups of LAs, has the same risk of not distributing resources to the areas of greatest need. Instead they may go to the areas that are most effective at lobbying and where political returns can be maximised. This is disguised under the banner of 'localism' but loses both transparency and any consistency of resource and policy response to the needs arising in different parts of the country. It does not lead to the most effective use of resources. It is unfair both in terms of differential treatment of local authorities and, more critically, the varying ability of different authorities to respond adequately to meeting the statutory responsibilities within their functional and geographical areas of responsibility.

e) Concentrated use of powers:

Some new initiatives, such as the Mayor of London's housing zones, do not involve new statutory powers for new organisations, but relate to the concentrated use of existing powers (including powers not previously used) in specific geographical areas. They may or may not lead to a change in the spatial distribution of funding resources. Zoning initiatives of this kind should not, however, be confused with the establishment of new organisational structures.

The key questions therefore are:

- a) What are the benefits and disbenefits of transferring powers and/or resources from one agency or another?
- b) What can a new organisation do that the current organisation cannot? and
- c) Can the delivery objective be more effectively delivered by either more effectively resourcing an existing agency to utilise its existing powers or, where an agency is not utilising its powers effectively using statutory powers to require it to do so?

Any new Government needs to have these questions in mind before initiating any organisational changes, including further devolutionary measures.

There may be a case for establishing new housing and infrastructure organisations where existing organisations cannot deliver even with enhanced powers and funding.

Any new organisations should:

- * Be established on a longer- term basis – for example 30 years;
- * Be established in collaboration with existing local statutory bodies within the area;
- * Operate within a structure of clear democratic accountability; and
- * Have powers to raise private finance as well as to receive grants and loans from central government and other public sector bodies.

3. Strategic planning and the Right to Grow

a) The Weakness of the strategic planning framework

The current planning framework does not ensure adequate planning on an inter-authority basis. It has demonstrated significant failure, especially by being unable to ensure a planned response to the needs of growing populations in constrained and under-bounded local authority areas. The Duty to Co-operate provisions of the Localism Act 2011 have been insufficient to ensure delivery of the

Required collaborative planning between neighbouring authorities. This has become critical given the abolition (beyond London) of any statutory framework for regional and sub-regional planning, with arrangements in the London metropolitan region also being unsatisfactory given that the Mayor of London's planning powers are limited to part of the metropolitan Functional Urban Region/ travel to work area.

b) The Right to Grow

It is necessary to set out the mechanisms for delivering the concept of the 'Right to Grow'. There is logic in extending the administrative boundaries of growing urban areas to include both the existing developed periphery and sufficient area to provide for projected population growth for, say, the next 50 years. However, the process for boundary changes can be lengthy. In the shorter term a new collaborative approach between under-bounded authorities and their neighbouring local planning authorities is essential.

While LAs have the power to plan on a collaborative basis, there has not in the past been a statutory requirement to agree an inter-authority strategic plan. The requirement in the 2018 National Planning Policy Framework to agree a Statement of Common Purpose with neighbouring authorities may improve the situation but has yet to be tested in practice.

While Local Enterprise Partnerships provide a framework for collaboration between public and private sector organisations, their focus is primarily on inward investment and economic growth, not on the wider range of planning objectives. They are not statutory bodies and have no planning functions. More important still, they have no direct electoral basis and thus lack legitimacy in the eyes of citizens. Local authorities can already work collaboratively on strategic planning matters under the provisions of the Planning and Compulsory Purchase Act, 2004 to produce and adopt joint plans. Some are now jointly implementing strategic planning functions under combined authority powers. The recent introduction of Spatial Development Strategy powers for three city region combined authorities is also to be welcomed.

