

# Housing and Planning Bill + Welfare Reform and Work Bill

There are two Bills going through Parliament at the moment that have implications for CLTs: the Housing and Planning Bill, which had its First Reading on 13th October, and the Welfare Reform and Work Bill, which was introduced to Parliament on 9th July 2015.

This Member Briefing provides an outline of the measures in the two Bills that have most relevance for CLTs and what lobbying action is being taking by the National CLT Network as a result.

## Housing and Planning Bill 2015

The Housing and Planning Bill has been introduced to Parliament, having received its First Reading on 13th October. It includes the following measures that are relevant to the work of CLTs:

1. Right to Buy
2. Starter Homes
3. Self-Build and Custom Housebuilding
4. High Income Social Tenants or 'pay to stay'
5. Neighbourhood Planning
6. Local Planning.

### 1. Right to Buy

#### Summary of the proposal

As you are already aware, the Government made a manifesto commitment to give tenants in housing association (Registered Provider) homes the Right to Buy their property.

We have been campaigning to make CLTs exempt from this proposal, given the potential impact on the whole sector.

Whilst initially it was thought that the Right to Buy would be taken forward through the Housing and Planning Bill, in September a deal was agreed between housing associations and the Government. This means that the Right to Buy will now be taken forward through policy guidance and will be **outside of legislation**.

The risk of Right to Buy legislation over-riding Section 106 agreements and their requirements for CLT homes to be affordable in perpetuity has therefore been avoided.

The Housing and Planning Bill itself sets out some measures that help underpin the Right to Buy. That includes the arrangements for funding for Right to Buy discounts, including enabling the Government to pay grant to housing associations for the cost of the discount. The funding for this will be raised through a requirement set out in the Bill that local authorities have to sell their high value housing stock when it becomes vacant. The Bill also

## MEMBER BRIEFING

gives the Secretary of State the ability to set criteria for home ownership against which Registered Providers will be monitored.

The Spending Review on 25<sup>th</sup> November announced that 5 housing associations will from 26<sup>th</sup> November be piloting the Right to Buy.

### **What does this mean for CLTs and are CLTs now exempt?**

The deal that has been agreed between Government and the National Housing Federation sets out that in certain circumstances housing associations can exercise discretion to decline a sale, including:

- **Properties held in a Community Land Trust.**
- Properties in rural locations as defined by Section 17 of the Housing Act 1996. This would generally mean properties in National Parks, Areas of Outstanding Natural Beauty and places that have been designated as rural by the Government (places with fewer than 3,000 inhabitants per hectare).

**So yes, what that means is that CLTs do not have to sell their homes.** We are currently lobbying Government to make sure that this discretion applies to *all* CLTs, including CLTs partnering with a housing association, and are promoting legally drafted wording that we have commissioned from Trowers and Hamlins solicitors.

The deal does state that whilst a CLT won't have to sell their home, there is a requirement to support the tenant to buy an alternative property, including from housing associations. We are currently lobbying on this requirement.

We are also keen to make sure that, where a CLT has granted a housing association a long-term lease for the CLT properties, the tenant can't use the Right to Buy to purchase the long-term lease from the housing association and then purchase the freehold from the CLT under leasehold enfranchisement. Most CLT-housing association partnership schemes are developed on exceptions sites and are subject to Section 106 Agreements that require homes to be kept affordable in perpetuity; thus preventing sales through the Right to Buy. It is now clear that such Section 106 agreements won't be over-ridden by the Housing and Planning Bill and in fact could only be varied with the consent of all parties, one of which is the CLT (as landowner). The Wessex CLT Project has commissioned legal advice on a new clause for CLT-housing association leases to prevent tenants of partnership schemes being offered the Right to Buy their homes (without the consent of both the CLT and HA).

