

**Submission to Department of Housing, Planning, Community & Local Government  
On the use of Public Private Partnerships to deliver social housing  
31.3.17**

**Background**

- Rebuilding Ireland proposes the provision of 1,500 social houses through a public private partnership model
- These will be delivered in three tranches using a finance, build and maintain model
- Local Authorities will provide the land and tenants
- Local authorities will specify the design and build materials to be used
- Planning permission will be secured via the Part 8 planning process
- A PPP consortium will access private finance, build the houses and maintain them for 25 years
- An Approved Housing Body, also part of the PPP consortium, will manage the tenants
- The Department of Housing will pay the PPP consortium a monthly availability agreement for 25 years to cover the cost of financing, building and maintaining the properties
- After 25 years the units will revert to Council ownership
- The first tranche of 500 units is currently under consideration involving Dublin City, South Dublin, Wicklow, Kildare and Louth Councils
- Dublin City Council is being proposed as the lead Council
- A Project Board involving the Councils, the Department of Housing and the National Development Finance Agency (a function of the National Treasury Management Agency) will oversee the project

**Concerns**

Public Sector Benchmark

- There is a lack of transparency in the setting of the public sector benchmark used to compare the price of local authorities building and maintaining properties with potential bidders for the PPP contract
- The benchmark has to not only price the construction costs but also the future cost of maintenance.
- Elected Councillors who are being asked to support this funding model are excluded from any involvement in the setting of the benchmark or knowledge of the final figures against which the PPP bids will be assessed

Value for Money

- There has been widespread criticism of the lack of value for money in the use of PPPs in Britain and Ireland from the House of Commons Treasury Select Committee, the European Services Strategy Unit and the Comptroller and Auditor General.
- There is a growing policy consensus that PPPs do not deliver either efficiencies or value for money to justify the additional finance premium charged by the private consortium.

- There is a substantial body of evidence that shows the significantly higher cost of delivery via PPPs against traditional Government capital investment via standard borrowing.

### Contracts

- Research also shows that the complexity of the State-PPP consortia contracts exposes the taxpayer to additional financial costs particularly when there are disputes or failures to comply with the original agreement by the private consortium.
- The 2017 European Services Strategy Unit report PFI/PPP Buyouts, Bailouts, Terminations and Major Problems Contracts in the UK details a long list of issues of concern including on a range of social housing PPP projects.

### Risk

- Despite the claim that PPPs transfer the risk onto the private consortium and utilise this risk to incentivise quality and value for money in the project the evidence suggests otherwise.
- There is substantial risk built into both the value for money exercise and the PPP contract which even if all goes according to plan results in higher costs and greater complexity of delivery than with traditional social housing financing, procurement and delivery.
- It is also unclear how the proposed PPPs will manage the tension between a desire to achieve high quality well managed social housing, value for money and price certainty.
- The complexity of the delivery mechanism –eight state agencies and a private consortium of multiple parts- poses real risks in terms of poor quality delivery.
- The need for the private consortium to insulate itself from price inflation poses real risks of value for money being sacrificed for price certainty.

### Time Scale

- The complexity of the project means that the delivery will take even longer than the already unacceptable four stage approval process for standard social housing delivery.
- The tendering and contract negotiation will take at least 15 months
- The build will take between 12 to 24 months
- Assuming there are no delays, disputes or contractual defaults this means it will take up to three years to deliver 500 units.

### Section 85

- As the proposed PPP involved five local authorities a Section 85 agreement will be put in place to allow Dublin City Council to act as the lead contracting authority on behalf of the other Councils
- Past experience has left shown than the non lead Councils and in particular their elected members are sidelined and do not have an active role in the project as it progresses.

### Bogus sub contractors & developers with bad track records

- The PPP as currently conceived envisions the widespread use of subcontractors both for the construction and the ongoing maintenance. There is widespread use of bogus sub contracting in the building industry at present. However no measures are being

proposed to ensure that where sub contractors are being used no abuse of Revenue rules take place.

- There are also no mechanisms being proposed to exclude individuals or companies who have a proven track record of breaches of building and fire compliance regulations, despite such exclusions being permissible under EU law.

## **Proposals**

The sole reason why the Government is pursuing with this PPP model is that it is off balance sheet. However Minister Coveney has repeatedly said that money is not an obstacle in tackling the housing crisis. Both the Housing Finance agency and the Irish League of Credit Unions have put forward detailed proposals to provide additional funding to the already announced social housing capital budgets.

