Levying Up

Ensuring planning reform delivers affordable homes

December 2022

The Centre for Social Justice

www.centreforsocialjustice.org.uk

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About the Centre for Social Justice

Established in 2004, the Centre for Social Justice is an independent think-tank that studies the root causes of Britain's social problems and addresses them by recommending practical, workable policy interventions. The CSJ's vision is to give people in the UK who are experiencing the worst multiple disadvantages and injustice every possible opportunity to reach their full potential.

The majority of the CSJ's work is organised around five "pathways to poverty", first identified in our ground-breaking 2007 report, Breakthrough Britain. These are: educational failure; family breakdown; economic dependency and worklessness; addiction to drugs and alcohol; and severe personal debt.

Since its inception, the CSJ has changed the landscape of our political discourse by putting social justice at the heart of British politics. This has led to a transformation in Government thinking and policy. For instance, in March 2013, the CSJ report It Happens Here shone a light on the horrific reality of human trafficking and modern slavery in the UK. As a direct result of this report, the Government passed the Modern Slavery Act 2015, one of the first pieces of legislation in the world to address slavery and trafficking in the 21st century.

Our research is informed by experts including prominent academics, practitioners and policy-makers. We also draw upon our CSJ Alliance, a unique group of charities, social enterprises and other grass-roots organisations that have a proven track-record of reversing social breakdown across the UK.

The social challenges facing Britain remain serious. In 2022 and beyond, we will continue to advance the cause of social justice so that more people can continue to fulfil their potential.

Acknowledgements

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Foreword

Across the country, families are struggling with the rising cost of living. I'm proud that the Government has responded to this crisis by ensuring the most vulnerable are protected, raising benefits in line with inflation and helping all households with soaring energy bills.

But while these measures are needed today, the work must continue to bring down the cost of living over the long term. For most families, housing is the single largest monthly expense. This puts housing at the heart of any long-term solution to the cost of living crisis.

The problems in housing today are deep-rooted, becoming overgrown and entangled over several decades. I saw this first-hand before joining Parliament working for YMCA Birmingham, a charity for young homeless people. Helping people navigate the tragic reality of losing their home is never easy. But the acute shortage of social housing in much of the country is making the fight even harder.

Of course, it's not just those at the sharpest edge of the housing crisis who are struggling. New analysis presented in this report shows the increased difficulties nurses, teachers and other keyworkers are now facing with their housing—across all regions of the country.

This issue is so serious in the West Midlands that our Combined Authority has re-defined 'affordable housing' to link local housing costs and incomes—explicitly to help keyworkers and provide quality housing for them.[1] As research by the Royal Society of Public Health identified, 55% of commuters report that their commute increases the time they spend feeling stressed, whilst 44% report that it decreases time they spend with their families.[2] Indeed, as the CBI have demonstrated, investment in affordable housing is crucial to reduce urban congestion and commute times—thereby improving labour market mobility.[3]

As Chairman of Walsall Housing Group I saw the real difference affordable housing makes to both our working and family lives, enabling people to live near workplaces that would otherwise be out of the question. This means parents spending less time travelling and more time with their children—ensuring the frontline workers who can't simply "Zoom in" are arriving at work better able to provide the public services we all deserve.

During my recent time as minister with responsibilities for housing, homelessness and rough sleeping, I was pleased to support the Government in bolstering the supply of affordable homes and advance generational reforms for renters. I know from experience that the current Secretary of State, Michael Gove, rightly recognises the importance of housing as a key issue of economic efficiency and social justice.

I believe we can and should go further in this mission.

One of the areas that is central to this is in improving the system of 'developer contributions'. We need to ensure the uplift in values from building development delivers more for the common good. The present system of 'Section 106' agreements creates too much uncertainty. That is why the Government has rightly sought to introduce an Infrastructure Levy to make this system more ambitious and sustainable.

However, with almost half of all new housing association homes funded through developer contributions, we have to get these reforms right. We need to deliver more affordable housing at rents that are truly affordable for local people. And we must ensure that economically struggling communities are not left further behind as a result of changes to legislation.

1 West Midlands Combined Authority, West Midlands becomes first region to re-define 'affordable housing', February 2020.

2 Royal Society of Public Health, Health in a Hurry, 2016, p.8.

3 Rain Newton-Smith, Is the UK's housing crisis making us a less mobile nation?, June 2019.

I welcome this report from the Centre for Social Justice, which makes a valuable contribution to the public discussion on this issue. It makes recommendations that are worthy of serious Government consideration.

In particular, it would be good to see stronger safeguards in primary legislation, rather than in regulations, for protecting and increasing the existing levels of affordable housing supply funded in this way—including the number of homes built on-site in mixed communities. Given the serious need for more affordable housing and community infrastructure when new homes are built, the Government should seek to ringfence Infrastructure Levy receipts for these purposes. The Government should also ensure100% affordable housing developments are not hindered through the Levy.

In addition, this paper is right to point out that most areas prioritised for levelling-up have lower land and development values. This means that Infrastructure Levy receipts in those areas will be lower, so less will be available for local housing and infrastructure compared to higher value areas. As the CSJ argue, Government must scale up capital investment, especially in left-behind communities, to ensure the Levy does not maintain or further entrench economic inequalities.

Beyond this, I welcome the CSJ's calls for a planning system that is better resourced, technologically pioneering, and increasingly facilitating community-led housing. Furthermore, much more can and should be done to ensure that when public land is sold off, it is used for supporting the supply of affordable housing. This is especially important since land is the most expensive ingredient in providing a social home.

If implemented, this report's recommendations will unlock homes that will improve lives up and down the country.

Ultimately, this is not about housing "units" or "stock", but quality homes that will enable families to thrive. Helping keyworkers to live closer to their workplaces. Letting parents spend more quality time with their children. Supporting families save towards buying their own home. And reducing the number of lives blighted by homelessness.

A more secure, sustainable, and ambitious future for affordable housing will help protect our country against future cost of living crises. We must use housing policy as a key to unlocking the potential in communities that have for too long been left behind.

Eddie Hughes MP
Member of Parliament for Walsall North, Former Parliamentary
Under-Secretary of State for Housing and Rough Sleeping

Executive Summary

A longstanding shortage of affordable housing is worsening the UK's housing crisis

A safe, secure, comfortable home environment is a vital foundation for everyone to flourish. A great home enables families to enjoy quality time together. It encourages children to develop and grow. It is a springboard for workers and volunteers to serve their communities productively. When life throws us its hardest and most challenging moments, a good home should be a place of consolation, comfort, and support.

And yet, for a growing proportion of the population, this is not a reality. Whilst Britain is sometimes thought of as a "nation of homeowners"[4], this trend has been declining since its peak 2003. Meanwhile, the price of residential property—to rent or to buy—has become increasingly unaffordable, especially for households with low incomes and means of saving. Analysis of national statistics bears this out:

- New CSJ analysis shows that housing affordability for keyworkers is declining in all sectors and in all regions of England. This has negative repercussions, including for health and social care.
- 71% of households were owner-occupiers in 2003, but this declined to 65% in December 2021
- 1.2 million households are on the waiting list for social housing
- Overcrowding in the Private and Social Rented Sectors has risen sharply since the mid-90s
- Each day, over 120,000 children are living in Temporary Accommodation.
- Each year, the Government spends a staggering £30bn on housing benefits

Whilst there is a range of factors behind the crisis, the chronic undersupply of affordable homes over many years is a crucial cause. As our population has increased through decades of positive net migration, and as we are living increasingly longer, more accommodation is needed that people can afford to live in. Again, statistics speak for themselves:

- We have not met our national target of 300,000 new homes since 1969. Just 6,051 homes for social rent were delivered in England in 2020-2021, and 7,528 in 2021-2022; vastly smaller than the 90,000 that are needed.
- Fewer than one in four people believe the Government's definition of 'affordable housing' is truly affordable for local people.[5]

The Government's proposal to level up affordable housing through a new 'Infrastructure Levy' is liable to make a bad situation worse

One of the key problems underpinning the lack of supply is underperformance in the system of capturing planning gain—that is, the often profound upflit in land values when planning permission is granted—through 'developer contributions'. These are the taxes and facilities (including affordable homes) that developers must provide in return for the right to develop land for profit.

There is considerable dissatisfaction with the current system, which uses two distinct mechnisms. The 'Section 106' system of in-kind infrastructure delivery does deliver affordable housing, often on-site, but with considerable uncertainty—as well as having led to widespread re-negotiations of planning obligations once permission has been granted under the much-criticised 'viability assessment' loophole. The 'Community Infrastructure Levy', on the other hand, addresses the uncertainty issue, but is not used in much of the country and cannot be used at all for affordable homes.

4 Anna Milton, Britain's housing crisis — no longer a nation of homeowners?, Financial Times, 11 August 2022.

5 Centre for Social Justice, Exposing the hidden housing crisis, November 2021, p.22.

The Government is proposing to address this through a new 'Infrastructure Levy' in the Levelling Up and Regeneration Bill—currently passing through Parliament—which has the potential to address these concerns. However, in the way the Levy is currently drafted, there is a strong possibility that it will make matters worse rather than better.

Whilst the Government has committed to ensuring the new system performs at least as well as the previous one, we are concerned that the policy framework they are establishing is not up to this task—either in terms of the *quantity* or *type* of affordable housing it will provide.

In terms of the quantity of housing provided, there is a danger that the baseline of provision established is set too low. The Bill presently makes provision for a requirement that the amount of affordable housing delivered in each area should match the performance of that area over a previous period. However, it leaves far too much open to subsequent regulatory interpretation—it only enables the possibility that this will happen, rather than ensuring it will, and hence opens the door to a regulatory environment which could decrease affordable housing provision rather than increase it.

Furthermore, the 'specified period' is not presently clear, and it is also unclear how the 'level' or 'amount' of affordable housing delivered through this system will be measured; is it floorspace, bedrooms, financial value, or otherwise? Moreover, given that past performance of affordable housing delivery has been poor, there is a danger that this approach sets expectations too low. We are also worried that exemptions from the levy for 100% affordable housing developments are not robust enough, thus risking fiscal disincentives to such development.

Lastly, the Truss administration amended the draft legislation to enable funds raised from the Infrastructure Levy to be spent on things "other than infrastructure", thus diluting the purpose of the Levy and risking the diversion of funds away from much-needed housing and community infrastructure, and towards the many other strains on local authroities' finances.

To remedy these issues, we are calling on the Government to change the draft legislation to:

- Make sure it delivers on its promise of more affordable housing, setting baseline levels of delivery, accompanied by a new set of annual targets for additional homes by affordable housing tenure to be published by DLUHC;
- Set stronger requirements for local authorities to increase (and at least maintain) levels of affordable housing supply, including consistent benchmarks, and exemptions for sites with 100% affordable housing—rather than leaving key details to be agreed via regulations subsequently; and
- Ringfence the Infrastructure Levy for affordable housing and community infrastructure delivery, rather than opening the door to diverting funds away from these much-needed homes and facilities.

We are also calling on the Government to follow these principles in making regulations for this Bill, in making funding decisions related to it, and in the way it implements the rollout of this system. In terms of the type of housing delivered by the proposed Levy, there are two dangers here. Firstly, the draft legislation allows for an extremely open-ended definition of 'affordable housing'. This means we are likely to see a continuation of the situation in which 'affordable housing' products drift further away from local incomes and public confidence in the affordable housing system is low.

Secondly, there is a clear a danger that a levy-based system delivers far less on-site affordable accommodation in new developments than the in-kind system of developer contributions presently widely used. This will likely lead to fewer new communities with a healthy mix of people from different backgrounds and housing tenures.

In order to address this, we are also calling on the Government to:

- Limit the definition of "affordable housing" in the Bill to a clearly defined scope
- Work, more broadly, towards a statutory definition of this term that links housing costs to local incomes in a meaningful way
- Establish a robust system to ensure continued delivery of on-site affordable housing in new-build developments

Finally, there is a third matter which the proposed Infrastructure Levy fails to address; the **relationship between affordable housing and levelling up**. The Infrastructure Levy will need lower charging rates, and deliver lower yields, in areas where there are low land—and therefore development—values. Our analysis shows that areas categorised by the Government as high priority for levelling up have much lower land values than others. As a result, despite being in a 'Levelling Up' Bill, it is far from clear how the Infrastructure Levy will be of any meaningful use to those areas.

The reality is that those areas will need fiscal support to make up for the shortfall of affordable housing delivered via the system of developer contributions. As such, we recommend that the Government set an ambition to upscale Affordable Homes Programme funding to pre-austerity levels as soon as possible, containing a ringfenced element for supporting areas whose developer contributions are lower as a result of low Infrastructure Levy yields.

There is no getting around the fact that the level of investment needed is substantial. We estimate a £2.3bn annual funding gap between the average amount of Government capital investment in affordable housing in the years post-austerity and the years before it.[6] Closing this gap is challenging at a time of deteriorating economic conditions and tough financial decisions. However, an economic downturn is in fact a reason *to* rather than a reason *not* to invest in affordable homes—it is a well-established form of counter-cyclical economic stimulus. Furthermore, the return on investment made from adequate housing in terms of health, social support, and welfare expenditure is significant.[7] Restoring investment in homes makes sense for levelling up and for economic growth.

Reform in other areas is needed to make the most of better developer contributions

Finally, in addition to fiscal support, there are many other factors that affect affordable housing supply. The planning system, which is slow and under-resourced, must be better supported to enable proposals for development to come forward more quickly. It must also receive better investment to digitise systems to enable better public engagement and higher levels of efficiency.

More public land should be unlocked for supporting the common good—rather than selling it off simply at the highest price. Part of that must involve much better success in the Government's endeavour to bring forward public land for housing—especially affordable housing. In addition, we welcome the Government's intention to review and improve the systems of compulsory purchase and land assembly for housing; there is greater scope for improving this and a more extensive public discussion is needed.

Finally, Community-Led Housing is under-utilised as a source of development and has great untapped potential—especially in delivering affordable housing. To achieve this, we believe Community Land Trusts in areas with no Parish-level council or Neighbourhood forum should be eligible to receive a portion of funds from Infrastructure Levy receipts. Further, we recommend expansion of the Community Housing Fund to support pre-application preparations by Community Land Trusts.

6 CSJ analysis of HCA / Homes England / GLA housing investment in the three years pre-austerity (2011) as compared to the years following; see CIH, UK Housing Review data tables, Table 64b.

7 This is evident in the first instance from the fact that the sector is highly regulated, with dedicated Regulator of Social Housing requiring clear demonstrations from all Registered Providers that "value for money is obtained from public investment in housing" (Regulator of Social Housing, UK Government Web Site). The National Housing Federation has demonstrated ways in which this can be measured. Housing associations have conducted detailed analyses of this. For example, Hyde Group's report demonstrating £200m of social value generated for the public by social tenancy provision across health, homelessness, and crime—let alone the value generated through employment in construction and maintainence.

Taken together we believe these recommendations will deliver more affordable housing, support left-behind communities and, ultimately, change lives.

1. To ensure 'affordable housing' is true to its name, a better legal definition of it is required. In the context of the Infrastructure Levy, the Levelling Up and Regeneration Bill should be amended to limit part (b) of the affordable housing definition it uses, to ensure that there is clearly defined scope within which the regulations can be applied.
2. To ensure 'affordable homes' are truly affordable in each area and in perpetuity, the Infrastructure Levy regulations should link the definition of affordability to local incomes in a meaningful way, and this should receive backing from the Treasury.
3. To ensure that the amounts of affordable housing delivered through developer contributions are at least maintained in a robust way, a clear metric for this is needed. The Government should make clear in the Bill how the "level" or "amount" of affordable housing that must be maintained through charging IL is to be defined.
4. To ensure there is a nationally robust strategy for affordable housing delivery, a clear overall set of metrics is needed for delivery of homes by tenure type. The Government should publish annual targets for affordable housing delivery by tenure type.
5. On-site affordable housing is crucial to ensure new-build developments enable vibrant and mixed communities to thrive. We recommend that the Government should, in both primary legislation and relevant regulations, make explicit reference to preserving the level of on-site affordable housing delivered in new-build housing developments, and detail how the 'right to require' will operate.
6. To ensure 100% affordable housing developments are not unduly disincentivised, the Government should ensure they are free from Infrastructure Levy charges. The Government should support the adoption of Amendment 3 of the Levelling Up and Regeneration Bill, or a similar amendment, to ensure that 100% affordable housing developments are exempt.
7. It is vital that the Infrastructure Levy works effectively in a wide range of areas with differing land values. To ensure it does, the Infrastructure Levy test-and-learn rollout process should begin with pilots in a variety of areas, including several of very low land and development value.
8. Given the undersupply of affordable housing and community infrastructure, it is vital that funds raised from the Infrastructure Levy goes towards these causes. The government should therefore amend the Levelling Up and Regeneration Bill to ensure that the Levy remains fully focused on the delivery of infrastructure. Furthermore, to ensure transparency, Government should require details of Levy receipts per site, as well as spending intentions and outcomes, to be published in a clear and timely fashion.
9. It is important that each community can have an effective and highly localised vehicle for using Infrastructure Levy funds. Subject to satisfying appropriate tests (see below), Community Land Trusts should be eligible qualifying bodies to receive a proportion of Infrastructure Levy proceeds in areas with no parish / town council or neighbourhood forum, with appropriate lines of democratic accountability for usage of those funds established with local government.
10. It is vital that appropriate public investment is made into affordable housing. The Government should take steps to substantially increase the level of affordable housing capital grant funding available overall, at least to levels seen before austerity of £3.8bn on average annually. To address the differential in developer contribution yields in low land value areas, it should create a ringfenced Levelling Up capital grant fund to ensure areas with low IL receipts are able to construct the affordable homes they need.

Introduction

We have a serious and growing housing crisis. It is a longstanding, deeply entrenched and multi-faceted problem.

As house prices have risen faster than wages, the ratio of first-time buyer earnings to house prices has risen from between 2 and 2.5 times 30 years ago to 5.5 times last year.[8] Homeownership has declined since 2003, when fully 71% of households were owner-occupiers.[9] The proportion of people in social housing tenures, too, has declined substantially since the early 1980s, from around 30% of all tenures to less than 17% today.[10]

This is an intergenerational issue; the average age of first-time buyers has risen over the last decade to over 30 in every region of the UK.[11] This has detrimental effects on our society and population; high house prices led 43% of London parents to delay, or consider delaying, starting a family.[12] As interest rates rise, mortgage affordability is increasingly more difficult.

Most attention tends to focus on the difficulties people—especially young people—have in becoming homeowners. This is absolutely right, given that some 76% of UK residents who are not homeowners would like to be.[13]

However, as countless CSJ Alliance charities have related to us, there is an even darker underbelly to the reality of housing in contemporary Britain. There are 95,000 households in Temporary Accommodation, including just under 120,000 children.[14] The number of overcrowded households in the Private Rented Sector has risen meteorically since 1995—from 63,000 to a quarter of a million in 2020-2021.[15] Even more households are overcrowded in the Social Rented Sector—316,000—which amounts to 8% of all households in that sector.[16] Further, 6% of Private Rented Sector homes have damp problems[17] and 15% of homes are classed as non-decent.[18]

How can such a long-term, multi-faceted, and entrenched issue be addressed?

When Prime Minister Rishi Sunak entered Downing Street, he inherited two broad strands of political thought and policy direction. One, originating in the 2019 Conservative Party Manifesto, and developed through the Johnson government, is the mandate of 'levelling up'. He was clear that the manifesto—including "Levelling up and building an economy that embraces the opportunities of Brexit"[19] is the "heart of that mandate"[20]. In addition to this, whilst recognising its shortcomings, Sunak expressed admiration for the Truss Government's "noble aim"[21] of wanting to "improve growth"[22].

Both of these initatives—the emphasis on growth through improving the supply side of the economy, and the focus on 'levelling up', are crucial initatives for tackling the housing crisis.

8 Nationwide House Price Index, Special report: Raising a deposit still the biggest hurdle for first time buyers despite affordability becoming more stretched, November 2021.

9 Ibid.

10 DLUHC, Live Table 104, 2022. Based on the proportion of Registered Provider and Local Authority tenures as a percentage of overall tenures.

11 Halifax, Halifax First-Time Buyer Review, 2021 (published January 2022).

12 National Childbirth Trust, Early Childhood Survey, conducted by Survation, January 2014.

13 Christien Pheby, Global: Who does – and doesn't – want to own a home?, YouGov, June 2021.

14 DLUHC, Statutory Homelessness Live Tables, TA1: Type of temporary accommodation provided, September 2022.

15 English Housing Survey, Headline Report, Annex Table 1.24: Overcrowding, by tenure, 1995-96 to 2020-21, December 2021.

