

<b>Committee:</b>	<b>Date:</b>
Planning & Transportation	15 <sup>th</sup> December 2015
<b>Subject:</b> Housing and Planning Bill	<b>Public</b>
<b>Report of:</b> Remembrancer	<b>For Information</b>

### Summary

This Report advises the Committee of the relevant provisions of the Housing and Planning Bill currently before Parliament. Among other things, the Bill seeks to promote the supply of 'starter homes' for first-time buyers, enables 'planning permission in principle' to be granted for land identified as suitable for housing, and extends the way in which planning powers can be conferred on the Mayor of London.

### Recommendation

It is recommended that the Committee receive this Report.

### Main Report

1. The Housing and Planning Bill contains important measures intended to set the direction of the Government's housing policy and enable it to meet its house-building targets. In part this is to be achieved through reforms to the planning process. This Report summarises the planning provisions of the Bill, which are largely focused on housing but include certain miscellaneous changes.

#### Starter homes

2. The Bill seeks to bring about a shift away from the focus on affordable homes for rent towards the provision of so-called 'starter homes'. These are available to first-time purchasers under the age of 40 at 80 per cent of market value, up to a cap of £450,000 in Greater London (and £250,000 elsewhere). There are two measures in the Bill. First, local planning authorities will come under a general duty (ultimately enforceable by directions of the Secretary of State) to promote the supply of starter homes in their areas when exercising planning functions. Second, the Government will be able to make regulations requiring that residential developments may only be given planning permission if they include a certain proportion of starter homes. While the details are not yet clear, the intention seems to be that this will come at the expense of affordable housing contributions. Starter homes will also be exempt from Community Infrastructure Levy payments.
3. The general duty to promote starter homes is likely to be of limited effect in terms of the number of such homes in the City, as most new housing exceeds

the proposed price cap. Furthermore it will not override strong local policy protections in the City's Local Plan against the loss of office space to housing. The regulations may see some loss of section 106 revenue for affordable housing. They will not however affect contributions from commercial developments, which account for the major share in the City.

### **Brownfield register**

4. The Bill will allow regulations to be made requiring local planning authorities to maintain registers of certain types of land. The Government intends to use this to establish a register of brownfield land suitable for housing. (Such land is then likely to receive 'planning permission in principle'—see below.) It is not thought that this will be significant in the City, as the policies in the Local Plan (most importantly that against the loss of office space) will mean that little land could be considered suitable for housing. The detail will however depend on the regulations, and appropriate opportunities will be taken to draw attention to the need for the register to take due account of local policy.

### **Planning permission in principle**

5. The Bill introduces a new concept of 'planning permission in principle'. As with ordinary planning permission, a development order made by the Secretary of State will be able either to grant permission in principle directly for certain types of development, or to permit local planning authorities to do so in response to an application. Where planning permission in principle is in place for development, an application to the local planning authority will be needed for 'technical details consent'. This will cover all planning matters not covered by the permission in principle, and must be determined in accordance with that permission. Permission in principle and technical details consent will together equate to full planning permission. The precise boundaries between permission in principle and technical details consent are not made clear in the Bill and will await definition in secondary legislation.
6. The Government intends directly to grant planning permission in principle for housing development on land included in the brownfield register (described above), and on land allocated for housing in local or neighbourhood plans. It is not thought that much land in the City will be included in the brownfield register, and the City's Local Plan does not specifically allocate sites for housing. Therefore the intended use of permission in principle should not significantly affect the City. Planning permission in principle which may be granted by local planning authorities is expected initially to be limited to housing developments comprising fewer than 10 units.

### **Planning powers of the Mayor of London**

7. The Bill will make two changes to the way in which planning powers may be conferred on the Mayor of London. First, the Secretary of State may specify types of application in respect of which the Mayor may direct councils to consult him, in addition to the current power to specify types of application for which the Mayor may direct refusal. The Government's initial intention is to use this power to devolve the ability to decide which wharves and sightlines in London are to be 'safeguarded' so as to require the Mayor to be consulted

about planning applications which may affect them. It could be used more widely in the future.

8. Second, the Secretary of State will be able to define the Mayor's powers (including those to 'call in' applications or direct their refusal) by reference to types of development set out in the London Plan. The Government's intention is to use this power to devolve the ability to set the boundaries of "central London" and the Thames Policy Area, on which some of the Mayor's powers are based. Again, it is possible that the power will be used more widely in the future. In that event, officers will seek to ensure that any extension of the Mayor's powers has due regard to the City Corporation's particular expertise in dealing with large-scale development, as recognised in the current thresholds for the Mayor's call-in powers.

