

Housing and Planning Bill: Second reading briefing (House of Commons)

Summary:

The shortage of homes lies at the root of every problem Shelter sees through our services. The government's commitment to build more homes is therefore welcome, as are some of the Bill's reforms. Equally important, however, is ensuring we build homes ordinary people can afford. In reality, some level of government support for lower-cost affordable housing will be needed to achieve this.

We are concerned that as currently drafted this Bill could unintentionally lead to a net loss of affordable homes for people on low and middle incomes – with existing public resource diverted to build homes that can only be afforded by those on high incomes. Proposals in the Bill mean approximately 180,000 affordable low-rent homes could be sold or not built in the next five years (see Annex A). However, there is currently no commitment to replace these like-for-like in the areas they are lost. Affordable low-rent homes currently provide a vital lifeline to working people on typical incomes: they offer a security that private renting does not, while cheaper rents help families save up for a deposit for a home of their own. **We are anxious about the unintended consequences of undermining their supply** and will seek to work constructively with government to amend the Bill as it progresses.

The shortage of affordable homes means more people will be private renters. **Shelter supports this Bill's many positive proposals to improve conditions in the sector, and there are opportunities to go further.** Some further thought, however, needs to be given to proposals on abandonment.

Key proposals provided by this Bill include:

- 1. Right to Buy for Housing Association tenants.** The framework for this was recently agreed outside Parliament with Housing Associations, with the Bill providing further detail.
- 2. Forced sale of council homes.** In order to generate revenue for central government, councils across the country will be required to sell low-rent council homes deemed 'high value' by government as soon as they become vacant. This will fund Right to Buy discounts for Housing Association tenants across the country. 19,000 council homes could be sold by 2020, with 113,000 at risk in total. **The government should explicitly commit to replacing homes like-for-like in the areas they are lost and put in place sensible exemptions.**
- 3. Starter Homes.** Reforms will oblige local authorities to ensure 'Starter Homes' are built, with funding diverted from existing affordable housing funding within the planning system. **As Starter Homes are not currently affordable to most families on low-and-middle incomes, they should be built in addition to, not in place of, existing affordable housing. Local authorities should not be compelled to accept them if they are not affordable to their local community.**
- 4. Planning reforms.** There are a range of measures in the Bill to increase private housebuilding, including reforming Compulsory Purchase Orders (CPO). **CPO reform is a welcome first step and with further development will help local authorities speed up much needed housebuilding.**
- 5. Pay to Stay.** People in low-rent affordable homes with a household income of more than £30,000 (£40,000 in London) will have their rents increased gradually to private rent levels. **We believe these income thresholds are likely too low given how high private rents are in many parts of England.**
- 6. Improving conditions in the private rented sector.** Reforms include banning orders for rogue landlords, 'rent clawback' measures, and better data sharing on bad landlords. **Shelter welcomes these proposals; they will make an important difference to the lives of private renters. There is an opportunity to do even more to improve the sector.**
- 7. Speeding up repossession of 'abandoned' properties.** This will allow landlords to evict tenants without going through the courts where they believe a property has been 'abandoned'. **This measure needs further thought to avoid it unintentionally being abused by a minority of rogue landlords.**

Background: England's shortage of affordable homes

- Home ownership, especially for those on lower incomes, has been declining since 2003. The UK now has a level of home ownership below the EU18 average: lower than Holland, Italy and Norway.
- There are now 11 million private renters, including 1.6 million families with children. Half of private renters pay so much in rent they have nothing to save at the end of the month towards a deposit. Government statistics shows 1 in 6 private rented homes contain a health hazard.
- 100,000 children in Britain will wake up homeless this Christmas, in temporary accommodation while their family wait for a home they can afford to become available.
- At the heart of all this is a shortage of homes, especially affordable homes. This is the fault of inaction over a generation by successive governments. England needs to be building at least 250,000 new homes a year to meet demand. 50% of these new homes need to be private market, 20% intermediate (such as shared ownership) and 30% need to be low-rent affordable homes. This can be done. Shelter and KPMG recently published a five-year blueprint on how: www.thehomesweneed.org.uk

