

Executive

Legislation affecting Housing in London

Item no: 5

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Summary

This paper updates leaders on the progress of the Housing and Planning and Welfare Reform and Work Bills as they proceed through parliament. London Councils has been actively lobbying throughout the passage of both bills to promote and support amendments in the interests of London's housing. This paper provides an update on the next stages of this work, as well as recent announcements from the Government in relation to welfare and homelessness.

Recommendations

Executive is asked to:

- Note the update on the progress of both bills
- Note the recent announcement about homelessness and London Councils' approach to discretionary housing payments

Legislation affecting Housing in London

1. The Housing and Planning Bill is due to enter the House of Lords shortly. London Councils has been actively lobbying through Commons stages to promote and support amendments in the interests of London's housing and has submitted written evidence to the Bill Committee.

Starter Homes

2. The Bill introduces Starter Homes: new build homes for sale to first time buyers under 40 at a minimum of 20% discount to the market value. The government has said that they expect Starter Homes to be delivered on every reasonably sized development site.
3. At prices of up to £450,000 in London, Starter Homes are likely only to be affordable to those on significant household incomes. The 20% discount on Starter Homes will only be retained for five years and therefore the product will not be affordable in perpetuity. Since the introduction of the Bill, the Government has published a consultation which includes a proposal to amend the definition of affordable housing in national planning policy to include a wider range of below-market homes such as Starter Homes. This is intended to strengthen the requirement to plan for the housing needs of those who aspire to home ownership, and the consultation states that some of these products may not be subject to 'in perpetuity' restrictions or have recycled subsidy.
4. A £10 million Starter Homes Local Authority Funding Programme has been announced, designed to accelerate the supply of local authority land available for early Starter Homes development. The funding is intended to help local authorities prepare vacant and underused brownfield land.
5. Starter Home developments will be exempt from S106 and Community Infrastructure Levy (CIL). This is likely to reduce the scope for local authorities to make necessary contributions towards funding infrastructure, and will reduce the potential for delivery of traditional affordable products such as affordable rented and shared ownership. The Government has said that requirements and regulations on the proportion of starter homes will be published as part of secondary legislation at a later date.
6. Starter Homes will be given first priority over development viability, with a new duty on local authorities to deliver and promote them outside of objectively assessed housing need. This creates the risk that other affordable housing products – including products

that may be actually be better suited to increasing home ownership in the capital such as shared ownership - will be squeezed out. Without flexibility for councils to safeguard the delivery of other affordable housing products specified in their local plan, the government's own equalities impact assessment acknowledges that there could be a reduction in access to up to 71 traditional affordable housing products for every 100 starter homes built nationally.

7. The Secretary of State's compliance directions as currently designed in the Bill could be used to override local development policies in the interests of meeting local housing needs if identified as incompatible with starter home duties.

Recent Activity

8. London Councils briefed London MPs ahead of Report Stage about our concerns related to the policy in the capital, and supported amendments that recognise the need for London's boroughs to be able to ensure that varied forms of housing tenures can be delivered alongside starter homes.
9. London Councils also briefed committee member MPs during the committee stage of the bill emphasising concerns in relation to Starter Homes and their impact on London. London Councils supported amendments that would help safeguard local planning authorities' flexibility to develop plans to meet the housing needs of different people in their area, and require the Secretary of State to take account of any local housing and planning strategies. In Committee, London Councils also supported amendments that would help ensure Starter Homes could be delivered alongside other affordable housing products and in consultation with local housing authorities. These amendments ensured more detailed scrutiny and debate during committee stage.

Right to Buy and High Value Council Stock Sales

10. Due to the fact that the Right to Buy extension is a voluntary deal struck between housing associations and the government, it has been subject to little parliamentary scrutiny. London Councils has been briefing London MPs planning to speak during the Report stages of the Bill. London Councils also briefed committee member MPs on clauses concerning the voluntary right to buy and our concerns relating to: the impact on housing stock and temporary accommodation costs in London; the need to ensure homes sold in London are replaced in London; and the impact right to buy sales and increased leaseholders on estates could have on the viability of regeneration schemes.

