

WELWYN HATFIELD BOROUGH COUNCIL
CABINET HOUSING AND PLANNING PANEL – 18 FEBRUARY 2016
REPORT OF THE DIRECTOR (FINANCE AND OPERATIONS)

HOUSING AND PLANNING BILL

1 Executive Summary

- 1.1 This report sets out the key elements of the Housing and Planning Bill 2015. The Bill is currently being considered by the House of Lords and is expected to be law at sometime between October 2016 and March 2017
- 1.2 The Bill introduces a wide range of changes including changes to the Planning system, additional enforcement and control measures to help tackle rogue landlords and significant changes around the sale of high value council homes, introduction of higher rents for 'high income' tenants and reduction in security of tenure.
- 1.3 Further reports will be brought to this committee once the full details of these changes are known, outlining the implications for the council in more detail.

2 Recommendation(s)

- 2.1 Members are asked to note the content of this report

3 Explanation

- 3.1 The Housing and Planning Bill 2015 comprises a number of parts covering:
 - Increasing the supply of new homes in England, particularly homes to buy
 - Dealing with rogue landlords
 - Recovering abandoned premises in England
 - Implementing the voluntary Right to Buy for housing association tenants and the sale of vacant high value council homes to fund this
 - Significant planning law changes
 - Simplifying compulsory purchase order procedures
- 3.2 Much of the detail of the Bill will be set out by the Secretary of State in separate regulations to be published and consulted on at a later date
- 3.3 The Bill had its second reading at the House of Lords on 26 January 2016. It is anticipated that the Bill will become law somewhere between October 2016 and March 2017.
- 3.4 The key areas of the bill are summarised below:

3.5 Part One – New homes in England

3.6 This part has two duties

3.7 A duty on local authorities to promote the supply of starter homes.

Starter homes are homes valued at 20% less than market value and are specifically for first time buyers aged under 40 (the 20% discount is paid for by local authorities waiving S106 developer contributions and its exemption from CIL)

The homes have price caps (£450K in London and £250K elsewhere in England)

Local Planning Authorities (LPA) will be required to ensure a proportion of starter homes are included in planning permissions for residential developments. LPA performance on starter homes will be monitored and where the government feels an LPA has not agreed enough starter homes, it will step in and ensure appropriate planning decisions are taken.

The Bill says that those interested in acquiring starter homes for rental investment and short term speculation will be prevented from doing so. At this stage there are no local connection provisions linked to the purchase of starter homes. Although the NPPF Consultation is asking for comments on this aspect with regard to rural exception sites

3.8 Self build and custom house building

A duty is place on local authorities to grant development permission on sufficient suitable plots of land to meet local demand for self build and custom house building. The council is required to keep a register and discussions are ongoing as to how to resource this.

3.9 Part Two: Rogue Landlords and letting agents in England

3.10 Local authorities will be able to apply for banning orders, lasting at least six months, to stop people who have committed banning order offences from letting housing, engaging in letting agency work or engaging in property management work. Banning order offences will be described in regulations.

3.11 Local authorities will be able to impose financial penalties of up to £5000 for breaches of banning orders. A banned person will not be able to hold a licence for a House in Multiple Occupation (HMO).

3.12 The government will set up and local authorities will maintain a database of rogue landlords and letting agents which will comprise those who have banning orders against them but also those a local authority believes have committed less serious offences but should be monitored through the database.

3.13 The Bill introduces a duty on local housing authorities to consider applying for a rent repayment order against rogue landlords who are in breach of banning orders and other offences such as breaches of improvement orders, prohibition notices and licensing requirements.

- 3.14 Part Three: Recovering abandoned premises in England
- 3.15 This part covers the procedure a landlord may follow to recover possession of an abandoned property without having to go to court to obtain a possession order. This applies to private landlords and landlords of social housing (including the council)
- 3.16 Part Four: Social Housing in England
- 3.17 This covers the voluntary Right to Buy for Housing Associations; the Bill enables the government to pay grant to housing associations 'to cover the cost of a discount awarded to the tenant' who exercises their right to buy.
- 3.18 To encourage local housing authorities to make more efficient use of their housing stock, they will have a duty to consider selling vacant high value homes they own and make a payment annually to the Secretary of State which is equivalent to the market value of their high value homes which are expected to become vacant during the year. We are waiting on further detail to clarify what will be classed as a high value home and whether all categories of home (for example sheltered housing) will be included. Regulations will set out the high value threshold and which properties are to be included.
- 3.19 Where a local housing authority transfers some or all of its stock to a housing association, the government will expect the local housing authority to continue making annual payments.
- 3.20 Pay to Stay; Chapter Four, Part Four, sets out the requirements for stock owning authorities to charge higher levels of rent to tenants with incomes above £30,000 who live in homes outside London and £40,000 for those living in London. Regulations will set out the definition of a household, income to be taken into account and over which period. Households will be required to declare their household income to their landlord and where they do not, the landlord can impose a maximum rent anyway.
- 3.21 The additional income from increased rents charge for local authority high income social tenants must be paid to government. The Panel has previously received a report setting out the council's response to a consultation on this measure.
- 3.22 Changes to security of tenure; Chapter Five of Part Four sets out two clauses; one which phases out the right to a lifetime secure council tenancy and replaces this with a fixed term tenancy that can be no less than two years and no more than five years for all households who become new council tenants after the Bill comes into force and for those existing tenants who apply to move.
- 3.23 The second clause changes the law on the succession to a secure tenancy so that where the successor is not the spouse or partner of the tenant, the tenancy will be converted into a five year fixed term which will not be automatically renewed when it comes to an end.
- 3.24 Part Five: Housing, Estate Agents and Rent charges
- 3.25 A separate assessment of the accommodation needs of Gypsies and Travellers will no longer be required. Instead local authorities must consider the

