SUBMISSION

HOME BUILDERS FEDERATION

Autumn Statement 2012 | **27 November 2012**

RECOMMENDATIONS

PRIORITY RECOMMENDATIONS

1. **NewBuy**

   - Provide access for all participating home builders to as many lenders as possible
   - Channel Funding for Lending Scheme (FLS) money into NewBuy
   - A well-funded advertising/PR campaign to raise awareness that new homes can be bought for 5% deposit (backing FirstBuy and NewBuy)

Affordable Housing

Expand the definition of Affordable Housing to increase housing supply without public subsidy

CIL/S106

The CIL regulations and guidance require urgent review: it is crucial that local authorities clearly understand CIL is largely a substitute for S106, not on top of; CIL charges must be set at levels that do not damage viabilities and supply; and operationally CIL needs significant improvements.

FULL RECOMMENDATIONS

DEMAND MEASURES

Demand from Owner Occupiers

2. The additional funds for **FirstBuy** are most welcome, but targets for the rest of 2012-13 and 2013-14 are very ambitious. Key measures to boost the success of **NewBuy** include: lower mortgage rates; giving each participating home builder access to the widest possible range of lenders and mortgage products and rates; HBF best practice guidance for home builders; further efforts to boost public

awareness; increased numbers of participating home builders; increased numbers of participating lenders. The Government should consider funding a sustained, professional campaign to raise public awareness of FirstBuy and NewBuy. We strongly urge Treasury to consider directing **Funding for Lending Scheme (FLS)** money into NewBuy.

Demand from Affordable Housing (AH) Providers

3. The absence of information about **AH policy and funding beyond the Spending Review** is restricting private sector AH supply. AH supply could be increased if the HCA played a more flexible, facilitation (rather than control) role. There is widespread, strong support among home builders for expanding the **definition of Affordable Housing,** allowing the private sector to provide many more homes without public subsidy. There should be a thorough review of future AH funding for the next Spending Review.

Demand from Private Rented Sector (PRS) Investors

4. We welcome the Government's recent announcements on the PRS**.** Home builders are actively looking at financial models, but the PRS seems unlikely to contribute large numbers of new homes over the next two years. The new **PRS Taskforce** should consider initiatives to aggregate portfolios from across a number of home builder suppliers. Allowing residential investment in **SIPPS** would bring an immediate new source of funded demand for homes at no cost to Treasury. Treasury should consider a revival of the successful **Business Expansion Scheme (BES)** to attract new PRS investment from wealthier individuals, though at a lower cost per unit than the previous scheme.

SUPPLY MEASURES: PLANNING

Planning and Permissioned Land Supply

5. The **NPPF** will work well as long as (a) Planning Inspectorate decisions continue to support the key requirements of the NPPF and (b) the Government continues to support PINS and makes clear to local authorities its commitment to the pro-growth emphasis of the NPPF and the need to produce robust Local Plans. The Government should review the slow and expensive **planning application process** in full. There is widespread industry concern about the number of **planning conditions**, and in particular the unrealistic and often unnecessary number of 'pre commencement' conditions which hold up site starts. The current guidance needs to be reviewed and local authorities required to improve on current practice. DCLG should review current **guidance on preparing SHMAs** and **SHLAAs** as these are critical to the success of the NPPF. We are disappointed the Harman Review's ***Viability Testing Local Plans*** did not receive

full Ministerial endorsement. However we hope the advice will become established practice for local authorities and accepted by PINS as a material consideration. We are most concerned that a recent Examiner's commercially unrealistic assertion that **S106 and CIL demands** should be funded out of reduced developer margins and reduced prices paid to land owners risks becoming a widely accepted view, damaging residential viabilities and housing supply. The Government should consider simplifying **Local Plans** to a single document. We are concerned that implementation of the objectives of a Local Plan could be delayed by the production of second tier or sub-district plans, such as Neighbourhood Plans or Allocation Plans. We welcome current work on reforming the operation of **CIL** and its relationship with **S106 agreements.**

Public Sector Land Disposal

6. We support a **wider HCA role** in public land disposal, but it should also adopt a more commercial, private-sector approach to speed up land release. We suggest a review of progress to date, publication of regular land disposal data, and a review of the costly and complex bidding and transactional processes.

SUPPLY MEASURES: FINANCE

7. While **Get Britain Building** will unlock sites stalled because of lack of development finance, a less restricted scheme could unlock a wider range of stalled sites - e.g. gap funding for regeneration sites, infrastructure funding for large sites. The **Funding for Lending Scheme** (FLS) and the proposed Government business bank should permit funding for residential development.

