

EMERGING HOUSING LEGISLATION AND RELATED STRATEGY

Housing and Health Advisory Committee - 22 March 2016

Report of: Chief Housing Officer

Status: For Consideration

Key Decision: No

Executive Summary: This report provides members with progress on the Housing and Planning Bill and preparations for the development of an updated housing strategy. It also provides background information for the topic discussion to enable Members to further develop the District Council's direction of travel in relation to future housing strategy.

This report supports the Key Aim of the Community Plan.

Portfolio Holder Cllr. Michelle Lowe

Contact Officer(s) Pat Smith (x7355)

Gavin Missons (x7332)

Recommendation to the Housing and Health Advisory Committee: That Members consider the report as part of the continuing development of the District Council's direction of travel in relation to future housing strategy.

Reason for recommendation: To ensure a joint Member/officer approach to the development of the District Council's next housing strategy.

Introduction/Background

- 1 There has been a radical shift in national housing policy in recent months and one which will require a very different response in local housing strategy and related planning policy.

Evidencing need

- 2 In response to the above, and led by the Portfolio Holder for Housing and Health, Members are working with officers to develop a new housing strategy.
- 3 The process commenced with a joint Member/officer committee workshop, which took place back in December 2015. Although housing activity falls

within the remit of the Housing and Health Advisory Committee (HHAC), invites were extended to all Members to ensure a good geographical/expertise cross-representation. Through the workshop activity, the HHAC was subsequently able to determine a direction of travel in four key areas, as follows:

- I. Maximising the amount of affordable housing - being more creative with affordable housing planning gains and development methods;
 - II. Making best use of the existing housing stock - better matching of household need with housing type and influencing access to the private sector with support;
 - III. Managing housing needs - work with residents to improve behaviour; and
 - IV. Bring the District Council's work in housing, health and leisure together - minimising health inequalities by enabling suitable homes.
- 4 Within each of those four areas, Members supported officers to explore a number of individual actions/approaches as potentially interim measures. To carry the District Council over until such time as a planned housing needs study is undertaken to support the recently-completed Strategic Housing Market Assessment (SHMA). Subject to procurement, consultant availability and the project work itself, this housing needs study is expected to be complete towards the end of 2016.
- 5 The housing needs study will provide much more detailed data on key client groups including younger people, older people and a range of other vulnerable groups. The study will provide ward-level data (as per the District Council's 2006 housing needs study), though this will all be subject to cost and approval. It is hoped that the study will also cover particular property type and design aspects such as Lifetime Homes, mobile homes (occupied predominantly by older people, c700) and a range of traditional and emerging (and more digital-based) assistive technologies.
- 6 Although the study is some time away, this will allow for Government's policy changes to be confirmed and, in doing so, the new housing strategy will be able to directly respond to finalised policy very soon after its introduction and with a much stronger evidence base. It was therefore agreed as sensible to hold back on the more detailed housing strategy development until the District Council is in a much better position to plan.

Housing and Planning Bill 2015

- 7 The majority of change will be set out in the developing Housing and Planning Bill, which is yet to gain Royal Assent. That said, the policy framework is already clear enough to enable the District Council to start considering and developing its future response, as follows:

- Pay-to-Stay

- 8 Included as part of Government's recent deregulation package, HAs will be able to introduce Pay-to-Stay policies where tenants earning above £30,000 will be required to pay near-market rents through a tapering system, which is yet to be agreed. This is part of Government's plan to ensure that housing subsidised by the taxpayer goes to those most in need. At present, households can remain in social housing and continue to pay publicly-subsidised rent on lifetime tenancies as incomes grow way beyond that of a household deemed 'in need'.
- 9 Whereas stock-holding local authorities will be required to introduce a policy, HAs will have the option to do so and the District Council will have little control to either prevent or require such a policy, therefore. These policies have the potential to help free-up social housing (some tenants likely opting to move to the private sector) and also to increase revenue for HAs. This could be a timely measure to support a loss of future revenue as part of the 1% rent reduction requirement through 2016-20, and potentially beyond.
- 10 There is no confirmed early commitment by any of the District Council's HA partners to introduce such a policy, though it is expected that at least some will take advantage of the opportunity. The Chartered Institute of Housing (CIH) has recommended that income thresholds and rent levels should be set locally in line with local markets. It is also yet to be determined whether this rule would extend to supported housing schemes, though the current thinking is that an exemption will be applied.

