

The Elphicke-House report on housing delivery

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Summary

In the 2013 Autumn Statement, the government announced an independent review into the role local councils can play in promoting and enabling new housing in their areas. Natalie Elphicke, and Councillor Keith House were appointed to lead the review.

Their report, ["From statutory provider to housing delivery enabler"](#) was published at the end of January. In essence, they argue that councils should take on a more central role in promoting housing supply, changing from being just a provider of homes to enabling the delivery of new housing by a variety of providers. The report, which has been welcomed by government in its initial response, contains 30 recommendations for councils, including the LGA, and government. Whilst it covers much of the same ground as the Lyons Review (see briefing dated 12 November 2014), it comes at the issues from a more government friendly angle whilst still dealing with the major problem of under-supply.

This briefing will be of particular interest to members and officers with responsibility for housing, planning, finance and economic development and of general interest to other elected members who are concerned about housing supply shortages.

Briefing in full

Introduction

In the 2013 Autumn Statement, the government announced an independent review into the role that councils' can play in helping to meet the housing needs of their local population, "within the context of the need to ensure good value for money and fiscal discipline". The Review's terms of reference are quite wide-ranging and include issues such as how local authorities are using the HRA changes to support house

building; use of council asset bases, both through sale and using their own land to promote development; and innovative finance measures to promote new homes.

Crucially, though, *"the review must not produce any recommendations that breach the Government's fiscal consolidation plans or require changes to the Government's national accounting framework."* In other words, the HRA borrowing cap is off limits and don't even think about suggesting using the General Government Financial Deficit (GGFD) to calculate government borrowing.

In January 2014, Natalie Elphicke, a respected lawyer and housing finance expert, and Councillor Keith House, the leader of Eastleigh Borough Council, were appointed to lead the Review. Their report "From statutory provider to Housing Delivery Enabler: Review into the local authority role in housing supply" was published on 27 January 2015.

Focus of the Review

Arising from the terms of reference, the reviewers identified six key areas to examine and inform their review.

Support for housing stability: The reviewers were clear that the government expected their proposals to support stability in the local authority housing sector, whilst "not breaching any fiscal consolidation plans, or require changes to Government's national accounting framework". A big caveat.

A fresh approach: The reviewers took a broad approach to how local authorities could increase cross-tenure housing activity in their areas to meet local needs.

Engaging with stakeholders: The reviewers engaged with over 400 participants to *"explore the housing activity role undertaken by councils from a full range of perspectives: from residents, housing associations, developers, start-up housing businesses, finance and investment markets, mortgage markets, councils, council leaders and council officers, MPs and Ministers, central government and other public bodies such as the housing regulator"*.

The role of councils in local housing delivery: The context for the Review is to look at the housing activity of councils, along with recent changes to their powers and responsibilities in the housing and planning spheres.

The importance of a local context: By homing in on what is working at local level, the reviewers have been able to adopt a practical approach to what changes can be made to ways of working to improve partnerships and relationships with other players.

Making a long term impact: By looking at opportunities for and limitations on assessing and meeting local housing need, the Review aims to assess the capacity to affect long term structural change to meet housing need.

In conclusion, the Review identifies seven major themes, dealt with in more detail below, which taken together analyse the role of local authorities in promoting increased housing supply; it also considers how that role may be enhanced and produces 30 recommendations for both government and local councils.

The local authority as Housing Delivery Enabler

The key recommendation of the Review concerns the wider role of the local authority as an enabler, rather than a provider, of homes to meet local needs; this flows from the authority's strategic remit to assess and meet the housing needs of its population.

Core Recommendation: Councils have primary responsibility to assess and meet the housing needs of their local population as Housing Delivery Enablers. Councils should assess and drive housing activity and housing delivery in their areas and for their local population.

The Review sets out how the role of Housing Delivery Enabler can be achieved.

The role of Housing Delivery Enabler can be met through (i) community leadership and strategic clarity; (ii) creating housing opportunity; (iii) business leadership; (iv) management of housing supply; and (v) shaping a stronger housing finance market.

The Enabler role may be shared, or partially shared with neighbouring councils where, for example, housing market areas cross council boundaries, but ultimately, each council is responsible for meeting the needs of their population; they should aim to make development happen, rather than just identifying need and granting planning permissions.

The council can utilise its community leadership role to make the case for housing and to drive development, working with partners, identifying land and other assets to promote housing growth. The community leadership role is dealt with in greater detail below, as are issues of creating housing opportunity, business leadership, managing housing supply and changes to the housing finance market.

All this is informed by the Review's core conclusion - that local councils should take on the role of Housing Delivery Enabler.

