

Budget 2016

January 2016

The Home Builders Federation

The Home Builders Federation (HBF) is the principal trade association for private sector home builders in England and Wales and our members produce around 80% of the new homes built each year.

Table of Contents

1. Introduction: Progress but much work ahead	2
2. Meeting the Government's Home ownership aspirations.....	2
Help to Buy	3
Starter Homes.....	3
Housing for Older People	4
3. Creating a fiscal environment that promotes investment	4
Stamp Duty Land Tax	4
Ending the unfair double taxation on land sales	5
Tax rules around Joint Ventures.....	5
Tax rules around collaborations between developers.....	6
4. Addressing capacity constraints	6
Maximising the rate of delivery on current sites.....	6
SMEs	6
Skills	8
5. Planning reforms to boost supply	9
Local Plans	9
Local authority planning and legal department resources.....	10
Introducing competition for planning services.....	11
A presumption in favour of Brownfield development.....	11
Review of the Community Infrastructure Levy	12
6. Eliminating unnecessary regulatory burdens.....	13
Cutting Red Tape Review of home building.....	13

1. Introduction: Progress but much work ahead

1.1 We welcome the Government's continued commitment to expanding housing supply. A benign prevailing economic outlook, combined with measures introduced over several years are showing signs of supporting a strong recovery in a housebuilding sector which is still overcoming the worst recession for generations. The clearest route to achieving the Government's ambitious aim of seeing 1 million new homes created by 2020, is to foster the conditions that support investment by the private sector in the land and jobs required to deliver objective. Developers' response to the measures introduced to date has been extremely positive with all indicators trending upwards. 2014/15 saw a 25% year-on-year increase in the supply of housing, taking the annual figure to 171,000. We have also seen significant growth in the number of planning permissions being granted in England, with the annual run rate hovering around a quarter of a million.

1.2 The investment being made by home builders is bringing not just new homes for families, first-time buyers and downsizers, but also up to £20bn in economic benefits. In the last year alone it is estimated that the surge in house building has created more than 100,000 new jobs.

1.3 Although these indicators are pointed very firmly in the right direction, we are still some way short of the number of homes the country needs to meet demand. The principle underpinning the representations that follows is a focus on creating an environment that will promote the delivery of more new homes through increased output from existing house builders and encouraging new entrants into the housebuilding sector.

David O'Leary
Policy Director
david.oleary@hbf.co.uk

2. Meeting the Government's Home ownership aspirations

2.1 The house building industry supports Government's desire to reverse the long-term decline in home ownership.

2.2 Addressing this entrenched problem is a complex challenge. Decades of undersupply have stretched affordability levels and this situation was then exacerbated by the credit crunch which significantly affected the borrowing power of first-time buyers in particular. The only realistic solution is a sustained period of housing supply at a level that better meets demand.

Help to Buy

2.3 The Help to Buy Equity Loan scheme has been a phenomenal success, and helps to tackle both the affordability and undersupply crises which have depressed house building in recent years. The scheme's focus on new build housing continues to provide a boost to private housing supply.

2.4 Among the larger house builders Help to Buy Equity Loan purchasers accounts for more than a third of all reservations. The scheme's extension to 2021, announced last year, has allowed home builders to project faster sales rates, and thus build-out rates, into land appraisals, and it has meant companies have been able to plan for faster growth and higher levels of sales.

2.5 Because of the inherently long lead time associated with land purchase and housing delivery, we would welcome the opportunity to discuss with Government future transitional arrangements long in advance of any Help to Buy tail off in 2021. As we have seen since the recession, the nature of the house building industry means that once the industry collectively gears down in terms of land acquisition and so on, it can take considerable time to turn it around.

Starter Homes

2.6 The industry has welcomed the existing Starter Home initiative aimed at providing affordable homes to buy on underused brownfield land. We also look forward to helping Government to deliver on its ambitious plans for 200,000 Starter Homes by including a proportion of these properties on all reasonably-sized developments, pending the final provisions included in the legislation currently being considered by Parliament.

