

Item No. 18.	Classification: Open	Date: 12 December 2017	Meeting Name: Cabinet
Report title:		Consultation on Introducing an Intermediate Rent Housing List	
Ward(s) or groups affected:		All	
Cabinet Member:		Cllr Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	

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

With the current housing crisis in London it is important that that homes of all tenures are built and that there is a supply of housing available that is truly affordable for our residents who are on low and medium incomes.

As a council we are committed to ensuring that we do what we can to play our part in meeting the housing needs of our residents and that we have homes that are available across a range of incomes.

There is a clear need to provide housing that is affordable to our key workers in Southwark. Our teachers and teaching assistants, our social workers and healthcare workers who are finding it increasingly harder to rent in Southwark due to the increasing rental prices in the private rented sector.

The Mayor of London's commitment to London Living Rent is welcomed and will help provide affordable housing for households on incomes under £60,000 per annum. This is just one of several solutions to providing homes at intermediate rents for our residents alongside shared ownership, community land trusts and co-operative housing models.

We want to hear from our residents about their ideas and views on the future options for intermediate housing in Southwark and this report asks cabinet to recommend that the council consult on plans for an intermediate housing list and to bring a further report to cabinet with the final design in 2018.

RECOMMENDATIONS

Recommendations for the Cabinet

1. To instruct officers to conduct a public consultation on the initial proposals to introduce an intermediate rent housing list.
2. To instruct officers to bring a further report to Cabinet in 2018 covering the results of the consultation and recommendations for the final design for the intermediate rent housing list.

BACKGROUND INFORMATION

3. The first principle in the Southwark Council Housing Strategy is that “We will use every tool at our disposal to increase the supply of all kinds of homes across Southwark.” It also contains a priority of “Ensuring a supply of new homes which are affordable to people on a range of incomes.” It commits to ensuring a supply of intermediate housing that is affordable to those on low to middle incomes.
4. There is a clear need for all forms of affordable housing. The number of social lettings each year continues to decrease. At the same time, welfare reforms such as lowering the benefit cap to £23k in November 2016, and the freezing of the local housing allowance, have made the private rented sector less accessible to those on low incomes. Many households renting in the private sector have to pay very high proportions of their household income in rents. Affordability issues are significantly impacting on the recruitment of workers for some jobs, where pay is not sufficient to cover local housing costs and the costs of commuting.
5. The main form of affordable housing developed in Southwark will continue to be council and housing association rented properties at traditional social rent levels. Where there are viability issues, there may be some affordable rents (defined nationally as up to a maximum 80% market rent) but these will only be accepted on new developments where there are viability considerations and where it can be demonstrated that they are affordable to local residents. Affordable rent will only be accepted if it is capped at LHA rates (Local Housing Allowance). The council prioritises larger units for social rent. These properties will continue to be let to households on the council’s housing list as per the social housing allocations scheme. This will be unaffected by the proposals in this report.
6. There will continue to be a supply of intermediate housing for sale, mostly on a shared ownership basis. These will not be affected by the proposals in the paper due to Government restrictions, so these will continue to be let through the Mayor of London’s First Steps website.
7. Changes in national and regional planning policy are likely to result in an increase in intermediate rented housing developed by private developers, where rent levels are below market rent. Therefore a new approach for allocating these types of property is needed. In February 2017 the Government published the Housing White Paper which proposed to change the definition of affordable housing to include private affordable rent (similar to housing association affordable rent at up to 80% market rent, but managed by private companies). This could replace affordable housing requirements on purpose built private rental developments and count as intermediate housing. The Mayor of London’s Affordable Housing and Viability Supplementary Planning Guidance August 2017 now also directs the affordable housing requirement on build to rent developments towards London Living Rent or similar discounted market rent products.
8. As both the Housing White Paper and the Affordable Housing and Viability SPG both propose discount market rent should be acceptable as the affordable housing offer on build to rent schemes, these documents would count as material considerations in future planning decisions. An absence of a local policy would limit the council’s ability to influence the profile of any discount market rent offer in order to meet local needs/priorities. It would also make it more challenging to assess applications which

propose an affordable housing offer which departs from the Council's adopted policy. Therefore the council has proposed a new development management policy around private rented homes in the New Southwark Plan Proposed Submission Version. Formal consultation on the submission version is due to run from 2 January 2018 for 6 weeks until 12 February 2018.

