

Written Evidence submitted by Shelter (LRB26)

Levelling Up and Regeneration Bill House of Commons - Committee Stage

1. Summary

- 1.1. We welcome the opportunity to submit evidence to the House of Commons Committee Stage of the Levelling Up and Regeneration Bill.
- 1.2. Shelter is the UK's biggest housing and homelessness charity. We exist to defend the right to a safe home and fight the devastating impact the housing emergency has on families and communities across the country.
- 1.3. Social housing gives people a foundation to thrive. With Levelling Up aiming to spread opportunity across the nation, the delivery of social rented homes should be a priority of the Levelling Up agenda. The Levelling Up and Regeneration Bill can lead to more social housing, reduced waitlists and a reduction in homelessness.
- 1.4. **To achieve this, Shelter calls for:**
 - 1.4.1. Funding for local authorities to recruit and develop internal expertise on land and planning.
 - 1.4.2. The definition of 'affordable housing' in Schedule 11 to be synonymous with social rents, which are tied to local income.
 - 1.4.3. The implementation of the 'Right to Require' before the proposed Infrastructure Levy is introduced.
 - 1.4.4. The codification of a definitive guarantee that the Infrastructure Levy will deliver more social rented homes than the current planning system.
 - 1.4.5. Housing developments to only receive planning permission with a guarantee of delivery on-site social rented homes.
 - 1.4.6. Enshrining in legislation the option for collection of levies by charging authorities prior to the completion or a phase of a development.
 - 1.4.7. A boost in grant funding and the prioritisation of social rented homes in the Affordable Housing Programme.

- 1.4.8. Where there is a discrepancy between local and national planning policies in relation to housing developments, including powers delegated to Secretary of State, ensure that the policy that delivers the most social rented homes prevails.
- 1.4.9. Reforming the 1961 Land Compensation Act to remove 'hope value' and therefore removing a barrier to councils building genuinely affordable social homes.
- 1.4.10. Repeal the Vagrancy Act and remove Clause 187.

2. Introduction

- 2.1. We are living in a housing emergency. **One in three adults do not have a safe place to call home.**¹ Too many people are stuck living in insecure private renting, paying through the roof for a damp or mouldy home. Rents are at their highest level since records began, leaving nearly half of renters with no savings whatsoever.² With the cost-of-living crisis and inflation at 9.1%³, people are choosing between paying their rent and feeding their families.
- 2.2. All over the country, from Burnley to Birmingham, from Plymouth to Sheffield, there is a housing emergency raging. This is a direct result of years of successive governments failing to build the genuinely affordable social homes that our country desperately needs. Despite there being close to **1.2 million households on the social housing waiting list**⁴, the country has barely managed to build a paltry 6,000 social rented homes last year.⁵ With sales and demolitions, **we lost over 15,000 social rented homes last year.**⁶
- 2.3. **Social rent is the only genuinely affordable tenure of housing**, because rents are set with a formula that is tied to local incomes – so it's truly affordable by definition. Meanwhile, **private developers have abdicated their responsibility in delivering their fair share for communities.**
- 2.4. A decade ago, only 37,677⁷ social rented homes were delivered and by 2020/21, that number further dropped to a mere 6,051.⁸ Again, when taking

¹ Shelter, [Denied the Right to a Safe Home](#), 2021

² DLUHC, [English Housing Survey 2020 to 2021: headline report](#), Annex Table 1.19

³ ONS, [Consumer price inflation time series \(MM23\)](#), June 2022

⁴ DLUHC, [Live tables on rents, lettings and tenancies](#), Table 600

⁵ DLUHC, [Live tables on affordable housing supply](#), Table 1006C

⁶ DLUHC, [Live tables on affordable housing supply](#), Table 1006C and DLUHC, [Live tables on social housing sales](#), Table 678 and 684

⁷ Data from April 2011-March 2012

⁸ DLUHC, [Live tables on affordable housing supply](#), Table 1006C

sales and demolitions into account, there has been an average annual net loss of over 22,000 social homes in the last 20 years.⁹ (Also see Annexe 12.1)

