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**Response to Government Consultation on proposed planning
policy changes
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Highbury Group

Response to DCLG consultation on proposed changes to national planning policy

Introduction

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

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

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

The Highbury group welcomes policy reforms and funding initiatives which would increase the supply and affordability of new homes. We are however concerned that a number of components in the proposed planning reforms would not significantly improve delivery rates but would, by promoting one specific product – starter homes – over other forms of affordable housing will actually decrease the new supply of homes accessible by households on lower and middle incomes. We support initiatives to promote low cost home ownership, but in our view the Starter Homes Initiative would not significantly widen access to homeownership and the subsidy involved would be put to better effect to invest in rented housing which would be affordable to lower income households in perpetuity, rather than providing grant assistance which can be quickly capitalised by the initial purchaser.

In relation to the planning proposals, while we support initiatives which both

speed up the planning decision system and lead to better planning decisions, we are concerned that the proposals for ‘permission in principle’ would limit the ability of local planning authorities to ensure developments complied with published planning policy and were appropriate responses to the development needs within the local area.

In the section below, we respond to specific questions posed in the consultation paper.

Consultation Questions

a) Affordable Housing

Q1. Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wider range of low cost home ownership options?

In February 2015, the Highbury Group responded to the DCLG on the Starter Homes proposal by recommending that the Government did not proceed with the initiative in the form then proposed. With the Government now setting out specific proposals through the clauses in the draft Housing and Planning Bill and the announcements in the Spending Review statement in November 2015, the Highbury Group wishes to reaffirm its opposition to this initiative. Our primary concern is that the initiative will do more to inflate house-prices than to increase supply and therefore worsen rather than mitigate the current crisis of housing affordability. The proposal to consider homes at up to £450,000 in London and £250,000 in the rest of England as affordable in terms of planning policy, and to remove the obligations of any such developments to contribute towards the provision of community benefits (including genuinely affordable homes) through section 106 agreements and contributions to infrastructure through Community Infrastructure Levies, is not based on any analysis of households' ability to afford such homes. Moreover it will reduce the ability of Local Authorities to implement adopted plan policies, which seek to provide a wider range of housing needs, including accommodation at social and sub-market rents and shared ownership provision, in relation to their assessment of housing requirements through Strategic Housing Market Assessments in accordance with the pre-existing requirements in the NPPF and National Planning Policy Guidance. The proposed revised national definition of affordable housing will invalidate policies in existing Development Plans, including the London Plan, which have been adopted following public consultation, Examinations in Public and Inspectors reports, demonstrating compliance with the pre-existing NPPF as well as with other components of

the soundness test applied by Planning Inspectors.

We object to the removal of the requirement that affordable homes should be affordable in perpetuity. The Starter Homes Initiative is predicated on a direct or indirect subsidy to purchasers of up to 20% relative to market value, with the purchaser granted this value after 5 years. This is in effect a subsidy from public resources (whether in terms of direct grant or exemption from planning obligations and CIL) to those households who can afford to buy homes at up to £450,000 in London, and £250,000 in the rest of England, households whose incomes will generally be significantly above average incomes of households in their respective areas.

The Government's intention to issue specific Starter Homes targets for individual Local Authorities has the risk of over-riding LPAs own assessments of, and policies for provision for different types of housing in terms of tenure and affordability. The Government has not provided evidence for its proposed 200,000 target in relation to any assessment of national housing requirements or national housing development capacity, and it is as yet unclear how any local targets are to relate to any evidence of requirements at regional or local level or any targets in existing adopted plan policies. This is further complicated by the fact that Strategic Housing Market Assessments do not generally assess the effective demand for homes at 80% of market value, as assessments will generally relate to effective demand for market value homes and for other pre-existing products such as social rent, shared ownership, and in some cases forms of sub-market rent, including in recent assessments, the effective demand for housing at up to 80% market rent in accordance with the Government's 'affordable rent' product.