SUPPLY MEASURES: REGULATORY BURDEN

8. HM Treasury should look at **double taxation** of land sales - when SDLT is levied on the land value including VAT.

9. Reporting on the **Carbon Reduction Commitment (CRC)** is unfit for purpose in its current guise and has offered little useful information that can be used for an equal and fair comparison. We believe it is time for its abolition.

10. At **central government** level, despite the One In One Out Rule and Spending Review commitment to reduce the regulatory burden on home builders, regulatory costs have actually increased: zero carbon 2016 and the Flood & Water Management Act alone will cost £573-667,000 per hectare of residential land. We suggest a **moratorium on any new national policies or regulations** which

increase home building costs, including Part L and the Flood and Water Management Act, until the market shows a sustained and significant recovery. The details and operation of **'Allowable Solutions'** requires urgent resolution as the current uncertainty is damaging housing delivery, made worse as many local authorities begin to assume that they can define what constitutes an allowable solution. While HBF supports the DCLG review of Building Regulations and local standards, the **Challenge Panel** cannot fulfil its role effectively without representation from the home building industry. **Local authorities**, which impose significant policy costs on residential development, should, like central Government departments (a) be required to provide a robust, genuinely local justification for any local policy, and (b) only be permitted to implement such policies after a robust regulatory impact assessment.

INDUSTRY SUPPLY CAPACITY

11. Long-term evidence, reinforced by trends in the first half of 2012, shows a squeeze on the contribution made by smaller and medium-sized home builders. Many of the reasons for this squeeze are well known. However given the scale of the long-term shortfall in housing supply, there should be a study of the role different sectors of the industry could play, identifying the key barriers faced by each sector.

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INTRODUCTON

12. Home building is at record low levels and England has a long-term housing undersupply crisis. The Coalition Government recognises that increased home building would play an important role in boosting GDP and jobs in the short term. It has already introduced a range of measures to boost home building, both short and long-term. The measures to date have been most welcome, but more needs to be done. Unfortunately private housing starts in England in the first half of 2012 fell 13%, which suggests private completions are likely to fall in 2013.

13. Private home building is sales driven: companies will only build if they have customers able to buy. By far the biggest constraint on home building at present is weak effective demand - from owner occupiers, investors/buy-to-let buyers, housing associations, etc. Therefore boosting private home building initially requires addressing the constraints faced by potential new home buyers.

14. However any significant increase in sales, and therefore home building, would quickly come up against supply-side constraints, so that these also need addressing. In essence, we need to address the supply capacity of the industry and its supply chain. Capacity includes labour, materials, finance, permissioned land (i.e. planning), the impact of policy and regulation on viability and output and the structure of the industry. Our recommendations refer to most of these areas.

15. We estimate that the home building industry has lost between one third and one half of its 2007 capacity. It has some spare capacity on existing live sites to respond to increased demand, but this would not be enough to produce the scale of short-term increase in home building the Government wishes to see, nor would it support the levels of home building needed to solve the long-term undersupply crisis.

16. Therefore although the current focus is on the short-term impact, measures should be introduced which will support longer-term increases in capacity. A short-term increase in home building must not be followed by a collapse back to today's levels, but must be the first step on a long-term upward trajectory.

17. Looking at Government policy, there is concern that the goal posts are moving as new adverse measures are introduced (e.g. zero-carbon, Flood and Water Management Act, CIL, tougher regulation of bank mortgage lending, etc). Any major policy change takes time to settle in and tends to cause delay while those involved adjust to the new system. Therefore any policy measures must be well thought through and targeted, developed in consultation with the industry and clearly set out.

18. All of the following proposals are focused on increasing housing completions by private home builders.

DEMAND MEASURES

Demand from Owner Occupiers

19. Of the current policies in place, FirstBuy and NewBuy have by far the greatest potential to boost new home sales and production in the short term.

20. The additional funding for **FirstBuy** is very welcome. We know it successfully boosts sales and everything is in place to run the scheme, although most companies had run down their operations as their FirstBuy 1 allocations ran out. Targets for the rest of 2012-13 (approx. 1,100 per month) and 2013-14 (approx. 1,200 per month) are very ambitious. Because HBF members have been working closely with the HCA for several years, FirstBuy runs very efficiently and it is difficult to identify any significant areas for improvement. The one obvious area is public awareness. This is discussed below following our comments on NewBuy.

21. Recent research for HBF has identified a number of key measures that would boost the success of **NewBuy**:

    - Lower mortgage rates;
    - Providing each participating home builder with access to the widest possible range of lenders and rates;
    - HBF best practice guidance for home builders;
    - Further measures to boost public awareness;
    - Increasing the number of participating home builders;
    - Increasing the number of participating lenders
    - Part exchange – to be available shortly, should boost sales

The second point is a major issue for most participating home builders because they are limited to two, or in some cases one lender, and therefore a very restricted range of mortgage products. It is clear from individual company sales rates (adjusted for size), which HBF monitors, that companies with access to the broadest range of lenders have tended to be more successful than those with restricted access to lenders/mortgage products.

