

Affordable Housing Delivery—Numbers or Sustainability?

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Introduction

Foolishly I agreed to write this paper in February of this year. I was specifically thinking of the conflict, which was starting to emerge with the Government's drive to reduce carbon emissions by implementing the Code for Sustainable Homes¹ (CfSH). This was particularly acute in London with the (then) Mayor's sustainability agenda² juxtaposed with the 50 per cent affordable housing programme output. The CfSH implied significant additional expenditure in achieving the levels of carbon reduction required from new housing construction. This was starting to impact on financial viability, even in the bull run on house prices that London had enjoyed over the last three years. The other big factor was the proportion of affordable housing, which had steadily gone up numerically in the light of the Mayor's 50 per cent target for affordable housing. The physical size of affordable dwellings is generally larger than the equivalent bed-size private dwelling and the increasing emphasis on family homes added further to this pressure.

To March 2007 the Mayor reported 27,516 net homes built, the highest number since 1988. Of these, 34 per cent were affordable. Notwithstanding this, the question was beginning to be posed, what gives—affordable housing or saving the planet? Tensions experienced by developers in the context of CfSH meant that longer term planning in terms of site-wide infrastructure through local energy centres added both to the quantum of capital cost and to a front-loaded timing of cash outgoings.

Well, the Mayoral result was a surprise. Boris Johnson won the election and—at least in London—perhaps the stark trade-off between affordable housing and improved sustainability is now less clear. This paper attempts to demonstrate the impact and implications of the CfSH for affordable housing targets and to assess, in these albeit early days, the new Mayor's likely approach to these two key issues.

Whilst this paper is focussed on events and the general direction of travel in London, any conclusions on lessons learned should have relevance for other parts of the country. In this area, London has generally led the field over the past 10 years or so: what has been developed here in terms of policy has often been taken up elsewhere in the country, albeit often in a modified format. Affordable housing percentages, financial viability testing and the widening of intermediate tenures were all examples pioneered in London and subsequently adopted outside the capital.

Background

Jeremy Edge, in his 2005 paper to the Joint Planning Law Conference, summarised the latest thinking on affordable housing, under the title “Affordable Housing—can we afford it?” Aside from

¹ The Code for Sustainable Homes—A step-change in sustainable home building practice, December 13, 2006 (now superseded); On February 27, 2008 the Government confirmed a mandatory rating against the Code will be implemented for new homes from May 2008 and at the same time published “The Code for Sustainable Homes: Setting the standard in sustainability for new homes” which sets out the current assessment process and the performance standards required for the Code. Full up-to-date technical guidance was also published in April 2008.

² “Action Today to Protect Tomorrow. The Mayor's Climate Change Action Plan” GLA Feb 2007.



the finalisation of PPS3 and the Government's proposed amalgamation of the Housing Corporation and English Partnerships, that paper broadly summed up the state of thinking at that time (2005).

PPS3 was subsequently published in 2006³ with an emphasis on providing:

- 1 high quality housing;
- 2 a good mix of housing (within both market housing and affordable housing)
- 3 sufficient numbers; and
- 4 a flexible and responsive supply of land.

In terms of mix and numbers, the policy introduced a requirement for local planning authorities to assemble evidence on local housing need and demand, through a Strategic Housing Market Assessment. Significantly, in the context of viability, PPS3 also relaxed the density requirements set out in the predecessor to PPS3 (PPG3⁴) referring to 30 dph⁵ as a national "indicative" minimum. Furthermore, PPS3 defined affordable housing as being in perpetuity and removed low cost market housing from this category. PPS3 also gave increased emphasis to family housing (including the provision of recreation space) and moving to zero carbon development through location and design.

As regards the amalgamation of the Housing Corporation and English Partnerships, the Homes and Communities Agency (HCA) is due to come into existence later this year.⁶ Great strides have already been made with the appointment of Sir Bob Kerlake as Chief Executive, who is busy pulling together the two organisations. The advantage that this will give is a single stream of funding with an emphasis on the achievement of housing outputs in the light of Kate Barker's recommendations⁷ and the Government's Housing Green Paper.⁸ The regulatory role of the Housing Corporation will be hived off to a separate organisation leaving the HCA staff (numbering around 800 souls) to focus on housing delivery.

