

<b>Committee:</b>	<b>Date:</b>
Planning & Transportation	2 <sup>nd</sup> February 2016
<b>Subject:</b> Housing and Planning Bill	<b>Public</b>
<b>Report of:</b> Remembrancer	<b>For Information</b>

### **Summary**

This Report updates the Committee about the progress of the Housing and Planning Bill. Since the previous Report on the Bill, new measures of interest have been introduced, including provision to allow external organisations to process planning applications, a power for the Government to restrict section 106 agreements relating to affordable housing, and a dispute resolution procedure for section 106 negotiations.

### **Recommendation**

It is recommended that the Committee:

- receive this Report; and
- note the parliamentary and other engagement proposed by officers in respect of the new measures, taking account of any views which Members may wish to express about them.

### **Main Report**

1. The Committee was advised of the relevant provisions of the Housing and Planning Bill in a report of 15<sup>th</sup> December last year. Since then the Government has made amendments to the Bill, some of which may be of significance to the work of the Committee. These are described below.

#### **Alternative processing of planning applications**

2. The Bill will enable the introduction of a 'pilot scheme' under which developers will be able to choose to have planning applications processed by a body other than the local planning authority. The alternative provider (which may be another local authority) will undertake the background work on the application and submit it to the local planning authority with a recommendation. The decision on the application will remain with the local planning authority. It is not expected that the local planning authority will be prohibited from taking advice from its own officers, but in practice its opportunity to do so will be constrained by a requirement to take a decision within a relatively short time of receiving the recommendation, and the inability to charge fees.

3. The Government's rationale is that injecting competition into the system will encourage the minimisation of costs. As a *quid pro quo* for this competitive pressure, it is envisaged that local planning authorities participating in the scheme will receive greater flexibility to set processing fees. It is not yet known how local planning authorities will be selected to take part in the pilot scheme. It is understood that the Government hopes to take a voluntary approach, but the Bill does allow for the possibility of compulsion.
4. A number of details about the operation of the scheme are as yet unclear, including the setting and allocation of fees between the local authority and the alternative provider, how provision for pre-application discussions will be incorporated into the process and how any recommendation from the alternative provider would be assessed. Such issues will be addressed in regulations. The Government is expected to consult on the content of these regulations shortly.
5. In an intensively planned area such as the City, the use of alternative providers of planning services could lead to a loss of local expertise, continuity and strategic oversight, as well as weakening an important area of the City Corporation's work. The passage of the Bill through the House of Lords, along with the consultation referred to above and detailed discussions with officials, will provide the opportunity to ventilate such concerns and seek an acceptable outcome for the Corporation.

### **Section 106 agreements**

6. Two new clauses have been inserted in relation to section 106 agreements. As with the proposals described above, they take the form of broad enabling powers which leave much of the detail to be determined in regulations.
7. First, the Government is seeking a broad new power to restrict the enforceability of planning obligations relating to affordable housing. As noted in December's report, the new starter homes requirement was always intended to displace section 106 contributions to some degree. The new clause goes wider than this, and could be used, for instance, to prevent affordable housing contributions from being required in relation to smaller development sites. It is understood that the policy behind the clause is focused on housing development. The wording is wide enough, however, to allow restrictions to be imposed in relation to commercial development. In that event there could be a substantial effect on the level of affordable housing contributions obtained by the City Corporation.
8. Second, the Bill would introduce a new dispute resolution procedure, to be invoked where the Secretary of State considers that "unresolved issues" in section 106 negotiations are delaying the grant of planning permission. An independent adviser will be tasked with preparing a report containing recommendations as to the appropriate terms of an agreement. Local planning authorities will not be bound to accept those recommendations, but will have to co-operate with the adviser and provide information on request. Regulations will be able to specify a maximum time for the determination of

applications once the adviser has submitted a recommendation. A consultation is expected shortly on the detailed operation of the scheme.

### **Local plans**

9. The Committee was advised in December's report of wider powers proposed in the Bill for the Secretary of State to intervene in the local plan-making process. The Bill has subsequently been amended to allow the Secretary of State to delegate the exercise of these powers in individual cases to the Mayor of London (or a combined authority outside Greater London). As noted in December's report, officers would not expect the powers of intervention to be deployed in relation to the City, provided that the revision of the Local Plan proceeds in a timely fashion.

### **Conclusion**

10. It will be apparent that the proposals described above could have significant effects on the work of the Committee. The passage of the Bill through the House of Lords will afford the opportunity to gain a clearer understanding of the Government's intentions, and to make any necessary representations in defence of the City Corporation's interests. Such engagement will be informed by any views expressed by Members on consideration of this Report, and will be conducted in liaison with the Director of the Built Environment.

### **Background papers**

- Report of the Remembrancer, 15<sup>th</sup> December, Item 10.

### **Sam Cook**

Assistant Parliamentary Affairs Counsel

020 7332 3045

[sam.cook@cityoflondon.gov.uk](mailto:sam.cook@cityoflondon.gov.uk)