- Right-to-Buy (2)

- 11 Introduced back in 1980, the original Right-to-Buy (RtB) applies to tenants of council-owned housing and this right still applies today. The District Council transferred its social housing stock to West Kent Housing Association (WKHA) back in 1989 and the majority of the District's social housing stock is consequently exempt from the original RtB. Tenants whose homes were built/acquired after 1996 do have a Right-to-Acquire (RtA), but discounts under this scheme are much less generous and take-up has consequently been minimal. There are around 1,300 homes in the District where tenants do still have a 'contractual' RtB, however, though this is diminishing as time goes by. The original RtB has had little effect in the District in recent years with those taking up the offer typically amounting to just two or three per annum.
- 12 Under the recent Voluntary Agreement between Central Government and the National Housing Federation (NHF), the new RtB2 is set to be extended to housing association (HA) tenants with a qualifying tenancy period (to also include RtA and RtB1 tenants) and the discount is set to be up to a maximum of £77,900 (based on length of tenancy). Unlike much of the District's traditional council housing which was built on mono-tenure estates, recent HA housing has been and continues to be built to more appealing designs (more consistent with the look of open market housing) and is mostly

situated on mixed-tenure developments where homes are much more in demand and marketability is not an issue. As a result, tenants may be more inclined to purchase their homes and take up the new RtB2, it potentially being a good investment opportunity.

- 13 This could be further the case if Government's planned Pay-to-Stay (as per para. 8, above) is introduced and tenants on higher incomes are expected to pay near-market rents. In such cases, at least for those wishing to stay put, RtB2 could become a good and profitable option with an immediate gain in equity and comparable or cheaper monthly outgoings to existing rent payments. Government has advised that every home sold will be replaced nationally with a new affordable home, though the details of this still need to be clarified (location and caps etc).
- 14 The potential extension of RtB2 into rural areas is a particular concern, however. The District Council's rural housing programme is delivered through planning policy which can enable development on Green Belt land if the housing being built is affordable and specifically available for local people in perpetuity. As rules currently stand, this can be easily achieved through S106s and there have been no issues to date. The current rules enable a pretty failsafe mechanism, therefore.
- 15 If RtB2 were to be extended into rural areas, however, perpetuity protection would no longer exist and rural affordable housing could and probably would be lost to the private sector over time as it did in the early days of RtB1. This would not only affect existing schemes - those which were supported by the District's rural communities on the clear agreement that they were protected - but also bring to a halt any further such development in the District's rural parishes. There is the possibility of a portable discount whereby rural tenants could be given the option to purchase a social property elsewhere, though this approach would create several other issues.
 - Local connection
- 16 Adopted back in 2014, the District Council's current Intermediate Housing Policy requires that those applying for shared-ownership and other forms of intermediate housing must have a defined local connection to the District. Recently, however, Government has removed any such rules and this has had to be applied at local level, despite the District Council's existing policy position on local connection. As a result, it is to be expected that a proportion of any new or resale shared-ownership housing will be sold to people with no connection to the District - most likely to those moving out from the London boroughs and commuting back in (particularly as the income threshold has been raised to £80k). This will have an obvious effect on the District Council's strategy to meet local housing needs, though it is difficult to estimate the likely take-up from elsewhere as things currently stand.