Code for Sustainable Homes

The Government first introduced the CfSH in December 2006. For the non-lawyers amongst us, the spin put on it by the Government implied that it would be compulsory—all new output would have to meet CfSH requirements in order to get building regulations approval. In reality, compliance was and still is, voluntary in respect of private sector housing, except that new homes now have to be rated against the Code; however, publicly promoted affordable housing, either through grant or discounted land sale will have to meet different CfSH requirements under an accelerated timescale. Indeed, it is the suggested timescale, 2016 whereby all dwellings will have to meet Code 6*, which has led to the wide misapprehension that the requirements are compulsory. In broad terms CfSH has the following requirements:

³ "Planning Policy Statement 3: Housing" November 29, 2006.

⁴ "Planning Policy Guidance 3: Housing", Office of the Deputy Prime Minister, March 2000.

⁵ Dwellings per hectare.

⁶ Following enactment of the Housing and Regeneration Act 2008.

⁷ "Barker Review of Housing Supply" HM Treasury March 17, 2004; "Barker Review of Land Use Planning: Final Report—Recommendations" DCLG, December 5, 2006.

⁸ "Homes for the future: more affordable, more sustainable" DCLG, July 23, 2007.

Code Level	Minimum Percentage reduction in Dwelling Emission Rate Over Target Emission Rate
Level 1 (★)	10
Level 2 (★★)	18
Level 3 (★★★)	25
Level 4 (★★★★)	44
Level 5 (★★★★★)	100
Level 6 (★★★★★★)	Zero Carbon' Home

Taken from: The Code for Sustainable Homes: Setting the Standard in Sustainability for new homes 2008

The principal CfSH measures relate to carbon emissions reduction and to water usage. There is widespread concern that the water usage requirements down to 105 litres at code 4★ and thereafter to 80 litres at codes 5/6★ are not achievable. These are significantly below current usage levels and design aspirations and at the lowest levels are believed by many to be almost impossible to attain on a reasonable cost basis. Therefore heavy pressure is being exerted to relax this component of the code.

Code Level	Maximum Potable Water Consumption in litres per person per day
Level 1 (★)	120
Level 2 (★★)	120
Level 3 (★★★)	105
Level 4 (★★★★)	105
Level 5 (★★★★★)	80
Level 6 (★★★★★★)	80

Taken from: The Code for Sustainable Homes: Setting the Standard in Sustainability for new homes 2008

The timescales for the targeted introduction of the CfSH were set out in the 2006 paper. Subsequent consultation has seen no change in the timescales proposed. It is noteworthy that there is no specific timeline for the Code 5★—there is a straight leap to 6★ from 4★. In the view of many practitioners, 4★ is achievable with in-plot solutions, whereas 5★ requires site-wide technologies, e.g. district heating, local energy centres. Currently the 6★ aspiration is not seriously being considered on any schemes of significance.

Date	2010	2013	2016
Energy/carbon improvement as compared to Part L (Building Regulations 2006)	25%	44%	zero carbon
Equivalent energy/carbon standard in the Code	Code level 3	Code level 4	Code level 6

Taken from: Building a Greener Future 2006⁹

Consultants EC Harris and Knight Frank reviewed the additional costs of achieving the new code levels.¹⁰ They assessed these as follows:

⁹ Building A Greener Future: Towards Zero Carbon Development—Consultation, December 13, 2006.

¹⁰ “Eco-homes, economically sustainable?” EC Harris and Knight Frank, May 2008.

Table 2
Additional cost of construction associated with meeting Code levels, sampled averages across evaluated schemes at Q4 2007, south east England prices

Code Level	Housing	Low rise flats	High rise flats
1	£1,000 per unit	£1,000 per unit	£3,000 per unit
2	£2,500 per unit	£2,500 per unit	£4,000 per unit
3	£5,000 per unit	£3,500 per unit	£6,500 per unit
4	£15,000 per unit	£8,500 per unit	£17,000 per unit
5	£26,000 per unit	£34,000 per unit	£36,000 per unit
6	Unknown	Unknown	Unknown

Source: EC Harris

As one moves up the code levels, it can be seen that the cost implied rises dramatically. The Housing Corporation has indicated that it will not offer housing associations any additional cash towards these supplementary costs for schemes at Code 4* and below. Indeed, it is a funding requirement for registered social landlords (RSLs) to hit Code 3* from 2008, two years in advance of the target suggested by the Government in respect of homes generally. Only schemes hitting Code 5* and Code 6* will be eligible for additional funding at present but of course that applies only to the affordable housing component of a mixed-tenure scheme and would also mean resolution of the 80 litres water usage per day requirement.