16 Ibid.

17 English Housing Survey, Headline Report, Annex Table 2.6: Damp problems, by tenure, December 2021.

18 English Housing Survey, 2020 Housing quality and condition Report, p.4, published July 2022.

19 Rt. Hon. Rishi Sunak MP, First Speech as Prime Minister, 25th October 2022.

20 Ibid.

21 Ibid.

22 Ibid.

In terms of levelling up, the manifesto committed to "Infrastructure first. We will amend planning rules so that the infrastructure – roads, schools, GP surgeries – comes before people move into new homes. And our new £10 billion Single Housing Infrastructure Fund will help deliver it faster."[23] This commitment to delivering infrastructure first and broad-scale investment in housing is important. So, too, is the idea of 'levelling up' that the maniefesto commits to; the initiative to "[…]get away from the idea that […] all growth must inevitably start in London".[24]

It is right that levelling up and housing policy are contained within the same Government Department and are being delivered through the same Bill presently passing through Parliament: the Levelling Up and Regeneration Bill.[25] As we discuss, this inherits and now retains the initiative and leadership of Secretary of State Michael Gove who introduced the Bill following his seminal White Paper, *Levelling Up the United Kingdom*.[26]

In terms of the focus on supply-led growth, housing also has a key role. Whilst overall new-build housing delivery has grown since 2010, so too has need, and in that regard, there is much more work to be done. It is also worth noting that there has been an excessive fiscal focus on the demand-side of the crisis. The flagship *Help to Buy* programme has committed at least £29bn of taxpayers' money attempting to make a difference. Unfortunately, as many commentators have argued, this has not represented good value for money.

One report from the House of Lords Built Environment Committee even suggests that subsidising the demand side of housing for market sale has stoked house price inflation by more than its £29bn subsidy value, offering little meaningful benefit to many would-be homeowners.[27] Whilst some of this funding is recyclable, there can be little doubt that better value for money could have been ascertained through addressing the pressing supply-side issues in housing.

The supply side of the housing market comprises a vast array of ingredients. Most obviously, supply chains of construction materials, technologies, and skilled labour. It also requires a financial system capable of supporting sustainable capital investment. Crucially, land and permission to build on it is also needed. The planning system is therefore central to affordable housing delivery. As we discuss below, there is cause for ambitious but sensitive reform. However, it is also vital that we enable better funding, resourcing, and usage of the present system to unlock more affordable homes.

Reforming the planning system comes with considerable risks. Risks need to be taken as substantial change is needed, but these must be balanced. Furthermore, there is a need to consider who will bear the burden of risks that are taken. The Government must take particular care that the needs of those with modest financial means and communities with multiple forms of deprivation are not forgotten in the drive to boost economic growth.

In the context of accommodation, the delivery of truly affordable housing is essential to ensure that we reduce homelessness, reduce the numbers living in inadequate housing, and ensure everyone has a decent and affordable place to call home. Levelling up must deliver on this need. As we demonstrate, the present approach proposed in the Levelling Up Bill comes with material risks. It is highly unlikely to deliver substantial increases in the affordable housing we truly need. Further, it risks being counter-productive to the cause of levelling up—making more investment flow to communities that already have the most wealth. As a result, the risk is that those communities most in need of 'levelling up' will in fact be left further behind.

23 Conservative Party Manifesto, Get Brexit Done, Unleash Britain's Potential, 2019. p.31.

24 Ibid. p.26.

25 UK Parliament, Levelling-Up and Regeneration Bill, 2022.

26 DLUHC, Levelling Up the United Kingdom, 2022.

27 House of Lords Built Environment Committee, Meeting Housing Demand, December 2021 (Published January 2022), p.5.

This paper proceeds as follows:

Firstly, we examine crucial causes and effects of the housing crisis with a particular view to the supply side and levelling up aspects of the issue.

Secondly, this paper sets out the flagship policy reform the Government aims to use to ensure more affordable homes are built—the Infrastructure Levy. In doing so, we examine whether these reforms are likely to help or hinder the supply of affordable housing, and present recommendations as to how policy might be improved.

Thirdly, we take a broader look at several other policy interventions that would assist in unlocking the supply of affordable housing.

We conclude with a summary of recommendations and a call for greater national leadership on this issue.

Part 1: The Housing Crisis and the Supply Problem

What is the 'housing crisis'? From the prevalence of media reporting on the issue, one might think that it is essentially to do with the difficulty many people have in becoming homeowners and maintaining mortgage payments—especially in an environment of rising interest rates. This is certainly a key part of the picture—as detailed below.

However, we also need to think about housing in the round. There are multiple dimensions to the housing crisis, and access to homeownership is just one of them. We also need to consider the aspects of affordability, quality, and what has been termed the 'hidden housing crisis'. Each of these in turn, is multi-dimensional. For example, 'quality' does not merely concern the physical state of residential accommodation, but also the security of tenure and levels of service provision associated with it. Crucially, housing supply is a key issue in each of these areas.

The Homeownership Crisis

As at December 2021, just under two thirds of British households (65%) are homeowners.[28] More than a third of households are outright homeowners (35%).[29] Among the remaining homeowners—mortgagors—the overwhelming majority (94%) find it easy or very easy to afford their costs of accommodation [30] In a property-owning democracy, these statistics might, at face value, seem reassuring.

However, looking at longer-term trends, the picture is more concerning. Clearly, as interest rates rise, repayment will be more challenging for existing mortgagors. Furthermore, homeownership has declined since 2003, when fully 71% of households were owner-occupiers.[31] This is an intergenerational issue; the average age of first-time buyers has risen over the last decade to over 30 in every region of the UK.[32] It is sometimes suggested that the UK has a culture—even an 'obsession'—with homeownership.[33] However the statistics are clear that the whilst the UK's mortgage sector is vast, it is in fact in the bottom 10 European countries by proportion of the population that are homeowners.[34]

As house prices have risen faster than wages, the ratio of first-time buyer earnings to house prices has risen from between 2 and 2.5 times 30 years ago to 5.5 times last year.[35] This reflects the hampered dreams of young people wanting to settle and start families, with polling data suggesting that high house prices led 43% of London parents to delay, or consider delaying, starting a family.[36]

Whilst it is crucial that we also aim to use our existing housing more efficiently, new supply is clearly an issue here. A shortage of supply will cause high prices in most markets—especially those, such as housing, where demand is highly inelastic since it is an essential good. Supply is also inelastic since the supply of a home inherently takes a long time, further worsening the issue.

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28 English Housing Survey, Headline Report, December 2021, Annex Table 1.1 (continued): Trends in tenure, 1980 to 2020-21.

29 Ibid.

30 Ibid.

31 Ibid.

32 Halifax, Halifax First-Time Buyer Review, 2021 (published January 2022).

33 For example, Andreas Wagner, Germans fall for a British obsession: home ownership, *The Times*, November 2021.

34 Michel Willems, UK leads Europe in mortgage market might but sits at bottom for share of population that owns home, City A.M., June 2022.

35 Nationwide House Price Index, Special report: Raising a deposit still the biggest hurdle for first time buyers despite affordability becoming more stretched, November 2021.

36 National Childbirth Trust, Early Childhood Survey, conducted by Survation, January 2014.

The Crisis of Affordability

Whilst our collective aspiration to homeownership is perfectly reasonable and positive, it represents just one dimension of the housing crisis. It is important to distinguish the issue of 'affordability' in general from the issue of one specific type: the affordability of homeownership.

For many people, homeownership is not a realistic aspiration, at least for the foreseeable future. The UK Housing Resilience Survey demonstrates that among renters, the number of people expecting to buy has substantially declined from a majority of private renters to a minority during the last few years:

> *"In 2019-20, 59% of private renters and 28% of social renters said that they expected to buy their own home at some point in the future. By June-July 2020, these proportions had decreased, with 49% of private renters and 24% of social renters saying that they expected to buy their own home. In April-May 2021, expectations to buy among renters declined further with 45% of private renters and 20% of social renters saying that they expect to buy their own home."*[37]

The unaffordability of homeownership is, for many, directly related to the unaffordability of private rents. The high cost of rent is a clear barrier to many young people saving up for a house deposit in a reasonable timeframe. In addition, for many of the 1.2m people on the social housing waiting list, housing costs in the Private Rented Sector (PRS) can be very high. Research from the Joseph Rowntree Foundation shows that there are 624,000 households with unaffordable rents in the PRS—that is, "Private renters who are in the bottom 40% of incomes and who spend more than 30% of their income on rents (after Housing Benefit), a widely used definition of housing affordability."[38]

At the heart of this issue is the low supply of truly affordable rental accommodation—which we turn to shortly. The pressures on many of these households, who are often not prioritised by the allocation system, mean that rising prices in the PRS and freezes in the Local Housing Allowance (LHA) benefit levels mean that renters dependent upon these benefits live in fear of being evicted due to unaffordable rents—and then having to go through the stress of finding a new place, probably away from their family and community.[39]

Truly affordable housing—which is related to locals' incomes rather than local rental prices—gives people the reassurance to know they can reside in their area and put down roots in the long term. As we show below, the supply of this type of housing is paltry in comparison to need and historic delivery.

37 English Housing Survey, Household Resilience Study, April-May 2021, p.3.

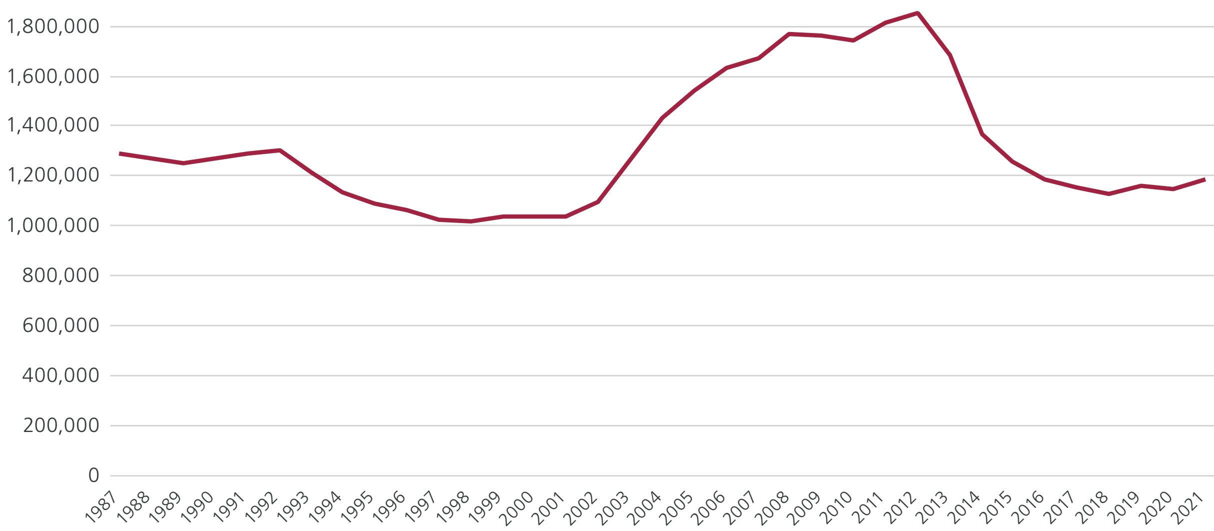
38 Joseph Elliot and Rachelle Earwaker, Renters on low income face a policy black hole: home for social rent are the answer, Joseph Rowntree Foundation, October 2021, p.4.

39 For recent investigative journalism on this issue, see the work of the Bureau of Investigative Journalism on behalf of Channel 4's *Despatches*, reported in *Inside Housing*: Grainne Cuffe, Number of families homeless or at risk of homelessness up 23% in past year, Inside Housing, October 2022.

The Hidden Housing Crisis

Whilst this is concerning enough, as numerous charities in the CSJ Alliance have related to us, there is a sinister and morally hideous underbelly to housing in contemporary Britain. As the following graph shows, Local Authority waiting lists for social rented accommodation are very long. There are presently 1.2 million households on the waiting list—a figure which has been increasing over recent years:

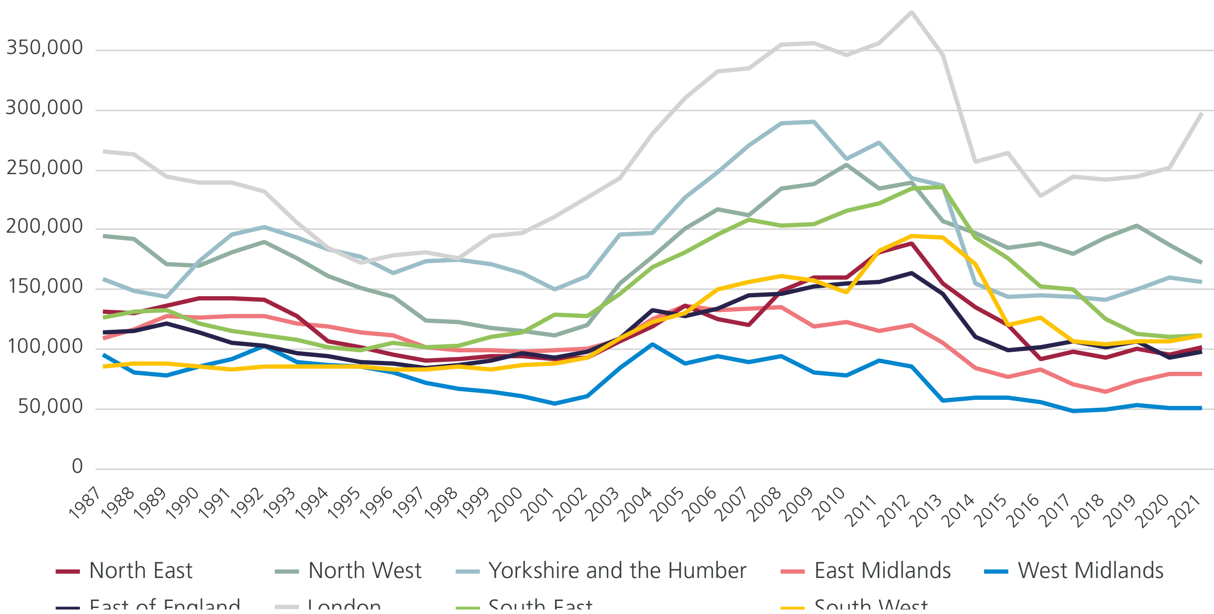
Households on Local Authorities' Waiting Lists in England



Source: DLUHC Live Table 600[40]

As can be seen from the graph below, once we break the data down by regions, the highest level of pressure occurs in London where property values are extremely high:

Households on Local Authorities' Waiting Lists by Region



Source: DLUHC Live Table 600[41]

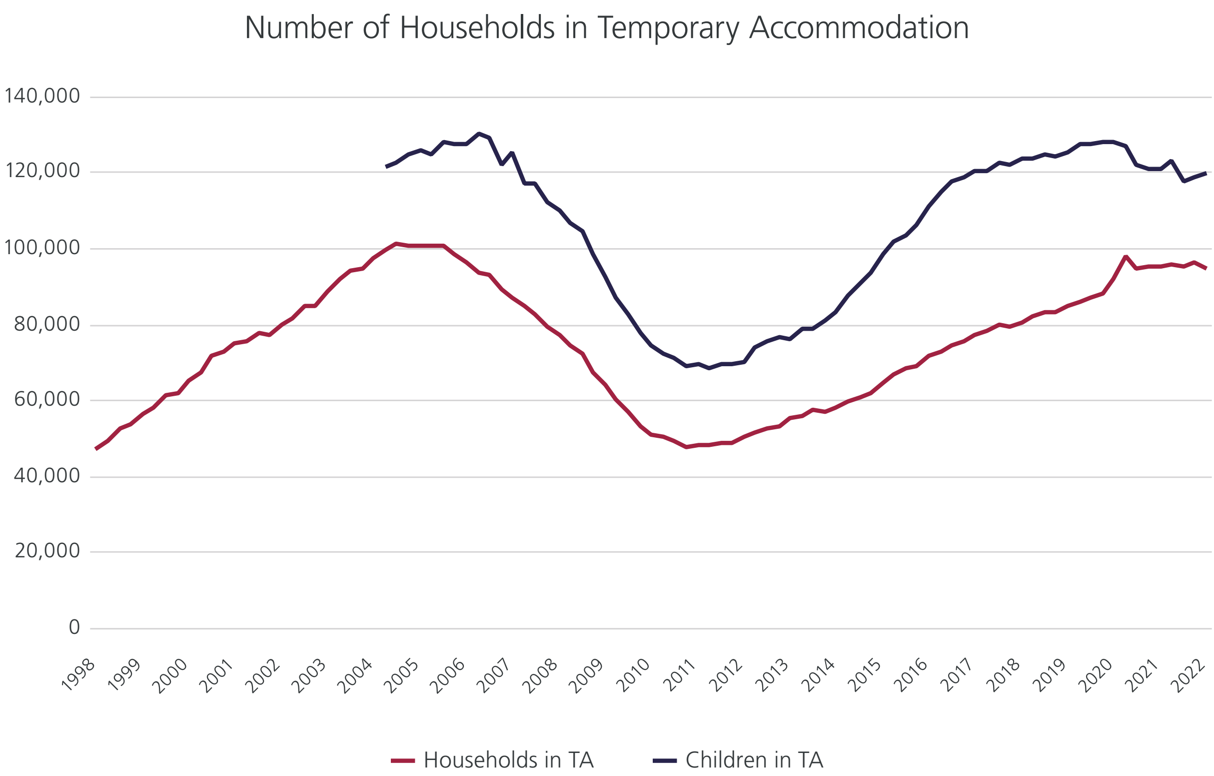
40 DLUHC, Live tables on rents, letting and tenancies, June 2022.

41 Ibid.

It appears in these waiting lists that major progress was made from 2012 onwards, but this in fact reflects the fact that eligibility criteria were restricted as a result of the Localism Act. A measure intended to capture 'housing need' in the round has been developed by the National Housing Federation, who report that some "8.5 million people in England have some form of unmet housing need"[42] and that "For 4.2 million of these people (around 1.6 million households), social rented housing would be the most appropriate tenure to address that need."[43]

Where permanent accommodation cannot be found for people who are considered by law to be homeless, many are housed in Temporary Accommodation. This includes over 120,000 children.[44] Such accommodation includes bed and breakfasts, inadequately converted office-blocks, and buildings on industrial estates.[45] Far too often, such accommodation circumstances compound the effects of past trauma and contribute to worsening mental health issues.[46] In a recent study conducted by Northumbria University academics, drawing on evidence from Oasis Community Housing, it was found that "94% of those with experience of homelessness also reported experiences of trauma"[47].