Public awareness of NewBuy and FirstBuy could be improved. We have suggested to DCLG that the Government considers funding a sustained, professional advertising/PR campaign – e.g. £1m from the FirstBuy budget would have minimal impact on the success of FirstBuy but it would fund a major awareness campaign. Home builders could not fund a campaign on the required scale.

22. While we understand directing **Funding for Lending Scheme (FLS)** money into NewBuy would be difficult, we would strongly urge HM Treasury to give it full consideration. It could boost funding and allow lenders to lower mortgage rates, both of which would boost NewBuy sales.

Demand from Affordable Housing Providers

23. It is difficult to judge how much the loan guarantee scheme for **Affordable Housing (AH)** will lead to increased demand for homes built by private home builders. Home builders will only sell to registered providers (RPs) outside S106 planning obligations agreements at close to open-market value. It is not clear whether the loan guarantee will allow RPs to pay such prices.

24. Home builders are concerned about the impact of uncertainty about **AH funding beyond the Spending Review** period on investment decisions by RPs. They are increasingly reluctant to commit to S106 purchases, so that home builders find themselves with very limited demand for these units. This will have an increasingly adverse impact on vendors' willingness to release land as house builders are unable to forecast AH obligations and revenues. It is already having an impact on AH negotiations with local authorities for schemes delivering post 2015 and on housing supply from longer-term housing schemes and land investments.

25. The **AH programme** could be accelerated if the HCA exercised much greater flexibility – "less control and more facilitation" in the words of one industry expert. We would be more than happy to discuss with Treasury and DCLG practical measures to improve flexibility and speed up delivery.

26. There is widespread, strong support among home builders, and we believe among many registered providers (RPs), for reviewing and expanding the **definition of Affordable Housing**. The current definition (NPPF Annex 2: Glossary) is very narrow. If it were expanded, for example to allow shared-equity, discounted market sale, and possibly some forms of private rented housing, the private and regulated sectors would be able to provide many more homes than under the current definition.

27. A broader definition would allow companies to meet a larger spread of the intermediate market and offer individual buyers choice from a range of solutions. There has been an enormous growth in the number of prospective purchasers of intermediate housing products, households which are not prioritised for subsidised housing but are also unable to access full home ownership at market prices. These households are economically active but their housing aspirations and choices are being denied.

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28. It would encourage house builders to come up with innovative, private-sector solutions requiring no public subsidy. It would play to house builders' strengths by allowing them to tap their understanding of intermediate demand acquired form products such as FirstBuy, low-cost market sale and private rented housing.

29. If AH were to include a wider range of products at less land value subsidy per unit, it would improve site viabilities and profitability, unlock more sites and allow home builders to increase aggregate output. The current 'in perpetuity' requirements of AH can be a major obstacle to private sector solutions and should be reconsidered.

30. We would also like to explore how house builders could be put more in the driver's seat. At present, there are protracted negotiations over the mix of AH, with many local authorities insisting on the most costly tenures, especially high proportions (e.g. 70%) of social rented housing. A considerable number of authorities are unwilling to support the supply of affordable rent housing, still insisting on social rent as the primary tenure. This is impeding sites from coming forward. If home builders could have more say over the AH mix, with far less need to offer units at a substantial subsidy to registered RPs, they would be in control of the speed of delivery and the responsiveness of their products to local market demand and need (rather than having this dictated by the local authority).

31. Allowing a broader range of products would also help avoid the problem encountered on some sites: a polarisation between AH and up-market housing, the latter often required to subsidise the AH – an uncomfortable mix of "haves" and "have nots".

32. Following publication of a revised definition of AH, we believe DCLG should undertake a major education campaign among local authorities to improve their understanding of AH in general, to make them aware of the benefits to their communities of providing a broad range of products - by meeting a wider range of need/demand and delivering more units - and to improve their understanding of the Local Plan and site viability implications of AH demands.

33. If the focus of private S106 AH supply was more on the intermediate market, the Government would need to find additional resources to ensure AH was provided by RPs and local councils for the poorest households. Indeed with public funding restricted, and much reduced opportunities for subsidy from private land value, we believe there should be a thorough review of future AH funding in the run up to the next Spending Review.

Demand from PRS Investors

34. Recovery in housing demand from owner occupiers is likely to be a slow process, and mortgage regulation will act as a permanent constraint on effective demand. In addition, the state of the public finances seems likely to limit the scale of Affordable Housing provision for some years. Both trends, along with strong tenant demand for privately rented homes, suggest there is a more pressing need for house builders to look at **private rented sector** models than at any time for many decades. However, most home builders will not wish to undertake direct long-term investment in the PRS. This would lock up capital, and so reduce their ability to buy land and progress new development, and they do not have expertise in the sector. However if long-term investors can pay an adequate market value for new housing, ensuring that such schemes are profitable for home builders, the industry is ideally placed to provide the bulk of supply for the sector.

