

## **Progress and current trends in local authority housing provision**

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### **Abstract**

This article sets out the motivations, methods and means through which local authorities are engaging in the direct provision of housing without any encouragement from the Government. The findings set out here are derived from a research study undertaken in 2017 which reviewed the direct housing provision activities of all local authorities in England using a range of complementary research methods. The research found that local authorities are primarily motivated by the general need to provide housing across all tenures, to respond to the pressures created by homelessness and to generate rental income to replace the loss of the Revenue Support Grant from central government in 2020. The research showed that local authorities are using a range of methods including wholly owned companies, joint ventures and direct purchase of dwellings on the open market. The study also showed secondary motivations and actions to deal with stalled sites and unimplemented planning consents for housing. The study demonstrates a high level of local authority activity which may provide a considerable contribution to local housing provision in the future.

### **Keywords**

Local Government; Housing; Planning; Austerity; Innovation

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## Introduction

Local authorities have been providers of housing since their creation in the late 1880s and it remains as one of their most recognised core functions despite the curbs on this provision from 1980 onward. The initial invitation for councils to build housing came after the Boer War and, as Young and Garside<sup>1</sup> note, local authorities have never been able to build housing quickly enough for the government's requirements. Local authorities were able to help meet the demands for social housing after the first and second world wars with the levels of built homes helping to achieve Macmillan's objectives of 300,000 homes a year<sup>2</sup>. The greatest number of completions was in 1972 shortly before there were three major events that curtailed the delivery of social housing in England.

The first was the UK's financial crisis in 1976<sup>3</sup>, when the UK had to ask the IMF for a bailout. This curtailed the Government's spending for over ten years and changed the role of local authorities as the government's main delivery vehicles for housing. The second event also occurred in 1976 and this was when the then Labour Government signed the Government Procurement Agreement (GPA) along with many other members of the World Trade Organization (WTO)<sup>4</sup>. This meant that local authorities had to expose the services that they ran to external competition. This did not mean that local authorities should stop providing housing but allied to this was a third event, the election of Mrs Thatcher and her dislike of council housing introduced a stop to the building programme.

Further, the method chosen to meet the requirements of the GPA was that existing social housing stock should be transferred to other providers and later that council tenants were given the right to buy (RTB) their homes at a discount<sup>5</sup>. Housing Associations were expanded

to help to meet some of the shortfall, but the provision of social housing has largely been eroded since<sup>6</sup>. There was also a further wave of RTB sales introduced by the Cameron Government in 2012<sup>7</sup>. While there were then many statements about all homes sold under RTB being replaced, this has not occurred as local authorities are only permitted to retain a third of the sales value and there are tight government rules on the reuse of this restricted income including a time limit of 3.25 years. If the local authority cannot use their RTB receipts, then these are returned to Homes England or the Mayor in London to be redistributed to other local authorities.

It is in the face of these other difficulties in housing provision of all tenures and types that local authorities have moved to start directly providing housing again. We recently explored this in research funded by the RTPI and the National Planning Forum<sup>8</sup>. This research involved a mixed methods iterative approach; combining desk based study (including snap shot surveys looking at what every local authority in England was doing in relation to direct provision of housing accordingly to publicly available information online), a large-scale questionnaire survey (with 268 responses from local authority housing officers, planners and senior managers), and in-depth roundtable discussions and research interviews (including roundtable discussions in every English region and 12 more detailed case study interviews).

### **Why are local authorities providing housing again?**

In providing housing now, councils face many challenges<sup>9</sup> which have been investigated as part of our recent study on local authority direct provision of housing<sup>10</sup>. In this research the

innovative approaches of local authorities to provide housing was considered. While local authorities have provided social housing in the past and nearly 200 are registered to maintain that function now<sup>11</sup>, many are moving beyond the provision of social renting and providing housing for all tenures. While some studies have specifically focussed on the provision of affordable housing, this research investigated what was motivating local authorities in engaging in the provision of all housing types<sup>12</sup>, the methods they were using and whether this was a particular approach in some parts of the country or predominantly within one political party or another.