There has been uncertainty about whether the new London Mayor, Boris Johnson, would seek to impose as part of any planning consent he is involved in the requirements of the CfSH thus making it obligatory for those schemes which come within his view for planning purposes. However, in recent years the practice among local planning authorities generally has been to condition sustainability standards—such as BREEAM¹¹ and EcoHomes¹²—when granting planning permission and one would expect this to continue with CfSH. These significant costs are extremely worrying for an industry which is now seeing reductions in housing output as a result of market conditions and has yet to see any significant reduction in contractors' prices.

Certainly the Government's ambition on this target is to be lauded but the magnitude of the task is perhaps best summarised in John Callcutt's report.¹³

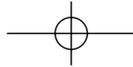
The target to achieve zero carbon by 2016 far exceeds anything that has been achieved, or even attempted, in Europe or (so far as we are aware) anywhere in the world. By comparison, Germany has been working to develop and deliver its Passive House standard for approximately 15 years and to date about 8,000 dwellings have been built to that standard. The current expectation is that it will take a further 15 years for all new house building in Germany to achieve the Passive House standard—well short of zero carbon.

The Passive House standard equates to between Code 4* and Code 5* CfSH and yet the German experience is significantly behind the timescale and below the physical standards that the Government is seeking to achieve in the United Kingdom.

¹¹ Building Research Establishment Ltd Environmental Assessment Method www.breeam.org

¹² A version of BREEAM specifically for homes.

¹³ "The Callcutt Review of Homebuilding Delivery" November 22, 2007 published by DCLG www.callcuttreview.co.uk p.89.



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Certainly, to achieve Code 4★ there are some immediate practical issues—the insulation and air tightness requirements are starting to have a significant impact. For example, improved insulation dictates that the standard 300mm wall thickness moves up to 400mm —this equates to around 1 per cent of GEA¹⁴ in high destiny schemes. Essentially, in a scheme of, say, a thousand homes 10 units would be lost as a result of this factor alone as planning consents are normally described in consented GEA terms. Given that there is no demonstrable correlation between falling fuel bills resulting from improved insulation and higher residential values, such additional costs will migrate straight to the bottom line of profitability. However, there are arguments that there could be commercial advantage in early adoption of higher standards and the future proofing of schemes against changes in standards but these depend on the certainty, or near-certainty, that the Government will drive forward the compulsory imposition of CfSH. This is currently far from certain.

Whilst there are as yet no definitive detailed estimates of live schemes being planned to Code 5★ standards, the EC Harris figures have achieved a level of credibility given that they are the only rigorous assessments of costs to date. It is reasonable to conclude that generally for larger schemes these costs will be lower on average and conversely higher for smaller schemes, given the effect of economies of scale.

Affordable Housing Delivery

Much has been made of Ken Livingstone's headline 50 per cent affordable housing target. It must be repeated here that the Mayoral policy was to maximise affordable housing within the boundaries of financial viability, objectively tested. Fifty per cent was the target output from all sources, not just s.106 schemes,¹⁵ including long term voids brought back into use and schemes developed solely for affordable housing by RSLs.¹⁶

The Mayor's London Plan Annual Monitoring Report 4 (published February 2008) reported on housing provision in London 2006/07.

