

# Making land deliver

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Reuben Young

How to reform land policy to make housing affordable again



**Network  
Homes**

Because good homes make everything possible



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### Land is the fundamental ingredient of building more homes. And as Mark Twain said, they aren't making it any more. This means we need to use it wisely.

I spent most of the last seven years working for two, very different, Mayors of London. Under both, my primary objective was increasing the number of affordable homes available to people who needed them.

I saw first-hand how a drawn-out, slow and expensive system of compulsory purchase delayed, deferred and prevented the delivery of much-needed homes and reduced the proportion of affordable homes.

I observed public landowners holding back prime development sites. Sometimes wilfully, sometimes through lack of competence.

I saw direct evidence of how a lack of certainty in planning requirements for affordable housing fed directly into

higher land prices. This gave unearned windfalls to lucky landowners and reduced the potential for genuinely affordable homes.

All of these things were to the detriment of Londoners who needed safe, secure and affordable homes.

The proposals in this paper aim to support a wider debate on how targeted reform of the way in which land is brought forward for housing development can make land work for everyone. This would enable many more new affordable homes to be built and greatly increase housing supply overall.



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## Introduction

### Housing supply has not been meeting demand and England's total housing need backlog has reached four million homes.<sup>1</sup>

#### The background

There is a vast shortage of submarket rented housing that can meet the needs of those who cannot afford housing at market prices. Right to Buy, combined with chronic under-investment in social rent homes, means there are now 8.4m people in unaffordable or unsuitable housing in England.<sup>2</sup>

Government's plan is to deliver 300,000 homes a year by the mid-2020s. Every new home delivered makes market housing for everyone else marginally cheaper, so building more is a good thing. But even if we achieve 300,000 new homes a year, it would take a long time for market housing to return to genuinely affordable levels.

So to fix the crisis we find ourselves in, we need our housebuilding to

accelerate as fast as possible, and to provide as much low rent housing as possible.



## Introduction

### The problem

This isn't happening now, because of the set of incentives developers and landowners exhibit – incentives that are partly a result of natural market forces, and partly derived from rules set by government.

- > There are fewer homes in high demand areas than there are households who want to live in high demand areas, because large swathes of greenfield land around cities are politically determined undevelopable, and planning permissions everywhere are rationed by a political approval process.
- > This encourages speculation, which further pushes up land prices.
- > The local authority area, and perhaps the region, that the land sits on will have policies about the number of affordable homes developers should provide, but these are always negotiable and can always flex downwards if the developer can show that they paid too much for the land.

- > This creates an incentive to overpay for land, which pushes up prices even further.
- > Because submarket rented housing has been negotiated downwards, more of the homes built are for private sale, and so the developer can't supply too many at once in the same high demand area and risk the price falling.
- > This means homes are built slower than they are needed, as the absorption rate limits how much developers will build.
- > The result is:
  - Huge windfall profits for landowners
  - Few homes built
  - Few affordable homes built.

This is a cycle that needs breaking if we are to make housing affordable again. We need land to work for everyone, not just the landowner.

## The solution

We need policies that make land deliver more housing, so more people can live where they want to and the housing affordability crisis can over time be reversed. And we need policies that deliver more affordable housing, so more households can benefit from lower housing costs.

By intervening in the cycle above, we can achieve this. We propose three ways to make land deliver:

### **1** Allow local councils, Homes England, and the Greater London Authority to compulsorily purchase land at existing use value.

This would be instead of the much higher ‘hope value’. This will let public bodies cheaply assemble land for housing which would be challenging for the private sector to do because of fragmented ownership or other difficulties. It would also deter speculation on land, because landowners would know that their land could be bought without consideration for making a future profit. The result would be more homes, and cheaper land for everyone.

### **2** Consider social value and market value when selling public land.

Public bodies should take account of wider community benefits when selling public land. Currently councils and government departments need to get ‘best value’ when disposing of assets, but best value should not mean best price. In cases where councils don’t want to build on their land themselves, it should be sold to housing associations at a discount so that submarket rented and other affordable housing on the site can be maximised.

### **3** Reform the system of developer contributions to affordable housing.

We should take negotiation and revision out of the process, provide greater certainty for developers, and give councils better control over what kinds of affordable tenures are built. In this report we present a system to replace viability assessments and the affordable housing component of section 106 agreements, which is transparent, can’t be gamed, and will result in more of the right kinds of affordable housing in the right places.