Q2. Do you have any views on the implications of the proposed change to the definition of affordable housing on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

It follows from the above comments that a new housing target which relates to the upper end of the intermediate housing market (that is just below the effective demand for market homes) and which overrides any evidence based target for homes on a rental, shared ownership and other forms of discounted market homes, affordable by households on lower incomes, and which exempts developers from contributing to such provision, will explicitly disadvantage

lower income households. While lower income households are not per se a protected category as defined in the Equalities Act 2010, there is significant evidence that many of the protected groups are disproportionately represented in those lower and middle income groups who will be unable to afford the new housing product at 80% market value. This will be especially the case in areas of the country such as London and the South East and parts of the South West, where house-price: income ratios are highest. The proposal to give priority through policy and direct and indirect subsidy to households, who will generally be on above average incomes, in some areas, significantly above average household incomes, is therefore discriminatory and in breach of Equalities legislation. The Equalities Impact Assessment recognises that the focus on marginal home owners under 40 recognises that older households will not benefit from the initiative. However rather than focusing on whether ‘protected’ groups can actually afford to be home owners under the new initiative, it focuses on data on aspirations of different ‘protected groups’ to be home owners, referencing data that shows that a higher proportion of BME households than non BME households have aspirations to be home owners. This does not in any way reflect effective demand as no data is provided on actual home purchases by ‘protected’ groups or on differential income levels of ‘protected’ groups. Given the higher house-price cap in London of £450,000 in London and the concentration of BME households in London, it is unlikely that at a national level, BME households in aggregate will benefit disproportionately from this initiative. Clearly single parent households, who are generally on lower than average household incomes, are less likely to benefit from this initiative.

The equalities statement fails to consider the indirect impact of the initiative. The Government has set a national output target for the initiative which does not appear to have any basis in any assessment of effective demand for a range of housing products at national level. It is unclear how local authority level targets are to be set. Should such targets not be related to local assessments of effective housing demand and housing development capacity and override the evidence based targets set in Local Plans, then there is a strong possibility that in giving priority to housing provision to marginal home owners, the initiative will dis-benefit lower income groups by reducing new housing provision for them. The statement asserts that as new Starter Homes will supplement existing provision, there will be no such negative impact. This is clearly an incomplete statement, as the proposal to remove planning obligations and CIL contributions from schemes developed under the new initiative, will mean that schemes will not provide any contribution to the provision of genuinely affordable homes, wider community benefits and infrastructure provision. This not only limits the ability of such new development to part finance the required social and transport infrastructure, but will lead to existing services becoming more congested to the

disadvantage of existing households, irrespective of the tenure of their accommodation, as well as the new home owners.

b) Increasing residential density around commuter hubs

Q3. Do you agree with the Government's definition of commuter hub? If not, what changes do you consider are required?

It is important that there is a consistent approach to density of new development and that national guidance supports the development of homes that comply with the principles of Sustainable Residential Quality and optimise the available development capacity. New homes should meet the full range of housing needs assessed through Strategic Housing Market Assessments and density policy should prevent both the under use of capacity and over-development. Density policy should reflect access to public transport and access to social infrastructure and neighbourhood and town centres. The Government should therefore issue density guidance consistent with the principles of Sustainable Residential Quality. This should not be in the form of a rigid national standard but as guidance to which Local Planning Authorities need to have regard in setting policies within their Local Plans and in determination of planning applications.

In principle we support residential intensification in locations where there is both good access to public transport and a good public transport service both in terms of capacity and range of transport options. The London Plan uses a 800 metre definition, roughly equivalent to an average walking time of 10 minutes. However, there is a need to distinguish defining every stop on the tube and tram networks as a 'commuter hub' and identifying those which are interchanges. While it is appropriate to allow for some residential intensification around all stations, clearly interchanges should allow for a higher degree of intensification. One option is to require public transport interchanges to be defined in the Local Plan, with the level of intensification dependent on the transport interchange hierarchy. Public transport interchanges should be defined in the Local Plan. An interchange could be defined as a place where different forms of public transport meet and where people can board or alight to continue their journeys. They are likely to fall within Town, District or Local centres but in their plans Authorities should consider other opportunities especially where new towns or town extensions form part of the plan.

In the London context, this would be a modification of the Public Transport Accessibility level system in the London Plan and would supplement the use of the town centre hierarchy in relation to impacting on appropriate density for a new development. Where major new developments were being considered density of development would therefore be directly related to the provision of transport infrastructure as well as to provision of district and local centres.

Q4. Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?