Figure 1. What we need vs. what we build

| Tenure | Annual average output | Proportion of total |
|----------------------------------|-----------------------|---------------------|
| Needed balance of housing output | | |
| Market homes | 150,000 | 50% |
| Intermediate homes | 50,000 | 20% |
| Social rented homes | 50,000 | 20% |
| Total level of output | 250,000 | 100% |
| Levels of output in 2013/14 | | |
| Market homes | 75,850 | 67.5% |
| Intermediate homes | 26,340 | 23.4% |
| Social rented homes | 10,180 | 9.1% |
| Total level of output | 112,370 | 100% |

Proposals in the Housing and Planning Bill:

1. Extending Right to Buy to Housing Association tenants

- In September 2015 the government agreed a deal with the National Housing Federation to extend the Right to Buy to most Housing Association tenants in low-rent homes. The majority of the detail of how the Right to Buy will work is thus not in this Bill but is instead in the [agreement document](#). Historical records suggest approximately 76,000 HA tenants will exercise the new Right to Buy by 2020.
- Shelter supports the principle of Right to Buy, but if low-rent homes are not replaced like-for-like in the areas they are sold the next generation of working families will be denied access to homes they can afford (and will themselves be denied the ability to exercise the Right to Buy and get into home ownership). The shortage of low-rent homes will also risk increasing homelessness.
- Since 2012, only 1 in 9 council homes sold under the existing Right to Buy have been replaced.
- We are anxious that the government's definition of 'replacement' is inadequate. It is national, not local, and allows Housing Associations to replace low-rent homes with Starter Homes and shared ownership (which are far less affordable to most working families) in areas far from where they are sold. Replacement should mean replacing the home sold at the same rents in roughly the same locality.

2. Forced sale of 'high value' council homes.

- In order to generate funds to pay for large Right to Buy discounts for HA tenants, councils will be forced to sell low-rent council homes deemed 'high value' by central government as soon as they become vacant, on the open market (i.e to the highest bidder). The government has previously suggested defining 'high value' relative to regional house prices. The impact thus falls on areas that are prosperous in relation to their surrounding region.
- Money from these sales will not stay in the area of the original home but instead flow, via central government, around the country. 113,000 low-rent council homes could be lost in all (19,000 by 2020).
- This risks seeing a significant transfer of resource away from areas where the housing crisis is most acute, to areas where it is less so. By definition, high value council homes exist because they are in

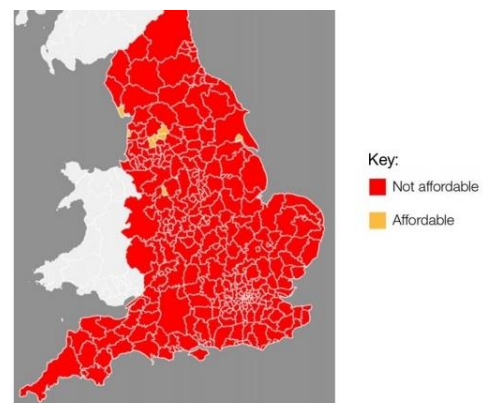
areas where rents and house prices are high, and affordable homes are in short supply. Moreover, in these areas, house prices are so high few Housing Association tenants will likely be able to afford the Right to Buy, even with a discount. Money from council homes in those areas will flow to areas where house prices and rents are lower (i.e where Right to Buy is likely to be more affordable).

- We believe that alternative funding mechanisms can be found to deliver Right to Buy that do not compound the loss of low-rent homes. One example is to offer Housing Association tenants a Help to Buy-style equity loan, as proposed by Boris Johnson and Lord Kerslake.
- There are currently no exemptions contained for rural council homes (where replacement is particularly challenging). There are also no exemptions on who 'high value' council homes can be sold to.
- The government should commit to replacing any homes like-for-like: at the same rents, in roughly the same locality as the original home. Ministers have not currently committed to this.
- Sensible exemptions should also be made for what counts as a 'vacancy'. A vacancy created as a result of a tenant moving to a different local authority home should be exempt. Otherwise this creates perverse incentives against authorities using their stock efficiently (e.g. under-occupation). Likewise, council homes vacant as a result of an anti-social behaviour related eviction should be excluded.