- 2.5. With private renters spending on average more than 30% of their income on rent¹⁰, **it is clear that policy decisions to deprioritise building genuinely affordable social homes, has failed individuals and families in providing a secure and safe place to live.**
- 2.6. The **Levelling Up** agenda promises investment and seeks to have ‘...people everywhere living longer and more fulfilling lives and benefitting from sustained rises in living standards and well-being.’¹¹ This **cannot be done without genuinely affordable social housing.** Places like Manchester and Birmingham have seen their economies thrive in recent years thanks to investment in roads and trains, but homelessness has also skyrocketed.¹² A rise in homelessness, poor housing conditions, and unaffordable rents is not consistent with a nation that wants to level up and spread equal opportunity.
- 2.7. This Bill is a golden opportunity to address the housing emergency by course correcting existing land and planning policies that have driven the net loss of social homes in England and created insecurity for millions of renters.

3. The Planning System

- 3.1. The **planning system is meant to ensure that developers** who make a profit building on land, **contribute to the housing and infrastructure needs of the local community.** It’s a critical tool to ensure that developers pay their fair share. The system also **exists for local authorities to meet their mandate to reduce their housing waitlist** to end the housing emergency in their area. With little public investment in new social rented housing, the planning system is one of the only ways social homes are built in England. Almost half of the 6,000 social rented homes built last year were delivered through the planning system (including Section 106).¹³
- 3.2. However, the current system falls far short of the delivery that is needed to address waitlists across England. It is clear that there is a power imbalance between local authorities and developers. Too often local authorities bow under the pressure of negotiation and lack of resource which allows developers

⁹ DLUHC, [Live tables on affordable housing supply](#), Table 1006C and DLUHC, [Live tables on social housing sales](#), Table 678 and 684

¹⁰ DLUHC, [English Housing Survey 2020 to 2021: headline report](#), Annex Table 1.12

¹¹ Levelling Up the United Kingdom: Executive Summary. Department for Levelling Up, Housing and Communities. (2022) <https://www.gov.uk/government/publications/levelling-up-the-united-kingdom/levelling-up-the-united-kingdom-executive-summary>

¹² DLUHC, Live tables on homelessness, [Statutory homelessness live tables](#), Detailed local authority level tables, Table TA1

¹³ DLUHC, TABLE 11C, November 2021

to avoid or renege on their obligations. **Therefore, the Bill should include allocated funding for local authorities to recruit and/or further develop internal expertise on planning and building social homes.**

- 3.3. **The system needs a serious overhaul so that social rent is prioritised by developers and local authorities.** However, completely replacing the system with an untested levy could have serious consequences. Section 106 has the benefit of an existing structure in place which charging authorities and developers already understand. It also has the mechanism to ensure that **all new developments** are composed of **mixed tenures – with on-site homes delivered.**
- 3.4. DLUHC data shows that in the early 2000s the priority tenure of section 106 in several regions was social rented units.¹⁴ Some regions, like the East Midlands and the North East, peaked at 61% and 100% respectively. Section 106 has demonstrated that it has the potential to deliver genuinely affordable social homes. (See Annexe 12.2)

4. Infrastructure Levy (IL)

- 4.1. **In Schedule 11, in the proposed Part 10A to be inserted in the Planning Act of 2008, Section 204A defines ‘affordable housing’ as legislated in Part 2 of the Housing and Regeneration Act of 2008; and ‘any other description of housing that IL regulations may specify’.** This definition would allow other tenures and products to be created from the Infrastructure Levy, including low-cost ownership and ‘affordable’ rents as high as 80% of market rents. With the years of divestment and loss of genuinely affordable social housing, **Shelter calls for this section to be amended and the definition to be synonymous with social rents which are tied to local income.**
- 4.2. Given that any new system will cause years of disruption and require retraining of planning teams and additional investment, there is a case for focusing this time and effort on reforming the existing system. For example, a principle of the Infrastructure Levy—a locally set, immutable amount of social housing which developers must contribute – can be codified into a reformed section 106.
- 4.3. However, with the Infrastructure Levy front and centre of the Bill’s planning reforms, Shelter agrees that a ‘test and learn’ approach is appropriate to understand the limits/restrictions and opportunities of this new proposed policy without grinding the delivery of social homes to a halt. Quickly replacing the planning obligations of s106 with the Infrastructure Levy, without assessing the negative or positive consequences would be chaotic and high risk at best, and

¹⁴ DLUHC, Affordable Housing Supply Open Data, 2021

at worse would derail planning across England and plunge us further into the emergency.