However, under what is effectively a voluntary system, some Local Planning Authorities are able to opt out of any effective collaborative planning arrangements. This is most problematic where a constrained authority seeks assistance from a less constrained neighbouring authority, to find its

approaches rejected. This has led in practice to a number of Local Plans being rejected by Inspectors at Public Inquiry because there has been little evidence of effective collaboration. On occasions this has not been the fault of the presenting authority. A plan can be rejected because it does not meet local needs within its authority area, but can also be rejected because it has failed to take into account the needs of a neighbouring authority. However, the Government has not specified which authorities need to collaborate, nor specified the appropriate geographical areas for such cooperation, whether based on travel to work areas or other criteria. Decisions of both Planning Inspectors and the successive Secretaries of State have not been consistent on this matter. That is because, while there is guidance on the process of meeting the Duty to Cooperate provisions of the Localism Act, there is no guidance on how policy conflicts can be resolved, notably in relation to the key issue of differential housing requirements/development capacity/potential mismatches within a travel to work area.

c) Regional and national planning:

These conflicts become more problematic because there is now no structure for regional planning and the determination of housing and employment growth targets in the different English regions and sub-regions. The regional planning framework established in 2004 was not given sufficient time to demonstrate its potential value, with its abolition following the election of the Coalition Government in 2010. The abolition process itself took three years to fully implement. The regional planning organisations were actually disbanded well before the regional plans were formally withdrawn, causing considerable confusion about whether or not the plan targets remained in effect. There is now (excepting London) no regional assessment of either need or development capacity. There is no statutory planning framework for setting sub-regional priorities, or for assessing the contribution of local authority level policies and targets to meeting wider needs. There is no adequate statutory framework or guidance for planning housing, employment, transport or infrastructure provision across a region or sub-region. Recent Government population projections and guidance on the objective assessment of housing need have in fact increased uncertainty rather than generated consistency. Under the current government, Communities and Local Government Department data is generally no longer published on a regional basis.

Since 2000, the terms 'more than local' or 'sub-national' have been used by Government, rather than the terms 'sub-regional' or 'regional'.

In contrast with most other Western European countries, England has no national spatial plan. Scotland, Wales and Northern Ireland all have national spatial plans and some structure for regional or city-regional planning. The localist perspective of recent Governments has meant that there has been neither a government regional policy, nor any national perspective on the spatial distribution of residential or employment growth. In this context, national government policy decisions on major infrastructure investment such as HS2 work within a policy vacuum in which there is no assessment of the extent to which infrastructure investment supports employment or residential growth in specific locations. From the perspective of ensuring the most cost effective use of public resources, such an approach appears grossly irresponsible. It must surely be the responsibility of a national government to set out spatially related priorities for use of central government resources, including resources raised from taxation, in terms of an assessment of potential long term social, economic and environmental impact.

It is inappropriate and, bluntly, irresponsible for any planning Minister to express the view that the location of employment, housing or infrastructure should be primarily dependent on whether the existing residents of an area welcome the proposition. In fact Government is now largely reliant on local councils and local communities themselves to put forward proposals for growth. There is, therefore, now no national assessment of the spatial distribution of the employment, housing or infrastructure requirements arising from population growth and migration and, consequently, no ability to plan funding to support this assessment. Instead, government at all levels has had to react to the uncontrolled growth which may take place. The consequence is that in some locations there is a surplus of resources and capacity, and in others a deficit. The Government's view is that the market will self-correct. In practice this means that government will shift resources to areas which are economically strong and growing, but provide no support to areas in decline. Funding is often in arrears, rather than assisting LAs to undertake up-front investment in social infrastructure such as education and health facilities.

d) Regional inequity:

The Government's regional economic planning and regeneration strategy, so far as it has one, is to support the winners while not seeking to mitigate disadvantage in the declining areas, so it is not surprising that the economic differentials between the South East and most of the rest of the UK are increasing rather than reducing. This trend is being reinforced by the very uneven cuts in local government spending and the retreat from equalization in the local government finance system. The previous objective of seeking to reduce regional inequity has long since been abandoned. As set out in the Lyons Report, a key priority for a new government should be to initiate a process for producing a national spatial plan, and for indicating areas of the country with a potential for employment and residential growth (not necessarily limited to the Wider South East) as a basis for national infrastructure planning; while at the same time identifying measures to support communities in decline and interventions which could at least stabilise the position if not reverse the decline, so that communities in these areas are not further disadvantaged.

