

Subsidy Advice Unit Report on the proposed subsidy to Besson Street LLP

Referred by Lewisham London Borough Council

10 July 2025

Subsidy Advice Unit

Part of the Competition and Markets Authority



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1. The Referral

- 1.1 On 23 May 2025, Lewisham London Borough Council (the Council) requested a report from the Subsidy Advice Unit (the SAU)¹ in relation to its proposed subsidy to Besson Street LLP (the Subsidy) under section 52 of the Subsidy Control Act 2022 (the Act).²
- 1.2 This report evaluates the Council's assessment of compliance (the Assessment) of the Subsidy with the requirements of Chapters 1 and 2 of Part 2 of the Act.³ It is based on the information and evidence included in the Assessment.
- 1.3 This report is provided as non-binding advice to the Council. It does not consider whether the Subsidy should be given, or directly assess whether it complies with the subsidy control requirements.

Summary

- 1.4 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](#)).
- 1.5 In our view, the Council has considered the compliance of the Subsidy with the subsidy control principles. In particular, the Assessment:
- (a) clearly describes and evidences the equity objective that the Subsidy seeks to address (Principle A); and
 - (b) demonstrates how certain design features of the Subsidy are intended to help minimise potential negative effects on competition and investment, and sets out the Council's consideration of alternative funding instruments (Principle F).
- 1.6 However, we have identified the following areas for improvement:
- (a) the Assessment should more clearly identify and set out the market failure(s) being addressed, in line with the Statutory Guidance and explain how the Subsidy aims to address it (Principle A);

¹ The SAU is part of the Competition and Markets Authority

² [Referral of the proposed subsidy to Besson Street LLP by Lewisham London Borough Council - GOV.UK](#)

³ 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.

- (b) the Assessment should consider the potential for further alternatives to subsidy to deliver the policy objective and explain the reasons they were not considered appropriate (Principle E);
 - (c) the Assessment should more fully explore a range of potential counterfactual scenarios, and better explain how it has concluded that the development not proceeding is the most likely outcome, absent the Subsidy (Principle C);
 - (d) the Assessment should more thoroughly consider the effect of the Subsidy on competition and investment, in line with Annex 3 of the Statutory Guidance (Principle F);
 - (e) the Assessment should provide more detail on the intended benefits of the Subsidy and their scope and take into account more fully any likely negative effects in the balancing exercise, clearly explaining how it concluded that the benefits outweigh any negative impacts. It should also consider whether wider benefits identified relate to the specific policy objective of the Subsidy and, if not, exclude them from the balancing exercise (Principle G); and
 - (f) the Assessment should set out how each of the SPEI requirements (both substantive and procedural) are met (Chapter 2).
- 1.7 At various places, the Assessment would benefit from including appropriate supporting evidence to support its arguments. This is particularly relevant in relation to Step 2 (Principles C and D) and Step 3 (Principle B) where we consider that the Assessment should include appropriate supporting evidence to demonstrate the Subsidy's impact on viability and deliverability.
- 1.8 We discuss these areas below, along with other issues, for consideration by the Council in finalising its assessment.

The referred subsidy

- 1.9 The Council is proposing to award a subsidy of up to £12.2 million, in the form of grant funded by Right to Buy Receipts (RTBR), to Besson Street LLP - a Joint Venture between the Council and Grainger Plc, in which the Council holds a 50% interest. The Council considers the Subsidy to be for a Service of Public Economic Interest (SPEI).
- 1.10 The Subsidy will fund the delivery of 114 new affordable homes within the London Borough of Lewisham (the Borough). These affordable homes form part of the wider Besson Street development (the Development), delivered by Besson Street LLP, which will comprise 324 new homes (114 of which will be the affordable rent homes funded by the Subsidy), a new NHS GP surgery and pharmacy, improvements to the public realm and new community facilities.

- 1.11 The Council explained that the Subsidy is a Subsidy of Particular Interest because it exceeds £10 million in value.

2. The SAU's Evaluation

- 2.1 This section sets out our evaluation of the Assessment, following the four-step structure used by the Council.

