

Committee:	Date:
Community & Children's Services	8 th July 2016
Subject: Housing and Planning Act	Public
Report of: Remembrancer	For Information
Report author: Sam Cook, Assistant Parliamentary Affairs Counsel	

Summary

This report advises the Committee of the enactment of the Housing and Planning Act, the Bill for which was reported to the Committee last year. Among other things, the Act requires the sale of higher-value council housing in order to fund the extension of the right to buy, directs new housing provision away from affordable rental housing towards 'starter homes' for first-time buyers, requires higher rents to be charged to social tenants earning high incomes, limits the duration of new secure council tenancies, and creates 'planning permission in principle' for housing development on designated sites. Amendments were made during the passage of the Bill (following representations by the City Corporation and other bodies) which are intended to mitigate the effect of higher-value housing sales in more expensive areas and to ensure that sold homes are replaced on a two-for-one basis in Greater London.

Recommendation

Members are invited to receive this report, and to note in particular:-

- the actions taken in support of the City Corporation's interests with respect to higher-value council housing, and the need for continued engagement in that matter;
- the need to implement in due course the measures concerning high-income tenants and secure tenancies; and
- the implications of the measures on starter homes and permission in principle for the City Corporation's housing policy.

Main Report

1. The Housing and Planning Act contains important measures intended to set the direction of the Government's housing policy and enable it to meet its house-building targets. Some of the measures will affect the City Corporation's housing policy, in particular the ambition to build 3,700 new homes by 2020.

2. The Bill for the Act proved contentious, with the Government suffering an unusually high number of defeats in the House of Lords. Nevertheless it successfully passed into law before the end of the parliamentary session, with only minor concessions on the part of the Government. This report summarises the outcome of parliamentary proceedings on the housing provisions of the Act, and the likely consequences for the City Corporation. Further detail may be found in the report made to the Committee on the Bill on 11th December last year, and on the other background papers referred to below.

Levy on higher-value vacant housing

3. Following the voluntary agreement reached with housing associations to extend the right to buy to their tenants, the Act gives effect to the Conservative Party's manifesto commitment to fund the extension through the sale of higher-value local authority housing. This will be achieved by means of an annual levy payable by local housing authorities to the Government, based on an estimate of the total value of their higher-value housing likely to fall vacant during the year. Councils will in theory, therefore, have a choice not to dispose of housing, if they fund the payment in some other way.
4. In the House of Lords, Government amendments were introduced to replace the concept of 'high-value' housing with that of 'higher-value' housing. This was explained by the Minister as a response to concerns expressed (by the City Corporation among others) that councils in areas where the property market was at its strongest could be disproportionately affected by the Bill. The new terminology is intended to allow an approach whereby, for instance, only a given proportion of housing in each local authority area is caught. The Act does not, however, bind the Government to this approach, and details of what is to be counted as 'higher-value' (as well as other details about the operation of the levy) will await the publication of regulations later in the year.
5. The Act enables local housing authorities to agree with the Government that they should retain some of the money which would otherwise be payable under the levy in order to fund their own house-building projects. Following pressure from London MPs and local government bodies (including the City Corporation) concerned about a possible outflow of resources to cheaper parts of the country, a Government amendment was passed requiring any such agreement to enshrine two-for-one replacement housing in the capital. Such replacements need not be of the same tenure or in the same area as the old housing. The two-for-one requirement only applies when the Government chooses to make an agreement with a council in London, which it is under no obligation to do. The Minister indicated to Parliament, however, that the Government's policy was to seek an agreement with each London council. It is by no means clear that the proceeds of the levy will be sufficient to fund both the extension of the right to buy and two-for-one replacement, meaning that other sources of funding may need to be drawn upon.
6. Work on developing a suitable model for replacement housing in London is currently being led by London Councils in conjunction with the Greater London Authority. Agreements will, however, ultimately need to be reached

between the Government and individual local housing authorities. Officers will continue to liaise as appropriate with London Councils and the Department for Communities and Local Government, and will report further to the Committee on the progress of discussions.

Starter homes

7. The Act is intended to shift the balance of housing provision in favour of 'starter homes', which are available to first-time purchasers under the age of 40 at 80 per cent of market value, up to a price of £450,000 in Greater London and £250,000 elsewhere. It does so through placing local planning authorities under a general duty to promote the supply of starter homes when exercising planning functions, and through regulations requiring that residential developments may only be given planning permission if they include a certain proportion of starter homes. When viability constraints are taken into account, this will inevitably limit the scope to seek planning obligations for the provision of more conventional forms of affordable housing. The proposals passed in the face of strong resistance in the House of Lords, which favoured greater discretion for local housing authorities to decide on the type of affordable housing best suited to their areas.
8. A current consultation proposes to set the starter homes requirement at twenty per cent of units on residential developments consisting of more than ten units, subject to certain exemptions such as specialist housing and estate regeneration schemes. It is anticipated that a requirement set at this level will leave little, if any, room for councils in London to require further affordable housing contributions through section 106 agreements. This will affect the City Corporation's capacity to undertake affordable housing schemes in reliance on this source of funding. (Contributions from commercial developments, which currently account for around half of the funding, will however be unaffected.)
9. The Government conceded in Parliament that purchasers of starter homes will have to repay a proportion of the discount they received if they sell within a given period, on a 'tapered' basis according to the length of time they remain in the property. The length of this 'taper' has not yet been determined, but seems likely to be set at eight years. The current consultation proposes to allow local authorities to accept commuted payments for starter homes elsewhere, in lieu of on-site provision.