It is important to ensure that higher density development around commuter hubs provides an appropriate range of housing in terms of built form, unit size, tenure and affordability. Planning of new housing around commuter hubs needs to be an integral component of a LPA's approach to planning provision across its whole area in relation to its Strategic Housing Market Assessment and assessment of development capacity. The objective needs to be optimising development capacity rather than solely on maximising unit output. While sites above and adjacent to transport hubs may be suitable for higher density development, a focus on providing smaller flatted units may not be appropriate in the context of an overall assessment of housing requirements and development capacity. It should be recognised that households with children also needed good access to good public transport provision and other district centre services, and this is not somehow a requirement limited to single people, whether or not elderly, childless couples, students and other single sharers.

Q5. Do you agree that the Government should not introduce a minimum level of residential densities in national policy for areas around commuter hubs? If not, why not?

It is important that there is a consistent approach to density of new development and that national guidance supports the development of homes that comply with the principles of Sustainable Residential Quality and optimise the available development capacity. New homes should meet the full range of housing needs assessed through Strategic Housing Market Assessments and density policy should prevent both the under use of capacity and overdevelopment. Density policy should reflect access to public transport and access to social infrastructure and neighbourhood and town centres. The Government should therefore issue density guidance consistent with the principles of Sustainable Residential Quality. This should not be in the form of a rigid national

standard but as guidance to which LPAs need to have regard in setting policies within their Local Plans and in determination of planning applications.

c) Supporting new settlements, development on brownfield land and small sites, and delivery of housing agrees in Local Plans

Q6. Do you consider that national planning policy should provide greater policy support for new settlements in meeting development needs? If not, why not?

The Government needs to issue further planning policy guidance to support the development of new housing provision within a range of contexts: major settlements, including urban extensions and new settlements both outside and within the Green Belt, previously developed land including brownfield sites, small sites delivered through urban and suburban incremental intensification. This however needs to be contextualised by a Government statement on appropriate locations for residential and employment growth in spatial terms at a regional and sub-regional level, supported by criteria for identification of potential residential sites which meet economic, social and environmental sustainability criteria. The Government should also publish new guidance on the development of sustainable new settlements which includes guidance on appropriate levels of provision of transport, utilities and social infrastructure, having regard to the principles of planning at the level of the neighbourhood unit.

Experience has shown that outside very high value areas it is difficult for new settlements to self-fund adequate levels of infrastructure provision and that this is almost impossible where infrastructure is required to be provided up-front in advance of any receipts from the development. The Government should consider setting up a revolving infrastructure fund which can be used to support infrastructure provision in new settlements, taking a return from land value uplift over time.

Q7. Do you consider that it would be beneficial to strengthen policy on development of brownfield land for housing? If not, why not and are there any unintended impacts that we should take into account?

We would support reintroduction of a brownfield development target at national, regional and sub-regional level, based on an assessment of

housing requirements and development capacity at a regional, sub regional and local level. It should however be recognised that where brownfield capacity is either insufficient or inappropriate to meet identified housing requirements within an area, then development of green field sites, including sites within Metropolitan Open Land or the Green Belt should be considered. A brownfield target is primarily a monitoring device and should not obstruct the use of other sites where appropriate for residential development.

Q8. Do you consider that it would be beneficial to strengthen policy on development of small sites for housing? If not, why not? How could the change impact on the calculation of the local planning authorities' five-year land supply?

The consultation paper does not put forward any specific proposals. The Government should not set policies, or allow LPAs to set policies, which obstruct the development of small sites, including infill sites and appropriate backland sites. Significant additional capacity can be delivered through low and medium density development within urban and suburban contexts.

Q9. Do you agree with the Government proposal to define a small site as a site of less than 10 units? If not, what other definition do you consider is appropriate, and why?

The definition should be a site less than 0.25 hectares or with a capacity for less than ten units applying the appropriate density policy. This qualification is essential to ensure that any specific policies in relation to small sites are not applied inappropriately. We do not support exemption from s106 agreements relating to affordable housing or other community benefits or exemption from CIL for small sites as the ability of a development to make such contributions and payments relates to a range of factors other than the number of new homes to be provided within the development. In relation to affordable housing, we believe that it is appropriate for a local planning authority to take a commuted sum related to the increase in value due to an exemption from an on-site affordable

housing provision requirement. This approach has been operated successfully by a number of local planning authorities without any apparent detriment to the rate of market led small site development.

Q10. Do you consider that national planning policy should set out that local planning authorities should put in place a specific positive local policy for assessing applications for development on small sites not allocated in the Local Plan ?