When considering the motivations that local authorities have in engaging in direct provision of housing, there were multiple reasons given. However, it is important to note that while one reason may be more important than another, there were generally a range of secondary reasons which combined to make up the local authority's motivation. The main priority for the provision of housing was housing need. This was apparent both from the survey and in the roundtable discussions that were run as part of the research. Many local authorities expressed this motivation to meet need primarily as a wish to fill the gap between local housing requirements and what is currently being provided by the private sector. Many authorities stated that the numbers of homes being built by the private sector was not enough and that much of this development was being built very slowly while some sites, although they have planning permission, are not being built at all. In other cases, local authorities expressed the view that the market is not providing the type of homes needed whether these are for families, for older people or for social, affordable or market rent. Many local authorities reported, in the roundtables, that housing associations (HAs) are now less

interested in building social and affordable housing than in the past, with some HAs no longer willing to take social and affordable dwellings that have been negotiated by local authorities through planning agreements. In other local authority areas, while housing sites have been identified through local plans, private sector developers have expressed little or no interest in their development.

These issues have placed a significant pressure on local authority politicians where there is local demand to provide housing for all parts of the community. Some local authorities have started to provide a range of dwellings for different purposes to meet these needs. These have included the continued provision of social housing through the traditional Housing Revenue Account (HRA) route although many councils are now at their Government set debt cap and cannot borrow any further funding to develop more housing using this approach. When local authorities have reached this debt cap, many have decided to establish a local wholly owned housing company which provides the opportunity to build more housing. These companies are funded through the council's own financial assets and may use the council's land. Many local authorities are also taking loans from the Public Works Loans Board (PWLB) and then loaning this funding on to the Council's housing company, charging a higher interest rate to generate income. Some local authorities are seeking to provide more housing through Joint Venture (JV) companies while others are using their assets to develop housing outside the HRA without any company structures. All these methods are funded through the local authority's General Fund which is managed within the prudential borrowing code and does not have the same debt caps as the HRA.

The second most frequently mentioned motivation on the part of local authorities engaging in housing delivery was to respond to the needs of homeless families. Whereas homelessness was once primarily the result of redundancy or family break up, it is now more frequently through 'no fault' evictions by landlords ending tenancies to achieve higher rental income with new tenants<sup>13</sup>. Where households are homeless there are many human costs as well as those falling on to the local authorities that have responsibilities to house families in this situation. In our research, we found that local authorities are frequently responding to homelessness needs by purchasing properties on the open market. While this does not add to the overall housing stock, it does reduce the number of families in this situation of stress. It also means that households are in more secure accommodation, that the local authority has both an asset and a rental income and that there is less expenditure on household support costs. We also found that some local authorities were building new hostels for the homeless or buying existing hotels or hostels as going concerns to improve the offer available to homeless families. There could also be a financial saving to the local authority in providing housing directly for the homeless rather than paying to accommodate them in hotels and bed and breakfast accommodation.

This financial link to homelessness links to the third most frequently cited motivation for local authorities providing housing, which was to generate more regular and consistent income for local authorities. Since 2015, local authorities have received a diminishing amount of funding through the Revenue Support Grant which has been provided by central government to support local services that will be removed entirely in 2020. While local authorities have received some additional funding through a housing development incentivisation scheme, the

New Homes Bonus<sup>14</sup>, this is not a permanent or sufficient funding source. Other changes have been promised such as localisation of the business rates<sup>15</sup> but none of these proposals are regarded as being as certain as the incomes generated by regular rental income from property, or equivalent to the potential profit from developing housing.

