

SOCIAL HOUSING: COMPARISON OF THE ENGLISH AND ITALIAN EXPERIENCE

Vincenzo Bancone¹

Abstract

The new challenge for social housing – in England as in Italy – is not only in finding a way for generating more stock but, above all, in creating innovative, integrated and sustainable housing supply. More specifically, today's objective is to expand the range of housing opportunities to benefit initiatives facilitating the construction of community type dwellings. For example, these could be flatlets with socialisation or home care support services for elderly, disabled people or single mothers. It is this very category of intervention that sees Third Sector organisations in the lead role, increasingly supported by local communities and private operators, which - motivated by the downturn in social housing policies - are seeking new solutions in order to be able to meet their housing requirements.

1. Introduction

According to a now commonly held view, the term social housing² refers to the complex activities, instruments and initiatives - put in place by public institutions or

¹ Vincenzo Bancone, Associate, CBA Studio Legale e Tributario, Via Flaminia, 135 - 00196 Rome, Italy. Tel: +39 06 80913201; Fax: +39 06 8077527; E-mail: vincenzo.bancone@cbalex.com; Website: www.cbalex.com.

² There is no valid definition of *social housing* for all European countries. In Italy the definition of the sector refers to Social Housing (which means: «*the unit of real estate designated for residential use under permanent lease, which carries out a function of general interest in protecting social cohesion, reducing the housing deprivation of individuals and disadvantaged households, which are not able to access rented property on the free market*») provided by Art 1 of the Decree of the Italian Ministry of Infrastructure and Ministries of social cohesion, of policies for the family and of youth affairs of 22 April 2008. This definition, and the one proposed by CECODHAS (the European Liaison Committee for Social Housing), underlines the need to consider the issue of housing with a

by private operators - aimed at reducing the social disadvantages of individuals or groups unable to satisfy their housing requirements in the regular market (for economic reasons or through the absence of suitable supply), granting them access to a safe and dignified social and housing context.³ In actual fact, social housing issues fall within the broader aspects of the 'housing question', which in recent years has been a feature of urban studies in various European and North American countries. There are in fact a broad variety of housing policy strategies and projects on residential issues in various cities of the world. At the centre of these is always the re-establishment of the notion of 'living' which includes diverse and complex social dynamics.⁴ The 1980s and 1990s were a time when the housing emergency, which had caused lively discussion about modern architecture and town-planning between the two wars and the post-war resettlement policies in Europe and North America, seemed to have ceased. From 2000, however, the housing issue returned to grab the attention of economic and social policies of Governments and local administrations in a powerful way. The town-planning of constructing 'spectacular' buildings, leisure and entertainment districts, financial centres etc. was definitively in decline, and housing was coming back into the focus of urban development thinking and practice. From this point, the crucial discussion on dwellings and residences has been imbued with the broader issues such as: economic and social factors; environmental sustainability; quality of life of contemporary dwellings; and, the relationship and integration with existing specific cultural and urban contexts.

2. The English experience

Social housing, as it is now known in England, plays an essential role in providing accommodation for millions of inhabitants.⁵ It is based around two essential circumstances:

- the reduction of the role of popular housing managed directly by the local authority (the so-called 'council housing') in favour of housing associations (HAs);⁶ and,
- affordable housing (which means the principle of a home at an acceptable cost).

'multidimensional' approach in order to satisfy the housing needs of individuals but also to reinforce the strong social connotation of the intervention.

3 Cf. VV. AA., *Introduzione ai fondi immobiliari per il social housing*, Fondazione Cittalia-Anci, 2008.

4 Brustia, *Il social housing*, Il Sole 24 ore, Milano, 2009.

5 Caudo, *Case a costi accessibili: l'evoluzione del social housing in Inghilterra*, in *Urbanistica* no.134, 2007.

6 These associations form part of the history of English social housing; many housing trusts were formed in the 19th Century by philanthropic industrialists.