Government data makes clear that whilst at one point we were making progress on this, it has now worsened again to terrible levels over the last decade:



Source: Statutory Homelessness Live Tables, Table TA 1.[48]

42 National Housing Federation, People in Housing Need, December 2021, p.2.

43 Ibid.

44 DLUHC, Statutory Homelessness Live Tables, September 2022, TA1: Type of temporary accommodation provided.

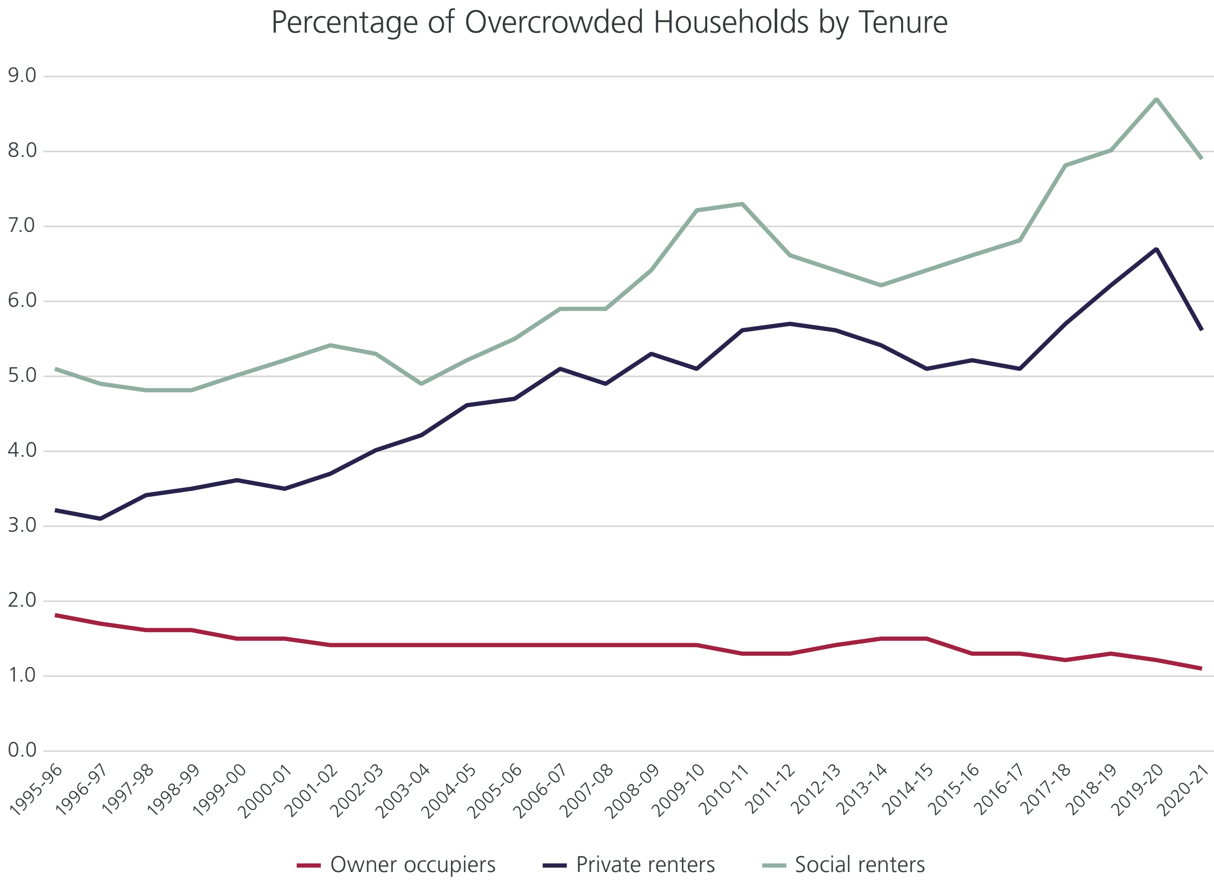
45 Cecil Sagoe, Permitted development scandal: homeless families put at risk, Shelter, April 2019.

46 Shared Health Foundation, Policy and Advocacy.

47 Dr. Adele Irving and Dr. Jamie Harding, The Prevalence of Trauma among People who have Experienced Homelessness in England, A Report for Oasis Community Housing, p.18.

48 DLUHC, Statutory Homelessness Live Tables, September 2022, TA1: Type of temporary accommodation provided.

The number of overcrowded households in the Private Rented Sector has risen meteorically since 1995, rising from 63,000 to a quarter of a million in 2020-2021.[49] Even more households are overcrowded in the Social Rented Sector—316,000—which amounts to 8% of all households in that sector.[50]



Source: English Housing Survey, Headline Report, 2020-2021.[51]

Much more could be said about these aspects of the housing crisis. In each area, the lack of supply is a common denominator. Poor supply-side performance in affordable housing provision makes it more difficult to get on the housing ladder, more difficult to afford rental payments, and more difficult to secure a stable social tenancy for those that need one.

49 English Housing Survey, Headline Report, December 2021, Annex Table 1.24: Overcrowding, by tenure, 1995-96 to 2020-21.

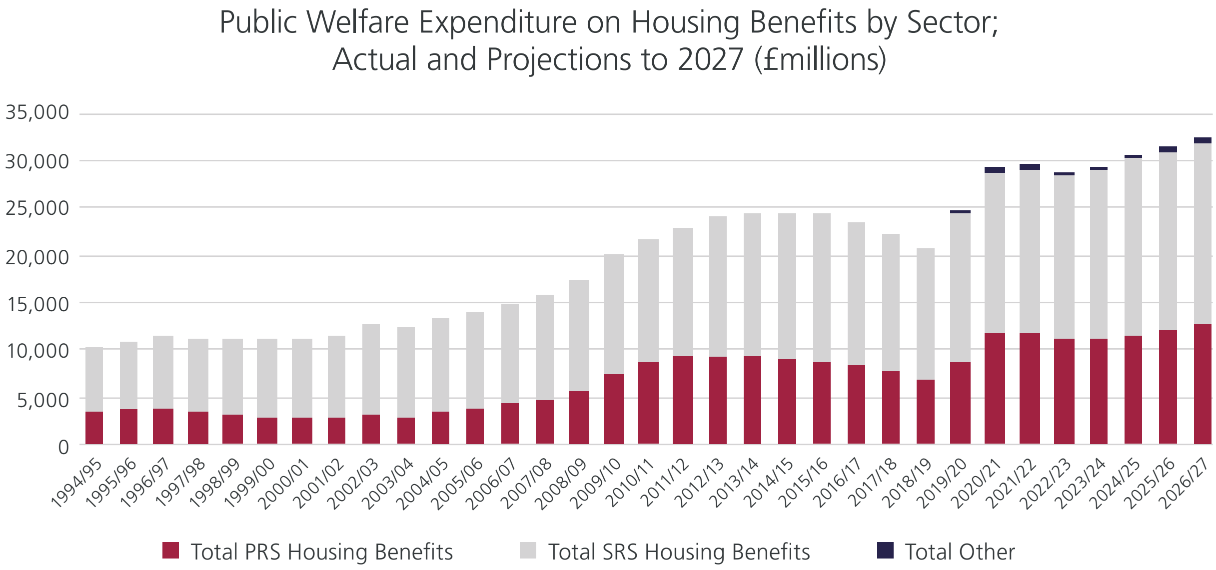
50 Ibid.

51 English Housing Survey, Headline Report, December 2021, Annex Table 1.24: Overcrowding, by tenure, 1995-96 to 2020-21.

The issue of supply as a problem for the whole of society

These aspects of the crisis all concern consumers of housing—tenants—in the first instance. However, low levels of affordable housing supply are bad news for all of society—even the great majority housed in their own homes. A couple of examples of this are worth highlighting:

From a purely fiscal perspective, the lack of sufficient homes is having an in increasingly detrimental effect on our nation's public finances. The amount spent on housing benefits annually is staggering. As can be seen in the graph below, the country is projected to spend well in excess of £30 billion annually on housing welfare by 2024:



Source: Department for Work and Pensions, Benefit expenditure and caseload tables 2022, Outturn and Forecast for Housing Benefit[52]

The figures for this are high. However, the maroon part of the bar constitutes rents paid to the Social Rented Sector (almost entirely charitable Housing Associations and Local Authorities as providers of social housing)—with a significant amount funding the housing costs for people of pension age. Any surplus from these funds, once accommodation and service costs are covered, is then reinvested into upgrading existing homes and the provision of more social and affordable housing.

However, the blue part of each bar—which has risen considerably—represents housing benefit expenditure which goes to private sector, mostly for-profit landlords. The lack of supply in social housing therefore constitutes a missed opportunity to recycle funds into quality affordable accommodation in many cases.[53]

The Private Rented Sector is clearly important as it plays an enabling role in improving mobility of people (and labour). However, the flip side of this flexibility is the lack of tenure security (as compared to homeownership and social tenancies) which has resulted in considerable localised upheaval in the housing market—and hence availability of accommodation. In Devon, there was a staggering drop in PRS properties of 70% during the pandemic as landlords rushed to convert long-term residential accommodation to short-term holiday lets.[54] In places like Torbay, high house and rental prices have meant that key workers are being 'priced out' of local accommodation, prompting local calls for more affordable housing.[55]

52 DWP, Benefit expenditure and caseload tables, May 2022.

53 There are, of course, many excellent PRS providers, including many community organisations providing accommodation in an ethical and responsible way, and are recycling funds appropriately.

54 Nigel Lewis, LandlordZONE article, Devon confirms 70% drop in PRS as 'terrifying' Airbnb trend bites, October 2021.

55 Edward Oldfield, DevonLive, Housing crisis means key workers 'priced out of Torbay', August 2022.

Another way in which the lack of affordable housing supply is bad for everyone is the way it affects the labour market. In the Lake District, which is a popular tourism destination, many homes previously available for locals to rent have been converted to short term holiday lets.[56] In turn, this has had a serious effect on the ability of local businesses to recruit staff.[57] Good money is being turned down at restaurants and hotels in the area, in part because would-be staff cannot find homes.

The same issue applies to keyworkers in vital sectors. As the Council for the Protection of Rural England (CPRE) have shown, high house prices in rural areas have caused a dearth of keyworkers in sectors where physical presence is essential to the job—including social care, nursing, and farming.[58] We heard how this has led to bed-blocking in hospitals. In Morcambe Bay alone, recruitment challenges have meant that 1,405 hospital days have been lost because patients could not have at-home care arranged—with care worker staff recruitment cited as a key issue.[59] A very recent estimate places the cost of this at a staggering £2bn per year.[60]

In order to explore this further, the CSJ has completed fresh analysis of housing affordability for keyworkers in each region of the UK. The table below shows the proportion of gross income that would be needed for the median earner in each profession in each region to cover the median rental cost for that region. Such an analysis of this type was conducted by Price Waterhouse Coopers (PWC) in 2019[61]. The results are as follows:

Keyworker housing affordability by region

	NORTH EAST	NORTH WEST	YORKSHIRE AND THE HUMBER	EAST MIDLANDS	WEST MIDLANDS	EAST OF ENGLAND	LONDON	SOUTH EAST	SOUTH WEST
Nurses and Midwives	19	23	23	25	27	41	45	34	29
Secondary teachers	16	18	19	20	20	25	40	29	24
Primary and nursery teachers	17	23	20	24	23	29	45	32	30
Social workers	17	19	20	22	24	27	43	33	28
Housing officers	23	[no ONS figue]	27	25	31	36	52	38	[no ONS figue]
Police officers	15	19	17	18	18	23	31	25	22

Source: CSJ analysis drawing on the aforementioned PWC table[62], income data from the Office of National Statistics (ONS) Annual Survey of Hours and Earnings (Table 15.7a Annual pay - Gross (£) - For all employee jobs: United Kingdom, 2021) and rental data from the ONS Private Rental Market Statistics (2021) (Table 1.7: Summary of monthly rents recorded between 1 April 2020 to 31 March 2021 by region for England).[63]

As can be seen, the proportions of median income needed to cover median rent are very high in many areas—especially in London and the South East.

56 The Keswick Reminder, Cumbrian MP to lead Westminster debate about housing crisis in Lake District sparked by holiday lets, January 2022.

57 The Keswick Reminder, Lake District National Park can't 'build its way' out of holiday lets problem, August 2022.

58 The Countryside Charity, Homes for heroes: affordable housing for rural key workers, July 2020.

59 Caroline Barber, Bed blocking in Cumbria wiped out thousands of hospital days in just one month, News and Star, September 2017.

60 Joe Davies, NHS bed-blocking scandal laid bare: Nearly one HUNDRED hospital trusts are currently dealing with fewer Covid patients than 'blockers', Daily Mail, October 2022.

61 PWC, UK Economic Outlook, July 2019, table 3.4 (p.29).

62 Ibid. PWC used median localised ONS income and rental cost data; we have done the same for our analysis.

63 These reference years were selectes as they are the years with the most recently available data for both datasets. As both datasets measure up to early April 2021, there is a near perfect temporal overlap for the data.

By comparing the figures against those available from the PWC analysis from several years ago[64], we can see that in each case, affordability has declined in almost every profession in almost every region across the board:

Change in keyworker housing affordability since 2018

	NORTH EAST	NORTH WEST	YORKSHIRE AND THE HUMBER	EAST MIDLANDS	WEST MIDLANDS	EAST OF ENGLAND	LONDON	SOUTH EAST	SOUTH WEST
Nurses and Midwives	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	NO CHANGE	NO CHANGE
Secondary teachers	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED
Primary and nursery teachers	INCREASED	DECLINED	DECLINED	NO CHANGE	DECLINED	DECLINED	DECLINED	INCREASED	DECLINED
Social workers	INCREASED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	NO CHANGE
Police officers	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	DECLINED	INCREASED

Source: See previous table, compared against data in the aforementioned PWC analysis of keyworker rental affordability.

As can be seen, the recent trend for keyworkers' rental affordability costs is towards decline almost entirely across the board. As accommodation is a key factor in the availability of key workers, this is one way to demonstrate how issues in the provision and affordability of housing can have concerning overspill effects into other social and economic areas—including healthcare.

64 N.B. The PWC analysis combines 'nurses and midwives', in the first row of results, but since the public data examined by the CSJ for this analysis did not contain a combined figure for these, just nurses alone have been used as the benchmark in that row. We have omitted several professions previously included where insufficient data was available in regions within the ONS statistics for that year to merit inclusion. Housing officers were not included in the original data, and hence there is no comparator subsequently, but we have included them in ours.

The Crisis of Supply

Underpinning much of the pressure in each of these areas is the central issue of low supply. Before turning to look at the levels of housing supplied, it is worth briefly unpacking the concepts of demand, supply, and need in the context of housing.

Demand, Need, and Supply

Demand

Demand for something, conceptually, is composed of two factors: both the desire and ability to pay for a good at a given price.

In the context of housing, the first factor—desire—is almost universally very strong. Generally speaking, the desire for larger, better located, and higher quality accommodation is very high. This is not just from people searching for a primary residence, but also from demand for second homes and investors seeking to acquire property to let out.

That said, the 'better located' element of desire makes housing demand subject to considerable geographic differences—for instance due to proximity to employment, transport, education, and leisure facilities. There are also differences based on the *type* of housing; for example, retirement properties are demanded by a different market segment than student rooms.[65] In many ways, the "housing market" is in fact a series of different, albeit related, markets with customers looking for quite different things—as we discuss below.

Crucially, however, demand is strongly constrained by the second factor: *ability* to pay. That is why, for example, restrictions in mortgage lending criteria or rises in interest rates place downward pressure on house prices.

Need

Where ability to pay is low, it is extremely important to distinguish 'demand' from 'need'. This is the level of housing provision that would be considered essential for a household's well-being and welfare. For many people whose incomes are too low to afford homes to rent or buy, housing 'need' can exceed ability to pay for housing, and therefore exceed their economic ability to demand housing.

Supply

Supply is the amount of a good offered to the market at a given price level. There are different ways in which accommodation can be supplied. Homes can be built from scratch (new-build), adding to the overall housing stock, existing homes be sold or offered for rent (meaning that they become available to the market), and other buildings can be repurposed for housing.

Homes are supplied through different mechanisms, meaning that not all housing supply is part of the same market. The sale of residential properties works largely on the basis of supply to the open market; higher offers give bidders a greater chance of acquiring a property. However, when it comes to affordable housing, this is supplied through allocation systems in which eligibility criteria are applied with the aim of ensuring its efficient and appropriate usage. Examples of this include the social housing waiting list or the eligibility criteria associated with shared ownership properties.

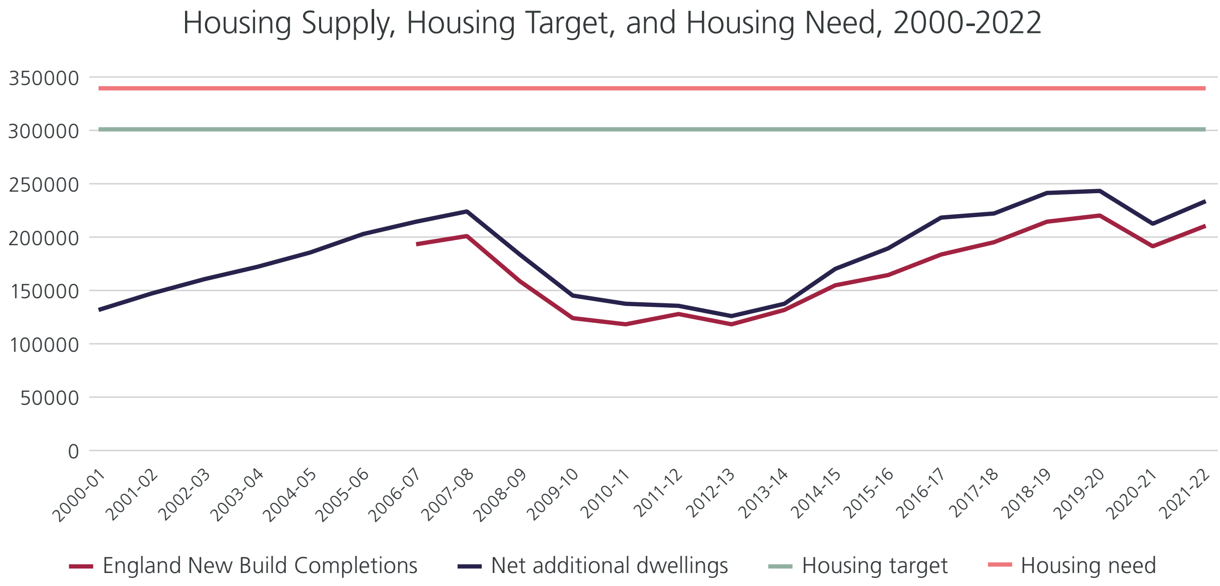
Finally, the supply of new-build housing tends to be very *price inelastic*. The price inelasticity of supply of a good represents the ease with which more products can be supplied in response to higher demand. Some products have extremely elastic supply, such as digitally downloaded software and media. Marginal additional products in these sectors cost almost nothing to supply and can be delivered almost instantly. Housing is at the opposite end of the spectrum here—despite strong demand, new housing needs land, planning permission, infrastructure, skilled labour, variation in construction, and lengthy marketing processes.

65 For a fairly comprehensive list of the types of market segmentation present in residential property, see: the Rt Hon Sir Oliver Letwin MP, Letwin Review Draft Analysis, 2018, §4.25.

The issue of price inelasticity of supply sits at the heart of the need for supply-side reform. We need a housing system that is more responsive to housing demand in the open market, and, for an ethical economy, much more responsive to housing need. This is by no means easy as the timlines involved between initating and delivering new housing are much longer than for most goods—in some cases decades long. The effects of our underperformance in this area can be seen by looking at the levels of housing currently delivered in the UK.

As the following graph demonstrates, we are falling well short of multiple governments' aspiration to build 300,000 new homes a year[66]—a figure which robust modelling suggests is significantly below the actual number of homes we need to be added to our stock annually. The 300,000 new homes a year figure has not been met since 1969[67]. During this time, the population of England has increased by over 10 million, from 45.56 million to 56.6 million.[68]

In addition, the level of overall housebuilding need in England is in fact higher than the Government target. Rarely do estimates of annual housing need take adequate account of historical backlogs following consistent failures to meet it. Calculations by Prof. Glen Bramley place this at around 340,000 per year and 380,000 in the UK.[69]



Source: Table 118 Annual net additional dwellings and components, England and the regions, 2000-01 to 2020-21. Housing Target: Conservative Party Manifesto, 2019. Housing Need: Glen Bramley, Housing supply requirements across Great Britain for low income households.

From this graph, we can see that the level of housing delivered is not close to the national target. Clearly, it is even further from the actual level of need across the country. This underscores shows the importance of supply-side reforms.

However, it is also important to examine not just the *overall* number of homes supplied, but also the *types* of homes supplied. The most obvious reason this matters is that different types of homes are needed by different households. We have diverse households—families, students, retirees, households with special care needs, multi-generational households, and more—and we need diverse forms of accommodation to support them. While additional housing supply at the higher end of the market can trickle down—eventually—to reduce demand at the lower end, Government recognises the need to support the delivery of affordbale housing to more quickly relieve pressure at the lowest end of the market (for example, where families are homeless or living in highly unsuitable conditions).

66 Although recently announced changes mean that this target will no longer be binding, they nonetheless remain the present Government's aspiration: "Housing targets remain, but are a starting point with new flexibilities to reflect local circumstances"

67 DLUHC, Live Table 244: permanent dwellings started and completed, by tenure, England, historical calendar year series.

68 Our World in Data, The population of England, citing Broadberry, Campbell, Klein, Overton and van Leeuwen via Bank of England (2015), 56.6 million figure (rounded) from the latest ONS Population Time Series dataset, June 2021.

69 Glen Bramley, Housing supply requirements across Great Britain for low-income households and homeless people: Research for Crisis and the National Housing Federation; Main Technical Report, Heriot Watt University, April 2019.