- 4.4. While the test and learn approach is welcomed, and the formulae and roll out gradual, the existing planning system will still be in effect. The Levelling Up and Regeneration Bill attempts to find a positive vision for the future, but s106 will still be used to create and set planning obligations in the meantime. There is an opportunity to implement certain aspects of the proposed Levy earlier than the pilot will allow; specifically, the Right to Require. It would remove lengthy negotiation processes that delay building and results in fewer social homes built. **The Right to Require should be implemented and incorporated into section 106 obligations and the planning system in advance of the national adoption of the Infrastructure Levy. This reform now would make the use of developer contributions more effective in meeting the need for social homes before the levy is introduced.**
- 4.5. The Government has made a public commitment that the Infrastructure Levy will deliver at least as much, if not more genuinely affordable homes than the current system. In **Schedule 11, in the proposed Part 10A to be inserted in the Planning Act of 2008, Section 204G**, the Bill directs charging authorities to 'have regard' for the 'desirability' of 'affordable housing' that was previously delivered under section 106. Given the scale of the housing emergency, this is disappointing and will be insufficient. **The section should be amended to remove subjective terms like regard and desirability, and instead codify a definitive guarantee that the IL will exceed the current system.** Otherwise, the IL will be a new system in name only and will perpetuate the insufficiency we have today.
- 4.6. It is also **crucial for on-site delivery to be front and centre of the Infrastructure Levy proposal.** It is incumbent upon authorities to reduce housing waitlists and not allow developers to set profits above the needs of a community. To further close viability loopholes and minimise negotiation delays, Shelter **urges an amendment to the Bill**, which would add that **housing developments only receive planning permission if on-site delivery of social rented units is included and guaranteed.**

5. Collection of the Infrastructure Levy

- 5.1. **In the proposed Part 10A, Section 204R sets how the IL will be collected by charging authorities.** The current proposal can lead councils to have difficulty in building social homes and reducing their housing waitlist. If a council wants to build social housing immediately or in another location, other than a respective site, they would be pushed to borrow against prospective income. This is particularly the case if the levy is collected after the completion

or a phase of a development. This ties social housing development to market cycles. Councils will have budget holes if prices go down.

- 5.2. The Bill's intention is for **authorities to collect levies prior to completion**¹⁵, however, that is not explicitly stated in the **subsection 1** and **therefore should be codified in the Bill's text.**

6. Grant Funding and the Affordable Homes Programme

- 6.1. The **Levelling Up Bill**, in its current proposal, **does not address the lack of grant funding** that is needed for councils to meet their legislative mandate. **Only 1,500 social rented homes were built last year (2020-21) through grant funding.** While the IL is aimed at providing a different revenue stream for councils, the reality is, there is **not enough grant funding** to complement that attempt. This once again draws attention to the challenge in waiting for a national roll out of the IL to deliver social homes. **This can be mitigated by boosting grant funding; and prioritising genuinely affordable social homes for social rent in the Affordable Homes Programme.**

7. Local vs National Primacy

- 7.1. We need a planning system that ensures that everyone has access to an affordable, safe and secure home. But too often, local authorities fail to plan to build enough social rented homes to address housing need and reduce social housing waitlists.
- 7.2. **In respect to Chapter 2, Clause 83, Shelter strongly recommends an amendment that where there is a disagreement or discrepancy between local and national policies, and/or delegated powers to the Secretary of State, specifically in relation to planning permission for housing developments, the policy that delivers the most social rented homes should prevail.**
- 7.3. Any rule that arbitrarily gives local development plans primacy could mean that an ambitious national government would be unable to ensure that local authorities get enough social housing built. Alternatively, if national government policy is always given primacy, an ambitious local authority might be held back from building enough social homes. This could make it harder to address long social housing waiting lists and can result in more inequalities, with prejudice and division in our communities.

