

Northern Enterprise:

Housing Corporation Response

January 2008



Housing Corporation formal response to the report of the Northern Enterprise: Innovative approaches to delivering more affordable homes for the North.

Introduction

'Northern Enterprise was launched to begin the process of examining how, as key players in housing across the North, we can jointly raise our game to deliver greater efficiency, develop an increased appetite for taking on and managing risk and driving forward a more entrepreneurial approach to our work.' (John Carleton Oct 07)

1. The Northern Enterprise project established by the Housing Corporation Northern Field, in partnership with representatives from the housing and regeneration sector, including housing associations, the National Housing Federation, private developers, local authorities and the Northern Housing Consortium¹, has explored how the asset strength and capacity of housing associations and their partners, facilitated by strategic planning and land supply policy, can deliver innovative approaches and so create more affordable homes for the North of England.
2. The Northern Enterprise report has a remit to demonstrate that more quality, affordable homes can be delivered for less public subsidy and more quickly through approaches that are both cross tenure and cross boundary. The report suggests that this can be achieved through a combination of the following:
 - Innovative, deliverable and replicable models which could significantly reduce or do not require public subsidy, which are underway or are ready to go and which can assemble land for housing and in some cases deliver infrastructure;
 - Models that are also capable of delivering tenure diversification and long-term stewardship of an area or development;
 - Engaging a range of partners, including housing associations, that are able and willing to assemble sites, particularly in brown field areas, which could contribute to the supply of land available for development;
 - Early collaboration by local authorities to deliver strategic approaches to land assembly and planning, of which there are several models in operation now;

¹ Northern Housing Consortium is a non-profit making and non political membership organisation. Full membership is drawn from Local Authorities, LSVTs, ALMOs, RSLs, and other organisations involved in housing, from across the three Northern Government Office regions of the North East, North West and Yorkshire & Humberside.

- Achieving a balance between risk management and innovation assisted by a more sophisticated approach to regulation suggested by the Cave Review²; and
 - An approach which avoids ‘one size fits all’ but which offers some standardisation in relation to planning obligations, land valuation and the pricing of the affordable housing elements of developments.
3. The Housing Corporation has recognised, and highlighted in its *Unlocking the door* publication, that Housing Associations have substantial asset strength and capacity that can be used to deliver more affordable homes: asset strength which will be levered in through the NAHP 08-11. The report of the Northern Enterprise considered further models of delivery that can utilise these assets in partnership with developers, local authorities and others.
 4. Adoption of these models or combinations of these models has the potential to deliver a number of benefits, such as lower grant rates, reduced costs, tenure diversification, and more infrastructure and investment returns for Government and local authorities. The report also recognises that Northern regions could get more out of the planning system, which was central to Northern Enterprise, in particular through Section 106 provision to provide more affordable housing.
 5. The report welcomes the emphasis of the Housing Green Paper³ and notes the synergies with its recommendations.
 6. The process of accessing land can be lengthy and slow to deliver outcomes. Some housing associations are now engaged in land banking, to overcome this issue. Land banking as an activity is not just restricted to large RSLs; smaller neighbourhood associations could also consider land banking, provided it meets their long-term business strategy. The report suggests that the Housing Corporation’s regulatory regime should take account of the risks that associations are taking and not unduly penalise associations for doing so. The report calls for a standardised approach to valuing land where it is to be used for affordable housing.

Housing Corporation response

7. The Housing Corporation welcomes the report of the Northern Enterprise. We recognise the importance of a report that is backed by partnerships of key deliverers across the Northern regions of England.
8. Many of the recommendations for action flowing from this report, have already been highlighted in other areas of work. Taking these forward will be an important plank underpinning the delivery of the NAHP 08-11, which is itself the Housing Corporation’s response to the challenges set out in the Housing Green Paper. We welcome the report’s acknowledgement of the additional

² Every Tenant Matters: A review of social housing regulation (June 2007)

³ Housing Green Paper *Homes for the Future: more affordable more sustainable*
www.communities.gov.uk

capacity that exists in the Northern regions, in the context of the Regional efficiency targets set out in the NAHP 08-11 Prospectus.

9. The Housing Corporation's response to the report of the Northern Enterprise assess each of the recommendations for policy impediments and set out our response to each section in turn.