3. Starter Homes

- Starter Homes will be homes for sale at 80% of the market price, up to a value of £250,000 (£450,000 in London). They will be built by private developers and sold to first time buyers.
- The Bill provides a duty on local authorities to increase the supply of Starter Homes, with requirements that they are built as part of any large-scale development.
- The Prime Minister has confirmed that this will mean diverting funding from existing affordable housing obligations (called 'Section 106' obligations). At present local authorities can oblige developers to build low-rent homes as part of any large scheme, as the price of planning permission. In future, this subsidy must be diverted to fund Starter Homes instead.

Figure 2. Map of local authorities where Starter Homes are affordable to families on the new National Living Wage



- Shelter research recently found that the average Starter Home will be unaffordable to families on middle incomes in a majority (58%) of the country by 2020. A family on the new National Living Wage will not be able to afford a Starter Home in 98% of the country.
- Shelter supports building Starter Homes but they should not come at the expense of genuinely affordable homes, as this Bill currently proposes. Section 106 obligations currently deliver around 1/3 of all affordable homes each year. This supply is put at risk by these changes (we estimate 85,000 affordable homes that could have been built between now and 2020 will now not be as a result). Restricting local authorities' ability to demand low-rent homes from developers - homes they feel they need in their local area - could have serious unintended consequences.
- There are alternative ways to deliver Starter Homes that do not replace the building of low-rent affordable homes. For instance, Starter Homes can be delivered through stepping up the government's original policy for delivering them: zoning new development land specifically for Starter Homes.

4. Planning reforms: improving Compulsory Purchase Orders (CPO)

- The bill proposes measures to make Compulsory Purchase Orders more efficient. CPO is used to assemble land for infrastructure and complex developments where landowners are reluctant to sell.

- The high price of land at the root of the reason England doesn't build enough homes. While these measures do not directly address that, they are a welcome first step to giving local authorities the powers they need. In future we need reforms to allow local authorities to CPO land at low enough price to enable them to build high quality developments with the affordable homes their community needs. This is how CPO works in countries with successful development markets, like Germany and Holland.

5. Pay to Stay

- Families in low-rent affordable homes (i.e social housing) with a household income of more than £30,000 (£40,000 in London) will see their rents increased gradually towards market levels over time.
- We are not against the principle of some social housing tenants paying slightly higher rents depending on their income, but we believe these income thresholds are too low given how unaffordable market rents are in many parts of the country. Local authorities should also be able to keep the extra money generated from these changes to invest in affordable housing.

6. Improving conditions in the Private Rented Sector (PRS)

- The decline of alternatives to private renting make the government's private rented sector reforms even more urgent. We support the government's existing proposals in the Bill to:
 - **Introduce banning orders for rogue landlords.** This will address the very worst landlord/letting agent practice. Offenders will be banned from letting property and fined up to £5,000. This is a very welcome step. It is important that local authorities are adequately resourced to enforce this. The government should consider increasing the sanctions for those who breach banning orders.
 - **Create a database of rogue landlords.** This will be shared between local authorities. This is very welcome and should be publicly available to help inform tenant's choices in the market.
 - **Strengthen rent repayment orders (RROs).** This would more easily allow tenants to claw back rent payments when they have had to endure poor conditions. Councils will be able to keep the money where the renter is on housing benefit. This is a positive move. Government should remove barriers to renters exercising this right: for instance, making landlords bear tenant's legal fees.
- There is an opportunity for the government to go even further and introduce three common-sense reforms to help professionalise the sector and drive up conditions: **(1)** changing the law so that landlords are required to carry out five-yearly electrical safety checks of their properties – many landlords already do this as a matter of course, **(2)** reforming existing law so that all private properties are required to be fit for human habitation, and **(3)** introducing mandatory client money protection for letting agents to protect both landlords and tenants money if letting agents go out of business.