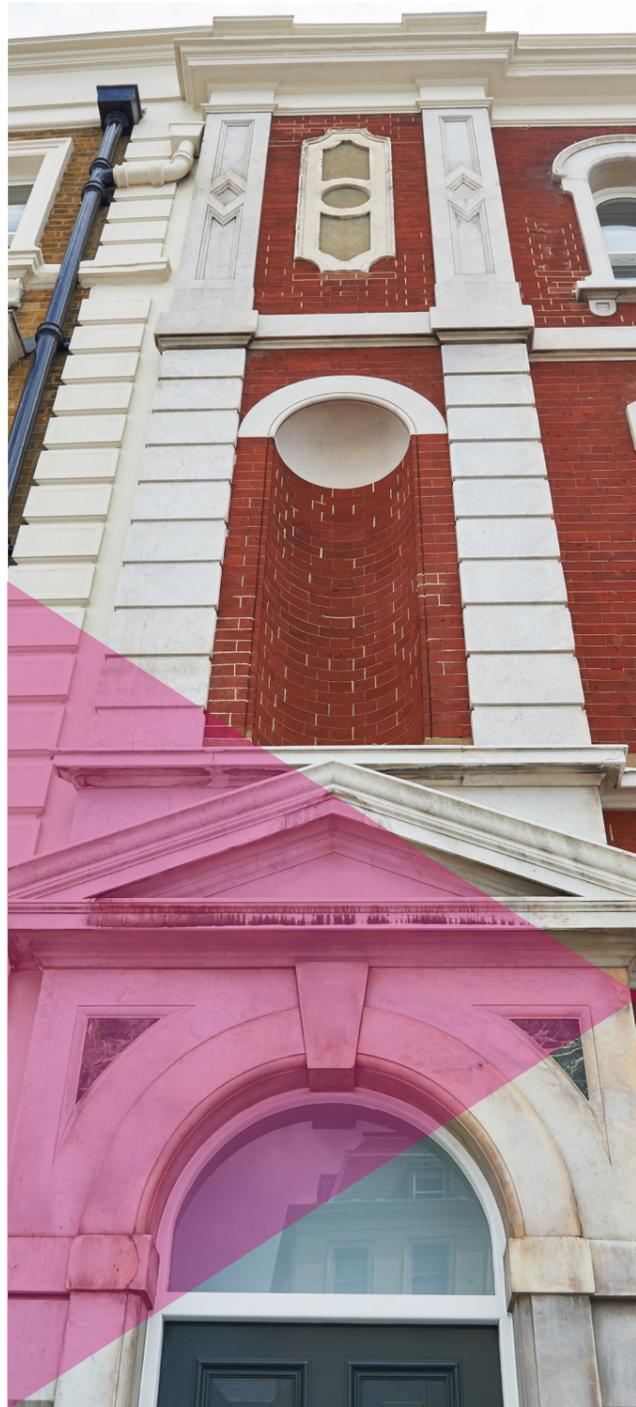


## What makes up the cost of a home?

### The price of housing is determined by a lot of different things.

The mismatch between increasing demand and constrained supply over the last decades is unarguably a key cause of high housing costs, and policies that increase supply generally have fewer negative consequences than policies that reduce demand.

Over the course of a year sales of and moves within existing housing stock will dwarf sales of or moves into new housing. Between August 2015 and July 2016, the last full twelve months for which data is available, sales of new build homes totalled 78,000 whereas sales of existing homes totalled 788,000.<sup>3</sup> But in the long run we need to focus on new supply so that there are enough homes to house a growing population. And more locally, if more people want to live in a city or region than there are homes to house them, prices will be higher than in lower demand locations. This is why prices in London are higher than elsewhere.



## What makes up the cost of a home?

### Construction price

The two main costs incurred in building a home are land and construction (material plus labour) and both prices are increasing. The construction output price indices for housing have been increasing since 2015, as shown below.

Residential build costs have increased by nearly 17% from 2010 to 2016.<sup>5</sup> And labour costs are 5.6% higher in 2018 compared to a year before.<sup>6</sup> Network's previous research report *Why aren't housing associations building more social rented homes?* found that our actual costs per home have risen by 15% in less than ten years.<sup>7</sup> This all makes homes less affordable and the uncertainty of Brexit is only making it worse.

Our exit from the EU may reduce the overseas construction workforce (leading to skills shortages pushing up the labour price) and stall the sales market (leading housebuilders to hold back new building). Construction cost rises are averaging well above inflation and this disproportionately increases the subsidy gap that must be bridged to build homes with rents or prices below the market level.<sup>8</sup>

Figure 1: Construction Output Price Indices, New work output prices (not seasonally adjusted), Housing (public and private) percentage change over 12 months<sup>4</sup>



**Land**

Land is becoming an ever-bigger barrier to new supply. Land makes up over 70% of the value of existing homes (up from 50% in 1995) and is a high input cost when building a new home.<sup>9</sup> As the cost of construction varies relatively little across the country, when we talk about unaffordable market homes, in many ways we are discussing the high cost of land in some areas. This is at the heart of the housing crisis.

Land is different from other forms of production (capital and labour) as it's fixed, scarce and usually appreciates in value over time. We can't make any more of it, so when demand increases for land, prices are likely to go up as it's not possible to produce more to match demand.

Landowners may choose to release more, but it's always coming from a finite stock. The lack of affordable land is the single biggest constraint on building more homes for housing associations.<sup>10</sup>

Land inflation caused three quarters of the increase in UK house prices between 1950 and 2012<sup>11</sup> The cost of post-permission land has increased by 44% in London and 49% for the South East from 2014 to 2017.<sup>12</sup>

Land gets expensive once it gets planning permission – around 100 times more expensive. And landowners in England made £13bn in pre-tax profit in 2016/17 alone.<sup>14</sup> There needs to be a drive to reduce the value of land or capture the uplift when land receives planning permission so more affordable homes can be built.