The Monitoring Report measures new provision against the London Plan targets. Until March 2007 this target was 23,000, thereafter it was increased to 30,500. The reported 31,650 homes output was therefore significantly above the existing target and even exceeded the new target for the following year by more than 1000 homes. On the face of it this is a very creditable outcome. However, these figures include non self-contained dwellings (e.g. student accommodation) and long term voids returned to use. The actual new build conventional output is reported as 27,500 dwellings (the highest figure since 1988) of which 9,400 (34 per cent) was affordable housing. Of these approximately half were social rented units. By my calculations, this "record" year of output has produced 27,500 new completions overall with 4,794 intermediate homes (17.4 per cent) and 4,606 social rented dwellings (16.8 per cent). Overall, against the headline percentages actual levels were 16.8 per cent social rented against a Mayoral aspiration of 35 per cent (not just new build) and 17.4 per cent intermediate measured against the 15 per cent London Plan target. Clearly, whilst affordable housing provision overall at 34 per cent was below the 50 per cent target, the social rented component at 16.8 per cent was disappointingly low, whilst the intermediate element exceeded the target. The contention is that the strain was already beginning to tell in a year when the CfSH had yet to bite and also when market conditions were perhaps at their most propitious.

¹⁴ Gross External Area.

¹⁵ i.e. provision of affordable housing in private sector residential or mixed use development through planning obligations under s.106 Town and Country Planning Act 1990.

¹⁶ Registered Social Landlord.



In terms of longer term trends, the output for the last three reported years was as follows:

	Private	Total Affordable	Affordable Percentage	Total
2004/05	15,310	7,515	33%	22,825
2005/06	17,117	7,696	31%	24,813
2006/07	18,081	9,435	34%	27,516

These figures demonstrate that whilst there has been a steady increase in completions each year, the proportion of affordable housing has not moved upward significantly. Indeed, it is arguable that the percentage of affordable housing has only been maintained at the expense of social rented dwellings, with intermediate homes swelling the numbers. The “lag” effect may see schemes started in 2006/07 completed in 2007/08, continuing the rising output of completions; indeed, the recorded starts on site in 2006/07 amount to 29,437. However, it seems highly likely that completions for 2008/09 will start to fall—probably dramatically—as starts on site are taking place in a more challenging market.

Against this background, the introduction of the CfSH is likely further to discourage investors and developers from investing in larger mixed use, mixed tenure developments—precisely those schemes that provide the pipeline and longer term supply for housing overall.

Draft Mayor’s Housing Strategy

In September 2007, the Mayor issued a draft Housing Strategy¹⁷ for public consultation and consultation with the London Assembly. This draft emerged from an earlier consultation draft “Towards the Mayor’s Housing Strategy”,¹⁸ which was informally consulted with industry and community organisations. The 2007 document was broadly accepted by the London Assembly and it was intended that after the election the document would be amended in light of comments received and published in final form in the autumn of 2008.

The Mayor’s vision for Housing in London was guided by the following broad principles:

- 1 More homes, more family homes, more affordable homes
- 2 Better design, greener homes, renewed homes, estates and areas
- 3 More choice and opportunity, less homelessness, overcrowding, more sustainable communities

Specific Mayoral policies encompassed a target of 50,000 new affordable homes during the three years 2008–2011, boosting the supply of three-bed homes, an equitable balance across London’s sub-regions, an appropriate supply of supported housing, and alignment of housing and infrastructure investment programmes. Supporting policies proposed new forms of private investment and development, particularly in private rental, speeding up land assembly, RSLs taking a lead role in development, consistency as regards housing aspects of planning gain, a particular focus on intermediate housing, climate change and sustainability (which featured highly throughout) and in particular the Mayor proposed to fund only those affordable housing schemes which complied with the Code for Sustainable Homes targets, with priority going to those which went further.

¹⁷ “The Draft Mayor’s Housing Strategy” GLA, September 18, 2007.

¹⁸ GLA, November 2006.

So, enter Boris Johnson.

