

# Subsidy Advice Unit Report on the proposed subsidy to Barking Riverside Limited

Referred by Homes England

18 June 2024

**Subsidy Advice Unit**

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Part of the Competition and Markets Authority



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# 1. Introduction

- 1.1 This report is an evaluation prepared by the Subsidy Advice Unit (SAU), part of the Competition and Markets Authority, under section 59 of the Subsidy Control Act 2022 (the Act).
- 1.2 The SAU has evaluated Homes England's assessment of compliance (the Assessment) of the proposed subsidy to Barking Riverside Limited (BRL) with the requirements of Chapters 1 and 2 of Part 2 of the Act.<sup>1</sup>
- 1.3 This report is based on the information provided to the SAU by Homes England in its Assessment and evidence submitted relevant to that Assessment.
- 1.4 This report is provided as non-binding advice to Homes England. The purpose of the SAU's report is not to make a recommendation on whether the subsidy should be given, or directly assess whether it complies with the subsidy control requirements. Homes England is ultimately responsible for granting the subsidy, based on its own assessment, having the benefit of the SAU's evaluation.
- 1.5 A summary of our observations is set out at section 2 of this report.

## The referred subsidy<sup>2</sup>

- 1.6 Homes England proposes to award a subsidy of £30 million (the Subsidy) to BRL to enable it to take forward a development project known as 'Barking Riverside' (the Project) on the north bank of the River Thames at Barking in East London.
- 1.7 BRL acts as master developer for the Project. It is responsible for the overall design of the Project, obtaining planning permission, delivering the necessary infrastructure, remediating contaminated land and then selling 'development ready' plots to the developers to construct homes and commercial units. BRL is a joint venture between the Greater London Authority Land and Property Limited, a wholly owned subsidiary of the Greater London Authority (GLA), and L&Q Housing Trust.<sup>3</sup>

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<sup>1</sup> Chapter 1 of Part 2 of the Act requires a public authority to consider the subsidy control principles and energy and environment principles before deciding to give a subsidy. The public authority must not award the subsidy unless it is of the view that it is consistent with those principles. Chapter 2 of Part 2 of the Act prohibits the giving of certain kinds of subsidies and, in relation to certain other categories of subsidy creates a number of requirements with which public authorities must comply.

<sup>2</sup> [Referral of a proposed subsidy to Barking Riverside Limited by Homes England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/referral-of-a-proposed-subsidy-to-barking-riverside-limited-by-homes-england)

<sup>3</sup> Homes England explained that BRL was originally formed on 26 March 2004 as a joint venture between English Partnership and Bellway Homes Limited. Since then, the GLA, through a wholly owned subsidiary, acquired English Partnership's interest in BRL, and L&Q Housing Trust, through a wholly owned subsidiary, acquired Bellway's interest.

- 1.8 The Subsidy will be provided through Homes England's £150 million London Brownfield, Infrastructure and Land (BIL) fund.<sup>45</sup> The primary objective of the fund is to support economic growth and housing supply where there is an evidenced need and opportunity with a focus on brownfield land in London. One focus relates to projects that fall within a 'Docklands 2.0' area (which includes Barking Riverside).<sup>6</sup>
- 1.9 Under the terms and conditions of the Subsidy to BRL, funding will be available for the following infrastructure works for the Project:
- (a) The provision of core services, roads, pavements and landscaping to provide service plots and public access to all areas of the site, along certain defined roads;
  - (b) The delivery of key landscaping works required as a condition of the planning permission; and
  - (c) Foreshore work, the purpose of which is to boost the flood defence strategy for the site.
- 1.10 Homes England explained that the Subsidy will unlock the potential to deliver an additional 7,200 homes to the site, for a total of 20,000 homes.<sup>7</sup> BRL have a target of (up to) 50% of the homes delivered on the site being affordable housing.<sup>8</sup>
- 1.11 The Assessment states that the Subsidy will also provide an indirect economic advantage to infrastructure owners,<sup>9</sup> through the grant providing support to BRL to extend utilities networks (electricity, gas, water and telecommunications).
- 1.12 The Subsidy is being given against a backdrop of other sources of public funding for the Project, including from Homes England, the GLA and the London Borough of Barking and Dagenham (LBBDD). Specifically, the Assessment notes the following funding from Homes England:
- (a) Alongside the Subsidy, Homes England also intends to provide a loan to BRL, with the aim of accelerating the delivery of the Project. Homes England does not consider the loan to constitute a subsidy under the Act, because it will be provided on market terms.

