

Report of Director of Environment and Housing

Report to Environment and Scrutiny Board

Date: 22nd March 2016

Subject: Housing and Planning Bill 2015

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	No
Are there implications for equality and diversity and cohesion and integration?	No
Is the decision eligible for Call-In?	No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	No

Summary of main issues

The government published the Housing and Planning Bill on 13th October 2015. The Bill sets out the government’s proposals to increase home ownership and boost levels of house building. The Bill is still in its legislative stage and is, therefore, subject to change as it completes its passage through both the House of Commons and the House of Lords. Indeed since its publication the government has published 65 pages of new amendments.

The Bill proposes fundamental changes to the nature and provision of social and affordable housing by legislating to make council tenants “pay to stay”, ending tenancies for life in council housing, forcing the sale of “high value” council houses, extending Right to Buy to the Housing Association sector and in certain circumstances replacing s.106 units delivered through planning policy with starter homes for sale.

The Bill also introduces changes to the regulation of the Private Rented Sector (PRS), which follow on from the government’s wish to tackle “rogue landlords” and whilst welcome in principle raise considerable questions about implementation in practice.

There are also a range of proposals that relate to Planning in England.

In considering the Bill, it should be seen within the context of the July 2015 budget and the autumn statement 2015. These national statements introduced changes to Housing Benefit for young people under 21, reductions in social housing rents and a doubling of the housing budget nationally with an emphasis on delivering home ownership.

Recommendations

Scrutiny Board is asked to note the contents of this report and to recommend that the practical suggestions about implementation contained in this report are fed back to government.

Purpose of this report

- 1.1 This report will set out the key proposals within the Housing and Planning Bill 2015, as they affect starter homes, social housing, affordable housing and the PRS and discuss the potential implications of the Bill.
- 1.2 This report will also make some suggestions about practical implementation of the Bill which can be reflected back to government.

2 Background information

- 2.1 The Housing and Planning Bill was issued following a press release from the Prime Minister which re-emphasised the government's ambition to one million new homes built by 2020.
- 2.2 The Bill has been presented as a historic step to change generation rent into generation buy and is clearly one of the most significant pieces of housing legislation of the last decade.
- 2.3 The Bill has 8 parts. Part 1 deals with starter homes, self-build and custom house building. Part 2 deals with "rogue landlords and letting agents" in England. Part 3 deals with recovering abandoned properties in England. Part 4 deals with social housing in England. Part 5 deals with housing, estate agents and rent charges. Part 6 deals with planning in England. Part 7 deals with compulsory purchase and Part 8 gives some general provisions.
- 2.4 The Bill firmly promotes the tenure of choice as home ownership. This philosophy was laid out in both the July 2015 budget and the subsequent autumn statement.
- 2.5 As the Bill progresses through it will change as both the government and opposition parties propose amendments and deletions in both Houses.

3 Main issues

- 3.1 **Starter Homes** – The government has previously announced that it intends to build 200,000 starter homes exclusively for first time buyers. The Bill defines the first time buyer as being under 40, offers a 20% discount from the market price subject to a cap of £250,000 outside of London. The Bill requires English planning authorities to carry out their relevant planning functions with a view to promoting the supply of starter homes. The Secretary of State may, by regulations yet to be published, require a planning authority to only grant a planning permission for a residential development "of a specified development" if starter homes are provided.
- 3.2 The current proposals do not link starter homes to any mortgage help for instance such as Help to Buy. In addition the average deposit required is still 20%. These may be critical for those on low to middle incomes who may wish to purchase their first home under the starter home initiative. In April 2015 the average house price in Leeds was £181,812 with the starter homes 20% discount this reduces to £145,450. It is estimated that the household income needed to support this price would be £50,155. This is £11,000 more than is needed to afford the average entry level price in Leeds. In view of this it is unclear at this point how the initiative

will provide greater access to the market for first time buyers in areas such as Leeds.

