MAYOR OF LONDON

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Mayor of London response to Residential Property Development Tax consultation

21 July 2021

Summary

The Mayor welcomes the opportunity to respond to the consultation on the Residential Property Development Tax (RPDT).

No leaseholder should be liable for the cost of remediating historic building safety defects. The Mayor welcomes the government's recognition that resolving the building safety crisis will require the involvement of the housing and development industry. The Mayor, however, believes that more could and should be raised from the housing and development industry, noting that his own proposals for a developer levy would raise a minimum of £3 billion, and that the government needs to go further and protect all leaseholders from unfair costs.

While the RPDT is a step in the right direction, the Mayor asks the government to review proposals so that:

- Affordable housing provision is not undermined by the tax.
- Profitable developments, such as privately managed student accommodation, are captured by the tax.
- Measures are in place to prevent developers from passing down tax contributions to communities, those in need of affordable housing, or housing associations, via the S106 process and pricing of S106 units.

Please consider this submission jointly with the submissions from the G15 group of London's largest housing associations and the National Housing Federation (NHF), which offer valuable insights into the potential implications of the tax on the social housing sector. The GLA, G15 and NHF share the view that any solution to the building safety crisis must protect affordable housing delivery.

Response to consultation questions

1 Scope of the RPDT

Affordable housing

1.1 The eligibility criteria for the tax should be refined to protect all affordable housing providers and ensure that affordable housing as an activity should be exempted altogether from the tax. The tax otherwise risks undermining the provision of new supply. Increasing affordable housing supply is the most effective and long-term strategy to respond to the worsening housing crisis, not only in London but in other major cities and parts of the UK as well.

1.2 Currently, the criteria stipulate that only for-profit residential developers will fall within the scope of the tax. However, it is not uncommon for housing associations to cross-subsidise development programmes with surpluses generated from homes built through for-profit subsidiaries. These subsidiaries develop private properties for market sale or market rent and Gift Aid one hundred per cent of their surpluses to the parent organisation, the charitable housing association.

1.3 Additionally, some housing associations do not have a charitable status and pay corporation tax on their profits. However, all profits get reinvested into affordable housing development. If these housing associations are not exempted from the tax, they will have lower surpluses to reinvest into affordable housing delivery, diminishing their capacity to add to the supply of new affordable housing.

1.4 Our partners have therefore raised that the application of the tax should move from being entity based to sector based, and only applied to profits that are redistributed to private shareholders. As such, exemptions should account for these particular cases where housing associations may not clearly fit the definition of a charity.

1.5 The Mayor asks that the government amends the RPDT eligibility criteria to reflect that charitable organisations may have non-charitable arms, which should be exempt from the tax. Please refer to the consultation responses from the G15 and NHF for further detail on this point.

Communal dwellings

1.6 Purpose-built student accommodation is a highly profitable venture and can have similar characteristics to the wider rental sector, especially when it is managed by private sector providers. The sector is currently estimated to be worth around £60 billion.[1]

1.7 The London Plan's policy on purpose-built student accommodation acknowledges the need for affordable student housing that is managed by Higher Education Providers (HEPs) and charitable organisations.[2] HEPs tend to have a more direct relationship with students and are more likely to provide suitable lower cost accommodation than private providers. Unlike conventional affordable housing developments, affordable student housing is not exempted from value-added tax, meaning that this accommodation is liable for a higher tax burden.

1.8 The Mayor therefore asks the government to include purpose-built student accommodation within the scope of the tax, except where the accommodation is developed and managed by Higher Education Providers as well as providers with a charitable status.

1.9 Additionally, the Mayor asks that large scale purpose-built shared living schemes are within the scope of the tax, including where these are in retirement communities not reliant on care provision, as indicated in the consultation document.

2 Impact on affordable housing supply

2.1 GLA officers have considered the impact of the RPDT on affordable housing provision and are concerned that there are various mechanisms through which the tax could inadvertently result

[1] UK Student Accommodation Report | United Kingdom | Cushman & Wakefield (cushmanwakefield.com)
[2] See Policy H15 here: The_London_Plan_2021.pdf

in a reduction of affordable housing supply, or have other negative consequences that impede the delivery of infrastructure and other facilities to support development.

2.2 Although the tax is not site-specific, there is a risk that developers may elect to count RPDT payments as costs to individual schemes. If these contributions were included in viability assessments it would reduce the viability of delivering high levels of affordable housing, for which there is overwhelming need in London. This could impact negatively on the outcome of the planning process and wider support for development.

2.3 It would be highly inequitable if developers were ultimately allowed to pass tax contributions down to the communities and those in need of affordable housing, as well as other infrastructure and facilities that enable the delivery of sustainable development. It should be made clear that the tax must not be taken into account as a consideration in S106 negotiations or viability assessments.

2.4 As such, the Mayor asks the government to ensure the policy framework and guidance on the RPDT prohibits the application of tax contributions to S106 calculations, preventing new or past S106 agreements to be amended to accommodate for the tax. This should also be applied to any future replacement of the S106 process taken forward through the government's intended planning reforms.

3 Possible impact on prices of S106 units

3.1 The Mayor has heard from some partners of their concern that the new tax may translate into higher prices for the purchase of S106 units by housing associations, meaning that the cost of the tax may be passed on to the social housing sector. It is not in the spirit of this tax to pass on costs to housing associations, who are already facing severe financial constraints, nor is it efficient, since housing association sector surpluses are reinvested in much needed future new homes.

3.2 Affordable housing delivered through developer-led schemes which are purchased by housing associations accounts for a significant proportion of affordable housing provision across the country. For the 12 months to September 2020, the NHF estimates that S106 acquisitions represented 52 per cent of their members' total new stock. This figure is larger for housing associations in London.

3.3 Although S106 units are acquired through a bidding process and prices will mostly be left to the market, the Mayor asks the government that communications on the RPDT, and specifically communications from the Ministry for Housing, Communities and Local Government (MHCLG) on the pricing on S106 units, stress that schemes should be priced reflecting the net present value of the property not including any assumptions regarding development tax liabilities. The Mayor asks MHCLG to commit to monitoring this, particularly in the short term following the introduction of the tax.