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<sup>4</sup> This fund is linked to the wider Brownfield, Infrastructure and Land Fund administered by Homes England which is available for projects across England ([Brownfield, Infrastructure and Land Fund - GOV.UK \(www.gov.uk\)](https://www.gov.uk)).

<sup>5</sup> Funded activities include, but are not limited to, assembling and remediating land; provision of enabling infrastructure; provision of utilities and social infrastructure.

<sup>6</sup> As part of the Secretary of State for Levelling Up, Housing and Communities' [speech](#) in July 2023, a vision was set out for a 'Docklands 2.0' in East London, encompassing 65,000 new homes. The Assessment states that the UK Government sees BIL funding as a first phase of intervention to bring about 'Docklands 2.0'.

<sup>7</sup> 3,500 homes of the 20,000 targeted have already been delivered or are under construction at the site.

<sup>8</sup> They are required to provide at least 35% affordable housing to be planning compliant.

<sup>9</sup> These owners will be the relevant electricity or gas distribution network operator, the relevant water and/or waste water company and a telecommunications network operator.

- (b) In 2020, Homes England provided a grant of £56 million to BRL to contribute to the cost of infrastructure needed to prepare a number of building plots at the site, including roads, land preparation, electricity and heating infrastructure, utilities and other projects. This grant was awarded prior to the Act coming into force.

## **SAU referral process**

- 1.13 On 30 April 2024, Homes England requested a report from the SAU in relation to the proposed Subsidy to BRL.
- 1.14 Homes England explained<sup>10</sup> that the subsidy is a Subsidy of Particular Interest because its value exceeds £10 million.
- 1.15 The SAU notified Homes England on 7 May 2024 that it would prepare and publish a report within 30 working days (ie on or before 18 June 2024).<sup>11</sup> The SAU published details of the referral on 8 May 2024.<sup>12</sup>

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<sup>10</sup> In the information provided under section 52(2) of the Act

<sup>11</sup> Sections 53(1) and 53(2) of the Act.

<sup>12</sup> [Referral of a proposed subsidy to Barking Riverside Limited by Homes England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/referral-of-a-proposed-subsidy-to-barking-riverside-limited-by-homes-england)

## 2. Summary of the SAU's observations

- 2.1 The Assessment uses the four-step structure described in the Statutory Guidance for the United Kingdom Subsidy Control Regime (the [Statutory Guidance](#)) and as reflected in the SAU's Guidance on the operation of the subsidy control functions of the Subsidy Advice Unit (the [SAU Guidance](#)).
- 2.2 Overall, we consider that the Assessment sets out a clear policy objective of the Subsidy that addresses a clearly established market failure and equity rationale. It also provides a range of evidence, including the business case and independent reports, to support some of its explanations.
- 2.3 However, the Assessment should be strengthened in several areas by:
- (a) Setting out whether alternative measures that did not involve BRL had been considered, such as procuring the infrastructure works through an open and competitive process, or Homes England taking the master development role (Principle E).
  - (b) Providing further evidence and analysis to explain how the Subsidy addresses a viability gap. For instance, the Assessment could have explained why BRL considered the project's financial returns 'acceptable' despite the Assessment explaining that the project's financial returns were below market expectations. Specifically, the Assessment could have better evidenced what returns the market participants expect for investments similar to this project. If there was a gap in the financial returns between similar investments and this project, the Assessment could have explained whether and how the risks and rewards differed.
  - (c) Considering more comprehensively the impact on competition in line with the Statutory Guidance. For master developers, the Assessment should have considered whether the relevant market should be widened to include other geographic areas (beyond the Barking Riverside site) and whether awarding the BIL funds to BRL could disadvantage rival master developers. For related markets, the Assessment should have explained the competitive impact of the Subsidy on the developers' market (including on BRL's shareholders who are active in this market) and on infrastructure owners.
- 2.4 Our report is advisory only and does not directly assess whether the Subsidy complies with the subsidy control requirements. We have not considered it necessary to provide any advice about how the proposed Subsidy may be modified to ensure compliance with the subsidy control requirements.<sup>13</sup>

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<sup>13</sup> Section 59(3)(b) of the Act.