Ensuring we supply different types of housing also matters for a second reason: *build-out speed*. It might not, at first, be obvious, but an improved *diversity* of products supplied is crucial for improving the speed at which developments can be built. This requires some explanation.

Build out

Last year, the Local Government Association calculated that there are 1.1million homes waiting to be built with approved planning permission.[70] This was calculated by finding the difference between completions and units of planning permission granted according to Government data. Shelter estimate that 40% of all planning permissions go unbuilt.[71] If we have this many permissions, why are the levels of completion so low?

This issue was investigated in detail in 2018 by Sir Oliver Letwin in his *Independent Review of Build Out Rates*. His investigation examined build-out rates with a focus on very large sites—those of at least 1,000 homes and including sites over 15,000—in areas of high housing demand. The results are remarkable: the median total build-out time identified was 15.5 years.[72] The range among the sites examined extended up to a staggering 43.8 years.[73]

If we have such a pressing housing crisis and an overheated housing market, the obvious question is why building and releasing homes onto the market takes such a spectacularly long time. Whilst some have accused construction companies of 'land-banking'—and others point to this as a rational response to delays and uncertainty in the planning system—the Letwin review places the phenomenon of slow build-out rates in the context of the broader economics of housing supply. The crux of the explanation of slow build-out on large sites identified is as follows:

1. Sites are acquired with a market sale price in mind to offset the land price paid and costs of construction, management, marketing, and so forth—and then return a profit to investors.
2. The market sale of homes must return total sums sufficient to that intended business plan.
3. If properties were all sold simultaneously, the local market would be flooded with homes which would reduce residential property prices through a large, sudden glut of supply.
4. Such low prices would be insufficient to make the development viable, and hence developers of large sites must 'drip feed' homes onto the market.
5. The rate at which homes can economically (profitably) be released onto the market is called the 'absorption rate'
6. The build-out rate is, in turn, directly related to the absorption rate, and cannot viably be increased without increases in the absorption rate.

The core issue identified by the Letwin review, therefore, is that if we want houses to be built more quickly by building out those 1.1million planning permissions more rapidly, then it is necessary to increase absorption rates. How can this be achieved?

Whilst for small sites this is less of a concern, the central solution for large sites is in adjusting the *types* of homes offered on them, as well as by increasing the number of smaller sites. The starting point for this is the fact that different types of home buyer and / or occupant need different types of home. For example, an individual seeking a small rental apartment in a retirement community will not be interested in a large, detached family home. A student away from their family is not going to be interested in a house designed for multi-generational occupation.

Since this is the case, by *diversifying* the offer of housing built on large sites, the effect of more rapid release of dwellings from the development is far less likely to reduce prices since the products are not aimed at the same markets. This means developers can viably sell more houses at the same time, and thereby build out the site more rapidly.

70 Local Government Association, Over 1.1 million homes with planning permission waiting to be built - new LGA analysis, May 2021.

71 Shelter, 40% of homes granted planning permission go unbuilt, September 2020.

72 Rt Hon Sir Oliver Letwin MP, Letwin Review Draft Analysis, 2018, Chapter §3.1, p.9.

73 Ibid.

The Letwin Review concluded that several forms of product diversity could be encouraged. In the Review's *Draft Analysis*, first among these is the need for social rented housing. As Sir Oliver reported, "I have been told,on every one of my site visits, that the need for social rented housing is far from exhausted […]"[74] and "[…] in areas of high housing pressure at least, the market for social rented property is separate from the price-constrained market for open market sales of family-sized homes"[75].

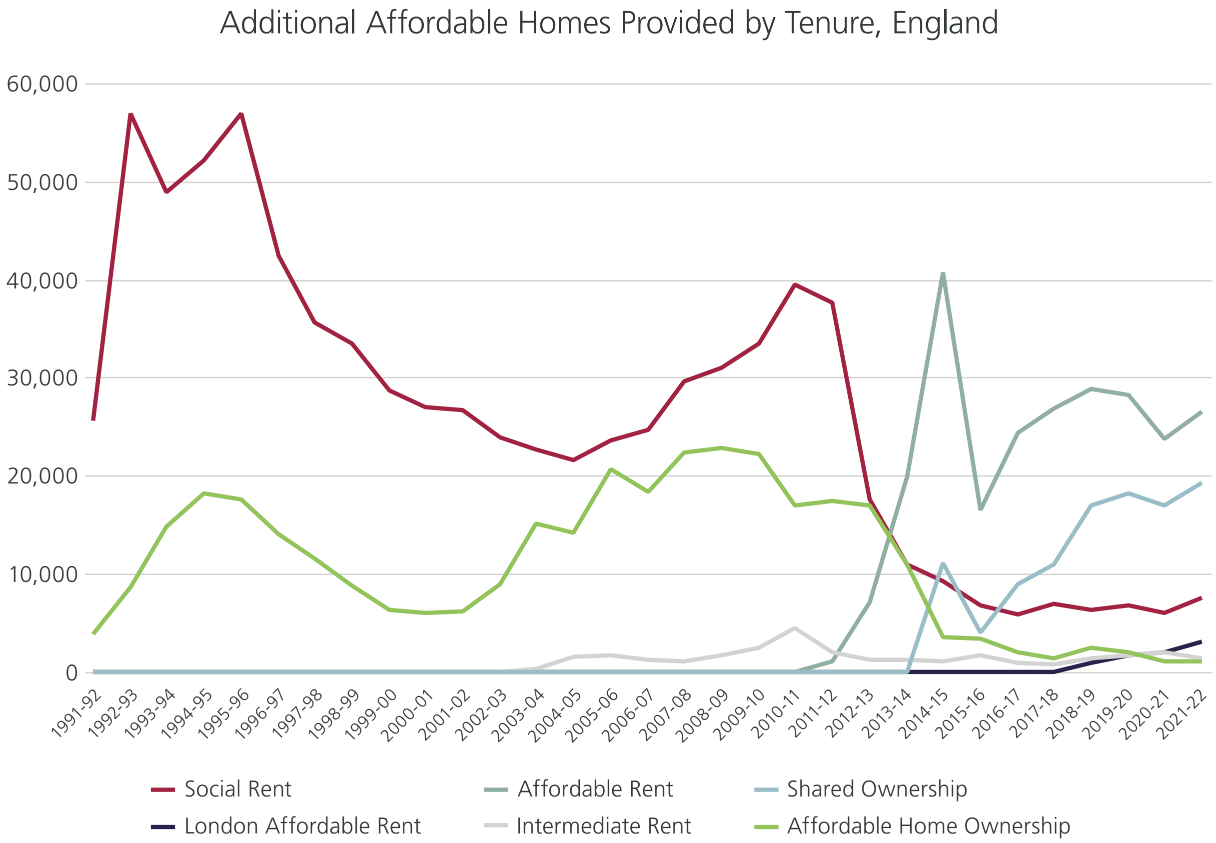
This means that delivery of a variety of *types* of housing—by tenure, size, aesthetics, and so forth—is crucial for driving the speed of build-out. First among the lacking tenure types is social housing. We can now turn to look in more detail about the levels of 'affordable housing' delivered in England today.

The Supply of Affordable Housing

The term 'affordable housing' can mean different things in different contexts, but, broadly speaking, it includes homes which are offered for sale, shared ownership, or rent at prices which are below their open-market value—aimed at catering to the needs of people for whom open market provision is insufficient.

Among the homes which we do add, not enough are affordable. Of the 216,490 net additional dwellings delivered in 2020-2021 just 52,145 were affordable.[76] This, in itself, is not enough—again, latest estimates place the number of social homes needed at 90,000.[77]

However, to understand this better, we need to unpack the meaning of the term 'affordable home' according to its use in practice. The following graph shows delivery of affordable housing by tenure type:



Source: DLUHC, Table 1000, Additional affordable homes provided by tenure, England, as updated at 24th November, 2022.

74 Ibid. p.16.

75 Ibid. p.16.

76 DLUHC, Table 1000: Additional affordable homes provided by tenure, England, June 2022.

77 Glen Bramley, Housing supply requirements across Great Britain for low-income households and homeless people: Research for Crisis and the National Housing Federation; Main Technical Report, Heriot Watt University, April 2019.

The first thing to note on this graph is that the largest proportion of affordable housing delivered today is for a tenure known as "Affordable Rent". This is not social housing in the commonly understood sense where rent levels are, in the first instance, determined by a formula taking strong account of local incomes. Rather, Affordable Rent is set by a cap which reflects 80% of open-market rental prices. Whilst housing providers rarely set rents this high in practice, the product acts technically as more of a discount on rent prices—and can therefore change with them—than a genuinely affordable housing product which is set, in perpetuity and by design, at an income-related rent.

This is especially pertinent in areas such as in the South East where high rental prices lead to high Affordable Rent capped prices—which stretch the meaning of 'affordable housing' beyond credulity. Research from the Joseph Rowntree Foundation has demonstrated how supplying this type of affordable housing is not a viable solution to the affordability challenge:

> *"JRF analysis has modelled the impact of moving low-income private renters currently unable to afford their rents into 'affordable rent' housing and found that 'affordable rents' would be affordable for just a quarter (25%) of these households. The other three-quarters – 695,000 households – would find 'affordable rents' too expensive. It is clear that 'affordable rent' – the Government's preferred 'low-cost' rental product – isn't the solution for the majority of low-income renters."*[78]

A further 16,984 affordable properties were for shared ownership.[79] This is a tenure which has been improved in recent years through the Affordable Homes Programme. It enables people to enjoy some of the benefits of home ownership without the need to put down a full deposit for a house. It is therefore a helpful form of intermediate tenure.

However, neither of these two tenures constitute social housing in the traditional sense—where rents are set at prices related to locals' incomes. As can be seen, the level of social housing delivered used to be much higher. This is essentially because of lower levels of direct government grant investment; Affordable Rent and Shared Ownership require less grant funding because they deliver greater rental income (or equity, in the case of Shared Ownership) for housing providers. Whilst Affordable Rent may be fiscally convenient for the Government in the short run, ultimately it passes on the higher costs to occupiers.

The total number of homes for Social Rent was just 6,051 in the whole of England in 2020-2021, improving in the most recent data to 7,528.[80] However, once demolitions and rent conversions are taken into account, the total number of *net* social homes added will be smaller than this—overall, 3977 social housing dwellings were demolished in 2020-21, and 17,262 social housing dwellings were sold off[81]. Given that there are 1.2 million people on the waiting list for social housing, this figure is simply far too low.

Much more could be said about the supply side of the housing crisis. However, the evidence presented in this section highlights the problems. We are not supplying enough homes, we are not supplying the right types of homes, and not enough are genuinely affordable to local people.

We now turn to examine key supply-side aspects of the government's agenda for supply-side reform in housing.

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78 Joseph Elliot and Rachelle Earwaker, Renters on low income face a policy black hole: home for social rent are the answer, Joseph Rowntree Foundation, October 2021, p.10.

79 DLUHC, Table 1000: Additional affordable homes provided by tenure, England, November 2022.

80 Ibid.

81 DLUHC, National Statistics, Social housing sales and demolitions 2020-21, 27 January 2022.

Part 2: The Infrastructure Levy as a Levelling Up Reform

The present Government's promise to deliver on the Manifesto pledge of "levelling up" includes, centrally, the Levelling-Up and Regeneration Bill which is presently moving through Parliament. If passed, this Bill, led by the Department for Levelling Up, Housing and Communties, would be central to the legacy of the the Government's Levelling Up agenda.

This paper focuses on one of the most significant planning reforms proposed in the Levelling Up and Regeneration Bill: the introduction of an Infrastructure Levy.[82] Whilst a technical area of planning policy, it will make a very significant change to how affordable housing is funded and delivered if implemented. In the next sections, we set out what this measure entails and evaluate its prospects for the provision of affordable housing.

Whilst policy analysts have previously explored the relationship between an Infrastructure Levy and affordable housing delivery,[83] fresh conversation is required now that the Bill is moving through Parliament. Our discussion here aims to further the debate by discussing the legislation as it has been drafted.

The Infrastructure Levy in Context

The Infrastructure Levy, as proposed by the Bill, is a fiscal measure with the intended purpose of simplifying and making more efficient the collection and use of developer contributions for infrastructure and affordable housing. As the *Planning for the Future* White Paper explained, "[…] capturing more land value uplift generated by planning decisions to deliver new infrastructure provision – is key for both new and existing communities."[84]

Land value uplift and developer contributions

The monetary value of land is inextricably linked to its potential, legally permitted, uses. For example, in the latest official land value statistics, among all areas measured by the Government, Gloucester has the median value of £2.3m for one hectare of land for residential accommodation.[85] One hectare of agricultural land in Gloucestershire valued for agricultural purposes, by contrast, has a value of £21,000.[86]

Whilst such comparisons are always difficult, the granting of the right to develop land into residential accommodation instantly increases its value. As Churchill noted eloquently, that value increase does not chiefly occur because of effort on behalf of the landowner. It is therefore just that we use fiscal policy to return some of that increase in value to the community. This is what the Government means by 'capturing more land value uplift generated by planning decisions'.

Ways of doing this include requiring contributions from developers in-kind, or through a form of taxation. These payments—in kind or financially—are known as 'developer contributions'.

82 House of Commons, Levelling-up and Regeneration Bill, November 2022; Part 4 & Schedule 11.

83 For the most comprehensive policy paper on this, see Darren Baxter, How the infrastructure levy can be designed to boost social and affordable housing supply, December 2021.

84 DLUHC, Planning for the future, 2020, p.60.

85 DLUHC, Land value estimates for policy appraisal, 2019 (published 2020), Residential land values.

86 DLUHC, Land value estimates for policy appraisal, 2019 (published 2020), Residential land values; agricultural land values.

> *"Roads are made, streets are made, services are improved, electric light turns night into day, water is brought from reservoirs a hundred miles off in the mountains – and all the while the landlord sits still. Every one of those improvements is effected by the labour and cost of other people and the taxpayers. To not one of those improvements does the land monopolist, as a land monopolist, contribute, and yet by every one of them the value of his land is enhanced. He renders no service to the community, he contributes nothing to the general welfare, he contributes nothing to the process from which his own enrichment is derived." – Winston Churchill, 1909*

How, then, are developer contributions collected? Presently, there are two principal systems for ensuring developer contributions are collected from private developments. These are known as 'Section 106' and the 'Community Infrastructure Levy'. We briefly set out these mechanisms and assess their effectiveness.

Section 106

Section 106 Agreements have their legal basis in the Town and Country Planning Act 1990. This mechanism gives a Local Planning Authority several powers, including to "restrict development or use of land in a specified way" ; require "specified operations or activities to be carried out in, on, over or under the land;" and "require the land to be used in any specified way"[87].

Among the most common requirement is that of constructing affordable housing alongside the homes developed for open market sale in a new-build development. S106 is frequently used to fulfil the affordable housing aspects of the Local Plan that all local planning authorities are now required to have.[88]

Local Plans and Affordable Housing

Local Plans are constructed in a regulatory environment which has the effect of ensuring affordable housing is built in new developments. Plans are submitted to the Secretary of State who will appoint an independent inspector to examine the plan against four tests of soundness—including the requirement for it to be "Positively Prepared"[89].

Satisfying this test requires meeting the area's "objectively assessed needs" – including a specific reference to housing needs.[90] This is undertaken according to a housing and economic needs assessment; in turn, this will necessitate the provision of affordable housing—a great deal of which will be delivered on-site using S106 in accordance with the National Planning Policy Framework.[91]

The Framework requires that affordable housing provision should ordinarily be on-site and constitute at least 10% of major developments.[92]

How effective is this system? It does have some advantages. Firstly, it creates a strong link between affordable homes provided and the new development since they must ordinarily be delivered on the same site as other homes. This is good for creating mixed communities and preventing social stratification by housing tenure types.

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87 Legislation.org.uk, Town and Country Planning Act, 1990.

88 Ibid.

89 DLUHC, National Planning Policy Framework, 2021, §35, Point a.

90 Ibid. footnote 21.

91 Ibid. §63.

92 Ibid. §65.

Additionally, because S106 infrastructure contributions (such as playgrounds and traffic junctions) are in general delivered on-site, planning consent is meaningful for existing residents since those who are affected by nearby development tend also to be beneficiaries of the developer contributions.

However, S106 suffers from a significant flaw; once a development has begun, and is sustainably in motion, developers are able to use a mechanism known as a 'Viability Assessment' to renegotiate, and thereby reduce, the level of S106 contribution they must make.[93]

This is surprisingly prevalent. Thorough research conducted by the CPRE and Shelter demonstrated that "[…] developers and land promoters use Viability Assessments to get out of building almost half (48%) of the affordable homes that local policies required. In one year alone, in just eight rural Councils, sites on which a Viability Assessment was submitted lost 938 affordable homes."[94]

The legal rules enabling very extensive Viability Assessment changes were tightened up in 2018, but commentators[95] and even the Government remain concerned; Stuart Andrew MP, the Housing Minister at the time, emphasised this in response to a written question on infrastructure delivery:

> *"[…] However, the existing developer contributions regime is discretionary, subject to negotiation and renegotiations based on developers' viability assessment.*
>
> *The Government has proposed to introduce a new 'Infrastructure Levy', to replace the existing system of developer contributions, which aims to capture a greater share of the uplift in land value that comes with development. Through the Levy, local authorities will have greater flexibility to determine how contributions are spent to shape and support both existing and new communities."*[96]

In addition to the legal loophole issue, the S106 system creates what Darren Baxter of the Joseph Rowntree Foundation, writing on prospects for an Infrastructure Levy, aptly describes as an "inherent uncertainty" in the S106 system.[97]

Drawing on Daniel Bentley's book *The Land Question*, Baxter states the issue clearly: "The infrastructure provision required of a developer will only become clear at the point of securing planning permission, likely after the land purchase has been agreed".[98] Bentley explains that the "negotiated nature" of S106 agreements has thus "long been a source of tension and has in recent years become an increasingly contentious aspect of housing policy."[99]

Even without the extensive viability loopholes of recent years, this 'inherent' issue with S106 means that it is unpredictable and fuels speculation unhelpfully. As we will now see, this system contrasts in this regard with the existing Community Infrastructure Levy.

93 This can lead to forms of unfairness both upstream and downstream of developers; not only are lower contributions made, but landowners who sold to developers on the basis of a certain contribution requirement may have acted differently had the eventual S106 decisions been clear at the time of sale.

94 Rose Grayston and Rebecca Pullinger, Viable villages: closing the planning loophole that undercuts affordable housing in the countryside, Campaign to Protect Rural England and Shelter, November 2019, p.11. There is the possibility that some of the local planning policies are overstretching and therefore making developments less viable. This point would further underscore the value and importance of a levy-based system.

95 Simon Hill, How private developers get out of building affordable housing, New Economics Foundation, February 2022.

96 Stuart Andrew MP, Answer to Question for Department for Levelling Up, Housing and Communities, UIN 154401, tabled on 14 April 2022.

97 Darren Baxter, How the infrastructure levy can be designed to boost social and affordable housing supply, Joseph Rowntree Foundation, December 2021, p.12.

98 Ibid.

99 Daniel Bentley, The Land Question, Civitas, December 2017, p.51.

The Community Infrastructure Levy

In addition to S106 Agreements, developer contributions can also be secured through a policy instrument known as the Community Infrastructure Levy (CIL) which was initially introduced through regulations in 2010[100] under the Planning Act 2008.[101] This enacted a system for making charges on the development of land to fund local infrastructure projects.

As Government guidelines explain, "The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities".[102] CIL rates are set spatially, according to pounds (£) per square metre at a rate set in the charging schedule drawn up by the local planning authority.[103] However, as the guidance makes clear, "charging authorities may not use the levy to fund affordable housing."[104]

Just as with S106 agreements, there are advantages and disadvantages of CIL.

A significant advantage of CIL is that it is not subject to renegotiation after developments are made since it is a (locally set) flat rate tax. It is therefore more secure than contributions from S106 agreements which, as discussed, are subject to Viability Assessments. Secondly, it can be seen as more flexible since it is not necessarily focused on on-site delivery.

However, there are disadvantages with this system.

Firstly, the severance of the link between the proceeds of the levy and the site from which it was collected means that those immediately affected by the development are not necessarily direct beneficiaries of the infrastructure provided as a result. This can have a negative impact on planning consent to a development if residents cannot discern any recognisable benefits to their area.

Secondly, CIL is limited because it cannot be used for the delivery of affordable housing.