e) Mechanisms for addressing strategic planning issues:

Within this new context of national spatial planning, which needs to include a regional dimension and a regional level analysis and monitoring system (though not necessarily a reconstitution of the pre-existing regional planning bodies), there is a simple mechanism for establishing a democratically accountable basis for planning at the sub-regional/city-regional level. Government should determine groupings of Local Planning Authorities based on Travel to Work areas. This should use a statistically sound methodology which is not dependent on individual local authority choice of partners. A methodology was proposed in a report by Jones, Coombes and Wong, commissioned by the National Housing and Planning Advisory Unit and published by CLG in 2010 (<https://www.gov.uk/government/publications/housing-marketareas>). The government should bring in legislation to impose a statutory duty on the groups of authority to use their combined authority powers, to draft and adopt a strategic sub-regional plan. The grouping would include district and unitary planning authorities and any county council within the area which retained powers in relation to planning of transport, minerals and waste.

The sub-regional strategic plan should be based on a combined authority sub-regional

assessment of development requirements (housing, employment and infrastructure), and a combined assessment of development capacity for all development requirements. This should be consistent with economic, social and environmentally sustainable development criteria. These studies need to be on a consistent basis, in line with a methodology to be published by central government, that ensures consistent criteria and assessment both within and between sub-regions. These strategic plans would need to operate within the framework of the national spatial plan. They would need to include targets and site allocations to fully meet the identified employment, housing and infrastructure provision targets within the sub-regional area. Where such requirements were not fully met, the Planning Inspector and the Secretary of State would have the power to amend the plan. This framework could be established by relatively minor changes to the current planning legislation. It would not require any new organisations to be established, and would operate within the current structure of democratic accountability.

f) The relationship between strategic planning and localism:

It is also necessary to revisit the relationship between the need for strategic planning and the current focus on localism, demonstrated most explicitly through the neighbourhood planning provisions within the Localism Act 2011. While it is appropriate for existing residents to be involved in the process of planning an area, it is important to recognise that:

- a) The planning of a new urban area cannot be based solely on the interests or aspirations of the existing residential community (or a group of individuals within that community); and
- b) That it should not be possible for any group of residents to obstruct the delivery of a local authority plan which has already been adopted, founded on an evidence base, extensive consultation, public inquiry, independent assessment by an inspector, a democratic decision at local authority level, and demonstrating conformity with national planning policy, so far as that exists.

At present there is considerable confusion about the relationship between neighbourhood plans and local plans. It has seriously limited the effectiveness of both the neighbourhood planning and local planning processes.

For the neighbourhood planning system to be retained and make a constructive

contribution to both plan making and implementation, government needs to issue much clearer guidance. This should clarify what planning matters can be determined in a neighbourhood plan, and the local plan strategic policies with which a neighbourhood plan should conform. While it may be appropriate for a neighbourhood group to express a view on what is an appropriate development on a specific site, it is not appropriate for a group to seek to obstruct the delivery of strategic objectives. This requires the LA plan to be explicit about development objectives and targets for specific neighbourhoods. That would allow the neighbourhood plan to propose alternative sites for delivering the targets set. This would enable neighbourhood groups to have significant impact on the location and form of development, without jeopardising the ability of the local authority to implement its local plan and deliver development to meet its assessment of strategic requirements.

To extend the existing neighbourhood planning system without clarifying the relationship between neighbourhood and local plans limits the ability of LAs to implement their plans and carry out their statutory responsibilities. It weakens the democratic basis of the planning framework, while also allowing for the possibility that neighbourhood interests will block development from which more disadvantaged households might benefit. Unless there are constraints on neighbourhood planning, there is a risk that the system will be used primarily to protect neighbourhood interests, which brings with it the risk of increased social polarisation.

