

SHELTER

UNLOCKING SOCIAL HOUSING

**How to fix the rules that are
holding back building**

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Executive Summary

OUR HOUSING SYSTEM IS BROKEN

Our housing system is broken. Across the country, renters are stuck in damp, crumbling homes that are making them sick. Private renters are forced to spend more than 30% of their income on rent. As a result, nearly half have no savings.¹ Desperate parents fighting to keep a roof over their heads are forced to choose between rent and food.

An **affordable and secure home is a fundamental human need**, but one in three of us don't have a safe place to call home.² From struggling coastal communities to unequal cities and neglected towns and villages, finding a good-quality home at a fair price is impossible for so many people.

IT'S TIME TO #BUILD SOCIAL HOUSING

Successive governments have failed to build enough good quality, genuinely affordable social housing for people on modest incomes. For the last decade, housing policy was based on the flawed idea that building 300,000 market homes will somehow lower extortionate rents and improve standards.

Over the past decade, governments have redirected money away from secure, affordable social homes to unaffordable homeownership products. Social housebuilding has fallen off a cliff, despite an enormous waiting list of over 1.1 million households. These damaging policies, born in the narrow context of a housing market crash are flawed and outdated.

The government invented programmes like Help to Buy to 'boost demand' and tried to reduce developer contributions by prioritising unaffordable products like Shared Ownership over social housing. It hoped to accelerate homeownership for a small group of people while minimising costs for developers and the government.

Today, developers are making record profits and house prices are through the roof. More private renters than ever have been forced to turn to housing benefit to pay their rent. Despite the focus on getting people on the housing ladder, many renters are closer to homelessness than homeownership.

Trickle-down housing has not worked.

It's time to prioritise the only genuinely affordable housing: social homes.

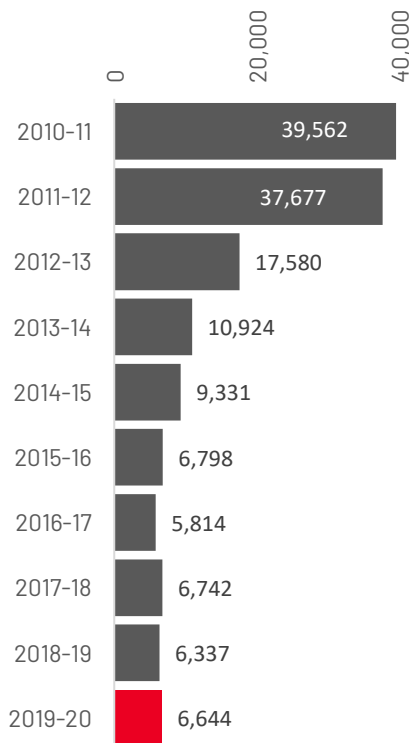
Social housing has had so many barriers arbitrarily put in place, that it's almost impossible to deliver even if a council is committed to building more. To fix this, we need reforms around 1) investment; 2) land rules; and 3) planning.

FIX INVESTMENT

The biggest intervention needed is to invest grant funding in social housing. Local authorities are stuck with an 'unfunded mandate' – tasked to end homelessness without proper funding to build social homes. We need £12bn p.a. to build 90,000 social homes a year.

We must direct money away from unaffordable homeownership

Social Rent delivery since 2010



Source: GOV.UK Affordable Housing Supply Statistics (AHS) 2019-20, [Live Table 1011C](#)

¹ Private renters spend 37% of income on rent (31% incl. housing benefit) and 45% have no savings, English Housing Survey 2020-21.

² ['Denied the Right to a Safe Home'](#), Shelter, 2021

85%

of Private Renters in Blackpool rely on housing benefit to pay their rent, despite living in some of the worst homes in the country

Source: [Alert Briefing](#): UC and Housing Benefit, Shelter, March 2022

15k

Net loss of social homes in 2020-1

Source: DLUHC Live tables on Affordable housing supply. Table 1000c; Table 678; 684.

Explainer:

'Backstop bid'

Because landowners know that councils would have to pay 'hope value', in practice this sets an expectation for the minimum price landowners think could get from a developer. But if they knew that the council *could* use its compulsory purchase powers to buy at a lower rate, it would incentivise landowners to accept a lower price on the open market.

products, toward genuinely affordable social housing. The Affordable Homes Programme (AHP) earmarks a large chunk of cash to help a few relatively affluent people buy a home at the expense of everyone else. We need a social housing floor to ensure that 80% of the AHP is spent on social homes.

We also need targeted changes to the AHP to make it fit for purpose. Because social housing grant only covers a small percentage of the cost of building a social home, providers must make up the shortfall with other funds. They borrow against future rental income (money otherwise earmarked for maintenance) and are forced to 'cross-subsidise' – to build and sell private homes to the highest bidder, pulling them dangerously off mission.

Many 'left behind' areas can't build social housing because of funding rules. These effectively bar areas outside London from getting social housing grant. And the lack of long-term funding certainty means social housebuilding tails off when funding runs out.

FIX LAND

The cost of land can make building social housing unaffordable. If a hectare of green belt land in London is granted planning permission, its price increases 1000 times.

Land prices make it hard for councils to build. If they want to buy land, they must pay 'hope value' – the amount a landowner *could* make if the home was sold to build luxury private homes. This makes it less viable to build social homes: you can't pay top price for land and rent it cheaply without creating a hole in your budgets.

Reforming the 1961 Land Compensation Act and reducing 'hope value' will let councils pay a fair price for land and get many more social homes built. It can also help cool land prices in the wider market by removing the backstop bid that land traders cost into sale prices.

FIX PLANNING

The planning system hasn't delivered enough social housing because the incentives are all wrong. Instead of providing decent, quality, genuinely affordable homes for local people, the

planning system prioritises maximum delivery of unaffordable homes that can be sold to the highest bidder. Instead of well-planned developments with affordable family homes, we get blocks of expensive leasehold flats.