The Housing Act 1996 allowed for a significant reversal in British policies on social housing; in particular, preferring the transfer of local authority property to HAs, rather than to individuals.⁷ The HA's role is to provide accommodation, at an acceptable cost, for low income workers and professionals, young couples, temporary workers, the elderly, the handicapped, the homeless and all people in need of housing. These associations were entered as Registered Social Landlords (RSLs)⁸ on a registry maintained by a national government agency, the Housing Corporation, via which the central government finances social housing interventions. As regards the specific forms of housing association financing, without harming their non-profit organisation and institutional reinvestment status, they are able to access regular market funding, at the same time as reducing the contribution for which the public authority will be liable. It follows therefore, that HAs are financed from mixed sources. They are in fact also financed with rental payments and can enter into contracts with local authorities for payment for other types of services, such as providing accommodation for the homeless or for the management of commercial spaces.⁹ Operating in this way has achieved a dual consequence in England: offsetting the reduction of state resources and, at the same time, increasing the supply of housing at an accessible cost.

Here we should recall that the major point of interest of the English social housing system is the *Right to Buy*. Introduced in 1980, the *Right to Buy* gives tenants of local authorities and some HAs, the right to buy the house they have been living in for a sufficient period of time, at a discounted price.

2.1. Social housing policies in England

Social housing policies have the objective of providing dwellings within the means of low-income families. The discriminating factor for determining whether to assign social housing or not is the availability of such dwellings - which varies within the country: in London, for example, the demand exceeds the supply by a long way. The eligibility of the applicant is another factor. Immigrants may not be beneficiaries of social housing if their status does not give them full entitlement, and neither can those who, while having full entitlement, have lived overseas for a long period. In England, local authorities are free to determine their own policies for assigning houses, while remaining within certain guidelines. These procedures and the assignment priorities must be made public by law. Certain social groups must be guaranteed a 'reasonable preference': the homeless or those at risk of becoming so, people living in unhealthy, unsatisfactory or overcrowded conditions, and those who have to move for reasons of health or other particular needs. In general, candidates

⁷ Cf. Stephens-Burns-Mackay, *Social Market or safety net? British social rented housing in a European context*, The Policy Press, 2002.

⁸ The term Registered Social Landlords indicates independent not for profit organisations.

⁹ Source: *Housing Corporation, Annual report and accounts 2005/2006*.

are classified according to a scoring system, which considers the time on the waiting list (the ‘housing register’) for social housing, the level of housing need and other priorities. The HAs have their own waiting lists and letting policies, but it is required that a percentage of their dwellings is made available to the candidates approved by the local authorities. Lastly, there is preferential access to social housing for those in ‘priority need’. These include, for example, pregnant women, families with dependent children, people who are vulnerable because of mental or physical disabilities, or age (in particular between 16 and 21 years), and people in care, prison or in the Armed Forces.

A new approach for assigning houses was introduced in 2000, based on the Dutch model in the city of Delft. This system – Choice-based Lettings – is structured in such a way as to consider the preferences of the users, as well as the priority criteria. It sets out that candidates for social housing – or social housing tenants wishing to move – can submit an application for the dwelling that best meets their needs among those that are vacant. HAs publish lists of vacant properties in specialist journals and internet sites. For effective assignment, priority criteria are used and, where possible or necessary, the time on the waiting lists is considered.

Since 2002, local authority and HA rents (and their increases) have been set according to a national formula - ‘rent restructuring’ - which considers the value of the property, the average local salary, and the size of the bedrooms. Before then, HAs were free to set their own rents, with which they covered costs and accumulated reserves so as to enable them to obtain loans at relatively low interest rates. The government introduced this formula with the aim of making rent calculation more transparent, eliminating the differences between local authority and HA rents over a period of 10 years, and more generally, ensuring lower rents in the social housing sector than in the private sector.