- Starter Homes

- 17 Starter Homes (SH) will be made available for first-time buyers aged under-40 and with no income limit - going against the key principle of affordable housing. Property values will be capped at £250,000, thereby limiting location/type in an area such as the Sevenoaks District. Homes will be sold at 20% below market value and there will be no rent applied on the unpurchased share (unlike shared-ownership, for instance). After a period of 5-years, the remaining 20% equity will be transferred to the purchaser at no cost. In its current form, this is a one-off affordable housing solution, therefore, and only for a narrow range of need.
- 18 Additionally, SHs could potentially be no more than investment opportunities for those looking for a significant and relatively short-term financial return far exceeding any typical market growth, i.e. they will gain 20% equity plus any uplift in property value during the product period. In addition, there will be no local connection for applicants and any future housing could not be secured for those with a defined connection to the area, whether that be living and/or working in the District (again, completely at odds with the District Council's Intermediate Housing Policy).
- 19 A new duty is to be placed on local authority planning departments to promote SHs and the District Council is likely to be required to provide this tenure in lieu of traditional affordable housing. This would create an issue as current evidence is based on other forms of affordable housing, firstly, with the SHMA being undertaken before this tenure was on the radar (and the District Council not asking the relevant question, therefore), and secondly, this would seriously limit choice for low-income households. As with other elements of the Bill, this is being challenged by the public sector, major lenders and other bodies such as the CIH, so there may well be a relaxation of rules - though this is all yet to be determined. This element of the Bill has the greatest potential to create wide-ranging negative effects across housing strategy and the meeting of housing need in the District.

- Fixed-term tenancies
- 20 Stock-holding local authorities will be required to introduce fixed-term tenancies and these will be set between 2- and 5-years. As a Large-Scale Voluntary Transfer (LSVT) authority (the District Council transferring its social housing stock back in 1989), it will not be able to introduce the same rules. Instead, HAs will have the option to include such a rule and the District Council can only seek to influence such action.
- 21 HAs were initially given the option to introduce fixed-term tenancies as part of the Welfare Reform Act 2012. At that time, and in direct response to the Act, the District Council introduced a tenancy policy recommending that its partner HAs introduced such tenancies. Despite the District Council's policy position on fixed-term tenancies, there was very little take-up by HAs and it appears their position on these policies remain the same. Key HA concerns are typically the monitoring, managing and enforcing of such tenancies.

- Property disposals

- 22 As part of the deregulation package, HAs will also be given much more power in relation to social sector property disposals (District Council consent required, at present), and the removal of any disposals proceeds funds. This could potentially see some HAs selling off high-value homes in the Sevenoaks District to prop-up diminishing budgets (no capital grant for rented schemes and 1% rent reduction, for instance) and to also potentially spend any proceeds outside of the District and/or on priorities not aligned with the District Council's own.
- 23 The Welfare Reform Act 2012 had previously introduced an option for HAs to transfer tenancies when vacancies arose (social rent to shared-ownership, for instance) or to dispose of units on the open market. This was to enable HAs to generate funding from their own businesses in lieu of reduced capital funding from Government. There were very few subsequent disposals in the District, however, which was a positive in terms of housing strategy. It is difficult to tell whether this new, but related, option will see any increase in disposals in the District - though with HAs now being in a very different financial environment, this could well be the case.

Next steps

- 24 Officers will continue to monitor the passage of the Bill and respond to any subsequent changes, as and when required. In the meantime, the housing needs study will be progressed to help build up the District Council's evidence base in preparation for an updated housing strategy.

Key Implications

Financial

Any financial implications of the Housing and Planning Bill will need to be further considered and determined when we have a confirmed national policy position. A further report will be brought back to the committee at a later date, therefore.

Legal Implications and Risk Assessment Statement

Again, it is difficult to determine anything at present so a further report will be produced at a later date.

Equality Assessment

Equality will be considered throughout this project period and through the development of any housing policy associated with the Housing and Planning Act. The Housing Policy Manager will complete all relevant assessments as part of the development of housing strategy, therefore. Where potential equality issues have arisen as a result of the developing legislation, the Portfolio Holder for Housing and Health has made Central Government aware.

Sustainability assessments will also be completed as part of the development of housing strategy.

Appendices

Discussion paper to be tabled on the night

Background Papers: None

**Pat Smith
Chief Housing Officer**