Indeed, while some local authorities have taken the route to purchase commercial and retail properties to generate income<sup>16</sup>, others have decided that the development of housing for rent will provide that secure income. In this case, local authorities are developing their roles as patient investors both in their own areas and elsewhere. The housing properties being developed are through a range of approaches from wholly owned housing companies to Joint Ventures (JVs) and may be for market, affordable or social rent or sale. The approach taken in each local authority area depends on the specific issues that have been prioritised for action. The research found, for example, that some university cities are focusing on graduate retention to support their innovation and economic policies. Hence, they are providing market rent properties to maintain their student populations after graduation. Students are increasingly housed in modern accommodation but find that the private rented sector offers much lower quality housing and this is identified as a factor in their move elsewhere. The provision of market rent properties by the local authorities offer more incentives to graduates to stay, thus using housing to deliver wider economic and social benefit.

The provision of affordable and social rent is also seen as a regular and important addition to local authority income and most dwellings planned are in the affordable category, although this will cover a range of rental levels. It may also include shared ownership arrangements

where rental income is received on the council retained portion of the stock. The rental levels are frequently managed through cross subsidy arrangements within individual developments. Where local authorities provide shared ownership, then the capital received from the proportion purchased by the home owner will be reinvested in more housing. While tenants of a council housing company will not have the same rights as those in accommodation funded through the HRA, it is possible to give tenancy agreements for five years and roll these forwards.

While these were the main reasons given by local authorities for direct provision of housing, several other motivations were cited. The next highest was that of providing housing for specific groups such as older people, that was mentioned by 42% of local authorities responding to our survey. The next group of motivations related to planning issues. These included the need for local authorities to take action to provide housing directly where private sector build-out rates of existing planning permissions are slow. On many housing sites, developers will only build at rates that match sales and this can mean only 30 or 50 dwellings being built per year on a large site. This prolonged period of construction not only reduces the amount of expected housing that is available to meet housing need but places pressures on other sites that have not been identified for housing in the local plan. Furthermore, local communities are having to live with long term construction traffic and visual impact of incomplete construction sites. Local politicians may also feel under pressure for having granted planning permission against the wishes of some in the community only to then see private sector developers fail to build the housing promised.

The next most frequently cited motivation was where local authorities had problems with development of specific sites. These may be where there are no planning applications or where there are planning permissions but there is no developer interest. This is a particular issue for housing sites, where it is estimated that approximately 50% of planning permissions are held by land agents rather than developers<sup>17</sup>. While these planning permissions exist, there may not be agreement for land sale to a developer and these permissions may not be implemented. Where there is no sign of development, then some local authorities have prepared supplementary planning documents and started Compulsory Purchase Order processes to take responsibility for the development of housing directly. It was noted in the research that where these actions have been taken they have identified other legal interests in the land including the banks and HMRC. In some cases, this has helped in promoting the development of the land.

Some local authorities have been motivated to provide housing as part of their regeneration and placemaking policies. Much regeneration is occurring on local authority owned housing estates though 'hidden homes' programmes and are relatively small scale rather than wholesale redevelopment<sup>18</sup>. These have included additional floors and wings at the end of existing housing, redevelopment of garage courts and wider remodelling. In one authority, part of a local authority estate has been redeveloped to provide market housing designed by an international architect to generate the maximum income so that this can be reused in estate renewal elsewhere. This type of regeneration has primarily been funded through the HRA. Other placemaking has been achieved through JVs with the private sector to redevelop town centres with increasing housing provided as part of these schemes. Other JVs have been

with Housing Associations. There are examples where local authorities are explicitly intervening through housing provision to change perceptions of place and to encourage wider investments.

Local authorities are also motivated to provide housing because they want to demonstrate that there can be better quality of design. Some local authorities are concerned that private sector apartment blocks will go immediately to the 'buy to let' market and that there is a danger that these will immediately generate wider social and economic issues for them to cope with. In the research, some authorities were very critical of the design of housing from volume builders and thought that they could improve on what is offered through providing better designed homes of their own – both inside and outside the dwelling. There have also been examples of local authorities designs of housing, like bungalows, which private developers do not seem keen on building but for which there is demand.