2.2. The economic resources of English social housing

The English government grants social housing operators, which include local authorities, HAs, and a small number of co-operatives, funding for development and part of their costs. In this way, new HA buildings are financed both by loans obtained on the private market and by state funding, which cover up to around 50% of the costs. The funding involves a grant, which is subject to taking out a loan with a private financial institution, to be repaid only when the property is sold. This enables a reduction of the costs of the loan on the private market on one side, and the opportunity for the government to recover the funding on the other. In the main, however, the government grants tend to be focused on low income tenants who are in receipt of Housing Benefit (a grant aimed at reducing the burden of rental payments). The amount of Housing Benefit depends on a series of factors, including: the family income and savings, the number of dependents, and the amount of the rent. With local authority housing, Housing Benefit is awarded as a rebate, reducing the amount of rent owed by their tenants.

For the tenants of local authorities and HAs, for key workers and for first-time buyers there are also certain schemes aimed at supporting access to property. The Right to Buy has already been mentioned: the tenants of local authorities – this also holds for tenants of dwellings who have moved from the local authorities to HAs – have the right to buy the home they live in at a discounted price. The discount depends on the duration of the tenancy in the home that they wish to buy. The Right to Acquire - introduced in 1996 - is the same as the Right to Buy but for the tenants of RSLs.

Shared ownership schemes under the name of HomeBuy have been introduced more recently by the English government to support access to property by families who cannot afford to buy a house on the free market, particularly: social tenants, key-workers and first-time buyers. There are three types of HomeBuy: New Build HomeBuy, Open Market HomeBuy and Social HomeBuy. The New Build HomeBuy involves sharing ownership with a HA: the purchaser acquires at least 25% of a new building, and pays a rent on the remaining part owned by the HA. Under the Open Market HomeBuy scheme, the purchaser buys 75% of the property by drawing on savings and taking out a loan on the capital market, while the remaining 25% is financed at more favourable rates. Social HomeBuy represents a new opportunity for tenants who cannot benefit from the Right to Buy or Right to Acquire – or that cannot afford it. Under the scheme, they are able to purchase an initial minimum share of 25% of their house, while they continue to pay rent of up to 3% of the market value of the landlord's remaining share. The purchasers enjoy a discount only on the initial share.

2.3. *Recent developments of the English system*

In England, the increase of housing prices in recent decades and the lack of homes at accessible prices have increased the pressure on the social sector and waiting lists are lengthening. Analysis of social housing stock characteristics shows more overcrowding and less space per person. There are strong regional differences in the percentage of vacant homes; high in the old industrial areas and nil in the high housing demand areas. Policies are therefore focused on recovery and renewal, especially in urban areas in the North, with low housing demand. These problems, in our opinion, give rise in the current English scenario to the need to improve social housing policies to promote the creation of sustainable mixed-income communities, as well as to recover and renew the depressed areas. The national government agency, the Housing Corporation, seems to be moving in this direction. HAs, on their part, are making massive investments in the renewal of certain areas and in the provision of a huge range of local services such as day nurseries, after-school clubs and occupational retraining centres. The aim is to contribute to the success of the educational and working development of those living in those areas, promoting integration and making these areas a healthy and safe place in which people wish to live.

3. Social housing in Italy

In Italy, the legislative *guarantee* on letting is historically to the benefit of tenants at the expense of the lessors, which must continually sustain defaults and difficulties repossessing their property on expiry of the lease. In addition, the level of inflation recorded, especially in Italy, has led the public to regard an investment in their main house as the only safe one. In Italy, these factors have had a dual effect: one of the highest percentages of owned main houses and among the lowest levels of leased residential stock in Europe. In a European context, whilst there are more than 22 million rented homes in Germany and 11 million in the United Kingdom, in Italy there are slightly less than 7 million.¹⁰ Similarly, the percentage of social housing is decidedly lower in Italy than the rest of Europe so much so that, again on the European level, around 34 million of an existing stock of more than 214 million units (approximately 16%) are designated for social housing, while in Italy this percentage is equal to 4%.¹¹ To summarise, it can be safely stated that in Europe (among: United Kingdom, Germany, Holland) the stock designated for social purposes is in absolute and percentage terms far greater than the Italian figure.