The new Mayor's Housing Manifesto

Essentially the new Mayor's Housing manifesto¹⁹ was surprisingly congruent with that of the previous Mayor. For example, he has adopted the 50,000 new affordable homes by 2011 target, has pledged to deliver more family sized homes, wishes to agree more intermediate housing opportunities, encourages more environmentally friendly homes by exhorting the Boroughs to adopt the Merton rule for onsite renewable energy. In many ways it is difficult to see where the differences in policy are. View corridors and infill development seem to be the most relevant differences, but it is arguable that these are not significant in the context of this discussion. Essentially, it is the general philosophy of limited interference in Borough decisions generally and in respect of affordable housing specifically, that indicates the Mayor's stance. He has now indicated that he favours a 60/40 split between social rented and intermediate rather than that of the previous Mayor's 70/30 split, thus driving up intermediate homes output by a third if achieved. Similarly, the manifesto commitments made in "Protecting our Local Environment" envisage policies, which are not that dissimilar to the previous Mayor's. In a recent statement, on June 18, the Mayor indicated that he will "call for all new homes to meet code level 3 of the Code for Sustainable Homes by 2010 and level 6 by 2016". This is of course directly in line with the Government's targets and perhaps not as strong as the previous Mayor's intention to use funding of RSLs to be in advance of that requirement. Indeed, effectively the previous Mayor's funding of RSLs meant that not only the RSL component but the private market housing in apartment blocks would have to be built to the same standard, as mixed standards would not be acceptable from either a planning or housing viewpoint. The issue of course is the trade off between the grant required for viability and the additional costs incurred in respect of all dwellings in complying with specific CfSH requirements.

Within the structure of GLA housing policy sits the Mayor's Housing Forum. The first post election meeting of the body, which encompasses up to 70 interest groups, was held on June 24. A member of the Mayor's Transition Team, Richard Blakeway gave a presentation on the emerging Mayoral view on housing.

The theme of the presentation was to emphasise that there was change with a new Mayor and new ideas, that there would be continuity with support for some existing policies but that there was a new housing context with falling house prices and the credit crunch. The change dynamic saw a theme of working with Boroughs, leaving behind a target driven culture and a desire to meet aspiration as well as need.

New ideas to address this agenda included a new "First Steps" intermediate housing scheme, increasing intermediate housing to 40:60 in its proportion to social rented and a 1 per cent target for empty homes.

A focus on design issues was clear—closer involvement of RSLs, CfSH targets for private homes, designing out crime and space standards for private as well as public sector.

Under the continuity theme the existing 50,000 affordable homes target was adopted, the Mayor would take the chair of the HCA board for London (like his predecessor). Addressing homelessness

¹⁹ "Building a better London" superseded by "Planning for a better London". July 2008, GLA.

and the need for increases in family accommodation were recognised. A draft new Housing Strategy would be produced for late 2008 as would a new draft Housing supplementary planning guidance.

Other points of clarity emerged including the announcement that the Mayor would be seeking to appoint a Housing Adviser—this is believed to be a senior appointment and will be clearly highly influential. It was indicated that the Mayor would chair the HCA Board which is reassuring, as failure to do so could have seen housing viewed as a Cinderella issue.

More recently, a direction of travel document was published by the new Mayor to clarify the approach to planning policy in London.²⁰ Providing the homes that Londoners need and improving the environment/tackling climate change were two of the main challenges identified by the Mayor. On housing the Mayor repeated the 50,000 affordable homes by 2011 target; the emphasis on collaborative working with the Boroughs in relations to needs and delivery; the commitment to produce a new draft Housing Strategy for consultation later in 2008 and revised supplementary planning guidance on housing; an emphasis on family housing and intermediate/shared ownership housing and the importance of improving design and quality standards including environmental standards. On the environment/climate change, the Mayor reiterated his support for micro-generation, on-site renewable energy and low carbon energy options; in addition he indicated his support for high quality design embodying the most up to date standards in energy efficiency and sustainable construction.

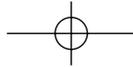
As can be seen from all this, there is little which is at marked variance to the previous Mayor's housing position, other than the pledge to abolish the 50 per cent affordable housing "target" and the adjustment to the balance between intermediate and social rented. However, there were some surprises. Given that there is little difference between the two Mayors, it is mystifying why there should be a major re-write of the draft Housing Strategy. Papers submitted to the Housing Forum indicate that "... its content will be significantly different."²¹ A timetable envisages a new draft Housing Strategy being prepared by the end of this year with public consultation in spring 2009 and final adoption towards the end of that year. Frankly, this sort of delay in the current housing market is disappointing—understandable perhaps given the likelihood of a general election in 2009 but the uncertainty created in the absence of a definitive Mayoral position on housing is likely further to erode confidence in developers and RSLs.

