Levelling Up and Regeneration Bill

Briefing from Stonewater regarding the replacement of Section 106 housing delivery with an Infrastructure Levy

Stonewater broadly welcomes measures in the Levelling Up and Regeneration Bill to introduce the Infrastructure Levy in place of the existing funding mechanism for delivery of affordable housing through Section 106 agreements

This note sets out for members of the Levelling Up and Regeneration Bill Committee, and its Clerks, some potential impacts of the potential changes to the operating environment if an Infrastructure Levy replaces the existing established process.

For more information about anything included in this briefing, please contact Jonathan Layzell, Executive Director – Development at Stonewater via jonathan.layzell@stonewater.org

The existing system – Section 106 Housing

- A Section 106 Agreement (S106 Agreement) is an agreement entered into between a local authority and a landowner and/or developer under Section 106 of the Town and Country Planning Act 1990. The agreement will contain planning obligations which the local authority wish to secure, or which the developer wishes to offer, in return for planning permission being granted.

- Usually the largest obligation arising through a S106 agreement is the obligation on a residential developer to ensure that a certain proportion of the housing developed on a site is affordable. Affordable Housing is clearly defined in planning law, and encompasses Social Rent, Affordable Rent, Shared Ownership, Rent to Buy and First Homes.

- Housing delivered via S106 is usually restricted in its use in perpetuity in order to ensure that it continues to meet the needs of people locally who cannot meet their housing needs in the local market.

- In most areas, any development of 10 or more homes will trigger a requirement for a certain proportion of them to be affordable. Usually the percentage of homes required as affordable will be between 20% and 40% of all homes but can be as much as 50%. There is often a period of negotiation between the planning authority and developer which can see these percentages reduced as the result of viability constraints.

- There is no cost to the public purse of delivering these properties as affordable housing. All subsidy is embedded in the planning process with the developer factoring in the obligation to deliver affordable housing into their cost and revenue calculations. Grant funding from government is not available to housing associations in order to support their purchase. Money to do this will come from the housing association's surpluses or reserves, or by raising money through bank borrowing or bond finance.

- Usually housing associations enter into development agreements with developers to buy homes based on their projected revenue, taking into account the restrictions on the use of the properties. These values are usually significantly less than the market value of these homes but they are delivered without a cash subsidy – most S106 housing is paid for through housing association borrowing raised against the capitalised value (discounted projected cashflow over c.30 years) of the properties. This is a well-established process with most housing associations working in partnership with developers to ensure an appropriate range and mix of affordable housing across a development.

- A competitive process for securing the affordable housing also ensures that the best value is delivered – the greater the receipt for the affordable housing, the less tenable a reduction in affordable housing becomes based on reduced viability.

Replacing the existing system with an Infrastructure Levy

- At this stage, there is little detail available about the Infrastructure Levy. However, it is clear that there would no longer be a requirement for a set percentage of homes to be delivered as affordable. Instead, developers would be required to pay a levy based on the final value of the homes developed. A local authority could then decide what to spend the money on. This could include an element of subsidy for affordable housing.

- At this stage **it is not clear how this might work but it might include payment of some of the Infrastructure Levy receipt to a housing association** in order to help with the purchase of some of the market properties from the lead developer in order that they become affordable homes.

- This payment would be used to bridge the gap between the open market value of the properties and their value where their use is limited to affordable housing. Housing associations would, as now, borrow against future revenue streams (for both shared ownership and rents) in order to finance the purchase. **The concern here is that this might impose an additional and onerous administrative challenge to all parties which may disrupt the established process for the delivery of affordable housing.**

- The Government has said that they anticipate that the level of affordable housing delivered through the infrastructure levy would be equal to, or exceed, that delivered via S106. **The challenge here is how this will be monitored and what further action government could or would take if there is a rapid reduction in the levels of affordable housing delivered.**

- It is anticipated that the Infrastructure Levy will be piloted in certain areas in advance of being rolled out more broadly. This pilot-based approach is to be encouraged because it will hopefully tease out any operational challenges and allow them to be tackled and resolved without a significant disruption to delivery. However, **it is important that the pilots take place across the country, rather than in one region, to ensure it works in different housing markets.**

Final Thoughts

- Anecdotally, housing association development accounts for roughly one third of all new housing development (c. 50,000 homes per annum). Of these it is probable that around 50% (c. 25,000) are currently delivered each year via S106. This delivery of new affordable housing makes a significant impact on meeting the needs of those on local authority waiting lists across the country.

- If the need for affordable housing is not met locally, it would force more households into temporary housing (including Bed and Breakfast accommodation), with the potential for a significant increase in the Housing Benefit bill.

- As details of regulation, intended to sit behind the Bill, emerge it will be important for the Government to engage with the residential development sector, including private developers, housing associations and local authority housing strategy teams to ensure smooth implementation of the levy and that affordable housing delivery is maintained.

- Stonewater is committed to working positively with MPs and the government to ensure that any newly introduced policy can be implemented effectively and that housing associations can continue to play a vital role in resolving the housing crisis.

About Stonewater

Stonewater is a leading social housing provider, with a mission to deliver good quality, affordable homes to people who need them most. We manage around 34,500 homes in England for over 76,000 customers, including affordable properties for general rent, shared ownership and sale, alongside specialist accommodation such as retirement and supported living schemes for older and vulnerable people, domestic abuse refuges, a dedicated LGBTQ+ Safe Space, and young people's foyers.

Every home we build is designed to be affordable to own, rent and maintain. We are leading one of the most significant and progressive house-building programme, aiming to build a minimum of 1,500 new homes a year from 2022/23. Our Development Team work closely with partners including Homes England, Local Authorities, developers and construction companies. This collaboration ensures we design and construct excellent homes that enhance neighbourhoods and support prosperous communities.

Stonewater is proud to be the largest long-term strategic partner alongside Guinness Partnership with Homes England. We were awarded £250 million in 2021 - allowing us to build an additional 4,180 high-quality, affordable homes by 2029. It adds to the £224 million awarded to the Stonewater/Guinness strategic partnership in 2018 to build 4,500 homes by 2022.

This funding means we're able to continue entering longer-term commitments to buy land and target areas of greatest housing need. It's a huge boost to our organisation but, more importantly, it means more homes for those who so desperately need them and will go some way towards addressing the housing crisis affecting people and communities across the country.

We recognise that the way we work matters too. We are committed to providing homes that are energy efficient and are working towards Government's targets for carbon neutrality. Our Environment Strategy helps us minimise the resources we use as an organisation and manage our impact on the environment.

In recognition of our work in this area, we have been awarded a Gold 'SHIFT' rating, an independent assessment and accreditation scheme that measures organisations against challenging environmental targets. Stonewater was also the first UK housing association to partner with the community Forest Trust, planting six new trees for every home we build and has made a decision to move away from fossil fuel heating on our own new build homes from 2021.

For more information, visit our website at www.stonewater.org

Our partnership with Community Forest Trust