### 3. The SAU's Evaluation

3.1 This section sets out our evaluation of Assessment, following the four-step framework structure used by Homes England.

#### **Step 1: Identifying the policy objective, ensuring it addresses a market failure or equity concern, and determining whether a subsidy is the right tool to use**

3.2 The first step involves an evaluation of the Assessment against:

- (a) Principle A: Subsidies should pursue a specific policy objective in order to (a) remedy an identified market failure or (b) address an equity rationale (such as local or regional disadvantage, social difficulties or distributional concerns); and
- (b) Principle E: Subsidies should be an appropriate policy instrument for achieving their specific policy objective and that objective cannot be achieved through other, less distortive, means.<sup>14</sup>

#### **Policy objectives**

3.3 The Assessment states that the policy objective for the Subsidy is to increase housing supply by regenerating brownfield land in London. It sets out that the Subsidy will enable BRL to increase the number of homes being delivered on the site in Barking Riverside, with an additional 7,200 homes for a total of 20,000 homes for the Project.

3.4 In our view, the Assessment sets out clearly the policy objective of the Subsidy.

#### **Market failure and equity objective**

3.5 The Statutory Guidance sets out that

- (a) market failure occurs where market forces alone do not produce an efficient outcome.<sup>15</sup>
- (b) Equity objectives seek to reduce unequal or unfair outcomes between different groups in society or geographic areas.<sup>16</sup>

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<sup>14</sup> Further information about the Principles A and E can be found in the [Statutory Guidance](#) (paragraphs 3.32 to 3.56) and the [SAU Guidance](#) (paragraphs 4.7 to 4.11).

<sup>15</sup> [Statutory Guidance](#), paragraphs 3.35-3.48.

<sup>16</sup> [Statutory Guidance](#), paragraphs 3.49-3.53.



## **Market failure**

3.6 The Assessment discusses the national housing market, stating that the existence of a market failure in this market is well established. It explains that the market failure is the result of a number of factors limiting developers' ability to produce sufficient houses.

3.7 The Assessment then identifies the following market failures the Subsidy will remedy:

(a) Public Goods - The Assessment states that Barking Riverside, as a major brownfield regeneration project, requires significant levels of public good provision. It explains that the total remaining development costs of the project include 'flood defences, roads and cycleways, additional school sites, primary health facilities and significant elements of public realm and placemaking'. The Assessment explains that because these are public goods which will serve the wider community, BRL has 'no effective means by which to charge for the infrastructure use and cannot therefore directly benefit from delivering this work despite the heavy burden of cost to the development`.

(b) Externalities - The Assessment then explains that by investing in the project, BRL will address negative externalities, particularly the remediation of brownfield land, which will provide positive amenity and environmental benefits for both the site and the wider area. It also states that that the Subsidy will deliver positive externalities through transport and placemaking impacts beyond the site itself. It explains that these externalities require significant upfront costs to deliver and are creating a viability gap which would stop the project from proceeding absent the subsidy.

3.8 In our view, the Assessment presents plausible market failures that the Subsidy aims to remedy. It could be strengthened by more fully articulating the description of these market failures in line with the Statutory Guidance. For example, the Assessment could better explain how the different types of infrastructure the Subsidy will deliver have the characteristics of public goods in line with paragraph 3.41 of the Statutory Guidance, and whether BRL could benefit from the delivery of these. Additionally, the Assessment could be strengthened if it had explained in more detail how the market failures the Subsidy will remedy relate to the policy objective of increasing housing supply.

## **Equity Objective**

3.9 The Assessment states that the Subsidy will address an equity objective by providing additional affordable housing (see Paragraph 1.10) in an area where there is 'considerable unmet demand' and 'high levels of deprivation'.

- 3.10 The Assessment provides statistics demonstrating that LBBB has high levels of deprivation compared to other areas in England, a housing affordability challenge and significant waiting times for social housing.
- 3.11 In our view, the equity objective that the Subsidy seeks to address is well explained, with appropriate statistics used to demonstrate the existence of inequalities between LBBB and other areas within the UK. However, the Assessment could be improved by more clearly discussing how the equity objective of increasing the supply of affordable housing relates to the policy objective (that refers to achieving an ‘increased number of homes’ only).

