

Non-Executive Report of the: Housing Scrutiny Sub-Committee 18 July 2016	 TOWER HAMLETS
Report of: Aman Dalvi, Corporate Director, Development and Renewal	Classification: Unrestricted
Housing and Planning Act 2016	

Originating Officer(s)	Jackie Odunoye, Service Head, Strategy, Regeneration, Sustainability and Housing Options
Wards affected	All wards

Summary

This report sets out the main reforms introduced by the Housing and Planning Act 2016 which received Royal assent on 12 May 2016

Recommendations:

1. The Housing Scrutiny Sub-Committee is asked to note the contents of this report and reflect on its provisions in determining the work programme for the Sub-Committee

1. BACKGROUND

- 1.1 The Act is intended to support the delivery of the Government's commitments as put forward in the Conservative Party manifesto and the productivity plan *Fixing the foundations: Creating a more prosperous nation*. Throughout this Act, the Government aims to take forward proposals to build more homes that people can afford, give more people the chance to own their own home and ensure the way housing management is improved, particularly in the private sector.
- 1.2 The Act seeks to make these improvements, in part by implementing reforms that will make sure that the planning system does not add any unnecessary obstacles to the delivery of new homes. The Act allows for much of the detail to be determined through regulations made by the Secretary of State. This report sets out a summary of the current position and some initial considerations on how the Council can respond to the "known unknowns".

2. ALTERNATIVE OPTIONS

- 2.1 The Housing and Planning Act 2016 has now been enacted, so the Council will need to look again at relevant policies to reflect the new legal position.

3. DETAILS OF REPORT

- 3.1 This report is broken down into several sections to reflect the policy issues covered in the Act.
- 3.2 **Providing a statutory framework for the delivery of new starter homes**
- 3.3 Starter homes are restricted to first time buyers, between 23 and 40 years of age and sold at 80% of market value. The discount is met by the Council reducing "planning gain" from other affordable housing. Consultation on the technical aspects of starter homes closed on May 18th 2016. The suggestion is that 20% of all new homes on sites of over 20 units should be starter homes. There is concern that starter homes policy requirements, applied uniformly, as currently proposed in high value areas such as Tower Hamlets, could both displace planned market and affordable supply and reduce overall supply by creating new planning uncertainty and financial risks to developers. If the Council is limited in its delivery of affordable housing, households in need will be further hit. London Councils are proposing a new model of "London Starter Homes", encompassing a wider range of affordable home ownership products and embracing an overall ambition for additional low cost home ownership supply. This would require Government to agree through negotiation with the GLA and London Councils that this model is possible.
- 3.4 **How can the Council respond:**
- 3.5 The Mayor has sent a robust response to the consultation, setting out why starter homes will not be affordable to people in housing need and how they

will impact on the Council's ability to provide truly affordable housing. The viability of starter homes will be tested as part of Local Plan evidence base gathering. The initial starting point will be current planning policy (35-50% affordable housing, plus 20% starter homes). All future planning applications that include starter homes will be scrutinised to ensure the Council can get the maximum affordable housing levels in the borough.

3.6 Rogue landlords and letting agencies

3.7 Local authorities will have greater powers to identify and tackle rogue landlords in the private rented sector.

3.8 How can the Council respond:

3.9 The Council can use these additional powers along with the selective licensing scheme in operation in the west of the borough to tackle rogue landlords.

3.10. Recovering abandoned premises

3.11. Reforming abandonment in the private rented sector to more effectively recycle rented property.

3.12. Social housing

3.13. The Act will extend voluntary right to buy discount levels to housing association tenants. It is intended that all housing association tenants will be offered the right to buy at discounts similar to council tenants, up to £100,000. The scheme will be phased in and is currently being piloted by a handful of housing associations across the country. However, there may be restrictions on certain types of properties – rural, specialist housing and those covered by section 106 covenants. Local authorities will be required to manage their housing assets more efficiently, with the most expensive vacant properties sold and replaced with new affordable housing in the area to fund housing association right to buy discounts. Each local authority with council housing will be required to pay a levy to pay for this based on estimated sales. Until the Secretary of State determines the value of a “higher value” home, the exact value will not be known. Initial estimates suggest at least £8,000,000 per year could be lost to the Housing Revenue Account. The gradual loss of stock could in return result in high temporary accommodation costs for homeless families as the number of lets will decrease. The Government says that all sold houses in London should be replaced on a two to one basis but not necessarily be for rent.