11. The voluntary housing association Right to Buy is now being piloted with a number of housing associations, including L&Q within eight boroughs in London. London Councils is facilitating engagement between L&Q and the relevant boroughs on the implementation of this new policy locally and will continue to liaise with the housing association sector following the wider roll-out of the policy.
12. The impact of high value council house sales remains an acute concern for London. London Councils supported a number of amendments to ameliorate the negative impacts in London, with a particular focus on replacement viability and the potential long term loss of affordable housing, as well as new challenges and costs for boroughs – particularly around temporary accommodation.
13. During Committee stage government was urged to:
- Allow local authorities freedom over which assets they sell, alongside exemptions to payment targets and exemptions to requirements to consider disposal for certain types of properties such as supported housing and homes in regeneration areas
 - Provide maximum flexibility for boroughs over the use of retained receipts to invest in new homes as needed locally
 - Ensure the impacts on homelessness and temporary accommodation are taken into account
 - Consider raising the limits on HRA borrowing to enable funding of replacement stock despite the reduction in the asset base and rental income.

Managing replacements

14. It is clear that if this policy goes ahead as currently designed, London boroughs will face real challenges in supporting the swift replacement of high value homes that are sold. If the replacement programme is to be genuinely additional to existing housing pipelines, there will need to be considerable capacity amongst local authorities and their partners to deliver at this scale. The lack of available finance as a result of the limited borrowing capacity within the HRA and difficulties in accessing suitable sites may make it difficult for boroughs to replace the high value homes sold under this policy at pace under current ways of working. London Councils continues to work with consultancy Metro Dynamics to explore the potential of a more collaborative approach to increase housing supply, including replacement affordable homes sold under this policy.

15. A new Government amendment to the Bill also proposes that local authorities in London will be obliged to deliver two replacement affordable new homes for every one sold, with exemptions in cases where GLA has agreed to ensure that a number of the new affordable homes are provided. For this to work effectively without putting undue strain on boroughs, it must be supported by sufficient financial resource to ensure boroughs can build the replacement homes of the right tenures in the right places.

Pay to Stay

16. Whilst London Councils supports the principle of allowing boroughs more flexibility in rent setting, imposing a mandatory scheme to require higher rent payments from those earning above £40,000 annually in the capital carries a number of risks which need to be addressed. It will be important to avoid creating work disincentives or negatively affecting the social mix of London.

17. Research undertaken by Savills indicates that 60% of households affected by Pay to Stay will not be in a financial position to be able to take advantage of right to buy. Given that the government wishes to increase homeownership, it is also of concern that the rental uplift that affects these households may impact on their capacity to save for a deposit – further reducing their chances of getting on to the housing ladder.

18. Pay to Stay is due to be implemented from April 2017. This is an ambitious timeframe, given that boroughs are awaiting more details to be issued from Government around the practicalities around administration. It is likely that administering the new scheme will add considerable complexities to rent collection processes. The government announced before Christmas that Pay to Stay will be voluntary for housing associations, who will also be able to keep the rental uplift gained.

19. This comes alongside a series of deregulatory measures introduced for the housing association sector, with the intention of returning them to private body status. London Councils is exploring the implications of this level of deregulation on local authorities' housing functions.

Recent activity

20. London Councils briefed committee member MPs on the impact that higher rents for higher earners could have on London, and supported amendments on a number of

issues. We argued that the rental uplift generated from this policy should be retained by London boroughs rather than being paid to the Treasury; supported the use of a taper or stepped threshold to ensure that rent increases are proportionate; and made the case that the administrative burden arising from Pay to Stay should be fully funded by government.

21. London Councils also responded to the government's recent Pay to Stay consultation and raised concerns relating to the impact on affordability, mixed communities and work incentives, as well as the administrative complexities for boroughs of managing the new system.

Planning

22. London Councils has been lobbying government for the localisation of planning fees to allow boroughs to charge fees on a full-cost recovery basis. Development control in London already has seen an estimated net shortfall of around £37-£45million annually between 2012-13 and 2014-15. Amendments to the Bill to this effect were supported, and the case made for creating a borough-led better-resourced and more efficient planning system.
23. There are concerns about planning changes in the Bill which propose to allow both the Mayor and the Secretary of State more power to intervene in local planning processes. The Bill introduces new default powers exercisable by the Mayor to intervene in local plans that the Secretary of State deems to be failing or inadequate, as well as stronger call-in powers for the Mayor in areas set out within the London Plan. We have argued that this undermines local place-shaping functions and that the approach suggests a misunderstanding of the obstacles to effective development in London; inaccurately assuming that a lack of commitment by London boroughs is the issue, rather than a lack of resource.
24. London Councils argued that Government must ensure that any additional call in powers that extend the Mayor's capabilities to consider the strategic importance of London's housing supply, must not encroach on borough decision-making capabilities to deliver local housing stock. We urged the Government to publish more details on how the Mayor's new intervention powers may be exercised in practice, and allow for active consultation with the boroughs about this.