Response to the new Mayor's Emerging Housing Strategy

It is much too early to assess the response to what is a very sketchy set of housing proposals differing little, on the face of it, from the previous incumbent's well-rehearsed position on housing in the capital. It is understood that there has been some scepticism as regards some of the specific initiatives set out in the manifesto: the First Steps scheme, which appears to be an 80 per cent discount for sale scheme, offers too high an entry level compared to conventional shared ownership and English Partnership's First Time Buyers Initiative; the introduction of co-operative schemes, which were tried in the Seventies but never really got off the ground; and the Community Land Trust model which is largely untested on any scale. Officers of the GLA are undertaking a thorough analysis of the detailed manifesto proposals and it would be fair to say are unconvinced that these are major initiatives which would significantly assist in the delivery of the agreed Mayoral targets. Similarly,

²⁰ "Planning for a Better London" (July 2008).

²¹ Mayors Housing Forum June 24, 2008 Item 3.1.



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whilst there is no headline delivery target of 50,000 affordable homes, there is a corresponding target output for private homes. The point has been made that were the Mayor to achieve his 50,000 affordable homes over the next three years, the proportion would exceed the Livingstone target of 50 per cent, even if current record levels of output continued. If a major programme of schemes which are affordable housing only were mounted, rather than being part of a mixed tenure scheme delivered under s.106 arrangements, it is perfectly possible in a market where private house building has slumped to see output of affordable home as high as 70–80 per cent of total output.

Perhaps the most significant point has been the new Mayor's avowed hostility to targets for the Boroughs. It is argued that high targets are a positive disincentive to affordable housing delivery and that Boroughs with a more relaxed attitude to targets and affordable housing tariffs secure greater output. There is no evidence to support this argument and frankly it is counter-intuitive to profess that no target will lead to a better outcome. Take, for example, Wandsworth where affordable housing percentages have fallen over the years 2004/05 to 2006/07 from 23 per cent to 19 per cent. This compares with Hammersmith and Fulham where affordable housing percentages have risen over the same period from 57 per cent to 74 per cent. Both authorities are portrayed, perhaps unfairly, as being at the extreme ends of the spectrum, although of course Hammersmith and Fulham's record may well change, given the change in political control in 2006. There is, therefore, unsurprisingly some scepticism as regards a targetless approach to affordable housing at Borough level.

Other comments have picked up on particular themes, for example writing in *Roof*,²² Catherine Glossop makes the point that there must be a greater role for the private rented sector. "Ultimately, Johnson needs to tackle the myth that home ownership is always best—particularly for people on low incomes". Both Mayors have expressed support for an expanded private rental sector and the British Property Federation has lobbied hard on this point. But there is a point in what Glossop says where home ownership is seen through the new Mayor's eyes as the normal aspiration. The previous Mayor and his senior advisers saw growth in the private rented sector as representing better affordability than outright ownership and importantly avoided over-emphasis on home ownership, as they appeared doctrinally opposed to this.

Analysis and Discussion

This is clearly a confused and complex time for London, not only do we have the problems associated with delivering affordable housing where output targets are significantly short of the 50 per cent target, there are also profound market changes and new policy dynamics, not least CfSH. Taking each of these in turn, how can we divine what the future holds?

Affordable housing numbers have never got near the Livingstone aspiration of 50 per cent on a London-wide basis. The major issue has been financial viability; whilst the scheme appraisal system works (e.g. *Three Dragons Toolkit*²³) at a rudimentary level for smaller, less complex schemes, its application to larger mixed use schemes is problematic. Key assumptions, in the fullness of time, were often found wanting; for example, gross:net calculations in respect of the residential components of major schemes were often too aggressive. In effect, build costs versus saleable areas

²² *Roof* (July/August 2008).

²³ Developed by Three Dragons consultancy and Nottingham Trent University for the GLA and Housing Corporation, it is used by the Mayor, London Boroughs and the Housing Corporation to test the viability of residential schemes in relation to the Mayoral objective that 50% of additional housing provision should be a form of affordable housing and whether any social housing grant is required to contribute to this output.



had been understated because amongst the modellers there was insufficient understanding of the actual applications of these critical indicators. Many mixed use schemes had retail or other uses at ground floor, thus lifts and stairways serving the residential component reduced the effective gross:net ratios. This was often overlooked with modelling assumptions at 85 per cent gross:net, whereas in reality they are down below 80 per cent, possibly as low as 75 per cent, effectively losing 10–15 per cent of developers' sales revenues, whilst construction and other costs remain static. This does not bode well for an appraisal showing profitability in the range of 15–20 per cent of revenues.

