



# The Housing and Planning Bill 2015-16 and related issues.

To: All English contacts

For info: Contacts from Wales, Scotland and Northern Ireland.

## Key issues

Government attempts to ensure the building of enough homes to meet demand

Right to Buy extension to HA tenants and levy on local authorities to help pay for it

Initiatives to prompt developments on site

## 1. Introduction

The Housing and Planning Bill 2015-16 was presented on 13 October 2015 and is at the Second Reading stage in the House of Lords. The full report can be found [here](#).

## 2. Background

Housing remains a topic high on the political agenda because the current Government is attempting to address problems which have existed for a number of years. Some of the solutions detailed in the Bill, as well as some more recently announced, are attracting a lot of attention and criticism. This briefing will highlight the main parts of the Bill of relevance to APSE members and focus on some more recent announcements.

## 3. The Bill

When the Bill was announced the Government said it would kick-start a “national crusade to get 1 million homes built by 2020” and transform “generation rent into generation buy.” Measures in the Bill are aimed at speeding up the planning system and so delivering more housing, focusing on home ownership including facilitating the building of Starter Homes, encouraging self/custom build housing and extending the Right to Buy to housing association tenants following a voluntary agreement with the National Housing Federation (NHF).

## 4. Housing

### 4.1 Starter Homes & self/custom build

The Government has committed to provide 200,000 Starter Homes for first-time buyers under the age of 40 by 2020 which will be sold at a discount of at least 20% of the market value with the Bill putting a general duty on all planning authorities to promote the supply of Starter Homes, and provides a specific duty (which will be fleshed out in later regulations) to require a certain number or proportion of Starter Homes on site.

The Bill adds to and amends the ‘Self-build and Custom Housebuilding Act 2015’, requiring local authorities to keep a register of people seeking to acquire land to build or commission their own home. It specifically requires local authorities to grant “sufficient suitable development permission” of serviced plots of land to meet the demand based on this register.

### 4.2 Tackling 'rogue' landlords

The Bill provides local authorities with additional powers to tackle rogue landlords in the private rented sector including the ability to apply for banning orders against private landlords. A database of rogue landlords and agents will be established to assist authorities in England in carrying out enforcement work. A number of powers and procedures relating to rent repayment are included in the Bill. Landlords will benefit from a clear process to secure repossession of properties abandoned by tenants.

#### 4.3 A Right to Buy for housing association tenants

Originally it was expected that there would be a statutory Right to Buy (RTB) for housing association tenants included in the Bill. However, following the Government's acceptance of the National Housing Federation's offer to implement the RTB on a voluntary basis, the Bill now provides for grants to be paid to associations to compensate them for selling homes at a discount.

#### 4.4 Vacant high value local authority housing

The Bill puts a duty on local authorities which means they will be required to make payments to the Secretary of State. These payments will be calculated with reference to an authority's high value housing stock with the expectation that this stock will be sold as it becomes vacant. It means the Secretary of State is empowered to require local authorities to make an upfront payment to Government calculated by reference to the market value of 'high value' housing stock, rather than just paying over the proceeds of the actual sales.

The idea is that the levy supports the RtB extension to HA tenants noted above. There are measures in place to limit council funds flowing out of London to pay for the RtB extension.

#### 4.5 Pay to stay - higher rents for high income social tenants

There is a provision for 'high income' social tenants i.e. both local authority and housing association, to pay a market rent as opposed to a social rent which is referred to as 'pay to stay' and was considered under the previous government. It is expected to be set at £40,000 in London and £30,000 elsewhere. Social landlords will be able to require tenants to declare their income and they will be able to access HMRC data to verify it. Increased income to the local authority from higher rent must be paid over to the Government. This is mandatory for council tenants whilst housing associations can voluntarily introduce it for their tenants.

#### 4.6 Compulsory Purchase

The Bill gives all acquiring authorities the same powers of entry for survey purposes prior to a compulsory purchase order being made; introduces a standard warrant provision in relation to the proposed new common power of entry for survey and a standard notice period of 14 days for entry for survey purposes. There are also changes to the timetable for compulsory purchase to aid clarification.

#### 4.7 Further measures include:-

- changes to the 'fit and proper person' test applied to landlords who let out licensable properties meaning they should not be bankrupt and should be entitled to remain in the UK
- clauses enabling the local authority to impose a financial penalty as an alternative to prosecution for Housing Act offences and to use tenancy deposit scheme information to investigate such offences
- a clause making it clear that when assessing housing need, local authorities must make provision for everyone living in or resorting to their area.