Recommendations

1) Optimising asset strength and capacity – some models

10. Four models have been brought forward by *Northern Enterprise*. These are :

- **Major estate renewal through optimal use of asset strength and capacity.**

In particular this involves attracting private finance for development and renewal of existing stock through Large Scale Voluntary Transfers (LSVTs) to a RSL created for the purpose of managing that stock, or to an ALMO.

- **Joint Ventures and Special Purpose Vehicles**

An organisation, usually a limited company, created for the purpose of fulfilling a specific development objective. It can be owned by one or more other entities (such as local authorities, development partners and the Housing Corporation).

- **Equity Release Model**

Raising capital to fund future housing outputs by leveraging untapped cash flow (equity delivered through sales growth).

- **Grant write-off**

Encouraging private developers to refurbish existing stock through writing off SHG.

11. The Housing Corporation has considered these models and our response to each is provided below, along with feedback to other aspects of the report.

12. The report notes that for these models to be replicated some policy changes may be required. In particular around:

- a) Incentives such as more freedom with disposals/section 9 consents;

13. Section 9 of the Housing Act 1996 requires the consent of the Corporation to any disposal of land by a registered social landlord (RSL, usually known as a housing association). We interpret this as Parliament's method of protecting tenants, maintaining the availability of sustainable housing lets, protecting

public investment and preventing the improper disposal of property. The Housing Act 1996 allows the Corporation to issue general (whereby RSLs can make certain disposals without needing to apply for an individual consent) and specific consents, and attach conditions.

14. The Corporation is currently working on a revised General Consent which aims to reduce the burden on associations in line with the Elton review on burdens. The broadening of the scope of the Consent will continue to ensure that the needs of residents are safeguarded and to have due regard for public finance. A paper is being prepared for January's EMT that sets out proposals for the broadening of the scope of the General Consent. Work on the Housing and Regeneration Bill also gives the Corporation the opportunity to revisit disposals.
 - b) Financial regulation needs to take an increasingly sophisticated analysis of the business when assessing viability - this may be captured by the revised 4th traffic light which seeks to link asset management and financial viability to development activity;⁴
15. In March 2007 the Housing Corporation consulted on changes to Housing Corporation Assessments (HCAs), to broaden the scope of the fourth (Development) traffic light, to encompass how associations manage their assets, and use their financial capacity, with a view to creating and maintaining sustainable communities and decent homes. Responses received to the Consultation on the revision of Corporations Assessments (HCA's) suggested that the assessments must take account of the longer term sustainability and viability of associations, and the competing priorities for the use of resources.
16. The Corporation intends to take forward our commitment to taking these proposals forward in line with the Elton Report recommendations, without increasing the overall regulatory burden, so that our regulation remains risk based and proportionate.
 - c) The models outlined require that risk is shared appropriately - including with the HCA.
17. The environment in which the Homes and Communities Agency will work is constrained by the nature of public expenditure, especially its accounting treatment, and by the appetite for risk and security that the public sector (most notably the Treasury) is willing or able to accept. Issues that the HCA will need to address include: the extent of contingent liabilities; avoiding too much funding tied up ahead of 'need'; required rates of return; and the balance between financial & community benefit.

⁴ Revision of Housing Corporation Assessments: Consultation Paper, March 2007

2) Major estate renewal through optimal use of asset strength and capacity

18. The report recommends achieving this through the following:
- i) 'This model offers a twin track approach. Firstly, it optimises asset strength and capacity in light of some LSVTs' 'windfall' position. Secondly, the model could be used in areas where there are large scale renewal requirements and in other areas where the issues are as profound but on a smaller scale.'
 - ii) 'This model should also be further developed as it has a wider application that fits with the new homes agency's transition work stream focus/timeframe and the aims of the Green Paper.'
 - iii) 'The extent to which Arms Length Management Organisations (ALMOs) can be involved in the roll-out of this model should also be further explored.'
19. The recommendation of major estate renewal through the optimal use of asset strength and capacity fits well with the Homes and Communities Agency's place shaping role. It also has a good fit with one of the four HCA programme business lines, to regenerate under-performing urban centres, estates and neighbourhoods tackling areas of deprivation and worklessness, supporting and enhancing opportunities for vulnerable people, and creating thriving and prosperous sustainable mixed communities.
20. For the NAHP 08-11 the Housing Corporation has secured the ability to commit funding over 3 years, with pre-allocations for a further tow on strategic sites. London region have developed models of estate regeneration including long-term indicative commitments, front loaded funding and overage agreements.
21. Our relationships with ALMOs are at an early stage. Eight Arms Length Management Organisations and their sponsor local authorities pre-qualified for Investment Partner status and of these four have bid for funding⁵. As our relationship develops with ALMOs we will endeavour to explore ways in which ALMOs might engage in major estate renewal though the optimal use of asset strength and capacity.