These circumstances gave rise to the enhanced focus on social housing which took place at the beginning of the new millennium. The need to provide new and different solutions to the housing needs of the community, including social housing, was recognised. In actual fact, as we have already partly highlighted, the new challenge of social housing does not involve only finding a way to create more housing but more so seeking innovative, integrated and sustainable solutions in order to contribute to the development and the social cohesion of local communities. Specifically, the objective that social housing is being set can be identified in the expansion of the range of housing opportunities to the benefit of:

- those who have temporary housing needs (for example: workers on temporary transfer, students, foreign workers ultimately intending to return to their own country);
- medium-low income families not able to borrow money by way of a mortgage to purchase a house or to pay excessive rents; and,
- as well as all initiatives that facilitate the construction of community type dwellings, such as flatlets with services for socialisation or home care support for elderly, disabled people or single mothers.

It is this very category of intervention that sees, in Italy, Third Sector organisations in the lead role, increasingly supported by local communities and banking institutions.

¹⁰ Source: Aareon AG.

¹¹ Source: CECODHAS, European Community.

3.1. The role of Italian banking institutions

The operators (local authorities, non-profit organisations) maintain that in Italy it is difficult to implement a social housing policy because there are no Government incentives.¹² Broadly, this is why, in our opinion, social housing represents an issue of interest for the banking institutions. They have the objective of sustaining and promoting, with their capital, the cohesive development of local communities where they operate and, therefore, they can also contribute in the social housing sector with projects of social and public interest.¹³ The guidelines for this type of intervention would essentially concern the following:¹⁴

- the method of financing the initiatives (promoting, for example, ethical financing, property funds dedicated to social housing or other instruments that facilitate financing and enable the involvement of other institutional sponsors as well as the banking institutions themselves);
- innovative models which, as well as drawing on social economy resources, target the capacity of residents to organise themselves and act in such a way as to be not only the recipients of a housing service but an active part of a community; and,
- policies through which the public administration, the Third Sector and other private operators can become effective partners in tackling the housing needs of the 'weaker' members of local communities.

The activity of the banking institutions in the social housing sector could therefore take various forms according to the objectives pursued and the various combinations of the two roles they typically hold, that are: (i) the role of institutional investor, which can allocate a portion of its own investment capital to the housing sector, and; (ii) the role of philanthropic entity providing grants. In actual fact, in recent years many banking institutions (such as: Fondazione Cariparma, Fondazione Cariplo, Fondazione Carisbo, Fondazione Cassa di Risparmio di Modena, Fondazione Monte dei Paschi di Siena) have initiated projects in the social housing area, primarily providing grants to non-profit organisations that have acquired and/or renovated apartments for disadvantaged tenants.¹⁵ Recently, banking institutions have specialised even more by developing, alongside the provision of grants, the investment of capital aimed at providing a housing supply for families who are

12 Caudo-Sofia, *Dalla Casa all'Abitare*, Venice Biennale volume, 2008.

13 Cf. Urbani-Ferri, *Fondazioni di origine bancaria e housing sociale*, in Tredicesimo rapporto sulle Fondazioni di origine bancaria, source: Associazione di Fondazioni e Casse di Risparmio S.p.A. (ACRI).

14 Edited by Brustia, *op. cit.*

15 Ref. AA.VV., *Fondazioni, politiche immobiliari e investimento nello sviluppo*, Marsilio, Venice, 2007.

solvent but too poor to access homes on the regular market. Banking institutions' social housing initiatives should (with reference to the so-called Home Plan¹⁶) also address social content and business models that can steer local authorities, private operators, financial institutions and other entities by offering 'new' and more flexible legal instruments to be included among the options available for intervening in social housing needs. It follows, in our opinion, that there is a need to identify different legal instruments to those that have hitherto been used to establish social housing initiatives.

