

HIGH PEAK BOROUGH COUNCIL

Report to the Housing Select Committee

9TH June 2016

TITLE:	Implications of Housing & Planning Act 2016
EXECUTIVE COUNCILLOR:	Councillor Tony Ashton – Portfolio Holder for Planning Councillor Julie McCabe – Portfolio Holder for Housing Services
CONTACT OFFICER:	Roger Burnett – Head of Customer Services
WARDS AFFECTED:	All

1. Reason for the Report

- 1.1 The purpose of this report is to update Members on the Housing and Planning Act 2016 and the impact this will have on the delivery of the authority's Housing and Planning functions.

2. Recommendation

- 2.1 That members note the contents of this report and receive further updates as appropriate.

3. Executive Summary

- 3.1 The Housing and Planning Act 2016 introduces significant changes to the way housing is provided which will impact directly upon the way Housing and Planning services are delivered.
- 3.2 At the time of preparing this report, dates and additional guidance for implementation of many areas of the Act have yet to be issued.

4. How this report links to Corporate Priorities

- 4.1 This report links to the Council's aims to help create a safer and healthier environment for our residents to live and work, meet Financial Challenges & Provide Value for Money and Support Economic Development & Regeneration.

5. Options and Analysis

- 5.1 That members note the content of the report and receive further reports from officers in relation to specific elements at appropriate future meetings
Recommended

6. Implications

- 6.1 Community Safety - (Crime and Disorder Act 1998)
There are no significant implications however the introduction of fixed tenancies may impact on community cohesion.
- 6.2 Workforce
Certain elements of the Act may require additional resource to implement and manage
- 6.3 Equality and Diversity/Equality Impact Assessment
The new initiatives introduced by the Act will require appropriate policies and procedures. All policies are to be applied fairly and consistently and where appropriate
- 6.4 Financial Considerations
There are significant financial implications relating to implementing certain aspects of the Act which are discussed at the appropriate point later in this report. Once further guidance has been issued analytical assessment of this can take place
- 6.5 Legal
There are legal implications in terms of drawing up supporting procedures and the implementation of the various aspects of the Act, most notably around amendments to social housing. Once further guidance has been issued analytical assessment of this can take place
- 6.6 Sustainability
The voluntary right to buy and the requirement to replace properties lost under this may impact on the sustainability of social housing across the Borough
- 6.7 Internal and External Consultation
Not applicable at this stage
- 6.8 Risk Assessment
There are risks in relation to financial capacity given the resourcing and funding implications certain aspects of the Act suggest. Once further guidance has been issued analytical assessment of this can take place

7. Background and Detail

7.1 The Housing and Planning Bill 2015-16 is split into eight sections:-

- New Homes in England
- Rogue Landlords & Property Agents in England
- Recovering Abandoned Premises in England
- Social Housing in England
- Housing, Estate Agents & Rent Charges
- Planning in England
- Compulsory Purchase
- Public Authority Land

7.2 New Homes in England

7.2.1 This Chapter of the Act relates to the promotion of Starter Homes in England. Starter Homes are defined as a building or part of a building that—

- (a) is a new dwelling,
- (b) is available for purchase by qualifying first-time buyers only,
- (c) is to be sold at a discount of at least 20% of the market value,
- (d) is to be sold for less than the price cap, and
- (e) is subject to any restrictions on sale or letting specified in regulations made by the Secretary of State

7.2.2 Qualifying first time buyers must be at least 23 years old but under the age of 40. They must also comply with any other criteria specified in regulations to be made by the Secretary of State (for example, relating to nationality). A price cap of £250,000 is applied to Starter Homes outside of Greater London. These specifications may be changed by the Secretary of State through regulations following consultation.

7.2.3 The Act requires a person who sells the dwelling within a specified period to make a payment to a specified person in respect of the starter homes discount, or prohibits a person from selling the dwelling within a specified period unless the dwelling is sold to a qualifying first-time buyer at a discount. It is understood that the regulations will provide greater details in relation to the payment required and any reductions to the payment according to the length of time since the Starter Home was first sold to a first time buyer. This is intended to prevent people from “cashing in” on the discount after only a few years.

7.2.4 A general duty for local planning authorities to promote the supply of Starter Homes through Local Plans and decisions relating to planning applications is also introduced. The Act makes provisions for how future regulations may govern these requirements by enabling local planning authorities to withhold residential planning consent unless specified Starter Homes requirements are met. This may be through a planning application on a Rural Exception Site where development can be approved on sites not normally acceptable unless it would provide affordable housing. The regulations will set out how this can be secured through the use of planning obligations to deliver a specified number of Starter Homes or to pay an appropriate sum of money to the local planning authority to provide the Starter Homes.