3.14. How can the Council respond:

3.15. The Council will need to set out its response once the detail is known. It could meet the levy by other means than selling vacant homes, but this may not be

sustainable. The Council could also consider selling homes to another landlord who could use them for either temporary housing or other social housing. But this may also be financially difficult given the additional strain on Registered Providers Business Plans caused by the 1% rent reduction (see below) and the extension of the right to buy. Tower Hamlets will work with London Councils and other partners to determine how best to ensure the replacement housing is provided in the borough and can remain truly affordable.

3.16. End of lifetime tenancies

3.17. Councils will no longer be able to offer new tenants lifetime tenancies. Instead, there will be fixed-term tenancies of between two and ten years, which will be reviewed at the end of each term and longer terms for tenants with children under the age of ten. Existing tenants who have to move as a result of regeneration or major works, will maintain their current lifetime tenancy. Succession rights to a deceased tenant's property will remain for spouses or civil partners, though the new tenancy will be a fixed-term tenancy.

3.18. Reducing regulations

3.19. This clause will allow the Secretary of State to reduce regulations on housing associations. An additional clause will remove local authorities ability to nominate housing association board members and thus reduce the Council's influence over housing associations.

3.20. How can the Council respond:

3.21. The Council will work with housing associations and encourage them to keep places on the board for Council members voluntarily, if the regulations will allow.

3.22. High income social tenants

3.23. Tenants in social housing on higher incomes (over £40,000 in London and £30,000 outside London) will be required to pay market rate, or near market rate, rents. At the outset of the Bill, the Government wanted tenants earning over a certain threshold to pay market rent. After the House of Lords objected, a paper was introduced, peers pushed for 10p in the pound for every pound over thresholds of £40,000 in London, but the Government finally settled on 15p in the pound for every pound over the threshold. This means that for each additional pound earned over £40,000 a household would pay 15p per year extra. A household earning £45,000 would pay an extra £750 per year or around £15 extra per week. The definition of "household" will be tenants, joint tenants and their spouses, partners and civil partners. Non-dependent children living at home but not on the tenancy will not be included.

3.24. In terms of income only taxable income will be assessed. Some tenants on benefit will be exempted and the thresholds reviewed annually and uprated to

be in line with the Consumer Price Index. The Government has indicated during debates in Parliament that Tax Credits, Child Benefit, Disability Living Allowance, Housing Benefit and Universal Credit will not be considered as income. Any additional rental income the Council collects through Pay to Stay (minus an administration fee) has to be paid to the Government, which intends to spend the proceeds paying off the national debt. This means residents on higher incomes paying higher rent, but receiving the same level of service. The scheme is voluntary for housing associations who will be able to use the additional income to reinvest in new housing. In terms of administration, the Council will have to identify the income of all 12,000 Council tenants and reset the rent of those earning over £40,000. How this can be achieved will be reliant on further guidance and in particular, how Councils will be able to check data collected from Her Majesty's Revenues and Customs - HMRC (or the Tax Office).

3.25. How can the Council respond:

3.26. The Council will probably not have any option but to comply with this part of the Act as it will be the tenant's responsibility to declare their income and pay the additional rent. If the Council was to meet the cost it would be through other tenant rents and would reduce services elsewhere.

3.27. Summer Budget 2015

3.28. In July 2015, the Government announced it would reduce rents in social housing in England by 1% a year for four years, requiring housing associations and local authorities to deliver efficiency savings. This will mean a 12% reduction nationally in average rents by 2020-21 compared to current forecasts (as most forecasts assumed an above inflationary increase each year as a strategy for market rent convergence rather than the now evident 1% reduction per annum). The net impact of the 2015 summer budget changes is that by 2019/20 the average rent will be 12% lower than previously assumed and this equates to an estimated loss of £24,000,000 for the Council over four years. If no mitigation is made then the on-going shortfall in resources is estimated to be £130,000,000 over thirty years; these sums have generally been assumed in previous long term Business Plans to be used to support capital works as a successor to the Decent Homes programme and to support building of new homes. This added to income lost from high value voids will have a significant impact on the Housing Revenue Account and future service delivery, which will need to be reviewed to see where efficiencies can be achieved.