Homelessness, Temporary Accommodation and welfare

25. London Councils has raised repeated concerns with Government about the potential impact of its proposed policies on the use of temporary accommodation (TA). Pressures on TA demand alongside rising private rents are creating considerable financial burdens on London boroughs, and any additional demands are likely only to increase this strain. New figures published just before Christmas show that London now houses over 50,000 households in TA and London Councils is currently carrying out assessments of the costs of this to boroughs. We have consistently argued for more resource to be targeted at London in respect of this issue.
26. In light of this the announcement from the Government of £5 million of additional funding for 2015/16 for local authorities to help alleviate homelessness pressures is welcome. London boroughs are the main recipients of this money, in recognition of the acute pressures in the capital. The Government also announced a commitment to explore new options to help prevent homelessness, which may include legislative change.
27. The recent Spending Review also confirmed a new approach towards funding the management fee that local authorities receive for households in temporary accommodation. The management fee will no longer be claimed through the TA subsidy formula but from April 2017, £225 million (and more in subsequent years) will be devolved to meet this expense. We have welcomed the fact that this money is being more than maintained, in accordance with London Councils' lobbying, along with new freedom for local authorities on how it is spent.
28. However it will be critical that the level of grant reflects the level of TA use, which may well rise over coming years as a result of other government policies, such as the sale of high value council homes, the introduction of Starter Homes and the reduction in the overall benefits cap. As the management fee is no longer attached to an individual benefit claim, there is a risk that the current proposed grant may prove insufficient if TA use does rise. London Councils will be working closely with DCLG over the coming months to help shape how the new grant will be implemented.
29. TA use is also a significant driver of demand for discretionary housing payments (DHPs) in London. Next year, national funding for DHPs will increase from £125m to £150m. However, the introduction of lower benefit caps outside of Greater London, and the likely continued extra weighting given to the social sector size criteria in the distribution

methodology mean that it is very likely that London will see a smaller percentage increase than other areas.

30. London Councils has engaged with officials from the Department for Work & Pensions over recent months to ensure the pressure that TA use places on boroughs' DHP funding is understood and to propose new distribution methodologies that will better recognise the pressures that London boroughs are under.
31. Officers will continue to make the case for the demand for DHP use in London to be recognised by DWP and accounted for in the distribution of funding. In addition, officers will continue to engage with their DCLG counterparts to maximise whatever funding opportunities are available.

Welfare Reform and Work Bill

32. The Welfare Reform and Work Bill is currently in committee stage in the House of Lords. During the course of its progress through both houses, London Councils has met with MPs and Peers and issued briefings promoting amendments to clauses on changes to the benefit cap and the annual 1% reduction in social rents.
33. Specifically, London Councils has supported an exemption from the benefit cap for those in temporary accommodation; an exemption for any claimants of Universal Credit or legacy benefits who are not subject to all work search requirements; and an obligation for the Secretary of State to report on the impact of the benefit cap on local authorities.
34. London Councils has also supported changes to the proposed social rent cut that would insert greater clarity into the Bill on the circumstances under which an organisation would be exempt from the cut; an exemption for new build properties to help support the viability of planned developments; and a provision to except tenants of specified accommodation such as supported housing, refuges and hostels.
35. Amendments relating to the benefit cap clauses were raised in the Lords committee stage but not pushed to a vote. Amendments relating to the social rent cut were due to be considered in committee after this paper was dispatched to members. The report stage of the Bill is scheduled for the end of the month.

Conclusion

36. London Councils officers will continue to take forward engagement on the Welfare Reform and Work and Housing and Planning Bills to ensure they help increase the supply of new homes in the right mix of tenures for the city. We will also seek to influence emerging thinking on homelessness policy to ensure the homelessness system is fit for purpose and meets the needs of London households without putting undue financial strain on boroughs.

Financial implications for London Councils

None

Legal implications for London Councils

None

Equalities implications for London Councils

There are no direct equalities implications for London Councils as a result of this paper.

Attachments

None