Figure 2: Land Value Estimates (£/ha)<sup>13</sup>

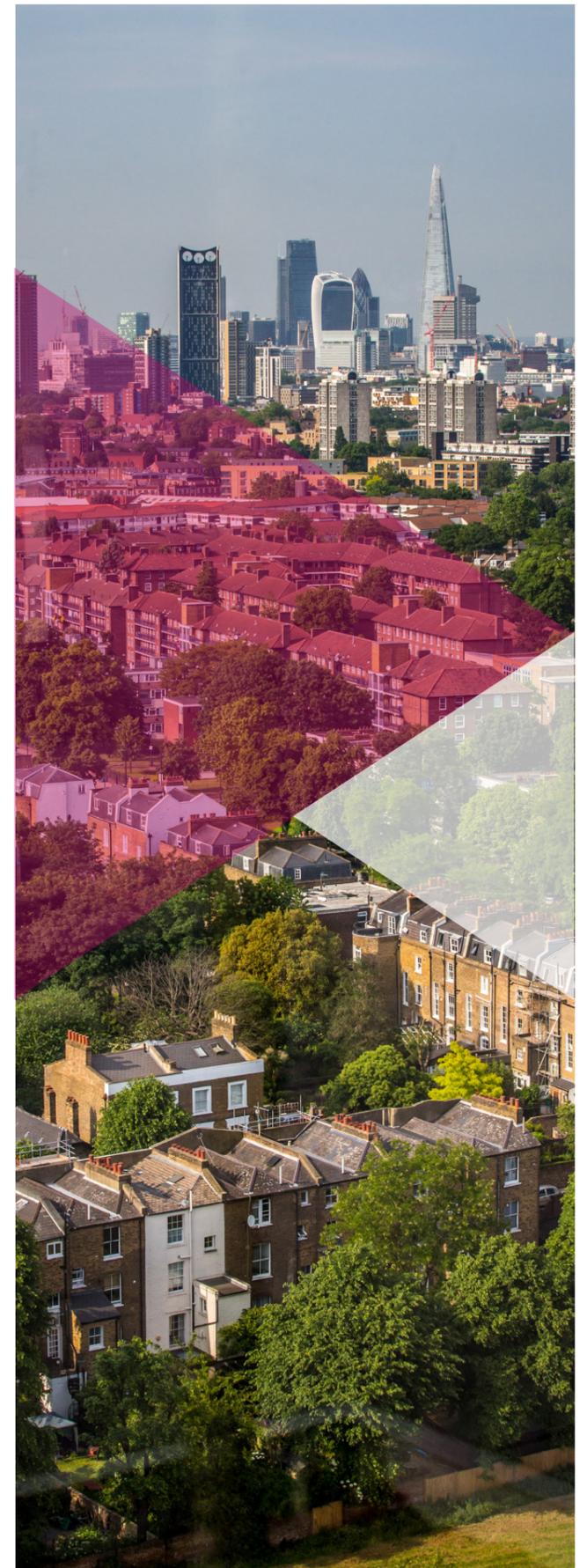
	2014	2017
London	£25,631,212	£36,825,757
South East	£3,329,060	£4,953,358

**How is land valued?**

The difference in land price pre- and post-residential planning permission shows that land is made more expensive due to planning constraints.

When developers assess whether a new scheme is viable, they will start with the gross development value (the house price multiplied by the number of homes), and deduct from it their cost of construction (including consultancy and legal fees), the reduction in revenue owing to affordable housing. The desired profit/risk margin, and the residual portion is what the developer would be prepared to pay for the land.

The landowner, in deciding whether to sell the land to the developer, will start with the existing use value – the net present value of the profits being made on the land at present – and then consider a range of factors which may either increase or decrease the price they are prepared to accept. If the land is likely to appreciate in future, their minimum price will be higher. Likewise landowners – often individuals rather than corporate entities – have their personal biases and judgements to consider, which may not be entirely financially motivated.



# How much does land sell for and why?

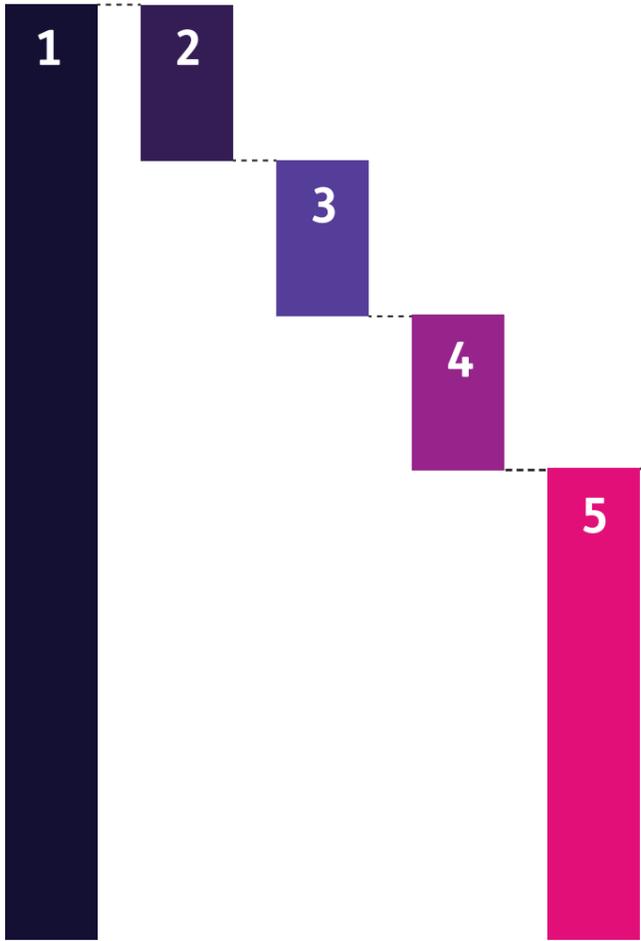
## How much will a developer buy land for?