3.2. *The 'traditional' vehicles for Italian social housing: property funds*

Before turning to look at alternative instruments, such as the trust, we will focus briefly on the present use of property funds¹⁷ in social housing. In brief, the property fund is an autonomous body of capital divided into shares - having the same value and the same rights - with a number of participants (investors) managed by an SGR (Investment Fund) that invests it solely or primarily in properties, property rights or holdings in property companies. The fund is independent of the SGR and the other funds managed by it, but does not have independent legal personality. Therefore, the relevant decisions are always taken by the SGR (in the name and on behalf of the fund). In particular, it should be noted how the life of the property fund - from collection of the capital up to its allocation - is regulated by management rules that form the agreement by which the participants entrust the 'effective' management to the SGR.¹⁸ Moreover, this regulation could contain investment selection constraints according to ethical and sustainable criteria¹⁹ for reasons of public interest, including *social housing*. However, as the regulations make specific reference to investments having a social nature (including obviously social housing) it is also possible to foresee an advisory committee capable of integrating the governance of the property fund in order to:

- supervise the correct pursuit of public or social objectives set down by the fund management regulations (the 'ethical principles'); and,

¹⁶ This is legal provision relating to the development of house building.

¹⁶ Cf. for all: Merola, *I fondi immobiliari*, Il Sole 24 Ore, Milan, 2004.

¹⁸ The management regulation could envisage that the SGR establishes some management rules aimed at sharing - according to the rules and principles provided for by law - some management issues with the investors or also with other stakeholders, especially:

- a members' meeting, which takes extraordinary decisions or decisions that can have an effect on the original establishment of the shareholding structure (e.g. replacement of the SGR, amendments to the regulations, winding up of fund, amendments to the management policies) as well as the appointment of the members of the advisory committee;
- an advisory committee, which can be called to express opinions on the majority of decisions regarding the fund's management, in certain cases also with the veto power (e.g. transactions where the SGR could find itself in a conflict of interest).

¹⁹ Cf. Bank of Italy, Directive of 14 April 2005.

- ensure the involvement of the participants in the discussion on investment opportunities, the primary management decisions and the public housing policies.

To establish property funds for social housing, subscription may take place via cash or properties contributions.²⁰ In exchange, subscribers receive shares in the fund for a value equal to that of the properties contributed or the cash paid.²¹ Both public and private investors can subscribe to a property fund. The property fund can take on the nature of a property fund with the contribution of public assets, as set out in art.14-*bis* no.86/1994, thus acquiring certain tax benefits. This is the case if the subscribers are state entities and their participation involves a contribution to the fund comprising more than 51% of State assets, social security institutions, regions, and local authorities and consortia of them, as well as companies entirely held by the same entities. Tax benefits include:

- The contributions to the property fund ‘do not give rise to taxable income or deductible losses for the contributor at the moment of the contribution. The shares received in exchange for the property or the right contributed maintain, for income tax purposes, the same fiscal value acknowledged prior to the contribution’;²²
- moreover, VAT is not payable on the contributions and, in place of ordinary registration, mortgage stamp duty and Land Registry taxes and municipal capital gains tax, ‘a replacement tax of 1 million lire’ is due²³ to be paid to the Registry Office on the day of the first contribution in kind.

Social housing funds hitherto implemented have been ‘reserved’ for qualified investors (reserve funds). Qualified investors have outstanding professional skills allowing them to effectively evaluate the risks of the investment. Not only can reserve funds be more slender and flexible in the structuring and subsequent management phases, but also, being a relatively new product, the SGRs have favoured professional investors capable of participating in the fund’s governance and contributing to the discussion on the risks and the potential of individual investments. While the maximum term of such funds is usually around 7 years,²⁴ social housing funds tend to have longer terms. This need is dictated, on the one

20 Urbani-Ferri, *op. cit.*

21 The amount of the fund can be subdivided into different categories of shares, calculating that the shares of each category have the same value and the same rights and that different categories have different capital and administrative rights.

