

APPENDIX A

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

'High income social tenant' pay to stay

From April 2017 the Government will require the council to charge 'High income' council tenants an additional charge, which will be paid to the Government. This policy will also be strongly encouraged for housing associations that unlike councils would be able to keep the additional income raised. Key details include:

- **Income thresholds** – High income will be defined by Government as a household with a taxable income of over £40k in London and £31K nationally, increased annually by CPI.
- **Additional charge** – High income tenants will have to pay an additional bill of approximately £3 extra a week for every £1,000 in income over the threshold (based on 15p for every £1 earned above the threshold) up to the market rent (see table below).
- **Definition of household income** - The policy will take account of the income of the tenant or joint tenants named on the tenancy agreement, and the tenant's husband, wife or partner who lives at the property. The incomes of adults living with parents will not be used unless they are named as a tenant on the tenancy agreement. The income assessment is likely to be based on income over the preceding 12 months. Only taxable income will be included in the income assessment. Those in receipt of housing benefit/universal credit will be exempted.
- **Process** - Councils will be required to write to tenants in the autumn to request household income details. The Government will require councils to charge a higher/market rent until income details are provided. Landlords will have access to HMRC data to verify details.

Income	41k	45k	50k	60k	70k	80k	100k	150k
Yearly increase	150	750	1.5k	3k	4.5k	6k	9k	16.5k
Weekly rent increase	3	14	29	57	86	115	172	316

Impacts

This policy is expected to have a number of significant impacts in Southwark given the high number of social housing properties, including:

- A significant administrative cost. The Council will be required to pay the Government any additional income generated, but will be able to retain an administration fee. However, obtaining and checking the incomes of our tenants, and issuing the additional charges will be a very expensive exercise and could exceed this.
- A significant impact on some existing residents' disposable incomes
- The potential for increased arrears and homelessness.
- Disincentives to tenant aspiration if rent rises outweigh increases in earnings.
- Potential increases in right to buy or social home buy applications to avoid the additional charges.
- Possible increases in the number of legal challenges to the additional charges.

Mitigating actions

The council will look to mitigate these impacts through:

- Publicising all the details of the policy to residents including income definitions and income submission requirements once known.
- A review of the social homebuy scheme
- Ensuring all those considering right to buy are made fully aware of all potential

future costs and have an affordability assessment.

- Developing cost efficient systems to implement the policy.

Fixed term tenancies replacing lifetime tenancies for new lettings

Lifetime tenancies will be replaced with fixed term secure tenancies for new lettings. These will probably be set at five years, but could be extended to 10 years in certain circumstances (as set out in regulations yet to be published) such as for those with disabilities, or cases of domestic violence. Councils may also offer fixed terms up to the time that a youngest child will finish school.

This policy will be mandatory for councils and strongly encouraged for housing associations. Regulations will limit when a lifetime tenancy can be issued e.g. voluntary downsizing, forced moves etc. Only spouses/partners will be able to inherit lifetime tenancies, otherwise a fixed term succession will apply.

Impacts

As this will only affect new tenancies and successions the impacts of this policy change will take longer to take effect than some of the other policies. The impacts will include:

- Less security for new tenants
- An additional burden for the council conducting regular tenancy extension reviews.
- Potentially increased stock turnover
- Potentially an increase in right to buy applications
- A possible increase in legal challenges

Mitigating actions

The Council will need to act according to the regulations but there may be scope to reduce some of the impacts through:

- Updating the Council's Tenancy Strategy (through a Cabinet Paper) including clear policies and procedures for reviews. The criteria for agreeing for renewal of fixed term tenancies could be based on:
 - 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. (In the last two circumstances the tenant could be required to move to a more suitable property)

Communicating these policy changes to residents, to avoid unnecessary burden and worry (as per the communications plan).

Policy – Extension of right to buy to Housing Associations

The right to buy is being extended to housing associations on a voluntary basis. The housing association could choose not to sell a property but should offer a suitable alternative. The scheme will be funding dependent and will probably have a phased roll out. Housing associations will receive a grant to cover the discount. They will need to deliver a replacement affordable property, though not necessarily in the same area, or of the same size or type - it could even be a starter home.

Impacts

While this policy may give some housing association tenants the chance to buy their own home, it could lead to a loss of social rented stock in the borough.

Mitigating actions

- Encouraging housing associations to deliver genuinely affordable one for one replacement properties in Southwark.
- Working with housing associations to explore property type exemptions for stock types which are needed most.
- Encouraging housing associations to sign up to the London Mayor's voluntary

agreement to ensure right-to-buy receipts are re-invested in the provision of new affordable homes in the capital.

Policy - Forced sales of higher value local authority properties

To help fund the extension of the right to buy to housing associations councils will be required to consider selling their vacant higher value vacant properties (voids). "Higher value" is yet to be defined and could differ by area. New build properties will initially be excluded but it is not yet clear for how long these would be excluded from the estimates.

The Government will issue a levy at the start of the year based on estimates of higher value vacant properties. The Council does not have to sell every individual higher value vacant property as it can consider the overall resource position and the impacts of different scenarios on the business plan. However, the Council will still be required to pay the levy no matter how it is resourced. The payment could be reduced if the money is spent on housing or things that will facilitate the provision of housing. In London the council levy could be reduced if councils build two replacement homes, though not necessarily of the same type of affordable housing.