When buying land, developers need to decide what they can afford to pay.

They start with the gross development value, determined by market house prices and the number of homes they can build.

Then they deduct their profit margin, their affordable housing provision, and their construction costs.

They can pay what's left over for land.



- 1 Market house price
- 2 Profit/risk margin
- 3 Affordable housing liability
- 4 Labour/materials costs
- 5 Price developer will pay

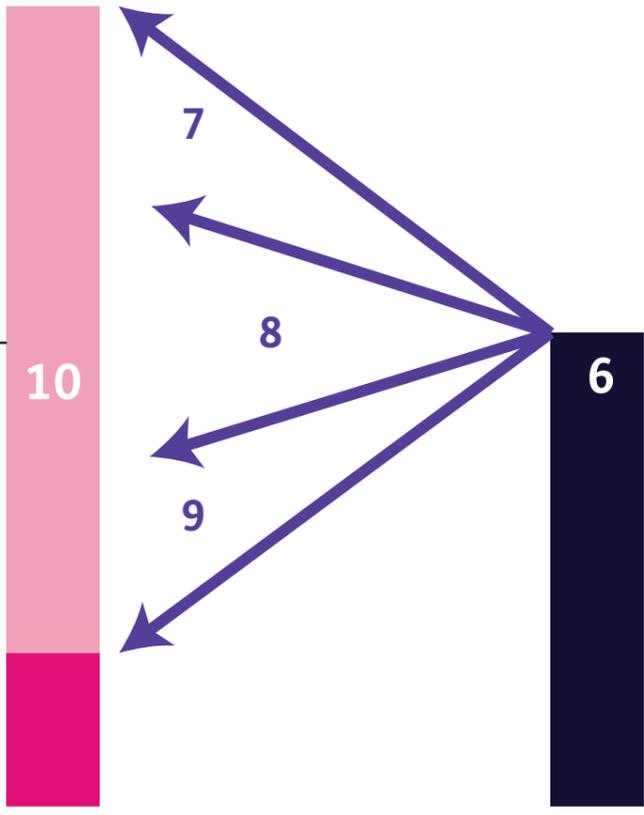
Figure 3: How much will a developer buy land for and how much will a landowner sell land for?

## How much will a landowner sell land for?

When selling land, a landowner starts with the existing use value – i.e. the income they're currently receiving from the land.

Then they might add or deduct from this value, depending on whether they expect the land to appreciate or not, and because of their own biases or non-financial motivations.

If the price the landowner will sell for is equal to or below the price the developer will buy for, the land is sold. If not, it's not.



- 6 Current Use Value - rent, income
- 7 Expectation of appreciation
- 8 Opinion/human error/judgement
- 9 Expectation of depreciation
- 10 Price landowner will accept

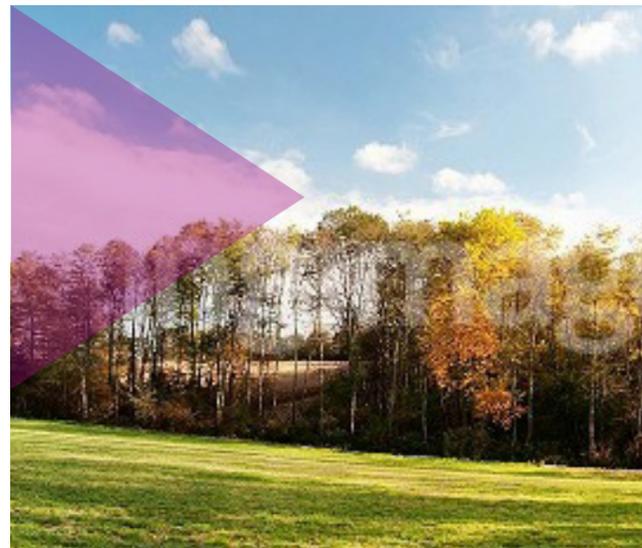
## Existing proposals on land policy

### Why are land prices so significant?

Unaffordable developable land is at the heart of the housing crisis. As it is so scarce in high demand areas it leads to a development model which creates a vicious circle:

- > Lack of supply has increased gains for those who can get planning permission. This creates an industry focused on gains instead of quality development.
- > Land prices are high because of limited supply and planning constraints creating a considerable barrier to entry which has driven concentration and market power in the industry.
- > Volatile land prices make the industry risky to invest in. Developers must deliver high returns to attract and retain capital. This gives a greater focus on driving down costs and quality to compete and drip-feed onto the market.<sup>15</sup>