accommodation needs of everyone living in their area, including people living on caravan sites and in houseboats.

- 3.26 Brandon Lewis has clarified that this change does not remove the requirement to assess the specific accommodation needs of Gypsies and Travellers.
- 3.27 This part also includes additional fitness tests for owners of HMO properties, which are that they should be entitled to remain in the UK and should not be insolvent or bankrupt. Additionally, past failure by landlords to comply with the legal requirement to check the immigration status of prospective tenants may also be taken into account in judging fitness.
- 3.28 Schedule Four of the Bill introduces the ability for local authorities to impose a financial penalty for certain breaches under the Housing Act 2004 instead of prosecuting a landlord. Breaches include failing to comply with an improvement notice, not applying for an HMO licence when required or a breach of a licence condition.
- 3.29 Clause 87 introduces the ability for local authorities to access data held about tenancy deposits held in England. The failure to lodge a deposit is currently dealt with by Trading Standards, not the local housing authority.
- 3.30 Part Six: Planning in England
- 3.31 Local planning authorities will be required to speed up decision making on designating neighbourhood areas.
- 3.32 The government will be able to intervene more in local plans and local development schemes, requiring them to be amended or stop planning decisions being made in certain circumstances. Local planning authorities will be required to reimburse the government for any expenditure it incurs intervening in local planning decisions including the costs of an independent examination of a development plan document.
- 3.33 The Bill introduces the ability for local authorities to grant 'permission in principle' for applications on land included in the newly introduced Brownfield Register, Local Plans and Neighbourhood Plans. The permission in principle will be converted into planning permission when a local authority grants 'technical details consent'. This provision is aimed at facilitating planning permission for housing development, including the new starter homes.
- 3.34 Local authorities will be required to make public the financial benefits they will obtain if planning permission is granted for a particular development scheme. This includes Section 106 contributions, Community Infrastructure Levy payments and other grants or financial assistance from central government (for example New Homes Bonus). Reports on planning permission must also state which of the financial benefits have been material in making a planning decision.
- 3.35 Where nationally significant infrastructure projects are involved, the Secretary of State can ensure that housing development is included but exercise these decision making powers using guidance put in place by the Department of Communities and Local Government.
- 3.36 Part Seven: Compulsory Purchase

- 3.37 This part sets out changes to the process for the compulsory purchase of land, which streamlines some of the steps, widens powers of entry, and extends the period for possession and changes on compensation.

Implications

4 Legal Implication(s)

- 4.1 The Bill introduces a number of proposals which will require the council to review its policies and procedures. Policy reviews will be carried out once the Bill has been through the parliamentary process and once regulations are drafted

5 Financial Implication(s)

- 5.1 Some of the measures set out in this bill will have significant financial implications for the council, but these cannot be fully assessed at this stage, as we do not have the detail of how many of these proposals will be implemented.

6 Risk Management Implications

- 6.1 The risks related to this proposal are:
- 6.2 The risk setting out the ability to deliver affordable housing via S106 sites has been increased due to the proposals around the introduction of starter homes.
- 6.3 A full risk assessment will be carried out relating to any policy or element of the council's business affected by the Bill, once the details are known. However the following risks can be highlighted at this stage:
- 6.4 Financial – significant risk to the Housing Revenue Account due to the introduction of the levy linked to the sale of high value homes and the introduction and administration of pay to stay
- 6.5 Reputational – high risk from the introduction of Pay to Stay, as the council will have to implement higher rents and the money is not retained for investment in the stock or tenant services

7 Security & Terrorism Implication(s)

- 7.1 This report is for information only and there are no security and terrorism implications at this stage.

8 Procurement Implication(s)

- 8.1 This report is for information only and there are no security and terrorism implications at this stage.

9 Climate Change Implication(s)

- 9.1 This report is for information only and there are no climate change implications at this stage.

10 Link to Corporate Priorities

10.1 The subject of this report is linked to the Council's Corporate Priority Meet the Borough's Housing Needs

11 Equality and Diversity

11.1 An Equality Impact Assessment (EIA) has not been carried out in connection with the proposals that are set out in this report as this is for information only at this stage.

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Background papers to be listed (if applicable)

CHPP November 19 2015 – Council response to government consultation on Pay to Stay.

Appendices to be listed