Homes that are genuinely affordable for local people are seen as an undesirable add-on that developers try to negotiate away, rather than an essential need baked into the planning system. We need a planning system that puts the need for quality, affordable social housing at its heart. Developers shouldn't get planning permission without an ironclad guarantee of a significant proportion of social homes in areas where there's a waiting list.

Local authorities should be planning to eliminate housing need in their area, with a clear assessment of social housing need that takes account of homelessness and waiting lists in local plans. The existing system, where central government pressures local authorities to build as many market homes as possible is nonsensical.

The government plans to scrap developer contributions (Section 106 – s106) and replace it with a flat tax called the 'infrastructure levy'. This would mean that developers no longer build social housing on site, in return for planning permission, but instead pay a tax to the local council when they sell a home. The unintended consequence could add yet more barriers to social housebuilding and spell the end of mixed developments where social tenants live alongside private owners.

These changes could create major disruption with no guarantee that the new levy will deliver '[at least as much](#)' affordable homes as we get through s106. This is not acceptable: the purpose of planning reform must be to improve quality and affordability by getting more social homes built.

FIX OUR BROKEN HOUSING SYSTEM

For decades, governments have put in place barrier after barrier that makes social housing the hardest tenure to deliver despite it being the type we most need. It's time to fix that and move social housing to the front of the queue.

WE NEED MORE SOCIAL HOUSING

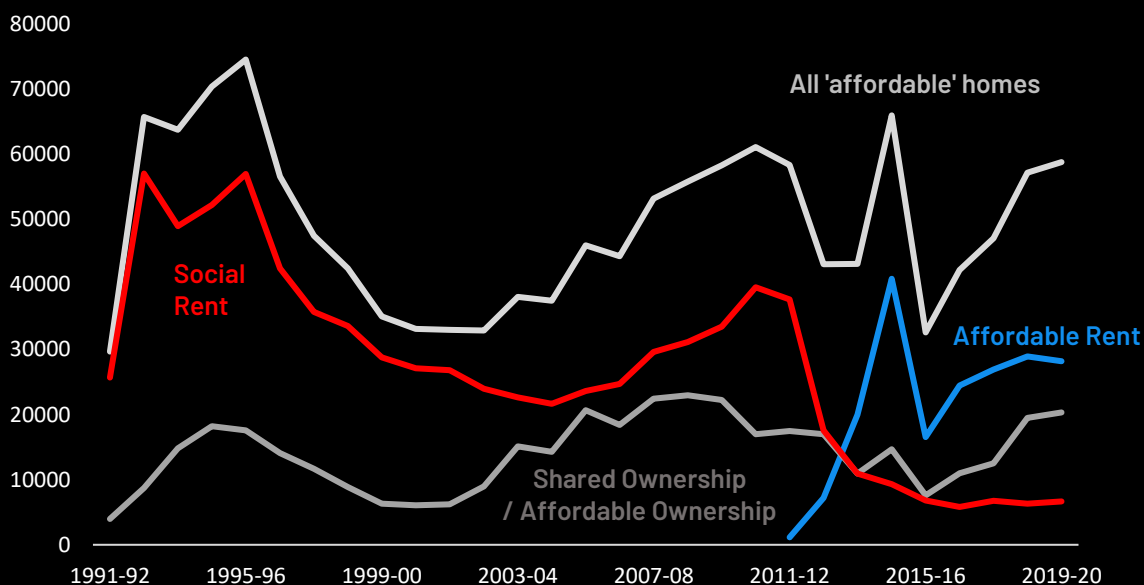
WHY SOCIAL HOUSING?

Social housing is the only tenure of housing that is affordable by design because rents are set with a formula tied to local wages, unlike every other so-called 'affordable' home. Social housing is nearly always far more affordable than private renting and it gives renters a secure, long-term tenancy.

But we are currently losing more than 15,000 social homes a year, after sales and demolitions, making us reliant on a dwindling supply of aging stock. Too many have no hope of escaping homelessness because nearly every council has a shortage of social housing.

Nearly half of private renters are now forced to rely on housing benefit to pay their rent. That's taxpayer money subsidising private landlords providing insecure and often poor-quality homes. The lack of social housing has not just pushed homeownership out of reach, it's made it nearly impossible for working families to lead healthy lives and keep stable jobs. Poor housing can threaten the life chances and educational attainment of their kids. If we want to level up the country, we must start with home.

Trends in the supply of affordable housing completions by tenure, England 1991-2 to 2019-20



Source: DLUHC, Live Table 1000C

Fix Investment

It is not possible to stem the tide of our growing housing emergency without investment. Central government funding is essential if we are to deliver the 90,000 social homes the country needs.

But, despite repeated promises to tackle the growing need for social housing, the government's Affordable Homes Programme has allocated only very small amounts of funding to build new social homes.

As a result, social housebuilding has declined drastically, homelessness has grown, and the number of people living in expensive private renting has ballooned.

Taxpayer money is being diverted toward firefighting this mounting emergency with short-term measures that are extremely costly both in taxes and to the lives of those living in the housing emergency.

THE MARGINALISATION OF SOCIAL HOUSING

In 2011, the coalition government introduced the Affordable Homes Programme (AHP). With it, grant funding for social housing was almost entirely cut. The AHP allocated funds to new types of housing that have stretched the meaning of 'affordable' beyond recognition.

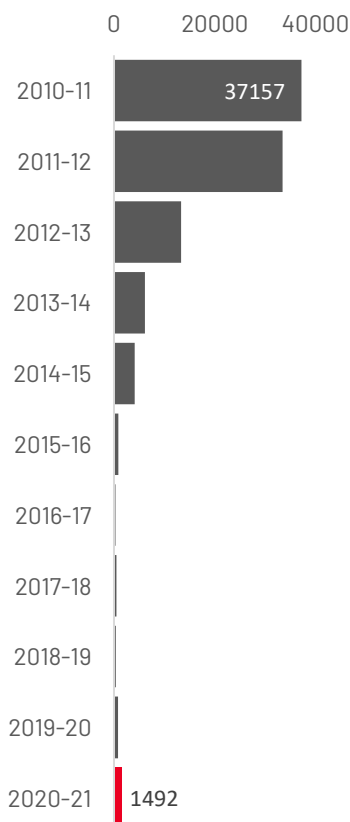
Government abandoned genuinely affordable social rent homes in favour of products far out of reach for low income households.