### **Information about financial benefits**

9. The Bill will require officers' reports making recommendations on planning applications to include a list of financial benefits likely to be obtained by the local planning authority (or other persons specified in regulations) as a result of the proposed development, together with a statement of whether or not each such benefit is considered material to the decision. The types of benefit covered are not yet known and will be set out in regulations (although they will include Community Infrastructure Levy payments and any Government grants). Depending on the details, the requirement could be administratively complicated (and will add to the length of Committee reports).

### **Inclusion of housing in nationally significant infrastructure projects**

10. Infrastructure projects of certain descriptions and size are deemed 'nationally significant' and dealt with by the Secretary of State (with the assistance of the Planning Inspectorate) under a special development consent process. (A recent example affecting the City is the Thames Tideway Tunnel.) Commercial developments may also be treated as nationally significant and made subject to the same process. Currently, development consent may not include any element of housing. The Bill will change this by enabling housing associated with a nationally significant project to be included in the development consent process.
11. Although development consent applications affecting the City are rare, the change is potentially of concern, as the Planning Inspectorate in deciding any such application would not be subject to local policy constraints which protect against inappropriate housing development in the City. Representations will be made on an official level in order to inform the guidance to be issued by the Secretary of State about the treatment of housing within the consent process. If further action is necessary on a political level, guidance will be sought from the Committee.

### **Designation of under-performing authorities**

12. Measures introduced in 2013 allow the Secretary of State to designate local planning authorities as 'under-performing' if they fail to meet certain criteria. The result of such designation is that planning applications may be made directly to the Secretary of State, by-passing the local planning authority.

Currently the criteria are that at least 50 per cent of applications for major development should be decided within the statutory timescale (or within an extended time agreed in writing with the developer), and that no more than 20 per cent of decisions on such applications should be overturned on appeal. The Government's Autumn Statement in November 2015 announced a further intention to reduce the appeal threshold to 10%.

13. The Bill enables the Secretary of State to designate local planning authorities, and to allow planning applications directly to the Secretary of State, in respect of certain types of development only. The intention is to introduce separate under-performance criteria with respect to non-major development. The City Corporation's current record in dealing with non-major applications is such that the change is not expected to affect the City.

### **Neighbourhood areas**

14. The Bill will enable the Secretary of State to make regulations requiring local planning authorities to approve certain types of application to designate a neighbourhood area, or deeming such applications to have been approved if no decision is reached within a given time. The current intention is to use the power to require automatic approval of applications made by parish councils in respect of the whole of their parish. This would not affect the City. Any wider use of the power in the future would need to be scrutinised, in order to ensure, for instance, that an application from one of the City's residential areas would not be approved without an opportunity to check that it did not inappropriately encompass commercial sites.

### **Local plans**

15. The Bill will provide wide powers for the Secretary of State to intervene in the preparation or revision of local plans, if he considers that the local planning authority is not taking the necessary steps. These are intended to address the failure on the part of many local planning authorities to put plans in place. As the City has recently adopted its Local Plan, these provisions are unlikely to affect the City, although in theory they may apply to a future revision of the Local Plan.

### **Overriding of easements**

16. The Bill contains a new power for bodies with powers of compulsory purchase to override easements and other rights affecting land in connection with a development for which compulsory purchase could be used. This will replace a number of more specific powers, including section 237 of the Town and Country Planning Act 1990, which enables local planning authorities to override rights affecting land held in their planning estates. This power has been used in the City to overcome obstacles such as rights to light, which would otherwise inhibit development.
17. The current drafting of the Bill is problematic, as the new power would only apply to land acquired after the Bill comes into force (when existing powers would be repealed). This would mean that land already held in the planning estate would no longer attract any power to override easements. It also overlooks the fact that local planning authorities may appropriate land already

held by them for development purposes. Representations have been made on an official level and it is understood that an amendment is likely to be tabled to address the difficulty. Officers will continue to follow the situation and will apprise the Committee if further action appears necessary.

## **Conclusion**

18. As will appear from the above description, the Bill is largely an enabling measure, and its consequences for the City will largely depend on details to be set out in regulations and on the Government's policy decisions about how to use the new powers. Its chief significance will be for housing rather than commercial development. The passage of the Bill through Parliament will continue to be monitored, with parliamentarians and officials engaged where appropriate, and any developments of interest reported to the Committee. The Director of the Built Environment (who has assisted in the preparation of this Report) will be able to advise Members at greater length on the practical implications of the Bill as further detail becomes available.

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