

Item No. 16.	Classification: Open	Date: 19 July 2016	Meeting Name: Cabinet
Report title:		Southwark Council's Response to the Key Housing Aspects of the Housing and Planning Act 2016	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	

FOREWORD – COUNCILLOR STEPHANIE CRYAN, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING

The Housing and Planning Act when coupled with the recent Welfare Reform Act is an onslaught on council tenants and signals the start of the erosion of social housing as we currently know it. The Government with this Act has set out its stall to remove the security of social housing and as one of the largest social landlords in the UK the impact it will have for Southwark tenants can not be underestimated.

The end to lifetime tenancies for new council lettings will unsettle people at a time of prevailing uncertainty. Pay to Stay penalises hard working residents. Charging people market rent for earning over 40k in London is ill conceived. The money raised from this will not be retained by the council to help support the Housing Revenue Account (HRA) but will be paid directly to the Government. It could be argued that it is a direct tax on council tenants. It will have a significant impact on our existing residents' disposable incomes. We could also see a potential increase in right to buy applications to avoid the additional charge of Pay to Stay.

The forced sales of our higher value void properties to fund the extension of right to buy to housing association tenants is likely to mean that two and three bedroom properties, those which are in the highest demand, would need to be sold to fund the as yet unknown levy. This would deplete our existing housing stock and lead to a reduction of council homes available in Southwark. It will also result in a loss of rental income which could limit the amount of investment we are able to undertake in our new council home delivery in the future.

The impact of starter homes on new development sites will affect our ability to provide genuinely affordable homes in the borough.

The Welfare Reform Act included a requirement for a 1% reduction in social housing rents for four years from April 2016 and whilst this can be seen as being positive for our tenants it will equate to a £62.5 million loss to the HRA.

The Housing and Planning Act will have a huge and significant impact in Southwark and we need to ensure that we mitigate the impact of this as much as is legally possible. Although the Act received Royal Assent on 12 May 2016 we will not know the full impact until the regulations are issued however that does not mean that we can not plan our response to the Act.

RECOMMENDATIONS

1. To agree Southwark Council's proposed mitigating actions in response to the Housing and Planning Act 2016 as set out in Appendix A.
2. To agree the Southwark Housing and Planning Act communication and engagement plan as set out in Appendix B.
3. To instruct officers to continue to identify opportunities to engage with local authorities, the GLA and other partners to seek to mitigate the impacts of the Act on the council's investment plans.
4. To instruct officers to bring a report to cabinet in autumn 2016 setting out a refresh to the council's housing strategy.

BACKGROUND INFORMATION

5. The Housing and Planning Act received Royal Assent on the 12 May 2016. This Act will have a significant impact on housing and planning within Southwark, and a negative financial impact on the Council's housing revenue account (HRA). Some of the detail of how these policies will operate will be in regulations as yet unpublished.
6. The Housing and Planning Act contains a number of key housing and planning policy changes (as detailed in appendix A) including:
 - A requirement to charge high income council tenants (those with household incomes over £40K in London) a higher tapered rent
 - The end of lifetime tenancies for most new council lettings
 - Extending the right to buy to housing associations
 - Forcing local authorities to pay a levy based on selling their vacant higher value stock
 - The definition of affordable housing being widened to include starter homes at up to 80% of the market price, with a probable expectation that 20% of all new developments over 10 units will be starter homes.
7. The draft Housing and Planning Bill was introduced to Parliament back in October 2015. During the Bill's passage through the Houses of Parliament the Council raised a number of concerns about the impacts of the Bill through various channels, including:
 - Provision of evidence to Helen Hayes MP who was a member of the House of Commons Committee Stage
 - Responding to Government consultations on 'pay to stay' and Starter Homes; highlighting the possible impacts given the high average property prices in the borough
 - Lobbying through Central London Forward and London Councils
 - An overview and scrutiny report which explored the possible impacts of the housing association right to buy and the local authority forced sales, to which the cabinet responded.
8. The council raised awareness of the Bill with residents through providing briefings to resident meetings such as Tenant Council, Homeowner Council, the Future Steering Board, and Area Housing Forums. The council included

information on the news section of the website and provided information in the annual rent statement letters which went out to all tenants.

