

## Introduction

The Chartered Institute of Housing is the professional body for people who work and have an interest in housing. We are pleased to have the opportunity to respond to the select committee's call for evidence on the Levelling Up and Regeneration Bill (LURB). Below is a summary of our main points:

- CIH supports the government's strategy to address the huge disparities in the economies of our towns and cities across the country through levelling up.
- We welcome that housing and planning are given such central roles in the government's plans for levelling up in the emerging legislation. However, it is crucial that changes to the planning system proposed in this Bill protect the delivery of much-needed affordable housing.
- The country is facing a worsening affordable housing crisis, with [4.2 million people in need of social housing in England](#). This equates to 1.6 million households - 500,000 more than the 1.1 million households recorded on official waiting lists. Long-term, sustained investment in social housing is the only way to change this and there is therefore a compelling case for putting an ambitious programme of new affordable housebuilding at the heart of levelling up.
- We share government's aspiration for greater planning certainty and a simpler, clearer system. To deliver on this it is essential that councils have the resources they need. It is important to acknowledge that many of the issues about delays in plan preparation and in facilitating development are down to the lack of resources, rather than about the system itself.

## The Infrastructure Levy

Part 4 of the Bill makes provision for the new Infrastructure Levy (IL). Whilst much of the detail of different elements of the new levy will need to be set in secondary legislation and regulations, we have several concerns and comments we would like to highlight at this stage whilst we wait for much of the detail to be released. We would welcome working with government on the evolution of the details.

Section 106 (s106) is not a perfect system, and we acknowledge there are significant frustrations which come with it. However, s106 currently delivers significant numbers of affordable homes and, at its best, creates vibrant mixed communities. In the last three years 2018/19-2020/21 delivery has been 168,175 affordable homes (average 56,058 annually) of which 76,485 (av. 25,495 annually) have come via s106 contributions with no grant. That is 45 per cent. Of the 76,485 over the three years, 46,795 were for rent, of which 10,298 were for social rent. This demonstrates that s106 is an extremely important source for delivery of rented homes at no cost to the Affordable Homes Programme. Whilst it is difficult from the available data to see the regional differences in usefulness of s106, for London 2020/21 s106 nil grant was 50 per cent of affordable delivery (all data

from [The UK Housing Review](#) 2022 (table 20a) and from [government data on affordable housing supply](#).

We are pleased that government has stated that it will put a mechanism in place to ensure affordable housing levels will be maintained, with a requirement to meet “current levels” of delivery introduced as a statutory minimum. This is a vitally important step. However, this commitment is not contained within the Bill so we need to see assurances that the delivery of affordable housing will be protected. We need clarification about what “current levels” of protected affordable housing will mean in practice. In our view they should be based on current targets for affordable housing delivery. In areas of the country where recent affordable delivery is far less than what is required, we must not “bake in” previous poor performance into the system, even as a floor level. There is a risk that in some areas, minimum affordable housing requirements which are based on current supply levels will establish pre-existing levels of under-delivery as the new acceptable standard. This would be a clear step in the wrong direction.

We would also like to stress the importance of onsite delivery of affordable housing. This is one of s106's great strengths - creating genuinely mixed communities to support a range of housing types, sizes, and tenures to meet different needs. Government is proposing to give local planning authorities (LPAs) a right to require the affordable housing element of IL to be provided via site-on-site provision, but it will be at their discretion. Lacking in statutory force, it is not clear how much scope LAs will have to mandate this. Our preference is that on-site delivery should be the default to create mixed communities and avoid segregation of affordable housing. In locations where land supply is very tight this is even more crucial. On-site provision means the affordable housing is actually delivered. We also know that schemes with onsite provision are more cost effective and have faster build out rates, as developers often build the affordable homes first and fastest because of the guaranteed pre-sale to a housing association ([Independent Review of Build Out, Sir Oliver Letwin, 2018](#)). Research by [Lichfields](#) has shown that housing sites with a larger proportion of affordable homes deliver more quickly. For both large and small-scale sites, developments with 40 per cent or more affordable housing have a build rate that is around 50 per cent higher compared to developments with less than 10 per cent affordable housing.

