

**Meeting:** Executive Advisory Board

**Date:** 20 October 2022

## Anticipated upcoming key issues for housing and planning

### Purpose of report

For information

### Summary

This report provides an update on recent and upcoming policy changes in housing and planning, as well as ongoing challenges for the sector. The following areas are covered: planning reforms; council housebuilding; the future sustainability of housing revenue accounts (HRA); social housing regulation reform, as well as further pressure on housing and homelessness services.

### Recommendation

That the Board note this update and provide any comments to the Environment, Economy, Housing and Transport Board on the identified issues and the future direction of the LGA's lobbying and influencing work in this area.

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# Anticipated upcoming key issues for housing and planning

## Background

1. The supply and quality of all tenures of housing (across the social and private sector – both for rent and sale), including the role of the planning system in delivery remain high on the government's agenda, as does decarbonisation – both forming key elements of the levelling-up and net zero agendas.
2. The availability, affordability and security of housing is also gaining high interest and importance in the context of the current cost-of-living crisis. There is also the crucial opportunity to strengthen environmental protections – but it will also be vital that this is carefully implemented to ensure that councils can still deliver the new homes and supporting infrastructure that the country needs.
3. For councils, the greatest challenge over the next few years will be the skills, flexibility, capacity and funding to deliver on these significant national priorities in a way that also delivers local place-based ambitions. Without these, councils will be under increasing pressure to make trade-offs locally, which could lead to difficult political decisions having to be made. We anticipate this resulting in some key challenges for our membership over the next couple of years and beyond. These are outlined in further detail in paragraphs 5 to 45.
4. The Environment, Economy, Housing and Transport (EEHT) Board oversee the LGA's policy work on housing, planning and homelessness. The last 12-18 months has seen some significant wins including:
  - 4.1. National Right to Buy reforms giving councils greater flexibility on use of receipts to build replacement homes
  - 4.2. Ending of the government's proposal to update the nationally-set housing need targets (albeit it subject to a 35% uplift for London and 19 other cities and urban centres).
  - 4.3. Government recognition of need for more social housing and commitment to review how to support councils to deliver more council homes.
  - 4.4. A revised set of national planning reform proposals which have taken into account a number of the concerns that we have raised on behalf of the sector.
  - 4.5. A government commitment to remove the requirement for a rolling five-year land supply to reduce speculative development applications
  - 4.6. A government commitment to increase planning application fees: major applications by 35%; minor applications by 25% (albeit subject to an enhanced planning performance regime)

- 4.7. A government commitment to a new non-negotiable, locally-set Infrastructure Levy to replace existing development contribution systems
- 4.8. A government commitment to further announcements on supporting faster build out rates
- 4.9. Scrapping of government's proposal to lift the small sites threshold below which developers do not need to contribute to affordable housing
- 4.10. Introduction of natural light and space standard requirements for housing allowed under permitted development rights

## **Key Issues**

### Planning reforms

5. In May 2022, the Department for Levelling Up, Housing and Communities set out the [direction of travel](#) for planning reforms – some of which will be delivered through the [Levelling Up and Regeneration Bill](#), which is currently making its way through parliament and the rest through secondary legislation or policy change.
6. Our most recent briefing on the Bill can be found [here](#). We will continue to work with parliamentarians and civil servants to try and secure changes to the Bill that meet our objectives, as agreed by the EEHT Board.
7. The proposed reforms are a welcome improvement from those proposed in the August 2020 [Planning for the Future White Paper](#). The LGA has continued to raise [concerns](#) about a number of the proposed measures, as well as making a series of recommendations for positive change. It is positive to see that many of the proposals being taken forward reflect a number of our key lobbying asks and policy positions.
8. In particular there is a greater focus on democratic input and community engagement; measures that intend to strengthen the weight of Local Plans and reduce speculative development, as well as proposals to increase planning application fees. Most significantly the proposal for development 'zones', linked to an automatic permission, have been scrapped.
9. We produced a comprehensive briefing on the proposed reforms (available [here](#)) which sets out our views on the different aspects of the reforms. These can be summarised as follows:
  - 9.1. Proposals that seek to simplify and standardise the local plan process and limit speculative development applications are welcome. It is good that the new development plan system will be underpinned by greater legal force. We are concerned that National Development Management Policies could undermine a genuinely local, plan-led system.
  - 9.2. We are concerned 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.