This would be useful on the basis of appropriate national criteria. Criteria should always reflect the appropriateness of a site for a specific form of residential development. We do not support the notion of a national development order allowing for automatic in principle consent for residential developments of any size in terms of site area or unit outturn. LPA's have the powers to set out specific requirements through Local Development Orders as appropriate under existing legislation.

Q11. We would welcome your views on how best to implement the housing delivery test, and in particular:

- **What do you consider should be the baseline against which to monitor delivery of new housing?**
- **What should constitute significant under-delivery, and over what time period?**
- **What steps do you think should be taken in response to significant under-delivery?**
- **How do you see this approach working when the housing policies in the Local Plan are not up-to-date?**

The Consultation Paper does not make any specific proposals. As there is no consistent national basis for the setting housing output targets in Local Plans, it is difficult to develop a sound basis for intervention by central Government where targets are not being delivered. Where housing targets are set on a consistent and scientific basis, with targets derived from a comprehensive regional level housing capacity study as in the case of London, there is a basis for intervention by a Government body – in the case of London, the Mayor of London.

In abolishing the regional planning system in the rest of England, the potential for such a regional evidence base, monitoring of output and potential for evidence based intervention where under-delivery was demonstrable, was lost. The Government has instead reverted to monitoring process in terms of level of planning consents and refusal rates as a basis for intervention. This is inappropriate as it has no regard to whether planning applications deferred or negatively determined were or were not policy compliant. Clearly under-delivery in relation to housing targets is a relevant factor in determining planning applications on both allocated and unallocated sites, and is also a factor taken into account by Planning Inspectors in determining appeals. Whether it is or is not a factor in determination of planning decisions by the Secretary of States is not transparent.

It should also be noted that information on planning decisions does not in itself enable a judgment on whether or not a LPA is obstructing or enabling housing delivery. As generally development is not undertaken directly by the LPA and unless it is the owner of the specific site, the LPA has little influence on whether a consented sites is brought forward for development within a specific timescale.

We would therefore argue that unless there is a consistent basis for the setting of housing targets in Local Plans and a systematic monitoring of delivery and the reasons for non-delivery or delayed delivery, that there is no sound basis for central Government to either intervene or penalise a specific LPA for low housing output. We would however support the introduction of such a framework at the level of region as in London, or combined authority, in the rest of England should such a clear framework be introduced and local authorities,

the Mayor and combined authorities be given appropriate intervention powers.

Q12. What would be the impact of a housing delivery test on development activity?

Any intervention should take into account the type and affordability of the homes to be provided in relation to assessed housing requirements within the area, and not solely on unit numbers.

d) Supporting delivery of starter homes

Q13. What evidence would you suggest could be used to justify retention of land for commercial or similar use? Should there be a fixed time limit on land retention for commercial use?

We are concerned that the shift of employment land to housing is jeopardising economic sustainability objectives. GLA data for London demonstrates that loss of employment land is running at nearly three times policy benchmarks. Permitted development rights for conversion of employment uses to housing uses has exacerbated this trend, which will be further exacerbated if applied as proposed to former employment sites as well as to vacant employment premises. We support intensification of mixed use development where appropriate and where there is no loss of employment capacity. We would however argue that protection of employment capacity should be strengthened rather than weakened. Where there is a justification for release of employment land, this should be to provide a mix of housing outputs relating to the Strategic housing market assessment, and not limited to the Starter Homes Initiative, which is only one of a number of housing products.

Q14. Do you consider that the starter homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?

We do not support planning policy exemptions related to a specific housing product. Local Planning Authorities need the flexibility to apply planning policy to specific sites in accordance with an assessment of the suitability of a specific sites for different types of housing in relation to built form, bedroom size mix, density, tenure and affordability, within the context of the assessment of housing requirements in their Strategic Housing Market Assessment and in accordance with the requirements of the NPPF and

National Planning Practice Guidance.

Q15. Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?

No, for the reasons set out above.

Q16. Should starter homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?

Only so far as justified in relation to the LPAs overall assessment of development capacity and housing requirements. We are opposed to any imposition of targets by central government which are unrelated to these assessments or which over-ride adopted Local Plan policy and targets.

Q17. Should rural exception sites be used to deliver starter homes in rural areas? If so, should local planning authorities have the flexibility to require local connection tests?