Affordable Rent (costing up to 80% of market rents) replaced social housing as the main rental tenure funded by the AHP and "affordable homeownership"

products – like Shared Ownership – increasingly became the priority for funding in the programme.

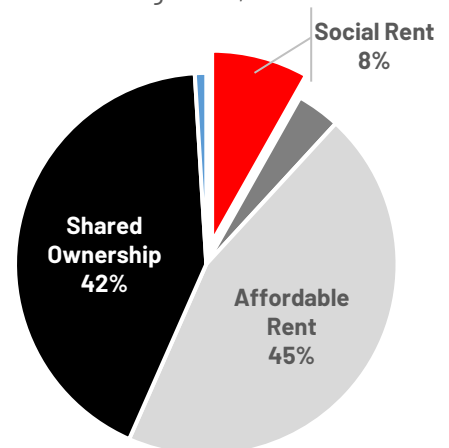
The strategy underpinning the introduction of new types of "affordable housing" was to deliver more homes of *any type*, whether they were affordable to those in need or not.

Number of grant-funded Social Rent homes since 2010



Source: GOV.UK Affordable Housing Supply Statistics (AHS) 2019-20, [Live Table 1011C](#)

Grant funded 'affordable housing' units, 2020-21



Source: GOV.UK Affordable Housing Supply Statistics (AHS) 2019-20, [Live Table 1011C](#)

The shift to allocating funding toward higher rent and homeownership products has meant that councils and housing associations need much less subsidy to build each home through the AHP. As they are not as costly to finance as social housing, capital funding can be spread thinly across more homes. In this way, the focus over the last decade has been on units delivered and not the right type of housing for our communities.

Our technical note explains the shift in funding in more detail. It also shows

£36k

Average grant rate
outside of London
(2016-2021)

Source: '2016 to 2021 Shared
Ownership and Affordable
Homes Programme
summary', Homes England,
March 2022.

£162k

Grant needed per
social rented home
outside of London

Source: Capital Grant Required
to Meet Social Housing Need in
England 2021-2031, NHF, 2019.

The £50 rule getting in the way: the example of Wakefield

29,000 households waiting
for a social home

£46 higher weekly private
rents than social rents

Locked out of social rent
grant rates until **2026**

Source: DLUHC, Live tables on
rents, lettings and tenancies,
Table 600, December 2021. ONS,
Private rental market summary
statistics April 2020 to March
2021: Table 2.7, June 2021.
Regulator of Social Housing,
Geographic look up tool

how this flawed new approach to grant
funding has failed on its own terms.³

Rates of homeownership haven't made
the strides hoped, the private rented
sector has continued to bloat, and the
availability of secure, genuinely
affordable rented housing has grown
more and more scarce.

A COMMITMENT TO BUILD MORE SOCIAL HOMES, BUT BARRIERS IN THE WAY

In 2018, funding for social rent was re-
introduced and the 2021-2026 iteration
of the AHP promises to build more
social rent homes than the previous
programme.⁴

But there are still too many barriers in
the way of social housing delivery.

Arbitrary rules governing the way AHP
funding is allocated continue to push
social housing to the side lines within
the programme.

These rules stack the odds against
getting grant funding to build social
housing and favour other types of
"affordable housing", making it
impossible to build the homes that are
really needed in so many places across
the country.

**In 1991/92 social rent made up 86% of
the 'affordable homes' that were grant
funded. Last year this figure was just
8%.⁵**

There are two key rules that result in
social housing losing out to other
tenures in the AHP. "**Cost minimisation**"
and "**the £50 rule**".

COST MINIMISATION

The current AHP uses 'cost
minimisation' as its primary metric to
assess bids made by councils and
housing associations for grant.⁶

This means the AHP prioritises bids for
funding that deliver the most homes
with the least amount of money – the
lowest 'grant rate'.

Other tenures like Affordable Rent,
Shared Ownership or First Homes
require much lower grant rates than
social rent.

As a result, 'cost minimisation' makes it
extremely hard to get the funding
needed to build good quality, genuinely
affordable social housing.

THE £50 RULE

Unless local private rents are, on
average, £50 per week more expensive
than social rents, social housing
providers can't get enough grant to
build social homes.

Effectively, the £50 rule bars many local
authorities outside of London from
building the social housing they so
clearly need.

The £50 rule flies in the face of 'levelling
up'. The areas affected will be locked
out of social rent funding until at least
2026.

Ambitious plans to level up 'left behind'
places without building social housing
risks creating a 'London and
Manchester effect'. Prices will rise, low-
income local people will be priced out,
and homelessness will grow.

AN UNFUNDED MANDATE

With central funding cut, successive
governments have tried and failed to
get social housing delivered on the
cheap, relying on councils and housing
associations to build it without grant
funding.

One approach is to boost social
housebuilding through more
borrowing.

In 2018, the government lifted "the
borrowing cap", which had placed a
ceiling on how much debt councils
could secure in loans against future
rental income to build new social
housing.