- 9.3. The Government must review the resource implications on councils as a result of the new plan-making framework and provide the necessary support to councils. The Government also needs to consider how the Standard Method is currently used and whether it fits with their messaging on involving communities in planning decisions.
- 9.4. The removal of the requirement for a rolling five-year land supply as it will curb speculative development and it will give more weight to local plans when making decisions on planning applications. However, to truly strengthen the role of Local Plans, we are pressing the government to urgently revoke permitted development rights.
- 9.5. We welcome the commitment that the new proposed Infrastructure Levy will be non-negotiable and set at a local level. We will want to work with Government to ensure that it is a success and that it delivers more affordable housing and infrastructure contributions at a local authority level than the existing systems for developer contributions (namely section 106 and Community Infrastructure Levy)
- 9.6. We want to see tangible powers brought forward in the Bill to enable councils to encourage developers to build-out.
- 9.7. Proposals to increase planning application fees at a national level are welcome, but we want government to go further by allowing councils to set planning fees locally, in case where national fees do not allow for full cost recovery.
10. There is much to welcome in the new proposals. We are also seeking to ensure effective engagement with the sector on the detailed policy development. The accompanying skills and capacity strategy, as well as appropriate levels of funding will also be fundamental to success.
11. One specific element that we envisage will need the most sector input is the proposal for a new non-negotiable, locally-set Infrastructure Levy which will replace the two main mechanisms for securing developer contributions (Community Infrastructure Levy and section 106).
12. The government's ambition is for the new Levy to secure 'at least as much affordable housing as now'. This is laudable, however there is concern that there will inevitably need to be trade-offs between affordable housing and infrastructure, as the 'pot' is likely to be insufficient to cover everything. This could present a challenge for local areas.
13. There is an expectation from government that councils will be the main funder of upfront infrastructure, for example through borrowing, ahead of Levy receipts being paid by developers following the sale of homes. This is a big concern for

councils as it potentially brings with it significant risk and additional borrowing implications. We will be bringing our local authority finance experts into discussions with DLUHC officials (in addition to our planning practitioners).

14. The 'Test and learn' approach being proposed for the new Levy is welcome and we will want to ensure that the Planning Advisory Service (PAS) are involved in any support package.
15. Another key concern for councils is the immediate and significant pressures being placed on them through their role as local planning authorities in relation to both water neutrality and nutrient neutrality.
16. In England, Natural England monitors the condition of special habitats and provides advice to local planning authorities. Special habitats are protected by international law, set out in the Habitats Directive, and where habitats are threatened by this nutrient pollution, local planning authorities are being directed to pause all planning decisions in affected areas. This advice is now impacting a significant number of councils (74).
17. Protected habitats are also threatened by water extraction leading to low water levels, which can also lead to advice to pause planning decisions. A small number of councils are impacted by advice on water neutrality, but the challenges of dealing with this issue are significant and may become more prevalent due to the impact of climate change. The LGA is currently running a policy enquiry led by a cross-party group of councillors, reporting into the Environment, Economy, Housing and Transport Board. This will gather information from stakeholders to examine what can be done across the whole environment and water system to reduce the stresses on fragile habitats. Findings and recommendations will be reported in early Autumn 2022.
18. On 23 September, the Chancellor [delivered](#) the Government's [Growth Plan](#), setting out measures which seek to deliver growth. This included:
  - 18.1. Investment Zones which will provide "time limited tax reliefs and planning liberalisation to support employment, investment and home ownership", for which an Expression of Interest process has been launched and further detail is to follow. Specified sites in England will benefit from a range of time-limited tax incentives over 10 years. There will be designated development sites to deliver growth and housing. Where planning applications are already in flight, they will be streamlined and the government will work with sites to understand what specific measures are needed to unlock growth, including disapplying legacy EU red tape where appropriate. The LGA will continue to promote Local Development Orders as a key planning tool to incentivise development and make investment more attractive, as they are flexible and most importantly locally-determined (as opposed to national permitted development rights).
  - 18.2. A series of infrastructure projects will also be accelerated as fast as possible, aiming to get the vast majority starting construction by the end of 2023. The Plan says that these projects may benefit from acceleration through planning

reform, regulatory reform, improved processes or other options to speed up their development and construction, including through development consent processes.