Given the scale of the concerns with the proposed PPP financing model for the first tranche of 500 social houses Sinn Féin is urging Minister for Housing Simon Coveney to consider the following proposals:

1. Abandon the proposed PPP financing model and proceed with the Section 85 agreement for the first tranche of 500 units funded via either 100% central government capital financing or low interest Housing Finance Agency loans.

If the Minister insists on proceeding with the PPP funding model then the following changes must be made to ensure adequate transparency and accountability:

2. Appoint an elected Councillor to the Project Board (e.g. The chair of the DCC Housing SPC)
3. Provide elected members with a detailed report on the public sector benchmark exercise prior to any formal tender process commences.
4. Make it explicit in any contracts or tender documents that allocations must adhere strictly to the Scheme of Lettings of each local authority and nominating rights remaining solely with the Local Authority
5. Involve the Housing SPC's of all five Local Authorities in the contract negotiations including regular reports and briefings.
6. Give each of the local authorities a final vote on the contracts before proceeding.
7. The Local Authority must maintain the tenancy management functions to ensure direct involvement in the delivery of the project.
8. The Oireachtas Housing and Public Accounts Committees should be given a joint role to fully scrutinise the project to provide an additional layer of public oversight.
9. Measures to tackle bogus subcontracting must be included in any contracts
10. Developers, builders or contractors with a history of non compliance with building and fire safety regulations must be excluded from the bidding process
11. Developers, builders or contractors who were previously involved in the failed housing regeneration PPPs should be automatically excluded from any new projects
12. Social clauses targeting the long term unemployed, the use of local suppliers and the inclusion of apprenticeships must be included in any contract

## **Conclusion**

Sinn Féin wants to see the delivery of the 1,500 social houses proposed by the Minister. However we believe that on the basis of the evidence the Minister is making a mistake in the funding mechanism being proposed to deliver these units.

There is significant evidence criticising the use of this mechanism, including the 2009 Combat Poverty Agency report by Rory Hearne into the use of PPPs for social housing regeneration in Ireland; the 2011 House of Commons Treasury Select Committee report into PFI/PPPs; and the 2017 European Services Strategy Unit report by Dexter Whitfield into PFI/PPP buyouts, bailouts and terminations.

Sinn Féin will not oppose the Section 85 motions in the relevant local authorities in April on the sole basis that we do not want to lose the 500 units as they will provide much needed housing for families.

However we are urging the Minister to reconsider the use of Public Private Partnership for these units and to opt for Revenue Capital Funding or Housing Finance Agency loans instead.

In the absence of that, and in order to ensure the greatest level of transparency and accountability, we are proposing a series of changes to the proposed funding mechanism to better protect tenants and taxpayers from the high risks associated with PPPs.

## **Appendix 1**

Repeating the mistakes of the past?

Can social housing PPPs deliver quality homes, price certainty & value for money?

Eoin Ó Broin TD

The government is about to embark on a major shift in the funding of social housing. Five local authorities are being asked to initiate a public private partnership to deliver 500 homes.

This is the first of three such projects being proposed by Government.

Dublin City, South Dublin, Wicklow, Kildare and Louth are the guinea pigs in what looks set to be a slow and expensive Ministerial vanity project.

Traditionally Council housing is funded with 100% up front capital from central government. Policy experts argue that long term low cost loans from the Housing Finance Agency would be a more efficient financing model.

In his wisdom Minister Coveney is ignoring this advice and proposing a funding mechanism which has a controversial history, to put it mildly.

His proposition is as follows. The Councils will enter into an agreement with a Private Consortium who will finance, build and maintain the properties for 25 years. An Approved Housing Body, also part of the Consortium, will manage the tenants.

In return the Department of Housing will pay the Consortium a monthly availability agreement fee to cover the finance, construction and maintenance costs. The payment will also include a premium for taking on the 'risk' of the project and a margin of profit.

Councils will provide the land and the tenants and in return will own the properties at the end of the 25 years.

Councillors in the five local authorities are being asked to sign up to this package now, without knowing either the full costs of the deal or the details of the contract between the state and the private consortium.

The consortium will be chosen via a competitive tendering process. At the heart of this will be a public service benchmark. This is a Departmental calculation of the cost of the public sector delivering the same project based on traditional funding and delivery mechanisms.

To secure the tender a private consortium must bid at or below this benchmark. We are told that this exercise will guarantee value for money.

We know the cost of building new social houses and the cost of maintaining those homes in the past. What we don't know is how to price the maintenance for the next 25 years.

If the private consortium is to 'protect itself' against the 'risk' of future price inflation it will demand a thick cushion in the availability agreement. Political fear of future price overruns will push Government to opt for price certainty over value for money.