35. We welcome the Government's recent announcements on the **private rented sector.** There is a lot more work to be done, but a number of home builders are looking at financial models and are talking to other parties, and HBF has already helped set up discussions between home builders and DCLG and Treasury officials. Because there is a need for scale to attract significant investment, one important task for the recently announced PRS taskforce, and perhaps the HCA and GLA, should be to help develop initiatives that can aggregate portfolios from a number of house builder suppliers. However it seems unlikely any of these proposals, even if some can be made to work, will contribute large numbers of new homes over the next two years. Rather we believe these ideas will take time to refine and establish in the market. There will need to be time to match up the scale of supply required by investors with the forward supply commitments this will require from home builders.

36. HBF has long argued that allowing residential investment in **SIPPS**, if necessary with restrictions (e.g. UK properties), would bring an immediate new source of funded demand for homes at no cost to Treasury. Treasury abandoned the idea at the last minute in 2006, primarily because it was worried about adding fuel to the housing boom. This objection is clearly not relevant today.

37. Home builders have also recalled the success of the **Business Expansion Scheme (BES)** in the late 1980s and early 1990s. This attracted new investment funds from wealthier individuals into the PRS. With today's low savings rates and economic uncertainties, now would seem an ideal to time tap into this source of funds once again. We appreciate Treasury concluded the cost per unit was too high, but this should not rule out the concept altogether. It should be revisited and assessed against the alternative investment options available to such people,

along with appropriate fiscal controls to ensure the cost per unit is acceptable to HM Treasury.

SUPPLY MEASURES: LAND AND PLANNING

38. As sales are boosted through NewBuy and FirstBuy, hopefully with some additional demand from AH providers and PRS investors, and as mortgage availability begins to recover, house builders will initially be able to boost home building on current sites. However as companies consume their stocks of existing permissioned land more quickly, they will need to seek new sites and new planning permissions.

39. There has been a lot of press coverage of **land banks**. The LGA recently produced figures suggesting there are around 400,000 outstanding residential planning permissions. However these numbers need to be seen in perspective. Some of these permissions will have been obtained by non-developers and, from a developer's perspective, some will not be viable, or will not be suitable for current market conditions, or they may even be unbuildable. Therefore the true figure for developable permissions will be below 400,000, and possibly well below. Research by HBF, drawing on other sources, suggests 63% of the 400,000 are on sites that are under construction. Of the remaining 37%, just over half are on sites that are unviable and so cannot be developed, with just under half are on stalled sites.

40. But suppose we take the 400,000 at face value. House builders generally aim to have a land bank of between 3 and 5 years (it will vary from company to company, so that for example some larger companies require 4-5 years to ensure enough outlets to drive volumes), given the time it takes to build out and sell sites (a large site can take many years to develop), and given the enormous delays and uncertainties in the planning system. With housing completions running at around 115,000-120,000 per year in England, a stock of less than 400,000 permissioned units represents a maximum of about three and a half years, and probably rather less once undevelopable permissions are excluded. Also, local authorities are supposed to maintain a five-year supply of available, developable, viable land. While not all the five-year supply will need to have full planning permission, 400,000 permissioned units represent less than five year's supply. Once the industry begins to expand home building, the 400,000 figure will need to increase to ensure home builders have sufficient land banks and local authorities have a five-year supply of land. For example, at 230,000 per year, equivalent to projected household growth, 400,000 units would represent 1.7 years. The industry could not function on a 1.7 year land bank.

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41. The local government sector often asserts that the planning system is not responsible for today's historically low levels of home building. While this is probably largely true in the immediate market conditions, the key question for the planning system under the NPPF is whether it will be able to respond to expanding home building over the next few years by increasing the supply of permissioned, viable land.

42. It is a fundamental law of home building that increasing new home sales over a defined period, all else being equal, requires a larger number of sales outlets. While this can sometimes be achieved on a large site with multiple sales offices, in the main it requires more active sites. Therefore Local Plans under the NPPF must facilitate not just an increase in the number of permissioned plots, but an increase in the number of sites with planning permission. While in normal market conditions we might expect 10 sites of 30 units per site to produce 300 physical and legal completions in a year, one site of 300 units will almost always take much longer to develop and sell.

43. HBF's recent survey of all local authority plans in England shows that, since the abolition of Regional Strategies was first mooted, local authorities have cut their housing plans by around 6% per year to an average of around 185,000 per year. This is well below projected household growth of 232,000 per year and far below the 270,000+ needed to meet household growth and absorb the one million shortfall in housing provision built up over the last decade.