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

- 2.2 Under Step 1, public authorities should consider compliance of a subsidy with:
- (a) Principle A: Subsidies should pursue a specific policy objective in order to remedy an identified market failure or 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.⁴

Policy objectives

- 2.3 The Assessment states that the Council's Housing Strategy (2020-2026)⁵ contains the main policy objectives that the Subsidy is seeking to address.
- 2.4 It then set outs that the Subsidy will enable the Council to deliver 114 new affordable homes, contributing to the policy objective of delivering much needed affordable housing to the Borough. It explains that the delivery of affordable housing (and infrastructure improvements) will:
- (a) address significant social equity concerns in the Borough;
 - (b) ensure basic housing and health needs are met;
 - (c) address income inequality;
 - (d) promote social inclusion; and
 - (e) contribute to better health and social outcomes.
- 2.5 In our view, while the Assessment refers to the Council's Housing Strategy (2020–2026) as containing the main policy objective that the Subsidy seeks to address, it should explicitly state the specific policy objective of the Subsidy within the

⁴ See [Statutory Guidance](#), paragraphs 3.33–3.58 and the [SAU Guidance](#), paragraphs 4.7–4.11 for further detail.

⁵ [Lewisham Council - Housing strategy](#)

Assessment, as this underpins the consideration of the other principles. However, we consider that the supporting text provides a clear articulation of the underlying policy aim of the Subsidy, specifically the delivery of 114 new affordable homes. While not expressly framed as the policy objective, this appears to be the specific objective that underpins the Subsidy.

Equity Objective

- 2.6 Equity objectives seek to reduce unequal or unfair outcomes between different groups in society or geographic areas.⁶
- 2.7 The Assessment states that the Borough experiences significant deprivation compared to the wider region and the UK (based on an index of multiple deprivation). It also includes evidence⁷ which sets out a range of indicators relating to income poverty and food insecurity in the Borough and explains that it is in significant need of affordable housing to overcome equity issues arising from deprivation.
- 2.8 It presents a broad range of general information on housing and poverty, linking this to equity challenges related to housing affordability and an under supply of affordable housing in the Borough, as well as across the wider housing market.
- 2.9 The Assessment states that adequate, stable housing is essential to health, safety and overall wellbeing, and argues that housing stability fosters community and reduces the likelihood of criminal activity.
- 2.10 The Assessment explains that the Subsidy will fund the delivery of 114 tenure-blind affordable homes, designed to promote social inclusion and ensure that residents feel equally valued. It sets out that the homes will be let at discounted market rents and allocated by the Council based on assessed need. The Assessment states that the housing will make sustainable living accessible to a broader range of people, increase supply of affordable homes in the Borough, and ensure more households on lower income have access to secure and safe accommodation. The homes will also be constructed in a 'fabric first' approach to alleviate fuel poverty.
- 2.11 In our view, the Assessment clearly describes and evidences the equity objective that the Subsidy seeks to address.

⁶ [Statutory Guidance](#), paragraphs 3.51–3.55.

⁷ The Assessment relies on [the Council's Report on the cost-of-living crisis in Lewisham and future outlook](#).

Market failure

- 2.12 Market failures arise where market forces alone do not produce an efficient outcome. When this arises, businesses may make investments that are financially rational for themselves, but not socially desirable.⁸
- 2.13 The Assessment describes challenges to the Borough's housing supply and sets out that demand for housing has increased while the rate of new homebuilding has declined. It also argues that rising costs are a contributing factor to the undersupply of affordable housing relative to demand in the Borough.
- 2.14 As well as describing these market outcomes, the Assessment describes the following market failures:
- (a) Imperfect information. The Assessment argues that potential homebuyers and renters often have less information about various factors, such as interest rates, economic conditions and local demand influencing prices, which can lead to overpaying for properties or choosing unsuitable locations, resulting in inflated prices.
 - (b) Public Goods. The Assessment states that affordable housing shares some characteristics of a public good due to its significant social benefits, which may not be adequately supplied by the market alone.
- 2.15 The Assessment also argues that a market structure with limited sellers can lead to collusion and anti-competitive behaviour, although it does not present evidence to suggest that this is a specific concern in the context of the Borough, or that the Subsidy is intended to address it.
- 2.16 We note that, as set out in the Statutory Guidance, it is for public authorities to decide whether the Subsidy remedies a market failure or addresses an equity concern, or both.⁹
- 2.17 In our view, the Assessment does not adequately explain or evidence why the outcomes that it intends to achieve through the Subsidy address a public good or imperfect information market failure. To the extent that the Council wishes to rely on a market failure argument (as well as the strong equity rationale that it sets out), the Assessment should more clearly identify and set out the market failure(s) being addressed, in line with the Statutory Guidance¹⁰ and explain how the Subsidy aims to address it.
- 2.18 We also note that when discussing challenges to the Borough's housing supply (see paragraph 2.13), the Assessment provides a description of changes and

⁸ [Statutory Guidance](#), paragraphs 3.36–3.50.

⁹ [Statutory Guidance](#), paragraph 3.34.