### **Consideration of alternative policy options and why the Subsidy is the most appropriate and least distortive instrument**

- 3.12 In order to comply with Principle E, public authorities should consider why the decision to give a subsidy is the most appropriate instrument for addressing the identified policy objective, and why other means are not appropriate for achieving the identified policy objective.<sup>17</sup>
- 3.13 The Assessment sets out several options Homes England considered, but discounted, including:
- (a) Brokering: this option was discounted on the basis that it would not provide the capital needed to advance the project.
  - (b) Acquisition, Joint Venture and Equity: this option was discounted because it would expose BRL to unnecessary financial risks.
  - (c) Business as Usual (no further funding is provided to the project by Homes England): this would lead to fewer homes being delivered at the site and over a longer timeframe.
  - (d) A Loan only: this option was discounted because the higher associated interest and repayment costs would impact the viability of the project.
- 3.14 The Assessment then concludes that providing a grant alongside a loan on commercial terms provides the funding necessary to deliver the project at the desired level with a financial return that is acceptable to BRL and provides a more manageable level of debt than the loan only option.
- 3.15 In our view, the Assessment demonstrates that Homes England has considered several alternative options and provides an explanation as to why they are not appropriate to achieve the policy objective. However, the Assessment should explain whether a wider range of alternative measures, had been considered such

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<sup>17</sup> [Statutory Guidance](#), paragraphs 3.54-3.56.

as procuring the infrastructure works through an open and competitive process, or Homes England taking the master development role.

## **Step 2: Ensuring that the subsidy is designed to create the right incentives for the beneficiary and bring about a change**

- 3.16 The second step involves an evaluation of the assessment against:
- (a) Principle C: First, subsidies should be designed to bring about a change of economic behaviour of the beneficiary. Second, that change, in relation to a subsidy, should be conducive to achieving its specific policy objective, and something that would not happen without the subsidy; and
  - (b) Principle D: Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.<sup>18</sup>

### **Counterfactual assessment**

- 3.17 In assessing the counterfactual, the Statutory Guidance explains that public authorities should assess any change against a baseline of what would happen in the absence of the subsidy (the 'do nothing' scenario).<sup>19</sup> This baseline would not necessarily be the current 'as is' situation (the 'status quo') but what would likely happen in the future – over both the long and short term – if no subsidy were awarded.
- 3.18 The Assessment states that, absent the Subsidy, the most likely counterfactual would result in BRL reverting to its original business plan of constructing 12,800 homes and thus foregoing the construction of the 7,200 new homes and associated infrastructure that the Subsidy intends to induce. The Assessment explains, with some relevant evidence, how the scale of the related infrastructure development would be lower in the counterfactual, and the pace of home building under its original business plan would decline. It also elaborates on the loss of several positive spillovers, such as a sustainable waste solution and the Health & Leisure Hub no longer being feasible.
- 3.19 In our view, the Assessment explains, as a plausible scenario without the Subsidy, that the infrastructure being delivered through the Subsidy would not have been provided, and the 7,200 homes would not have been built. However, in arriving at this counterfactual, the Assessment could have considered and, if relevant, discounted:

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<sup>18</sup> Further information about the Principles C and D can be found in the [Statutory Guidance](#) (paragraphs 3.57 to 3.71) and the [SAU Guidance](#) (paragraphs 4.12 to 4.14).

<sup>19</sup> [Statutory Guidance](#), paragraphs 3.60-3.62.

- (a) whether and how there was any scope to include the desired level of improved infrastructure within the original business plan's budget; and
- (b) whether fewer than the targeted 7,200 new homes could have been constructed while fully or partially achieving the policy objective of improved infrastructure.