Planning and Permissioned Land Supply

44. The **NPPF** is a very good document and will, we believe, work well as long as (a) the Planning Inspectorate, through decisions on individual appeals and Local Plans, continues to support the key requirements of the NPPF, especially the need to have up-to-date, robustly tested, viable and deliverable Local Plans, and (b) the Government continues to support PINS and makes clear to local authorities its commitment to the pro-growth emphasis of the NPPF and the need to produce robust Local Plans. Home builders would not wish to see any further radical planning reforms as these can be very disruptive and take a long time to bed down. However there are improvements that could be made in a number of areas to make the system more efficient and to help boost home building.

45. The **planning application process** remains painfully slow and is very expensive for home builders. Ironically there has been no correlation between planning fees and service efficiency. Information requirements are onerous, there are long and expensive pre-application discussions which often do nothing to assist the

process, local authorities make unreasonable S106 and other demands, and they are often very short of staff (planning and legal) which can result in unnecessarily long delays and additional costs for home builders. We would urge the Government to review the planning application process in full. The recent consultation on information requirements was too limited. There is no excuse for inefficiency and unnecessary delay in a public service as important as planning. Improving the system requires streamlined procedures, reduced information requirements, better staffing and skills and performance incentives and penalties.

46. There is widespread industry concern about **planning conditions**. House builders are faced with ever increasing lists of conditions (sometimes running into hundreds), many of which are unnecessary (e.g. covering matters included in Building Regulations, or requesting material already provided in the planning application). Of particular concern, local authorities often designate large numbers of conditions as ‘pre commencement’, even when many are not, which delays house builders starting on sites until these can all be discharged. (It is illegal to start until they are cleared.) HBF wrote to the former Housing Minister, Grant Shapps, on 1st May 2012 setting out our concerns about planning conditions (attached as Appendix). The current guidance needs to be reviewed and DCLG needs to require local authorities to improve on current practice which is leading to unnecessary costs and delay. This is a serious brake on development which the Government could fairly easily resolve.

47. The housing numbers in Local Plans will be a critical influence on housing supply. DCLG should review current **guidance on preparing SHMAs** and work with home builders and local authorities to produce revised guidance to support the requirements of the NPPF. We also believe the **guidance for SHLAAs**, another critical requirement of the new system, should be reviewed.

48. **Viability testing of Local Plans** is another key requirement of the new system. The Harman advice (*Viability Testing Local Plans; advice for planning practitioners*) is a valuable document which will be revised in due course in the light of experience. We were disappointed it did not receive full Ministerial endorsement as this would have made it quite clear the advice is a material consideration. However we hope the advice will come to be widely used and treated by PINS as a material consideration. PINS decisions need to reinforce the key messages of the advice – e.g. proper viability testing of a Local Plan rules out aspirational policies such as “up to 40% Affordable Housing”. It is crucial to housing delivery that local authorities adopt a consistent and commercially realistic approach, recognising that land owners must be adequately incentivised to sell their land and housing developers require a return that adequately reflects risk and capital employed.

49. With this in mind, it is of particular concern that the suggestion by the Examiner in his report on the *Examination of the Draft Mayoral Community Infrastructure Levy Charging Schedule* (27 January 2012) that local authority S106 and Community Infrastructure Levy (CIL) demands should be funded out of reduced developer profit margins and/or reduced prices paid for development land is being widely quoted and will, we fear, become accepted wisdom. Reducing developer margins and/or the price paid to land owners is commercially unrealistic and it is impossible to see how reducing incentives to developers and land owners could increase the supply of land and housing. On the contrary, it can only reduce housing supply. It is also contrary to the requirements of the NPPF which clearly states that the local regulatory burden should "provide competitive returns to a willing land owner and willing developer"[1].

50. We believe **Local Plans**, which still follow the format of the old system of Local Development Frameworks, are far too complicated, with far too many documents. The NPPF was a missed opportunity to address this complexity. We would urge the Government to consider simplifying the requirements to a single Local Plan document. This would help local authorities prepare plans more efficiently and quickly. We are also concerned that implementation of the objectives of a Local Plan could be delayed by the production of second tier or sub-district plans, such as Neighbourhood Plans or Allocation Plans.

51. We are most concerned about the operation of **CIL and S106 agreements**, and in particular the interrelationship between the two. The industry's support for CIL was always predicated on it largely replacing S106 demands. Our concerns have been raised with DCLG and we are very pleased that they are being addressed. We hope the outcome will be early, significant improvements to the operation of CIL and more realistic and less damaging levels of CIL. We do however remain concerned that the operation of CIL is very bureaucratic, cumbersome and complex and is unlikely to achieve the Government's stated objective of providing a fairer, faster, more certain and transparent system than S106 agreements. It is also difficult to reconcile CIL with the Government's commitment to reducing the burden of regulation.

