

Report of Chief Planning Officer

Report to Joint Plans Panel

Date: 28 January 2016

Subject: Housing and Planning Bill update

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☐ Yes	☒ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	☒ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

1. The Housing and Planning Bill is currently going through the parliamentary process, having been through the House of Commons and now starting its passage through the House of Lords.
2. The Government wants to see a million homes built to 2020. The purpose of the Bill is to give house builders and decision makers the tools and confidence to deliver more homes in appropriate places, and further streamline the planning system to assist them.
3. One of the intended effects is to make it easier for house builders to identify land which all agree is suitable for housing as well as making it easier and faster for planning permission for housing to be granted, so homes can be completed more quickly.
4. The Bill is also intends to increase in the number of housing association tenants and first-time buyers (particularly those under 40) who have the opportunity to own their own home; there is an expectation that Starter Homes are embedded in the planning system.
5. The Bill is lengthy and complex and has implications on local planning authorities and on the delivery of the type and quantum of housing. Whilst the focus on getting new homes built has been welcomed, concerns have already been raised about provisions in the Bill which may result in less affordable homes being built through section 106 agreements and the need to ensure that any new homes built are a mix of tenures

(home ownership, shared ownership, private and social rent) so that people on lower incomes are able to benefit.

Recommendations

6. Members are recommended to note the report

1 Purpose of this report

- 1.1 The Housing and Planning Bill forms a cornerstone of the Conservative Government's vision for building one million homes by 2020. The Bill confirms recent policy announcements and much of the content has already been aired in the Conservative Manifesto and in *Fixing the Foundations* (the Government's productivity plan). The Bill applies to England only.
- 1.2 This report sets out the main measures in the Bill as now amended and particularly those which relate to planning.

2 Background information

- 2.1 The Housing & Planning Bill was introduced to Parliament by the Government on 13th October 2015. On 12th January 2016 it received its third Reading in the House of Commons and now begins its passage through the House of Lords. To get to this stage it has been through three Readings in the Commons, the Committee stage where the legislation has been examined in detail and Report stage where amendments have been discussed and voted upon.

3 Main issues

- 3.1 The Bill is complex and runs to about 200 pages containing 9 main parts and 20 appended schedules. In summary the 9 parts are as follows;

Part 1 : New Homes in England - Starter Homes and Self Build / Custom housebuilding

Part 2 : Rogue Landlords and Property agents in England including banning orders

Part 3 : Recovering abandoned premises in England

Part 4 : Social Housing in England – implementing right to buy, the sale of high value vacant Local Authority Housing and ensuring replacement provision plus measures in relation to security of tenancies

Part 5: Housing. Estate agent and rent charges, and other changes

Part 6: Planning in England

Part 7: Compulsory purchase etc

Part 8: Public authority land

Part 9: General

- 3.2 This report will mainly deal with Parts 1 and 6 but the housing elements are also of note and particularly the regulation of the private rented sector and the implications of the changes introduced by extending right to buy to housing association tenants in terms of the provision of social rented affordable housing.

3.3 The Bill contains substantial powers for the Secretary of State to issue regulations and directions enabling central control over housing and planning matters.

3.4 Starter Homes / Self Build

3.5 The Government has previously announced that it intends to build 200,000 starter homes exclusively for first time buyers under the age of 40, for sale at a minimum of 20% below normal market prices. The Bill includes the mechanisms to deliver this and will:-

- Specify a maximum price for a starter home outside of London of £250,000
- Create a new duty on all planning authorities to promote the supply of starter homes
- Create new regulations so that planning authorities will only be able to grant planning permission for residential developments if specified requirements relating to starter homes are met.

3.6 The regulations governing starter homes have yet to be issued by the Government. However, the Government has indicated that they could include provision of a particular number or proportion of starter homes on site or the payment of a commuted sum to the local planning authority for the provision of starter homes. The Government has indicated that they may apply different requirements to different residential developments in different areas. A statement by Brandon Lewis, the Minister, suggests it will be for LPAs to decide the balance between starter homes and homes for rent as affordable housing on sites in their area although, as elsewhere in the Bill, there are reserve powers for the Secretary of State to direct if required. It is understood starter homes will be defined as affordable housing in changes being made to the National Planning Policy Framework and in the Bill which gives the Secretary of State powers to define affordable housing and to exempt certain types of development from providing it. An amendment to the Bill to ensure the 20% discount was applied in perpetuity was lost on the vote and the regulations from the Government are likely to say that the discount will apply for a 5 year period only at which point the purchaser can resell at full market value. The Secretary of State has powers to specify by regulations changes to the starter home scheme including the maximum price and the criteria for who is eligible.