3.29. How can the Council respond:

3.30. The Council is working on a medium term financial plan for the Housing Revenue Account which will take into account; the 1% rent reduction, sale of high value voids, Pay to Stay, decent homes work and the new build Council programme.

3.31. Planning Implications

3.32. The neighbourhood planning process will be simplified and speeded up to support communities that seek to meet local housing and other development needs through neighbourhood planning. The act also gives the Secretary of State further powers to intervene if local plans are not effectively delivered and further powers have been devolved to the Mayor for planning in Greater London. The Act has created a duty on local authorities to hold a register of various types of land, with the intention of establishing a register of brownfield land and giving housing sites identified in the brownfield register planning permission in principle. Developers who wish to include housing within major infrastructure projects can apply for consent under the nationally significant infrastructure planning regime.

3.33. How can the Council respond:

3.34. Through the production of the Local Plan for 2017, the Council will be able to address these issues.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 This report outlines the provisions of the recently enacted Housing and Planning Act 2016. As has been outlined in the report, there will be a significant impact on the Authority's finances; this will mainly affect the Housing Revenue Account (HRA), although there may be an impact on the General Fund, for example through an increased incidence of homelessness as a side-effect of the various policies contained within the Act.

4.2 It is important to note that although the Act received Royal Assent in May, the specific detail on various aspects of the legislation has not yet been released. This is of particular concern in relation to two major areas that will affect the HRA – the Sale of Higher Value void stock and the Pay to Stay legislation. Although provision has been included within the HRA budget and the medium term financial plan for the assumed impact of these policies, the lack of specific details means that there is a significant risk that the assumptions may be incorrect. On publication of the detailed regulations, the implications for the Council will be reviewed and any reassessment of the financial impact will be incorporated into the HRA medium term financial plan and 30 year HRA business plan which will form the basis of future budgetary reports to Cabinet.

5. LEGAL COMMENTS

5.1 The Housing & Planning Act 2016 received royal assent on the 12th May 2016. The effect will be a fundamental change in the way local authorities have to manage their housing stock in the future. The government has moved from a position of giving local authorities more freedom and flexibility in the management of their housing stock to a one of greater control and the imposition of a mandatory regime. Much of the Act will be governed by regulations yet to be introduced by the government. Local authorities will need

to review their tenancy agreements, policies and procedures and implement changes to ensure that they act in accordance with their new statutory duties under the Act.

- 5.2 The Act will impact on the Council as Local Planning Authority as identified in this report. As set out, the Council will be required to carry out its planning functions with a view to promoting the supply of starter homes in the borough. Importantly this will apply to taking decisions on planning applications and in plan making. Further details are still awaited in the form of regulations however this report identifies the potential impacts for housing within the borough. Section 106 planning agreements will be used to ensure that any starter homes are captured and bound by the requirements in the Act and regulations.
- 5.3 The Council will need to ensure that applications for the designation of neighbourhood areas are assessed against any prescribed criteria, and that the applications are determined within any time limits that may follow in the regulations to prevent the automatic designation of an area.
- 5.4 A new system of planning permission in principle is introduced by the Act. This can be granted in two ways. Firstly based on allocations in specified documents, plans and registers or secondly on direct application to the Council. In both cases the permission in principle is time limited, for five and three years respectively (unless a longer period is specified). The permission in principle must then be followed by a second stage being a technical details consent.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The purpose of this report is to brief Members of the Sub-Committee on the implications of the Act for the Council. The practical effects of the Act in terms of its impact on specific Council objectives, policies and services will be assessed in more detail in other reports, for example the progress of the new Housing Strategy.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The purpose of this report is to brief Members of the Sub-Committee on the implications of the Act for the Council. The practical effects of the Act in terms of its impact on specific Council objectives, policies and services will be assessed in more detail in other reports.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.2 The purpose of this report is to brief Members of the Sub-Committee on the implications of the Act for the Council. The practical effects of the Act in terms

of its impact on specific Council objectives, policies and services will be assessed in more detail in other reports.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The purpose of this report is to brief Members of the Sub-Committee on the implications of the Act for the Council. The practical effects of the Act in terms of its impact on specific Council objectives, policies and services will be assessed in more detail in other reports.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 The purpose of this report is to brief Members of the Sub-Committee on the implications of the Act for the Council. The practical effects of the Act in terms of its impact on specific Council objectives, policies and services will be assessed in more detail in other reports.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- NONE

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- NONE