### **Changes in economic behaviour of the beneficiary and additionality**

- 3.20 The Statutory Guidance sets out that subsidies must bring about something that would not have occurred without the Subsidy.<sup>20</sup> In demonstrating this, public authorities should consider the likely change or additional net benefit. An example of this could be an increase in the scale or scope of a project or activity.
- 3.21 According to the Statutory Guidance, 'additionality' means that subsidies should not be used to finance a project or activity that the beneficiary would have undertaken in a similar form, manner, and timeframe without the Subsidy.<sup>21</sup>
- 3.22 The Assessment explains that BRL's shareholders have invested substantial capital into the project, with any revenues generated reinvested mainly in the project. The Assessment further explains that BRL's partners have not realised any capital returns and cannot commit to further funding required to deliver an additional 7,200 homes. It adds that whilst BRL's shareholders are willing to continue accepting sub-market returns, they are unwilling to accept the returns associated with the overall 20,000 homes project (ie unlocking the 7,200 additional homes) absent the Subsidy.
- 3.23 The Assessment then outlines that the project has been assessed 'through Homes England's hierarchy of intervention as requiring a grant to resolve market failure' and that funding is available until March 2026. According to Homes England, the Subsidy is required to make the project viable and put BRL in a position where it can draw on additional funding. This will enable the necessary infrastructure to be delivered early and the increased housing supply to follow. The Assessment concludes that the Subsidy 'bridges the viability gap to enable the unlocking of [an additional 7,200 homes] and for future (ie improved) infrastructure requirements to be delivered'.
- 3.24 In support of its conclusions, Homes England provided an independent consultant's report showing the impact of the proposed Subsidy amount on BRL's forward-looking financial return. Based on this calculation, the report states that the proposed Subsidy allows BRL to achieve an acceptable financial return. The

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<sup>20</sup> [Statutory Guidance](#), paragraph 3.64.

<sup>21</sup> [Statutory Guidance](#), paragraphs 3.63-3.67.

Assessment further explains that this level of financial return is below the market expectations for similar projects.

- 3.25 In our view, the Assessment provides a plausible explanation for the beneficiary's change in behavior (ie the delivery of the additional 7,200 homes through the delivery of infrastructure work by March 2026) due to the Subsidy.
- 3.26 However, the Assessment should provide further evidence and analysis to demonstrate how the Subsidy addresses the viability gap by:
- (a) Explaining why BRL considers the project's financial returns to be 'acceptable' despite citing evidence that the project's financial returns were below market expectations. Specifically, the Assessment could have better evidenced what percentage rate of financial return the market participants expect for investments similar to this project. If there was a gap in the financial returns between similar investments and this project, the Assessment could have explained whether and how the risks and rewards differed.
  - (b) Stress testing (eg sensitivity analysis) the critical inputs of the independent consultant report, such as significant costs, revenue drivers and delivery pace, to determine the Subsidy's impact on a forward-looking financial return.

### **Step 3: Considering the distortive impacts that the subsidy may have and keeping them as low as possible**

- 3.27 The third step involves an evaluation of the assessment against:
- (a) Principle B: Subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it; and
  - (b) Principle F: Subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the United Kingdom.<sup>22</sup>

#### **Proportionality**

- 3.28 The Assessment explains that the proposed Subsidy represents a relatively small proportion of the overall costs of delivering the infrastructure required to achieve the policy objective. The Assessment also notes that the Subsidy per housing unit is low, relative to other smaller brownfield sites that are under consideration for

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<sup>22</sup> Further information about the Principles B and F can be found in the [Statutory Guidance](#) (paragraphs 3.72 to 3.108) and the [SAU Guidance](#) (paragraphs 4.15 to 4.19).

Homes England's grant intervention. It also states that costings and the viability gap were externally appraised.

- 3.29 The Assessment further considers how the following elements of the Subsidy's design help minimise the size of the subsidy including that:
- (a) the grant funding agreement (GFA) has specific requirements around procurement of contractors which will ensure value for money is able to be evidenced.
  - (b) The claims can only be made for the actual costs incurred and only to provide infrastructure set out in the GFA which will be verified by a Homes England appointed, independent Monitoring Surveyor.
  - (c) Homes England is able to recover grant funding should the scheme perform better than anticipated above a defined financial return threshold (set at a level higher than the financial return discussed above at paragraph 3.24).
- 3.30 We consider that the above subsidy characteristics (eg independent assessment of costing as well as requirements around the procurement process) are useful in assessing proportionality. However, the Assessment of proportionality could be improved on several aspects (in addition to the point on viability gap set out above under paragraph 3.26, ie that BRL should demonstrate that the £30m grant is the minimum required):
- (a) On the grant recovery mechanism, the Assessment could explain and provide supporting evidence, why this particular threshold of financial return was chosen to ensure that BRL is not overcompensated by the proposed Subsidy, particularly considering that the set threshold is higher than the 'acceptable' financial return discussed above.
  - (b) The Assessment should consider other financial assistance given to the same recipients for similar purposes as part of the assessment of proportionality.<sup>23</sup> Whilst the Assessment and supporting documents refer to several other grants which were or are expected to be given to BRL (as set out in paragraph 1.12), it does not clearly explain their policy objectives and whether this financial assistance, and the associated costs and benefits, should be taken into account in the assessment of proportionality.