18.3. New legislation - the Planning and Infrastructure Bill - will be introduced to accelerate priority major infrastructure projects across England, by minimising the burden of environmental assessments; making consultation requirements more proportionate; reforming habitats and species regulation; and increasing flexibility to make changes to a Development Consent Order once it has been submitted. It also announces sector-specific changes to accelerate infrastructure delivery, including bringing onshore wind planning policy in line with other infrastructure and reforms to accelerate road delivery through more streamlined consent processes.

19. A number of further supply-side announcements relating to planning are also expected which may supersede the direction of travel announced earlier this year. The Environment, Economy, Housing and Transport Board will reflect on any new announcements and review and update its policy positions accordingly.

#### Council house building

20. The LGA has been campaigning for a number of years for additional government support to enable and empower a national renaissance in council housebuilding to meet the housing needs of local communities.

21. The most recent recognition from government of the need to support councils to build more homes in the Levelling Up White Paper is welcome and there are positive signs that the lifting of the borrowing cap in 2018 is starting to support increased delivery. It will be important given recent political changes in government, to maintain the momentum on our campaigning work in this important area.

22. Right to buy reforms announced last year are expected to help further, but we are yet to see increased completions. Delivery is happening both through Housing Revenue Accounts and through Local Housing Companies (in some places through both) and we are also seeing councils who have not had stock for many years, starting to build again.

23. There is concern that despite local ambitions to deliver more, the council housing system is the scene of a perfect storm of pressure resulting from national, global and local pressures, which will impede the ability of councils to scale up new delivery (this is covered further in the next section). Demand for council housing also continues to rise with almost 1.2 million on housing waiting lists, as well as the additional need to find suitable housing for increasing numbers of refugees so that they can live independently.

24. There also remain a number of existing factors that continue to limit councils' ability to deliver at scale, and at pace. These include: remaining restrictions on use of right to buy receipts; rent caps; access to land and skills and capacity.

25. Proposed changes to the Minimum Revenue Provision legislation could also potentially impact on future housing delivery, particularly where councils are delivering housing through Local Housing Companies – schemes may cease to be viable and therefore not be built out. This is an issue that we are continuing to raise with government and we await the consultation on the new draft regulations, which we hope will address the concerns that we have raised.
26. Councils will also need to continue to demonstrate use of new flexibilities and their appetite to build. As well as continuing to influence the Department for Levelling Up we will also need to make the case for further flexibilities, powers and funding to both the Treasury and Homes England. Our [Future Foundations campaign](#) is helping to promote the benefits of building more council housing.

The future sustainability of Housing Revenue Accounts (HRA)

27. This remains a concern for stock-holding authorities. The self-financing settlement in 2012 distributed debt to stock-holding local authorities on the assumption that anticipated rent income would be sufficient to fund works to raise all homes to the Decent Homes Standard (DHS) and maintain them there, and to pay off debt over a 30-year period. The settlement is now ten years old, and its underlying income and expenditure assumptions have both been superseded.
28. To illustrate there a number of new and additional expenditure needs that have arisen since 2012 including:
- 28.1. Works and continuing management expenditure to ensure fire and building safety as required by the Fire Safety and Building Safety Acts
  - 28.2. Works to raise all local authority homes to at least EPC Band C by 2030, paving the way for full decarbonisation by 2050;
  - 28.3. The additional requirements recently proposed to be added to the Decent Homes Standard (Government consultation expected later this year)
  - 28.4. Additional costs currently arising from materials shortages in the aftermath of COVID, energy cost increases exacerbated by the Ukraine conflict, and rising inflation more generally.
29. The 2012 settlement also assumed HRA income based on annual rent increases of RPI + 0.5% plus an allowance for convergence to formula rents where this had not yet been achieved. This assumption was altered by Government decisions to end convergence and to reduce rents by 1% a year for four years from April 2016, which resulted in an estimated 12% reduction in average rents by 2020-21. Current Government policy limits increases to the Consumer Price Index (CPI) + 1% until 2025.
30. The government has recently published a [consultation](#) which will apply a new ceiling to maximum rent increases due to the very high rate of CPI inflation.

