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**Highbury Group Statement on Housing and Planning Bill**

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# **STATEMENT ON HOUSING AND PLANNING BILL: LORDS SECOND READING 26th January 2016 HIGHBURY GROUP ON HOUSING DELIVERY**

## **Introduction**

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 current membership is set out in a footnote to this submission

The Group welcomes initiatives by any Government which increase the supply and quality of affordable homes. The Group however considers that many of the proposals in the Bill as submitted to the House of Lords will have the contrary effect. Our comments are focused on Parts 1, 4, 6 and 7 of the Bill

## **Part 1 New Homes in England: Starter Homes**

The Highbury Group responded to the DCLG consultation on the Starter Homes proposal in February 2015 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 will 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 the Community Infrastructure Levy, 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 Local Planning Authorities' 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 existing 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.

We would also question the basis for the Government's statement that to qualify for homes provided under the Starter Homes Initiative, the purchaser

will need to be under 40. As the Equalities Statement itself recognises, such a policy will discriminate against older households and will create difficulties for providers of retirement housing, where the minimum age is typically specified as 60.

## **Part 4 Chapter 1. Housing Association Right to Buy**

The Group does not support the extension of Right to Buy to housing associations as this will lead to a reduction on the supply of social housing available at relatively low rents which is affordable by households on lower incomes, including working households, without over-reliance on housing benefit support. The Government's argument that initiative will generate an increase in the supply of affordable homes has no basis in any evidence provided by the Government and is not supported by the experience of the Right to Buy Scheme for council tenants, where actual practice has demonstrated a significant underperformance in relation to the Government's objective of 1:1 replacement.

Ministers have not as yet specified the form of replacement required with the implication that it is for the housing association concerned to decide whether a sold dwelling is replaced by a new dwelling in the same area, of the same size and type, at the same rent. If the replacement can be of a different tenure (for example shared ownership), at a higher rent (up to 80% market rent), a smaller bedroom size or smaller space standard, or in a different location - for example one where effective demand is lower or build and land costs lower - then it is likely that in qualitative terms if not in quantitative terms, there will be a reduction in the supply of affordable homes. We share the concerns raised by MPs in committee, and by the Mayor of London, that homes needed in higher demand areas such as London, will be replaced by new homes in lower demand areas. We also share the view of those Housing Associations who are concerned that the provisions in relation to replacement, so far as they are

known, do not allow the association to continue to comply with its charitable objectives. There is an onus on the Government to publish a full impact assessment in relation to their proposals and to demonstrate that the proposals, when combined with other measures proposed in the Bill, including disposal of high value local authority properties and non-renewal of 5 year local authority tenancies will not have a negative impact on the financial and social circumstances of lower income households or on the housing and welfare benefit budgets. The most detailed impact assessment yet undertaken, published by the Joseph Rowntree Foundation, concludes that there will be a significant negative impact in relation to both these factors.

<https://www.jrf.org.uk/report/understanding-likely-poverty-impacts-extension-right-buy-housing-association-tenants>

## **Chapter 2. Vacant high value Local Authority housing**

We object to the requirement to be imposed on local authorities to dispose of higher value residential assets or to pay a levy to central government in relation to the value of such assets. This is contrary to the general principle that local authorities should be responsible for the management of their assets in relation to their statutory duties. The proposals will lead to a significant loss of affordable housing in higher value areas such as central London. They will also act as a disincentive to local authorities seeking to invest in new housing provision through direct development as most new development would be covered by disposal requirements once the first tenant vacated the property. Moreover in reducing the amount of social housing available for letting, the proposals will increase dependence of lower income households on private rented housing, which not only reduces their security and quality of life but significantly increases housing benefit costs. There is a possibility that lower income households, including working households, will be forced to move away from higher value areas. This would lead to further spatial social polarisation, contrary to objectives for having mixed communities, but will increase demands on the public transport system as dispersed residents will

need to travel further to work. Given the cost of public transport, this may not be affordable by workers on lower incomes.

The proposals also have serious implications for local authorities, who will not be able to make most effective use of their assets and in fact will not be able to retain receipts from enforced disposals, as the levy will be used by Government to compensate housing associations for loss of assets through the application of Right to Buy discounts. The proposals for a mandatory extraction of value from public sector assets in order to compensate housing associations for loss of their assets, which will now be on the basis of a voluntary decision by each registered provider rather than as a statutory requirement, has neither a logical basis, or for that matter, any precedent. It is in effect an abuse of public assets funded by revenue from taxpayers for Government to impose a statutory transfer of public assets to housing associations which are in effect independent bodies. The Government has so far failed to demonstrate any public benefit from this proposal.

### **Chapter 3. High income social housing tenants: mandatory rents**

The Government has not as yet provided adequate evidence to support this proposal, nor has it provided any impact assessment. It is noted that since the consideration of the Bill in committee, the Minister has announced that the provisions will, only apply on a statutory basis to council tenancies and that it will be for individual housing associations to determine whether or not they adopt a similar approach.