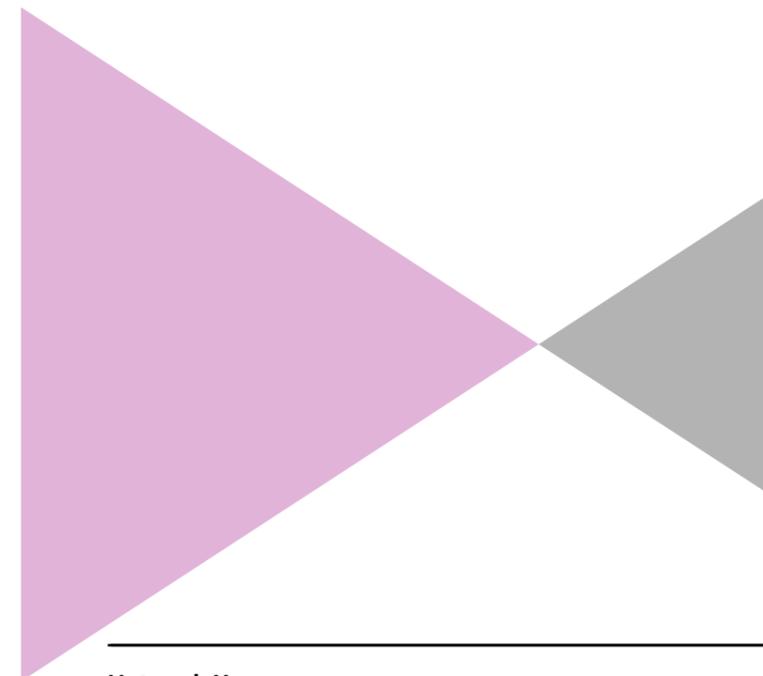
Land acquisition is a large cost in housebuilding and the price the developer pays determines much of what happens on site.<sup>16</sup> It often leads to less affordable housing, slow build-out and poor quality.<sup>17</sup> The National Housing Federation (NHF) and Savills<sup>18</sup> found the cost and availability of land is the biggest barrier housing associations face to building more homes, more quickly.<sup>19</sup> High land values mean less affordable and lower quality homes.



Recent research by numerous organisations has made recommendations to reduce the price of land.

Amending powers for public bodies	Government land/information
<ul style="list-style-type: none"> <li>&gt; 1961 Land Compensation Act</li> <li>&gt; Land assembly.</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Disposal of public land</li> <li>&gt; Establish an English Land Commission</li> <li>&gt; Better data on land.</li> </ul>
Land taxes	Planning reforms
<ul style="list-style-type: none"> <li>&gt; Land value tax</li> <li>&gt; Planning gains tax.</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Change viability assessments</li> <li>&gt; S106 agreements</li> <li>&gt; Compulsory affordable housing</li> <li>&gt; Fast-track affordable housing.</li> </ul>

Figure 4: Recommendations that could impact land values



## Impact of land affordability on housing associations

High land values are a major part of the affordability crisis. Without cheaper land it is hard to build more affordable homes. Research has found high land price areas are the hotspots of homelessness. And the top 10% of local authorities with the highest land values saw a 70% drop in the number of new affordable homes between 2011/12 and 2014/15, compared to a 20% drop in the rest of England.<sup>20</sup>

Homes are getting more expensive to build and housing associations are receiving less grant than before. Many housing associations have no option but to cross-subsidise if they want to continue to build affordable homes. This has led to a 34% increase in market sale starts for housing associations from 2015/16 to 2017/18.<sup>21</sup>

Network's research report *Why aren't housing associations building more social rented homes?* looked at costs of building homes during our 2008-11 grant-funded programmes and our 2015-18/2016-21 grant-funded programme.<sup>22</sup> The results showed:

- > Our average cost to build each home has increased 42% or by £85,000 in less than ten years.
- > We are receiving on average a third of the grant per home today (taken across all types of project and affordable tenures) that we received in 2008-2011.

High land costs will continue to force housing associations to commit very large amounts of resource to each new affordable home. A grant rate of £60,000-£80,000 a home still means investment of more than £200,000 per home from Network Homes for each affordable home developed: money that must come from borrowing, reserves, or cross-subsidy from sales. In relative terms, Network will still be required to resource around three quarters of the cost of each new home, compared to around 50% ten years ago.



## Three steps to a better land market

### Our housebuilding system is not delivering enough homes and is not delivering enough affordable homes.

If the vast, largely unearned, wealth of landowners in high demand areas were captured and put to these ends, we would move closer to solving the housing affordability crisis. Here we lend our voice to calls for two proposals previously proposed by many organisations, combined with an original proposal, which together would take us far closer to making housing affordable again.

#### **1** Allow local councils, Homes England, and the Greater London Authority to compulsorily purchase land at existing use value.

The Land Compensation Act 1961 sets out rules for public bodies assembling land. It says that councils must pay ‘hope value’ on land compulsorily purchased – a price that includes the potential that the land will one day get planning permission for housing, and therefore will become more valuable.

If the Act were amended councils could buy land more cheaply. Greenfield sites could be purchased at around a hundredth of the cost and around a quarter of the cost for brownfield sites (depending on the location).<sup>23</sup> And if land was acquired excluding future planning permissions, £8.9 billion could be saved on a 100,000-home building programme.<sup>24</sup>

This could be game-changingly useful for councils, Homes England and the Greater London Authority. Land that is not brought forward by the private sector thanks to complex or fragmented ownership could be assembled by public bodies at a cost that makes the assembly viable.

Amending the Act would also give greater incentive for landowners to bring forward land at lower values. If land could be compulsorily purchased at a low price it would be a threat, which would incentivise landowners to sell land for a more reasonable amount.<sup>25</sup> So even if councils don’t regularly use compulsory purchase, the mere possibility of it would be priced into land and would reduce prices.