9. The proposed policy P4 allows for discount market rent homes as the affordable housing contributions on private "build to rent" developments. These should remain affordable in perpetuity. Build to rent developments would be required to provide at least 35% affordable homes, subject to viability. A scheme would be broken down as follows:

Tenure	% of the total scheme	% of the 35% affordable housing element	Allocation method
Private rent	65%		Open market
Total affordable – Of which:	35%		
- Social rent equivalent ¹	12%	34%	Social housing waiting list
- Affordable rent capped at London Living Rent equivalent ²	18%	52%	Intermediate rent housing list*
- Affordable rent for household incomes between £60,000 and £90,000 per year ³	5%	14%	Intermediate rent housing list ⁴

¹ Equivalent refers to social rent levels – See paragraph [11]

² Equivalent refers to London living rent levels – See paragraph [13]

³ The proposed P4 policy has worded this as an intermediate housing waiting list. The new name has been proposed for clarity as this list will not be used for shared ownership.

⁴ The P4 policy also states that for dwellings to be considered affordable, annual housing costs rent and service charge should be no greater than 40% of net household income (net household income assumed to be 70% of total (gross) income).

* Where the units are offered by a private registered provider the PRP will not access the list itself but will be required to apply the same eligibility criteria and priorities.

10. Where these intermediate rent properties are developed and managed by private companies rather than housing associations, the council will take a more active role in the allocation of these properties to ensure they are meeting need.
11. The policy states that "Affordable discount market rent homes at social rent equivalent must be allocated to eligible households on Southwark's social housing waiting list." The term equivalent just refers to the rent level, and not the tenancy. The tenancy would probably be an assured shorthold tenancy, of at least three years. These homes will be managed by private companies or registered providers. The council will need to agree standard nominations protocols across the developments covering how these properties will be let and relet. Any advertisements for the property will clearly state the tenancy distinctions.
12. The other discounted market rent homes developed under DM4 must be allocated to eligible households on Southwark's intermediate rent housing list. The proposed policy states that eligibility criteria for Southwark's intermediate housing waiting list will be the subject of a separate consultation (the consultation covered by this report). The same priority system will be used for both the London Living Rent equivalent and the other intermediate housing. However it is proposed that those with

household incomes over £60,000 will only be able to bid for intermediate rent homes that are intended to be let by households in this higher income band.

13. The reference to London Living Rent equivalent refers to the rent level only, as set by the Mayor of London, based on a third of the median gross income. Residents would not have the option to buy their current home, but will still be encouraged to save to buy an alternative property.
14. The council will need to agree standard consistent nominations protocols across the developments covering how these properties will be let and relet and covering issues such as tacking subletting, repair responsibility etc.
15. Council planning officers have been exploring whether build to rent with a proportion of intermediate rent could be a suitable potential option at a few sites across the borough.

KEY ISSUES FOR CONSIDERATION

Consultation

16. Cabinet is requested to instruct officers to publicly consult on the proposals for an intermediate rent housing list. A set of consultation questions is included in appendix 1. This report also instructs officers to bring a further report to Cabinet in 2018 covering the results of the consultation, a full analysis of the equalities impacts, and recommendations for the final design of the intermediate rent housing list.
17. **Stakeholders** - The council will be seeking to consult with a wide array of potential stakeholders. This will include the GLA, other social housing providers operating in the borough, developers, private landlords and local residents.
18. **Consultation period** – The consultation will run for 12 weeks. Further consultation may be required if the consultation results in the need for significant changes.
19. **Methods of consultation** – A number of methods of consultation will be used including a web-based consultation document. The document will include an initial proposal for the eligibility criteria, priority star system, and the Southwark key worker definition. This consultation document will also explore the potential equalities impacts of the proposals. Officers will also write to developers who have expressed an interest in providing intermediate rented housing to ensure they are aware of the consultation, and offer to meet with them to discuss the proposals. Officers will also request to meet with the Southwark Housing Association Group (SOUHAG) and the Futures Steering Board (FSB).

Initial proposals for the intermediate rent housing list

20. The following section contains an initial proposal for the intermediate rent housing list as a starting point for consultation. These proposals are subject to change following the consultation.