7.2.5 A duty for local planning authorities to monitor the provision of Starter Homes and to make this information available to the public is introduced.

7.2.6 The Secretary of State may issue a compliance direction if a local planning authority does not adequately carry out its functions in relation to the Act or if it has a Local Plan policy which is incompatible with the new requirements for Starter Homes.

7.2.7 An initial assessment of the implications of this element of the Act has identified the following:

- The provision of Starter Homes will have implications for the viability of development. This may have implications for the provision of affordable housing as envisaged under Local Plan Policy H4 (social rented and intermediate housing), developer contributions towards infrastructure and other policy requirements and the Community Infrastructure Levy
- Additional staff time will need to be allocated to monitoring in order to correctly monitor and publish the Council's delivery of Starter Homes

7.2.8 This section of the Act also supports self-build and custom housing by requiring Councils to grant planning permission on suitable sites.

7.2.9 It is unlikely that starter tenancies will have a significant impact upon demand for social housing due to the levels of income involved. Likely candidates to take this up are discussed at point 7.5.5(v) of this report which in turn will have implications for demand and provision of social housing across the Borough

7.3 Rogue Landlords & Property Agents in England

7.3.1 The Act introduces changes which enable "banning orders" to be imposed upon individuals or agents who have been convicted of a related offence (for example unlawful eviction, ignoring housing standards notices etc.)

7.3.2 A banning order once imposed would prevent an individual or agent from holding a HMO license being engaged in the letting or management of property for six months. In addition, once convicted the tenant and/or local Authority can apply to have rent/Housing Benefit paid repaid.

7.3.3. Banning orders would be sought by us as the local Authority and breach of the same would result in a fine of up to £5000. A national database of those subject to orders is to be established.

7.3.4 The additional regulation of landlords protects those renting within the private sector. These improvements will protect the interests of these households and reduce the numbers of people seeking housing advice and assistance from the Authority, or presenting as homeless, due to the nefarious activities of such landlords.

7.4 Recovering Abandoned Premises in England

7.4.1 The Act formalises the process private sector landlords and letting agents must use to recover an abandoned tenancy. This protects the interests of both landlords and tenants and ensures that illegal evictions are not taking place under an umbrella of “abandonment”.

7.4.2 This will have little impact upon ourselves, save that regulating this process will protect the interests of both landlord and tenants and potentially reduce the numbers of people seeking housing advice and assistance from the Authority, or presenting as homeless.

7.5 Social Housing in England

7.5.1 The Act introduces changes to how social housing in England will look going forward. The most significant of these, with an overview of their possible implications for the Authority are discussed below.

7.5.2

- (i) The Act facilitates the extension of the right to buy on a voluntary basis for Housing Association tenants. Currently, the majority of such tenants hold Assured tenancies and in some circumstances will enjoy the “Right to Acquire” which is not as financially attractive an option.
- (ii) The Government will make payments to Housing Associations who extend this option to their tenants, to compensate them for the cost of the discounts on offer.
- (iii) This will impact Authorities as the funding for this is being raised within a further section of the Act (please see 7.5.3 below). In addition, the reduction of affordable social tenancies across the Borough will impact upon our ability to meet overall housing need within this sector.

7.5.3.

- (i) In order to fund the voluntary Right-to-Buy, the Act requires Authorities with retained stock to sell high-value properties as they become vacant. The Government will estimate for each Authority the amount they anticipate to receive on an annual basis and this figure must then be remitted to the Treasury.
- (ii) Dwellings which are sold under this basis must be replaced on a “one for one” basis (“two-for-one” within London) with affordable housing although there is no additional funding being made available to support this. This replacement can include Starter Homes.
- (iii) The definition of “high-value” has not yet been clarified and it is likely that this will vary geographically. The rules and guidance in relation to this aspect of the Act are required to come before Parliament prior to implementation.
- (vi) The impact of this within the High Peak is potentially significant given the relatively high house prices in some areas. Higher value properties are likely to be larger dwellings which are in short supply relative to local housing need. In addition, the availability of developable sites for replacement, coupled with

the requirement to provide starter homes, is something that must be carefully considered to ensure affordable housing is available within all the Borough's communities and to ensure these communities remain economically and socially balanced.