Community leadership and strategic clarity

The Review recognises that housing is essential to the success of a community in more ways than just the provision of a home. It contributes to the local economy and promotes positive benefits for the education and health of local people. It can also support wider objectives, such as growth, jobs and training.

The council's role as community leader enables it to ascertain the aspirations of a community and its individual members, thereby giving it the tools to promote an agreed strategic vision for housing in the area. Its role as Delivery Enabler involves choices about sites, costs, who the housing is for, and a cost-benefit analysis of the use of public assets.

Local economic growth can suffer from the shortage of suitable housing for existing or potential employees; businesses may be deterred from expanding or relocating to an area, as demonstrated by research in 2013, which found 55% of managers contacted said the availability of housing for employees would influence their decision on relocating. London is the most extreme example of where a dysfunctional housing market means public service workers and other middle income households are priced out of their local area and face long commutes to work. In fact, the business group London First has described the impact of London's housing situation as "*hampering the capital's economic and physical growth*".

How many homes do we need? The current consensus is upward of 220,000 per annum nationally just to keep up with demand. However, drilling this down to a local level can be controversial, particularly as there is no agreed method of calculating housing need at community level. Councils have an important advocacy role in articulating housing need across all tenures; this flows from their primary role in creating a vision for their area. Their approach to housing should reflect the community's wants and needs; they need to engage actively with local people to achieve this, but not all are doing so.

Recommendation: Government considers strengthening advice to encourage more councils to pro-actively support neighbourhood planning and for councils to engage residents in shaping housing needs more regularly.

Councils also need to ensure that their approach to housing reflects the changing needs of the population over time. Without this, any assessment of housing need is a snapshot, rather than a tool for growth.

Recommendation: Councils develop more robust housing approaches that include housing demography, mobility of tenure, economic growth and business needs as well as broader choice for residents, including the impact on the physical and economic wellbeing of residents' changing needs in older age, as well as affordability and financial inclusion.

Creating housing opportunity

Councils have a number of tools at their disposal to promote housing delivery, but evidence to the Review suggested that, despite a uniform desire to take on the role of Delivery Enabler, these were being used with varying degrees of success. Partnerships took typically 3-5 years to set up and deliver, and businesses reported attending 300-400 meetings across different councils to set up contracts. Knowledge was not always shared, despite a willingness to do so. Seeing housing as a major

investment to support a wider area vision, together with strong leadership at member and officer level is vital to support housing delivery. There is scope for the LGA to promote Housing Delivery Enabler role through its peer challenge process.

Recommendation: the LGA considers how it can encourage councils to fulfil more of the role of Housing Delivery Enablers, including through its peer challenge processes.

In rural areas, where resistance to new homes can be quite deep rooted, Rural Housing Enablers, where they still exist, can ensure development meets local need and helps villages remain sustainable.

Recommendation: Councils, including county councils in two-tier areas, consider potential models for funding Rural Housing Enablers, including the potential for forward-funding from future development value.

Although they have a responsibility for evaluating housing need, the main tool being the Strategic Housing Market Assessment, councils differed in the way they used these to assess future housing need. There was also variance in quality and transparency; government could offer improved guidance at its next review of the National Planning Framework.

Recommendation: At its next review, Government considers guidance to councils on:

(i) the importance of transparency about the findings of housing market assessments – given their link to housing delivery;

(ii) the accessibility of assessments, for example through publication of a very short executive summary of Strategic Housing Market Assessments setting out the key information;

(iii) the importance of reporting progress in monitoring housing need and delivery annually to residents.

Although the Delivery Enabler role may be best delivered by two or more councils working together, it is important that each council can identify its own goals for its area.

Recommendation: That where the strategic housing market assessment covers a wider geography than the council's own area, councils clarify their individual responsibility – accounting for the part of their housing market in their own area, in accordance with the expectations in the National Planning Policy Framework.

Planning policy has undergone radical change in the past few years and all parties told the Review they would welcome a period of stability.

Whilst the HRA changes have enabled some councils to fund housing investment, other mostly stock-owning councils indicated they needed more borrowing headroom

to invest in new homes. Although precluded by its terms of reference from recommending this, the Review goes as far as it feels able.

Recommendation: Government considers within its overall current spending plans flexibilities in any possible further HRA borrowing programme to enable councils to use both additional borrowing and 1:1 receipts to enable councils to deliver replacement units for Right to Buy stock.

Some councils were reluctant to use self-financing as they did not wish to set up an HRA again and did not appreciate they could build to a limited degree outside the HRA.

Recommendation: Government publicises the freedom available to all councils to build outside the HRA, and opportunities to dispose of non-strategic sites both inside and outside the HRA.

Recommendation: Government raises the guideline threshold for the number of 'council' units that can be built outside the HRA for all councils from 50 to 200 units.