Tenures covered

21. The primary purpose of the intermediate rent housing list will be for allocating intermediate rented homes developed on purpose built private rental developments built and managed by private companies.
22. The council anticipates that private registered providers (RPs) may also wish to offer intermediate rented homes. As these would be let on assured shorthold tenancies any council nomination to these properties would be covered by Part 6 of the Housing Act 1996, so according to the council's social housing allocation policy. However, there are likely to be significant affordability issues for intermediate rent for most households on the social housing list. GLA guidance on London Living Rent states that "providers should determine priority through use of a local intermediate waiting list (if one exists), by using a priority group or groups identified by the local borough, or as a last resort by first-come, first-served." Therefore the Council is proposing that, in the case of properties managed by registered providers, the registered provider will be required to let to households in accordance with the council's eligibility criteria and priority star system. The council will email priority households on the intermediate housing list to make sure they are aware of any such properties so that they can apply directly to the RP. As part of the consultation, the council will work with registered providers, the Department for Communities and Local Government and the GLA on the best way to select tenants for these properties.
23. The intermediate rent housing list would not be used for allocating shared ownership. The Government has removed the powers of local authorities to apply additional restrictions on shared ownership from April 2016. These properties will continue to be advertised and let through the Mayor of London's First Steps web portal. However, the Council will be able to better target marketing of shared ownership opportunities to those on the intermediate rent housing list.
24. The intermediate rent housing list will play no role in allocating social and affordable rent properties. These will continue to be let through the Council's social housing allocation scheme. Where there is overlap between these two schemes, consistent wording will be used.

Possible future supply and demand

25. In the short to medium term there is likely to be a very limited supply of intermediate rented properties but a very high level of demand, as this will be more affordable than private renting. On the 7th June 2017 there were 6,331 households on the First Step website who have registered an interest in intermediate housing who live or work in Southwark. There were 2,546 households registered on the website who want to live in intermediate housing in Southwark. As First Steps currently mainly covers shared ownership, numbers interested in discounted market rent may be higher.
26. There may be four sources of supply of intermediate rent units as follows:
27. **On private developments as part of S106 agreements** - Planning policies are still to be formally agreed and schemes will need to be worked up and agreed. Therefore supply is likely to be very limited in the short term. There could potentially be around 2,000 discount market rent homes built through this route in the next 15 years but

this is heavily dependant on planning policy decisions and viability considerations.

28. **Properties developed by housing associations** - So far no housing associations have bid for funding for London Living Rent in Southwark and have continued to focus on shared ownership. However the Mayor of London has indicated that he will allow any funded shared ownership property to be switched to London Living Rent or vice-versa up to the point of letting. In May 2017 Hyde let the first London Living Rent properties in Beckenham. If the sales environment continues to get more challenging there may be more conversions of shared ownership to intermediate rent.
29. **Properties developed by the council** - The council is exploring options for delivering London Living Rent, and other homes to help those unable to afford a property on the private market. This would require a separate Cabinet paper due to legal complexities.
30. **Relets of existing intermediate rent products** - The New Southwark Plan – Proposed Submission Version has stated that discount market rent homes must be provided in perpetuity. While it will take a few years before this becomes a significant source of supply, there will be a need to ensure that these continue to be let to applicants on the intermediate rent housing list, with appropriate ongoing monitoring arrangements, and controls to prevent subletting.
31. As the supply of discount market rent homes will be extremely variable it is important that resources are planned in a way which can accommodate fluctuating supply, with a potential slow start that can be scaled up.

Key aims and objectives

32. The main aims and objectives of the intermediate rent housing list are to provide a way of allocating intermediate homes to those in the squeezed middle who are unlikely to get a council property but unable to afford other forms of private housing. This priority scheme will be particularly aiming to prioritise options for Southwark workers, particularly those who play a key part in the functioning of the borough. While meeting housing needs of those on lower incomes is a priority, there is need to ensure the household can afford to sustain the tenancy and provide rental stability.

The eligibility criteria

33. Officers have proposed a set of eligibility criteria for joining the intermediate rent housing list. These have been drafted in line with the following eligibility criteria for the Mayor of London's First Steps and London Living Rent schemes. These would apply to both private developers and PRPs.
34. Under the GLA's First Steps eligibility criteria a household has to:
 - Have a gross household income of no more than £90,000 per annum
 - Be unable to buy a suitable market home to meet their housing needs
 - Not already own a home or to have sold their home before they buy or rent.
35. The Mayor of London's Affordable Housing and Viability SPG restricts the maximum household income of households for London Living Rent to £60k.