2.7 In the meantime, we would welcome any additional clarity that can be provided on how the Starter Homes requirement is likely to work in practice. In particular, we believe that it is essential that:

- Viability of developments is given prominence in the setting of national or sub-national Starter Homes requirements;
- Lenders are supportive of the policy design and prepared to offer mortgages to Starter Home purchasers;
- The way that Starter Homes are required, planned for, and sold does not have a detrimental impact on the local housing market;
- Additionality is retained as a key policy objective for the initiative. Simply transferring the vast majority of sales currently made through Help to Buy for Starter Homes would be unlikely to increase the overall stock of housing any more quickly than would otherwise have been the case.

2.8 We look forward to working with the Department for Communities and Local Government to develop the initiative via primary and secondary legislation to ensure that

the provision of Starter Homes is achievable for developers and meets the suggested aims set out above.

Housing for Older People

2.9 For entirely understandable social and economic reasons the housing prospects for first-time buyers have been a major policy focus for successive governments with demand-side measures such as Help to Buy Equity Loan aimed primarily at households purchasing a first home. However, tackling the largely hidden crisis in the market for housing for older people could bring significant benefits both economically and socially. In particular, measures to incentivise downsizing from larger under-occupied family homes to homes that better meet the needs of older people would ease the progress of young people up the housing ladder, from typical first-time buyer type housing to homes with more space to start and raise a family. There could also be considerable benefits to local government via reduced pressure on adult social care services.

2.10 Research by the think tank, Demos in 2013 found that one in four over 60s would be interested in purchasing a home specially designed to meet their requirements but availability of such stock is extremely limited. The introduction of incentives, potentially via the Stamp Duty Land Tax (SDLT) regime, would invigorate the market for housing for older people, stimulating wider benefits in the broader housing market.

2.11 Further to our representations below on the future of the Community Infrastructure Levy (CIL), we believe that the inflexibility of the Levy is detrimental to companies developing specialist housing for older people. A CIL rate which is based on a flat rate per square metre and does not differentiate between specialist housing of this nature and general needs housing imposes disproportionate costs on developers building retirement housing which will usually comprise of around one-third shared space for communal areas or services.

2.12 We would welcome the publication of new guidance for charging authorities and the Planning Inspectorate specifically reminding charging authorities to robustly test the viability of retirement housing and not to underplay the Benchmark Land Values of small centrally located urban sites.

3. Creating a fiscal environment that promotes investment

Stamp Duty Land Tax

3.1 We await details of the final policy design for the Stamp Duty Land Tax (SDLT) change announced at the Autumn Statement 2015 which will see an additional rate imposed on buyers purchasing 'additional' residential properties where those individuals or companies are not considered to be 'large-scale investors'. HBF submitted a [response](#)

[to HM Treasury's consultation](#) on the design of this new rate which focused on mitigating any adverse impact on the supply of new homes.

3.2 Whilst appreciating the overarching aim to promote home ownership, we need to see more homes built of all tenures and investor buyers play an important role in the new build market, de-risking capital intensive developments with upfront funding. This support for housing delivery comes from investors of all kinds, both large-scale and smaller-scale.

3.3 The economic realities of some developments mean that in certain instances, e.g. on high-rise schemes, developers are able to finance the delivery of homes only with significant forward financing that can only realistically come from investors who are frequently able – and willing – to purchase off-plan more than six months before completion. By contrast, buyers purchasing with a mortgage will be restricted by the terms of their mortgage offer, usually six months. However, by securing the development through forward financing, investors are supporting delivery of homes at a later date for first-time buyers and other owner-occupiers by ensuring the development goes ahead.

3.4 The sale of new build homes represents a small fraction of the overall housing market but because of the difficulties financing some developments, we believe that an exemption from the higher rate for purchasers of new build properties is appropriate.

3.5 We are also strongly of the belief that developers purchasing existing residential properties in order to assemble land for development or conversion should not be liable for the new higher rate of SDLT on these purchases. Levying the higher rate on companies that are intending to substantively redevelop residential properties or increase the overall stock of housing is clearly not a policy objective. It is right, therefore, that house building companies are exempted from paying the higher rate of SDLT under these circumstances.

Ending the unfair double taxation on land sales

3.6 The perpetuation of double taxation on land sales continues to penalise new developments and make marginal residential sites less likely to be built. The inclusion of VAT on the land value that qualifies for payment of SDLT so that SDLT is levied on the VAT, is grossly unfair and has an impact on the viability of prospective developments, particularly in circumstances where the viability of the project is marginal.