- 3.3 The Bill also proposes a threat to the current s.106 planning policy arrangements. By giving the Secretary of State the power to require starter homes to be part of certain developments as a prerequisite of planning permission, it may replace affordable housing on those developments. It is being suggested that this power will be exercised on developments linked to major infrastructure projects. In Leeds such a proposal would impact on affordable housing delivered in the South Bank, as HS2 is part of the proposal, and in the East Leeds Orbital housing developments.
- 3.4 If the Bill is to deliver the shift into home ownership then it needs to recognise regional variations. At present the provisions for starter homes are only for inside and outside of London. This does not represent the different markets outside of London nor the differences in incomes across the country. It may also be sensible to link the starter homes initiative to mortgage support initiatives to increase the affordability of the product.
- 3.5 Whilst an increase in home ownership may be desirable and attractive for many, there are others who cannot realistically access it. The Council would wish for a housing strategy which addressed the full range of need including the demand for affordable housing. Compelling Local Authorities into a “one size fits all” solution will not necessarily meet the housing need within any given region.
- 3.6 **Sale of High Value Vacant Local Authority Homes** – The Bill enables the Secretary of state to require local housing authorities to make a payment to the government calculated by reference to the market value of the “high value” vacant housing owned by the authority. The Bill places a duty on a local housing authority to consider selling such “high value” housing and to enable the government to enter into an agreement to reduce the amount of payment, so long as the money raised from sales is spent on housing or the facilitation of new housing.
- 3.7 The Bill will allow the government to set out a definition of “high value” homes and allow the government to estimate the amount of money it would expect each individual authority to receive, in each financial year, from sales of “high value” homes. Local Authorities will then be required to pay this amount each year to the Treasury.
- 3.8 The intention is that this will encourage more efficient use by Local Authorities of their housing stock through the sale of their “high value” housing so that value locked up in their “high value” properties can be released to support an increase in home ownership and new supply by subsidising the Housing Associations under the new right to buy proposals.
- 3.9 How far this impacts on Leeds depends on the definition of the market value for “high value” determined by the Secretary of State for each property type.
- 3.10 **High Income Social Tenants: Mandatory Rents** – The Bill gives the Secretary of State the power to set the levels of rent that a registered provider of social

housing must charge high income social tenants. In determining the level of rent to charge the Bill states that it may be

- Equal to the market rent
- A proportion of the market rent or
- Determined by other factors

- 3.11 The Bill sets an income threshold for high income social tenants at £30,000 outside of London and £40,000 in London but gives the Secretary of State the power to vary thresholds in the future.
- 3.12 The intent is to take household income into account and the definition of household will be set by regulations. Local housing authorities will be given the power to require tenants to declare their household income. The Bill will then enable that income to be verified with HMRC.
- 3.13 Local Housing authorities will then be required to collect the additional rent and pay it back to the Treasury. The costs associated with the payment will be offset but as yet not the costs associated with collection.
- 3.14 The Minister for Housing has indicated that the figure of £30k is likely to be the point at which additional contributions to rent are required, with a taper increasing the contribution as income rises. There are no details of how the market rent will be assessed. Leeds has a wide range of rental markets, which no single figure can adequately reflect. The indication is that the £30,000 limit applies to the main tenant and partner or joint tenants. Research undertaken in Leeds found that if the £30,000 limit is applied to all adult earners in the household (i.e. main tenant and partner, but not non-dependent children), then it could mean that all households with two full time earners on the Minimum/Living Wage could earn over the £30,000 limit and be subject to the requirement on households with two earners earning over £30,000 to pay a market rent, potentially affecting both their ability to pay their rent and meet other essential items of expenditure without incurring debt.
- 3.15 Affected tenants who currently pay the average social rent are not currently entitled to Housing Benefit. However, should their rent be increased to a market rent then it is very likely that they will all become entitled to an amount of housing Benefit, thereby increasing the Welfare bill to the taxpayer.
- 3.16 The proposal will add considerable administrative costs and potentially increase rent arrears. The local housing authority will be required to collect household income something that is not routinely done at present and then verify this data with HMRC. The local housing authority will also have the responsibility for collecting the higher rent. There is the potential for the Treasury to ask for the full amount due regardless whether it has been collected which will have an impact on the levels of rent arrears held in the HRA.
- 3.17 **Lifetime Tenancies** – The government has introduced an amendment to the published Bill which will end lifetime tenancies in council, housing for new tenants.

The amendment to the Bill means the new secure tenancy, granted after the Bill comes into force, will be for a period of between two and five years. Whilst the new law does not affect existing tenants should next of kin succeed to the property, then the new rules will apply to them. Under current law, the Localism Act, local housing authorities have the power to make their own decisions about the length of tenancies. Interestingly, this amendment will not apply to Housing Association tenancies.