## Three steps to a better land market

#### **2** Consider social value and market value when selling public land.

More land for housing is a good thing, and land owned by government departments, councils, and devolved authorities should be used for housing wherever possible. Since the lifting of the Housing Revenue Account borrowing cap, more of this land will likely be built on by councils themselves, which is also a good thing.

But in cases where public bodies do not wish to retain the land, government should sell surplus public land at lower values, if developers agree to build more affordable homes on the sites. At present, when departments dispose of their assets they need to follow Treasury’s guidance on managing public money, which interprets value for money as market value (determined using Royal Institute of Chartered Surveyors’ Red Book). There are some exceptions to this rule but generally, this restriction is in place.

The Treasury should not only remove this restriction, but government should go even further by mandating – or at least unambiguously encouraging via

guidelines – that when selling land public bodies should take account of much more besides price. If one bid saves more public money in the long run, or creates non-financial social value, this should be given due weight.

Housing associations are the most obvious partner to engage in transactions of this sort with councils and government departments. With capital grant so low, associations struggle to compete with private developers when attempting land-led schemes. Subsidised housing requires subsidy, and subsidy in the form of cheaper land will create a return for the public in housing benefit costs and in reducing housing need.

When selling land in this way, it could be sold to have a covenant in it that says the land should remain affordable, following a similar structure to community land trusts by making housing and land affordable in perpetuity. Councils could lease plots of land to individuals or organisations at a fixed, low price with terms written in the covenants to make sure the land stays affordable.

### 3 Reform the system of developer contributions to affordable housing.

Stronger Compulsory Purchase Order powers and a strategic approach to selling public land will help increase affordable housing provision in land-led developments by councils and housing associations. Our third proposal focuses on the other delivery mechanism for affordable housing: developer contributions.

#### Something has to give: right now, it's social housing.

The way our housing system uses viability assessments is hugely damaging to affordable housing provision. With so many moving variables – land prices, house prices, construction costs, absorption rate – something has to ‘give’ when these variables change between when land was purchased and when housing is sold. At the moment, thanks to viability assessments, affordable housing is the factor to give in this way.

Section 106 (s106) agreements are legally enforceable obligations between

a developer and a local authority. They are designed to meet the cost of infrastructure associated with new developments. Local authorities negotiate the contributions required with developers, which can include infrastructure, education and affordable housing.

Developer contributions are the main existing mechanism to capture land value uplift for local authorities. They are an important strand of affordable housing delivery – in fact many housing associations deliver most of their submarket housing via s106s. But they're far from perfect. As explained above they are negotiable, and landowners do not always factor the liability into the price of the land they sell. The negotiation process also means developments face delays while councils and builders are reaching an agreement.

If compulsory affordable housing, or cash payments towards it, were enforced rigidly then something else would give instead. In an ideal world, the ‘give’ in the system would be the margins of landowners or (less desirably) developers, but we need to make this happen in such a way that the overall business model of developing

homes is still profitable. Developers should not choose to pay more for land with the hope of bartering down affordable housing to save on costs.

#### Replacing developer contributions with a flat affordable housing tax

To improve on this system we need to make the affordable housing component of s106 un-gameable and non-negotiable. We propose the following system:

- > Developers commit to paying a flat tax on the gross development value (GDV) they predict when they apply for planning permission. They can submit any value they like as their GDV as part of their planning application.
- > When the development completes, they pay this tax to the local council, who can then use those funds (combined with other funding if they choose) to buy as many homes in the development as they like for use as affordable housing.
- > The price the local council pays for the homes is determined by the GDV set by the developer earlier on in the

process. For example, if the developer builds 100 identical homes valued at £200,000 each, for a GDV of £20m, the local council would have a legally binding option to buy the homes at £200,000 each, regardless of their true market value.

- > If the council doesn't want to own and manage the homes themselves, they could sell them to a housing association partner at the value of their rental stream.

This system creates optimal incentives because the onus is on the developer to submit the right GDV. If they set it too high, the council won't buy any homes, instead investing the money into affordable housing elsewhere, but the developer will pay too much in tax, and will lose out. If they set it too low, the council could buy many (or even all) homes in the development at a discount, and so the developer also loses out. Only by predicting the right GDV will the developer maximise their profits.

### What should the tax rate be?

The rate of affordable housing tax developers pay on their GDV should depend locally on how much affordable housing is needed, what type of affordable housing is needed and what is viable considering the difference between housing values and existing use values of the sites on which housing is likely to be built. Councils should set the tax at a rate that is viable in line with an amount that would sufficiently contribute towards their Objectively Assessed Need for affordable housing. This will be higher in areas with worse affordability issues.