7.5.4

- (i) The Localism Act 2011 introduced "flexible tenancies" – this enabled Authorities to offer fixed-term (usually between two and five year) tenancies rather than the traditional secure tenancy. Take up on this was incredibly low with over 90% of local authority tenancies continuing to be granted on a "lifetime" basis.
- (ii) The Act now introduces the mandatory use of fixed term tenancies. These can be for between 2 to 10 years, although there is provision if a household contains a child under 9 to fix the term until their 19th birthday.
- (iii) Once a tenancy is due to end, the household must be assessed to ascertain if they still require the size/scope of dwelling. If not, steps can be taken to re-house them to more suitable accommodation and so "recycle" the property for someone in current need
- (vi) Further guidance in relation to exemptions is anticipated. In terms of resourcing, this will necessitate careful monitoring and a procedure for visiting and assessing housing need in advance of the term expiring. It is likely the mechanism currently in place for the monitoring of introductory tenancies will be modified to accommodate this.
- (v) The Authority will need to develop an appropriate tenancy agreement, policy and procedure to ensure consistency in extension and termination of such tenancies, based on household need and giving note to the guidance once received.
- (vi) Fixed term tenancies are likely to impact upon community cohesion and tenancy management in terms of upkeep. Currently, tenants with lifetime security of tenure will be prepared to invest in their home financially, for example by completing tenant improvements, which in turn protects the value of the Council's asset, however this is less likely when residency is for a fixed term and not likely to continue if the household has seen significant changes. Similarly, engagement in community engagement activities is likely to wane when there is not a long term commitment to an area.

7.5.5

- (i) The final significant change brought in by the Act in relation to Social Housing is the concept of "Pay to Stay". Households where the two highest earners earn in excess of £31,000 per annum (£40,000 in London) will be required to pay an additional 15 pence rent per pound over this figure until they are paying rent equal to market rent for their dwelling from April 2017. Only taxable income will be included and some tenants in receipt of benefits will be exempted. Guidance is awaited to confirm the exact exemptions and whether all or only taxable income will be taken into account
- (ii) By way of context, the local housing allowance, roughly a market rent, is c.

£560 for a 3 bedroomed house in Buxton compared to c. £340 for an affordable rent on a comparable dwelling. Therefore a household with an earned income of £32,500 living in Council housing in Buxton would be liable for full market rent under the pay-to-stay principles.

- (iii) This element of the Act has a major impact upon the way rent is charged, monitored and collected. Whilst further guidance is anticipated, it is likely that dwellings will need to have two rental charges set – one affordable and one for market rent - in April each year when rent levels are adjusted.
- (iv) Landlords will have direct access to HMRC records in order to identify those households earning in excess of the income threshold and so charge additional rent.
- (v) Given the relatively small amount of money required to be earned over the threshold before liability for full market rent is incurred, it is likely many households affected by these changes may consider either exercising their right-to-buy or attaining a property through the starter home scheme. Dependant on the route taken, this will either further reduce the social housing stock or free it up as households move into starter homes.
- (vi) In terms of the volume of tenants likely to be effected by this change, it is difficult to give an indication as unless tenants are claiming means tested benefits we have no income information. Some two-thirds of tenants are entitled to either full or partial Housing Benefit and so unlikely to be effected, pending further guidance on the implementation of the scheme.
- (vii) The average wage within the High Peak was £21,647 as at 2011. This is significantly lower than the pay-to-stay threshold and as such it is anticipated that the volume of tenants affected will be relatively low unless there are two such earners within the household.
- (vii) An information bulletin from the Department of Communities and Local Government (DCLG) confirm that the plan is for pay-to-stay to be in place from April 2017. This means assessments of income will have to take place in the current financial year. Further details of how income is to be assessed and the working arrangements with HMRC are awaited.

7.6 Housing, Estate Agents & Rent charges

- 7.6.1 This section of the Act mainly relates to management of properties within the Private sector.
- 7.6.2 This section imposes an obligation on private landlords to ensure that their properties meet electrical safety standards and penalties for failing to meet the same. This includes empowering the local authority to enter the premises and undertake these checks with the tenants consent should the landlord fail to do so.
- 7.6.3 It also updates legislation in terms of requiring the local Authority to consider the housing need of those residing in caravans and houseboats.