[1] To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. (NPPF, para 173)

Public Sector Land

52. We continue to work with the HCA to improve the flow of public sector land, but the flow to date has been disappointing and the bidding process remains complex and expensive. We support giving the HCA a wider role, as proposed in the 6th September Written Ministerial Statement, but we believe the release of land could be speeded up if the HCA adopted a much more commercial, private-sector approach. It would be particularly helpful to see the HCA play an even greater role in persuading local authorities to release surplus land. We would also support a review of progress to date, regular publication of land disposal data, along with a review of possible improvements to the bidding and transactional processes, both of which members find costly and complex, even those working through the Delivery Partner Panels.

SUPPLY MEASURES: INVESTMENT FINANCE

Infrastructure Funding

53. **Get Britain Building** appears to have considerable potential to unlock some stalled sites, although the lengthy bidding and approval process means it is still some way from delivering any significant building work. However allocations were primarily targeted at kick starting sites stalled by lack of development finance. Many house builders have observed that the limited availability of gap funding under GBB restricted its impact. There remain a considerable number of regeneration schemes which can make important local economic contributions yet remain stalled. We would encourage the use of the HCA’s investment powers to support strategic interventions outside of prescriptive programme constraints. Also large schemes, which can require significant upfront infrastructure funding to bring into production, were not covered by GBB. We would encourage DCLG and the HCA to work with the industry to assess the main limitations of the current scheme and to see whether a modified version of GBB could unlock a wider range of stalled sites. One idea would be to incentivise local authorities to release land and encourage home building through a targeted growth fund. A 24-month capital funding programme especially targeted at land release could very quickly generate local jobs and economic activity.

Development Finance

54. We understand from HBF members that previous schemes to increase bank lending to industry (such as Project Merlin) excluded finance for residential development. We hope FLS money for business will allow banks to fund

residential development. We also hope the proposed Government business bank will permit funding for residential development.

SUPPLY MEASURES: REGULATORY BURDEN

SDLT and Double Taxation

55. We are concerned about a case of double taxation in relation to land sales. When a vendor elects to charge VAT on a sale of land, SDLT is payable on the total consideration, including VAT. Therefore it is a tax on a tax. The increase in VAT to 20% further increased the impact of SDLT in such cases. In effect, this is a form of additional regulatory cost. We would urge HM Treasury to review this situation.

Carbon Reduction Commitment (CRC)

56. The Carbon Reduction Commitment (CRC) is a mandatory scheme aimed at improving energy efficiency and cutting emissions in large public and private sector organisations. These organisations are responsible for around 10% of the UK's emissions. The scheme features a range of reputational, behavioural and financial drivers which aim to encourage organisations to develop energy management strategies that promote a better understanding of energy usage.

57. In general there is little carbon benefit in house builders being participants in the CRC as their scope 1 and 2 emissions are low. House builders are generally management entities and not large carbon emitters; our information is that only three of the larger HBF house builder members are caught by the CRC scheme, and then only by an unlucky accident of happening temporarily to own a single power hungry facility and be responsible for its bills. All other house builders including some of the UK's largest are not required to be part of CRC.

58. Many industry sectors have vocally complained about the unnecessary complexity of CRC, a view shared by house builders. The simplifications that have been bought in have helped a little but we still believe that the administrative costs of the scheme far outweigh the revenue raised. The cost for one of the members in the last financial period of the carbon tonnage tax was £50,000, but the company estimates that the true cost of complying with that requirement is at least double, given the managerial and consultant resource required gathering and verifying the same information. The annual CRC carbon bill of another member is £160,000, but again the amount of investment and business-wide time taken to collect the data would be a similar figure – a highly inefficient tax. The business concerned and indeed most house builders operate as autonomous business units based on a geographical division of the UK. As a consequence of this business structure,

the total cost of the tax and administration is less than £15,000 per regional business, and so is clearly not an effective financial driver. However this modest burden still puts house builders caught by CRC at a competitive disadvantage when compared with their peers who were fortunate not to be caught.

59. Our members' experience of reporting on the CRC is that it is unfit for purpose in its current guise and has offered little useful information that can be used for an equal and fair comparison. In view of the forthcoming introduction by Defra of a new reporting structure for emissions from green house gases, we believe that it is time for the abolition of the CRC.

The Regulatory Burden

60. The Spending Review commitment to reduce the regulatory burden on home building was very welcome. However the burden has in practice increased and is set to increase further (Flood and Water Management Act, Part L 2010 and 2013).

