

MINUTES OF THE HOUSING SELECT COMMITTEE

Wednesday, 17 December 2014 at 7.30 pm

Present: Councillors Carl Handley (Chair), Peter Bernards (Vice-Chair), Amanda De Ryk, Maja Hilton, Simon Hooks, Olurotimi Ogunbadewa, and Jonathan Slater.

Apologies: Councillors Paul Bell, John Coughlin and Susan Wise.

Also present: Councillor Damien Egan (Cabinet Member for Housing), Kevin Sheehan (Executive Director, Customer Services), Timothy Andrew (Scrutiny Manager), Bertie Dixon (Engineer) (Max Fordham, Building Services Engineers), Dayna Edwin (Generation Rent), Jeff Endean (Housing Programmes and Strategy Team Manager), James Gallagher (Chair, Parkside Residents Association) (Parkside Residents Association), Mark Humphreys (Group Finance Manager, Customer Services), Madeleine Jeffery (Private Sector Housing Agency Manager), Genevieve Macklin (Head of Strategic Housing), Petra Der Man (Principal Lawyer), Martin O'Brien (Sustainable Resources Group Manager), Roger Raymond (Temporary Scrutiny Manager), Kevin Sheehan (Executive Director for Customer Services), Roz Spencer (Co-ordinator, Rogue Landlords Taskforce) (LBL), Pru Waldorf (Resident) (Generation Rent) and Debi Waite (Team Manager, Environmental Health, Residential Services) (LB Greenwich) Genevieve Macklin (Head of Strategic Housing), Jeff Endean (Housing Programmes and Strategy Team Manager), Roz Spencer (Co-ordinator, Rogue Landlords Taskforce), Dayna Edwin (Generation Rent), Pru Waldorf (Generation Rent), Debi Waite (Environmental Health Team Manager, Residential Services, LB Greenwich), Bertie Dixon (Max Fordham LLP), James Gallagher (Chair, Parkside Residents Association), Mark Humphreys (Group Finance Manager, Customer Services), Madeleine Jeffery (Private Sector Housing Agency Manager), Martin O'Brien (Sustainable Resources Group Manager), Petra Der Man (Principal Lawyer) Timothy Andrew (Scrutiny Manager), and Roger Raymond (Scrutiny Manager).

1. Minutes of the meeting held on 11 November 2014

- 1.1 RESOLVED: That the minutes of the meeting held on 11 November 2014 be signed as an accurate record of the meeting.

2. Declarations of interest

- 2.1 There were no declarations of interest.

3. Private rented sector licensing

- 3.1 Dayna Edwin, representing Generation Rent addressed the meeting. The key points to note were:

- She had worked with Generation Rent on a House of Commons Bill on Private Sector Regulations.
- Generation Rent would like to see borough-wide licensing of all landlords or at the very least blanket landlord licensing in every ward where there is a significant private rented sector.
- If the Council budgeted exactly the same sum for enforcement as it currently does, presuming the cost of licensing is covered by the licence fee, then there are still benefits to the Council, for example:
 - Off-setting some of the overhead costs of the housing enforcement team to the license fee account
 - Providing the enforcement team at its current scale with far better intelligence in terms of landlords of concern. When you prosecute a licensed landlord you will have a list of all their other properties in the borough which should be prioritised for proactive inspection
 - The licence fees and conditions can be scaled to impact harder on non-compliant landlords.
- There is more likely to be uplift in Council Tax receipts if there is licensing of all landlords.
- Generation Rent would like to be signposted to residents in the borough where landlords have failed to protect their deposits to help them recover money through Rent Repayment Orders (RROs).
- Generation Rent rejects the idea that landlords would put up rents. Rents are high because there is little supply and lots of demand and that is how the market price emerges. For example, if market rents were based on costs then you would see £400-a-month family homes available where landlords had no mortgage to pay.
- It should cost less than the £1m a year in set-up costs estimated in the agenda report, but even if that were the case; if it provides a measure of protection to one quarter of this borough's population would be worth it.
- Generation Rent requests that the Select Committee calls for a business case to be prepared so that borough-wide licensing can remain an option for the Mayor and Cabinet.

3.2 In response to questions from the Committee, Generation Rent made the following further points:

- It was a disappointment that the Private Member's Bill that would have outlawed revenge evictions was unable to make it through the Parliamentary legislative process, and therefore now unlikely to become law by the end of this Parliament.
- Having a borough-wide licensing scheme would deter rogue landlords by ensuring they have to be registered and monitored with an enhanced enforcement team.
- Licensing can be a tool to help protect vulnerable tenants, including people who have English as a second language, and who are often in the worst private sector rented accommodation.

3.3 Debi Waite, Environmental Health Team Manager, Residential Services, LB Greenwich, addressed the meeting. The key points to note were:

- She has worked in the area of housing for over 20 years, and has experience of successful selective licensing in Gresham, Middlesbrough.