Finally, local authorities cited as a motivation for their provision of housing the need to support local business through housebuilding as well as the improvement of skills and the wider economy. Some local authorities are also considering establishing off-site housing construction factories to support local jobs and developing property management and maintenance companies for their own and other properties. One local authority company has also established an architectural practice that operates as the client side for their own development but can also undertake design work for other organizations.

## **How are local authorities providing housing now?**

The ways in which local authorities are providing housing are as varied as their motivations. While it appears that the powers given to local authorities to operate in the same way as the private sector in the 2011 Localism Act have provided some stimulus, local authorities have always had the powers to develop land and buildings, including housing, outside the HRA. Local authorities also have the power to provide mortgages to house purchasers. However, during the research process, it was clear that some local authorities were uncertain of their powers both to build or fund housing using their general fund or to establish a housing company. Others were concerned that if their council provided housing, even through a wholly owned company, then it could be subject to RTB provisions later. This view is based on statements made by previous Housing Ministers but has no legal force. The many local authorities that have built housing have stated that should there be any danger of this RTB provision being introduced to the housing that they own within the General Fund, then they would sell it or place it within another institutional format.

The funding used by local authorities to provide housing varies between and within local authorities. In the research the most commonly mentioned source of funding was the council's own capital resources that are within their General Fund. While the implementation of central government austerity policies from 2010 has meant that local authorities have little revenue resources available to deliver services, they have more capital available for investment<sup>19</sup>. There are also practices of inter local authority capital loans.

The second source of resource was the local authority's own land. In the past, many local authorities have sold land to developers and some are still selling large sites for housing. However, increasingly, local authorities are considering retaining their land holdings and using these for housing let for affordable, social and market rents that will provide the regular income that Councils are seeking. Land holdings in local authorities vary and may be the result of historic land purchasing policies and land was transferred between local authorities in local authority restructuring waves. However, much of the information on local authority land holdings has not been kept in a more systematised and digital form until recently when this has been stimulated by the government's One Public Estate programme. Through this, all public body land is shown on a map within the local authority area.

While the research did not provide much evidence of One Public Estate being a successful means of joint development between public bodies, it appears to have had a secondary consequence of demonstrating the scale of land ownership in local authorities. While the larger sites are well known, the smaller sites that can also provide housing have been frequently overlooked until now when local authorities are turning their attention to them. These smaller sites may provide housing in villages or smaller settlements and may also contribute to the townscape whilst removing sites that attract fly-tipping. We found that many local authorities are now systematically looking at all their land, including smaller sites, screening these against planning policies, and identifying those suitable for housing development.

In addition to using their own resources and assets, many local authorities are finding external funding to support their housing provision. This may be from the Public World Loans Board or, until 2017, taking loans from the European Investment Bank. Another approach has been with institutional investors such a hedge fund set up specifically to work with local authorities to support housing provision. Some local authorities are joining together to raise funding through bonds or are taking commercial loans. One local authority has set up a bank and others have investment companies. Another popular mechanism is through the JV approach where an external partner – which could be a developer, a financial institution, a Housing Association or another local authority, will be able to contribute funding into a housing project. Some local authorities are purchasing land using Compulsory Purchase Orders (CPO), which is then sold on through agreement to development companies once the CPO is confirmed.

Local authorities are also accessing other types of funding including from the government channelled through their agency, Homes England, or through Growth, Housing or City Deals. Each of these methods will be available only to some local authorities and for specific types of housing. This type of provision can be slow in the determination of individual bids as each programme has some central government interest and involvement. Local authorities are also still attempting to negotiate affordable housing as part of planning agreements although this type of provision is now increasingly squeezed through viability negotiations <sup>20</sup>. Finally, some local authorities are converting their own office buildings into residential units that is now encouraged through government policy <sup>21</sup>.