### **What lobbying action is being taken?**

**Following the 'deal' we are now taking a twin-tracked approach to ensuring that the implementation of the deal protects CLT properties from the Right to Buy:**

- **We are influencing the implementation of the deal to make sure it gives the strongest possible level of protection for CLTs and that the requirement to find an alternative suitable property for the CLT tenant does not create a burden on CLTs;**
- **We are promoting an amendment to the Housing and Planning Bill.**

**We will update you on progress with this work in the next Member update.**

# MEMBER BRIEFING

## 2. Starter Homes

### Summary of the proposal

The Housing and Planning Bill formally introduces the proposal for Starter Homes that had previously been announced by the Government and was again announced in the Chancellor's Spending Review on 25<sup>th</sup> November.

Starter Homes, as defined in the Bill, are homes that will be sold at a discount of at least **20% of open market value** and less than the price cap (£450,000 in London and £250,000 outside London), to **qualifying first-time buyers aged under 40**. After five years the homes can be sold onto the open market, and the first purchaser will be able to retain the 20% discount at whatever the then market value of the home will be. There is currently no mechanism for recycling this for the benefit of more Starter Home purchasers.

The Bill places a duty on Local Planning Authorities to promote Starter Homes and requires them to monitor and report on how they have carried out that duty. It also states that the Secretary of State may, through regulations, require that a planning authority may only grant planning permission if the Starter Home requirement is met.

Outside of the Bill that Government has announced that Starter Homes will be permitted to count as 'affordable housing', including as part of developer S106 contributions and, following the Rural Productivity Plan (August 2015), on rural exception sites. We are seeking clarification on the latter.

Much of the detail of Starter Homes will be set out in regulations. Helpfully, the Bill does state that regulations will confer discretions to Local Planning Authorities and that certain types of residential development can be made exempt.

The Chancellor's Spending Review on 25<sup>th</sup> November announced that 200,000 Starter Homes will be built by 2020 and on 26<sup>th</sup> November the Minister for Housing and Planning, Brandon Lewis, stated that the Government's ambition is to combine the Help to Buy (an equity loan to First Time Buyers) to make them affordable to those on incomes of £20,000 or less.

### What does this mean for CLTs?

It is too early to tell what the impact of the Starter Homes initiative will be as a lot of the detail is still to be worked out.

However, it is obvious that in many locations 80% of market value is not affordable for those on medium to low incomes, particularly in high value areas and rural areas, even if it is combined with the Help to Buy scheme.

We are concerned that, as Starter Homes may be permitted to count as affordable housing, including on rural exception sites, and because they will generate a higher land receipt than affordable rented or shared ownership housing, they will lead to an increase in land prices. CLTs may therefore struggle to compete at such higher land price levels.

### What lobbying action is being taken?

## MEMBER BRIEFING

If indeed Starter Homes are to be allowed as part of the affordable provision on rural exception sites, we will be lobbying to ensure they do not replace a supply of rented and low cost home ownership homes that are needed to meet local need.

Once we have more detail on this proposal we will explore the scope for exemptions from Starter Homes on CLT sites and rural exception sites or a cap on the percentage of Starter Home units on CLT sites/rural exception sites.

### **3. Self-build and custom housebuilding**

#### **Summary of the proposal**

The Self-Build and Custom Housebuilding Act 2015 introduced new duties on local authorities to keep, and have regard to, registers of people seeking land for self-build and custom housebuilding. The Housing and Planning Bill sets out amendments to the Act and goes further than the Act, placing a duty on local planning authorities to give planning permission to enough serviced plots to meet the demand on the self-build register.

The Bill defines self-build and custom build as:

‘Building or completion by

- a) individuals,
- b) associations of individuals or,
- c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals’.

#### **What does this mean for CLTs?**

We have long been lobbying for CLTs to be recognised as being part of the self-build and custom build sector, so that CLTs can benefit from the recent measures and funding available to the self-build sector. If CLTs fit within the new definition, it would be a significant boost for the sector.

However, it is not currently clear whether CLTs are included in the definition of self-build and custom build as outlined in the Bill.

#### **What lobbying action is being taken?**

We are obtaining legal advice on whether CLTs will fit within the definition and are also promoting a probing amendment to the Housing and Planning Bill to clarify whether the Government intends CLTs to be included.