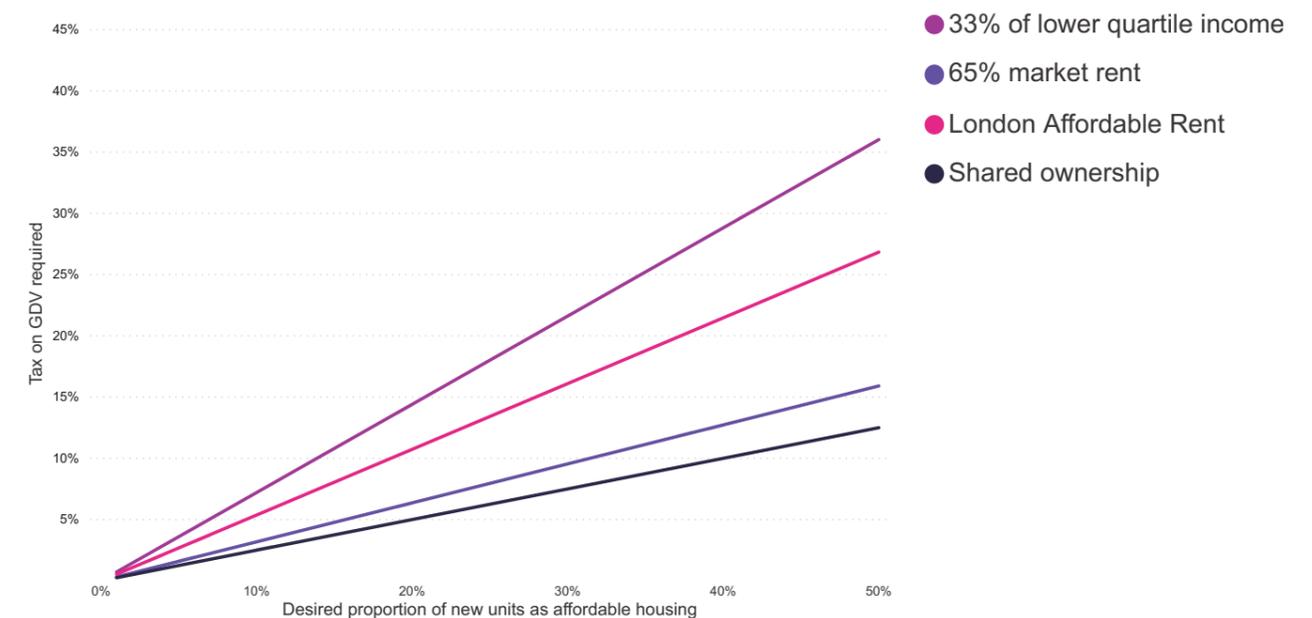
Councils will receive an amount in tax from the developer that will be used to purchase homes, generally at their market value (because as discussed, the developer has a strong incentive to predict the real GDV as closely as possible). The homes purchased have a revenue stream attached to them – the more affordable the product, the lower the revenue stream. The net present value of that revenue stream (less the management costs associated with the homes) is what the home is ‘worth’ financially.



Because councils – or the housing association partners they may sell the homes on to – receive the financial benefit associated with the homes they buy from the developer, the greater that benefit, the more homes they can effectively afford to buy with the same tax amount. For a given amount of tax received, there is a trade-off between having a greater proportion of affordable housing versus the affordable housing that there is being more affordable.

Figure 5 shows what tax rate would be needed to achieve the desired proportion and type of affordable housing in London, based on a block of £415,000 flats (the average London flat price). For example, to achieve the Mayor’s 35% affordable target, the tax would need to be 19% to deliver London Affordable Rent, 11% to deliver 65% market rent, or 25% to deliver rents at a third of lower quartile earnings. Or to read the graph another way, a 15% tax on GDV could deliver 28% of homes at London Affordable Rent, or 46% of homes at 65% market rent, or 21% of homes at one third of lower quartile earnings.