Thirdly, by basing charging schedules on square footage, there can be missed opportunities to harness land value uplift for the common good, since development values can vary markedly from building to building and neighbourhood to neighbourhood. With this flat rate-setting system, there is a risk that the local CIL is set too high and therefore acts as a deterrent to otherwise good development in areas that need it.

Fourthly, drawing up and implementing a charging schedule for CIL is legally complex and requires considerable capacity within a local planning department, many of which are already overstretched. In 2019, it was reported that "only 138 local authorities in England and Wales have adopted CIL schedules while nearly 230 have published draft charging schedules for consultation. This leaves around one third of contributions without any published plans for CIL."[105]

As we shall see, this relates to the trade-offs of CIL being unlikely to deliver much in areas of low land and development value, and the lack of affordable housing provision.

The Government's aim in the Levelling Up and Regeneration Bill is to create a reformed system of developer contribution collection which draws on the best of both systems. This paper looks at this in the next section.

100 Legislation.gov.uk, The Community Infrastructure Levy Regulations, 2010.

101 Legislation.gov.uk, Planning Act, 2008.

102 DLUHC, Community Infrastructure Levy, April 2022.

103 Ibid.

104 Ibid.

105 Bob Pritchard, Calling time on Community Infrastructure Levy?, RIBA, November 2019.

The Proposed Infrastructure Levy

The Infrastructure Levy was originally proposed in the *Planning for the Future* White Paper, launched in 2020.[106]

The goal was to implement a "nationally-set value based flat rate charge"[107]. This is with the "[…] aim for the new Levy to raise more revenue than under the current system of developer contributions and deliver at least as much – if not more – on-site affordable housing as at present."[108]

An anticipated benefit of this is that it would "sweep away months of negotiation of S106 Agreements and the need to consider site viability"[109]. The original consultation document promised to "ensure that the new Infrastructure Levy allows local planning authorities to secure more on-site housing provision"[110].

Following this consultation, many aspects of the White Paper it was based on have been dropped. However, a version of the Infrastructure Levy has been kept in the Levelling Up and Regeneration Bill.

Key features are as follows[111]:

- The Levy will be governed by regulations which will be set by the Secretary of State with the permission of the Treasury.[112]
- IL would be mandatory rather than optional (as with CIL) for charging authorities.[113]
- Local Planning Authorities would be the charging authority unless regulations enable other levels of government to make charges.[114]
- Charging authorities are required, when preparing their schedule, to "[…] have regard, to the extent and manner specified by IL regulations, to the desirability of ensuring that […] the level of affordable housing which is funded by developers and provided in the authority's area, and […] the level of the funding provided by the developers is maintained at a level which, over a specified period, is equal to or exceeds the level of such housing and funding provided over an earlier specified period of the same length."[115]
- Charities are exempt from the levy where their development is "[…] the building or structure in respect of which IL liability would otherwise arise is to be used wholly or mainly for a charitable purpose of the charity within the meaning of section 2 of the Charities Act 2011"[116].
- IL regulations may permit in-kind payments: "[…] such as providing, improving, replacing, operating or maintaining infrastructure, making land available, carrying out works or providing services[…]"[117]

As can be seen from this brief summary, the policy intention is to draw together the best of the existing two systems in one more simplified developer contributions scheme. This can be demonstrated in the following table:

106 DLUHC, Planning for the future, 2020.

107 Ibid. p.62.

108 Ibid. p.22.

109 Ibid. p.22.

110 Ibid. p.22.

111 See the House of Commons Library document on the Bill for more detail. We have highlighted key features of the IL listed in that document as relevant to this paper here: House of Commons, Levelling Up and Regeneration Bill, 2022-2023, p.84-85.

112 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204A.

113 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204B (1)

114 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204B (2)-(4)

115 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204G(2).

116 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204F(1)(a)-(b).

117 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204R(4).

Advantages of the Infrastructure Levy compared to S106 and CIL

	S106	CIL	INFRASTRUCTURE LEVY
Cannot be re-negotiated through Viability Assessments	✗	✓	✓
Can be used for affordable housing	✓	✗	✓
Nationally applicable	✓	✗	✓
Based on gross development value	✗	✗	✓

As can be seen, in principle, the Infrastructure Levy has theoretical advantages which could enable a helpful change in the amount of land value uplift secured through developer contributions. In theory, it could enable a helpful contribution to the supply side of the economy—especially in terms of the affordable housing it could deliver.

However, there are several concerns with the Infrastructure Levy in relation to its potential adverse impact on the amount of affordable housing it is likely to deliver in practice—and how affordable that housing is in fact likely to be. We now turn to review several of these.

Prospects for the Infrastrucure Levy's effect on Affordable Housing Delivery

1. The Definition of Affordable Housing

The first issue with the Infrastructure Levy concerns the definition of affordable housing. As CSJ research has shown, less than one in four people believe the Government's definition of affordable housing is truly affordable for local people.[118]

The current affordable housing approach is inadequate because many of the products offered are not affordable, especially where market prices are high. As discussed above, the great majority of so-called "affordable housing" we are currently supplying is of this kind. It is for this reason that the language of "genuinely affordable" homes has become common parlance in the housing policy space.[119]

To deliver more truly affordable housing, we need a statutory definition of this which is meaningful.

In the way the Bill is presently drafted, it is defined as follows: " "Affordable housing" means –

(a) Social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008 and,

(b) Any other description of housing that IL regulations may specify; […]"[120]

Whilst definition (a) is clearly limited, an includes Social Rent properties whose rental price is linked (in part) to local incomes through the system of Formula Rent and social housing rental regulations, definition (b) is far too open-ended; it leaves too much latitude for meaningless definitions of affordable housing to be applied. Therefore, given the economic reality in the absence of stronger regulation, much Infrastructure Levy-funded affordable housing is in practice likely to be unaffordable for many with modest means.

118 Centre for Social Justice, Exposing the hidden housing crisis, November 2021, p.22.

119 See, for example, the Mayor of London and London Assembly website; *London Living Rent*; §What is London Living Rent?

120 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204A (4).

Recommendation

To ensure 'affordable housing' is true to its name, a better legal definition of it is required. In the context of the Infrastructure Levy, the Levelling Up and Regeneration Bill should be amended to limit part (b) of the affordable housing definition it uses, to ensure that there is clearly defined scope within which the regulations can be applied.

Ideally, this recommendation should link the definition of affordability in a meaningful way to the income levels of households with low incomes in each local area.[121]

The definition of affordable housing will also be impacted by the regulations which must be approved by the Treasury to be implemented. We would therefore also make the following recommendation:

Recommendation

To ensure 'affordable homes' are truly affordable in each area and in perpetuity, the Infrastructure Levy regulations should link the definition of affordability to local incomes in a meaningful way, and this should receive backing from the Treasury.

2. The Amount of Affordable Housing Provided

As noted, Schedule 11 of the Bill, which sets out broad parameters for how charging schedules can be set, makes the requirement for charging authorities to:

"[…] have regard, to the extent and in the manner specified by IL regulations, to the desirability of ensuring that—

(a) the level of affordable housing which is funded by developers and provided in the authority's area, and

(b) the level of the funding provided by the developers,

is maintained at a level which, over a specified period, is equal to or exceeds the level of such housing and funding provided over an earlier specified period of the same length".[122]

This, along with numerous other points in section 204G, is designed to govern the amount yielded by the levy. A very great deal is left to regulations, meaning that there is tremendous scope for interpretation and change within this legislative framework.

There are several problems with the way this is designed. Firstly, it is not clear what "level" in this context means. The Explanatory Notes issued by the Department say it means the same "amount"[123]. Is it the mere number of housing 'units' provided under a broad definition of "affordable housing"? Is it homes of the same value? The same size (measured by floorspace, bedrooms, or otherwise)? Does "level" make any reference to the relevant tenure types? None of this is clear, and the way in which this is defined will have a significant impact on how the Levy will operate and the actual homes that are delivered.

121 Whilst it is not strictly the subject of this paper, more broadly the Government should also look towards amending the definition of affordable housing within the NPPF should also be amended to ensure it reflects and facilitates the provision of homes which are truly affordable.

122 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204G.

123 House of Commons, Levelling-up and Regeneration Bill Explanatory Notes, 2022, p.207, point d.

The Government has said that this will be made more clear through regulatory measures: "The extent and manner in which a charging authority must have regard to this requirement [to maintain levels of affordable housing supply] will be set out in regulations."[124]

However, this, we believe, leaves far too much open to undermining the supply of affordable housing in regulations. For this reason, we would make the following recommendation:

Recommendation

To ensure that the amounts of affordable housing delivered through developer contributions are at least maintained in a robust way, a clear metric for this is needed. The Government should make clear in the Bill how the "level" or "amount" of affordable housing that must be maintained through charging IL is to be defined.

Secondly, It is also not clear to us that the phrase to "[…] have regard […] to the desirability of ensuring that [the level affordable housing delivery is maintained]"[125] is strong enough. Having 'regard to the desirability' of something does not necessarily mean doing anything materially about it. The Government should strengthen this phrasing to make good on their intention that an IL will genuinely deliver affordable housing and not simply be used for other extraneous purposes.

The third problem with this is that, in some areas, delivery levels of affordable housing have been poor. The Explanatory Notes to the Bill make clear that the baseline reference level for affordable housing delivery should refer to the amounts delivered over the 'specified period' "[…] which can include under the current system of S106 obligations."[126]

As discussed, due to the use of Viability Assessments, much affordable housing that was initially intended to be delivered via Section 106 was not eventually delivered. In addition, as we discuss, the low levels of planning gain in low land value areas currently yielded by S106 mean that insufficient affordable housing is constructed there from the perspective of housing needs. The danger here, then, is that an artificially and unjustly low level of affordable housing delivery is enshrined into law as the relevant appropriate standard. For this reason, we would recommend tightening the framework to address this.

One way to improve the overall performance of the developer contributions framework would be for the Government to introduce improvements to the system of issuing housing targets. Whilst there is an overall target of 300,000 net additional homes per year(which, as recent announcements have made clear, is no longer to be mandatory), there is a lack of clarity in terms of what types of homes should be included within that target. One suggested improvement to this system has come from the Communities and Local Government Select Committee which recommended in 2020 that the Government publishes a breakdown of affordable housing tenures within that overall target.[127] This would be a helpful step towards setting an overall policy direction, and an effective yardstick for understanding where we stand in relation to affordable housing delivery.

Recommendation

To ensure there is a nationally robust strategy for affordable housing delivery, a clear overall set of metrics is needed for delivery of homes by tenure type. The Government should publish annual targets for affordable housing delivery by tenure type.

124 House of Commons, Levelling-up and Regeneration Bill Explanatory Notes, 2022, p.208, Point l.

125 Levelling-up and Regeneration Bill, 2022, Schedule 11; Section 204G.

126 House of Commons, Levelling-up and Regeneration Bill Explanatory Notes, 2022, p.207. Point d.

127 Communities and Local Government Select Committee, House of Commons, Building more social housing, 2020, p.27; point 53.

3. The Provision of On-Site Affordable Housing

The third issue with the Infrastructure Levy concerns a specific aspect of the "level" of affordable housing provision. Specifically, the provision of on-site affordable housing.

As discussed, one of the benefits of S106 is that it creates a strong link between new developments and the affordable housing which developer contributions fund, since they are normally on the same site. Around half of all affordable housing is delivered in this way (47%)[128].

On-site affordable housing is in general very good for thriving, mixed, well-integrated communities since it enables people from different backgrounds and with different housing needs to live within the same neighbourhood.[129]

Additionally, as discussed, less homogeneous developments tend to be built out more quickly, since, as the Letwin Review demonstrated, different types of home are appropriate for different markets. This means they can be released for sale more rapidly without undermining sale prices and business viability.

Lastly, it is very important to have accommodation which meets the needs of the various employees required to service businesses in local areas. As highlighted previously, this is an acute issue in areas with a high proportion of elderly residents necessitating large numbers of social care staff, and in tourist destinations and rural areas where the housing market outprices locals who would otherwise take jobs in the tourism service industry.[130]

The intention is that the IL will deliver housing at least as good as the S106 system, but this is not entirely evident from the legislation. As the Government put it in the original *Planning for the Future* White Paper: "We will aim for the new Levy to raise more revenue than under the current system of developer contributions, and deliver at least as much – if not more – on-site affordable housing as at present."[131] *Planning for the Future* also stated that "[…] we will ensure that the new Infrastructure Levy allows local planning authorities to secure more on-site housing provision."[132]

The Government needs to make good on this commitment. As a report from the Affordable Housing Commission made clear, the overwhelming majority of key sector stakeholders they surveyed believed that under the original proposals, the Infrastructure Levy system would deliver less, or significantly less, on-site housing than currently supplied.[133] Very few thought it would deliver 'around the same', and none thought more would be delivered.[134]

The Government has since committed to introduce a "right to require" system which will "[…] enable local authorities to require, as part of a development, a certain share of affordable housing" with the aim of using this mechanism to "[…] deliver the same proportion of or at least as much affordable housing".[135]

However, this is not a right which currently has any place within the Bill—it is something left entirely to regulations. It would be better to have clarity on this within the primary legislative framework as it is a crucial aspect of ensuring that on-site housing is preserved. Furthermore a "right to require" is not a "requirement to require". In other words, this system runs the risk of delivering a lower proportion of on-site affordable housing as compared to past performance. It therefore leaves open the question of how this right will interlink with the Government's wider ambition at least to maintain on-site affordable housing supply.

128 Calculated from data in DLUHC, Live Table 1011, June 2022, (summated S106 nil grant and part grant housing output for 2020-2021 (24718) expressed as a percentage as the whole (52145)).

129 There can, of course, be exceptions that prove the rule where small site scales or geographic characteristics make a very limitd number of affordable homes impractical and unproductive.

130 It should be noted that the issue of specialist housing provision for older people is a crucial issue in its own right that merits further systemic review—see the work of the National Housing Federation, Older Person's Housing Group, September 2022.

131 DLUHC, Planning for the future, 2020, p.22.

132 Ibid. p.22.

133 Affordable Housing Commission, The Planning White Paper and Affordable Housing: The Views of Social Landlords, November 2020, p.12.

134 Ibid.

135 Simon Gallagher (then DLUHC Director of Planning), contributing to the Levelling Up, Housing and Communities Committee, Oral evidence: Levelling-up and Regeneration Bill, HC 309, 13 June 2022, Q59.

Recommendation

On-site affordable housing is crucial to ensure new-build developments enable vibrant and mixed communities to thrive. We recommend that the Government should, in both primary legislation and relevant regulations, make explicit reference to preserving the level of on-site affordable housing delivered in new-build housing developments, and detail how the 'right to require' will operate.

4. Levy exemptions for 100% affordable housing developments

In general, the Infrastructure Levy is designed as a blanket and mandatory tax on new development. Its aim is to increase the amount of infrastructure—specifically including affordable housing—that is developed. However, this has raised concerns about how it will affect developments which are themselves constituted of 100% affordable housing.

As Kate Henderson, Chief Executive of the National Housing Federation put it, "If you are delivering a 100% affordable housing site, it should be exempt from the levy."[136]

We agree with this. However, it might be asked at this point whether this is a significant issue given that affordable housing normally constitutes only a small part of a development. It would therefore be worthwhile highlighting several examples of 100% affordable housing development.

One example is a very recent proposed brownfield development which would unlock 91 affordable homes—a site which "[…] will consist of 17 one and two-bedroom flats and 74 two, three and four-bedroom houses, made '100% affordable in partnership with housing association Bromford.'"[137] This would be developed by Keepmoat Homes in partnership with a housing association.

Another example is the a proposed development entirely composed of affordable homes in Flushing, Cornwall. The intended outcome is "[…] 15 affordable dwellings near Tregew Meadows comprising 3 bungalows, flats, and 10 houses."[138] This scheme would be led by the council's Housing Delivery Team which is the applicant.

In London, property developer Joseph Homes will provide an "entirely affordable development" of 134 homes[139] on the site of the old EMI Records vinyl pressing factory in Hayes.[140] Crucially, this was made possible precisely because of a reduction in the Community Infrastructure Levy charge incumbent upon them to pay.[141] This would deliver numerous properties for Registered Provider Network Homes: "[…] 57 at affordable rent, 19 at London living rent, and 58 shared ownership."[142]

Whilst it is crucial that the Infrastructure Levy does not act as an undue deterrent to the development of new homes in general, it is especially important that it poses no risk to those developments that offer entirely affordable housing. A further reason to be concerned about this is the potential effect of the Infrastructure Levy on Rural Exception Sites. The National Planning Policy Frameword (NPPF) defines these as "Small sites used for affordable housing in perpetuity where sites would not normally be used for housing."[143]

136 Housing, Communities, and Local Government Select Committee Committee, Oral evidence: Levelling-up and Regeneration Bill HC 309, July 2022, Q177.

137 Sophie Wills, Plans for '100% affordable' housing estate near former Somerfield HQ take step forward as developer snaps up land, Bristol World, August 2022.

138 Joseph Macey, Proposed housing scheme in Flushing will be 100% affordable, Falmouth Nub News, May 2022.

139 Grainne Cuffe, Developer changes scheme to deliver 100% affordable homes, Inside Housing, January 2022.

140 Joseph Homes, Living up to Live Well with a focus on sustainability and indoor air quality, 2022, §"One Vinyl Square".

141 Grainne Cuffe, Developer changes scheme to deliver 100% affordable homes, Inside Housing, January 2022.

142 Ibid.

143 Ministry of Housing, Communities and Local Government, National Planning Policy Framework, 2021, p.71.

1 Vinyl Square. Credit: Joseph Homes

1 Vinyl Square. Credit: Joseph Homes

Their stated purpose is that they should "[…] address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection."[144]

These have made a very significant difference in rural areas of the country where house prices are high—for example, in Somerset, Dorset, and Devon, the Middlemarch Community Land Trust Enabler Hub has assisted in unlocking the delivery of 201 homes on 20 Rural Exception Sites which are now live.[145] On these sites, almost all are 100% affordable and delivered in collaboration with a Registered Provider of social housing. The one site with less than this delivered 80% affordable housing.

These sites are often made possible through local landowners releasing land at less-than-optimal prices, knowing that it will make a very significant difference to a local community and enable families to stay close by, friendships to endure, locals to access good jobs, and businesses to be well-resourced with staff. For this reason, we should do all we can to ensure such sites are not affected by any Infrastructure Levy taxation.

Many small sites (which Rural Exception Sites most often are) are unlikely to be large enough to meet the 'threshold' expected for Infrastructure Levy charges to apply[146]. However, it would be best if greater reassurances could be given to prevent this on any such site.

The Government might respond to this concern with the view that charities would be exempt from Infrastructure Levy charging provided that the housing would be used for charitable purposes. Since most Housing Associations are themselves charitable organisations, and are also responsible for most affordable housing delivery, this concern can, to some extent, be mitigated. However, we heard from affordable housing providers involved in these sites that questions remain about how this exemption would be implemented.

In essence, complication arises from the fact that for-profit businesses are involved in the development of sites which are then passed over to registered providers who have charitable purposes. In doing so, such businesses forego profits they might otherwise accrue if they were to develop higher-value homes for open market sale. It would be better if exemptions could be made for these if the housing eventually delivered will be truly affordable in perpetuity and administered by an organisation whose purposes are charitable.

We heard evidence from one Registered Provider that this was a problem with CIL in some places where the affordable housing exemption had to be granted prior to start on site and relied on discretion if the tenure changed at a later stage.

144 Ibid.

145 Middlemarch website, Projects, accessed October 2022.

146 Albeit that thresholds should be set not by number of dwellings but by value under an Infrastructure Levy; a small development in central London can have high enough yields to merit substantial developer contributions. In most rural exception sites, this would not typically be the case.

We note that Ben Everitt MP has introduced an amendment to the Bill which "[…] would provide for an exemption from liability to pay IL for affordable housing as defined in Annex 2 of the NPPF."[147] This would provide for sites offering 100% affordable housing to be exempt from the Levy.The Government should also examine the merits of providing levy exemptions for sites with very high proportions of affordable housing, such as over 75%.

Recommendation

To ensure 100% affordable housing developments are not unduly disincentivised, the Government should ensure they are free from Infrastructure Levy charges. The Government should support the adoption of Amendment 3 of the Levelling Up and Regeneration Bill, or a similar amendment, to ensure that 100% affordable housing developments are exempt.

