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9th November 2015

Local Authority Leaders
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Impact of social rent changes on the delivery of affordable housing

As part of its ambitions to continue to significantly boost housing supply and increase home ownership, the Government is committed to delivering 275,000 extra affordable homes by 2020. Over £1 billion from the existing Affordable Housing Programme has already been allocated to deliver such schemes.

Following feedback by key partners it is clear that housing associations are reviewing their existing financial commitments following the Budget 2015 announcement of reductions in social rents in the four years from 2016-17. As a result some approved or emerging schemes where housing associations are engaged with house builders through Section 106 agreements are not being built out at the anticipated rate. Delay risks planned homes not coming forward and the ability of councils being able to demonstrate a five-year supply of deliverable housing land.

Section 106 agreements may of course be renegotiated at any time by mutual consent. Developers have already or will be approaching councils to renegotiate Section 106 Agreements to make adjustments to planned schemes, including the type of affordable housing provided. Planning guidance is clear that local planning authorities should be flexible in their requirements, taking into account specific site circumstances and changing circumstances.

Developers are already entitled to apply to modify any obligation over five years old. They are also able to apply to revise the affordable housing element of any Section 106 planning obligation if they can evidence that the affordable housing element is making the scheme unviable and is stalling development.

We would urge planning authorities to respond constructively, rapidly and positively to requests for such renegotiations and to take a pragmatic and proportionate approach to viability. Where it is simply proposed that the tenure mix is adjusted, with the overall affordable housing contribution remaining the same, it is our view that this is unlikely to justify reopening viability by either side. We would ask local authorities to expedite such renegotiations so they can be dealt with in a timely manner, and avoid action which might result in unnecessary delay. For example, it would probably not be necessary in all circumstances to take a revised obligation back to planning committee for approval.

Should there be a need to reduce the overall amount of affordable housing, we strongly encourage local authorities to seek the minimum amount of viability information necessary, for example only that information which compares the financial position immediately prior to the Budget to the current position to justify the requested change.

The Government attaches great importance to the effective and flexible negotiation of Section 106 planning obligations, including on affordable housing, and intends to introduce a dispute resolution mechanism to help speed up Section 106 negotiations. We would also encourage flexible arrangements in the original agreement (for example through cascade mechanisms) so that it allows the delivery of alternative forms of affordable housing if this becomes necessary, and will produce guidance on this shortly.

We will be contacting local authorities over the next few weeks to understand the extent to which they are being approached to renegotiate Section 106 Agreements, and what action authorities are taking.

BRANDON LEWIS MP