

Insights

'USE IT OR LOSE IT' – HAVEN'T WE BEEN HERE BEFORE?

May 25, 2021

SUMMARY

Confirmation that the Government is examining new ways to increase build out rates could see the introduction of levies where planning permissions are not built out as expected. In this blog we remind ourselves that these ideas have been considered before and there were good reasons why they have not to date come to fruition. But maybe Government has found a new way.

The recurring issue of 'build out rates', which is the gap between the grant of planning permission and delivery of development (including much needed housing supplies), did not feature in the Government's proposals for planning reform consulted on in last year's Planning White Paper, or in the Planning Bill that will be introduced to Parliament this year.

It is an issue that continues to rumble on in the housing debate, with the gap continually blamed by some on 'land banking' by large developers. This is despite a number of studies that have examined this issue in detail and concluded to the contrary. In the past it was more about stick ("make them build") but maybe looking ahead it will be more about carrot ("working together to make it happen"). For many there is room for positive solution making.

The question was most recently examined in a Government commissioned independent review in 2017 led by Sir Oliver Letwin, in which he was asked to explain why there was a low build out rate for residential schemes and to make recommendations for closing it.

Impediments to low build out rates

The Letwin report concluded that the main impediments to low build out rates were not 'land banking' or intentional delay by developers. Other key factors are at play including the homogeneity of the types and tenures of the homes being built on large residential schemes which tend to limit the rate at which they can be sold into the local market (the 'absorption rate') and availability of skilled labour.

That said, research published by the Local Government Association earlier this month estimated that in the last decade planning permission was granted for 1.1 million homes that were not built, which has brought the build out disparity back into the spotlight. We know there is a problem - what is the solution?

'Use it or lose it' incentives

According to news reports, Robert Jenrick MP (Secretary of State for Housing, Communities and Local Government) confirmed that he is looking at new ways to ensure sites build out as expected, which could include levies on land with planning permission that has not been built out, with "no option... being taken off the table". No further details have been provided at this stage, but when solutions have previously been mooted, charging council tax until a property has been built and occupied has been one of the suggestions. But Government has shown it is also open to positive and innovative ideas to generate growth. Certainly, we have worked with developers and local planning authorities to shape planning permissions to incentivise the delivery of new homes as opposed to banking them. A way can always be found and planning policy, at all levels, can be shaped to encourage delivery.

Introduction of a new levy would no doubt be unpopular with developers, but it could also have significant wider economic impacts which could undermine the Government's housing agenda.

These issues were addressed in the Letwin report in detail, but in summary it found that if major house builders are forced to build and sell at a sub-optimal time, an over-supply could reduce sale prices. Whilst initially this may benefit buyers, it could create serious problems not only for the major house builders but also, potentially, for prices and financing in the housing market with repercussions for the wider economy.

We expect the debate to continue. We have been here before and there are solid reasons why 'use it or lose it' incentives in and by themselves are not the only answer. Maybe this latest attempt will gain more traction, especially if part of a package of policy measures designed to encourage innovative, positive and sustainable delivery of new homes – it will be important for us all to keep up.

RELATED PRACTICE AREAS

- Planning & Zoning
- Real Estate
- Real Estate Tax

MEET THE TEAM



Christian Drage

London

christian.drage@bclplaw.com

[+44 \(0\) 20 3400 4947](tel:+442034004947)



Clare Eccles

London

clare.eccles@bclplaw.com

[+44 \(0\) 20 3400 4267](tel:+442034004267)

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.