3) Special purpose companies and vehicles

22. We agree that in principle special purpose companies appear to offer flexible solutions to protecting investment, adapting to specific regulatory environments, and allowing for greater Housing Corporation involvement in the procurement process.

⁵ Of the 8 ALMOs the pre-qualified four have bid, which includes the LA led Special Purpose Vehicle.

- iv) 'Special Purpose Companies or Vehicles offer the opportunity for a more competitive approach to selection of developers including housing associations as lead developers that could deliver greater partnership opportunities and should therefore be further researched and supported.'
 - v) 'Further work is required to assess risks for the Corporation in investing in SPCs and to examine the value that would be captured. This should include how the relevant stakeholders including the new homes agency would manage/keep track of returns over time.'
23. The report identifies two policy and funding changes that would be required by the Corporation. The first of these is a transformation from providing grant to making an investment. As part of the development work for the transition to the Homes and Communities Agency, we are considering ways in which to invest through equity participation in Joint Ventures. However, on individual projects it would need to be clear that this offered better policy and financial outcomes than traditional approaches.
 24. The second of the policy changes required would be for the Corporation to take a participatory role and to join the proposed SPC as a shareholder and board member. The HCA will have the power to act with other persons (whether in a partnership or otherwise) and will therefore be able to take forward this role.
 25. The Corporation supports the use of Special Purpose Companies and has pre-qualified two Special Purpose Vehicles as Investment Partners to bid for funding in the 08-11 programme. One of these is a local authority led vehicle, whilst the other is a private sector led delivery vehicle. As with the ALMOs our relationship with Special Purpose Vehicles is at an early stage as our relationship develops with these types of delivery vehicle we will continue to assess the benefits and risks that working with these structures provide.

4) Tripartite arrangements

26. Tripartite arrangements - single primary agreements between 3 parties (in this case the local authority (lead), the RSL and the developer) - remove the requirement for separate agreements between each of these parties, and have been suggested as a key initiative in increasing the supply of affordable homes:
 - vi) 'Tripartite arrangements can work well and should be pursued. Ideally there should be a standard heads of terms for use by development partners.'
27. The report envisages that these standard agreements could be devised at a central level (perhaps in the same way in which centrally we have led on the Local Authority Protocols). There would be a need for some local flexibility to deal with project specifics. There is already some evidence that Housing Associations are working in Tripartite agreements with local authorities in the South (Oxford City Council & Oxon County Council has a standard Tripartite agreement for the delivery of S106 obligations). The Housing Corporation welcomes this initiative by the Northern Enterprise and encourages the development of tripartite agreements in pursuance of the delivery of s106

obligations. In particular if standardised agreements lead to greater procurement efficiencies and delivers an increase in affordable housing.

5) Equity release models

28. We believe that these models are worth further investigation, but note the issues captured in the report around disposal of rented property. We also note the demand risk around sales to tenants, based on our experiences of similar programmes. The Housing Corporation and Communities and Local Government have previously considered fixed-term social rented provision, but decided not to take this forward.

6) Grant-write off

29. The Northern region, in a one-off agreement, allowed for SHG to be written off as part of a refurbishment project involving 150 units. Northern Enterprise supports further development of the principle of grant write-off while acknowledging the difficulties in ensuring that any future grant write-offs result in 'financial benefit or demonstrable benefits to the area'.

vii) 'This model should be pursued as a means of achieving cost-effective regeneration especially in lower value areas; there is opportunity for overage agreements that could be recycled (possibly) through RCGF.'

viii) 'There is potential for agreements to be reached that achieve overage that could be reinvested into the area in question. The Housing Corporation could consider a model whereby it shares the risk and benefits arising from reinvestment in the community.'

ix) 'The accurate assessment of risk is acknowledged as a challenge but there is scope for the development of an assessment model/vehicle that sets out a methodology that enables the benefits to be assessed.'