### **Design of subsidy to minimise negative effects on competition and investment**

- 3.31 The Assessment states that the viability gap cannot be met by a less intrusive form of intervention such as a loan with reference to the discussion of Principle E.

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<sup>23</sup> [Statutory Guidance](#), paragraph 3.91.

- 3.32 The Assessment also sets out a number of characteristics of the proposed Subsidy, including that:
- (a) London BIL funding is accessible to a range of housing led brownfield, infrastructure and land projects provided they meet a number of eligibility criteria; and that the decision to award the subsidy to BRL went through multiple approval stages.
  - (b) The Subsidy is time limited and available only until 31 March 2026.
  - (c) The grant funding agreement between Homes England and BRL provides Homes England with substantial monitoring and audit powers and an entitlement to terminate and /or recover the funds should BRL fail to meet performance criteria which are monitored and independently assessed on a quarterly basis.
  - (d) Other elements (that were also detailed when discussing the proportionality of the Subsidy), including the size of the subsidy, the nature of the costs covered, and the grant recovery mechanism are relevant to this principle.
- 3.33 On the form of intervention, we note that the Assessment explains why providing only a commercial loan would not achieve the policy objective and why a subsidy is needed. However, it should consider alternative forms of subsidies (for example, a loan at below market interest rates) which could still meet the policy objective, to determine which of those is the least intrusive, as per the Statutory Guidance.<sup>24</sup>
- 3.34 We acknowledge that the Assessment lists a number of the scheme characteristics identified in Chapter 3 of the Statutory Guidance as potentially relevant to the likelihood of distortive impact on competition or investment. However, we note this part of the assessment does not explain how these characteristics could minimise any potential distortions and hence could be improved by including such considerations. For example, the Assessment could have explained how the key eligibility criteria used for prioritising and allocating the subsidy funds act to minimise potential distortive effects on competition.

### **Assessment of effects on competition or investment**

- 3.35 The Assessment identifies the relevant market as the master developer market and explains that this market ‘sits outside of the housebuilding market’ due to differences in business models, different risk appetite, ability to fund land acquisitions and upfront infrastructure. The assessment then goes on to identify the competitors operating in the master developer sector including the closest competitor to BRL, also noting that there is ‘a lack of organisations <...> to lead

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<sup>24</sup> [Statutory Guidance](#), paragraph 3.82.

the delivery of large, mixed-use places, over the long-term.’ It further explains that Homes England has specifically identified an ambition to see the master development market grow.

- 3.36 The Assessment concludes that the proposed Subsidy will have negligible negative effects on competition in the master developer market. This is because ‘BRL are in full legal control of the Barking Riverside site and Homes England have not identified any counterfactual where competitors would have the opportunity to step in to deliver Barking Riverside’. In addition, BRL is a ‘*single purpose vehicle*’ which is not expected to compete in the market once the project completes.
- 3.37 The Assessment explains that the proposed Subsidy could encourage competition amongst the developers because some of the plots will be sold on the open market and BRL is committed to actively target SMEs.’ It then adds that the proposed Subsidy is ‘not expected to have an adverse impact on competing private residential schemes within LBBB or other areas’ because it will serve ‘a latent unmet demand for housing’ and hence will ‘help address a longstanding market failure and address a policy objective and equity rationale.’
- 3.38 On the other hand, the Assessment acknowledges that the proposed Subsidy ‘would be an economic advantage to the owners of that infrastructure’ (see paragraph 1.11) which could in turn, ‘affect competition’ and ‘distort incentives for potential investors.’
- 3.39 Overall, the Assessment sets out a number of considerations pertinent to assessing the impact on competition in the relevant master developers’ market. In our view, it usefully explains why only BRL and not its competitors could benefit from the proposed Subsidy in the narrowly defined geographic area of the Barking Riverside site. However, the assessment of potential competitive distortions should have further considered whether the relevant market should be widened to include other geographic area(s). For example, the assessment could have considered whether awarding the BIL funds to BRL could disadvantage rival master developers considering or taking forward redevelopment projects in other locations.
- 3.40 We also note that the Assessment contains a very limited discussion of the impact on competition and investment in the related markets. As set out in Annex 3 of the Statutory Guidance, where relevant, the assessment should consider products or services related to the recipient’s activities affected by the subsidy and any markets not directly targeted by a subsidy but in which it wants to correct a market failure or pursue an equity rationale. In the context of the proposed Subsidy, we consider this is relevant to (at least) two related economic activities, specifically:



- (a) In relation to the developers' market, the Assessment should explain in more detail the competitive impact of the Subsidy on BRL's current or previous shareholders, who are active in the developers' market, eg whether they would derive competitive advantage through the Subsidy. This is particularly relevant considering that these shareholders have an option to acquire a percentage of the housing units developed with the help of this Subsidy. The Assessment should also identify competitors active in the developers' or housebuilding market which may be particularly affected by the proposed Subsidy and considering the nature and scale of the impact. For example, this could include other existing regeneration and housebuilding projects in the borough or wider geographic areas, where appropriate. Finally, this could also explain in more detail how actively targeting SMEs could impact competition amongst the developers.
- (b) In relation to the infrastructure owners, we consider that Homes England, having acknowledged potential distortive impacts, should have considered this further in Step 3 of the Assessment.

#### **Step 4: Carrying out the balancing exercise**

- 3.41 The fourth step involves an evaluation of the assessment against subsidy control Principle G: subsidies' beneficial effects (in terms of achieving their specific policy objective) should outweigh any negative effects, including in particular negative effects on: (a) competition or investment within the United Kingdom; (b) international trade or investment.<sup>25</sup>
- 3.42 The Assessment explains that in outlining the business case for the Subsidy, Homes England undertook a full economic appraisal which considered all the economic benefits and disbenefits of the project. This appraisal found that the project, when the Subsidy is included, delivers a significant level of net additional social value to the UK, through the delivery of approximately 7,200 additional homes.
- 3.43 The Assessment also explains that the project delivers several wider benefits to the local area and wider London that were not fully captured in the appraisal. These include positive regeneration and placemaking impacts from the infrastructure the project has delivered to date (schools, community centres and a new train station and riverboat pier) and will deliver in the future (a new health and wellbeing hub and commercial space).
- 3.44 The Assessment also sets out the potential negative effects of the Subsidy. It explains that any competitive effects are limited by the fact that BRL are 'in full control of the land' so a competitor would not be able to deliver the project. The

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<sup>25</sup> See [Statutory Guidance](#) (paragraphs 3.109 to 3.117) and [SAU Guidance](#) (paragraphs 4.20 to 4.22) for further detail.

Assessment also considers whether the Subsidy could reduce BRL's incentive to be innovative and invest further in the project, but states that without the subsidy the policy objective would not be achieved. The Assessment concludes that given the 'absence of negative consequences' that the impact of the subsidy will be 'strongly positive'.

- 3.45 In our view the Assessment demonstrates that Homes England has considered the expected benefits<sup>26</sup> of the Subsidy and its potential negative effects in line with the Statutory Guidance. The conclusion of the balancing exercise is well supported by the quantification of the economic benefits associated with the additional homes the Subsidy will deliver compared to the counterfactual scenario included in the economic appraisal.
- 3.46 While the Assessment acknowledges potential negative effects of the Subsidy, the shortcomings of the assessment of potential negative competitive impacts in Step 3 (see paragraph 3.39 and 3.40) also affect the completeness of the balancing exercise. In addition, while the Assessment identifies the potential negative impact of the Subsidy on BRL's incentive to be innovative, it would be strengthened by explaining what, if any, consideration was given to designing the parameters of the Subsidy to minimise this impact.

## **Other Requirements of the Act**

- 3.47 This step in the evaluation relates to the requirements and prohibitions set out in Chapter 2 of Part 2 of the Act, where these are applicable.<sup>27</sup> Homes England confirmed that no other requirements or prohibitions set out in Chapter 2 of Part 2 of the Act apply to the Subsidy.

**18 June 2024**

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<sup>26</sup> In our view, some of the wider benefits discussed in the Assessment will be realised as a result of the project rather than the subsidy and are not directly related to the policy objective (see paragraph 3.112 of the Statutory Guidance).

<sup>27</sup> [Statutory Guidance](#), chapter 5.