## **Which types of local authorities are providing housing now?**

One of the key questions in this research was to find out whether there was any particular type of local authority engaging in these methods of providing housing. The results demonstrate that local authorities in all regions of England are engaging in the direct provision of housing, motivated by the range of reasons cited here. The level of activity was greatest in London where nearly all London Boroughs are engaged in providing housing followed by the East of England, the South East, the West Midlands and Yorkshire and Humberside. Activity was lowest in the North West region of England.

There was a slight tendency for local authorities in the control of the Labour party to be more likely to be engaging in housing provision but there was not a major difference between the two main parties. It was more likely that a Labour Council would have a housing company than a Conservative council. There were few specific differences between local authorities of varied sizes or types although there was some tendency for larger authorities to be more likely to have a company in comparison with smaller ones. However, the research found examples of large Labour controlled metropolitan local authorities without a housing company whilst there were many small Conservative controlled local authorities with a housing company.

A more likely predictor of a local authority having a housing company was whether the Council was a registered provider still delivering housing through the HRA. The research found that 70% of local authorities with companies were also delivering through the HRA. Being a local

authority registered provider is far more constrained than being a Housing Association, not least since the end of 2017, where the government removed Housing Associations from the calculation of public debt and into the private sector for accounting purposes. For local authority registered providers, the system is constrained through the HRA. This is a strange situation because the HRA is a legal and not an accounting device. The International Financial Reporting Standards (IFRS) adopted by the UK and implemented fully in 2017, render the HRA and its practices redundant but the Treasury continues to use it to cap local authority social housing borrowing. Within the IFRS, this borrowing should be defined as investment and not as debt.

Instead, the government uses the HRA to restrict local authorities in providing social housing in several ways. Firstly, it has applied a notional value to the properties that are in the local authority's ownership and are rented out. If the IFRS rules were applied appropriately then these properties would be counted as the council's assets against which they could leverage more investment to build more homes. Secondly, the government defined value, which is rarely updated, is used to create a debt cap against which local authorities can borrow to raise investment in social housing. This debt cap is a legal and not an accounting mechanism and appears to be used to restrict local authority activity in building social housing than because there are concerns on the whole government accounts. This debt cap can be very restrictive for councils that wish to improve their stock or build more homes and operates in a random way between councils as it relies on legacy base line assets valuations. Even when Councils are not yet at their debt cap, it can provide a restriction as they may approach it in future and

are trying to plan housing development where a proper pipeline of site identification, assembly and delivery can easily take five years.

Further challenges face local authorities when they wish to undertake estate renewal or regeneration. Where blocks or housing areas include properties that have been sold under right to buy provision then the council must obtain the consent and possible contribution from the owner. Some councils are buying back properties when they come on to the market but some RTB owners perceive that they might have some financial gain if they hold out against the council and sell for a premium. This is further compounded when owners who may have purchased properties from original right to buy owners have bought these in good faith at a time when no redevelopment was anticipated.

### **Are there specific issues for planning in local authority housing provision?**

In local authorities in England, the local plan requires that a five-year housing land supply is provided to meet objectively assessed need (OAN). The government has placed continuing focus on the requirement for local authorities have adopted an up to date plan to ensure that local housing needs can be met<sup>22</sup>. While slow delivery of adopted local plans is frequently related to an assumed reluctance on the part of local authorities to provide housing land in their plans because of NIMBY or local political issues<sup>23</sup>, this research found that 28% of local authorities without an adopted local plan had a housing company for delivery. Within local plans, each has to identify a 5-7 year land supply to meet the needs in the OAN test. However, the assumption has been that because housing land designation in local plans has traditionally

been required to be tenure blind, housing delivery has been focused on private developers providing market housing for sale. There remains a lacuna within the local plan for the identification of housing provision for those in specific need but also for the requirements of older people or families.