Tax rules around Joint Ventures

3.7 Existing rules act as a disincentive for landowners to enter into joint ventures (JVs) or build licences with developers. While JVs can provide many attractive features for landholders and developers alike, including the sharing of risk, this option is fraught with complexity relating to tax liability.

3.8 In the current environment in which finance remains constrained by historical standards, many developers and landowners are exploring options to limit the cash outlay for builders in order to bring forward sites sooner. Joint venture arrangements,

build licences and land sales involving overage agreements are some examples of the alternative structures being considered in an attempt to increase the land supply coming for residential development. These structures can lead to significant adverse tax consequences. Land owners who sell their land outright are subject to Capital Gains Tax (CGT). Quite often, these land owners can also benefit from Entrepreneurs Relief that would further reduce the rate of CGT. Landowners, however, who enter into joint ventures or build licenses find that monies received for their land is taxed as income at their marginal rate of income tax which is usually much higher than the CGT rate. Land owners are therefore understandably reluctant to allow land to come forward for development in this manner.

Tax rules around collaborations between developers

3.9 HMRC rules around registrations of joint ownership of land (prior to partitioning) for development through collaboration between house building companies results in significant additional bureaucracy and administration costs for developers. Whilst VAT is unlikely to be a consideration in such circumstances, for many companies this requires specialised reporting outside of standard accounting systems. As we have highlighted elsewhere, and is also true of JVs discussed above, collaborations between home builders on large sites is an effective method of increasing the delivery rate on schemes that can often be extremely complex and expensive. It therefore seems unfair and contrary to Government's wider policy objectives for associated tax arrangements to be administratively costly and unfavourable.

4. Addressing capacity constraints

Maximising the rate of delivery on current sites

4.1 As outlined later in this submission (*Planning reforms to boost supply: Local plans*), by encouraging local planning authorities to allocate more small sites when identifying five year land supplies, and through incentives for producing credible supply trajectories based on realistic estimates of individual site delivery, we believe that more homes can be built more quickly.

4.2 The industry is eager to work with local and central government to put in place systems to ensure that incentives for all actors are aligned and focused squarely on increasing housing supply.

SMEs

4.3 The burgeoning cost and complexity associated with the practice of the planning and building of homes since the late 1980s has had catastrophic consequences for many small and medium-sized house builders with figures from the National House Building Council (NHBC) showing a fall of more than 80% in the number of active home builders

completing 1-100 units per year. The move to a fixed plan-led system bureaucratized the process of identifying land and pursuing a planning permission which, prior to the implementation of the Town and Country Planning Act 1990, allowed for entrepreneurialism to thrive. While we appreciate that reversing the more than 25 years of legislation and policy is unlikely, we believe there is a great deal that can be achieved within the overall framework of the National Planning Policy Framework (NPPF) and associated guidance.

4.4 As was set out in HBF's paper, [*The Case for a Presumption in Favour of Residential Development for Brownfield Land*](#), we believe that there is a strong case for going further than the current plans for a Brownfield Register of sites, to empower home builders to identify and bring forward land for residential development. Where sites are identified that are on brownfield and within settlement boundaries, then local planning authorities should have to prove very strong grounds for refusal of planning permission.

4.5 Decades of policy, and the structure of existing incentives have cumulatively served to disadvantage smaller developers for whom planning risk is already an extremely serious consideration which threatens the ongoing sustainability of companies when dealing with intransigent planning authorities. We are encouraged that Government has acknowledged the difficulties that SMEs face in acquiring and developing land. HBF is working with officials to improve the business environment for small developers. We believe that through targeted enhancements to the NPPF and strategic planning, more opportunities could be opened up for SMEs. For instance, local planning authorities often favour the allocation of large sites for residential development over smaller schemes that would be more suitable for SMEs. This is understandable for political and even resource perspectives but the cost and complexity of building on major schemes makes it an unfeasible proposition for smaller firms. Allocating a wider variety of sites could also help to speed up the delivery of housing in a local area meaning that local authorities will be better placed to meet the required number of new homes required for the purpose of new 'delivery tests'. Further discussion on these issues is included below, in relation to planning reforms.

4.6 We also believe that many of the suggestions we have put forward for the Government's Cutting Red Tape Review would disproportionately benefit smaller home building companies for whom regulation is a significant barrier to growth.