Recommendation: Government considers ways to simplify the process for obtaining the directions and general consents needed from the Secretary of State where a local housing authority proposes to build units outside the HRA, before writing to all councils setting out the new approach.

The Review looked at how public sector costs for development and housing management compared with the private sector, including housing associations. There were no clear answers, with "efficiency" dependent on issues like location, size of contract etc.

Recommendation: Councils periodically test value for money from their contracts, so savings and service quality benefits might be generated by operating different procurement models.

Business leadership

The Review found that councils were most successful in fulfilling their enabling role when they worked in partnership with others, principally developers, housing associations and finance partners. There are various means to stimulate investment, such as provision of land, equity sharing, as well as putting in capital directly - all dealt with in more detail in a later section below. Councils can attract potential partners through a robust master planning operation.

Development Panels, used by the HCA and the GLA, can provide a selection of pre-qualified developers, thereby speeding up the construction process, but have the disadvantage of excluding small developers and further exacerbating the domination of the construction industry by large national firms.

Recommendation: Government considers issuing guidance on development panel best practice so that HCA, GLA and other public bodies with panels invite applications from developers/ builders/ new entrants/ specialist providers to be on a development panel each year, and actively enable greater diversity and opportunity.

Small builders and specialist firms told the Review they find it difficult to break into the sector, yet small firms are well placed to deliver on small sites, say with under 10 units. Working with larger developers could assist small firms in providing the necessary skills and training for new workers.

Recommendation: Councils, in their role as Housing Delivery Enablers, consider how they can actively support smaller and start-up housing businesses locally with land, finance, and skills/ business training and opportunities for partnerships and collaborative working.

Government has recently devised a scheme to assist development of sites under 15 units, a size which would be ideal for small local firms, and the Review considers a targeted investment fund, administered locally, would benefit those small players.

Recommendation: Government monitors its schemes to support small builders, and considers further support to help expand this sector of the building industry.

Management of housing supply

Councils have a responsibility to identify the land needed for housing development; the Review looked at how they were utilising their own land to further this and found examples of good practice, for example rationalising offices or moving to smaller premises which enabled the resulting vacancies to be brought forward for housing.

Whilst most councils thought they were transparent in identifying their land holdings, other respondents were not as convinced; government could assist in this by extending the Transparency Code to cover housing assets, which are currently excluded.

Recommendation: Government consults on extending the Transparency Code to cover all HRA land and assets, and that councils should start to make preparations for publishing data ahead of this extension.

Council owned land forms only part of the public estate and the existing website does not cover all public bodies which may have land suitable for housing.

Recommendation: Government works with public bodies to develop an electronic platform allowing data on all land – owned and leased – that is held by public interest bodies to be open and transparent.

The Review found some councils were cautious over land disposal and were unsure whether procurement rules applied. Government guidance appeared to be poorly understood.

Recommendation: Government updates and re-issues guidance about land disposals and in particular clarifying public procurement considerations and options, so councils are clear about the factors that need to be taken into account in disposing of land.

As Delivery Enablers, councils could take an active role in identifying smaller development sites; these would be attractive to small local firms or community or custom built housing.

Recommendation: Councils take a proactive role in identifying smaller sites suitable for custom build and local builders.

For such sites, councils could look at alternative methods of realising site value, for example land covenants and development licences, which do not involve up-front costs to the developer.

Recommendation: Councils consider using land covenants, development licences, and coverage to secure best value at a later point in time in order to release small sites for priority house building.

The Review found it was difficult to obtain an accurate assessment of how much land is in public ownership; it also received a wealth of evidence of vacant public land remaining unused for several years. The Review considers councils, as the strategic body charged with identifying housing land, should have a stronger role in bringing vacant public land to the market.

Recommendation: Government consults on proposals, ahead of legislation, to give councils a new direction power allowing them to dispose of larger sites in their area which are owned by other public bodies.

In addition, councils should work with partners to unlock sites where planning permission is awaited or has stalled.

Recommendation: Councils take responsibility to work with developers, local businesses, agencies and others to ensure that sites with planning permission are taken forward in a timely manner to delivery.

Shaping a stronger housing finance market

The Review was charged with identifying innovative financial solutions together with examples of institutional investment. The reviewers found a general willingness to look at ways of raising and supporting finance for housing, both for council schemes and with partners. Numerous examples are cited in the Review.

Some councils were concerned that they lacked sufficient resources to identify and progress housing development, but others had successfully prioritised housing in the context of wider financial benefits.

Businesses, the Review found, were keen to work with councils on financial issues, but would welcome guidance on how best to do this. Arising from this and other issues, the Review looked at how government could best support innovative financing and the Delivery Enabler role; it concluded that a new, independent organisation was needed.