The sector welcomed the move.
Councils now have much more scope to
start building social homes and tackling
their local housing emergency. But in

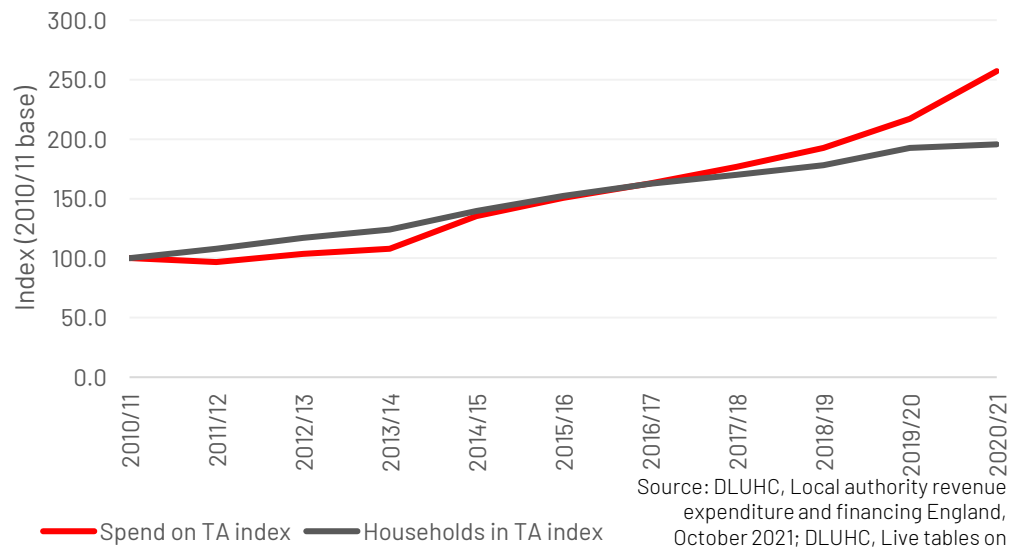
3 'Affordable Homes Programme Evaluation',
McCallum, A., Shelter, 2022

4 NHF, What do the Affordable Homes Programme
21-26 strategic partnership grant allocations tell
us?, December 2021

5 DLUHC, Live table on affordable housing supply:
Table 1011C, November 2021

6 DLUHC, Apply for affordable housing funding,
December 2020

Indexed TA spend and Households in TA



the end **councils will still find themselves quickly up against another limit: their ability to repay what they've borrowed.**

Even at very low interest rates, there are real limits to the debt that councils can, or should, take on to deliver new housing.

Councils should be getting back in the business of building social homes. Many are.⁷ But we'll simply never build the numbers of good quality social homes this country needs with borrowing alone.

Grant funding is essential if we want to make a dent in our housing emergency.

Yet, there were less than 1,500 grant funded social homes built last year.⁸

A LACK OF FUNDING RESULTS IN POOR QUALITY HOUSING

When grant funding covered the cost of building homes, rental income could be used for upkeep, maintenance and the modernisation of existing social homes.

However, without grant funding, rental income is used to pay back what councils and housing associations have borrowed to build new social homes. In this way, an overreliance on borrowing to build new homes has diverted time

and resources away from maintaining and improving social housing stock.

In many cases, poor management and a lack of incentives to deal with complaints is seeing tenants ignored and forced to live with damp, mould and disrepair. Shelter has been calling for tougher regulation of social landlords since the fire at Grenfell Tower in 2017.

But better regulation cannot solve bad conditions on its own.

We must also recognise that the shrinking pot of grant funding for social housing is a root cause of poor conditions within the sector.

THE TEMPORARY ACCOMMODATION BOOM

With the marginalisation of social rent homes, government money has been diverted to much poorer forms of housing – at significant financial and human cost.

The number of households living in temporary accommodation (TA) has nearly doubled over the last decade and the cost to the taxpayer has gone through the roof. TA cost councils £1.45bn last year (2020/21). 80% of this

⁷ ARCH, Local authority new build programmes and the lifting of the HRA borrowing caps, January 2020

⁸ DLUHC, Table 1011C, November 2021

money went to private letting agents, landlords or companies.^{9,10}

The government recognised in the Levelling Up White Paper that a failure to build social homes has created “a reliance on temporary accommodation for vulnerable families”.¹¹

Shelter has warned for years that we are at risk of substandard, shoddy TA becoming “the new social housing”.

Of the nearly 100,000 households living in TA, more than a quarter (26,110) of these households are accommodated outside the local authority area they previously lived in.¹²

Families have been forced to endure successive lockdowns in cramped, unhygienic, and uncertain living conditions, away from jobs, family, and support networks.

This is truly the opposite of ‘levelling up’. And it is a catastrophically bad use of public money. If we want to level up the country, people need a stable and affordable home, to provide the

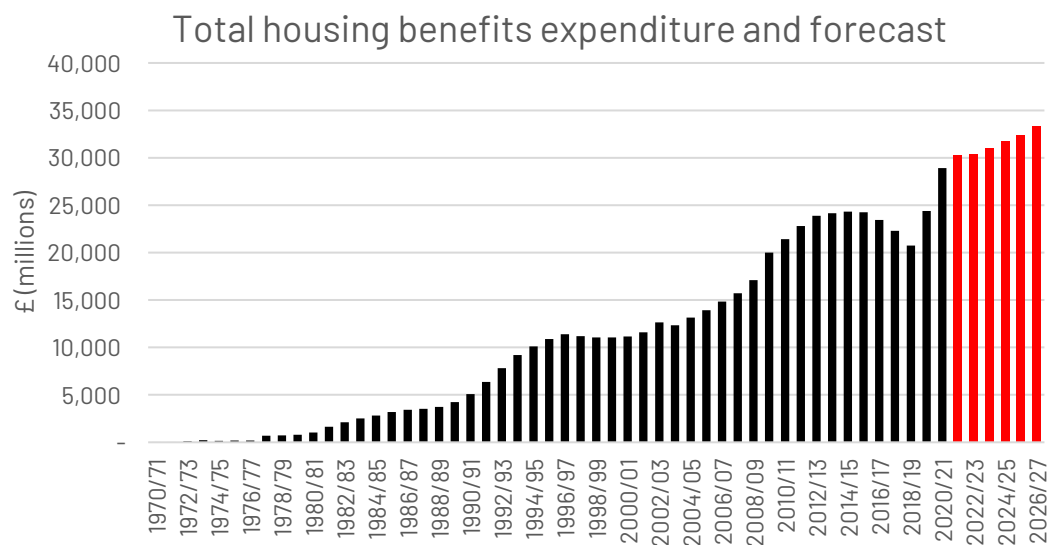
foundation they need to get on in life and have pride in the places they live.