4.7 Taken together, a range of measures combined with existing policies such as the small sites exemption for S106 Affordable Housing contributions which is being put forward by Government as part of the Housing and Planning Bill, could have a transformative effect on the number and vitality of long suffering SMEs.

Skills

4.8 Skills shortages are currently the biggest constraint on increasing home building. They apply across the development process, from site trades and management, through professional occupations to commercial management roles. This is an obstacle the industry must primarily seek to overcome itself and a great deal of work is already going on. However the Government does also have a role.

4.9 The construction industry has had a statutory training levy for over 50 years, with responsibility for administering the use of these funds vested with the Construction Industry Training Board (CITB). House builders have expressed a great deal of dissatisfaction with CITB's performance over many years. The CITB should operate to serve the needs of the industry, yet too often it has been insensitive to the needs and operational requirements of private sector companies. There is dissatisfaction with the red-tape, complexity and unnecessary restrictions CITB has imposed on its spending to support industry investment in training and skills.

4.10 We understand the house building industry pays around £20m per year to the CITB, but it appears to receive back only a proportion of these funds (thought to be around 45%, which we understand is considerably less than the average recovery of CITB levy across the construction sector as a whole).

4.11 We believe Treasury could play an important role in persuading and encouraging the CITB rapidly to improve its efforts in relation to home building. To achieve the increase in new home building the Government wants to see, the industry urgently needs to improve the availability of skills, and it seems only right that its £20m annual levy contribution to CITB is used to maximum effect to support increased industry investment.

4.12 Assuming the construction industry levy remains in place and CITB continues to administer these funds, in our letter to the Chief Secretary last year we suggested the following early measures:

- CITB identify the annual value of the levy from home building;
- A CITB commitment to ensuring this money is fully spent, after deduction of a fair proportion for CITB costs, to fund training across all home building skills;
- The use of this money should be primarily driven by the private sector and the needs of private sector companies, subject to overall scrutiny by CITB;
- The CITB's whole approach needs to change from what is essentially a public-sector, systems-focused, bureaucratic mentality to one in which it is totally focused on the actual needs of private sector companies;
- CITB should start by using money already raised from home builders to fund an urgent study of existing training and educational provision for house building (within

the industry, FE colleges, universities, professional qualifications, NHBC, etc), across all house building skills, the suitability of all existing provision, and identify areas needing improvement and gaps in provision.

4.13 There is a valuable parallel with the Homes and Communities Agency (HCA) which is focused on delivery and has worked closely with HBF and house builders over the last seven years to ensure the programmes it oversees operate as successfully as possible. The same approach should characterise the CITB's management of the industry's levy funds. In fact there is an even more pressing case for such an approach. The HCA is charged with administering a Government scheme. The CITB is in effect managing the industry's own money.

4.14 CITB has embarked on a major programme to overhaul its governance structure and to embed a management culture that ensures decisions are taken that are properly responsive to industry requirements and thereby assist companies where most value can be added to their skills investment. We support this change of direction in principle and are working pro-actively with the CITB to ensure its change process actually works for home builders.

4.15 The introduction of the Government's proposed apprenticeship levy will interact with the CITB change process and we must avoid having two separate levies imposed on the construction industry, including home building. In finding a solution to the double levy issue we must also ensure that the apprenticeship levy works smoothly with the grain of CITB's wider reform process. From the home building perspective, it is extremely important that we avoid unnecessary uncertainty or dislocation of the CITB reform process and consequent risks to skills investment in the industry.

4.16 HBF would wish to maintain close contact with the Government on the management of this complex set of issues to prevent any unintended adverse consequences for the industry's efforts to tackle the skills challenge.

5. Planning reforms to boost supply

Local Plans

5.1 There are still too few local authorities with a fully NPPF-compliant local plan in place. The Government's decision to put in place a deadline for planning authorities to adopt a plan is an extremely positive step forward. We await more details on how the process for drawing up a new plan will be conducted in cases where authorities fail to meet their obligations.

5.2 The absence of an up-to-date plan creates a vacuum which often results in more difficult local engagement and a lengthier wait for new sites to be brought forward.