Recommendation: Government, with support from the Local Government Association, establishes an independent Housing and Finance Institute to support a step change in housing activity leading to better understanding and assessing of options, faster implementation, increased housing delivery over the long term and which can help to shape a stronger housing finance market.

Many councils are using local housing delivery organisations to develop new stock. The Review identified the three main types as

- A wholly owned, and thus on-balance sheet local housing company
- An institutional investment partnership, where the investor funds the development
- An operating lease model where the council owns the homes developed but contracts with another party to manage them

Councils will decide which, if any model, best suits their circumstances.

Recommendation: Councils that are considering expanding their housing offer beyond their traditional one consider setting up local housing delivery organisations.

Recommendation: Councils consider the benefits in developing private finance opportunity utilising models to support their role as Housing Delivery Enablers that are not dependent on local authority or national borrowing constraints.

The Review found that accessing appropriate investment was harder than expected. Many councils were keen to use pension and other local funds, but have met with resistance, Manchester being the exception. There was a perceived lack of clarity on how far public sector pensions could invest in housing and whether a new residential asset class would be of benefit. The government is considering the establishment of common investment vehicles for the Local Government Pension Scheme to make investing more efficient, and asset classes could be considered as a part of this.

Recommendation: If Government decides to consult on detailed proposals for creating common investment vehicles, consultation on residential housing asset classes is also undertaken.

Over the coming months, changes to pension funds governance will give elected members a greater oversight of investment decisions, which could prove beneficial for local housing schemes.

Recommendation: Government works with the sector to ensure that local decision making committees are given appropriate information and advice about where pension investments can be made. This would encourage greater choice of investment and more investment in housing and infrastructure.

Recommendation: Councillors responsible for local pension fund investment consider the benefit of a 3% Pension Fund Challenge to encourage active consideration of opportunities to invest in local housing and social infrastructure in their areas.

Making the change, monitoring the change

Finally, the reviewers commented on the number of papers and proposals, some beyond the scope of the Review, which could provide a valuable resource for future policy makers. They also drew attention to the need for measures of housing market performance applicable across the sector to be developed, possibly a task for the new Housing and Finance Institute.

Recommendation: That, if a Housing and Finance Institute is established, (i) that it collects and makes available a library of policy and practical papers and research for utilisation across the housing sector as a whole; and (ii) that measures of housing market performance are developed and maintained for utilisation across the housing sector as a whole.

The reviewers met with past authors of reports reviewing housing policy and concluded that future such work would be eased if a copy of all reports was held centrally by government.

Recommendation: Government maintains a public record of formal Governmental reports in each Parliament together with reports on the progress of recommendations which are subject to further work by Government.

Government's initial response

The government responded immediately to the publication of the Review, welcoming the report and its core recommendation that, whilst much has been achieved, local authorities could still do more to facilitate increased housing supply across all tenures.

Some recommendations, including that councils should become Housing Delivery Enablers, were accepted at once. Others were:

- Extending the Transparency Code to cover all HRA land

- Considering more government support for small builders
- Possibly strengthening advice to encourage councils to more pro-active in supporting neighbourhood planning.
- The recommendation for councils to periodically test their contracts for value for money

The government is interested in working with the LGA to encourage adoption of the Enabler role, including through peer challenge.

The remaining recommendations, the government says, need further exploration, particularly the proposal to establish an independent Housing and Finance Institute; the government is willing to look at this but nervous of increasing bureaucracy.

In principle, the government supports proposals for councils to work closely with partners and to ensure sites with planning permission are brought forward; greater transparency over all public sector land; and the importance of sharing information, partnership working and support for small builders.

Comment

Although it could be argued the Review is hamstrung by its terms of reference and the consequent inability to consider any changes to the current financial regime, its practical approach to housing delivery is welcome. Talking to local authorities, their delivery partners and others in the construction and finance industries has enabled it to establish a broad picture of what is being tried in different areas, what is actually working and what changes need to be made. These could be procedural - such as a comprehensive data base for all public land - or simply be sharing of information or clearer guidance, for example on disposal of land or building outside the HRA.

Whilst not such a broad brush as the Lyons Review, which is aimed specifically at the first five years of the 2015 government, there are common themes, of which perhaps the most important is the acceptance of a chronic undersupply of new homes and its wider economic consequences.

Both Lyons and this Review stress the importance of partnership working to deliver new homes and both seek to attract private sector funding, particularly institutional investment, which has been reluctant to invest in housing in this country.

The government has responded positively to the Review, particularly its ore finding that local authorities could do more to promote an increase in housing supply. The cynic might argue so could government, but the Review's terms of reference precluded recommending changes to the State's financial levers.

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