We remain concerned that including affordable housing delivery in the same funding 'pot' as infrastructure could either leave insufficient funding for key infrastructure, or spending on infrastructure would mean less genuinely affordable housing is delivered. We seek further reassurance against the risk of the combined levy creating trade-offs between affordable housing and infrastructure. Also funded by the levy will the government's First Homes programme, further reducing the level of funding available overall. In addition, key questions remain about how affordable housing will be delivered in locations where values are very low and where development will not generate sufficient value to charge IL. This is likely to disproportionately impact on local authorities in the North of England and we would question how this fits with the government's 'levelling-up' agenda, particularly as these are the same regions which are excluded from receiving Homes England grant for social rented homes. The detail that is

to follow on IL which will set out how IL will be calculated and used will also need to consider rural circumstances, including the small scale of most development sites and limited supply of residential sites. It is likely that in some areas small sites will not generate sufficient value to charge IL and therefore neither 'in-kind' nor financial contributions for affordable housing will be paid, resulting in development that does not include affordable housing to meet the needs of the community.

We welcome the mandatory status of the Levy and are pleased that the government is recognising that currently in some situations the viability argument is manipulated by some developers to evade their responsibilities and not honour their commitment. Whilst we very much welcome that local authorities will have discretion to set their levy rates and that the government has rolled back from the mandatory flat rate proposal of the Planning for the Future White Paper in 2020, we do have concerns that some developers will be able to exercise huge pressure and resources to influence the levy setting process. Here it is vitally important that local authority planning teams have the resources and skills they need to defend their position.

We support the 'test-and-learn' approach that the government has adopted. This is a good opportunity to strengthen delivery before any national roll-out. However, we also need to be mindful about any further delays in switching over to the new system which could lead to even less affordable housing being delivered in the meantime. We urge the government, as part of this approach, to engage actively with housing associations who acquire affordable homes through s106 (as well as with local planning authorities), and which have important experience they can share about achieving good quality developments.

Whilst we welcome the commitment that charities will not pay IL there are nuances which will need further clarification - for example; community land trusts, rural exception sites, and affordable housing sites where there may be a small element of market housing for viability. The commitment to make 100 per cent affordable housing sites exempt from the Levy is also not included in the Bill itself and we feel it should be.

Whilst we support the ambition for IL to be simpler and more predictable than s106 and CIL, we remain concerned that in reality it may not be. The criteria for 'large sites' where s106 will still be in play is not defined in the Bill and there will be a number of locations where CIL will still be in play. A lot of detail is missing on how this will work. S106 is a well understood tool by LPAs, developers, and social housing providers. There is a risk that in attempting to make things simpler the process which is already complicated becomes even more so by having a layering of the system with s106, CIL and IL all at play in different locations.

## **Local Plan Making and Decision Taking**

Part 2 of the Bill is concerned with local democracy and devolution and part 3 focuses on planning. Whilst there is a great deal of focus in the Bill on localism, local democracy, and local engagement which we welcome, we do have concerns that despite this there is a move in the Bill towards a legal presumption in favour of national policy (National Development Management Policies). This seems at odds with some of the aspirations around more devolved control. It is important that setting national-level policies does not leave councils unable to tailor them to local circumstances. Flexibility must be built into the system to enable councils to respond to local, complex and changing circumstances. A determination in favour of the national policy, when there is conflict with the local development plan, arguably undermines a local, plan-led system and the government's aspiration to empower local leaders and communities.

It is right that Local Plans should be kept up to date and we welcome the aspiration to make the process quicker, and that it will be easier to avoid the time lag which means that plans are out of date even when they are published as their production has taken so long. However, we do have some concerns about the proposal to deploy Local Plan Commissioners to take over plan-making in some cases. An approach that seeks to understand what the blockages are and seeks to resolve them, for example through a mutually agreed sector-led approach, will be more beneficial in the long-term than the imposition of a plan on an area. Resourcing of local planning teams is a fundamental issue. Problems with planning are often due the fact that teams are over-stretched and under-skilled rather than anything else. The government must review the resource implications for councils, which result from the new plan-making framework, and must provide them with the necessary support.

The 'duty to cooperate' contained in existing legislation will be repealed and replaced with a 'more flexible alignment test set out in national policy'. Whilst the duty to cooperate has been a generally much disliked system, we consider that cross-boundary issues will remain a challenge under this voluntary arrangement, in particular the ability to assist in accommodating growth from a neighbouring authority.