5. Concerns about yield levels in low development value areas

The next issue concerns how the levy would operate in areas of lower land value. This concern has been raised in the past in relation to the Community Infrastructure Levy. Ironically, one great benefit of this tax—its local, *community* dimension—in many places is the very thing that impedes its usefulness. As discussed above, only a limited number of Local Planning Authorities are charging CIL.

This is because its yields are low in these areas, making ambitious community infrastructure plans funded through developer contributions economically unviable. This was demonstrated in research prepared for the then Department of Communities and Local Government by the University of Reading and the Three Dragons consultancy, which found that "Authorities that have operational CILs are concentrated to a large extent in more affluent parts of the country where market and land values are higher. Over half of CIL adopters are from London and the south east of England."[148] As the research showed, and as the CIL Review Team highlighted, one of the key reasons cited by local planning authorities for not implementing CIL is "actual or perceived lack of viability"[149].

We should be clear that, as the research also demonstrates, this is not the only reason for the limited uptake of CIL. The fact that CIL cannot be used for affordable housing has also proved a disincentive to uptake.[150] However, the fact that the areas of low CIL uptake are in low development yield areas (in general, outside London and the South East), shows that this is a key driver. Clearly, there is a strong disincentive to spending the administrative time and cost involved with drawing up and implementing a charging schedule if there is limited perceived scope for greater developer contributions to be collected.

The concern for the Infrastructure Levy is that it would lead to low returns in less well-off areas; indeed, those most in need of 'levelling up' which is the key purpose of the Levelling Up and Regeneration Bill. This concern was put eloquently by Tanusha Waters, Assistant Director of Planning and Building Control at Harlow Council: "As with CIL, many councils may continue to find that the IL is either unviable or provides very low rates of charge. It seems likely that those authorities most in need may also be those with the lowest land and sales values. […] it is unclear how a system of the type proposed would do anything other than perpetuate imbalances in society and the economy."[151]

147 House of Commons web site, 2022, Levelling Up and Regeneration Bill Report Stage Amendments, Amendment 3

148 Department for Communities and Local Government, The value, impact and delivery of the Community Infrastructure Levy, 2017, p.5, point 6.

149 Community Infrastructure Levy Review Team, A New Approach to Developer Contributions, October 2016, 3.2.2.

150 Ibid. 3.2.2. and Department for Communities and Local Government, The value, impact and delivery of the Community Infrastructure Levy, February 2017, p.5. point 6.

151 Tanusha Waters, The infrastructure levy highlights levelling up's viability challenge, The Planner, June 2022.

This issue was raised in the wake of the White Paper by Prof. Tony Crook, Prof. John Henneberry, and Prof. Christine Whitehead of the London School of Economics, who wrote, commenting on the Infrastructure Levy proposal, that "A national rate and the value threshold have consequences for regional imbalances (remember the levelling up agenda?). Since the values of completed developments are much greater in London and the southern regions of England than elsewhere, LPAs in these areas will have greater capacity to benefit and fund their infrastructure needs including schools, doctors' surgeries, highways and to ensure biodiversity net gain is realised in addition to securing new affordable homes. All of these will be more difficult to secure elsewhere."[152]

Since the original proposal, the Government has committed to a regionally variable charging schedule system. This will enable more flexibility and prevent a national flat rate from deterring development unduly. However, the concern still remains about low yields in areas with low residential land values. Not only will such areas have lower land values, but lower charges will also mean yields are lower.

This is a serious concern, and we go into more detail in Part 3 of this paper below. Briefly, several considerations bear noting.

Firstly, although the yields from the levy would be lower in low development value areas, this would be offset in part by the fact that lower land values make infrastructure less costly to put in place, and in particular make the cost of 'switching' market homes to affordable homes much lower.

This is, of course, a very broad-brush consideration. Account must also be taken of a variety of factors which do not change so much where land values are different; for example, the cost of materials, energy, construction equipment, professional services, and so forth. Further, the infrastructure required in certain places may be very expensive even if the land is relatively inexpensive—especially if the site is inaccessible and needs considerable intervention to render it usable (such as decontamination, flood risk management, utilities accessibility, and so forth). Land is thus but one ingredient in a development. Whilst it is an expensive ingredient, low land values would not compensate entirely for low levy yields.

Secondly, when comparing the prospective IL to current S106 delivery, S106 is also subject to development value pressures in lower value areas.[153] Thus, a new levy-based system should not, comparatively, be very significantly more of an issue in this regard. This point should be borne in mind, and demonstrates that this does not constitute a knock-down objection to the idea of an infrastructure levy. Nevertheless, the fact that an IL would suffer the same flaw as a flawed S106 system does not mean there is no problem. On the contrary; this issue would still exist and would need remedying. The Infrastructure Levy is being introduced by a Department and Bill with the explicit mission to level up; to address the effects of regional disparity experienced by left-behind areas. Clarity is needed as to how the Government will ensure the Infrastructure Levy will not further entrench these disparities.

Thirdly, it bears noting that areas where land prices are higher are also areas where—in large part for the same reason—housing affordability has greatest pressure and therefore affordable housing is especially needed. [154] Whilst this is true, affordable housing is nonetheless needed everywhere as we discuss in Part Three; the shortfall in delivery as compared to need is vast, and the IL system will need systems to compensate for this.

In summary, although the issue is not new, the fact that there are low developer contribution yields in areas of low land value is nonetheless very concerning in the context of 'levelling up' reform.

152 Prof. Tony Crook, Prof. John Henneberry, and Prof. Christine Whitehead, Planning for the Future: Challenges of Introducing a New Infrastructure Levy need to be addressed, LSE Blog, September 2020.

153 Jamie Ratcliff, The Infrastructure Levy could be a better way of funding development, Inside Housing, 2020.

154 Ibid.

This issue has two implications for the Levy. Firstly, it is essential that it is rolled out in a careful and orderly fashion. The Government intends to introduce the levy through a 'test and learn' approach involving a staggered rollout.[155] The housing and built environment sectors represented to the relevant Select Committee have broadly welcomed the Government's intention to implement the Levy in this way.[156]

However, it is crucial that the 'test and learn' process is meaningful. This has been highlighted by the National Housing Federation. As Kate Henderson argued in addressing the Levelling Up, Housing and Communities Select Committee, the Government's "test and learn approach" should be "[…] piloted in areas of really low land value with high regeneration need, as well as parts of the south, south-west, and south-east where there are higher land values, in order to make sure that it works in all areas of the country".[157]

This is crucial for the Government to ensure a meaningful implementation, and we would therefore make the following recommendation:

Recommendation

It is vital that the Infrastructure Levy works effectively in a wide range of areas with differing land values. To ensure it does, the Infrastructure Levy test-and-learn rollout process should begin with pilots in a variety of areas, including several of very low land and development value.

The test and learn approach will also be important since the Government will need to be reassured that the application of a flat rate charge across a local area does not unduly deter land and housing development from coming forward within its boundary. We heard from housing development industry experts how land and development values can change on a micro-local basis—even from one street to the next—and so a mandatory flat rate charge may raise similar concerns in some local areas as are more obvious at the national level. We would recommend that the Government monitor this closely and ensure good developments are not made unviable as a result of the Infrasturcture Levy charging system.

Secondly, it is likely that in some areas, challenges will be identified as a test-and-learn approach is implemented. The concern around low land values must be addressed where infrastructure—especially affordable housing—cannot be sufficiently delivered. For this reason, we also recommend that the Government develop a major, compensatory fiscal mechanism to ensure affordable housing delivery is possible, viable, and aspirational across all areas of country. Whilst something like this exists in the "80/20 Rule" in Affordable Homes Programme funding, we can and should go much further to ensure this happens effectively. We discuss this in Section 3 below.

It is especially important that the Government follows through on this issue, since the Levelling Up White Paper made clear, with specific reference to the Infrastructure Levy, that changes to the planning system would benefit left-behind places:

> *"The current planning system enables some developers to benefit disproportionately and unfairly from the land they develop. This is why the UK Government is developing models for a new infrastructure levy which will enable local authorities to capture value from development more efficiently, securing the affordable housing and infrastructure communities need.*
>
> *Improvements to the planning system will help level up left-behind places."*[158]

155 House of Commons, Levelling-up and Regeneration Bill Explanatory Notes, May 2022, p.112. Box 'Example (1): 'Test and learn' approach to IL'.

156 Levelling Up, Housing and Communities Committee, Letter to Rt Hon Greg Clark MP, August 2022, point 12.

157 Levelling Up, Housing and Communities Committee, Oral evidence: Levelling-up and Regeneration Bill, HC 309, July 2022, Q177.

158 UK Government, Levelling Up the United Kingdom White Paper, February 2022, p.228.

6. Concerns about the usage of funds

Sixthly, there is a question over *how* Infrastructure Levy funds can be spent. Originally, the Infrastructure Levy was intended to shore up and bolster the funding for, and supply of, affordable housing and key infrastructure for new developments. For this, the CSJ strongly welcomed its introduction into the policy landscape at the time.paragraph

However, a Government amendment to the Levelling Up and Regeneration Bill has been introduced and adopted to broaden the scope of uses for Infrastructure Levy funds.[159] These include uses "other than infrastructure."[160] The justification for this amendment is that it grants local authorities more flexibility in their spending powers including "other specified purposes, such as non-infrastructure matters" and " improvements to local services and delivery of local programmes that are valued by local communities".[161]

The introduction of this amendment has raised considerable concerns from MPs and within local government.[162] The cause for concern is that this would dilute the purpose of the infrastructure levy—away from ensuring that local market-led infrastructure projects can fund the necessary sub-market infrastructure to keep communities healthy, happy, and wholesome. Obvious spending objectives would therefore be affordable housing, GPs surgeries, schools, parks, community centres, and so forth.

The government has aimed to mitigate the effects of this by setting priorities for IL-receipt spending. As the then Housing Minister informed the Bill Committee when introducing the amendment, "Although the infrastructure levy will primarily be spent on infrastructure and affordable housing, that will give us the scope to allow local authorities more flexibility over how they spend the levy if those priorities have been met."[163]

This crucial caveat—*if those priorities have been met*—should in theory offer reassurance that no funds will be spent on non-infrastructure issues if priorities for affordable housing and infrastructure are not already catered for. This would, as things stand, be implemented through the charging schedule which each local planning authority would need to draw up to implement the IL, governed by regulations.

Whilst this is, at first glance, a helpful caveat, there are nonetheless reasons for concern. Two key points are worthy of consideration here.

Firstly, there is the concern that the standards which must be reached to satisfy the condition of meeting 'priorities' first is too low. As Matthew Pennycook MP put it, "There is nothing in the Bill to ensure that local authorities meet a sufficient level of housing need[...]or of infrastructure need."[164]

As outlined in the beginning of this policy paper, the housing needs facing the country are vast. With no meaningful definition of affordable housing in the bill, and with a lack of clarity on the regulations and legal parameters of charging schedules, it is not clear that the bill will ensure the tests for 'priorities' are tight enough to ensure sufficient affordable housing is delivered.

Secondly, the Levy spending rules should be considered bearing in mind the extreme pressures on local authority spending. Many councils in areas widely considered to need levelling up have very strained public finances. To take a stark example, Stoke-on-Trent's budget overview shows the proportions spent on different funding areas:

159 Hansard, Mr Marcus Jones' amendment, Amendment 196.

160 Hansard, Levelling-up and Regeneration Bill (Nineteeth sitting), September 2022, Col.622.

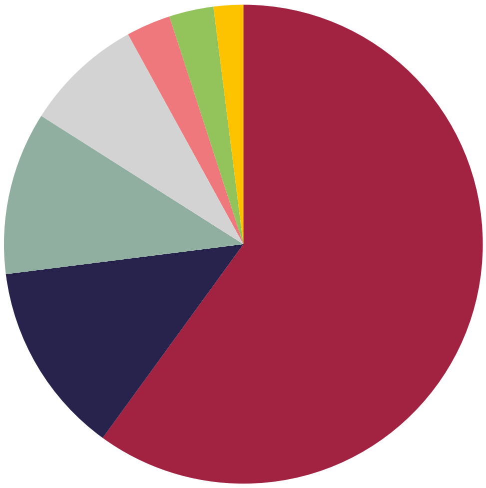
161 Ibid.

162 Ibid (see contributions from Tim Farron MP and Matthew Pennycook MP).See also commentary in the Local Government Chronicle.

163 Ibid.

164 Ibid. Col.622.

Spending areas of pence in each £1 of Council Tax collected and spent by Stoke-on-Trent Council, 2021-22[165]



As can be seen, a staggering 60% of spending has to go towards social care alone. Other services and programmes consume much of the rest of the budget. Whilst 11% does go into regeneration and investment, this is small in relation to the level of need within the area for regeneration and affordable housing.

With this in mind, the words of Tim Farron MP in regards to the 'other than infrastructure' question are significant. It is worth quoting his remarks fully:

> *"This rings serious alarm bells with me and, I think, many other people, particularly those who work in housing associations and local government. It is hard to build affordable housing—we would have built a lot more of it if that were not the case. Given the price and availability of land, the process of finding a delivery partner, the involvement of contractors and housing associations, and the need to make the money stack up, it is not easy. The problem is that if we create a safety valve that allows infrastructure levy funding to be spent on something other than the infrastructure that underpins new affordable housing developments or the development of affordable housing itself, some people will take the easy option and some of the money garnered for planning gain will not do the community much good at all*
>
> *I hope and believe that the Government and this Minister have good intentions, but if we allow the funds gathered by the infrastructure levy to seep out from the pot for developing affordable housing and the infrastructure that underpins it, that is what will happen. We must not allow it to happen."*[166]

As these two issues demonstrate, the architecture of the Bill as it stands does not leave sufficient reassurance that Infrastructure Levy funds will deliver the vital infrastructure needed for affordable housing. Because of this, we believe the Government ought to reform the Bill to ensure receipts are fully focused on infrastructure including affordable housing.

Recommendation

Given the undersupply of affordable housing and community infrastructure, it is vital that funds raised from the Infrastructure Levy goes towards these causes. The government should therefore amend the Levelling Up and Regeneration Bill to ensure that the Levy remains fully focused on the delivery of infrastructure. Furthermore, to ensure transparency, Government should require details of Levy receipts per site, as well as spending intentions and outcomes, to be published in a clear and timely fashion.

165 Stoke-on-Trent City Council, Budget Consultation, 2022-2023 p.6. .

166 Hansard, Levelling-up and Regeneration Bill (Nineteeth sitting), September 2022, Col.622-3.

7. Opportunities for local Qualifying Bodies in using community shares of Levy receipts.

In addition to *how* IL funds are spent, there remains a question about *who* can spend them. The *Planning for the Future* White Paper stated that through the new system, "[…] local communities will have more control over how it is spent"[167]. This, of course, is the source of controversy around the impact it will have on areas of low land and development value.

However, there is a further concern about the "community" dimension of the Infrastructure Levy. The new Levy will introduce a wholesale replacement of the Community Infrastructure Levy in England (outside London). One issue with CIL is that the 'community' dimension lacks meaningful implementation in many parts of England.

Ordinarily, a proportion of CIL receipts must be passed to the community in a democratically meaningful way through the vehicle of a town or parish council where there is one, and where there is a neighbourhood plan.[168] This is substantial, in the form of 25% of receipts under those conditions. In areas with no Parish Council the maximum is 15%, capped at £100/dwelling in consultation with the local community through neighbourhood forums.[169] We support the principle of subsidiarity, and the continued ability for local Parish and Town Councils to receive funds raised by the infrastructure levy—if they are used for the delivery of affordable housing and key infrastructure needed to support it.

However, a general problem with this is that, currently, 63 per cent of England does not have a Parish or Town Council.[170] In the absence of these, another unit of local organisation must be sought to pass funds to the community in a meaningful way.

One type of organisation that could perform this function, with a locally rooted and strongly democratic structure, would be a Community Land Trust (CLT). These could, in areas without a Parish or Town council, be given the status of a receiving body for a proportion of Infrastructure Levy funds. As already discussed, they are focused on unlocking affordable housing in areas where this is a challenge. There might, at first, appear to be limited scope for this. However, it would have a high impact in the areas eligible for it. Furthermore, it would have the effect of incentivising more such areas to develop CLTs.

There might be a further concern regarding how democratic this would be. A CLT is not, after all, a structure of government in the way that a local council is. Nevertheless, CTLs have at their core the aim of being inherently democratic in their own constitutional structure—as the Community Land Trust Network puts it, "A critical feature of a CLT is its open democratic structure meaning that anyone can become a member".[171]

This is clear from the statutory definition of a Community Land Trust, as defined in the Housing and Regeneration Act 2008, section 79, which states that a CLT must be designed such that "[…] individuals who live or work in the specified area have the opportunity to become members of the trust […]" and that those members themselves control the Trust.[172] CLTs are also aligned by law with the purposes of the planning system since they must be "[…] established for the express purpose of furthering the social, economic and environmental interests of a local community"[173]

There would need to be the obvious lines of democratic accountability and scrutiny to the relevant local planning authority that would apply to developments in general.

167 DLUHC, Planning for the future, August 2020, p.24.

168 DLUHC, Community Infrastructure Levy, April 2022, see paragraph 145.

169 Ibid.

170 Jenevieve Treadwell, Will Tanner, Luke Stanley and Fjolla Krasniqi, Double Devo: The case for empowering neighbourhoods as well as regions, December 2021, p.2.

171 Community Land Trust Network web site, Three reasons why it's important to diversify your CLT leadership and membership , 10 July 2019.

172 UK Government, Housing and Regeneration Act 2008, Section 79, esp. (2)-(5).

173 UK Government, Housing and Regeneration Act 2008, Section 79, (4).

Recommendation

It is important that each community can have an effective and highly localised vehicle for using Infrastructure Levy funds. Subject to satisfying appropriate tests (see below), Community Land Trusts should be eligible qualifying bodies to receive a proportion of Infrastructure Levy proceeds in areas with no parish / town council or neighbourhood forum, with appropriate lines of democratic accountability for usage of those funds established with local government.

The above recommendation emphasises the importance of such CLTs being eligible "subject to satisfying appropriate tests". Most likely, a local planning authority would be the appropriate body to designate a CLT for receiving and using funds, and could administer an assessment process using clear tests to ensure this can be done in a fair and transparent way.

The most obvious conditions would need to be around governance structures, quality of financial management, and engagement with the community. The tests and methods of their implantation would need to be worked out through appropriate secondary legislation and regulations in due course.

'Powerstock & District CLT (8 homes) Credit: Dorset Council'

'Corry Valley CLT, Dalwood (6 homes) Credit: Middlemarch'

'Queen Camel CLT (20 homes) Credit: Middlemarch'

'Marshwood CLT (7 homes) Credit: Middlemarch'

'Lyme Regis CLT (15 homes) Credit: Middlemarch'

Part 3: Ensuring Housing Supply Delivers for Levelling Up

1. Gaining Perspective: The place of developer contributions in tackling the housing crisis

As set out in Part 1, the housing crisis is a deeply entrenched, multi-faceted, long-term social injustice. We demonstrated how the supply of housing is an issue in each of the key dimensions of the crisis—from affordability to quality, and from the difficulties first-time buyers face through to mitigating homelessness and rough sleeping.

In section two, we reviewed a critical centrepiece of the legislation designed to unlock greater developer contributions. We recognise that, if implemented well, this could go a considerable way to increasing new-build affordable housing supply and improving infrastructure. However, we raised concerns about several key aspects of the proposed Infrastructure Levy and made several recommendations around how it might be improved to deliver affordable housing—especially for the most disadvantaged and deprived communities in England.

At this point, it is worth taking stock to see the place of developer contributions in the broader ecosystem of affordable housing provision. Developer contributions are a very significant aspect of new-build housing delivery, and the Infrastructure Levy has great potential to improve that if implemented well. However, there are two senses in which perspective is needed.

Firstly, improving developer contributions is only a *part* of fixing the problem of new-build supply. It is a very substantial part, but just a part nonetheless. The recommendations made in Part 2 of this paper focus on the legislation currently passing through Parliament. In making them, we also gestured towards the need for broader reforms. These are needed to unlock the full power of improved developer contributions and ensure affordable housing and high-quality place-making are possible across the country. In the present section—Part 3—we focus on several key areas that would improve this.

Secondly, it bears reiterating that limited new-build supply, in turn, is only *part* of the housing crisis. Even if we did manage to build over 300,000 homes per year—homes of the right type and in the right place—in the coming years, we could still have a significant housing crisis. Other reforms are needed beyond adding to the overall number of homes in England.