- 7.6.4 This section also updates the requirements needed to be a licensed landlord of a HMO (House of Multiple Occupation), introduces fines instead of prosecution for contravention.
- 7.6.5 The regulations relating to tenancy deposit schemes, and in particular the manner in which information from these can be shared with local authorities is also updated. It also gives tenants' associations the right to request information about tenants in certain circumstances
- 7.6.6. This section also limits the administration charges that can be levied during Court proceedings and clarifies that the lead enforcement authority for estate agencies in relation to the Act is the Secretary of state
- 7.6.7 The section also introduces a requirement that property agents join a client money protection scheme and sets financial penalties for failure to do the same.
- 7.6.8 This section also amends the calculation in relation to long lease enfranchisement and extension and makes changes to the formula used to redeem a rent charge.

7.7 Planning in England

- 7.7.1 This section of the Act relates to neighbourhood planning, local development schemes (timetables for Local Plans), the examination of Local Plans and "permission in principle".
- 7.7.2 In relation to neighbourhood planning, the Act provides greater support for the timely designation of Neighbourhood Areas (the area that a Neighbourhood Plan will apply to). This includes new powers for the secretary of State to intervene when local planning authorities are deemed not to be adequately fulfilling their duties to progress with a Neighbourhood Plan on time or in line with the recommendations of the Independent Examiner or law.
- 7.7.3 The Act grants new powers to the Secretary of State to step in when Local Plan are not being delivered appropriately and on time. These powers include:
- The ability to prepare a local development scheme (Local Plan timetable) for a local planning authority to implement
 - Intervene during an examination to a Local Plan to direct the Inspector to consider other matters and enable further opportunity for people to be heard
 - Prepare or revise a plan or direct the local planning authority to do so
 - Hold an Independent Examination or direct a local planning authority to submit a plan for examination
 - Approve the plan or approve it subject to modifications or direct the authority to consider adopting the plan
 - Claim monies from the local planning authority for costs incurred whilst undertaking the new powers.

- 7.7.4 “Permission in principle “for development for housing-led developments is introduced. Development orders may grant permission in principle on land that is allocated for development or is contained within a new register of land. Applications for permission in principle may also be considered. To obtain full permission, “technical details consent” will be required.
- 7.7.5 To assist with this, local planning authorities will be required to prepare, maintain and publish a register of land having regarding to the Local Plan and national policy. Forthcoming regulations will provide further details about the operation of the register, including provisions for consultation. It is believed that the register will require authorities to hold a record of brownfield land in order to identify suitable sites to be granted permission in principle.
- 7.7.6 Where a local authority applies to the Secretary of State for a new “planning freedoms scheme” to facilitate an increase in housing development within their area, this may be granted provided that it would lead to a significant increase in housing, there is a need for the housing and appropriate consultation has been undertaken. If granted, planning restrictions may then be removed or modified to enable an uplift in development.
- 7.7.7 A range of other miscellaneous changes to the planning system are proposed including the need for the Council to; fully and openly consider the financial benefits of development during the determination of planning applications and set out how a Neighbourhood Plan has been taken into account in determining an application and any conflicts with the plan.
- 7.7.8 The Act also grants the Secretary of State powers to introduce regulations to restrict the enforceability of planning obligations, supports the piloting of ‘alternative provision of planning services’, i.e. the privatisation of planning application processing. However, the decision would still be taken by the Council.
- 7.7.9 Implications of these changes in relation to resources may include:
- In some instances additional resources or the re-prioritisation of existing resources may be required in order to support the progression of neighbourhood plans
 - Where local authorities do not have an up to date Local Plan, additional resources or the re-prioritisation of existing resources may be required to deliver them on time or face losing control over their preparation
 - Staff time will be required to prepare, maintain and publish the register of brownfield land
 - “Permission in principle “may have implications for planning fee income

7.8 Compulsory Purchase

- 7.8.1 This part of the Act makes numerous amendments to the provisions that govern compulsory purchase powers. They include:
- The need for timetables to be prepared for CPOs
 - Advance payments for compulsory purchases

- Provisions for challenges to CPOs

7.8.2 These provisions may have direct financial implications for the Council should it decide to compulsory purchase land in the future. Historically, this has not been a course of action that the Council has taken and so is unlikely to have any significant financial implications on an ongoing basis.

7.9 Public Authority Land

7.9.1 Public bodies are required to engage with other public bodies regarding the potential disposal of public land. Public bodies must also publish a register of surplus public land. The Secretary of State may also direct public bodies to dispose of public land.

7.9.2 In terms of implications, the Council will need to clearly identify and publish details of surplus land which will require resources.

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Web Links and Background Papers

<http://www.legislation.gov.uk/ukpga/2016/2/contents/enacted/d ata.htm>

Location

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