Dear Meg,

**PLANNING FOR NEW HOMES**

At the Committee’s hearing on Planning for New Homes on 29 April 2019, I promised to provide further information on a number of topics, including affordable housing and section 106 negotiations.

The attached note provides answers on these. I hope that it will be helpful to the Committee.

Yours,

MELANIE DAWES
Planning for new homes – additional information for the Committee

1. Renegotiation of planning obligations

The Growth and Infrastructure Act 2013 inserted new sections 106BA, BB, and BC into the Town and Country Planning Act 1990. This introduced a new application and appeal procedure that allowed developers to renegotiate affordable housing obligations on the grounds of viability. The ‘sunset’ for these new sections was at the end of April 2016 meaning that the provisions lapsed, and the application and appeal procedure ceased to be available at that point.

The committee asked whether there were any transitional arrangements in place relating to this legislation and, specifically, whether any applications made under section 106 BC prior to 30 April 2016 were still left in the system, thus meaning that renegotiations could still take place.

Parliament did not put in place any transitional provisions relating to this legislation. However, section 16(1) of the Interpretation Act 1978 provides a general transitional right to use a provision if you have an acquired right to do so before the provision was repealed.

In order to acquire a right a developer would have had to have made their application to renegotiate their affordable housing obligation under the section 106 BC procedure before 30 April 2016. Only developers who made an application before that date have an acquired right to have their cases determined under those provisions. A recent case, known as the City of York case, confirmed this was the position.

We cannot say for sure that there are no cases still left in the system, but given the time period that has now elapsed, we think it is unlikely.

2. Affordable housing

The Committee requested a breakdown of the different types of affordable housing that are expected to be delivered through the current Affordable Homes Programme.

The Government’s £9 billion Affordable Homes Programme began in 2016 and will support the delivery of 250,000 affordable homes, comprising affordable rent, social rent, shared ownership, and rent to buy.

Since 2016/17, 82,648 additional affordable homes have been completed. The tenure breakdown of these is set out in the table below.
Tenure | Additional homes (from 2016/17)
--- | ---
Social Rent | 10,720
Affordable Rent | 47,523
London Affordable Rent (Affordable Rent in London) | 286
Intermediate Rent (Rent to Buy) | 1,546
Shared Ownership | 19,137
Affordable Home Ownership | 3,436
England | 82,648

Of these 82,648 units 6,209 were delivered by Local Authorities. Details of the tenure mix, and of which Local Authorities are building homes, can be found in Live Table 1011c, available at the following link: [https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply](https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply).

The Committee also asked for the Government’s view on the acceptable proportion of their income that people should be spending on rent, in social housing in particular.

The Government has not set a specific percentage of income that households in social housing should be spending on rent. However, the Government recognises the importance of ensuring that social housing responds to different household circumstances across the country. For this reason it invests in a range of social housing tenures tailored to local need.

This includes investment to deliver new Social Rent homes to meet the needs of struggling families and those most at risk of homelessness in areas of the country where affordability is most pressured. The maximum initial rent for each Social Rent home is calculated using a national formula which takes account of relative county earnings, the relative value of the property and the number of bedrooms. It is typically set at around 50-60 per cent of market rents. Approximately 3.9 million (95 per cent) of the 4.1 million rented social homes in England are currently let at Social Rent.

The Government is also investing to deliver new Affordable Rent homes, where the initial rent is capped at 80% of the market rent for the property concerned (except in London where both Social Rent and Affordable Rent levels tend to be lower). Approximately 5 per cent of rented social homes in England are currently let at Affordable Rent. More than 90 per cent of Affordable Rent homes are let by private registered providers (commonly known as housing associations) with the remainder with Local Authorities. A regional breakdown of those provided by private registered providers is shown in the table below.¹

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¹ Private Registered Provider Social Housing Stock in England 2017-18, published by the Regulator of Social Housing (data is drawn from tables 32 and 33).
<table>
<thead>
<tr>
<th>Region</th>
<th>Affordable Rent homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Midlands</td>
<td>11,857</td>
</tr>
<tr>
<td>East of England</td>
<td>24,496</td>
</tr>
<tr>
<td>London</td>
<td>30,532</td>
</tr>
<tr>
<td>North East</td>
<td>15,021</td>
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<tr>
<td>North West</td>
<td>44,481</td>
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<tr>
<td>South East</td>
<td>36,222</td>
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<tr>
<td>South West</td>
<td>22,088</td>
</tr>
<tr>
<td>West Midlands</td>
<td>20,795</td>
</tr>
<tr>
<td>Yorkshire &amp; the Humber</td>
<td>15,751</td>
</tr>
<tr>
<td>England</td>
<td>221,243</td>
</tr>
</tbody>
</table>

As stated in the National Planning Policy Framework, local plans should set out the levels and types of affordable housing provision required in local areas.