22 As in art.14-*bis* of Law no.86/1994, s.10.

23 As in art.14-*bis* of Law no.86/1994, s.11.

24 Enhancement or Splitting funds, whose strategy involves the sale of an asset received as a contribution, can have even shorter terms than 3 years.

hand, by the opportunity to have the fund's term coincide with that of the constraint of a controlled rent, which social housing properties are typically subject to and, on the other hand, the need to allow the tenants to complete the savings plans to purchase (at a scheduled term) the fund's dwellings.

3.3. *The concept of housing trusts in the Italian context*

As is known, the trust requires that an entity (the grantor) gives (by revocable or irrevocable *inter vivos* deed, or by deed of *mortis causa*) its own assets, attributing the ownership to another entity (trustee) which is given the power and the obligation to administer, manage and endow the assets according to the terms indicated in the deed of the trust, which means in the interest of a third party (beneficiary) or for the pursuit of a specified purpose. The characteristic element of the trust is the so-called 'asset segregation', which means the bond that is created between the asset and its purpose, where the first cannot be deviated from the second. The trust therefore forms an independent asset that can be designated to a purpose of 'public utility' set out by the grantor and pursued by the trustee. This does not however prevent the trust from carrying out any economic activity provided that it is subordinated to the achievement of the institutional purpose of public utility and, especially, that the trustee does not distribute any operating profits but re-uses them pursuant to the institutional purposes of the trust itself. In this scenario - for direct and indirect tax purposes - the public utility trust benefits from the favourable rules set out by DPR no.916/1987 (Consolidating Income Tax Act) and the other tax laws regarding non-commercial entities.

In view of the above, we consider that it is reasonable to state that the analogies (and the differences) with a property fund are more than evident. In actual fact the trust - in the same way as the property fund - features a contribution of assets, which creates independent resources subject to ties. However, the trust - unlike the property fund - is subject to fewer formal obligations.²⁵ In our opinion, this circumstance suggests opportunities for using a trust over a property fund and its possible benefits on social housing in Italy. By establishing the use of trusts in the Italian social housing model, we can envisage a scheme that would see actors, such as local authorities, banking institutions and other non-profit organisations taking on the role of grantor and establishing a trust, assigning the trustee the role of:

- managing the real estate capital made available by the sponsors/grantors for the realisation of the social housing project;
- cashing and managing the controlled rent fees paid by the beneficiaries of the social housing; and,
- cashing and managing any payments/contributions made by public and private sponsors of the local community.

²⁵ A preventative inspection conducted by the Bank of Italy on establishing the property fund and the relative SGR is anticipated for all.

The trustee could also reinvest any operating profits in the construction of additional dwellings for social housing, thereby facilitating and implementing the supply of homes ‘at an acceptable cost’.

In brief, the objective is to rely on a transparent, efficient and professional management of both the initial property and the contributions/payments collected on the property, to be allocated to the implementation of the social housing project. The complexity of the roles to be assigned suggests that grantors should select highly experienced and professional trustees. The benefits that could derive from the application of the trust to social housing operation can be in our opinion identified as follows:

- in the rapidity with which the decisions will be taken as a consequence of the fact that the management is attributed to a single entity, the trustee;
- in the greater economy of management costs over those incurred by the SGR; and,
- in the greater protection offered by the trust - in the initial phase of the project - to sponsors/grantors in terms of asset segregation of the properties and the sums initially contributed and paid because, in the case of property funds, the segregation effect cannot be achieved until the SGR has been formed.

4. Conclusions

The aim of this study was to contribute to the social housing debate, which forms – both in the English and Italian scenario – a currently significant issue because of the ever-increasing housing need and the qualitative and quantitative reversal of social activities in the residential context. We believe that, due to the economic recession of recent years, as in Italy social housing policies in England are not proving to be effective in guaranteeing and promoting access to safe and dignified housing. The outcome of this is that operators are seeking new solutions for meeting these needs via new techniques and instruments for the realisation of social housing projects.