### 5. Planning

The focus behind this part of the Bill is to speed up the planning process with the aim of enabling it to deliver more housing.

#### 5.1 Planning procedure

A timetable is introduced by which local authorities must undertake key neighbourhood planning activities and powers for the Secretary of State to intervene on referendums regarding neighbourhood plans.

#### 5.2 Permission in principle

The Bill makes it clear that permission in principle added to technical details consent is equivalent to planning permission. The Secretary of state can by a development order, grant permission in principle to land that is allocated for development in a qualifying document. The Government intends that only land allocated in the Brownfield Register, Development Plan Documents and Neighbourhood Plans will be capable of obtaining such permission. The order will set out the type and scope of development granted permission. The current intention is that this is limited to smaller sites suitable for housing. If land is allocated in such a document and satisfies requirements of the order as to type and scope of development the development order will automatically grant it permission in principle.

5.3 Further measures include:-

- regulations requiring a local authority to compile and maintain a register of particular types of land in their area
- clauses introducing new consultation requirements and a changed parliamentary procedure for establishing urban development corporations
- a clause enabling certain elements of permitted development rights to be decided by the local planning authority, so that local sensitivities and conditions can be taken into account.
- a clause that enable developers to take applications for categories of development for which the local authority has been designated for performance directly to the Secretary of State
- a clause ensuring the potential financial benefits of certain development proposals are made public when a local planning authority is considering whether to grant planning permission, including Community Infrastructure Levy.

## **6. Further issues**

6.1 Estates Redevelopment

A scheme to tackle housing estates was recently announced. As part of a £140m redevelopment scheme, the Prime Minister announced his intention to demolish 'brutal high-rise' towers and bleak housing as part of an effort to address problems such as drug abuse and gang culture as well as increasing the number of properties. A report by Savills claims that 360,000 homes can be added to the total stock if estates are re-designed within London.

The Prime Minister referred to the design problems of some of the concrete estates which have been previously linked to crime and safety issues as well as housing some of those associated with the riots of 2011. He also referred to the link between estates and entrenched poverty. The need to demolish some of the worst estates was identified whilst the £140m is aimed at re-housing occupants with tenants and homeowners being given binding guarantees that their right to a home is protected. There is expected to be further investment from the private sector and pension funds to transform the estates.

6.2 Direct commissioning by Government

A recent announcement explains that the Government intends to contract directly with small and medium sized builders to develop 5 pilot sites on publicly owned land. It is expected that this will lead to quality homes built at a faster rate with smaller building firms – who are currently unable to take on bigger projects – able to start building on government sites where planning permission is already in place. The first wave of up to 13,000 will start on 5 sites at Connaught Barracks in Dover, Northstowe in Cambridgeshire, Lower Graylingwell in Chichester, Daedalus on Waterfront in Gosport and Old Oak Common in north west London.

6.3 Starter Homes Fund / Housing Zones

The Government has also announced that £6.3m is being distributed to invest in brownfield sites across the country and deliver thousands of homes in the latest development around Housing Zones with the funding being used to speed up work, enabling homes to be delivered quickly with councils receiving the majority of the money to help with work in 19 out of the 20 flagship Housing Zones. The intention is that councils will

working in partnership with private developers. Grants range from £600,000 to £100,000 across sites in England.

### **APSE comment**

The Government getting directly involved in house building reflects a big shift in policy and highlights the importance the Government is giving this matter. It is one of a number of approaches to get the housebuilding sector building as many homes as possible.

The 5 pilot sites that the Government is looking to invest in directly will provide 13,000 extra homes which, when considered alongside the widely accepted scale of the problem, is a drop in the ocean. Concentrating on schemes which provide very few homes but big headlines is a diversion from the main issue – the country needs 250,000 homes a year and they are not being built. The Government should provide local authorities with any grant funding it is providing as incentives to developers and let councils build to meet local demand as well as allowing them to borrow to support their wishes to build.

The details of the Starter Homes scheme, where homes must be 20% below the market value and the discounted price should be no more than £250,000 outside London and £450,000 in London means the properties are unaffordable to most teachers, police and other key workers. These are the kind of households that starter homes should be aimed at yet they are unaffordable to them. Furthermore the higher the mortgage, the higher the deposit needed for a mortgage and saving for a deposit is a significant barrier to those looking to buy a home at these prices. The danger is that people take on mortgages that they cannot afford and possibly end up under threat of repossession.