Some local authorities with active house building companies have found that this has helped in their Local Plan examinations, with Planning Inspectors accepting their evidence about the operation of the local housing market when considering housing provision in the area. On the other hand, this research has found local authorities where they were actively building houses but where this was not considered in local plan examinations or in planning appeals on other sites. This was causing some conflict with the Government particularly where the local authority has the same political majority.

When considering planning as a means of delivering some social and affordable housing, each planning application for housing is now required to have a viability assessment which has generally led to local authorities receiving fewer development contributions than before<sup>24</sup>. Where local authorities have managed to negotiate some social or higher priced affordable housing for sale or through shared ownership, this has frequently been renegotiated by developers after planning permission has been granted and can result in even fewer social and affordable dwellings<sup>25</sup>. Further, where these have been negotiated and received by the local authority, they have been passed on to a housing association. However, many housing associations have decided that they do not want to take on property acquired in this way, leaving them with the local authority to manage.

There were other issues that emerged from the research in relation to the role of planning in the provision of housing. The first was the extent to which local authority staff budgets have been reduced with planning taking the largest staff reductions of all services<sup>26</sup>. Where a local authority has a housing company then it is possible to establish a service level agreement to provide funding for planning staff working directly for the company in giving planning advice. Some local authorities mentioned that there might be criticism of a conflict of interest where the local authority is the developer and the planning authority but stressed that there was extensive experience of how to deal with these situations appropriately. On the other hand, it was reported that where the local authority is the developer, that the community had additional expectations in terms of the quality of engagement and project outcomes. The research also found that where local authorities had refused planning permission for one of the Council's housing company schemes, there was little appetite on the part of the Council company to pursue a planning appeal against their own authority.

Another major issue that frequently emerged in the research was how little planners knew about the scale and range of housing activity being undertaken in local authorities. This was the same for local authority planners not understanding the extent of development being undertaken by their own councils as planners from the private sector who were often sceptical or oblivious. This position contrasted with private sector architects who frequently reported working for local authority clients for the first time for many years. This suggests that local authority housing companies may be using external planning consultants to progress their planning applications. However, more importantly, the scale and appetite for

local authority provision of housing may not be considered as part of local plan making within its increasing focus on delivery.

It is this issue of delivery that is also encouraging local authorities to provide housing. While there has been criticism of the planning system for producing too few planning permissions for housing, the evidence of unimplemented consents demonstrates that the existence of extant planning permissions is not enough to make house builders implement them. As noted above, this is an important motivation for local authorities engaging in the variety of ways indicated in the research. Where local authorities are directly providing housing, then it is also having the effect of swifter completions and delivery. If a local authority wishes to build housing for rent to meet need and generate rent income, it will commission and complete the whole, development and not be reliant in slow build out rates to match sales.

Planning is also being used as a tool to progress development on abandoned sites through planning policies and CPOs. Planning legislation is also being used to act on abandoned buildings that can be eyesores in the community. So, planning has a range of tools that are being used by local authorities to promote local housing provision and many of these are being rediscovered after many years of reliance on the market to provide housing.

## **Conclusions**

Local authorities are now engaging in the provision of housing through a wide variety of mechanisms and means. There is now real momentum building, with 30 local housing

companies created in 2017 alone. There is both a growing appetite and capacity in local authorities to return to or increase their roles in providing housing as a core function. Local authorities are well placed to scale up their delivery of housing, if certain barriers can be addressed. Funding remains a key issue preventing local authorities delivering more housing, particularly affordable housing.

Councils have a variety of motivations for this engagement, but the most frequently mentioned drivers were the need to meet housing requirements locally, tackling homelessness and generating income to maintain other council services. Authorities are approaching this through a problem-solving approach, with each starting housing provision at a point which meets some local issue, challenge or need. They are not forming housing companies because there is a central government encouragement to support them in doing so, but instead through their own initiative. Local authorities are thus approach housing delivery with ingenuity and a real appetite to see good quality development in their areas.

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