30. We know from our experience of grant write off (the Corporation's North Regional Office undertook this work) that this requires a great deal of work and persuasion on the part of the Corporation to achieve. In the end a decision to write off the Social Housing Grant tied up in the properties in the case example discussed by the report, had to be taken by Ministers at Communities and Local Government. We acknowledge that the grant write off option could be a useful tool. But as the report notes, convincing evidence that grant write-off would in fact produce a better outcome than recycling grant might be needed, if the model is to be used more regularly in future. The challenge for the Corporation would be to mainstream grant write-off as a tool and to persuade Ministers that decisions on grant write-off should be delegated to the Corporation and or to the HCA to follow.

31. We would welcome Northern Registered Social Landlords bringing forward further examples of projects where they can demonstrate that such schemes will only be viable where grant write off is applied.

32. Clarity is required on how this approach dovetails with the Corporation's current powers and would be built into the HCA's future powers. Currently the Corporation allocates funding through a competitive bidding process, were the Housing Corporation to join the board of an SPC as a shareholder, this would represent a conflict of interest. However, the HCA will have the power to act with other persons (whether in a partnership or otherwise) and could therefore be able to take forward this role.

7) Planning policy and land assembly

- x) 'Strategic Housing Market Assessments are a policy requirement but this approach can be taken further. Compacts and sub-regional approaches illustrated in this report (for both planning and land assembly) offer the opportunity to bring together all stakeholders with agreed commitments to support the delivery of affordable homes flowing from the Local Area Agreement and Multi-Area Agreement frameworks. These should be pursued more widely.'
33. The Housing Corporation welcomes the advent of Local Area Agreements and the Multi-Area Agreement frameworks. The Multi-Area Agreements are a recent innovation designed to be cross boundary Local Area Agreements. The MAAs should bring together key players in flexible arrangements to tackle issues that are best addressed in partnership at a regional and sub-regional level, such as housing market imbalances, transport links and other infrastructure projects. Multi-Area Agreements are designed to give teeth to the city-region and place-shaping agenda, by providing the framework for more effective leadership across sectors and geographic and organisational boundaries.
- xi) 'The wider application of the Housing Corporation/local authority protocol through adoption by local authorities across the regions, incorporating the commitments in relation to planning land assembly is endorsed. The protocols should support other sub-regional strategies and not stand in isolation from these.'
34. The Housing Corporation continues to work in partnership with the Local Government Association and key local authorities to roll out its local government protocols. We would support the wider application of the LA protocol and would agree that protocols should support other sub-regional strategies.
- xii) 'Common heads of terms for planning agreements are required especially where schemes are being delivered across the same market area although the need to meet varying circumstances is recognised. Where possible, parties should consider adopting one of the available templates as a basis for these agreements such as those offered by the CLG, the research for the North East Regional Assembly and the HBF.'

35. The Corporation would support the use of common heads of terms where schemes are being delivered across the same market area as a sensible and consistent development.
- xiii) 'The model for delivering affordable housing to be promoted by the HBF offers what appears to be a sensible and practical way to overcome many of the seemingly intractable problems associated with S106 Affordable Housing demands. It should be tested and monitored.'
36. The Corporation wants to see an effective and transparent system of planning obligations, to maximise both the contribution to affordable housing and the supply of land for affordable housing development. We have conducted a review in our South West field to look at models to underpin local and regional policies which achieve this without threatening site viability. We will develop this work nationally.
37. The Corporation believes that it is necessary for further testing of the House Builders Federation model before it can lend its support to this recommendation. Developments in planning policy, including the creation of the Community Infrastructure Levy (C16), which have occurred since the publication of the HBF report, have somewhat overtaken the model. That said S106 will continue alongside the Community Infrastructure Levy, and it will be interesting to see how a balance develops between the two. The HBF model will need to be modelled and might be appropriate for some areas but is unlikely to represent a one size fits all. Northern Enterprise could consider taking this forward as part of their action plan to implement the recommendations of this report.
- xiv) 'Local planning documents should contain clear, specific and robust guidance on affordable housing requirements with agreed cascade mechanisms, if required, and clear percentage requirements, however this should not extend to price setting (see recommendation 4 above) which can act against the delivery of affordable homes.'
38. The Corporation supports common starting points but notes that these are very hard to set up in practice. We would also agree that local planning documents should contain clear, specific and robust guidance on affordable housing requirements. As noted the South West has conducted relevant research and nationally the Corporation is looking at ways of supporting best practice amongst LPAs. Cascade arrangements on larger sites ensure a longer term guarantee of funding. However we are unclear by what is meant in the recommendation by price setting and will explore this with the Northern Field.
- xv) 'Whilst the prescription of thresholds levels would not be appropriate, local authorities should work with the Housing Corporation to consider how site thresholds can be more actively pursued to deliver more homes, particularly in rural areas.'
39. We agree that prescription threshold levels are not always appropriate, but that on occasions, including in rural areas, it can be helpful to set out in expectations in advance. Thresholds would aid pre-planning and the assessment of challenging sites and determining site viability.