Some such reforms could add to the supply of affordable homes by other means; for instance, through enabling conversions of properties from market to social rents through buyouts by local authorities and housing associations. Through moderate fiscal incentives, landlords could be encouraged to sell to tenants. Likewise, the existing stock of homeowner-occupied properties could be used more efficiently if acutely under-occupying homeowners could be encouraged to downsize through, for example, stamp duty or inheritance tax incentives.

Other needed reforms are less to do with supply and more to do with housing quality, energy efficiency, private rented sector regulation, setting of social housing rents, regulation of social housing provision, and many other areas. More broadly, there is need for greater ambition and public leadership. These are topics the CSJ has addressed elsewhere and will continue to advocate on in future.

In sum, better developer contributions are a partial solution to the new supply issue. In turn, the new supply issue is a partial solution to the multi-faceted housing crisis. For the purposes of this paper, we now turn to outlining several key areas of reform beyond the Infrastructure Levy that would enable it to be a success in ensuring better affordable housing delivery in England and in ensuring a meaningful delivery of levelling up.

2. Restoring affordable housing investment and supporting 'left behind' areas

The first major issue to consider is the likely regional variation in Levy yields. As discussed above, a primary concern about the Infrastructure Levy is the fact that it will raise lower levels of developer contribution from areas that have lower land and development values.

Commenting on the White Paper in 2020, LSE London academics said "The proposal to increase local control over expenditure of levy funds will favour richer areas unless a form of equalisation were introduced, but this would go against the White Paper's statement that funds would be locally raised and locally spent."[174]

Now that the Government has confirmed that Levy rates will be set locally rather than nationally, we are still concerned that this effect will remain. There is a twofold effect here. Firstly, since development values are lower in the first place, the amount of uplift that is created is naturally smaller, and therefore there is a lower value eligible to be taxed and to produce yields for public investment. Secondly, when charging schedules are drawn up, the rates set in these areas will need to be lower to ensure that developments remain viable and are not unduly disincentivised.

The Government's levelling up policy agenda rightly recognises that there are vast regional disparities across the UK. Its flagship Levelling Up Fund, of which two rounds have now gone out for bidding, defines 'priority areas' for public investment according to several criteria: the "need for economic recovery and growth", the "need for improved transport connectivity" and the "need for regeneration"[175].

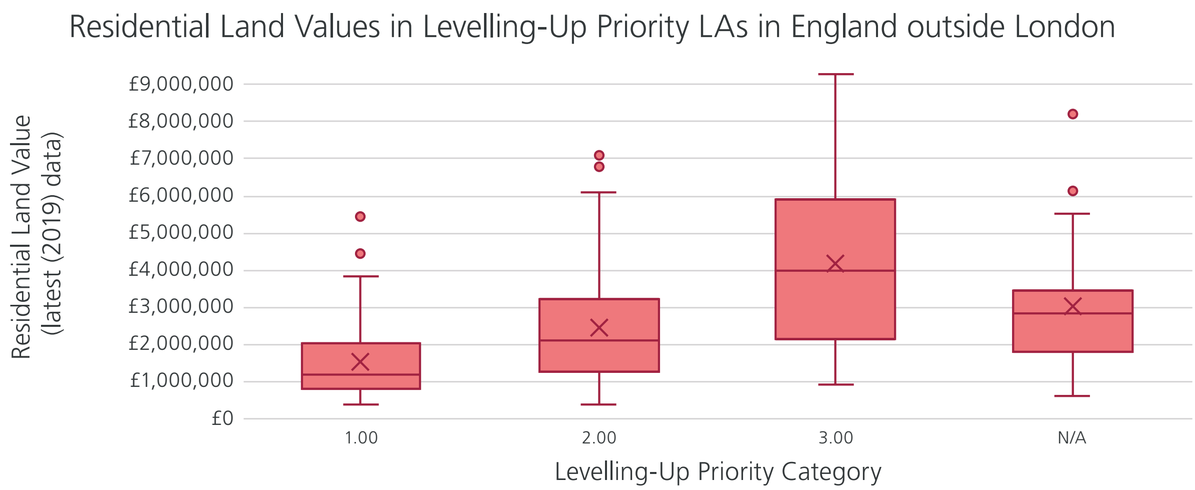
Many of these 'Levelling Up' areas will be, precisely because of these criteria, relatively unattractive areas for developers to construct new homes and communities; the potential profits are lower than what can be achieved elsewhere. As a result, it is likely that the Levy yields will also be low in these places—leaving less available for affordable housing and public infrastructure than in higher development value areas. The result is that less affordable, high-quality housing will be developed in areas where levelling up is needed most by the Government's own definition.

The group Homes for the North has commissioned research from the University of Liverpool to provide empirical evidence on the exact extent of this.[176] Advanced modelling is welcome as it will enable a clearer picture of the implications an Infrastructure Levy will have for affordable housing delivery. The issue of regional disparity can nevertheless be seen in an empirical analysis of residential land value data, highlighting the distribution of residential land values in the primary (category 1) Levelling Up priority Local Authorities:

174 UK Parliament Web Site, Written evidence submitted by LSE London [FPS 139], November 2020.

175 DLUHC, Department for Transport and HM Treasury, Levelling Up Fund Round 2: prospectus, July 2022.

176 Levelling Up and Regeneration Bill Committee, Written evidence submitted by Homes for the North (LRB43), July 2022.



Source: CSJ analysis of Levelling Up Fund Round 2 – List of local authorities by priority category and Land Value Estimates for Policy Appraisal 2019 (latest available data)

As can be seen, levelling up priority category 1 areas are significantly more tightly clustered around lower land values than the other categories. The median line of the boxplot is only just above £1,000,000/ha, meaning that half of all levelling up priority areas fall below this level. This means the levy receipts in these areas will inevitably be low—thus meaning the IL will likely deliver very little by way of affordable housing for these places.

As noted above, it could be argued that this is unconcerning because new affordable housing is needed less in areas where development values are lower. This is because open market rents and prices are lower in these areas.

Indeed, a regional breakdown of the figures calculated by Prof. Glen Bramley demonstrate the widespread variation in new-build social housing need, with more needed in the South—especially London and the South East—than the North:Prof.

Professor Glen Bramley, Housing supply requirements across Great Britain: for low-income households and homeless people, Crisis and National Housing Federation, November 2018.

ENGLISH REGION	TOTAL	SOCIAL RENT	SHARED OWNERSHIP	INTERMEDIATE RENT
North East	6,963	828	400	1190
Yorkshire & Humberside	18868	1795	1477	2216
North West	22574	4324	3297	3288
East Midlands	17248	1867	2202	1929
West Midlands	21102	3129	3268	2458
South West	42171	8340	3980	2540
East of England	46104	10999	3851	3143
South East	90179	26250	6466	5319
London	74464	32983	2308	10523
Total	339,673	90,515	27,249	32,606
England Headlines (rounded)	340000	90000	25000	30000

Source: Crisis / NHF / Prof. Glen Bramley[177]

177 Professor Glen Bramley, Housing supply requirements across Great Britain: for low-income households and homeless people, Crisis and National Housing Federation, November 2018. Table 1.3. ESS

However, several points are worthy of consideration here. Firstly, the lower cost of tenancies is not the only reason to construct social housing. Most social tenancies come with more social support than other sectors, in general offer higher quality accommodation, and are more tightly regulated. There are areas where, despite low land and property values, such accommodation is much needed for these reasons.

Secondly, in any case, the number of social homes objectively needed in the North of England is substantial. The number of homes for social rent needed *annually* in the North West and Yorkshire and Humberside alone (6,119) according to Bramley, **exceeds the number provided in 2020-2021 in the entirety of England (6,051),** and is just less than the number delivered across England in 2021-2022 (7,528).

Thirdly, considerable *replacement* of aging affordable homes is needed in many areas of the North of England—these do not add to the *overall number* of homes, and—as Homes for the North has pointed out—are therefore not eligible for Affordable Homes Programme funding; they lack "additionality".[178] For this reason also, considerable investment in affordable housing—including new build—is needed in these areas.

Given this, some measure of compensatory funding will be needed to ensure levelling up priority areas are not left behind—ironically, and sadly—because of a policy that is an integral part of a bill designed to achieve "levelling up" and "regeneration". What sources of funding are presently available to support the development of affordable housing in such areas? We can briefly review several.

Flagship Non-Developer Contribution Affordable Housing and Levelling Up Funding

The Levelling Up Fund provides subsidies only for 'transport investments', 'regeneration and town centre investments', and 'cultural investment'[179]. Whilst these funds are important for infrastructure in levelling up priority areas, they do not support the development of affordable housing directly.

The Affordable Homes Programme is the flagship source of nationally provided affordable housing funding administered by Homes England, the Government's housing accelerator.[180] It is provided from Government funds allocated for this purpose to the Department of Levelling Up, Housing, and Communities (DLUHC, formerly MHCLG). Three iterations of the programme have been launched, respectively in 2015, 2016, and 2021. The National Audit Office's latest report on the programme highlights the levels of spending and housing delivered according to 2021-22 prices:

Programme	Forecast real-terms total spend (in 2021-22 prices) (bn)	Grant- funded homes (forecast number of new homes to be delivered across England)	Of which for rent (including specialist and supported homes) (%)
2015	£1.7	45,500	80
2016	£8.5	160,500	58
2021	£10.5	157,000	51

Source: National Audit Office[181]

178 Levelling Up and Regeneration Bill Committee, Written evidence submitted by Homes for the North (LRB43), July 2022.

179 DLUHC, Department for Transport and HM Treasury, Levelling Up Fund Round 2: prospectus, July 2022.

180 DLUHC, Apply for affordable housing funding, December 2020.

181 National Audit Office, The Affordable Homes Programme since 2015, September 2022, table "Key Facts", p.4.

80% of such government housing funding was formerly focused on "maximum affordability areas" which are "in practice, London and the South East"—a rule which has now been scrapped meaning that more affordable housing capital funding can be focused on areas where levelling up is a priority.[182]

(Single) Housing Infrastructure Fund The Housing Infrastructure Fund was launched in 2017 and is now closed, but will deliver over £4bn of funding to local authorities to enable better infrastructure for areas with new housing.[183] It is not exclusively targeted at affordable housing, but brings important benefits in this regard. The Government has a mandate from its 2019 Election Manifesto to roll out a new, £10bn Single Housing Infrastructure Fund, but has not yet released this.

Affordable Homes Guarantee Scheme A £3bn scheme to "[…] loans to support the delivery of new-build and additional affordable housing."[184] This is focused on affordable housing provision, but is not a grant funding; rather it helps to facilitate affordable loans from capital market bonds guaranteed by Government.

Levelling Up Home Building Fund A scheme of loans "[…] to support small and medium-sized enterprises (SMEs) and innovative developers and housebuilders to build more homes more quickly and to create great communities."[185] This is a lending scheme rather than a capital grant scheme and, although called "Levelling Up", the fund's guidance page does not make specific reference to issues of regional inequality and associated "levelling up" policies.

Home Building Fund A scheme of loans "[…] to support developers, master developers and landowners in unlocking strategic housing sites, allowing land for housing to be delivered more quickly and creating great communities."[186] Again, this is a loan scheme rather than capital grant, and does not make reference to levelling up specifically.

As can be seen, the Levelling Up Fund is not eligible for direct affordable housing development. Nevertheless, a change in the Affordable Homes Programme has meant that more of its funding can go to the kind of areas that the Levelling Up Fund seeks to support. This is a welcome first step, but the funds available are still insufficient to tackle the sheer scale of the housing crisis.

As noted, this funding is not eligible for homes that are replacements of existing social homes, rather than additions to the overall stock. This is misguided as replacement of existing homes typically requires more subsidy than simple new build as the additional revenue generated from rents are normally small and there are additional costs involved in demolition and re-housing of existing residents.

The Housing Infrastructure fund is not exclusively for affordable housing, and the Guarantee Scheme is neither a grant funding resource nor targeted at low development value areas specifically. The last two funds, made available in February 2022, are not forms of capital grant and not necessarily targeted at low development value, levelling up priority areas.

An affordable homes capital grant funding scheme of the future should address this. Overall, we should continue to work towards restoring historic levels of capital grant directed towards affordable housing across the country before austerity. Within this, a portion of investment should be ringfenced specifically for ensuring that areas with lower Infrastructure Levy developer contribution yields are not disadvantaged in terms of affordable housing investment to address housing needs. Proposals for affordable homes and housing infrastructure funding along these lines have been set out by Homes for the North, and our proposal sketched below is inspired by this.[187]

182 Prime Minister's Office, Government unveils levelling up plan that will transform UK, February 2022, Restoring local pride, point 2.

183 UK Government, Housing Infrastructure Fund, July 2017.

184 UK Government, Affordable Homes Guarantee Scheme 2020, October 2020.

185 Homes England, Levelling Up Home Building Fund - development finance, February 2022.

186 Homes England, Home Building Fund - Infrastructure Loans, February 2022.

187 As has been recommended by Homes for the North: Levelling Up and Regeneration Bill Committee, Written evidence submitted by Homes for the North (LRB43), July 2022. See also Homes for the North, Written evidence submitted by Homes for the North (JGP022), to the Treasury Select Committee—Report *Jobs, growth and productivity after coronavirus*, July 2022.

Such a fund would enable a substantial public investment in truly affordable housing in places with high Levelling Up priority area social and economic characteristics, but with low land and development values—meaning that Infrastructure Levy yields will be too small to cover needed public investment in social and affordable housing. The following box sketches the broad contours of what we think would be appropriate:

Administration: The fund should have strong cross-departmental strategic engagement, and be led by DLUHC and Homes England as part of a substantially enhanced Affordable Homes and Housing Infrastructure funding programme. As part of its administrative and strategic role, Homes England should have a specific mandate for levelling up.[188]

Criteria: Whilst the fund should encompass broadly similar aims for funding as the Affordable Homes Programme, the criteria for the ringfenced, IL-compensatory portion should have three different, crucial features:

Firstly, eligibility for funding would be limited to levelling up priority areas where there is substantial need for affordable housing investment and Infrastructure Levy yields are insufficient.[space] Secondly, grants should be made based on making up for the shortfall in developer contribution funding yielded in these places as compared to higher development value areas. [no need for new paragraph (just join to previous one)]Thirdly, *additionality* should not be a necessary criterion since *replacement* of existing homes is essential in many levelling up priority areas.[189]

Scale: The fund will need to be very substantial to cover the cost of necessary capital funding. It is not easy to place a firm figure on this, as it will need to form part of overall capital funding for affordable housing. The total Affordable Homes Programme provided ought to be substantially larger than the current £11.5bn Affordable Homes Programme being delivered from 2021 to 2026.[190] The National Housing Federation estimates that in order to cover overall housing needs, an average annual Government investment of £14.6bn would be required over a ten-year period.[191] This is doubtless very high—indeed, higher than the largest annual capital grant ever spent in one year: 1953.[192] Whilst this would be ideal from an affordable housing perspective, at least a return to the pre-austerity levels of funding would be very welcome. This would entail £3.8bn per year[193]—a far cry from the £14.6bn, but nonetheless a very substantial increase over current provision.

The specific funding to make up for Levy shortfalls would need to be proportionate to the overall funding provided, and at a level which enables these shortfalls to be effectively compensated. A 10% ringfenced fund would seem large enough to represent a substantial piece of the overall fund, but not so large that it crowds out the broader programme. Based on the NHF's calculation of £14.6bn, this would require investment of around £1.5 bn per year; based on a return to pre-austerity levels, this would require investment of 380m. Empirical assessment and continuous policy evaluation in implementation will be needed to assess the exact nature of funding required.

Whilst there is much to be discussed on this matter, the key question that arises concerns scale. At a time of fiscal tightening and the potential of a looming recession, can such an expansion in public investment be justified? Five points are worth making here.

188 Ibid (LRB43).

189 See Ibid, point 3.

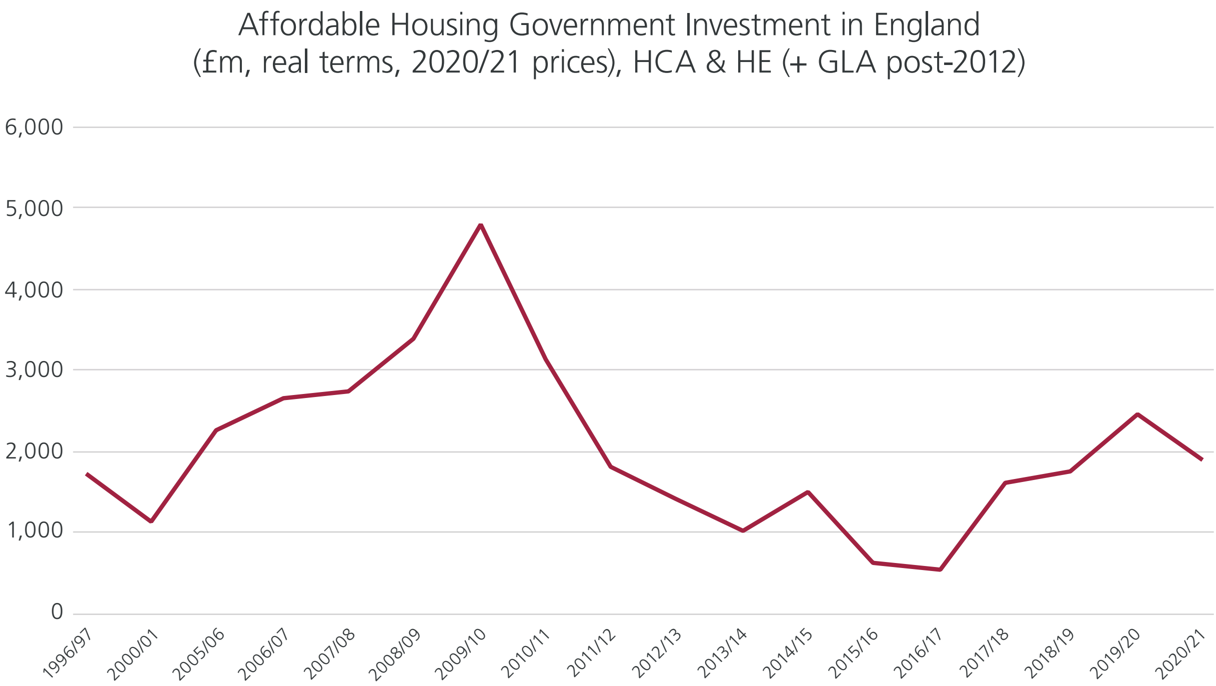
190 MHCLG, Jenrick uneiils huge £12 billion boost for affordable homes, September 2020.

191 National Housing Federation, Capital grant required to meet social housing need in England 2021 – 2031, June 2019.

192 Ibid.

193 Based on an average of HCA expenditure over the three years from 2008/09 to 2010/2011 in real terms; 2021-2022 prices. Calculated using data from the UK Housing Review Compendium, Table 64b Housing capital investment in England - real terms.

Firstly, it should be noted that this level of government-led capital expenditure on homes for social rent is not unusual by historic standards. In 1953, 200,000 council homes were delivered at a cost of £11.35bn in a single year.[194] As can be seen in the graph below, the past 10 years have seen a significant reduction in public investment into affordable housing:



Source: Chartered Institute for Housing UK Housing Review (2022). Compendium, Housing expenditure, investment and rents in England, table 064b, Housing Capital Expenditure in England, "HE/HCA affordable housing investment"

The second point worth consideration relates to the fact that the UK is likely to be entering a period of considerable economic headwinds. This is likely to impact developer contributions due to the possibly lower sale prices of residential property affecting the viability of sites—the knock-on impact of this is lower levels of affordable housing provision during a downturn. This means that, *ceteris paribus*, in a downturn, government-led investment matters more than in a time of economic prosperity.

Furthermore, in addition to mattering more, it is also an economically prudent step. As commentators and economists have pointed out, public investment in social housing is a proven form of counter-cyclical economic stimulus.[195] This ensures that supply chains remain active, skills are developed, and employment remains high in the housing and construction sectors. The benefits of this spill over into other sectors which ensures positive effects are felt through the entire economy.

Thirdly, public capital grant spending on social housing can properly be understood as an investment since it creates an overall economic return to Gross Domestic Product (GDP). Research by LEK Consulting demonstrates that each £1 spent on construction generates £2.84 of GDP growth.[196] Further, since social housing reduces homelessness, the health and wellbeing benefits are also economically significant.[197] Hyde Group's research on social value calculated that the social value of each tenancy they provide is

194 National Housing Federation, Report: Capital grant required to meet social housing need in England 2021 – 2031, June 2019, footnote 6.