36. Based on these existing eligibility requirements, officers have proposed the following broad eligibility criteria for joining the intermediate rent housing list.

Criteria	Explanation
Residence in the borough or being a key worker working in the borough	The scheme would be open to residents living in the borough and key workers working in the borough (as defined in paragraph 42). The consultation will explore whether a minimum residence criteria should be applied for non keyworkers.
Maximum household income of £90k	Policy P4 in the New Southwark Plan will result in some intermediate housing being developed at London Living Rent levels, for those with household incomes below £60K, and a small proportion for those with household incomes up to £90k. There may be need for further restrictions on any products funded by the Mayor of London (e.g. for London Living Rent households are expected to be able to afford the rent and be able to afford to build up savings).
Minimum earned income of £26k	A minimum earned income of £26k is proposed. The consultation will explore whether this should be included and if this is set at the correct level. It would be a waste of time and resources for people to join a list where they are unable to afford any of the products listed. £26k is the income required to afford the lowest proposed level for LLR for a one bed in Southwark, which was Peckham ward at £729 a month, assuming a third of income is spent on rent.
Not an existing homeowner unless the current property is unsuitable (overcrowded/disabled access/unaffordable) and the household is unable to buy/rent in the private market.	This will need further careful consideration to ensure this includes exceptions for those in genuine need but which rules out those seeking to exploit the scheme for financial gain. These circumstances will be set out in procedure.
That they or a member of the household has not been guilty of unacceptable behaviour serious enough to make the applicant unsuitable to be an intermediate rent tenant	This will be defined in the next Cabinet report. This will cover significant housing related debt unless a repayment plan is approved; failure to keep to payment plans; being subject to court orders for breach of tenancy conditions; convictions for illegal or immoral use of their home; nuisance and annoyance to neighbours and visitors; criminal offences in or near the home and still posing a threat to neighbours and the community; violence towards family members and domestic abuse; deception/providing false information; acts of violence or aggression against Southwark or partner organisation staff; unlawful subletting; racial harassment or hate crimes.
Aged 18 or over	
Definition of household	Unlike the social housing allocations scheme, the council will not restrict who can be included in the application, and therefore sharing may be allowed. However, the applicant will be solely responsible for ensuring the rent is paid. The tenancy will be in the name of the applicant.
Exceptions	An exceptions approach will be needed across all these rules

Criteria	Explanation
	above to allow consideration of complex cases.
Right to rent	Applicants must be eligible to rent a property under national legislation, the managing agent or company will be responsible for carrying out any initial and ongoing checks required.

37. As the tenancies would be of a fixed period, there will need to be clarity about the factors that would be taken in to account in deciding whether to renew the tenancy. This could include whether the household was still eligible under this criteria. This will be included in the consultation.

The prioritisation system

38. Given the very high rents in the private sector, and the shortage of affordable housing, there is likely to be significant demand for intermediate rented housing. Therefore there will be need for a clear and transparent allocation system to allocate lettings.
39. The Council has explored a variety of potential options for determining how tenants should be selected including:
- A lottery
 - Prioritising only by time on the list
 - Prioritising according to multiple priority bands (as per the allocations policy)
 - A priority star system.
 - Prioritising by lower income – however there is a contradiction between meeting low income need and making sure residents can afford the rents, be able to save to help buy in future (for products like LLR) and in ensuring residents are likely to be able to afford the rents in the longer term.
40. The council's preferred option is for a priority star system. Priority would be initially determined by priority stars.
41. Certain categories of people would qualify for priority stars as summarised in the following list. The exact wording and justification are included in the following text.
- Keyworkers
 - Armed Forces personnel (serving and former)
 - Victims of domestic violence/abuse
 - Carers
 - Families undertaking fostering or adoption where a larger home is needed

Key workers

42. In Southwark, as in many other areas in London, particularly inner London, there are recruitment issues for some posts as people are unable to cover the cost of housing and transport costs on their salaries. This is having a growing impact on public frontline services. Therefore there is some call for prioritising certain key workers.
43. The Southwark definition of key workers will need to be finalised in the next Cabinet paper on the final design. Officers have reviewed key worker eligibility criteria used

by national government, housing associations and other London boroughs. Officers have also considered whether the likely products in the scheme would be affordable to key workers. Minimum starting incomes including London weighting were as follows; fully qualified nurses £26.5k, teachers £28k, police constables £22k, firefighters £26k and ambulance crew £18k.