61. Recent estimates for HBF suggest Mandatory Build Standards (MBS) for adoptable foul sewers and the SuDS Standards, both requirements arising from the Flood and Water Management Act, will cost the home building industry £640m per year at today's historically low home building rates. This works out at an average of just over £5,300 per dwelling, or £213,400 per hectare of residential development land. In addition, the Zero Carbon Hub has estimated (following the 2011 Budget) that at an Allowable Solutions price of £50 per tonne of CO2 (the lowest Hub assumption), the cost of achieving the 2016 Zero-carbon target compared with Part L 2006 would vary from £4,868 (low-rise apartment) to £14,644 (detached house) per dwelling in 2010 prices. These costs would work out at around £360,000 (at 74 dwellings per hectare low-rise apartments) and £454,000 per hectare (at 31 dwellings per hectare detached houses) of residential land. Taken together, the regulatory costs of zero-carbon and the FWMA will be in the region of £573-667,000 per hectare of residential land. We are at a loss to identify "Outs" on anything like this scale before the end of the Spending Review period.

62. A key problem with the Spending Review commitment and One In One Out Rule is that Outs do not have to be simultaneous with Ins. Therefore the damage is done by Ins long before any compensating Outs are planned.

At **central government** level, we suggest a moratorium on any new policies or regulations which increase home building costs until home building shows a sustained and significant recovery. In view of the costs outlined above, we suggest:

- Putting the FWMA provisions on hold until the market recovers and using this pause to investigate ways to reduce the costs;

- Deferring any change to Part L in 2013 – or at least restricting any change to fabric efficiency (FEEs) only.

63. On zero carbon, we remain very concerned that the details and operation of 'Allowable Solutions' remain unresolved. This is acting as a brake on investment by developers and impeding delivery. Work undertaken by the Zero Carbon Hub, with the support and input of a range of industry and local Government partners, has demonstrated a wide consensus around the necessity and potential value of Allowable Solutions. Stakeholders have united around the shared belief that Allowable Solutions could unlock third party finance and co-investment to deliver additional renewable energy infrastructure and energy efficiency retrofits of existing buildings, thereby driving economic growth and creating jobs. However, the continuing lack of certainty, clarity and predictability around a price of carbon for the valuation of measures in the Allowable Solutions market, the market mechanism itself and the projects to be supported, have a number of adverse consequences: developers are unable to plan housing developments extending beyond 2016 and assess residual land values because of uncertainty around future compliance costs; local authority attempts to impose their own Allowable Solutions will inevitably be fragmented and misaligned to national priorities as they begin to assume that they can define what constitutes an allowable solution, in some cases basing it on a totally unrealistic carbon price assumption; and opportunities are being lost to ensure Allowable Solutions contributions can help deliver existing national measures to reduce and de-carbonise energy use.

64. HBF fully supports the new DCLG review to rationalize the entire framework of Building Regulations and national and local housing standards. We hope this review will push for as much effective deregulation as possible in order to improve the business climate for all companies and help reduce the squeeze on SMEs. However we should note that we are most concerned about the composition of the Challenge Panel which does not include a currently-practicing housing developer. Given the breadth and complexity of regulations and standards applying to home building, both nationally and locally, and their commercial impact on viabilities, we do not think the Panel will be able to fulfill its role effectively without representation by active home builders, preferably with representatives from a larger firm and a smaller developer.

65. The regulatory burden imposed by **local authorities**, which imposes major costs on development, is very difficult to curb. Local authorities are far too ready to impose high levels of the Code for Sustainable Homes (Codes 4 or higher), along with Lifetime Homes and other standards, without assessing the damaging impact they have on viability and delivery. Viability testing of Local Plans, required by the NPPF, will only ensure the cumulative regulatory burden leaves sufficient sites viable to deliver the Plan's housing and other development requirements.

66. As already noted, the current review of locally imposed standards (Written Ministerial Statement, 6 September) is welcome. However even if local standards are rationalised, the real issue is not the standards themselves, but their imposition by local authorities and impact on development viabilities and housing supply. We believe that local authorities, like central Government departments, should be (a) required to provide a robust, genuinely local justification for any local policy, and (b) only able to implement such policies after a robust regulatory impact assessment, looking at costs, benefits and likely impact on residential development, has been prepared and subject to proper public consultation. In the past, local authorities have too often included a broad policy in the LDF, but then imposed detailed policy requirements through a Supplementary Planning Document which requires little or no public consultation.

INDUSTRY SUPPLY CAPACITY

67. The long-term shortfall in home building is so great that all sectors of the industry will need to be able to play a full part in boosting home building over the next decade. However the contribution of smaller and medium sized home builders to total housing output has been squeezed over the last 30 years (NHBC statistics). In 2011 companies in the 2000+ units size band accounted for just under half of all NHBC starts, double the share in 1979. By contrast, the share of the 1-100 size band, while rather erratic, has fallen from around 40% in the early 1980s to around one quarter or lower in recent years.