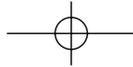
Other factors, such as changing standards and space requirements for grant funded affordable housing have similarly reduced the revenues derived from grant funded schemes. For example, the space standards agreed in s.106 requirements for intermediate housing within a major scheme were some 10–15 per cent below those specified subsequently for funding purposes by the Housing Corporation. Other requirements such as the compulsory compliance with Lifetime Homes²⁴ have put additional requirements on developers. This has been combined with steady downward pressure from the Housing Corporation to reduce average grant inputs per bed space.

Similarly, as Borough policies evolve, once a scheme has received outline planning permission with an agreed s.106, there is strong pressure from the Local Authority on developers to make reserved matters applications taking in the revised policy requirements. The strict position is, of course, that the terms of the existing s.106 prevail but it becomes very hard to resist this as the agreed s.106 becomes increasingly "historic". This becomes nigh on impossible where, to meet changed circumstances, a new full application has to be submitted in respect of one or more plots where there is a pre-existing master plan which is being partially amended. In this instance, of course, there is no option but to comply with the newly adopted policies.

It is a truism to say that very few, if any, policy changes have reduced rather than increased the costs associated with development. We have had strong growth in the residential market and this has mitigated to some extent the impact of these downsides. However, strong growth in values was matched by strong growth in construction prices. Affordable housing delivery was clearly being affected at around 30–35 per cent of new build—even these levels perhaps are over-stated given that within this percentage there will be a number of RSL schemes, which comprise only affordable housing.

Against this background, we have seen the introduction of the CfSH. The cost implications of CfSH are set out earlier. The impact of these costs can be set against the average amounts paid by RSLs for s.106 dwellings. In a recent deal in south east London the RSL was paying on average £166,000 for a mixed bag of social rented and shared ownership homes. The estimated value of these homes is about 45–50 per cent of the open market value. To get to Code Level 4* would incur a £17,000 cost increase and £36,000 in the case of Level 5*, assuming these were high rise flats. There is no guarantee of an increase in grant for the affordable housing at either level, merely that schemes which go further than the required code level would be accorded priority. The problem is exacerbated in that Code 5* implies off plot development-wide solutions, such as an energy centre, with the heavy front-end costs being recouped over many plots and an elongated development timescale. Any grant awarded would be pro rata to the number of affordable homes in the relevant plot(s), not for the whole scheme.

²⁴ Lifetime Homes is a standard incorporating 16 design features that create a blueprint for accessible and adaptable housing in any setting—www.lifetimehomes.org.uk



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There is no doubt that the relatively recent public acceptance of climate change has led to the acquiescence with CfSH and environmental issues by the housing industry generally. A number of major developers and house builders have been keen to demonstrate their “green credentials” in light of the wider corporate social responsibility agenda. However, there is little if any firm evidence that house buyers will pay any additional premium, let alone one sufficient to cover the additional costs incurred in meeting CfSH. One argument has related to brand perception and future proofing—early adoption of these standards was felt to be good for company image and placed the developer in a good position once the implementation of CfSH became mandatory. The solutions and methodologies would have been developed early, enabling leading developers to enjoy a competitive edge over house builders who did the minimum until the last possible moment. There is of course the risk of technology redundancy with this particular strategy. Some insiders are now saying that informally Government is talking of applying CfSH up to Code 4* and not proceeding further in view of the costs and current economic conditions. Indeed, there is a strong argument in favour of turning the main attention on climate change issues to the existing stock and building new homes to more modest sustainability standards.

The CfSH is a national policy and so are the proposals for the Community Infrastructure Levy²⁵ (in place of the previous proposal for Planning Gain Supplement²⁶). These have added to the uneasiness. Both of these are seen as further threats to financial viability and simply add more confusion, cost and uncertainty in taking forward major development projects. It seems to practitioners that the welter of Government policies and initiatives has added little or nothing to ensuring that the planning system can deliver the dwelling numbers that are so clearly required.