¹⁰ [Statutory Guidance](#), paragraphs 3.36–3.50.

market outcomes in the homebuilding market. In our view, whilst this is useful context, they are not sufficient to demonstrate the existence of a market failure.

Appropriateness

- 2.19 Public authorities must determine whether a subsidy is the most appropriate instrument for achieving the policy objective. As part of this, they should consider other ways of addressing the market failure or equity issue.¹¹
- 2.20 The Assessment explains that the Council has considered the following means to achieve the policy objective:
- (a) Increasing affordable housing provision quotas for new housing developments through planning obligations.¹² This was discounted, as doing so would reduce the viability of housing projects unless subsidy were provided, leaving the overall level of affordable housing below the level required to achieve the policy objective. The Assessment also considered the risk that increased quotas might prompt developers to seek development opportunities elsewhere.
 - (b) Direct provision by the Council. The Assessment explains that this would require significant public resources and expertise and the Council does not have the required capacity nor experience to do so.
- 2.21 The Assessment also considers (under Step 3) the reduction of affordable homes in the development. The Assessment argues that whilst this would reduce the total amount of subsidy, it would not remove the need for some subsidy as the provision of affordable housing is not commercially viable.
- 2.22 The Assessment explains that various grant options were considered for this development, including the Mayor's Land Fund. However, it sets out the view that RTBRs are the only suitable grant funding streams for this project.
- 2.23 In our view, the Assessment demonstrates that the Council has considered some other ways of achieving its policy objective. However, we consider that the Assessment should consider the potential for further alternatives to subsidy to deliver the policy objective and explain the reasons they were not considered appropriate. This could include, for example, whether other sites within the Borough were assessed that may have been more commercially viable, or whether modifications to the Development were explored to improve its commercial viability. As with other parts of the Assessment, consideration of such

¹¹ [Statutory Guidance](#), paragraphs 3.56–3.58.

¹² The Assessment states that the current Greater London Authority threshold for affordable housing is 35% (or 50% on public/industrial land).

alternatives would be improved by inclusion of evidence demonstrating the extent of any financial viability gap.

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

- 2.24 Under Step 2, public authorities should consider compliance of a subsidy with:
- (a) Principle C: Subsidies should be designed to bring about a change of economic behaviour of the beneficiary. That change should be something that would not happen without the subsidy and be conducive to achieving its specific policy objective; and
 - (b) Principle D: Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.¹³

Counterfactual

- 2.25 In assessing the counterfactual, public authorities should consider what would likely happen in the future – over both the long and short term – if no subsidy were awarded (the ‘do nothing’ scenario).¹⁴
- 2.26 The Assessment states that the Development was paused due to the need to redesign the Development in response to regulatory changes introduced by the Building Safety Act 2022. It explains that this, combined with cost inflation, has impacted the viability of the Development.
- 2.27 Consequently, the Assessment sets out a counterfactual scenario in which the Development cannot proceed without the proposed Subsidy. This would result in the loss of the Development, including 324 homes in total (of which 114 are for affordable rent), and associated infrastructure improvements for the local community. The site would remain dormant and the identified policy objective would not be achieved.
- 2.28 The Assessment further explains that without the 114 affordable rent homes, the pressure on the Borough’s waiting list for affordable housing would increase, market rents may continue to rise, and the gap between rents and household incomes is likely to widen. Over the longer term, this could contribute to deteriorating socio-economic conditions in the Borough, with negative impacts on community well-being and prosperity.

¹³ See [Statutory Guidance](#), paragraphs 3.59–3.73 and the [SAU Guidance](#), paragraphs 4.12–4.14 for further detail.

¹⁴ [Statutory Guidance](#), paragraphs 3.62–3.64.

- 2.29 In our view, the Assessment should more fully explore a range of potential counterfactual scenarios and better explain how it has concluded that the development not proceeding is the most likely outcome, absent the Subsidy. This should be supported by appropriate evidence, such as a financial model comparing the position with and without the Subsidy to demonstrate its impact on viability and deliverability of the Development.