Inflation is placing considerable pressure on many households, including those living in social housing and is likely to continue to do so for many months ahead.

31. The proposal is for a 5% cap, whilst also seeking views on a 3% or 7% cap. This is because CPI was 10.1% in July 2022. If CPI remains at or above this level in September, this would permit social housing rent increases from 1 April 2023 to 31 March 2024 of 11.1% or more. Government consider that making a temporary amendment to the CPI+1% policy for 2023-24, which will apply to all Registered Providers will provide a backstop of protection for social housing tenants from significant nominal-terms rent increases.
32. In our [response](#) to the consultation launch we recognised the impact that rising living costs are having on social housing residents, but also raised concerns that a new cap on rent increases will significantly impact on housing providers' ability to provide critical services for residents and invest in new and existing homes. We have called for the government to commit to compensate for the impact of lower incomes as a result of any new cap both for 2023/24 and for future years. We will be responding to the consultation and have written to members of the EEHT, People & Places and City Regions Boards to capture further evidence on the impact of the proposals..
33. To illustrate, the impact assessment published alongside the consultation estimates that local authority rental income will be £2.5 billion lower in the 5% rent cap scenario over the period 2023-28. Adding in housing associations providers, the total rental income across all registered providers will be £7.4 billion lower. This is the consequence of the 5% ceiling being triggered in 2023-24 and costs continuing into subsequent years due to the effect of compounding. In contrast, there will be a £4.6 billion monetised benefit for the government arising from lower welfare expenditure (Housing Benefit or the housing element of Universal Credit).
34. In summary, the additional expenditure needs outlined in paragraph 26, combined with the government's policies on rent setting and Right to Buy are increasingly impacting on councils' ability to deliver their responsibilities as local housing authorities, as well as their housing delivery ambitions. As outlined above, it is likely that trade-offs will need to be made between these competing priorities in the current financial climate. Councils would need additional government investment or increased flexibilities to raise additional monies e.g. through increased rents if they were to deliver on all of these government agendas.
35. Council plans to build new genuinely affordable homes, including those for social rent, could also be impacted by the inflationary squeeze at a time when home ownership is becoming more unaffordable, and rents in the private rented sector are going up in many parts of the country. This is likely not only be an issue for councils, but also housing associations, and therefore could impact overall additional affordable housing stock levels across the piece.



36. We have commissioned research to provide a deeper understanding of the scale and cumulative impact of each of these challenges to Housing Revenue Accounts, looking primarily at the next 10 years. This research will provide further evidence to support our ongoing lobbying activity.

#### Social Housing regulation reform

37. Councils manage more than 1.6 million homes, carry out millions of repairs each year and invest billions in housing services.

38. Through our Future Foundations campaign, we are promoting the benefits of social housing and best practice in social housing management and tenant engagement.

39. The Government is now taking a [Social Housing Regulation Bill](#) through parliament which will strengthen the powers of the Social Housing Regulator to improve standards by taking a more proactive, regulatory approach. Our briefing on the second reading of the Bill can be found [here](#).

40. In particular, this will enable the Regulator to undertake periodic inspection of landlords with more than 1,000 homes. We are working closely with government and the Regulator to ensure that there is a proportionate, risk-based approach to any inspection regime.