Only so far as justified in relation to the LPA's overall assessment of development capacity and housing requirements.

Q18. Are there any other policy approaches to delivering starter homes in rural areas that you would support?

The ability of an LPA to acquire land at agricultural or other non-housing existing use value, on a compulsory basis if necessary, would make a more substantive contribution to ensuring the provision of affordable homes in rural and urban fringe areas.

Q19. Should local communities have the opportunity to allocate sites for small scale starter home developments in their Green Belt through neighbourhood plans?

LPAs and Neighbourhood Plans should be able to allocate appropriate sites

within the Green Belt for a range of housing outputs, as justified by SHMAs and SHLAAs and not just for homes built under the Starter Homes Initiative.

Q20. Should planning policy be amended to allow redevelopment of brownfield sites for starter homes through a more flexible approach to assessing the impact on openness?

We support the development of previously developed land, where the development would meet sustainable development criteria for a range of housing products as justified by the SHMA and SHLAA.

e) **Transitional arrangements**

Q21. We would welcome your views on our proposed transitional arrangements.

As we do not support the proposed changes in planning policy relating to the Starter Homes and take the view that the proposals if implemented would be to the detriment of existing planning policy objectives and in conflict with the existing NPPF and NPPG , we do not therefore see the need for transitional arrangements.

f) **General questions**

Q22. What are your views on the assumptions and data sources set out in this document to estimate the impact of the proposed changes? Is there any other evidence which you think we need to consider?

We do not consider that the proposals are based on adequate evidence and that the equalities statement is inadequate.

Q23. Have you any other views on the implications of our proposed changes to national planning policy on people with protected

characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

We note that the Equalities Statement recognises that the Starter Homes Initiative is discriminatory on the grounds of age. We also note that the reference to nationality would also mean that the proposal has indirect discriminatory impacts in relation to ethnicity. As stated above in our response to Q2, the proposals have direct and indirect negative impacts on households unable to afford homes at up to £450,000 in London and £250,000 in the rest of England. The proposed exemption from planning obligations and CIL of schemes developed under the Starter Homes Initiative will significantly reduce the ability of Local Authorities to support essential transport and social infrastructure, vital to the delivery of new sustainable settlements and to the new residents of smaller infill developments and the existing residents in the neighbourhoods in which these new developments are to be built.

Footnote

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

The group was established in 2008. The group meets at the University of Westminster, London. It comprises the following core members: Duncan Bowie -University of Westminster (convener); Stephen Ashworth – SRN Denton ; Julia Atkins - London Metropolitan University; Bob Colenutt - Northampton Institute for Urban Affairs ; Kathleen Dunmore - Three Dragons ; Michael Edwards - Bartlett School of Planning, UCL; Deborah Garvie SHELTER ; Stephen Hill - C20 Futureplanners ; Angela Housham - Consultant ; Andy von Bradsky -PRP ; Seema Manchanda – planning consultant; Tony Manzi - University of Westminster; James Stevens - HomeBuilders Federation ; Peter Studdert – Planning consultant ; Janet Sutherland - JTP Cities; Paul Watt - Birkbeck College ; Nicholas Falk- URBED; Catriona Riddell – Planning Officers Society; Richard Donnell – Hometrack; Pete Redman – Housing

Futures; Richard Simmons- University of Greenwich; Richard Blyth /Joe Kilroy – RTPI ;Shane Brownie– National Housing Federation; Stephen Battersby- Pro-Housing Alliance; Roger Jarman – Consultant/ Housing Quality Network; Richard Bate- Green Balance; Eric Sorensen; Ken Bartlett; David Waterhouse- Design Council/CABE; Martin Crookston; Chris Shepley; Kath Scanlon – LSE; Nicky Morrison – University of Cambridge; Glen Bramley- Heriot Watt University; Tim Marshall – Oxford Brookes University. Alisdair Chant-Berkeley Group, Lee Shostak –TCPA, Lisa Fairmaner, City of Westminster, Chris Knowles, Tonbridge and Malling DC/ District Councils Network, RICS, Melanie Rees CIOH

The views and recommendations of the Highbury Group as set out in this and other papers are ones reached collectively through debate and reflect the balance of member views. They do not necessarily represent those of individual members or of their employer organisations.

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