Changes in economic behaviour of the beneficiary and additionality

- 2.30 Subsidies must bring about something that would not have occurred without the subsidy.¹⁵ They 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 ('additionality').¹⁶
- 2.31 The Assessment states that without the Subsidy, the Development would not be viable and could not proceed, which would prevent the policy objective of delivering additional affordable homes for the Borough of being achieved.
- 2.32 The Council sets out the value of the Subsidy for the 114 affordable homes. It outlines that the Subsidy covers approximately 21.7%¹⁷ of the affordable housing costs, with the remainder funded through borrowing.
- 2.33 The Assessment refers to the draft Grant Agreement, which outlines the monitoring and compliance regime for the Subsidy. It also explains that the Subsidy is ringfenced, time-limited, and would likely have to be returned if not used for this Development.
- 2.34 The Assessment provides a Retention Agreement for the Subsidy, which specifies that use of the Subsidy will be limited to the provision of low-cost rental accommodation, shared ownership accommodation, or first homes. It states that such outcomes would not be delivered if the Subsidy was not awarded.
- 2.35 In our view, the shortcomings identified in the counterfactual impact the assessment of additionality. We consider that the Assessment should provide evidence to demonstrate how the Subsidy affects the overall financial viability of the Development. In particular, as the delivery of the 114 affordable homes equates to the 35% provision required under the Greater London Authority's threshold for affordable housing, the Assessment should include evidence to quantify the viability gap and demonstrate why this requirement would not be deliverable without the proposed Subsidy.

¹⁵ [Statutory Guidance](#), paragraph 3.66.

¹⁶ [Statutory Guidance](#), paragraphs 3.65–3.69.

¹⁷ We note that the figure in the assessment under Step 2 is given as 25%, whereas 21.7% is stated in Step 3 and appears to be closer to the actual percentage.

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

2.36 Under Step 3, public authorities should consider compliance of a subsidy with:

- (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.¹⁸

Proportionality

2.37 The Assessment states that the proposed Subsidy of £12.2 million is the minimum amount necessary to bridge a viability gap in delivering 114 affordable homes. It notes that the Subsidy is approximately 21.7% of the affordable housing cost, and is well below the maximum allowable use of RTBRs, which is approximately £23.4 million in this case.

2.38 The Assessment explains that the funding gap has arisen due to a combination of additional factors, including the requirement to accommodate new building safety regulations, inflation and updated rent assumptions.

2.39 The Assessment and supporting evidence outline a number of Subsidy design features intended to demonstrate proportionality. In particular:

- (a) the Subsidy is funded through RTBR's which are ringfenced for affordable housing, and the beneficiary is contractually bound through the Grant Agreement to use the funds for affordable housing within the development.
- (b) clawback provisions in the Grant Agreement apply if actual development costs are lower than budgeted, or if the internal rate of return exceeds the target after 10 years.
- (c) the grant is disbursed in arrears, based on verified eligible expenditure, and is subject to open accounting and monitoring provisions.

2.40 In our view, while the Assessment demonstrates that the Subsidy includes some design features that support proportionality, it should provide better explanation and evidence of how the Council has determined that the total subsidy amount is appropriate to achieve the policy objective. This could include:

¹⁸ See [Statutory Guidance](#) paragraphs 3.74–3.110 and the [SAU Guidance](#), paragraphs 4.15–4.19 for further detail.

- (a) an explanation of the forecasting assumptions used and any evidence of an independent assessment of the viability gap;
- (b) a fuller discussion of why planned cross-subsidisation from market-rate rental homes is no longer sufficient to fund the affordable housing element of the Development, including more detail on consideration given to alternative ratios of market-rate rental homes to affordable housing; and
- (c) benchmarking the size of the Subsidy not only against the cost of the project, but also against the size of the relevant market(s) and the operating costs of Grainger Plc.

Design of subsidy to minimise negative effects on competition and investment

- 2.41 The Assessment outlines several design features of the Subsidy in line with Statutory Guidance which it states are relevant to minimising potential distortive impacts. These include clawback provisions, ringfencing of funds and a time-limited funding period.
- 2.42 It explains that the Council considered alternative subsidy instruments, including loans, but concluded these were not viable due to the additional interest costs, which would impact the ability to achieve the policy objective.
- 2.43 The Assessment also explains that Grainger Plc was selected as the joint venture partner following an open and competitive procurement process that involved several stages over more than twelve months.
- 2.44 In our view, the Assessment demonstrates how certain design features of the Subsidy are intended to minimise potential negative effects on competition and investment, and sets out that the Council considered alternative funding instruments.

Assessment of effects on competition or investment

- 2.45 The Assessment briefly considers the potential effects of the Subsidy on competition and investment. It identifies the relevant market as the provision of affordable housing in the Borough and notes that demand for affordable housing outstrips supply in the Borough and across London. It also acknowledges potential impacts on related markets, such as market-rate housing and development land, and recognises that some providers operate in more than one of these markets.
- 2.46 In our view, while the Assessment briefly considers the effect of the Subsidy on competition and investment, it should more thoroughly consider the effect of the Subsidy in this regard, in line with Annex 3 of the Statutory Guidance. In particular, it should:

- (a) Provide a description of the affordable housing market and related markets (such as development land and residential property construction) that are most likely to be affected by the Subsidy, including the number and type of active providers in each, and any barriers to entry or expansion that exist.
- (b) Outline the position of Grainger Plc within these markets and consider how the Subsidy might affect that position and broader market dynamics, including whether the Subsidy is likely to crowd out other providers. It could also consider Grainger Plc's ongoing role within the joint venture beyond the period of grant funding and ensure the Subsidy amount has taken account of future income streams it may receive from managing the affordable housing units.