5.3 Furthermore, the requirements for local plans should be refined to ensure that authorities are including development sites that genuinely have a good chance of delivering the homes required locally. Understandably given scarcity of resources and the potential for community opposition, there is a temptation to allocate very large sites to meet five year land supplies. The reality is that such sites are often extremely complex to secure planning permission on, and then to subsequently develop. We believe that the 'delivery test' for housing supply, proposed at the Autumn Statement will help to limit this in future provided that annual monitoring is required and that authorities use realistic and viable trajectories to forecast future development. House builders are well placed, and willing, to support local government in achieving this. Simply putting in place strong incentives for all actors during this process would help to accelerate output.

5.4 A by-product of a more realistic process for establishing credible housing trajectories will likely involve the allocation of more small sites for residential development. In addition to supplying more homes at a faster rate, there would also be more opportunities for small and medium-sized builders to bring forward sites for development.

Local authority planning and legal department resources

5.5 Discussions with house builders, and a recent Knight Frank survey of the industry, show that lack of local authority planning and legal resources is probably the second-most serious constraint on private house building, after industry skills. There appear to be general shortages of planners and legal staff, as well as shortages of particular skills. Because local planning authorities have a statutory monopoly to grant planning permission, house builders have no option but to deal with local authorities, however good or bad their planning service.

5.6 Analysis by the National Audit Office (NAO) and Institute for Fiscal Studies (IFS) has shown that within local government spending cuts, planning and development spending has suffered the worst cuts. However it is worth noting that house builders' dissatisfaction with the service offered by local planning departments long pre-dates the credit crunch and public spending cuts. So, as we note below, poor service is not just a question of money, though cuts since 2008, and further cuts expected over the next four years, have aggravated an already serious situation.

5.7 We believe there should be two approaches to solving the problem.

5.8 Local planning processes should be made simpler, more streamlined and more efficient, without any detriment to the democratic decision-making requirements of planning, thereby allowing existing scarce resources to go further. Our own proposals (July 2014) for reforms to the end-to-end planning application process would, we believe, significantly improve efficiency and reduce some of the workload on planning and legal departments; in addition, Government proposals in the Productivity Plan to simplify and streamline the local plan preparation process should further reduce the workload of local planning staff.

5.9 In our August 2015 paper, *Increasing private housing supply*, we listed a number of measures to improve the situation: Incentivising local authorities through service-related financial carrots and sticks; simplifying and streamlining the end-to-end application process; simplifying local plans; outsourcing; boosting the status of planners; better training for local councillors; improved leadership and culture; establishing central trouble-shooting teams to assist local authorities with exceptionally large and/or difficult applications.

5.10 However even with these reforms there are still likely to be staff and skills shortages, and HBF and other key stakeholders (e.g. LGA, RTPI, POS, et al) cannot solve this very difficult issue individually, nor indeed collectively. Because achievement of a Government policy priority – boosting housing supply - is being held back by lack of local authority resources, we would urge the Government to convene an expert working group to devise effective solutions and seek the support of key stakeholders, especially local authorities, in introducing effective solutions.

Introducing competition for planning services

5.11 The monopolistic position of local planning authorities does little to incentivise speed or efficiency in the planning application process. The introduction of limited competition whilst retaining local democratic decision-making and accountability, as proposed by the Housing and Planning Bill, is very encouraging and could potentially go some way to solving the problems identified above in relation to local authority planning and legal resources.

5.12 Some groups have proposed higher planning fees or “full cost recovery” to address the problem of resourcing planning departments. While authorities retain their monopoly power this would be counter-productive, merely increasing costs (and risks) for developers at a time when the focus should be on measures to encourage small builders to grow and new entrants to join the industry. Breaking the monopoly while retaining local accountability for determining applications could provide a better service for applicants and create an environment in which fee variation is more justifiable. Resistance to “full cost recovery” for planning fees has always been rooted in the desire to prevent the creation of incentives for inefficiency in what is a closed market. Opening up the planning application process to market forces and introducing competition should increase the efficiency of these processes, speed up development and keep down costs for small builders and local taxpayers alike. Pending Royal Assent of the Housing and Planning Bill we therefore urge the Government to use powers to instigate a largescale pilot to trial different approaches across a wide range of authorities.