4. Land acquisition and compulsory purchase

a) Land cost

As was recognised in the Lyons Report, one of the key factors in the high price of housing is land cost. Much, if not most, of the land suitable for housing development is in private sector ownership. In some cases, LAs own little developable land. Sites suitable for development may be in multiple ownership. LAs in some cases need to take a more proactive role in land assembly. The main constraint on LA land purchase is the requirement, whether under Compulsory Purchase or other legislation, that LAs must pay for land on the basis of the intended use. Consequently, if a LA needs to acquire agricultural land on the edge of the developed area it may have to pay housing

value of, say, £3m per hectare rather than agricultural value of, say, £30,000 per hectare. In central London, acquisition costs can be £100m per hectare or more. The Government recognises that existing CPO procedures can obstruct the development of major infrastructure projects. A recent Chancellor of the Exchequer proposed that compensation should be paid on the basis of an amount higher than market value. In relation to housing however, a landowner can receive an uplift by a factor of 100 or more arising from the zoning of land in agricultural use for housing.

b) Capping value increment accruing to landowners

As suggested by the Lyons report, there needs to be a cap on the value uplift accruing to the landowner. As the value increment arises solely from investment by others (public and private), and from a planning decision made by the LA, it is appropriate that the benefit of the increase in value accrues to the community as a whole rather than solely to the landowner. In theory the price paid by a developer for land should be constrained by the planning policy applying to the development site. For example, if there is a requirement for a site to provide 50% of new development as affordable housing, then this should constrain the price paid for the land. Similarly, the price should be discounted to reflect obligations to provide infrastructure to support the development.

In practice the land price paid may not reflect this policy context, particularly where the policy context for such obligations is weakened. The Lyons report suggested that a CPO should be based on the land value plus a generous premium. One option is for the premium to be set at a fixed percentage over pre-existing use value – say 20%. A more sensitive approach would be to set differential percentage uplifts relating to the pre-existing land-use and/or the value of the pre-existing land use, so the premium for the landowner for low value land was, in percentage terms, higher than the premium for higher value land. For example, a 100% uplift could be allowed on land with a pre-existing use value of £30,000 a hectare; a 10% uplift on land with a value of £1m a hectare; and 5% for land with a value of £10m a hectare. A third alternative would be that the landowner should initially be paid only the pre-existing use value for land, but offered an equity stake in the value of the development on completion.

c) Bringing development land into public ownership:

It is preferable for development land to be brought into public ownership at some stage during the development process, so that landowners do not realise the full value uplift arising from planning zoning or planning consent. It is, therefore, proposed that where, within a defined timescale, a landowner refuses to sell a development site in line with the terms set out above, the Local Authority should be able to acquire the land at existing use value. This would act as an incentive to the landowner to implement the planned development, or to accept the LA's offer, which would be on a more generous basis. The CPO power should apply to any land that has been zoned for residential development. The LA could, therefore, either develop the land directly, or sell it on to an appropriate developer under a covenant setting out conditions on development output, as considered below.

d) Use of land already in public ownership:

Public sector organisations do also own land suitable for housing development. This is not limited to Local Planning Authorities, but includes the Mayor of London, Homes England, Health Trusts and government departments such as the Ministry of Defence. In recent years these agencies have generally sought to dispose of sites to the private sector for maximum receipts. In some cases LAs have relaxed planning policy requirements in relation to affordable housing in order to maximise the receipt. This is not good practice and creates a precedent for privately led schemes.

There is a case for requiring LAs and other public bodies, before land is released to the market, to first consider the potential for 'surplus' land to meet public policy objectives. It may be appropriate for the LA or other public body to develop land directly or, if selling land, only sell on a leasehold basis, or retain an equity stake in the completed development, and require that any increase in value is repayable to the LA. Where land is sold to a developer, the land disposal covenant should put strict requirements on the form of development, including, where appropriate, restrictions on sale prices and/or rent levels which ensures that housing developed is affordable over the longer term to lower and middle income households, as well as on initial sales and rentals.