HOUSING BENEFIT PICKING UP THE SLACK

With a declining stock of homes available for social rent, the private rented sector has also become bloated and increasingly expensive.

As a result, the national housing benefit bill has grown. Tenants' incomes and government money is flowing into the hands of private landlords, paying for poorer quality and less security. **There are now more private renters claiming housing benefit than ever before.**¹³

Instead of addressing the root causes of its growth, the coalition government sought to slash the benefits bill with blunt policies. Since 2011, freezes to Local Housing Allowance (housing benefit for private renters) and blunt policies like the benefit cap have been employed to limit the amount of support individuals and families can receive. As a result, many thousands of



Source: DWP, Autumn Budget 2021: Expenditure and caseload forecast

9 DLUHC, Local authority revenue expenditure and financing England: 2020-2021 individual local authority data – outturn, October 2021. The actual percentage is likely to be higher than 80% as temporary accommodation provided directly by private landlords is not included in this figure as this is only published in an aggregated ‘other’ category.

10 Indexed chart references: TA spend taken from DLUHC, Local authority revenue expenditure and financing England: 2020-2021 individual local

authority data – outturn, October 2021. Households in TA taken from DLUHC, Live tables on homelessness.

11 DLUHC, Levelling up the United Kingdom, February 2022

12 DLUHC, Statutory homelessness: Detailed local authority-level tables, September 2021

13 CIH, UK housing review 2020, Table 108, 2020 and Shelter, Universal Credit alert briefing, December 2021.

renters' housing benefit simply doesn't meet the cost of paying the rent.¹⁴

With fast growing rents, mounting food and energy bills, and a dire shortage of genuinely affordable social housing, these policies have failed to curb the rising benefits bill. Instead, they have tipped people into poverty, destitution and homelessness. By failing to properly fund social housing over the last five decades, we've sleepwalked into this situation. Simply cutting benefits won't work. Housing benefit is the lifeline keeping people in their homes.

If the government really wants to tackle the benefits bill and get families out of unsuitable, shoddy, and expensive temporary accommodation, it should start by addressing the root causes. **It should start by investing in social housing.**

RECOMMENDATIONS

- **Invest in a 10-year Affordable Homes Programme** of £12bn per year to deliver at least 90,000 social homes a year.
- **A minimum of 80% of grant funding in the programme should go to homes for social rent**, to focus government grant money on the most affordable tenure.
- **End 'the £50 rule'** so that left-behind places can get on and build the social rent homes they so clearly need.
- **Overhaul 'Cost minimisation'** so building good quality, genuinely affordable social rent homes is viable everywhere.

¹⁴ As of November 2021 (latest government figures), Local Housing Allowance rates did not cover the cost of the bottom 30% of rents for a 2 or 3 bedroom home in 91% of areas in England. Shelter, Alert briefing: Universal Credit and housing benefit, March 2022. As of November 2021

(latest government statistics), 123,000 households were impacted by the benefit cap, and families with children facing the benefit cap lose an average of £54 per week from their benefits as a result of the cap. Shelter, Benefit cap alert briefing, April 2022.

Fix Land Rules

THE COST OF LAND PREVENTS SOCIAL HOUSEBUILDING

We need to build many more social homes. To do that, we need more grant funding from central government, but we also **need to make sure that the money we spend gets many more quality social homes built**. Experts from all over the political spectrum agree **that to get serious about social housing, we have to fix the land problem**.

Land is the single biggest cost in building homes.¹⁵ It makes up to 70% of the cost of a new private home and was responsible for 74% of the increase in UK house prices between 1950 and 2012.¹⁶ If you can address the cost of land, you can make development cheaper and so build many more, better quality social homes.

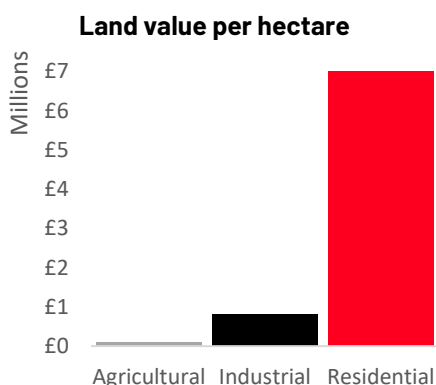
And it's possible. Land doesn't have any inherent value. Without planning

permission, land is worth very little. It's the act of developing the land that adds value. **So, when we say that land is makes up 70% of the cost of a new home what we really mean is that landowners are taking the lion's share of the value of development**. For doing nothing.

The astronomical **cost of land that landowners currently demand can make social housebuilding unviable**. In many parts of the country, grant funding from central government only covers a small proportion of the cost of a new social home. This means that to cover the **total** cost, a social housing provider has to find alternative sources of money.

This has a direct impact on **housing quality** because housing associations and councils are forced to use social rental income to pay for new homes, meaning there's no money left to pay for maintenance /upkeep of existing stock.