- 3.18 At the end of the new fixed term tenancy, local housing authorities will have to review the tenant's circumstances and decide whether to grant a new tenancy or to move the tenant to more appropriate social housing or terminate the tenancy. If the tenancy is terminated the local housing authority is expected to provide housing advice to identify suitable alternative accommodation.
- 3.19 The government argues that these provisions will make best use of social housing stock by targeting at those most in need. One implication is that tenants are less likely to invest their own money in improvements to décor or fixtures within the property if they feel their tenancy will be terminated in three years' time. This could mean more cost to the Council's repairs and maintenance budgets.
- 3.20 **PRS Proposals** – The Bill contains a number of proposals to increase the regulatory responsibility of Local Authorities.
- 3.21 It is proposed to introduce Banning Orders to prevent a person from letting housing in England, engaging in letting agency work and engaging in property management. The Secretary of State will issue regulations setting out the offences that will lead to a Banning Order. The Order will be for a minimum of six months and no upper limit is set in the Bill.
- 3.22 The government proposes to establish a national database of rogue landlords and letting agents. Local Authorities will be responsible for its maintenance and editing. All landlords or letting agents subject to a Banning Order will be placed on the database and Local Authorities can add other landlords and letting agents to the database.
- 3.23 The Bill will extend Rent Repayment Orders to a Local Housing Authority so that where a landlord commits certain offences rent paid by the tenant or Housing Benefit or Universal Credit paid to the tenant can be claimed back by the Local Housing Authority.
- 3.24 The fit and proper person test for people who apply for HMO and other rented property licenses has been amended to ensure that the applicant has the right to remain in the United Kingdom and is not a bankrupt.
- 3.25 Finally the Local Authority is being given greater flexibility to issue fines as an alternative to prosecution for certain offences under the Housing Act 2004.
- 3.26 Broadly speaking these changes are to be welcomed and are in line with the Executive Board's views for the future regulation of the sector. However, there is still much detail missing. For example who will manage the properties of anyone receiving a Banning Order? It will be difficult to maintain a national register of

rogue landlords as landlords portfolios often cross Local Authority boundaries. It is anticipated that the production of regulations to support the Bill will add the necessary clarity.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The government has consulted on some of the proposals within the Bill. For example consultation papers were issued on Starter Homes and the PRS proposals. The Council did respond on the specific questions. It is difficult to tell whether or not the final Bill will reflect any comments made by the Council and it is the regulations that will offer the clarity.

4.1.2 Further work has been commissioned on the High Income Social Tenants or the so called "Pay to Stay" proposals to estimate the impact on the Council's existing tenants.

4.1.3 Once the Bill and the regulations are finalised, there will need to be considerable consultation and communications with affected tenants.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Certain of the proposals in the Bill could affect cohesion and integration. Selling off more council houses under the sale of high value property proposals will further reduce the levels of council housing and add pressure to the waiting list.

4.2.2 Proposals to end lifetime tenancies will lead to a higher turnover and make the formation of communities and cohesion within communities more complex.

4.3 Council policies and City Priorities

4.3.1 The Best Council Plan sets out what the Council will do to help improve the lives of local people. The Housing and Planning Bill will provide challenges to some of the Council's priorities such as supporting communities and tackling poverty and promoting sustainable and inclusive economic growth.

4.4 Resources and value for money

4.4.1 The Bill will add to resource issues. The proposals for the sale of high income properties and high income social tenants will reduce income to the Council's Housing Revenue Account (HRA). They will, along with the ending of lifetime tenancies also add to an extra administration burden.

4.4.2 The impact of the changes to high income social tenants will also add to the cost of collecting rent and potentially increase the arrears within the HRA.

4.4.3 Taken together with the decrease in rents set out in the budget the cumulative impact will be to further reduce both the revenue and capital available to invest in the existing service.

4.5 Legal Implications, Access to Information and Call In

4.5.1 There are no legal implications in this report and the report is eligible to call in.

4.6 Risk Management

4.6.1 A risk management plan will need to be developed as part of the implementation plan once the Bill becomes law.

5 Conclusions

5.1 The Housing and Planning Bill is part of the government promotion of a home owning society. There is a concern that this focus will make affordable Housing more and more difficult to provide. The existing stock will reduce further by the introduction of the extension of Right to Buy to Housing Association tenants and the sale of high value council houses.

5.2 The agreement between the government and the National Housing Federation, the trade body representing Housing Associations, about the extension of Right to Buy has protected Housing Associations at the expense of Local Authorities. One consequence of the agreement is the introduction into the Bill the provisions for the sale of high value council houses to offset the grant cost incurred by the government.

5.3 A number of local and national Housing Associations are actively considering moving away from affordable housing as core business towards shared ownership. The introduction of the rental policy will also prevent the Council from further new build council housing after the current programme completes.

5.4 The Bill's removal of lifetime tenancies for new tenants is also highly significant. This could see the sector transform, over a period of time, to one that shifts from managing settled communities to providing temporary housing.

5.5 Many of the provisions will add additional costs to Local Authorities, which will have to be absorbed at a time when budgets are under continued pressure.

5.6 Key provisions such as those relating to starter homes may well not work without recognition of the variations in housing markets and regional earnings.

5.7 Although the principle of some of the PRS proposals within the Bill are welcomed and are in line with Council's current approach the practical implementation may well be very complex and incur additional costs.

6 Recommendations

6.1 Scrutiny Board is asked to note the contents of this report and to recommend that the practical suggestions about implementation contained in this report are fed back to government

7 Background documents¹

7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.