The net result will be a public sector benchmark that will be substantially inflated.

Councillors from the five local authorities will have no opportunity to scrutinise this process in advance of tenders being awarded. They are being asked to support a major project completely blind to the cost to the taxpayer.

Even if the benchmarking exercise achieves value for money, and that's a big if, the complexity of the contract between the state and the private consortium is loaded with additional risk.

A recent report from the European Services Strategy Unit by Dexter Whitfield examined fifteen years of PPPs in Britain, including a significant number of social housing projects.

His conclusion is that, contrary to the claim of risk transfer to the private sector, the state ends up with significant additional costs arising from contractual disputes, defaults and bailouts.

Families dependent on social housing also suffer either from delays in the deliver of new or refurbished units or poor quality build and maintenance arising from use of shoddy sub contractors.

If Minister Coveney's current proposal goes to plan, widespread use of subcontractors will be a feature of the delivery of these 500 homes, with no protection against the use of bogus self employment contracts or exclusions for builders with poor track records.

The project will take at least three years to deliver, and that is assuming there are no delays during contract negotiation, construction or disputes/defaults of the contracts post tenanting.

There is also a dramatic increase in the complexity of project management and delivery.

Instead of a single local authority looking after its own social housing delivery there will be eight state agencies (NTMA, Departments of Housing and Public Expenditure and the local authorities) and a private consortium with multiple parts (investors, builders, maintenance contractors, an approved housing body and multiple sub contractors).

When asked to justify this complex, cumbersome, expensive and high risk funding and delivery mechanism Government has a simple reply – it's off balance sheet.

Minister Coveney has repeatedly claimed that money is not an issue in the Governments response to the Housing Crisis. The Housing Finance Agency and the Irish League of Credit Unions are blue in the face offering Central and Local Government low cost loans to build social housing. So why the need for off balance sheet financing?

Families trapped in emergency accommodation or languishing on council waiting lists desperately need these houses. Those of us working on the front line of the housing crisis have no desire to delay the delivery of much needed homes.

Minister Coveney is presenting us with a Hobson choice – deliver the houses irrespective of the financial and legal risks or block the houses at a time of chronic housing need.

It appears that the Ministers reputation for attention to policy detail has been sacrificed by his desire for a big press announcement, turning the sod on some green field site to announce the delivery of 1500 homes.

This article was first published in the Sunday Business Post 26.3.17

## **Appendix 2**

Summary from House of Commons Treasury Select Committee on PFI/PPPs published on 19 August 2011

Full report available here: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news/pfi-report/>

Numerous reports have been done looking into the use and history of the Private Finance Initiative. We have not attempted to do a definitive study of PFI; instead we have aimed to provide a piece of work, relevant for likely early changes in policy, in timely fashion. We hope that this Report will aid the Treasury in the work they are doing to reform PFI, which they are expected to report on in the autumn.

Private finance has always been more expensive than government borrowing, but since the financial crisis the difference between the costs has widened significantly. The cost of capital for a typical PFI project is currently over 8%—double the long term government gilt rate of approximately 4%. The difference in finance costs means that PFI projects are significantly more expensive to fund over the life of a project. This represents a significant cost to taxpayers.

We have not seen clear evidence of savings and benefits in other areas of PFI projects which are sufficient to offset this significantly higher cost of finance. Evidence we studied suggests that the out-turn costs of construction and service provision are broadly similar between PFI and traditional procured projects, although in some areas PFI seems to perform more poorly. For example we heard that design innovation was worse in PFI projects and we have seen reports which found out that building quality was of a lower standard in PFI buildings. PFI is also inherently inflexible, especially for NHS projects. This is in large part due to the financing structure and its costly and complex procurement procedure.

There remain significant incentives to use PFI which are unrelated to value for money:

- The majority of PFI debt still does not appear in government debt or deficit figures;
- Government departments can use PFI to leverage up their budgets without using their allotted capital budget—the investment is additional and not budgeted for.

These incentives unrelated to value for money need to be removed. Stricter rules and guidelines governing the use of PFI must be introduced. In our view PFI is only likely to be suitable where the risks associated with future demand and usage of the asset can be efficiently transferred to the private sector. We recognise that this may, over time, sharply reduce the aggregate value of PFI projects but the higher cost of capital that remains will be easier to justify to the taxpayer. For reasons discussed in this Report the Government should be looking to use PFI as sparingly as possible until the VfM (Value for Money) and absolute cost problems associated with PFI at present have been addressed. Consideration should be given to using more direct capital investment—this will not directly affect the fiscal mandate as it is borrowing for investment, not for current spending.