We then add to this the specifics of the London situation. Generally, the Boroughs were aware of and compliant with the outgoing Mayor’s housing requirements and policies. The Mayor’s influence on housing matters in the capital was recognised by the Government legislating and enabling him to produce the United Kingdom’s first statutory housing strategy. This in itself was an innovation in that whilst Local Authorities have been producing housing strategy documents since the 1970s, in order to bid for capital allocations, these were not statutory documents. They were, of course, highly influential and an authoritative statement of a Local Authority’s housing policies and priorities. The London Mayor’s Housing Strategy is delivered by a Mayor with no direct housing powers and whose views often ran somewhat counter to Local Authority views, which often equate to “local policies for local people”. It is perhaps a measure of the former Mayor’s commitment that he has succeeded in delivering a respectable amount of affordable housing, albeit somewhat short of his 50 per cent aspiration by waving “the big stick” through the use of his existing and revised planning powers.

Notwithstanding this relative success, the ex-Mayor pressed for, and the Government provided, an increase in Mayoral planning powers implemented from April this year.²⁷ The Mayor now has power to call-in applications for his own determination (and so to negotiate s.106 Agreements), rather than only having a power to direct refusal. Furthermore, this power is exercisable against a background of generally lower thresholds for notification to and involvement of the Mayor. For example, applications of potential strategic importance now include developments of 150 houses/flats compared to the previous threshold of 500. No doubt the ex-Mayor would have continued to argue

²⁵ “The Community Infrastructure Levy” DCLG, August 2008; Planning Bill

²⁶ “Planning-gain Supplement: a consultation” The Stationery Office, December 2005

²⁷ The Town and Country Planning (Mayor of London) Order 2008, in force from April 6, 2008



that the use of these radical new powers would be limited and their mere existence would ensure compliance with Mayoral and Government policies and requirements.

To this heady brew of change is added the rapidly worsening UK housing market. Certainly at the point of writing there is no sign of any recovery—rather the reverse. Massive layoffs in the industry are occurring daily and house builders announcing that there will be no new starts until there is a recovery in access to mortgages through improved liquidity in the economy. The Government has announced minor measures to help the position in terms of an increase in cash flow for grant-aided affordable homes; advice and assistance to distressed home owners and relaxations as regards standards for purchase by RSLs of homes originally intended for private owners. The house builders' representatives are now calling for support to first time buyers, possibly in the form of assistance with deposits, abolition or mitigation of stamp duty and even the re-introduction of tax relief on mortgage interest. Other commentators have urged direct action on the part of local authorities with mortgage guarantees or even direct mortgage lending, representing a return to the 1970s when, in London, the former Greater London Council, was a significant “lender of last resort” to Londoners acquiring their first home. All in all, it is a very gloomy picture and by the time this paper is delivered will in all likelihood have got worse with the probability of urgent Government action to address the problem under way.

Conclusions

There are a number of broad conclusions that can be sketched out here.

- 1 Affordable housing delivery in London has run in recent years at around one third of new build completions. This is well short of the former Mayor's aspiration, as expressed through the London Plan of 50 per cent, from all sources;
- 2 Financial viability issues have been the main factor in this under-achievement;
- 3 The proliferation of new policies and requirements through the planning system has confused and compounded an existing complex situation in London;
- 4 The financial consequences of a full implementation of the Code for Sustainable Homes will put further pressure on housing development generally and affordable housing specifically, leading to a reduction in the proportion of affordable housing;
- 5 Housing market factors, whilst cyclical, have led to a slowing of development and to industry calls for Government support for the industry.

In the current circumstances, it is difficult to see that the Government could or should press ahead with the full implementation of the CfSH. Indeed, there are strong arguments that addressing the poor insulation and condition of the existing stock would be a far more cost effective investment in the drive to reduce carbon emissions. This is not to say that new build homes should not make their contribution to reducing carbon emissions but a firm commitment by the Government to Code 3* or 4* and an extended timetable to move towards 5*, say, by 2020 or 2025 with the elimination of the 6* target altogether would give some certainty to the industry which is currently in crisis. Additionally, relaxation of the stringent 80 litres water usage per day is necessary if 5* is to continue as an objective.

Government action to address the wider market problems is beyond the scope of this paper, but there is no doubt that some measures will be essential in the very near future. Too little, too late will simply mean that Government pledges to build 3 million homes by 2020 will be beyond achievement.