9. The Government is currently drafting the regulations for various aspects of the Act. The Council is continuing to work with other London boroughs to influence Government to safeguard new and existing homes in the borough, and to minimise the impact of these policies on our residents.
10. There is also an indication of a potential change in London housing policy. A policy statement from the new Mayor is expected to be made through the GLA within the next few weeks. This is likely to include the establishment of a London wide Housing Alliance. The Mayor has also suggested he will increase the target to 50% affordable housing. This is likely to include a range of affordable housing options including the new Homes for London Living Rent, where rents are based on one-third of average local wages.

KEY ISSUES FOR CONSIDERATION

11. The Housing and Planning Act represents the biggest shift in housing policy in decades, and combined with the other changes to welfare represent an unprecedented level of change. These changes will have significant impacts for housing in Southwark and there will be need to revise some of the Council's strategies and policies to take account of the changes.
12. Appendix A details the key changes in the Housing and Planning Act and their impacts and proposes a set of mitigating actions. In summary, these key changes include:
 - Pay to stay – The Government will require local authorities to charge high income social tenants (those with taxable household incomes of over £40k in London) an additional bill of about £3 extra a week for every £1k over the threshold. Requesting and validating tenant income information, and adjusting charges accordingly will be a new significant administrative burden to the council. The Government has indicated that councils will be required to charge tenants who fail to disclose their income details when asked an amount equivalent to market rent. The additional income will be paid to the Government minus an administrative fee, which may not cover the council's full costs. Housing Associations will have discretion over whether to implement their own schemes however unlike councils they will be able to retain any additional income raised.
 - Fixed term tenancies – Lifetime tenancies will be replaced with fixed term tenancies for most new council lettings. These will probably be set at five years, but could be extended to ten in certain circumstances or up to the time a youngest child would finish school. This could lead to increased administrative costs arising from the tenancy review process and a potential increase in legal challenges.
 - The extension of right to buy to housing associations – While housing associations will be expected to deliver replacement properties for those sold under the right to buy, these may not necessarily be in the same area, or of the same size or type. Therefore this could lead to a reduction of social rented homes in Southwark.

- The forced sale of higher value vacant local authority properties – To help fund the housing association right to buy discounts the Government will require local authorities to pay a levy based on potential sales of higher value properties as they become vacant. Higher value bands are still yet to be defined. This policy could lead to a reduction in the social rented stock in Southwark and will have a significant negative impact on the council's housing revenue account business plan.
- Starter homes – The Government is changing the definition of affordable housing to include Starter Homes. Starter Homes are for first time buyers, over 23 and under 40, at up to 80% of the market price, up to a maximum £450,000 in London. There may be a national minimum requirement that 20% of new residential developments will be Starter Homes. This is likely to reduce the supply of other forms of affordable housing on new developments.
- A new national rogue landlord database - Local authorities will be responsible for applying for banning orders against landlords who have committed banning order offences and updating a national rogue landlord database. While this may help improve conditions in the sector, it also represents a significant additional administrative burden for the council.
- One per cent social rent reduction for four years - In addition to the changes in the Housing and Planning Act, the Welfare Reform & Work Act 2016 included a requirement for an annual 1% reduction in social housing rents for four years starting from April 2016. Supported social rents were exempted from this requirement for one year and this may be extended following the Government's review of the sector. The original guidance had stated that social housing rents could increase by CPI plus 1%. This policy equates to a £62.5m loss in rental income to the Council's housing revenue account (HRA) over those four years. This increases to a loss of £820m over the thirty years of the business plan (based on the 1% rent cut for the four year period, and then rents rising by CPI plus 1% a year).

Southwark Council's proposed mitigating actions in response to the Housing and Planning Act 2016 and the communication and engagement plan

13. It is increasingly important that council services work together, and with external partners, to help mitigate against the impacts of these changes where possible. Officers have jointly identified a set of mitigating actions in response to the changes on the Housing and Planning Act 2016 (Appendix A), detailing some immediate actions to help mitigate against these changes where possible. These are based on the best indications to date and may need to be adjusted following publication of the regulations.
14. Regular communication with residents is crucial, explaining what we know to date but also to explain which details are not yet known. The council has written to all tenants (through an insert to the rent statement) explaining the key changes in the Housing and Planning Act. Information has also been included on the Southwark Council website. The council has also ensured that council officers are fully briefed on these changes, through internal communications.
15. The council will need to update residents on the key changes in regulations as these are published. The council has developed the Southwark Housing and

Planning Act communication and engagement plan (Appendix 2) to ensure that residents are kept informed as further details emerge.