195 Wilson and Barton, Social rented housing (England): Past rends and prospects, House of Commons Library, August 2022, p.5. citing Paul Hackett, House-building's role in stimulating economic recovery, UK Collaboratvie Centre for Housing Evidence, May 2020, citing Mark Farmer, The Farmer Review of the UK Construction

Labour Model, October 2016, p.9.

196 L.E.K. Consulting, Construction investment provides significant benefit to the UK economy, reveals new report, October 2009.

197 For evidence of this, see Adam Tinson and Amy Clair, Better housing is crucial for our health and the COVID-19 recovery, The Health Foundation, December 2020.

worth £16,906 per year to the economy.[198] That equates to £607m per year for just this one provider. Drawing on this research, the Affordable Housing Commission found evidence that "[…] the Treasury needed to more fully appreciate the long-term cost benefits of investing in social and affordable housing, especially "invest to save" in providing affordable housing for those on low incomes"[199].

The fourth point is that a considerable long-term saving can be made if the housing benefit bill was not so high, now at close to £30bn per year and expected to grow—see the analysis in Part One. By having a much greater stock of homes at truly affordable rental tenures, the Government would be able to reduce this considerable fiscal constraint and ensure better long-term resilience for the nation's finances.

The fifth point is that this should be a priority for Government funding simply because housing is a matter of essential human need. As the Conservative Manifesto in 1951 pointed out, "Housing is the first of the social services"[200].

.As can be seen, even though the scale of public capital investment needed in social housing is utterly vast, this is not at all an irresponsible or unfeasible policy trajectory. Quite the opposite; in difficult economic times it matters more. On this basis, we make the following recommendation:

Recommendation

It is vital that appropriate public investment is made into affordable housing. The Government should take steps to substantially increase the level of affordable housing capital grant funding available overall, at least to levels seen before austerity of £3.8bn on average annually. To address the differential in developer contribution yields in low land value areas, it should create a ringfenced Levelling Up capital grant fund to ensure areas with low IL receipts are able to construct the affordable homes they need.

198 Hyde, The value of a social tenancy, p.4, 2018.

199 Affordable Housing Commission, Making Housing Affordable Again: Rebalancing the Nation's Housing System, March 2020, p.95.

200 Conservative Party, Election Manifesto, 1951.

3. Further key areas for reform

Beyond this major and necessary funding need, further support is needed elsewhere in the planning and housing ecosystem to ensure an effective delivery of affordable housing and implementation of a more effective developer contribution system.

Adequately resourcing the Planning System

As the Housing and Communities Select Committee report (2021) clearly demonstrates, resourcing in the planning system has fallen substantially in recent years.[201] This includes:

- A fall in spending by 14.6% from £1.125bn in 2010-11 to £961m in 2017-18, as recognised by the National Audit Office report.[202]
- A 15% reduction in planning staff between 2006 and 2016[203]
- Funding reductions to statutory consultees[204] including Natural England (44% budget reduction over 11 years) and Historic England (49% real terms funding cut between 2010/11 and 2019/20).[205]

These dramatic funding cuts have led to widespread frustration with planning application processing speeds which, naturally, has a serious knock-on effect on affordable housing delivery. The Royal Town Planning Institute has called for a £500m investment in funding for the planning system, including at the last spending review.[206] This recommendation was formally made by the Select Committee, but the Government's recent official response said that it was uprating fees and providing an increase of £65 million—a figure which, in context, falls far short.[207]

The loss of staff also means a loss of available skills which, in turn, means that Local Planning Authorities have considerably reduced capacity to grasp and implement policy changes effectively. In the context of the Infrastructure Levy, the policy changes will mean that considerable effort and resource will be needed within Local Planning Authorities to draw up charging schedules and implement them. Thus, changes to the system of developer contribution collection provide even stronger reasons to increase substantially the resourcing available to local planning departments.

Investment in digitisation of the planning system

In addition to this, there is considerably more scope for greater digitisation and community participation in the planning system. Democratic participation in planning today requires sifting through voluminous documents, some of which are not easily accessible through machine reading.

In a survey, the Royal Town Planning Institute found that around half (49%) the public think that "[…] having the ability to respond digitally would make them more likely to get involved"[208]. As they point out, engagement with digital planning services may be "[…] the key to unlocking a younger, more diverse participation"[209].

201 Housing, Communities and Local Government Committee, The future of the planning system in England, June 2021, Chapter 9.

202 Ibid. ¶178. Citing National Audit Office, Planning for new homes, February 2019, p.11.

203 Ibi. ¶178.

204 Housing, Communities and Local Government Committee, The future of the planning system in England, June 2021, Chapter 9. Citing National Trust, Written evidence submitted by the National Trust [FPS 157], November 2020.

205 National Trust, Written evidence submitted by the National Trust [FPS 157], November 2020, ¶38, citing written evidence from Natural England (NER0092) and the Historic England Three Year Corporate Plan, 2018-21 (see footnotes 10 and 11 in the National Trust submission)

206 Victoria Hills, Letter to Rishi Sunak, Royal Town Planning Institute, September 2021.

207 Secretary of State for Levelling Up, Housing and Communities, Government response to the Levelling Up, Housing and Communities Select Committee report on The Future of the Planning System in England, May 2022, p.17. ¶53.

208 Royal Town Planning Institute, Planning for a better future, March 2021, p.9.

209 Ibid. p.9.

We are encouraged that the Government does appear to have a strong interest in this, having established pilot programmes with selected local authorities worth £3.25m through the Proptech Engagement Fund.[210] These pilots must be used to launch a full-scale digitisation of planning. The RTPI have undertaken considerable research into how this can be achieved.[211][space] This will enable a higher degree of community participation in planning which will be healthy for democratic legitimacy. Where communities and residents feel they are empowered as collaborative participants in planning, a more strategic approach to affordable housing and development becomes more viable.

As Kate Henderson put it speaking to the Select Committee, "We need a strategic approach to how we deal with affordable housing in this country. Planning is a democratic process nationally, locally and at a neighbourhood level, and we need clarity if we are going to have consent and trust from the communities in which we are working. If we are going to deliver the types of neighbourhoods and the quality of housing that we want to see, we need to bring people with us, and this is quite a fundamental shift."[212]

If we are to enable a fundamental shift in the provision of affordable housing through increased developer contributions and a well-functioning infrastructure levy, then greater investment in a more efficient, digital planning system is necessary.

Unlocking more public land for the common good

Among some of our most notable, beautiful, and liveable developments with comparatively high proportions of affordable housing are Goldsmith Street in Norwich (council-developed social housing), Poundbury in Dorset, and North West Cambridge.

Such developments have one thing in common—they are built on land already owned by the government or a public institution, and so the high cost of such ambitious development is made economically viable.

> *"In the rare examples where the landowner is a public authority, projects can tap into the full amount of uplift in land values to produce exemplary development. The North West Cambridge Development, built on university land, and Poundbury in Dorset, built on the Prince of Wales' land, are recent examples."*[213]

Public land therefore presents a significant opportunity to provide high quality, affordable housing. Recognising the significance of this, the Government in 2015 launched its Public Land for Housing programme which aimed to release sufficient land for 160,000 dwellings.[214] This would have made a significant contribution and, crucially, an opportunity to provide more socially rented accommodation which requires significantly more public subsidy to construct when undertaken on land which the government must purchase.

At the beginning of September this year, the Government released its Concluding Summary Report which details the amount of land released for housing under this programme. In total, the programme unlocked "616 sites with capacity for over 61,000 homes […]"[215]. **This amounts to a mere 38% of the target.**

210 DLUHC, New digital tools to help residents have their say on local developments, March 2022.

211 Royal Town Planning Institute, A Digital Planning Manifesto, September 2019.

212 Levelling Up, Housing and Communities Committee, Oral evidence: Levelling-up and Regeneration Bill, HC 309, July 2022.

213 Thomas Aubrey, Grounds for Change, Shelter, Chapter: Using land reform to fund large scale development projects, June 2019.

214 DLUHC, Public Land for Housing programme 2015 to 2020: concluding summary report, August 2022, p.3

215 Ibid. p.4.

Even more concerningly, an astonishingly small number of the homes to be constructed on these sites will be "affordable". As can be seen in the following graph, within the 2015-2020 programme, a mere 6,169 will be "affordable"—even under the extremely loose definition of that term. Within this, just 1,331 homes are set to be available for social rent.

This is sadly a missed opportunity. Critics[216] were right to point out the flaws with the Government's previous system, the *Guide for the Disposal of Surplus Land*[217], which failed to "[…] place stronger emphasis on achieving *long-term best*, rather than *market*, value when disposing land and assets."[218]

In 2020, the Select Committee for Housing, Communities, and Local Government said that "*The Government's public land disposal strategy needs a wholesale re-design, not more of the same.*"[219]

Since then, the Government's recently published *Government Property Strategy 2022-2030* does make mention of housing as among its key aims.[220] Its first "Mission" is to "Transform Places and Services" including "place-making, regeneration, and new housing supply".[221] However, its "ambition" is far too thin in terms of detail regarding housing. It states that:

"The ambition is that by 2030:

- Property has contributed to levelling up, regeneration and housing supply outcomes.
- Property investment decisions have been used to improve the quality of places, including through locally-fitting, high-quality design.. [sic]
- The estate supports changes in the way in which public services are delivered, including through greater co-location, increased flexibility and right sizing."[222]

Whilst all these things would be welcome, this includes no clear metric as to whether success has been achieved in any of these ambitions. Indeed, the only concrete (measurable) objective explicitly related to housing in that document is the commitment to "Invest £300m in locally-led grant funding, including the Brownfield Land Release Fund to unlock smaller sites across England for housing."[223] This, itself, is a spending-led, rather than a delivery-led, commitment.

In addition to this, there should be recognition of how social value is accounted for in the process of public land disposal. As the New Economics Foundation put it, "[…] rather than prioritising this land for social housing, recent governments have instead pushed policies encouraging the sale of public land for maximum value."[224] This issue has been recognised by Localis[225], Crisis[226], and the Chartered Institute of Housing.[227]

As the CSJ has recently argued in the context of public procurement, the concept of "value for money" should strongly take into account "social value" when spending public funds.[228]

216 For example, the recent DLUHC and current 10 Downing Street Special Advisor Jack Airey, then of Localis, Disrupting the Housing Market, October 2017, p.36, point 4.

217 Cabinet Office, Guide for the Disposal of Surplus Land, March 2017.

218 Jack Airey, Disrupting the Housing Market, Localis, October 2017.

219 Communities and Local Government Select Committee, Building more social housing, Chapter 3: Land, July 2020.

220 Government Property Function, Government Property Strategy 2022-2030, August 2022.

221 Ibid.

222 Ibid. p.8.

223 Ibid. p.9.

224 Rose Grayston, Squeezed Out: The Impact of Build Costs and Planning Reform on Social Housing Supply in England, New Economics Foundation, November 2021.

225 Alex Thomson and Peter Wilkes, Public Land, Public Good: Getting maximum value from public land and property, Localis and Catheral, September 2014, p.19.

226 Matt Downie, The plan to end homelessness, Crisis, DATE?, §*Public Land*.

227 Ibid. and Carl Brown, CIH chief calls for public land discounts, Inside Housing, March 2013.

228 Centre for Social Justice, Spending it Better: Taking back control of public contracts to level up Britain, September 2021.

We highlighted how "It is fruitless to save £2m through a lower contract bid, while losing more than £2m due to welfare pressures created elsewhere."[229] The same principle should apply when, conversely, releasing public assets. As discussed above, affordable housing reaps vast, long-term public health and community benefits and these should factor into the decisions to release public land and how to use it.

Based on this, we would encourage the government rapidly to unlock more public land for high-quality affordable housing in an effective and measurable way which takes better account of social value. This will enable a greater supply of affordable housing and alleviate some of the pressure on the infrastructure levy.

Renew the Community Housing Fund

Housing and community, as policy areas, should run hand-in-hand. It is therefore very fitting that they should be situated in the same Government department. Specialist organisations can lead community-led housing development in highly localised and granular ways, including Community Land Trusts, Cooperative Housing, and Co-Housing. The value of community-led housing has been clearly recognised in leading policy documents including Danny Kruger MP's report on Levelling Up our Communities[230], the Building Better, Building Beautiful Commission[231], and Richard Bacon MP's report on Self and Custom Build[232]. Indeed, the Conservative Party's 2019 Election Manifesto stated clearly that "We will support community housing".[233]

This is a valuable and important policy aim. The most recent independent review of the community housing sector estimated a potential pipeline of some 23,000 homes.[234] These are especially valuable since many would be on granular or exception sites which larger organisations wouldn't be interested in developing alone. Other community housing organisations take on a patchwork of empty homes and ex-PRS stock in 'left behind' areas. Community-led-housing organisations are also key for securing the support and buy-in of community stakeholders.

All this means that the vast majority of community-led homes are 'additional' properties—homes that wouldn't otherwise be built. Beyond this, they are excellent and important as key infrastructure to tackle loneliness.[235]

That said, the challenge for many community-led housing organisations is around early-stage grant funding. The Affordable Homes Programme requires that providers have done the early work to identify and secure a site, and obtain planning permission, before applying for grant. We heard from sector stakeholders that a key challenge for new, undercapitalised providers is the great difficulty in raising the finance for this. The Community Housing Fund (CHF) provides CLTs with risk capital to do this early work, at which point they can bid into the AHP.

However, the Community Housing Fund is closed for new applications.[236] Government guidance directs community organisations to apply for AHP funding[237], but, as discussed, this is very difficult for small, local community organisations who do not have sufficient capital to undertake the significant and necessary preparatory work.

The Community Led Homes organisation recommended a concomitant Community Housing Fund pot to be made available alongside Affordable Homes Programme rounds, totalling £65m over four years, to enable and unlock the provision of more and better community-led affordable housing.[238] This would

229 Ibid. p.3.

230 Danny Kruger MP, Levelling up our communities: proposals for a new social covenant, September 2020.

231 Building Better, Building Beautiful Commission, Living with Beauty, January 2020.

232 Richard Bacon MP, Independent review into scaling up self-build and custom housebuilding, 2021.

233 Conservative Party, Election Manifesto, 2019, p.31.

234 Dr. Tom Archer, Estimating the pipeline of Community-Led Housing projects and its grant requirements, February 2020, p.2.

235 Kath Scanlon, Jim Hudson, Melissa Fernández Arrigoitia, Mara Ferreri and Karen West, with Chihiro Udagawa, London School of Economics paper, 'Those little connections': Community-led housing and loneliness, November 2021.

236 DLUHC guidance, Community Housing Fund: prospectus, accessible version, February 2021, withdrawn April 2022.

237 Ibid: withdrawal notice.

238 Community Led Homes, Proposal for the Community Housing Fund, September 2021, p.2.

unlock 12,000 homes within the independently assessed pipeline.

Review compulsory purchase rules to improve land assembly for affordable housing

Finally, the Government opened a short round of consultation on reforms to the compulsory purchase system earlier this year.[239] The system of compulsory purchase matters for affordable housing because it can be used by government authorities to acquire land for the purpose of residential and infrastructure development. However, there is widespread concern the system is cumbersome, expensive, and therefore inimical to housing delivery.

Advocates for better provision of affordable housing—particularly at social rent level—would like to see bolstered compulsory purchase powers. A key example is the report *Grounds for Change* produced by Shelter in 2019 that brought together a very wide range of calls for reform of the 1961 Land Compensation Act.[240]

The goal many have argued for is the reduction of "hope value" in consideration of the amount of compensation required when land is compulsorily purchased; a factor which at present, reform proponents argue, shapes the market for land such that development and land assembly are prohibitively expensive—especially for providing affordable housing.[241]

Among the contributors to *Grounds for Change* was current 10 Downing Street Deputy Chief of Staff Will Tanner, who wrote that:

"Achieving this kind of change will require ministers to be bold and reform "hope value" — the additional putative value of the land with planning permission — which has inflated land and housing prices since it was included in the 1961 Land Compensation Act."[242]

Tanner goes on to highlight an obvious concern, noting that "There will be some, especially Conservatives, who fear this could become a tool for state control and land appropriation. In practice, however, the experience of the Netherlands suggests that because local authorities have strong clear powers, CPO does not actually have to be regularly used in practice, as landowners tend to strike voluntary agreements."[243] Therefore, under such a system, the threat of CPO needs to be credible but doesn't actually need to be exercised in practice in the majority of cases.

Among many other advocates for reform to the system of compulsory purchase law are Liam Halligan (economist, author, *GB News* Economics and Business editor and regular *Telegraph* contributor)[244], the Communties and Local Government Select Committee[245], the Local Government Assocation[246], and the Royal Institution of British Architects[247].

However, other organisations, such as the Law Society[248],were not supportive. Among their concerns was the worry that such reform would lead to "legal challenges and judicial review" which would cause delays in bringing forward land for development—the opposite effect from that intended.[249]

If CPO rules were to be strengthened then, at least in theory, planning for housing in England could move

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239 DLUHC, Compulsory purchase - compensation reforms: consultation, 6 June, 2022.

240 Shelter, *Grounds for Change*, 2019.

241 Ibid.

242 Will Tanner, Using land reform to create places people love, Shelter, Grounds for Change (ibid). p.22.

243 Ibid.

244 See his book, Home Truths: The UK's Chronic Housing Shortage, Biteback Publishing, 2019.

245 Communities and Local Government Select Commmittee, Inquiry into Land Value Capture Report, 2018, §3 Legislative Reforms, point 113.

246 Local Government Association, LGA Response to DLUHC's Compulsory Purchase – Compensation Reforms, 19 July 2022.

247 Royal Institution of British Architects, Response to the Department for Levelling Up, Housing and Communities: Compulsory purchase - compensation reforms July 2022, 2022.

248 The Law Society web site, Compulsory purchase: compensation reforms consultation – Law Society response, August 2022.

249 Ibid. p.2.

a step closer towards the types of development put in place in other countries, where local authorities have a considerable role in land assembly and proactive development. This would, again in theory, lead to better outcomes for affordable housing.

As one paper argues, for example, the UK could adopt something more like the American practice of an 'eminent domain'-based system of land acquisition, treating housing as a form of infrastructure.[250] Such a system would involve a stock of land as contingency, to compensate for the fact that many residential planning permissions take a long time to build out, are subject to various conditions which may never be met, and may become unviable. It would need to be subject to strict due process requirements and be local government-led, but would crucially reduce the lengthy CPO process and reduce or eliminate the 'hope value' element of compensation.

We welcome the Government's decision, introduced at the Report Stage of the Levelling Up and Regeneration Bill, for the Secretary of State to "undertake a review of whether the powers of compulsory purchase available to— (a) local authorities, and (b) the Secretary of State are adequate to meet the objectives of this Act".[251]

In Parliamentary discussion, when asked by Select Committee Chair Clive Betts MP about the possibility of strengthening the capacity of the compulsory purchase system to mitigate the effect of hope value on development, Minister Dehenna Davison MP said that "It is certainly something that we are exploring behind the scenes with a view to taking action at a later date."[252]

Later discussing this matter, Minister Davison went on to say "I can confirm that, during the Bill's passage in the other place, we intend to table amendments addressing circumstances in which authorities have to pay hope value when they compulsorily purchase land in an effort to regenerate their area."[253]

We encourage Government to consider whether these circumstances could be altered in order to reduce the cost of providing new housing—and especially truly affordable housing for those with low incomes to rent. Furthermore, we encourage the Government to examine whether changes to the Compulsory Purchase Order regime and associated Compensation Code could pave the way for a more ambitious system of land assembly, enabling a more sustainable delivery pipeline of a high quality, truly affordable homes.

250 Jamie Ratcliff, The Homes London Needs Part 2: *Mass Delivery of Manufactured Homes for* Rent. Policy Exchange, February 2016.

251 Hansard, House of Commons, Levelling-Up and Regeneration Bill, Volume 723: debated on Wednesday 23 November 2022, Column 332.

252 Hansard, House of Commons, Levelling-Up and Regeneration Bill, Volume 723: debated on Wednesday 23 November 2022, Column 339.

253 Hansard, House of Commons, Levelling-Up and Regeneration Bill, Volume 723: debated on Wednesday 23 November 2022, Column 343.

Levying Up: Ensuring planning reform delivers affordable homes

December 2022

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