7. Speeding up repossessions of property deemed 'abandoned'

- This will allow landlords to reclaim a property that they deem 'abandoned' without going through the courts. In the Bill, a property is deemed 'abandoned' if a certain amount of rent is unpaid (i.e. two consecutive months) or the landlord has given two warning notices without response.
- We believe this needs some further thought. As currently drafted, this policy may unintentionally allow unscrupulous landlords to more easily carry out illegal evictions. We have particular concerns about tenants who, for example, are admitted to hospital unexpectedly, unable to contact their landlord.
- Delays in the benefit system can also tip tenants into arrears: government data shows the average time taken to process a new housing benefit claim is 22 days. As presently drafted, this part of the Bill risks catching these tenants under the definition of an 'abandoned' property.
- Shelter recommends removing this part of the Bill. Alternatively, safeguards should be put in place to stop it being abused. For instance, local authorities should carry out an assessment of whether they deem a property to be 'abandoned' before it can be repossessed.

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Annex A: Potential impact on affordable rented housing, Housing and Planning Bill¹

| Policy | What we know | Calculation | Potential impact |
|---|--|--|---|
| Starter Homes (Part 1, Chapter 1 of the Housing and Planning Bill) | <p>Section 106 contributions to affordable housing will not be sought on Starter Home exception sites (source).</p> <p>The Prime Minister said in his conference speech that developers will be able to build Starter Homes instead of affordable homes to rent to deliver their S106 obligations.</p> <p>The housing bill makes clear that Starter Homes will delivered through S106, replacing rented homes, and that the details of this will be set out in regulations (source).</p> | <p>Section 106 contributes a large proportion of affordable housing each year.</p> <p>The JRF estimates that from 2004/05 to 2013/14 there were 234,279 affordable homes delivered through S106 (with or without support from grant), more than half the total affordable homes built in that period (Source). A ten year average gives an average for both a buoyant housing market (pre 2007) and a low volume market (post 2008).</p> <p>In 2010/11, 72% of the homes delivered through S106 were for social rent or intermediate rent (2011 Housing Strategy Statistical Appendix).</p> | <p>If the number of homes built through S106 is the same over the next five years as it was on average over the previous ten and the proportion of these that were for low rent remains the same as in 2010/11, we are losing around 85,000 low rent homes we could have built over the next five years.</p> |
| Vacant High Value Local Authority Housing (Part 4, Chapter 2) | <p>The government has a manifesto pledge to sell low rent council homes onto the open market to pay for, among other things, Right to Buy discounts to housing associations.</p> | <p>Shelter has previously calculated that at least 113,000 council homes are at risk of sale, based on information about the policy in the public domain (source)</p> | <p>By applying vacancy rates to the levels of high value stock, Shelter calculates that by 2020-21 the number sold will be approximately 19,000 council homes</p> |
| Implementing the Right to Buy for Housing Association tenants (Part 4, Chapter 1) | <p>The government wants to see the Right to Buy extended to all housing association tenants not currently covered by the current Right to Buy for local authority tenants (Source).</p> | <p>The National Housing Federation have calculated that 850,000 households would be eligible for the new Right to Buy extension by excluding those who already have the Preserved Right to Buy (source).</p> <p>Shelter then applied the same take-up rate of the first Right to Buy deal in the 1980s (9% of total stock).</p> | <p>By 2020-21, Shelter estimates that if the same take-up rates apply, approximately 76,000 low rent homes would be sold under the extension of Right to Buy.</p> |
| TOTAL | | | <p>In total, approximately 180,000 genuinely affordable homes for low rent could either not be built or sold-off in the next five years.</p> |

¹ Figures here are an estimate based on all information, including government data sets and historical record, publicly available at the time of writing. For more detail please see Shelter's policy blog 'The loss of our low rent homes'.