44. A Southwark keyworker will be somebody who works in an essential front line post who currently works in the London Borough of Southwark. The current proposal is that this includes the following:
- Nurses and other clinical staff employed in the NHS (at hospitals, health centres or in the community).
 - Social workers, educational psychologists and therapists employed by a London Borough of Southwark or the NHS
 - Firefighters
 - Police officers and Police Community Support officers (PCSO)
 - Teachers and teaching assistants who work in state schools, faith schools, free schools and academies (i.e. non-fee charging schools).
45. Applicant households containing keyworkers would be required to inform the council about changes in employment up to the point of letting, as this could change the priority status. However if this was to occur after a letting, the household would not be expected to move, to retain the skills in the borough for potential future employment.

Armed Forces personnel

46. As per national shared ownership prioritisation, additional priority will be awarded to Armed Forces personnel (serving military personnel and former members of the British Armed Forces discharged in the last 2 years), and bereaved spouses/civil partners where the death was partly attributable to their service.
47. The group includes armed forces personnel who have completed basic (phase 1) training and who fall into one of the following categories:
- Regular service personnel (including Military Provost Guards Service in the Army, Navy, Air Force)
 - Clinical staff (excluding doctors and dentists)
 - MoD police officers
 - Uniformed staff in the Defence Fire Service
 - Ex-regular service personnel (who have served in the Armed Forces for a minimum of six years and can produce a Discharge certificate, or similar document). Applications must be within 12 months of discharge
 - The surviving partners of regular service personnel who have died in service may be eligible to be prioritised where they apply within 12 months of the date of being bereaved

Domestic violence, abuse and harassment

48. The council is committed to giving those who suffer domestic abuse the opportunity to take control of their lives and to thrive not just survive as per the Domestic Abuse Strategy 2015-2020. An applicant who is suffering, or at imminent risk of suffering,

extreme domestic abuse, violence or harassment and for whom it is not safe to remain in their home, will be awarded a priority star. This will be based upon verification by senior police officers or other agencies in conjunction with a council risk assessment (Multi agency risk assessment conference – MARAC). The suggested approach is that this would be included as part of an assessed homeless application. That assessment can be sensitive and does not have to be a forensic investigation, but provides sufficient rigour to the process in terms of whether the person needs to move from their current home. Registered Providers will be able to check this with the Council.

Carers

49. Carers have been included in recognition of the vital role they play in supporting vulnerable residents in the borough, and their subsequent reduced income. The applicant or a member of their household must be in receipt of one of the following benefits (at any rate):
- Carers Allowance
 - Disability Living Allowance
 - Personal Independence Payment
 - Attendance Allowance

Fostering and adoptions

50. Families undertaking fostering or adoption for the authority (with an agreed fostering or adoption agreement in place) may also apply for a priority star where there is a need to move to a larger home in order to accommodate a looked after child. This group has been included in recognition of the valued role they play in the borough in providing care for children. This will also include special guardians, or holders of a residence order and family and friend carers who are not foster carers but who have taken on the care of a child because the parents are unable to provide care.

Potential issues with prioritisation

51. Where two or more applicants have the same number of priority stars, private developers will be required to select the person who has been on the waiting list for the longest time. (This will not apply to PRPs who will not be accessing the list.) Where this system still results in a “tie”, private developers would be required to operate a lottery system to decide the allocation among those households. In such cases PRPs would be permitted to choose the successful applicant according to their own criteria.
52. The council recognises that in applying these priorities the policy would discriminate between different types of household and would impact on the rights of individuals. However the council considers this method be the least intrusive measure to achieve the stated legitimate key aims and objectives (as set out in paragraph 32). These issues will be fully explored through the equalities impact assessment on the policy.
53. In the case of prioritising key workers, the policy will make it easier to recruit workers who perform vital public services, for the potential benefit of all residents. This group of low to mid income workers are already blocked from some other housing options due to their income. Many are unlikely to get a social rented property, but due to their

restricted income are unlikely to be able to afford private rents. Therefore this priority is considered a legitimate aim.