5. Development Viability

a) Imbalances in the current regime

The current focus on development viability is limiting the ability of LAs to use the planning system to achieve planning policy objectives. This applies especially to the provision of affordable homes and social infrastructure to support new residential development. The focus in the NPPF on the right of landowners and developers to receive competitive returns on their investment is problematic because ‘competitive’ is not defined. The NPPF also states that the LA should not, through planning policy, planning obligations, or Community Infrastructure Levy impose costs on a developer which lead to a scheme being non-viable. The Government also introduced a procedure by which a developer who had already received planning consent for a development and had agreed a level of planning obligations, could seek amendment or waiving of this agreement on the basis that the scheme was now less viable than at the time consent was granted.

b) Norms for rates of return on investment:

The proposals set out in Section 4 on land assembly and CPOs cover the issue of landowner’s return, and the basis on which land costs should be eligible for inclusion in a development viability assessment. This would avoid developers including significant ‘hope value’ in their land purchase price, and consequently in their financial appraisal submission. It is, however, also necessary for the Government to set a norm rate of return on developer investment, as well as norms for other factors such as financing costs. One option would be to set an initial allowable return on investment at a fixed proportion - for example 15%. This allowance and other cost assumptions could be reviewed by central government on an annual basis. This would allow for a consistent basis for development appraisals between developers and local authorities, and would act as a basis for consideration of appeals by Planning Inspectors or determination by the Secretary of State.

c) Land acquisition costs in viability assessments:

Land acquisition costs in viability assessments should have regard to planning policy. It should not be acceptable for a developer to claim land costs based on an assumption that planning policies would not apply in full. It is, therefore, important that LAs

do actually apply their adopted planning policies to individual development applications, rather than create precedents that encourage a landowner and/or developer to assume higher values. LAs should, therefore, not allow developers to build schemes which are overdeveloped relative to published planning policies on site context and density. Nor should developers be allowed to progress schemes on the basis of a different mix from that specified in a site planning brief, or which do not meet the LA's affordable housing targets. Where a planning application is refused on the grounds of failing to comply with published policy and the developer does not, within 6 months, put forward a policy-compliant proposal, the LA should have the right to acquire the site compulsorily on the basis of the value assumptions set out above.

d) Revision of planning agreements:

The provisions of the 2008 Housing and Regeneration Act for a developer to seek revision of a planning agreement which they have signed should be repealed. LAs should be allowed to impose a planning condition on a development requiring a proportion of any value uplift arising above the values assumed in the financial appraisal to be paid to the LA.

e) Transparency of viability appraisals:

All viability appraisals should be transparent, with full information available to planning officers, councillors and public scrutiny. This is in line with judgements of the Information Commissioner and the Courts. There remains justifiable public concern about the abuse of the viability appraisal system by developers; and that Local Planning Authorities have been increasingly disempowered in the negotiation process. There is a case for a further government review of the viability appraisal system and its role in planning.

The application of affordable housing targets to specific developments should not to be subject to viability appraisal, and policy targets should be applied rigorously to all development sites to which they apply. This would then require developers to take into account the full policy requirements applying before determining the payment they are prepared to make for the land. Where a developer is not willing to proceed with development in this basis, the Local Planning Authority should compulsorily acquire the site and fund the costs of affordable housing directly.

6. Financing new development

a) Borrowing controls

As discussed in Section 2 above, many of the proposed initiatives to set up new development organisations, be they Local Authority owned companies, joint venture companies or other financing, development or management intermediaries, derived from government restrictions on LA borrowing. More recently, there has been an increase in the ability of LAs to incur borrowing against their own assets or income streams under prudential borrowing arrangements. LAs or groups of LAs should also be able to establish investment funds, raising finance from a range of private sources, including individual investors, to finance both housing development and infrastructure provision.

One option is for the Government to establish a housing and infrastructure financing bank. It would provide finance, secured against national assets, at lower than market rates.