It also has a direct impact on **social housing supply** because, if a council or housing association wants to build social housing, they have to build and sell private homes to make up the shortfall ('**cross-subsidy**'). This means that when councils or housing associations do acquire land, much of that land is dedicated to **expensive private homes, not genuinely affordable social homes**. This is not what public bodies should be spending

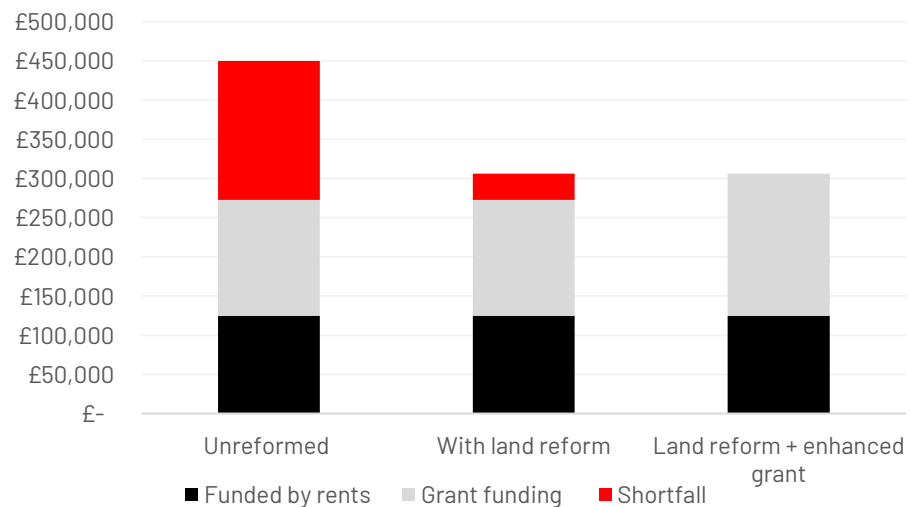


Source: Land Value Estimates for Policy Appraisal (2015), DCLG / DLUHC

¹⁵ Office for National Statistics, The UK national balance sheet: 2017 estimates, 2017, Figure 3

¹⁶ K. Knoll, M. Schularick, T. Steger, "No price like home: global house prices, 1870-2012", The American Economic Review, 107.2, 2017, pp. 331-353

Indicative Impact of Land Reform on Social Housing Development in London



Source: Shelter analysis

time, effort, and resources – including their own 'free' land – on.

LAND MARKET SPECULATION

Speculative developers, looking to cash in on this broken system, calculate what price they can afford to pay for land and still make a profit.

To do this, they need to know how much the finished development will be worth ('Gross Development Value'), how much it will cost to build ('development cost') and how much profit they intend to make. In this calculation, the profit and development value are essentially fixed because, for a speculative developer it is not worth building unless you make a profit and because the developer has limited control over house prices in the market. The one thing they can change is the development cost.

If there are multiple developers interested in a site, they will try to

outbid each other for land, and that means, to maximise their bidding power, they have to cut development costs. To do this, they have two levers: cut down build cost, and cut down on things that benefit the community, like social housing, schools and parks. The winner is the developer that delivers the least community benefit and cuts the most corners so they can pay the most for land.

REFORM THE 1961 LAND COMPENSATION ACT

In the immediate post-war period, legislation existed that allowed a council building social housing to **pay a fair price for land** when it used its compulsory purchase powers. These powers, which allowed councils to buy a bit of land even if the landowner didn't want to sell to the council, were essential because councils wanting to build genuinely affordable good quality

HOW DEVELOPERS CALCULATE LAND VALUE



homes can't outbid a speculative developer that's willing to pay more. And they can't outbid a developer that is cuts back on build cost and building as little affordable housing as possible, so they can maximise their land budget.

We ended up with a generation of good quality and well-planned developments. Millions of social homes were built by councils and housing associations in this golden era of social housing. Unhampered by land costs, money, time and effort could go into planning well-thought-out developments built around communities.

But it all fell apart with just two little words, 'hope value'. In 1961, the government passed the Land Compensation Act which ruled that, in event of a compulsory purchase, landowners should be paid not just for the value of their land as it stood but for its **potential** value if it were used for something else in the future, say a luxury development. Councils suddenly found that if they wanted to buy a piece of land, they were forced to pay a massive 'hope value' premium, even if they were never going to build luxury flats on the land and even if they were building social homes that local people desperately needed.

That's like a football club being forced *by law* to pay hundreds of millions to sign an untested youth player.

This **literally cut the ground from under councils' feet**. Landowners were obviously incentivised never to sell to councils for less than highest market value, knowing that if they held out, the council had no option but to pay top dollar if they wanted the land, and that private developers would ratchet up the price by bidding against each other.

It's also part of the reason why councils suddenly started building tower blocks in the 60s, to maximise every square

inch of land as land values spiraled upwards in line with the private market. And ironically, as governments put more money into the system to offset rising development cost, this pushed up land prices, resulting in diminishing returns and fewer social homes built.¹⁷

As land prices became dearer and dearer, the only route to getting social homes built was to compromise – on design, on quality, quantity and in some cases – even safety.¹⁸

Today, access to affordable land is one of the main barriers to development (Savills). Councils and housing associations with tight budgets will be outbid for land, or they need to find increasing amounts of money to build fewer and fewer social homes. It seems obvious that we want public money to be invested in building homes, not fueling and inflating land values in an already bloated market.

IMPACT OF LAND REFORM

Work from Civitas has estimated reforming the Land Compensation Act 1961 could slash 38% off the total development costs of a new scaled up programme of social housebuilding across England. This would reduce the total cost of a building a new social rent home from £354,478 to £217,643 in outer London and from £381,103 to £254,925 in inner London.¹⁹

Reforming the act has implications beyond simple council delivery though. A landowner acting in their own interest is incentivised to hold out on land, knowing that they're guaranteed the highest market prices based on theoretical planning permissions – when in reality that scheme may be completely undeliverable without a CPO because of the investment required to fund infrastructure or transport to make the site attractive. And because land traders know that hope value is

17 '...a lot of money was poured into building homes. The problem was that because land values were accelerating at the rate they were through the (pre-crash) 2000s, more and more money was being applied, even with increased pressure on grant rates that wasn't being reflected in similar growth in housing numbers' Matt Leach, former Director of Policy at the Housing Corporation and former Private Secretary to Nick Raynsford.