41. As part of our support offer to councils on this agenda, we launched our [Social Housing Management Peer Challenge](#) offer at the LGA Annual Conference with an Innovation Zone presentation by [South Holland District Council](#), who took part in the pilot peer challenge. This support is being funded by UK government. We have already had a number of approaches from councils interested in taking up this offer.

42. We are making the case to government that a sector-led improvement approach, for example, through use of peer challenges and performance benchmarking, could provide a complementary, or alternative approach to formal inspection.

#### Further pressure on housing and homelessness services

43. In addition to the impact that Covid-19 has had on economic stability, the current cost of living crisis, in particular the rapid and ongoing escalation in energy costs, means that financial pressures for many tenants and homeowners will be further exacerbated. This could result in increasing numbers of people losing their housing, which will put increasing pressures on council homelessness services.

44. Additional pressures are also arising from increasing numbers of homelessness presentations as a result of breakdowns from the Ukraine family visa and sponsorships schemes, which members will be aware of. The most recent [data](#) shows that councils have now accepted homelessness duties for more than 1300 households. We are continuing to make representations to government for policy changes around rematching and funding, which we hope will go some way to alleviating these pressures. On 6 July 2022, the Prime Minister committed to

ensuring that Ukrainian families are able to cross over from one visa scheme to another.

45. A number of councils are also raising concerns about increasing private sector rents in many areas across the country, which combined with other inflationary pressures, could result in further presentations from households who can no longer afford to pay their rent. Furthermore, the government is currently [consulting](#) on the introduction of the Decent Homes Standard which currently applies in the social housing sector, to the private rented sector. Whilst the aims to improve the quality of the private rented sector are to be commended and broadly welcomed, there is real concern that if there are not appropriate transition arrangements for implementation, that this could result in an exodus of landlords from the private rented sector. This could have a significant impact on supply, which is already under pressure in many parts of the country, and likely further drive up private rents.
46. There were just over 95,000 households in temporary accommodation at end of March 2022, compared to 92,190 pre-pandemic. Increased levels of homelessness presentations will make an already creaking system worse.
47. The proposed abolition of Section 21 “no-fault” evictions has been welcomed by the LGA and will level the playing field between landlord and tenant. It will allow tenants to challenge poor, and unfair practice, without fear of retaliatory eviction. We welcome this reform, and in addition to providing a fairer PRS through enhanced security of tenure, we are hopeful this will help to prevent many cases of homelessness. The ending of a private rented tenancy was the most common reason for homelessness, accounting for 36.6 per cent of households owed a prevention duty between October and December 2021.
48. However, we have stressed that there need to be effective mechanisms in place to enable landlords the flexibility to recover their property when needed. We have welcomed the reformed grounds for possession for landlords who wish to sell their property and to allow landlords and their close family members to move into a rental property.
49. Members have had recent discussions on the cost-of-living crisis in which the work we are doing to ensure that councils can effectively support struggling households has been explored in detail. One of the key elements to help address this from a housing supply perspective would be an urgent step change in the delivery of council homes, which has been described earlier in this paper.

## **Implications for Wales**

50. Housing, planning and homelessness are devolved functions and therefore there are no implications for Welsh local authorities.

## **Financial Implications**

51. There are no immediate financial implications for the LGA.

## **Equalities implications**

52. This paper covers a broad range of policy issues, which in turn are likely to raise a range of equalities issues. The LGA continues to engage with government to make clear that it is vital that they undertake and publish equalities impact assessments for all proposed policy changes at the outset.

53. The government has not yet published an equalities impact assessment for its proposal to introduce a new ceiling on social housing rent caps. The impact of a ceiling could be widely felt by social housing tenants through reduced services, if appropriate financial mitigation is not provided for social housing providers. A [greater proportion](#) of more vulnerable groups live in the social housing sector compared to other tenures.

## **Next steps**

54. That the Board note this update and provide any comments to the Environment, Economy, Housing and Transport Board on the identified issues and the future direction of the LGA's lobbying and influencing work in this area.

55. Officers will proceed with delivery of the LGA's work on housing and planning, as directed by the EEHT Board.