54. Whilst these eligibility criteria and priorities may block some households under their current circumstances, any household could find themselves in one or more of the various categories as their needs change such as through illness, disability, changes in employment status etc.

Local lettings policies

55. The Council's Allocation Scheme allows the council to decide to operate local lettings policies in particular areas. Under these schemes a proportion of lettings are ring fenced to residents in the defined area. The Council is proposing to extend this approach to intermediate rent lettings to ensure local residents receive the benefit of regeneration. The council is exploring whether to introduce a local lettings scheme, including intermediate rent, for the Old Kent Road opportunity area.

Policy implications

56. This Cabinet paper is limited to agreeing to publicly consult on the proposals to introduce the intermediate rent housing list; therefore there are no direct policy implications at this stage.
57. The final policy design will be agreed through the next Cabinet Paper on the intermediate rent housing list. The council will then need to keep these policies under review to see how effectively the new list is operating.
58. The Intermediate Rent Housing List will be kept separate from the social housing allocations scheme so will not impact on how the council meets its duties under the 1996 Housing Act Part VI. However, some households could be on both lists. For simplicity there will be need to ensure consistent wording in some areas between the two schemes, such as around armed forces, domestic violence, fostering etc.
59. The final policy will need to align with the council's planning policies around intermediate housing.

Community impact statement

60. The council has started the process of identifying and analysing the potential equalities impacts of this proposed policy. This will continue to be considered through the consultation on these proposals and in agreeing the final design of the intermediate rent housing list through the next Cabinet paper.
61. As already stated, in applying the set of priorities this policy does discriminate between different types of household. However the council has considered this to be the least intrusive way to achieve the council's legitimate aims and objectives. In addition all residents could potentially benefit from these priorities through possible improvements to essential public services, or if their circumstances change beyond their control and they then fall within one of the priority groups. This will be fully explored through the equalities impact assessment.

Resource implications

Financial issues

62. This Cabinet paper is limited to agreeing to publicly consult on the proposals to introduce the intermediate rent housing list; therefore there are limited resource implications at this stage. The cost of consultation will be minimised through use of online consultation methods. The council will notify key stakeholders of this online consultation through email. Officers will also meet with a small number of selected key stakeholders. Therefore the cost of consultation and impact on staff resources will be kept to a minimum and met through existing resources.
63. There will be new resource implications for introducing and administering the new intermediate rent housing list. Officers are working to fully establish the resource requirements which will be dependent on the final design of the scheme. These will be included in the Cabinet report on the final design for the scheme.

Budget issues

64. While the costs will be minimised, there will be need to cover the additional costs of running this new scheme. Officers have ruled out applying an application charge, so another option will be required to recoup the costs of administering the scheme. Based on initial research by officers, the best option appears to be meeting year 1 set up costs through the current S106 administration fund and making an adjustment to future S106 agreements to provide for an annual monitoring and administration fee. Other potential options include:
 - Capitalising some of these costs e.g. £5k per property.
 - Charging other partners such as housing associations to advertise their shared ownership properties using our site/list.
65. Officers will continue to explore these options, obtaining legal and financial advice so that a clear recommendation can be included in the next Cabinet Report on the final design of the scheme.

Staffing issues

66. Any staff requirement for consultation will be met within existing resources.
67. There might be need for a dedicated project officer to coordinate the initial setting up of the scheme once agreed. This could potentially be funded through the S106 administration fee. This will be explored and confirmed in the next cabinet paper.
68. There is likely to be peaks and troughs in the work administering the intermediate rent housing list, particularly as new schemes come forward. This will need to be monitored closely and the resource requirements will need to be kept under review. As soon as people are allowed to join the intermediate rent housing list, there will need to be an officer in place to administer the applications. To build in flexibility officers could be appointed on fixed term contracts.

Legal implications

69. This report only commits the council to consultation at this stage; therefore there are no direct legal implications at this stage. Officers have sought advice on the potential legal implications in the development of these proposals. The full implications of the final agreed scheme will be included in the next Cabinet report agreeing the scheme.