Another is for local authorities, and groupings of local authorities, to establish a Municipal Investment Corporation. They would bring together public and private investment to fund major housing schemes and local infrastructure delivery. They would be exempt from centrally imposed borrowing limits, subject to demonstrating compliance with the principles of prudential borrowing.

A Municipal Investment Corporation would provide the confidence to private investors that funds will go into projects that have a good chance of achieving their stated objectives, and also incentivise local authorities to promote and support strategic developments that might otherwise be unpopular with their electorate. It could be modelled on the Dutch BNG, which was set up by local authorities and government together. The Corporation could act as an adjunct of a British investment bank. It would develop the role of the Municipal Bonds Agency that the Local Government Association has set up.

Such an agency, along with the power to assemble land at close to existing use value, will be crucial to achieving the doubling of house building that Labour is committed. But just as importantly it will help to fund the upgrades in local infrastructure (energy, waste, water and transport) that are essential to areas growing in a sustainable way.

b) Grants as investment:

The provision of new, good quality homes, and the renovation of the existing social housing stock for lower income households cannot be financed entirely through borrowing from other public or private sources, because costs are not repayable solely from rent income (whether or not part of this is itself supported by housing benefit). It is, therefore, necessary for government to recognise that, in some circumstances, investment in the form of grant rather than repayable loans is appropriate. This is investment because such grant creates housing, which is an asset that, subject to maintenance, will appreciate over time.

We should seek to avoid financing mechanisms that rely on the disposal of public assets. Housing investment reduces revenue costs to the public sector, not just in terms of savings in housing benefit but in savings in health, education and criminal justice costs. Any appraisal of the costs and benefits of different levels and forms of housing investment should have regard to these factors.

In all consideration of funding streams and attracting additional investment into housing, an overriding concern should be to ensure that the additional funds lead directly, and only, to additional physical output (including refurbishment), avoiding adding to demand pressures on the housing stock which inflate housing and land prices.

7. A tax regime which supports effective use of housing supply

a) Inadequacy of the current regime

The current land and property tax regime is not conducive to supporting the development of new homes and ensuring their effective use. A significant proportion of the existing housing stock is not used effectively. An imbalance in the distribution of the housing stock is growing as under-occupation increases at the same time as overcrowding. We do not endorse the view that rationalising the existing use of the country's housing stock will, itself, solve the housing shortage, as argued by Professor Dorling. Nevertheless, the issue of excessive under-occupation does need to be tackled.

b) Taxing undeveloped development land

The current development tax regime, comprising the optional Community Infrastructure Levy and local negotiated planning obligations, acts as a tax on development gains, while undeveloped land is not subject to taxation. Taxation should incentivise development. Consequently, there is a case for introducing a tax on land which is appropriate for development, including both allocated and consented land, to encourage the landowner to bring the land forward for development.

Tax should be based on realised value appreciation on development, not anticipated appreciation at the point of planning consent. Whereas there remains a case for taxing private sector value appreciation which arises as a result of land allocation, planning or adjacent development and infrastructure, the current mechanisms for taxing value appreciation at the time of start on site can act as a deterrent to development. There is a logic in only taxing value appreciation from a new development at the point at which the value appreciation has actually been realised - that is at completion and/or onward disposal. There is, therefore, an argument that deferring payment of CIL and planning obligations to completion/disposal will assist the delivery of new development.

Public equity shares in development as an alternative to taxation
Value growth, furthermore, tends to continue through the life of any scheme, especially large schemes, and a satisfactory value-capture regime should aim to generate a public sharing in this continuing growth. An alternative approach is for the local planning authority to take an equity share in a private development, as a condition of planning consent, so that a proportion of any value uplift, either during the construction period, or on initial disposal or subsequent further disposal, is payable to the LPA. This would allow the LPA to establish a recyclable investment fund to support new infrastructure and housing development.

c) Reforming property taxes:

Property taxes also urgently need reform. The main property taxes are Stamp Duty, formally known as 'Stamp Duty Land Transaction Tax' and Council Tax. Stamp Duty is a tax on purchase. It taxes a household at the time they are most extended financially. There is a case for replacing Stamp Duty with a tax on capital gain on disposal. Capital Gains Tax would be levied at the point at which capital gains are

realised. It currently applies to second homes and to properties where the landlord is non-resident. Application of CGT to first homes would reduce the ability of a home owner to use their capital gain to trade up and buy a larger property, generally in excess of any normal space requirement. It would also reduce the ability of households to pass on property wealth to their relatives. The transfer of property wealth between generations is now one of the most significant drivers of growing inequity in wealth and access to services. The limiting of such transfers, and parallel changes to inheritance tax thresholds, would make a significant contribution to reversing this trend. It would also lead to a slow-down of house price inflation, and in house price to income ratios, which have excluded many middle-income households from housing markets. The case for replacing inheritance tax by a lifetime gifts tax should be considered.

d) Council Tax:

Council Tax is a tax on the occupation of dwellings based, in England, on values in 1991 (in Wales a revaluation was carried out in 2005). Council Tax rates do not, therefore, reflect the significant increase in residential property values since that date. The highest Council Tax band, Band H, applies to properties with a value of £320,000 as at 1991. This compares with an average current property value in London close to £500,000. It is essential that a revaluation of residential property for Council Tax is undertaken. Modern data systems and modelling techniques would now enable valuations to be re-calculated annually and automatically, thus economising on valuation costs and keeping the tax base up to date, just as we do for other taxes. It is also essential that higher value tax bands are created. This would ensure that tax reflects the value of property and would also significantly increase the resources available to local authorities, reducing their dependence on central government grant. It is also suggested that, to ensure the most effective use of both new and existing housing stock, the tax should include a factor relating to the level of occupation of a property. This would act as an incentive to under-occupiers either to take in lodgers or move to smaller accommodation.

It is recognised that no single tax can incentivise the bringing forward of land for appropriate development, ensure public benefit from land value appreciation arising

from planning decisions, and ensure the effective use of new and existing housing stock. A land tax will not, on its own, achieve all these objectives. The Group supports the introduction of the package of reforms set out above as the most effective mechanism for meeting the core housing supply objectives.

8 Regulation and Standards

The current regulatory system has been shown to be inadequate and the continuous weakening of regulatory systems have been to a large extent responsible for the decline in construction and management standards, demonstrated most dramatically in the fire at Grenfell tower. There have been a series of other fires, some with less fatal consequences, which appear to have been related to use of inappropriate construction materials and inadequate protection from fire. The strengthening of building regulations and building control system should have been undertaken by the previous government. The newly established regulator for social housing needs to refocus its attention on the services on the management of local authority and housing association and the quality of the housing provided both in terms of physical quality and management. The new fitness standard for housing applicable to all tenures must be enforced.

There is an urgent need for increased regulation of privately rented housing in relation to security of tenure, rent levels, service charges and management. The powers of local authorities to take over the management of privately rented properties which are in breach of regulatory standards need to be strengthened.

9. Climate Change Proofing

We support the RIBA Climate Challenge targets:

1. Reduce operational energy demand by at least 75%, before UK offsetting
2. Reduce embodied carbon by at least 50-70%, before UK offsetting
3. Reduce potable water use by at least 40%
4. Achieve all core health and wellbeing targets

<https://www.architecture.com/-/media/files/climate-action/riba-2030-climate-challenge.pdf>

We also welcome the RTPI/TCPA Guide for Local Authorities on Planning for Climate Change
<https://www.rtpi.org.uk/media/3152143/Rising%20to%20the%20Climate%20Crisis.pdf>

Footnote

The Highbury Group is an independent group of specialists from public, private and independent sectors from housing, planning and related professions, which prepares proposals for Government and other agencies on policy options for optimising the output of housing including affordable housing.

Contact; Duncan Bowie
Convener, Highbury Group on Housing Delivery
duncanbowie@yahoo.co.uk

<https://www.westminster.ac.uk/research/groups-and-centres/highbury-group-on-housing-delivery>