68. This squeeze is highlighted by NHBC statistics for the first half of 2012. While private starts by the top 10 home builders were up by 0.7%, home builders ranked numbers 11 to 50 reduced their starts by 32%, while the remainder of the industry cut starts by 15%.

69. Some of the reasons for this squeeze are obvious: over the long-term the increasing complexity of planning and regulation, the restricted supply of permissioned land, the focus on brownfield land, the tendency for some local authorities to release a few large tracts of land rather than a large number of relatively small sites; while since 2007 restricted access to development finance has added a further serious barrier. If the industry is to increase home building significantly, we need to understand the role different sectors of the industry could play and identify the barriers faced by each sector.

John Stewart
Director of Economic Affairs

Appendix

The Rt Hon Grant Shapps MP
Minister for Housing and Local Government
Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU

1 May 2012

Dear Grant

PLANNING CONDITIONS DELAYING HOUSING DELIVERY

One of the problems many house builders currently encounter is the increasing number of conditions imposed on their planning permissions – very often conditions on relatively small details of a development which must nevertheless be met before work can start.

There are a wide range of reasons why conditions may be imposed but, in general, the core – positive - reason for their use should be to enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission. In that respect they can play an invaluable role in the delivery of development since they can avoid the need for the re-submission of a brand new planning application.

Unfortunately, however, there are many examples of local planning authorities attaching "standard" conditions to a permission notice with little or no consideration of whether or not they are strictly necessary or without thought to their impact on the implementation of the permission. Frequently, conditions are placed on permissions requiring details that have already been submitted as part of the original application (in general terms, formal approval of building materials or landscaping schemes are two common examples of this practice).

Three particular difficulties quoted by home builders are the number of conditions (frequently 30, up to 50 for sites of up to 500 units, with as many as 150 plus for large strategic sites), conditions duplicating other statutory requirements (e.g. Building Regulations) which incurs unnecessary cost and delay, and so-called pre-commencement conditions which are not in fact pre-commencement (e.g. they may in fact relate to matters at a later stage in development) which unnecessarily delay start on site.

The problems are compounded because in practice local planning authorities do not give priority to ensuring their staff provide confirmation that conditions have been met as soon as they have been and the process of agreeing their discharge can take many months, particularly where monitoring or survey work that must take place in a particular season is required. Relatively simple processes are routinely taking months and our members are citing this as a key reason when development is not taking place quickly. This frequently delays the implementation of schemes that would, otherwise, be contributing to increasing economic growth and meeting the local authority's housing supply.

Government guidance on the use of planning conditions is set out in paragraph 206 of the recently published National Planning Policy Framework and Circular 11/95 which you will note is now some 16 years old. Both the NPPF and the Circular are clear that the imposition of conditions should be exercised in such a way that they are clearly seen to be fair, reasonable and practicable. Sticking to this guidance is important because many conditions attached to permissions must be formally discharged by the local planning authority with the developer having to make a further written application to the authority, often prior to commencement of the development. Our experience, however, is that the guidance is frequently ignored, leading to unnecessary delays to commencement of development and subsequent housing delivery.

Our members are concerned about the incidence and impact of such unnecessary delays to projects and we do feel therefore that a timely reminder on the proper use of conditions would be helpful. We would also invite you to consider including the discharge of conditions <u>within</u> the proposed planning guarantee period of 1 year. If it is not, there is a real risk that many local authorities will be able to revert to deferring decision making through the use of additional conditions while appearing to have issued an implementable consent within the guarantee period.

You will be aware of the Killian Pretty Review of the planning application process undertaken in 2009. Recommendation 6 of that Review made specific suggestions for improvements in the use of conditions and a subsequent consultation was undertaken in late 2009 entitled “Improving the use and discharge of planning conditions”. The results of that consultation were never published nor any of the recommendations implemented and we think this work could now usefully be revisited in order to agree concrete steps to improve the position.

Considering this whole raft of issues, we think there is also a strong case for including the use of planning conditions within the scope of the Red Tape Challenge when this focuses on planning later this year. Quite apart from the delays that may arise, we also need to look hard at whether the imposition of conditions is directly increasing the cost of development and adding unnecessarily to the regulatory burden on the industry. The use of conditions needs in addition to be looked at in the context of the viability testing of local plan policies.

We would be happy to discuss this increasingly frustrating issue with you and other colleagues in greater detail in order that we might agree solutions to the problems it creates.

I look forward to hearing from you and am copying this letter to Greg Clark and to Mark Prisk at the Department for Business, Innovation and Skills.

Kind Regards

S.A. Baseley

Stewart Baseley
Executive Chairman

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