The proposal in the Bill seems to be predicated on the false assumption that all council tenants are subsidised. However at a national level, the aggregate of council Housing Revenue Accounts is in surplus, so that there is in fact no overall subsidy towards the costs of providing council homes, other than through benefit payments to tenants. To charge some tenants market level rents would therefore be to charge them rents in excess of the services they are

receiving.

The proposals put forward by Government would lead to the further residualisation of council housing in that it would lead to the further concentration of lowest income households within council housing. This is contrary to the Government objective of maintaining mixed communities and ensuring the economic sustainability of neighbourhoods in which council housing is still the predominant tenure. The income thresholds proposed (£40,000 in London and £30,000 in the rest of England) moreover do not appear to relate to whether or not appropriate alternative accommodation is actually available in the local area, which is affordable to the household.

#### **Chapter 4. Reducing Regulation**

This short clause is an enabling clause granting Ministers the powers to reduce regulation of registered providers. We do not support the weakening of regulation in relation to the use of public money or in relation to the quality of services to tenants of registered providers. The Government should publish the changes to regulatory requirements it proposes. It is also necessary to recognise that there may be circumstances, for example the insolvency of a registered provider or failure of such a provider to meet legal duties or qualitative standards, where Government either directly, or through the Homes and Communities Agency, require greater regulatory powers.

#### **Chapter 6. Secure tenancies**

We do not support the proposal to limit the maximum tenancy of local authority tenants to 5 years. The Minister's justification for this proposal, given in committee, was that Local Authorities had not generally used the powers in the 2011 Localism Act to grant new tenancies of between two and five years. Ministers do not seem to have considered the possibility that local authorities of varying political control may have decided not to use this power because they did not see the benefit of doing so. It does seem contrary to the basic

principle that local authorities know how to best utilise their assets in relation to their statutory duties and assessment of local needs, for the Government to then impose a requirement which not only reduces tenants' rights and security but forces local authorities to operate a bureaucratic procedure which they themselves do not consider to be necessary. The Government has not as yet specified any criteria on the basis of which a local authority could decide not to renew a tenancy at the end of a 5 year period, or properties or types of tenants which could be exempt from the requirement, nor has the Government specified whether a tenant could have the right of appeal against non-renewal. Moreover the interaction with Right to Buy is unclear, in relation to whether a tenant loses their Right to Buy entitlement, which they can exercise after a 3 year tenancy, once notification of non-renewal has been issued, whether or not they have already given the council notice of their wish to exercise that right.

The proposals will have a serious negative impact on vulnerable households, for whom their security of tenure (which is after all conditional on not breaching tenancy conditions) may be the most stable component of their lives, given insecurity of employment and the impact of other external circumstances.

## **Part 6 Planning in England**

We do not support the proposal for 'in principle' consent linked to a new power for the Secretary of State to issue a Local Development Order for a site of group of sites. While Ministers have implied the use of these powers will be limited to either small sites or sites on brownfield site registers, the clauses in the Bill do not include any such limitation. In our view, the notion of separating an 'in principle' consent for housing development from a 'technical' consent process is fundamentally flawed. Ministers have not explained why such a new procedure is required, given that Local Planning Authorities already have the power to grant outline consent for schemes. In practice many LPAs require a full planning application in order to ensure that the proposed development complies with published planning policy. The Government has not as yet issued any clarification as to what matters could be considered by the LPA



through the technical consent process. However in responding to an amendment tabled in committee by Helen Hayes MP, the Minister responded that ‘that matters such as affordable housing contribution and community infrastructure provision will be agreed and negotiated at the later technical details stage, in line with local and national policy.’

These matters are however not technical matters, but, together with matters such as the density and built form of development, the bedroom size mix of development, quality standards or flood risk mitigation, may in some cases be fundamental to an LPA’s consideration of whether the site is or is not suitable for housing development. An LPA decision in relation to a housing development proposal is not solely as to whether a site is suitable ‘in principle’ for a housing development, but whether the proposed development contributes to meeting the requirements assessed in the Strategic Housing Market assessment, in accordance with national policy as set out in the NPPF and guidance in the NPPG.

## **Part 7 Compulsory Purchase**

The Highbury Group is concerned that the Bill fails to deal with the key issue of land assembly for the development of affordable housing - that is the price paid for land in relation to the existing land value. For housing of any tenure to be available at a price or rent affordable by households on middle or lower incomes, it is essential that land cost is minimised and that the landowner does not benefit unduly from the fact that land is allocated for residential development in an adopted statutory plan or from the granting of planning consent for a residential or residential led development. We agree with the Minister’s view that land price should reflect existing planning policy requirements. Any relaxation of policies in relation to density, built form and affordable housing requirements, however inflates land costs. The Bill should therefore set the basis for acquisition of land for development, including compulsory purchase by public bodies, at Existing Use Value plus a limited

fixed premium to be determined by regulations. This premium should be a fixed proportionate premium relating to the pre-existing land use and the value of that use.

## **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 now 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 - independent consultant; 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; Chris Knowles- Tonbridge and Malling BC.

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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