Step 4: Carrying out the balancing exercise

- 2.47 Under step 4 (Principle G), public authorities should establish that the benefits of the subsidy (in relation to the specific policy objective) outweigh its negative effects, in particular negative effects on competition or investment within the United Kingdom and on international trade or investment.¹⁹
- 2.48 The Assessment sets out that the Subsidy will provide 114 affordable homes, benefitting the Borough. It explains that meeting basic housing needs helps address income inequality by enabling low-to middle-income households to access high-quality housing. The homes will also promote social inclusion by supporting diverse communities where residents from different socio-economic backgrounds can coexist and thrive.
- 2.49 The Assessment outlines additional wider benefits of the Development, including green space, GP surgery and a shell-and-core pharmacy, office space and community facilities. It also states that the provision of 324 quality homes (35% of which is affordable homes) will contribute to the local housing stock for both market sale and affordable housing.
- 2.50 The Assessment acknowledges that potential negative impacts of the proposed Subsidy could include potential distortive market effects, such as reduced competition and inefficiencies. It sets out, in general terms, that subsidised developers may gain a competitive advantage, which could discourage innovation and competition among developers.
- 2.51 The Assessment states that a balancing exercise was undertaken to evaluate the beneficial and negative effects of the Subsidy. It concludes that while there is minor potential for market distortions, these are significantly outweighed by the

¹⁹ See [Statutory Guidance](#), paragraphs 3.111–3.119 and the [SAU Guidance](#), paragraphs 4.20–4.22 for further detail.

substantial benefits of the Subsidy, particularly the delivery of much-needed affordable homes.

- 2.52 In our view, while the Assessment outlines the positive effects of the Subsidy at a high level, it should provide more detail on the intended benefits of the Subsidy and their scope, including a quantitative assessment where possible. The Assessment should also consider whether wider benefits identified - such as the 210 non-affordable homes, access to green space and new medical facilities - relate to the specific policy objective of the Subsidy, and if not, should exclude them from the balancing exercise.²⁰
- 2.53 We consider that the lack of an adequate assessment of how the Subsidy may impact competition and investment in Principle F impacts the completeness of Step 4. The Council should revisit the balancing exercise and take into account more fully any likely negative effects of the Subsidy and clearly explain how it concluded that the benefits outweigh them. This should include explaining why it has attributed greater weight to certain factors than others (for example by attempting to quantify the overall scale of the effects), in order to come to a stronger overall conclusion.

Other Requirements of the Act

- 2.54 The Council has identified that the Subsidy would engage Section 29 of the Act because it involves the delivery of a SPEI.
- 2.55 These requirements include the following:
- (a) the Subsidy is limited to what is necessary to deliver the SPEI having regard to costs of delivery and reasonable profits (s29(2));
 - (b) the Subsidy is given in a transparent manner (s29(3)), meaning that the subsidy is given in accordance with a written contract (or other legally enforceable arrangement in writing), which sets out the terms of the subsidy and contains certain prescribed information (s 29(4) and (5)); and
 - (c) arrangements are in place to regularly review the Subsidy to ensure it remains limited to the minimum amount necessary and that any excess funds can be recovered (s29(6) and (7)).

²⁰ In presenting the beneficial effects, the Statutory Guidance advises that only those benefits that relate directly to the policy objective identified in Step 1 should be taken into account for the purposes of the balancing exercise, rather than wider potential benefits that do not relate to a market failure or equity rationale. See [Statutory Guidance](#) (para 3.114, page 53).

- 2.56 The Assessment states that the Statutory Guidance has been considered, and the requirements are met. The Council also provided a copy of the draft Grant Agreement as supporting evidence.
- 2.57 In our view, while the Assessment states the Council's intention to grant the Subsidy in compliance with Section 29 of the Act, the Assessment should set out how each of the SPEI requirements (both substantive and procedural) are met. In particular, the Assessment should systematically address each requirement in line with the Statutory Guidance and, where supporting information is relied upon, clearly indicate in the Assessment of Compliance where in the supporting evidence the requirement is met.
- 2.58 The Council confirmed that no other requirements or prohibitions set out in Chapter 2 of Part 2 of the Act apply.

10 July 2025