A presumption in favour of Brownfield development

5.13 While the NPPF generally promotes development on brownfield land, the emphasis is on local authority identification and decision-making. Similarly, the ‘Brownfield Register’ which will be legislated for via the Housing and Planning Bill will be led by councils who by

their very nature are far less adept at spotting development opportunities. As referenced above, we therefore believe that there is a strong case for the introduction of a presumption of development on brownfield land within settlement boundaries. By empowering home builders to find sites with residential potential but retaining the power for local planning authorities to refuse planning permission in exceptional cases where there are very strong grounds to do so results in a re-aligning of incentives and a focus for different actors in the process to use their own expertise to best effect. This change would complement existing policies around Housing Zones and Local Development Orders as well as the Brownfield Registers that we expect to see brought forward in due course.

5.14 Our paper from August 2015, [The Case for a Presumption in Favour of Residential Development for Brownfield Land](#), discussed the benefits of this approach in more detail.

Review of the Community Infrastructure Levy

5.15 We are very pleased to have had the opportunity to contribute to the Government's review of the Community Infrastructure Levy (CIL) earlier in the year and look forward to the final recommendations of the review panel. It has been clear for some time that there are fundamental problems CIL which means that it is failing to meet the original aims to be faster, fairer, more flexible and to promote the delivery of strategic infrastructure.

[HBF's response](#) to the CIL Review Panel's questionnaire highlighted:

- Overall CIL, its regulations and associated guidance are over-complicated and have an ambiguous status, seemingly existing in a grey area between statutory guidance and planning guidance
- Where CIL has been successful (e.g. Crossrail) it is due to a low universal charge to fund specifically identified infrastructure which is clear, transparent and involves minimal bureaucracy
- Many local authorities have struggled not just with the administrative burden of CIL, but also the process of designing CIL charging schedules and in fulfilling the role of infrastructure providers
- Where the charging authority is not a provider of strategic infrastructure, in two-tier authorities for instance, then the provider should have greater involvement in setting CIL charges. County councils are too frequently excluded from the process
- Government should take a long-term view of national and local CIL exemptions. The extensive array of exemptions put in place to date calls into question the fairness of the policy and hints at the inherent failure of the levy in offering inadequate levels of flexibility
- The practical inability of authorities to borrow against future CIL contributions holds back local authorities in providing critical infrastructure
- The implementation of CIL as a mandatory has had an impact on affordable housing provision given its status as a negotiable benefit from the development process

- Restrictions on pooling Section 106 contributions which were introduced to incentivise the adoption of local CIL schedules should be applied differently with the size of site being a significant factor in determining whether contributions are appropriate for pooling

6. Eliminating unnecessary regulatory burdens

Cutting Red Tape Review of home building

6.1 We very much welcome the recent Cutting Red Tape Review of home building.

6.2 While the Government has introduced many important and positive supply and demand side measures to assist the industry in growing output, such is the complexity of requirements which companies have to deal with that there nevertheless remain many regulatory issues and processes that continue to impede the ability of home builders of all sizes to grow output and deliver homes more quickly.

6.3 We have made a substantive submission to the Review. In this we raised, widely held industry concerns about:

- The implementation of species and habitat protection legislation and its related licensing regimes,
- Road access permissions during development along with approval and adoption arrangements for roads and related infrastructure under the Highways Act 1980, and
- Aspects of the Sustainable Drainage Systems (SuDS) regime and arrangements for the adoption of sewers under the Water Industry Act 1991.

6.4 HBF members in responding to our call for evidence also generally asked for renewed action to speed up and simplify processes for discharging planning conditions so that they can get on site sooner once planning permission is granted and to speed up the process for concluding Section 106 agreements with local authorities.

6.5 The response to our call for evidence highlighted in addition a number of cross-cutting issues that were broadly common to the main areas of concern about regulatory processes – lack of (staff) resource in the regulatory authorities, (perverse) incentives to protracted process and the extraction of unwarranted fees from developers and the tendency of other regulatory processes to prolong and complicate the end-to-end planning process. We set out a number of possible ideas for tackling these cross-cutting concerns, including a focus on early engagement, extending thinking on the deemed discharge of planning conditions to other regulatory processes and looking into the scope for competition in the provision of advisory services informing regulatory decisions. We also called for a particular focus on helping SME home builders, who are often particularly hard hit by cumbersome and costly regulatory processes.

6.6 We would ask the Government to give very active consideration to the main areas of concern we have raised and to work collaboratively with us and our members to agree and implement solutions.