Impacts

- At this stage there is no indication of the scale of the levy payable and the business plan assumes a neutral impact i.e. the actual receipts received from the sale of voids equals the levy payable. In practical terms, the levy may be set at such a high level that it may not be possible to sell void properties to match the levy, which would have a further detrimental impact on the HRA.
- Selling high value voids will result in a loss of rent income from properties with proportionately higher rents
- A potential reduction in traditional social rented housing in Southwark.

Mitigating actions

- Ensuring the Council's levy is as fair as possible and takes account of the falling number of void properties, debt attributable, the cost of replacements and the administrative burden.
- Seeking exemptions for certain property types.
- Delivery of new homes through the Council's direct delivery new build programme, including exploring the use of the Southwark housing company to develop a range of housing products.
- Exploring options for delivering two for one replacement once further details are provided.
- Exploring working in partnership with other local authorities to build affordable homes.

Policy - Rogue landlord database

The Housing and Planning Act will require local authorities to update a national rogue landlord database. Local authorities will also be responsible for applying for banning orders against landlords who have committed banning order offences as set out in regulations.

Impacts

- This policy should help improve the quality of the private rented sector in Southwark.
- It could lead to increased homelessness from tenants whose landlords become subject to a banning order.

Mitigating actions

- Explore the associated opportunities for property management orders, to prevent homelessness caused through banning orders.

- Ensure effective links with other private rented sector initiatives such as the borough's landlord licensing, HMO licensing and accreditation schemes.

Starter homes

The Government's definition of affordable housing is being changed to include Starter Homes.¹ Starter Homes are for first time buyers, over 23 and under 40 (including joint buyers where one is under 40), at up to 80% of the market price up to a maximum £450,000 in London.

Planning authorities will be required to ensure a set proportion of Starter Homes on all 'reasonably sized' new development sites. A Government consultation currently proposes a national minimum requirement of 20% on residential developments over 10 units (with some possible exemptions such as rural exception sites, specialist housing schemes and/or possibly regeneration schemes). The Government have also indicated that Starter Homes will be exempt from the Community Infrastructure Levy (CIL) and Section 106 requirements.

There is no maximum income threshold for Starter Homes and the subsidy will not be retained in perpetuity or reinvested in alternative affordable housing. There is likely to be a requirement to repay a tapered portion of the discount on resale within a set period and restrictions on resale unless to a qualifying first-time buyer at a discount.

Impacts

Starter homes are likely to start to replace other forms of affordable housing on new developments significantly affecting genuinely affordable housing delivered beyond 2018. This may help some households on slightly higher incomes to buy, but will probably also result in fewer social rented housing units being built in future through S106 agreements. It is also likely to result in a more polarised housing market with fewer other intermediate products delivered. Given the high need for affordable housing in Southwark, as detailed in the Strategic Housing Market Assessment (SHMA) the Council is concerned about Starter Homes replacing other forms of affordable housing on new developments.

Mitigating actions

- Ensuring flexibility in local planning policies to ensure the maximum delivery of genuinely affordable housing through negotiations, working with the Mayor of London.
- Exploring developing a sub-market rental offer that addresses housing need, and other intermediate housing products.
- Work with the new Mayor of London to ensure a Starter Homes model that works for local residents.
- Undertaking research to support new affordable housing policies which maximise the provision of affordable housing tenures which meet local affordable housing needs whilst taking account of any Starter Homes requirements.

Policy - Permission in principle

The Act introduces a new type of planning permission called planning permission in principle (PPIP). Full details for the operation of PPIP will be set out in regulations. PPIP can be granted through site allocations in the borough's development plan and on application. The borough will also need to maintain a register of brownfield sites suitable for development. There is an expectation that 90% of sites on the brownfield register should benefit from a PPIP by 2020.

¹ The NPPF currently defines affordable housing as 'Social Rented', 'Affordable Rented' and 'Intermediate' housing. Starter Homes will be a separate category of affordable housing.

The PPIP will grant planning permission for the key “principle” matters concerning an application including development capacity (minimum and maximum amount of houses) and bedroom size mix. The next stage will be technical details consent (TDC) before the granting of full planning permission. Technical matters include affordable housing provision but “Principle” matters cannot be revisited at the TDC stage.

Impacts

- It is unclear whether this approach to granting planning consent will have an impact on affordable housing provision. However, affordable housing provision will be a technical matter and therefore it is possible that where a scheme proposes a lower proportion than that required by planning, the weight that can be given to this may be more limited.
- Establishing and maintaining a register of brownfield sites and preparing and approving Planning Permission in Principle (PPIP) will place a resource burden on the Council and it is unclear how this process will be financed. Further consideration will have to be given to how PPIP could impact development management work streams.

Mitigating actions

- The Council has deferred the preparation of revised site allocations for the New Southwark Plan to ensure that when this does proceed, that it will be in accordance with the relevant regulatory requirements.
- The Council could seek to limit the number of sites on the brownfield register to sites where a landowner has nominated (or supported) their site for inclusion, to help minimise costs.

Policy – 1% social rent reduction

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 (April 2017 for supported social rents). The original guidance had stated that social housing rents could increase by CPI+1%.

Impacts

- Lower payable rents for social tenants not on Universal Credit or housing benefit.
- For most households receiving housing benefit or Universal Credit a lower benefit payment to reflect the lower rent (a saving to the Treasury).
- A significant impact on the Council’s business plan and investment plans equating to a £62.5m loss in rental income to the Council’s HRA over the four years. This increases to a loss of £820m over the thirty years of the business plan.

Mitigating actions

The impact can be slightly reduced by increasing social rents to target rent before applying the rent cut for relets. As part of a refresh of the Council’s housing strategy, the Council will need to review the Council’s HRA business plan.