## **Land Reform, Hope Value and Compulsory Purchase**

Part 7 of the Bill is concerned with Compulsory Purchase. The cost of land that landowners can currently demand often makes social housebuilding and providing infrastructure unviable for councils and developers alike. This must be addressed if government are to achieve their ambitions around delivering for communities. Without land reform, there is a real risk that developer contributions secured through the Infrastructure Levy will be lost in a land market that is inflated by 'hope value'.

CIH are currently preparing our consultation response to the separate [CPO proposed reforms](#). Reform of the 1961 Land Compensation Act has the potential to increase the number and quality of social homes built in England and is also needed for the

Infrastructure Levy to work. Measures to make the CPO process simpler and faster are welcome. Proposals to limit the application of 'hope value' are welcome, and indeed the government could go further by ruling it out entirely. Clarification is needed on whether the valuation aspects will be added to the Bill.

### **Empty homes/Second homes**

Part 2 chapter 2 of the Bill provides welcome recognition of the impact that high levels of second home ownership and holiday let ownership can have in some areas on housing affordability and access to private rented housing. The Bill is silent on how and where the additional levy will be used and in reality it may only have a marginal impact on the demand for second homes and does not in itself reduce the loss of permanent housing to second homes and holiday let accommodation. It does not tackle the fundamental challenge of the lack of affordable housing for local people to buy and rent in many rural/holiday locations. The Welsh Government's [review](#) of this issue suggests more radical changes to planning powers, so that short-term lets require planning permission. Caps could then be put on numbers in certain areas ('visitor pressure zones' as suggested in the [UK Housing Review 2021](#)). The government should undertake a more comprehensive review of the issue, examining how a combination of taxation and planning powers might be used, with implementation devolved to local authorities who are best placed to understand local market conditions.

### **Vagrancy Act**

Part 9 of chapter 7 of the Bill contains a placeholder for the government to bring forward a substantive clause with alternatives to the Vagrancy Act 1824 at a later stage in the Bill's passage. Whilst we appreciate that this a 'placeholder' text, which will be replaced in a future version of the Bill, without any information on the plans or timeline we are concerned that the current text allows measures that would once again criminalise rough sleeping and homelessness as the Vagrancy Act did. As yet there is no clear view of what alternative will be placed into the Bill. In May 2022 CIH submitted a [consultation response](#) to proposals to replace the Vagrancy Act. Repealing the Vagrancy Act presents an opportunity to embed more trauma-informed, support-led, multi-agency approaches across the country and to strengthen our shared aim of ending rough sleeping. It must not mean replacing one set of harmful and punitive legislation with another, which will fail to support those in our society who are amongst the most vulnerable experiencing homelessness and destitution.

Currently, the government proposals continue to focus on criminalisation and seek to give police new powers to "help communities feel safer" by outlawing begging. According to [data from Crisis](#) one in three rough sleepers have "begged" at some point during the last 12 months. To criminalise begging is to criminalise homelessness by the back door.

Punishing the symptoms rather than addressing the causes of homelessness in this way will have negative effects on rough sleeping and people who beg, including Roma, the Roma Support Group points out. There are concerns that the new measures continue to leave people on the streets open to abuse, and will push many away from accessing vital support.

### **Other comments**

Given the current climate crisis, we consider that the Bill largely misses an opportunity to ensure that sustainable development becomes the norm through design and local planning requirements. Whilst references to climate change are included throughout the document, details about what this means in practice are missing, and there remains a risk that this is simply window dressing, without delivering meaningful change. The Bill does not address the need for concerted action to improve the quality and energy-efficiency of England's five million pre-1919 dwellings, which the Northern regions have in higher proportions than the rest of the country.

Another element which we consider is missing from the Bill is more tangible powers to enable councils to encourage developers to build-out sites with permission. We urge the government to review, and pursue, the proposals made in response to the [Letwin Review](#). We acknowledge that compulsory purchase, or the threat of compulsory purchase, is a useful tool in this respect. It will be important to consider the valuation issue if a compulsory purchase order is used to secure build out of a site which already has planning permission for residential development but where work has not begun after a significant delay. It might be appropriate to limit the value of compensation in these circumstances to a multiple of the agricultural land value (as Letwin proposed).

### **About CIH**

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple - to provide housing professionals and their organisations with the advice, support, and knowledge they need. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world.

Further information is available at: [www.cih.org](http://www.cih.org)

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