Quoted in SMF, *The Politics of Housing*, 2014
18 Jeffreys, P & Lloyd T, 'New Civic Housebuilding', Shelter, March 2017

19 D. Bentley, "Reform of the land compensation rules: How much could it save on the cost of a public-sector housebuilding programme?", Civitas, 2018

protected in legislation, they price this into their transactions. In short, the 1961 act keeps land prices inflated.

By reforming hope value, landowners will still be able to make a healthy profit. But they won't take the lion's share of a development value for doing nothing. And Councils can finally pay a fair price for land, and get some social homes built.

CONCLUSION

Alongside investment, fixing the land problem is the surest way to get a new generation of good quality social homes built – and the best way to make sure that we get well-designed developments that serve the needs of the community.

There's a lot of consensus from across the political spectrum that the best starting place is to reform the 1961 Land Compensation Act to kickstart council building and challenge sky-high land values. It's time to put this consensus to use and get the legislation through the door.

RECOMMENDATIONS

- **Reform the 1961 land compensation Act to remove 'hope value'**, by amending sections 14 and 17-19 of the 1961 Act for new towns and other designated strategic housing and transport schemes, to remove a legal entitlement to values arising from future planning permissions that have not been awarded.
- **Prioritise public land for social housing rather than selling it off**

Fix Planning Rules

The third piece of the puzzle is planning. We want a new generation of good quality social homes, but we also want communities that are designed to thrive. **The current planning system, under Section 106 of the Town and Country Planning Act, sets the process for planning obligations between developers and local authorities.** With these agreements, Section 106 (s106) attempts to set conditions to make a plan that works not just for developers and their profit margins, but also for the communities and the local needs of residents.

While we've seen years of divestment and far too little grant for social housing, s106 has provided a (limited) means to get social homes built. Today, **nearly half of the 6,000 social homes**

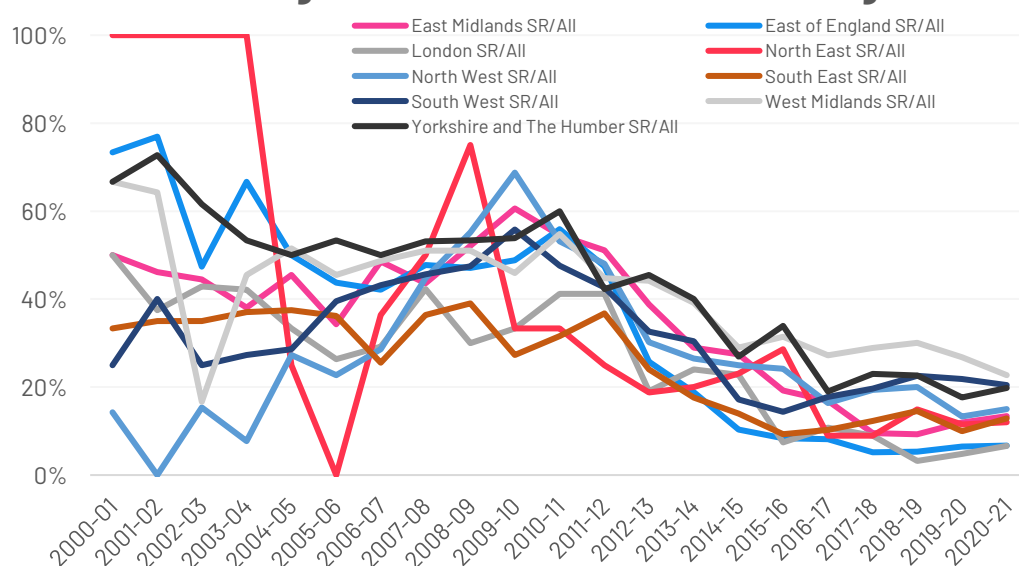
built each year are delivered through the planning system.²⁰

But if we're going to get at least 90,000 social homes delivered every year, we need the planning system to do more. With over a million households on waiting lists, people living in overcrowded and poor conditions throughout the housing sector, s106 does too little, too slowly.

In the early 2000s, Section 106 was primarily used to deliver social rent homes in many areas – e.g. in the North East.

But, just as grant funding for social housing fell after the financial crash in 2009-10, social housing delivery through Section 106 dropped massively and has never recovered. Following the

Percentage of s106 used for social rent - Region



Source: DLUHC, [Affordable housing supply open data](#) (2021)

steer from central government, local authorities let developers meet their planning obligations with more expensive tenures, like Shared Ownership and Affordable Rent. Social housing delivery regionally fell to 7%-23% of affordable homes built through s106.²¹ In 2020-2021, only 179 social rented homes were produced through s106, with the previous 2 years failing just as much with a total of 185 respectively.²² Some local authorities got none built at all.

The planning system isn't tough enough and doesn't incentivise the delivery of good quality and genuinely affordable homes for local people. We've already seen how the land market encourages developers to minimise their contribution to communities – encouraging them to cut down on development cost by cutting down on social housing and schools/parks in their plans, so they can put in a higher bid for land. But if developers knew that they wouldn't get planning permission without enough social housing, they'd have to factor this into their land valuations.

In the current world, developers know that they can get away with offering very little social housing in their plans. And they know that local authorities will have to settle for it.

Communities and local authorities are being short-changed by developers, leaving them at the mercy of a housing system that's expensive and insecure.

We need a planning system that has the right incentives: a planning system that puts quality, affordability and community at its heart. What else is a planning system for?

THE INFRASTRUCTURE LEVY

In recognition of the need for improving section 106 to make obligations on developers more significant, the Government proposed a radical rethink, with a proposal to [replace 106 contributions with a single Infrastructure Levy](#). The levy would

create funding for local authorities by setting a flat tax on any new developments.

This seems simple on the surface. All developers in a local area would pay the same rate. In theory, this flat tax can also help quicken the planning process by removing the negotiation phase between developers and local authorities.