¹⁵ Levelling Up and Regeneration Bill: Explanatory Notes. Department for Levelling Up, Housing and Communities. p218 (2022), <https://publications.parliament.uk/pa/bills/cbill/58-03/0006/en/220006en.pdf>

8. Land

- 8.1. Inflated land values make social housing developments unviable. If councils pay top price for land due to 'hope value', there is less money for good quality and genuinely affordable green homes. We will submit evidence to the Government's Compulsory Purchase Compensation Reforms consultation in support of reform of the 1961 Land Compensation Act, which limits councils from building the many social homes and other critical infrastructure they need to level up their respective areas. **The removal of 'hope value' will help local authorities build more social housing and meet their mandate to reduce housing waitlists.**

9. Vagrancy Act

- 9.1. Finally, Shelter would briefly like to reiterate its position on the Vagrancy Act, as a comprehensive response was submitted via the appropriate consultation. **We recommend Clause 187 (regulation to replace Vagrancy Act) is removed.** Along with Crisis and many others, working with street homeless persons, **we supported the repeal of the Vagrancy Act 1984**, and do not agree that new legislation is needed to address begging. There is already plenty of existing legislation for that purpose and **Shelter therefore supports Amendment 1 (page 192, line 16, leave out Clause 187).**

10. Future Response

- 10.1. Shelter may submit amendments to this evidence in advance of the deadline set in the Call for Written Evidence (20 September 2022).

11. Contact

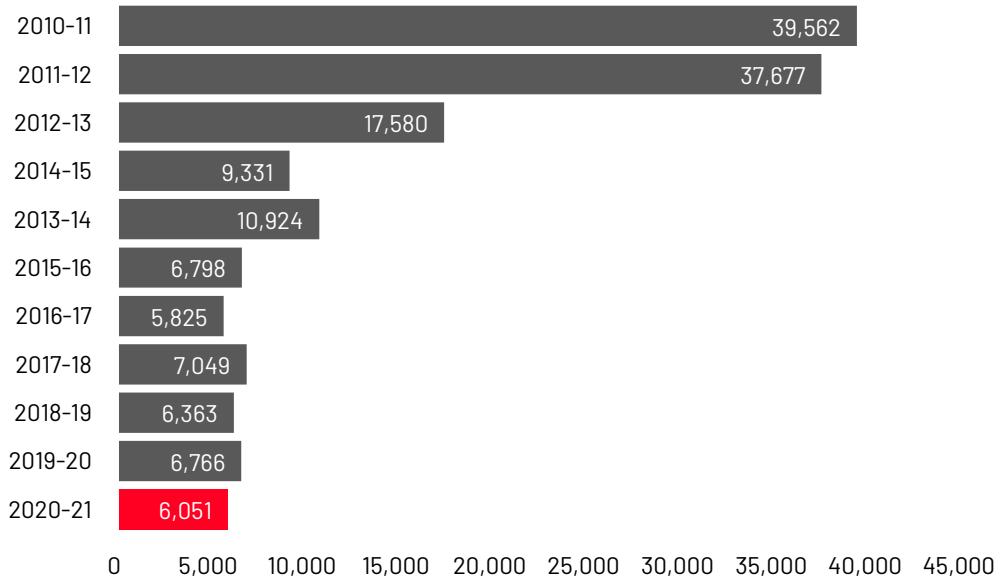
- 11.1. For further information please email public_affairs@shelter.org.uk

July 2022

12. Annexe – Figures

12.1. Figure 1: The number of social rent homes delivered since 2010/11. Source: DLUHC, Live tables on affordable housing supply, Table 1006C

Social Rent delivery since 2010/11



12.2. Figure 2: The percentage of section 106 used for social rent delivery by region in England since 2000/01. Source: DLUHC, Affordable Housing Supply Open Data, 2021

Percentage of s106 used for social rent by region