There remains a high level of real demand for affordable homes both for rent and purchase and this demand is not currently being met, will not be met by the Starter Homes scheme nor by small scale pilot projects. Indeed there appears no existing or planned initiatives which will meet such demand. Local authority rented properties have met this demand in the past and there is, as yet, no proposal to match the impact that council housing has previously had.

The new legal duty will be placed on councils to guarantee the delivery of Starter Homes on all reasonably sized new development sites, and to promote the delivery of Starter Homes in their area appears will not be welcomed by all local authorities. They will consider it inappropriate to promote Starter Homes in their locality when the demand for council properties may be greater.

APSE has long argued that the construction sector does not have the capacity to build the number of properties needed. Issues with skills, materials, funding, equipment, available land and planning permission processes all contribute, with the likely outcome being that the demand for homes will not be met.

APSE does welcome the range of initiatives put forward such as the allocation of land for self and custom build, direct commissioning, support for stalled sites and speeding up of the planning process. However, building homes at significant numbers takes a long time and it is difficult to meet pent up demand which has been left to grow over a number of years if demand is not met during that time. It is vital that the rate at which homes are built remains consistent – a boom and bust approach leads to too many problems. Equally, properties need be built for all tenures, by all developers, from homes for older people through to larger family homes and for all budgets where demand prescribes.

Changes to Right to Buy have always been an emotive topic. The policy opposes the concept of mixed neighbourhood which has long been a generally accepted positive approach and depletes the number of properties available to those in need. The tendency for properties bought under the scheme to find their way into the private rented sector is a further concern. The overall effect is a reduction in the number of properties available for rent to those who need or desire one, at a time when the demand for this tenure is increasing. The increases in the number of local authorities using bed and breakfast accommodation to meet their responsibilities is a reflection of this demand.

The fact that receipts from high value council homes (or a charge on the council equal to the value of those homes) will be used to pay off debt for HA RtB is seen as convoluted. There is no guarantee that receipts raised from the sale of high value council stock will be adequate to cover the cost of paying off the debt associated with these properties as well as the cost of discounts for HA tenants.

The opposing arguments about the role of the planning process are clear – developers claim it takes too long, is too bureaucratic and needs reforming and that some councils take a ‘nimby’ attitude; local authorities claim that there is a justifiable democratic and consultative process to go through which inevitably takes time and that developers are sitting on many sites with permission that they are unwilling to build on. The Bill is looking to make the process clearer and quicker but has decided to bypass the local council in some respects. There is no doubt that one of the main roles of a local council is to manage the growth of the local area and it could be argued that this is a role which must remain with the local council rather than slowly being eaten way site by site.

Recent research commissioned by the LGA stated there were 475,000 homes in England which had been given planning permission but not built – a figure which has grown over the previous 2 years. This fact alone makes it difficult to believe the developers’ view that the planning system is the problem.

The fund of £140m to address estates is designed to help attract other investors. On its own it is an insignificant figure so attracting investment into some of the worst estates will be vital as well as difficult.

New designs on estates can result in more homes by using some poorly designed parking, common, play and open space which is considered ‘wasted’ – even though a significant element of it may be green space. It may be poorly used and badly designed at the moment but it is a mistake to remove it to simply get more properties on site. Any redevelopment project requires an element of green space which is accessible, easily maintained and adds value to the site. This is especially so in London.

The length of time some projects may take is also an issue due to the period some tenants spend in decant accommodation. Those who spend over a year there often get settled and feel as if they are being forcibly moved for a second time when they move back to their re-developed property.

The demand for homes is a national problem which is taking many forms including different levels of demand in different areas, costs beyond the ability of many to pay, an ageing population, the draw of London and the south east, and the power of pressure groups often in opposing camps and their ability to delay change.

The impacts from the changes in the Bill and other developments will be important for individual households who move into one of the limited new homes that are built but they are unlikely to have a significant impact on the overall problem. Certainly some of the sums involved are not substantial in terms of the investment needed.

Needless to say this Bill is being debated as a number of issues are developing such as interest in modern method of construction and homes built off site which can be quickly erected (a number of local authorities are researching this option), devolution and attempts to grow economic development outside of the south east and efforts to increase the breadth of investors in social housing. This is not a topic which can be solved in one go

No doubt we will still be reflecting on the same problem in 5 years as we are highly unlikely to even meet the annual demand for 250,000 homes to tackle the existing waiting lists.

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