- xvi) 'Local authority housing and planning departments are expected to work together however this collaboration is still not always in evidence. There remains a need in some areas for them to work together at all stages of a potential project and to jointly assemble a strategy for delivering affordable homes as required.'
40. The Housing Corporation would support further collaborative working, but needs to recognise the limitations on its influence to require a greater joined up approach by LA housing and planning departments.
- xvii) 'Early engagement of partners in discussions at the pre-application stage on the likely requirements of Section 106 planning gain agreements can ensure that that inappropriate competition is reduced and that all the design and management issues are given proper and timely consideration.'
41. The Housing Corporation is in favour of early engagement. The Corporation itself needs to be engaged at an early stage in the discussions on the requirements of s.106 agreements. This has been stated in a number of policy documents, including our joint letter with the LGA on policy sent to LA Chief Executives in September 2007.
- xviii) 'The current emphasis in many areas on cash receipts is not helpful to the land assembly issue. The release of land at less than best consideration for affordable housing should be further promoted.'
42. The Housing Corporation does promote the sale of public sector land at sub-market value where this is supportive in the delivery of affordable housing and reduces the need for Social Housing Grant investment as stated in the NAHP 08/11 prospectus. We support the North team's work to create a land valuation methodology in such cases and understand this is with CLG for agreement.
- xix) 'Two models of land valuation have been reported for *Northern Enterprise* and it is recommended that some standard heads of terms be developed on the basis of these and that further work be undertaken to develop such an approach.'
43. We welcome the standardisation of processes where this is designed to produce efficiencies. However any standard heads of terms will need to be responsive and allow for local flexibility.
- xx) 'The new homes agency should re-examine the role of Compulsory Purchase Orders (CPO) in land assembly. In addition, some sort of bank of good practice needs to be developed to offer a source of advice and assistance to those seeking to use CPO for land assembly. In lower value areas the approach adopted by Liverpool City Council for example, to address the affordability needs of people whose homes are subject to CPOs is recommended for wider application.'
44. Compulsory Purchase Orders can be used as an effective tool in aiding land assembly in locations suited for sustainable development. The HCA intends to be a key enabler and is expected to develop professional expertise in support of local authorities place shaping role.

xxi) 'RSLs are keen to land bank. RSLs would like to move towards a position where they can land bank and for example take out option agreements and develop this capacity in-house or link up to private developers. In some areas RSLs are best placed to add value, for example in the acquisition and development of brown field sites. Where associations do land bank, the Corporation should ensure that the regulatory regime takes into account the risks associations are taking and not penalise associations unnecessarily for doing this. The regulation regime may need to be adapted to take land banking into account.'

45. The Housing Corporation held a review of the Recycled Capital Grant Fund (RCGF) and the uses to which recycled capital grant can be put in March 2007. One of the freedoms and flexibilities that we proposed for RCGF is that housing associations will have the freedom to use receipts for land banking. This flexibility to allow the reinvestment of RGC in land banking activity will be operational during the NAHP 08-11. With regard to the implications for the regulatory regime, if the land purchased by RSLs is to be used as securitisation for loans, then Housing Corporation consent would be required. Associations choosing to engage in land banking would need to reflect the financial risks in their business plans and demonstrate how they would seek to militate against risks accordingly. We would encourage future work by Northern Enterprise to pursue this with regulatory colleagues or OFTSL.

Investment Division
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