### **4. High Income Social Tenants**

#### **Summary of the proposal**

The Bill gives the Secretary of State the power to set the levels of rent that housing associations must charge social tenants that earn above certain salary levels. There is

## MEMBER BRIEFING

currently a consultation on the detail of this measure. Following that, regulations will determine how much rent a higher income social tenant should pay.

### **What does this mean for CLTs?**

This will apply to CLTs that are RPs and CLTs that have leased homes to RPs. It could lead to rent arrears and increased administrative and management costs.

**If you think this could impact on you please can you notify us asap. If you are unsure please contact us on [catherine@communitylandtrusts.org.uk](mailto:catherine@communitylandtrusts.org.uk).**

## **5. Neighbourhood Planning**

### **Summary of the proposal**

The Bill sets out provisions to speed up the neighbourhood planning process. The Bill introduces powers to allow automatic decisions on the designation of Neighbourhood Areas, introduces time periods for making key decisions by the local planning authorities, and allows the Secretary of State to intervene on the decision to send a plan to referendum. The Bill also allows Neighbourhood forums to request notification of planning applications in their area, enabling them to promote appropriate development.

### **What does this mean for CLTs?**

Speeding up the Neighbourhood Planning process is a positive move that could help bring more certainty to site supply for CLTs. It could also lead to more Neighbourhood Planning groups setting up CLTs.

### **What lobbying action is being taken?**

There is significant potential for Neighbourhood Plans to lead to CLTs. Housing is a key issue for half of the draft Neighbourhood Plans and is one of the top 5 issues commonly identified by Neighbourhood Planning groups. CLTs are a natural delivery vehicle for the housing and other development needs in Neighbourhood Plans, giving communities control over how their vision for their neighbourhood or parish is delivered.

**We are therefore urging Government to proactively promote CLTs to Neighbourhood Planning groups. This goes hand in hand with our own work to promote CLTs to Neighbourhood Planning groups.**

## **6. Local planning**

### **Summary of the proposals**

The Bill introduces some radical changes to the planning system. The two most relevant to CLTs are outlined below.

#### **a) Local registers of land**

The Bill creates a duty for local authorities to prepare, maintain and publish local registers of various types of land, with the intention of creating a register of

## MEMBER BRIEFING

brownfield land suitable for housing development.

### **b) Permission in principle**

The Bill gives the Secretary of State the power to grant permission in principle, followed by 'technical details consent' in accordance with the permission in principle, which, together, would amount to full planning permission. This would only be permitted for housing sites identified in the brownfield register, local and neighbourhood plans and for small scale housing sites.

### **Implications for CLTs**

The permission in principle and land register would help de-risk small sites and bring forward sites for development more quickly, including by CLTs.

### **What lobbying action is being taken?**

We are just keeping a watching brief on this issue as the detail is developed.

---

## **Welfare Reform and Work Bill 2015**

The Welfare Reform and Work Bill includes the proposal to reduce rents in the social housing sector by 1% each year for four years from April 2016.

This will affect CLTs that are Registered Providers (RPs) themselves and, potentially, CLTs that are currently working with, housing association partners.

There are eight CLTs that are RPs. All these RPs have very small numbers of homes, tight business plans, very prudent running costs (some of which are delivered by volunteers at zero cost) and no other stock to help absorb the loss of income.

We are making the case to Government that the proposal will mean that these CLTs now face a very uncertain and, in some cases, disastrous future. For half of the 8 CLTs that are RPs, the rent reductions proposal would lead to severe financial difficulties and, in two cases, insolvency within three years.

The Welfare Reform and Work Bill states that the rent reduction will not apply to RPs where the Regulator determines that compliance would jeopardise their financial viability. However, before a waiver is even considered, organisations are urged to explore merging with a housing association. For CLTs, as legally constituted organisations working in a defined local area and where volunteers have invested hundreds of hours of volunteer time to develop their own affordable housing projects, a merger with a large housing association would undermine their core ethos.

**We are therefore urging Government that the eight CLTs that are RPs are made exempt from the rent reductions proposal.**