16. The council will continue to engage with residents on the changes due to the Housing and Planning Act as the regulations are published. There will be areas where the regulations are likely to be very restrictive about what the council can do. The approach in these areas is to provide residents with information rather than consultation.
17. However, where there is flexibility, the council will work with residents to maximise any opportunities presented by the Act and to minimise the negative aspects. This will include consultation on the following:
 - A review of the council's tenancy strategy
 - A review of tenancy agreements
 - A review of the allocations policy
 - Designing the processes for implementation of pay to stay
 - The refresh of the council's housing strategy
 - Changes to the council are planning policies, such as the New Southwark Plan.

Policy implications

Implications for the Southwark Housing Strategy and Housing Investment Plans

18. The current Southwark Housing Strategy to 2043 was agreed in January 2015, prior to the changes detailed in this report. The strategy was designed from the principles and commitments agreed by cabinet in January 2014. These followed from the work of the Independent Housing Commission, and the subsequent community conversation on the future of council housing.
19. The housing strategy is based on four key principles, underpinned by key commitments summarising the steps required to deliver these principles. The four principles are:
 - We will use every tool at our disposal to increase the supply of all kinds of homes across Southwark
 - We will demand the highest standards of quality, making Southwark a place where you will not know whether you are visiting homes in private, housing association or council ownership.
 - We will support and encourage all residents to take pride and responsibility in their homes and local area.
 - We will help vulnerable individuals and families to meet their housing needs and live as independently as possible.
20. The seismic shift in national housing policy over the last year and a half has led to a need to consider the wider strategic impacts on the council's housing strategy. Initial discussions with key cabinet members and senior officers have agreed that the housing strategy's four key overriding principles should remain the same. However there are some key strategic issues that will need addressing through a refresh of the housing strategy.

21. Some of the other key identified strategic issues to address through a refresh of the housing strategy include:
- Rising homelessness and reviewing the council's approach to temporary accommodation
 - Responding to welfare reforms
 - Responding to a new tenancy regime
 - Support to vulnerable residents through better multi-agency working
 - Housing for our ageing population.
22. A further report will be brought to cabinet in the autumn setting out a refresh to the council's housing strategy in response to the Housing and Planning Act, and other key emerging issues such as welfare reforms.

Implications for the Southwark Tenancy Strategy and Tenancy Agreement

23. The changes in the Housing and Planning Act to lifetime tenancies will require an update to the Council's Tenancy Strategy and Tenancy Agreement once the regulations are published and the full details are known. This will probably be after the summer parliamentary recess. The update to the tenancy strategy will need to include agreeing the criteria for renewing fixed term tenancies which could include:
- Good behaviour standards (i.e. beyond simple tenancy compliance).
 - Continuing evidence of housing need
 - Changes in household income
 - Under-occupation of the property
 - Whether major property adaptations in the property continue to be required.

Implications for the New Southwark Plan and other planning policies

24. The requirement to require a proportion of new homes on all reasonably sized sites may affect Southwark's ability to meet its objectively assessed housing needs. Council officers will review the role of Starter Homes in meeting local affordable housing needs and identify opportunities to mitigate the impact by requiring a range of alternative affordable housing products alongside Starter Homes to the extent that this is viable through proposing new affordable housing policies in the New Southwark Plan.
25. The Act introduces a new form of planning permission called planning permission in principle (PPIP). The Act states that development sites allocated in borough development plans will benefit from a PPIP following the adoption of the plan. The council will also be required to maintain a register of potential development sites (the 'brownfield land register') and periodically grant PPIP to sites on the register. Officers will review the benefits and risks of including potential development sites in the New Southwark Plan or the brownfield land register following the publication of the relevant regulations. The New Southwark Plan will progress with a selection of proposed allocated sites that result in the best outcome for the Council.

Community impact statement

26. This report contains plans to respond to changes as a result of the Housing and

Planning Act. This will include updating policies and procedures. However, no actual changes are being made through this report. The impact on the community will be fully considered as these policies and procedures are reviewed and more detailed equality analysis carried out throughout implementation.

27. This report also includes a communication and engagement plan (Appendix B) setting out how we will inform and consult our residents on the changes and how to respond to these.

Resource implications

28. The Housing and Planning Act will have considerable resource implications for Southwark. This report gives some indication of what these may be but the full implications will only be known once the full regulations are published and levies have been calculated. This report does not make any actual changes to the council's policies and procedures. The resource implications of these changes will be fully considered as these policies and procedures are reviewed.