Consultation

70. So far consultation on these proposals has been limited to initial discussions with officers, Members, the Southwark Housing Association Group (SOUHAG) and the Futures Steering Board (FSB). This report instructs officers to consult on the proposals for an intermediate rent housing list as per paragraph 16.
71. It is possible the consultation will result in a need to fundamentally alter the proposals for the intermediate rent housing list. In this eventuality further consultation may be required. The results of the consultation will be summarised in a further report back to Cabinet in 2018.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

72. The report recommends that cabinet instructs officers to conduct a public consultation on proposals to introduce a waiting list of households interested in accessing “intermediate rented housing” for use by private landlords on “build to rent” developments. The report proposes a slightly different system for selection of intermediate rent properties offered by “private registered providers” or “PRPs” on such developments.
73. The law requires that such a consultation must be undertaken when proposals are still at a formative stage; it must include sufficient reasons for the proposals to allow interested parties the opportunity to consider the proposal and formulate a response; it must allow adequate time for interested parties to consider the proposals and formulate their response; and the outcome of it must be conscientiously taken into account when the ultimate decision is taken. Similarly due regard must be had to the impact a proposal may have on persons with protected characteristics under the Equality Act 2010.
74. Section 106 of the Town and Country Planning Act 1990 (as amended) (TCPA) allows a local planning authority to impose restrictions on the development or use of land or to require land to be used in a specific way. The delivery of affordable housing is one such use of land, which is commonly secured through the use of agreements between the local planning authority and the developer. Such agreements are enforceable by the local planning authority against the person who first enters into the agreement, and any person deriving title to the land from that person, pursuant to s.106(3) TCPA. Intermediate rented housing may be secured through such agreements in the same way as other forms of affordable housing.
75. The TCPA does not restrict the terms which may be imposed by the planning

authority on eligibility for affordable housing or the terms on which it may be offered: this is a matter which falls to be determined by application of the local authority's housing policies. In relation to housing offered by private landlords, the authority has a discretion to set eligibility and allocation criteria in accordance with those policies; to select applicants who satisfy those criteria; and to nominate those individuals to the developer as tenants.

76. However this is not the case in relation to housing offered by PRPs. Section 159 of the Housing Act 1996 states that a local housing authority "allocates" housing accommodation when it "nominates" a person to be an assured tenant of a PRP: under s.159(4) this includes requiring that housing accommodation be made available to one of a number of persons put forward by the authority. When this applies, the local housing authority must apply the social housing allocation scheme operated under s.166A(1) of that Act in allocating the housing accommodation, and not any other scheme (such as the proposed "intermediate rent" waiting list proposed for consultation). The proposed method of allowing the PRP to advertise for tenants, but requiring it to apply the authority's eligibility and priority criteria, avoids this issue as the authority is not thereby "nominating" any individual or individuals to be tenant(s) of the PRP.

Strategic Director of Finance and Governance (H&M17/078)

77. The Strategic Director of Finance and Governance notes the recommendations in the report to conduct a public consultation on the proposal to introduce an intermediate rent housing list. Subject to the outcome of the consultation, the cost of implementation and on-going administration will be dependant on the final design of the scheme and funding options will be fully evaluated and reported to Cabinet at the earliest opportunity.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
New Southwark Plan: Proposed Submission Version	Planning Policy	Juliet Seymour
Link: (copy and paste into browser) https://www.southwark.gov.uk/planning-and-building-control/planning-policy-and-transport-policy/development-plan/local-plan		
Southwark Housing Strategy	Housing Strategy and Business Support	Robert Weallans 0207 525 1217
Link: www.southwark.gov.uk/housingstrategy		
Update and overview report on the delivery of 11,000 council homes	Housing Strategy and Business Support	Robert Weallans 0207 525 1217
Link: (copy and paste into browser) http://moderngov.southwark.gov.uk/documents/s58394/Delivery%20of%2011000%20Council%20Homes.pdf		

APPENDICES

No.	Title
Appendix 1	Consultation questions on the proposal to introduce an intermediate rent housing list.

AUDIT TRAIL

Cabinet Member	Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	
Lead Officer	Gerri Scott, Strategic Director of Housing and Modernisation	
Report Author	Robert Weallans, Housing Strategy Manager	
Version	Final	
Dated	30 November 2017	
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	30 November 2017	