But proponents of the infrastructure have mis-diagnosed the problem. They looked at the planning system and said that it was too slow and too complex for developers. The question they should have asked was: **how can we get a planning system that quickly delivers good quality and genuinely affordable housing for local people?**

The levy eliminates the requirement for on-site delivery of new social homes and replaces it with a tax. This reinforces the idea that building homes for the community is a 'bad' thing that should be avoided, rather than a fundamental requirement of development. Yet again, it puts social housing at the back of the queue, rather than a requirement of good development.

We've heard promises that the changes will deliver 'at least as many' social homes as section 106. This 'ambition', to meet the same levels as the current system, is disappointing. And we haven't yet seen evidence from the government to back it up. Given the huge impact these changes will have, and the threat to social housing delivery, the changes seem ill-advised.

Another major challenge with the levy is that it focuses on getting cash rather than on-site delivery. This poses several questions which make the seemingly 'simple' idea very complex.

For example, the assumption is that councils can use the levy to fund social homes that the council builds themselves. But because the levy is due only on the sale of a home (c. 5 years later), if a council wants to build social

²¹ Using Net Additional Dwellings (NAD), New Build data (completions) and the breakdown of Affordable Housing by Funding source from 2006

to date, Shelter has looked at the regional use of s106 for the delivery of Social Rent.

²² Ibid.

housing they will presumably have to borrow off of future receipts. If there's a short-term drop-in prices, the council could be left with a hole in their already stretched budgets. More importantly, it transfers financial risk from the developer to councils, who are unlikely to want to borrow huge sums to build social housing when the income isn't guaranteed.

Even if the council does get more cash out the system in the long run, given years of budget cuts, many councils simply don't have the expertise to build – so there could be a decrease in housing delivery, at least in the short term. And as we saw in the previous chapter, if we fail to solve the land issue, then more cash does not necessarily result in more social homes.

Finally, the levy weakens the link between community benefits and development and could spell the end of mixed-tenure sites, which are so critical for speedy build out.²³ Mixed tenure is critical for better integration of communities.

Every mitigation for these challenges identified in the white paper (e.g. allowing councils to ask for on-site delivery instead of a tax) is problematic because they essentially recreate the existing 106 system. Which begs the question, why focus on this change?

Reform s106

We need to fix 106. Developers are no longer reeling from the financial crisis and house prices are through the roof. Yet, we're still getting barely a trickle of social homes through the planning system.

We need to fundamentally reset the assumptions of the planning system, so that it focuses on the delivery of social housing over other so-called 'affordable' tenures and by setting a minimum floor. For example, you could take the principle of the infrastructure levy, a flat, simplified minimum rate, and apply that to on-site delivery.

We need to make sure that developers can't wriggle out of their obligations and

ensure that negotiations are carried out in a timely fashion, for example by exploring options like planning contracts, that give both sides iron-clad commitments on timing and delivery.

And we need land reform – starting with fixing the Land Compensation Act – to shift investment away from land and into community benefits like schools, roads and social homes

RECOMMENDATIONS

- **Rethink the infrastructure levy which could pose a threat to social housing delivery.** At the very least, consider ringfencing receipts on social housing delivery, and taking a 'test and learn approach' locally so that that major issues can be ironed out discovered and resolved before national roll out.
- **Refocus on fixing section 106,** prioritising social housing delivery through the planning system.

²³ Letwin, O., Independent Review of Build Out, October 2018

**SOCIAL HOUSING
GIVES PEOPLE
A FOUNDATION
TO THRIVE**



Unlock Social Housing

While the need for social housing has always been real, the country now has new momentum and opportunities for real change to build more genuinely affordable homes in the form of social housing. With Levelling Up, the government's flagship campaign, land and planning reforms can provide the platform needed to deliver the promises made for years.

For the over 1 million households on housing waitlists across England, who in the current system may never live with the security, safety, and stability that a good quality social home can provide, reforms cannot come any faster. Access to good housing affects every aspect of one's life and outcomes like health, education, and social mobility. More to the point, the outcomes and holistic wellbeing of an individual or an entire household is not only meaningful for their trajectory, but also contributes to the threads of society by helping people contribute to their communities. The evidence is clear, the financial requirements to own one's home are out of reach for many. And many will spend years stuck in a

private rented sector that's not fit for purpose.

The answer is clear: build many more, good quality social homes for the communities that so desperately need them. As we face down the barrel of the biggest cost of living crisis in a generation, and the threat of a rising tide of homelessness, the case for more social housing has never been clearer.

But for too long we've focused on quick-fix 'solutions' that don't look to solve the fundamental problems in our broken housing system.

It's time to change that. We need to reset the assumptions that sit behind our housing system and rethink what it's there to do: to provide good quality, stable homes that are genuinely affordable for the people that need them. And that means taking bold steps to massively increase the supply of social housing.

It's time to focus investment on social housing. It's time to reform the broken land market. And it's time to change the incentives in our planning system.

SUMMARY OF RECOMMENDATIONS

FIX INVESTMENT

- **Invest in a 10-year Affordable Homes Programme** of £12bn per year to deliver at least 90,000 social homes a year.
- **A minimum of 80% of grant funding in the programme should go to homes for social rent**, to focus government grant money on the most affordable tenure.
- **End 'the £50 rule'** so that left-behind places can get on and build the social rent homes they so clearly need.
- **Overhaul 'Cost minimisation'** so building good quality, genuinely affordable social rent homes is viable everywhere.

FIX LAND

- **Reform the 1961 land compensation Act to remove 'hope value'**, by amending sections 14 and 17-19 of the 1961 Act for new towns and other designated strategic housing and transport schemes, to remove a legal entitlement to values arising from future planning permissions that have not been awarded.
- **Prioritise public land for social housing rather than selling it off**

FIX PLANNING

- **Rethink the infrastructure levy** which poses a threat to social housing delivery. At the very least, consider ringfencing receipts on social housing delivery, and piloting it locally so that major issues can be ironed out or discovered.
- **Refocus on fixing section 106**, prioritising social housing delivery through the planning system.

**We exist to defend the right to a
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