3.7 Within the Bill are proposals to increase self-build and custom housebuilding by creating a new duty requiring Local Authorities to grant sufficient suitable development permissions on serviced plots of land to meet the demand for self-build and custom housebuilding in their area. Demand will be evidenced by the number of people on the register to be held by Local Authorities. The Secretary of State will bring forward regulations to prescribe the timeframe in which Authorities have to grant sufficient suitable development permissions and there will also be provisions to apply for exemptions

3.8 Local Authorities are gearing up to maintain a register of self-builders and custom house builders but this will now mean that land must be set aside to meet the

demands of those on the register and will lead to further competition for the dwindling stocks of Council owned brown field land.

3.9 Planning measures

- 3.10 There are measures in the Bill to enable the Secretary of State to intervene in the Neighbourhood Planning and Local Plan preparation process when required to ensure that adequate progress is being made and to set deadlines and timescales. There is also a provision for Neighbourhood Forums to be consulted on planning applications in their areas if they so request.
- 3.11 There are far reaching powers contained within the Bill to grant permission in principle for new homes allocated in a Local or Neighbourhood Plan as well as brownfield sites identified on a brownfield register as suitable for housing. Measures in the Bill give suggest powers to create a nationwide Development Order that would extend permission in principle to sites allocated for development once Local Plans or Neighbourhood Plans are adopted. Sites granted permission in principle would need to obtain consent for a “limited number” of technical details from Local Planning Authorities but the Government has not set out any detail yet as to what that may cover. Under the proposals permission in principle would be followed by an application to agree the technical details before work could start. The amount of housing on each site is likely to be included in the permission in principle and it is not clear at present how this can be defined without detailed work on layout and scale. There could be implications for Section 106, quality, house sizes and mix from this initiative but much will depend on the detail and what the technical consent will cover although contamination, flood risk and access are likely to be part of the technical details. Permission in principle will not apply retrospectively.
- 3.12 The Bill removes the restriction on allowing housing to be considered as part of a nationally significant infrastructure project – not as purely housing schemes but as part of if included within it or close to it.
- 3.13 The Bill would require local councils to set out in their reports to committee a list of financial benefits likely if the development is carried out so the quantum is clear.
- 3.14 In relation to Section 106 agreements, provisions in the Bill enable disputes in agreeing a Section 106 to be resolved through the use of a mediator. The Bill also gives the Secretary of State powers to issue regulations regarding the enforceability of planning obligations regarding affordable housing (which includes starter homes) and to impose restrictions or conditions depending on the size, scale and nature of sites. This could enable for example a general exemption for small sites to be exempt from affordable housing contributions. This provision is subject to the regulations having been first laid before and approved by resolution in both Houses of Parliament.
- 3.15 A late amendment to the Bill has been the inclusion of powers for the piloting of alternative provision of processing of planning applications to be carried out by designated people set out in regulations by the government. The Secretary of State has made it clear that the determination of applications would remain with Local Planning Authorities and this is not a measure to replace local democratic

accountability and control. The introduction of competition however into this area will raise a number of concerns for both members and officers in relation to the practicalities of how it might work given the low level of fees for many applications, the perception of local communities and the wider involvement of people in the process. The Secretary of State has sought to allay fears to state it is a pilot only in certain places and for a limited period and that the designated person could be another Local Planning Authority. It will be interesting to see how these latest proposals fare in the scrutiny of the Bill in the House of Lords.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 This information is presented for information only and there has not been the need for consultation

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no specific equality considerations arising from this report.

4.3 Council policies and City Priorities

- 4.3.1 Housing Growth is one of the breakthrough projects. Measures in the Bill may have a significant impact on the both in terms of housing delivery and in the planning process.

4.4 Resources and value for money

- 4.4.1 There are no specific implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 There are no specific implications arising from this report.

4.6 Risk Management

- 4.6.1 There are no specific implications arising from this report.

5 Conclusions

- 5.1 The Bill will now pass to the House of Lords following the third reading on 12 January 2016.
- 5.2 The Bill is not without controversy; proposals to exempt Section 106 affordable housing contributions will likely cut investment from the supply of affordable and social rented properties.
- 5.3 Proposals in the Bill seek to grant permission in principle (through a development order) to land that is allocated for development. It is important that communities continue to have a say on decisions that affect them through the democratic process through their local planning committees.

- 5.4 The Bill's proposal in relation to alternate providers processing planning applications raises a number of issues around local democracy, governance, probity as well as having a potentially significant impact on the services provided by the local planning authority.
- 5.5 The service will continue to track the Bill's progress and any new amendments as it moves through the parliamentary process and assess the impact on service and housing delivery.

6 Recommendations

- 6.1 Members are recommended to note the report.

7 Background documents¹

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.