Mandatory rents for high-income social tenants

10. The Act enables the Government to require social housing providers to charge higher rents to social tenants whose households receive a certain level of income. This builds on the 'Pay to Stay' scheme currently operated by some providers (not including the City Corporation) on a voluntary basis. Following consultation, the Government has announced that the household income threshold in Greater London will be set £40,000, with an exemption for households in receipt of housing benefit. The increased rent will be graduated according to the amount by which that threshold is exceeded. Details will be set out in regulations, although the Government conceded in

the House of Lords that the increase in rent will amount to no more than 15 per cent of above-threshold income.

11. The increased rent received by councils will have to be paid to the Government (in order to assist with deficit reduction), subject to the deduction of “reasonable administrative costs.” These are still the subject of discussion with local government and will be settled in regulations, but will arise largely from the need for councils to begin assessing the household income of all of their tenants. Higher rents may also prompt greater numbers of high-income tenants to exercise their right to buy.

Limits on secure tenancies

12. When considering the report on the Bill, the Committee was advised that Government amendments had been made to insert provision limiting the duration of new secure tenancies to between two and five years. This in effect aligns new secure tenancies with the ‘flexible tenancy’ model currently available to councils as a matter of discretion (and offered by the City Corporation in limited circumstances). In the House of Lords the Government conceded that the maximum term should be 10 years (or longer if necessary to avoid disruption to children’s schooling) rather than five, and this is the limit contained in the Act. Guidance is, however, expected to make clear the Government’s view that five years should ordinarily be the maximum term, with longer tenancies only offered to reflect special circumstances such as disability, old age or caring responsibilities.
13. At the end of a fixed-term secure tenancy, councils will have to undertake a review in order to decide whether to offer a new tenancy in respect of the same or different accommodation, or not at all. The intention is to ensure that social housing stock is allocated more efficiently. Further details will be contained in regulations and guidance expected later this year. In particular, the Government has undertaken to provide an exemption enabling councils to offer life-long tenancies to those already on such tenancies who voluntarily exchange home, in circumstances to be specified. Tenants required to move by the council will automatically retain the benefit of a life-long tenancy.

Planning permission in principle for housing

14. The Act introduces a new concept of ‘planning permission in principle’ for housing-led development. Permission in principle will be granted to sites identified as suitable for housing in local or neighbourhood plans, or in new registers of brownfield land which the Act will require local planning authorities to maintain. During the parliamentary proceedings, the Government clarified that local planning authorities will retain discretion over the designation of individual sites. This is in keeping with representations made by the City Corporation and other bodies, and should ensure that permission in principle does not provide a vehicle for inappropriate residential development in the City. Permission in principle may, on the other hand, prove beneficial for the City Corporation’s development plans outside the City, to the extent that they involve brownfield sites or sites allocated in local plans.

Conclusion

15. The Housing and Planning Act will have significant effects on the work of the Committee and on housing policy in general. Some of the details will depend on regulations and guidance yet to be published, or on discussions with the Government, and officers will report further to the Committee on any developments of interest in this regard. The eventual parameters of the levy on higher-value housing are likely to be of particular concern, owing to the location of the City Corporation's social housing stock. While representations made by the Corporation (among others) appear to have secured some movement in favour of councils in higher-value areas, it will not be possible to estimate the future liabilities of the Corporation until further details are announced by the Government. The shape of any agreement on replacement housing will also be important, both for the City Corporation's own house-building aims and for housing provision in London more widely. Officers will continue to engage in this area.
16. The Director of Community and Children's Services will take appropriate steps to prepare for the implementation of the other measures applying to the City Corporation, concerning mandatory rents (including the assessment of household income) and limits on secure tenancies (including the need for statutory reviews on expiry of term). Dialogue will take place with the Director of the Built Environment about the implementation of starter homes requirements, and in particular the scale of the inhibitive effect on section 106 contributions to affordable housing (which is likely to be substantial).

Background papers

- Report of the Director of Community and Children's Services on Housing Stock Valuation Data, 12th February 2016, Item 7
- Report of the Remembrancer on the Housing and Planning Bill, 11th December 2015, Item 7
- Report of the Director of Community and Children's Services and the City Surveyor, 'Increasing the supply of homes – the role of the City of London Corporation', 9th October 2015, Item 6

Sam Cook

Assistant Parliamentary Affairs Counsel
Remembrancer's Office

020 7332 3045

sam.cook@cityoflondon.gov.uk