29. The Welfare Reform & Work Act 2016 gained Royal Assent on 16 March 2016. A key policy change prescribed in the Act was an annual 1% reduction in social housing rental income for four years starting from 1 April 2016. This policy equates to a loss in rental income to the HRA when compared with the previous rental assumption of CPI+1% of:

- £62.5m over those four years
- £820m over the thirty years of the business plan.

30. The impact of the higher value voids levy is not certain as the details of the calculation and the likely levy payable are still to be released. Although there is no requirement to sell higher value voids to fund the levy, it is unlikely that the business plan would be viable without such sales. An important consideration for the authority would be which void properties to sell, as the majority of the levy could be paid by selling 2 and 3 bed properties, the properties which are likely to be most in demand.

31. Another policy change within the Housing and Planning Act is the "Pay to Stay" policy. 'High income' local authority tenants will have to pay a higher rent from 2017/18. The policy will have a significant impact on some existing resident's disposable incomes, which could potentially lead to increased arrears and homelessness.

Legal/Financial implications

32. The Housing and Planning Act will have considerable legal and financial resource implications for Southwark. This report contains a set of mitigating actions to respond to changes as a result of the Housing and Planning Act, including drawing up plans to update certain policies and procedures. The legal/financial implications will be fully considered as these policies and procedures are reviewed.

33. There are likely to be extensive legal implications from the changes to the Housing and Planning Act. These include legal costs of updating policies and tenancy conditions. There is also a high risk of an increased number of legal

challenges to the individual decisions relating to pay to stay and whether to extend fixed term tenancies. Therefore it is important to ensure careful consideration of these risks as policies are designed to minimise future legal issues.

34. There are some costs associated with the communication and engagement plan; however the council minimising these by utilising existing communications such as using rent statement mail outs, and using the council's website.

Consultation

35. The Housing and Planning Act only received Royal Assent on the 12 May 2016. The Council has provided briefings on the Act to a number of tenants and resident groups including the Future Steering Board, Tenant Council, Homeowner Council, Area Housing Forums and Tenants & Resident Associations. These discussions have helped inform the Council's planned actions in response to the changes in the Housing and Planning Act. The Council will consult these key tenant groups on any changes to the Council's planning policies, the council's Lettings Policy, and Tenancy Strategy as a result of the Housing and Planning Act, where the council has flexibility about how it operates the new legislation.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy (DB28/066/16)

36. The relevant legal implications of the Housing and Planning Act 2016, which received royal assent on 12 May, are set out in the body of this report. Most of the relevant provisions will be brought into force by regulations. Detailed provisions will also be set out in regulations which are expected to be laid in the winter of 2016/17.

Strategic Director of Finance and Governance (FC16/011/IY)

37. It is inevitable that the provisions of the Act will impact on the council's finances, particularly Housing Revenue Account (HRA) resources which are already under considerable strain following the u-turn in rent policy from CPI+ to a four-year rent reduction and uncertainty as to government intentions beyond 2020/21. Since the introduction of self-financing in 2012, government policy has changed several times, the consequences of which have, without exception, been detrimental to the HRA. Some scenario modelling of the impact has been undertaken, all of which is negative and further erodes the sustainability of the HRA over the medium term. However, until detailed regulations underpinning the Act are published and the quantum of the higher-value void levy known, it is not possible to accurately quantify the impact.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Council Housing Strategy to 2043	Southwark Council 160 Tooley Street London SE1 2QH	Robert Weallans 020 7525 1217
Link: www.southwark.gov.uk/housingstrategy		
The Housing and Planning Act 2016		
Link: http://www.legislation.gov.uk/ukpga/2016/22/pdfs/ukpga_20160022_en.pdf		
Welfare Reform and Work Act 2016		
Link: http://www.legislation.gov.uk/ukpga/2016/7/pdfs/ukpga_20160007_en.pdf		

APPENDICES

No.	Title
Appendix A	Southwark Council's proposed mitigating actions in response to the Housing and Planning Act 2016
Appendix B	Southwark Housing and Planning Act communication and engagement plan

AUDIT TRAIL

Cabinet Member	Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	
Lead Officer	Gerri Scott, Strategic Director of Housing & Modernisation	
Report Author	Robert Weallans, Senior Project Officer (Housing Strategy)	
Version	Final	
Dated	6 July 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	6 July 2016	