Figure 5: Desired output of new units as affordable housing



### A better way to provide affordable housing

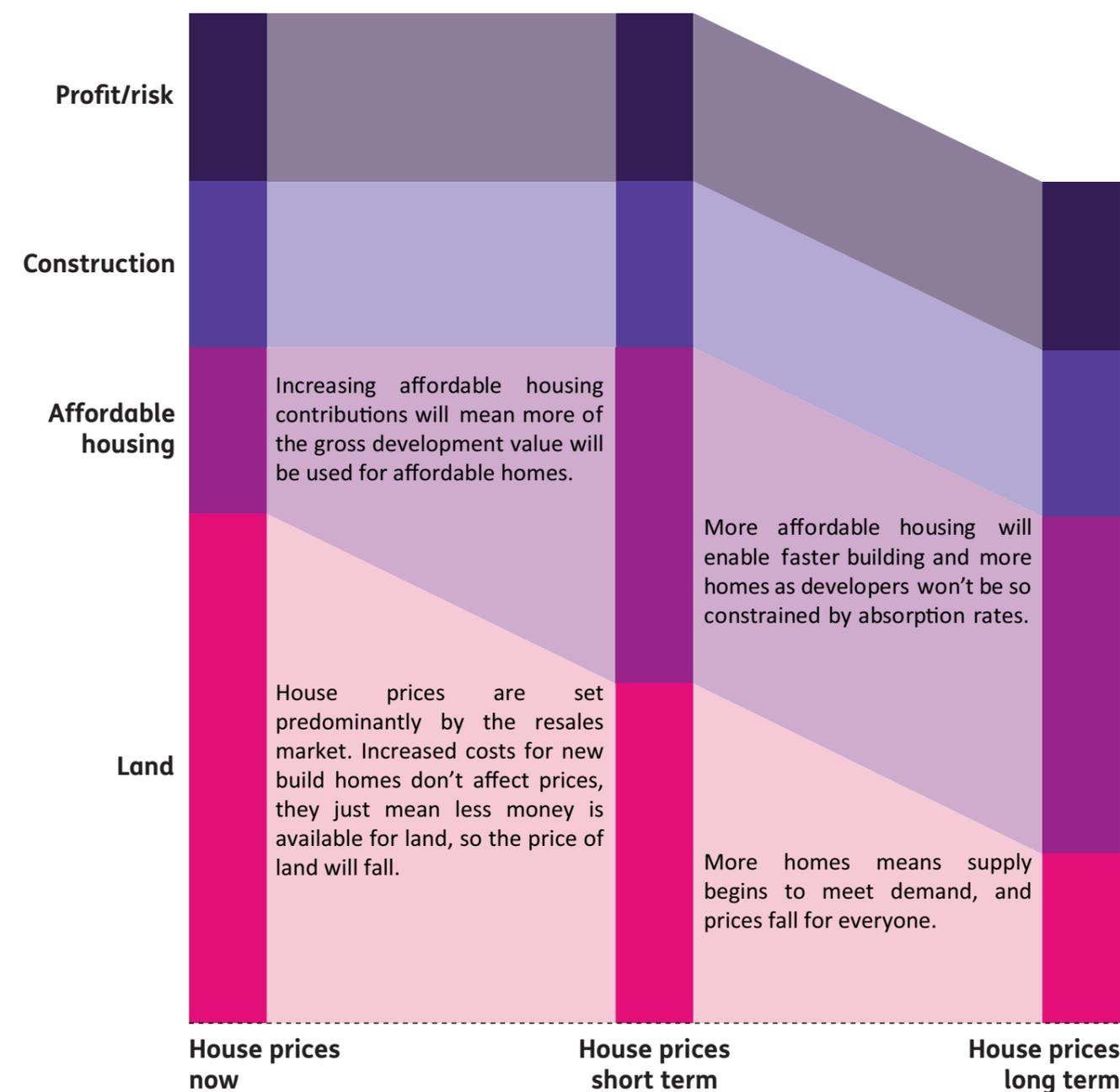
If councils are able to set their own affordable housing taxes, then use these to buy homes at a price effectively set by the developer, the system as a whole will become more certain and predictable, which will benefit developers too. In fact, even though this system will provide more affordable housing, even developers shouldn't be harmed in the long run, because the increased liability will feed into the prices developers pay for land. The current system is broken. At every stage of the process there is an

opportunity to game the system, by negotiating on affordable housing, overpaying for land, and drip feeding the market.

By making developer contributions rigid in the way outlined above, land will deliver more affordable housing. By delivering more affordable housing, housebuilding will be less slowed by absorption rates, and so more housing will be delivered faster. This will bring down prices and rents for everyone, as well as giving more households access to the security and affordability of submarket rent homes.



Figure 6: Short and long term effects of increased developer contributions to affordable housing



### Let's make it easier to use land for social housing.

By allowing public bodies to CPO at existing use value and then – if they don't want to build on it themselves – sell the land to developers who can provide the most affordable housing, we will deliver more homes and more affordable homes. More land will be brought forward, as the parcels which the private sector wouldn't touch can be bought cheaply and assembled to provide much needed homes. Land prices will fall, because landowners will know their land could be bought up by the state.

And by replacing s106 with a more rigidly enforced tax that will deliver more affordable homes, we will redistribute wealth from landowners who have not earned it and do not need it to those on low incomes, who would greatly benefit from the additional subsidy to spend in the productive economy or save. In doing so, we would support smaller builders, provide all developers with greater certainty, and we would improve build out rates, delivering more homes in the context of a shortage, and reducing house prices and rents for everyone.

Importantly, our system would not cost any additional taxpayer money in grant. In fact, it would mean that the current spending on affordable housing goes even further, because it could be spent exclusively on land-led schemes rather than on buying s106 homes from developers, which ultimately mean some capital subsidy trickles up to landowners.

Our three steps to a better land market will break out of the cycle explained at the beginning of this paper. By delivering more homes to address the housing shortage and more submarket homes to help those who can't afford market prices, we will make land deliver and make housing affordable again.

<sup>1</sup> NHF, 2018.  
<sup>2</sup> NHF, 2019.  
<sup>3</sup> ONS, 2016.  
<sup>4</sup> ONS 2019.  
<sup>5</sup> The Housing Agency, 2018.  
<sup>6</sup> Mace, 2018.  
<sup>7</sup> Graham et al, 2019.  
<sup>8</sup> Graham et al, 2019.  
<sup>9</sup> ONS, 2017.  
<sup>10</sup> Savills, 2018.  
<sup>11</sup> Knoll et al, 2014.  
<sup>12</sup> MHCLG, 2018.  
<sup>13</sup> MHCLG, 2018.

<sup>14</sup> Aubrey, 2018.  
<sup>15</sup> Onward, 2018.  
<sup>16</sup> Mahmoud and Beswick, 2018.  
<sup>17</sup> White, 2018.  
<sup>18</sup> Savills, 2018.  
<sup>19</sup> NHF, 2018.  
<sup>20</sup> Mahmoud and Beswick, 2018.  
<sup>21</sup> NHF, 2018.  
<sup>22</sup> Graham, 2019.  
<sup>23</sup> Bentley, 2018.  
<sup>24</sup> Bentley, 2018.  
<sup>25</sup> Bentley, 2017.

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# Network Homes

Because good homes make everything possible

## Network Homes

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