She has also worked with a number of local authorities, including her present role at LB Greenwich.

- LB Greenwich's Public Sector Renting enforcement project cost an estimated £900,000.
- The project has been successful as it has been an intelligence-led approach and Enforcement Officers do not proceed until they have the complete intelligence package at their disposal.
- Many of the landlords, subject to enforcement, have been engaged in other criminal activity, and rarely comply with National Landlords Association regulations and similar conventions.
- Licensing should not be seen as a panacea for the problems of rogue landlords; when the Government proposed licensing in 2010, they did not anticipate local authorities to use it as a "borough-wide" measure.
- The use of licensing is a time-limited measure; it can only be issued for a period of up to five years.
- It is up to the individual local authorities to decide whether they proceed with a discretionary licensing scheme, and whether it should cover the whole borough. However, it must be noted that a borough-wide scheme would need a large enforcement team and a larger infrastructure due to the additional administration costs of registering all the landlords in the borough.
- When setting up a discretionary licensing scheme, it has to be shown that there is an element of anti-social behaviour (ASB) or poor health in play, and licensing would be effective in tackling this. This was an effective tool in tackling ASB in the course of her work in Gresham.

3.4 In response to questions from the Committee, the following was noted:

- It is still going to be difficult to stop landlords using revenge evictions if a tenant complains, with a licensing system. The Private Member's Bill on revenge evictions would have been helpful.
- LB Greenwich has tried to concentrate specifically on rogue/bad landlords rather than a borough-wide licensing scheme.
- To declare a landlord 'not fit and proper', a local authority must put in place Interim Management Order and take over the running over the property within 24 hours. To do so, they must have the resources and planning in place to be able to carry this out.
- Local Authorities must monitor the possibility that rogue landlords may transfer the property to a friend/relative so they can manage the property on their behalf.
- Licensing schemes are time-limited to five years, so local authorities must complete their objectives within that timeframe.
- In terms of claiming back rents on a RRO, a tenant living in a property may make an application to claim back any rent they have paid during the unlicensed period, up to a maximum of 12 months, if the landlord has been convicted of operating a licensed property without a licence, or has been required by a rent repayment order to make a payment to the local authority in respect of housing benefit on the property.
- LB Greenwich is working with their Public Health team on a project to use their expertise in collating statistics on health indicators to improve their information in this area.

- 3.5 Roz Spencer, Co-ordinator, Rogue Landlords Taskforce, gave a presentation to the Committee. The key points to note were:
- There are a number of London boroughs, as well as LB Newham, who are looking at introducing a discretionary licensing scheme of some description.
 - The report to the Select Committee does not rule out any options to Mayor and Cabinet.
 - The Housing Act 2004 Part 2 introduced a mandatory duty for local housing authorities to administer a licensing scheme for all large Houses in Multiple Occupation (HMO). It became a criminal offence for anybody to run an unlicensed HMO. It also introduced a power for local authorities to decide to extend the Mandatory licensing scheme to include additional types of HMO – i.e. smaller HMOs and illegally converted properties that do not meet planning requirements or the Building Regulations (illegal conversions - Section 257 HMOs) (additional licensing). Part 3 of the Housing Act introduced a power for local housing authorities to introduce schemes requiring any privately rented property excluding HMOs (of any type or size) to be licensed (selective licensing).
 - The key issues affecting housing in the borough are as follows:
 - 74% rise in homelessness in three years to September 2014 – 50% of applicants come from the private rented sector
 - Rising private sector rents – 11% in the last year alone
 - Declining physical standards – a 33% rise in complaints to the Council’s Environmental Health in four years to March 2013, and a projected further step up of 26% annualised in the rate of complaints in the first half of this year
 - More families dependent on insecure private rented sector accommodation
 - The impact of ‘welfare reform’ over the past few years.
 - Even though private sector rented accommodation is less likely to have ‘category 1’ hazards than owner-occupied properties (36%-38%), and 80% of private rented sector tenants were ‘satisfied’ in a recent consultation, there is a small proportion of landlords exploiting the housing crisis for financial gain and causing a significant problem.
 - The Council has been tackling rogue landlords using a tenant-led approach, and signposts tenants to opportunities where they can take up their legal rights. The Council would welcome working with other organisations to continue this work.
 - There is an issue of significant sums of housing benefit going to rogue landlords. In 2013, £800,000 of housing benefit was paid to the top three rogue landlords being targeted in the borough.
 - The use of the private sector for renting has doubled in the past 10 years, and with the trend set to continue, additional measures may be needed to tackle the issue of sub-standard accommodation and other activities in the private rental sector.
 - Without licensing, there are still a number of measures that can be undertaken:
 - Require improvements to remove hazards
 - Prosecute for hazardous property conditions
 - Prohibit occupation of unsafe homes
 - Prosecute for overcrowding.
 - Discretionary licensing would help provide the following:

- Real time database of private rented sector landlords and properties (except those who hide)
- Raises awareness legal requirements across landlord community.
- “Double jeopardy” extended to new scheme – double jeopardy in this instance is once a landlord declared ‘not fit and proper’ but who still operates as landlord, are liable to up to £20k per prosecution plus repayment of up to 1 year’s rent
- Raise the bar in management standards.
- It must be remembered that a licensing scheme does not raise money for anything else, and it must not make a surplus. Also, the license fee cannot pay for enforcement activity and a licensing scheme cannot be used for rent control or improving security of tenure.
- To set up a borough-wide scheme, there would be a cost of approximately £100,000 to construct a business case; plus a further £100,000 to deliver a public consultation on the proposals. There would also be a significant cost in setting up the IT infrastructure for the scheme, as there is no ‘off-the-shelf’ product available at present. There is also an estimated £1m per year that will be needed to expand the enforcement team. There may also be recruitment issues as there is also a skills shortage in this area, plus there would be a lead-in time of 2-4 years, so it could not be implemented quickly.
- The proposal Lewisham is looking at right now, would consist of the following:
 - Continuing to focus on known priorities through the Rogue Landlord Taskforce
 - Build up the business case for whole borough discretionary licensing
 - Trial discretionary licensing on flats over shops
 - Strengthening the partnership with Lambeth and Greenwich towards a shared service

3.6 In response to questions from the Committee, the following was noted

- The Council is in discussions with Public Health about collating information on mental health, children’s health and other health indicators to improve the statistics at their disposal.
- The Head of Strategic Housing sits on the Adult Integrated Care Programme Delivery Group, so they are aware of the health and well-being issues that affect those that live in Lewisham.
- The Rogue Landlords Taskforce has been engaged in multi-agency work in particular ‘hot spots’ to tackle rogue landlords in the borough.
- The Greater London Authority has set up a London Rental Standard so landlords can become accredited so they applied with the law and offer a good service to their tenants. It has not been successful in reaching its estimated target of 100,000 accredited landlords, with only 300 additional landlords signing up.
- The Council would have to deliver a comprehensive public consultation if it was to consider a borough-wide licensing scheme. LB Enfield recently lost a judicial review on its public consultation, the reasons being that they did not consult the people who should have been consulted broadly enough and did not consult for the required length of time.

3.7 RESOLVED: That:

- a) The proposals made in Section 2 of the officer report be noted.
- b) An update report to be presented in 2015-16.
- c) Generation Rent be asked for more information on their work with other local authorities in helping tenants claim rent back under RROs.
- d) d) The Committee welcomed the approach of the Council in respect of discretionary licensing on flats over shops. The Committee would support a trial of discretionary licensing on flats over shops and would like an update on this specific proposal in 2015-16.

4. Communal heating systems review

4.1 Bertie Dixon (Engineer from Max Fordham) made a presentation to the Committee. The key points to note were:

- Max Fordham LLP is a consultancy specialising in engineering and construction, who have been in business for over 50 years. They have worked with numerous local authority housing developments, including projects in Lewisham such as Milton Court. They have installed and refurbished all types of heating system in that period, and followed up the results where possible.
- The common description for 'district' or communal heating system that operates many houses or buildings, like a housing estates or shopping centres from one central boiler plant. The conventional system is the boiler system where you have one boiler per flat/house
- The general convention since the 1980s has been to fit individual boilers rather than communal heating when constructing housing developments. However, in the last 10 years there has been a move to fit communal heating systems.
- This is due to the very strong policy position that has developed that combined heat and power is the most efficient way to generate heat. The Greater London Authority (GLA) & in turn local councils now all but require communal heating systems in major housing developments in London, and strongly encourage combined heat and power. Max Fordham LLP believes that there is an 'gap in understanding' in the information that has led to this policy position held by the GLA and others, on the operational use of communal heating systems and the inappropriate use of small scale combined heat and power units.
- Government published calculation methods used for building control and planning state that there is a 5% loss in energy with communal heating systems; but Max Fordham LLP own calculations state that for new flat developments it is more like 50%-70%. Losses as low as 30% are possible but with unusually high standards of design and installation. This causes higher carbon emissions, significantly higher bills than one would predict using the government calculator. Furthermore the uncontrolled heat loss in the distribution system causes overheating with attendant health risks to the tenants.
- Housing developers are now expected by planners to install communal heating systems to meet sustainability requirements for new developments, when better energy-efficient building would have been a more effective solution.

- One of the issues is that policymakers seem not know how inefficient communal heating systems are, particularly in current UK practice, and seem to be unaware of the problems that social housing tenants have with these systems.

4.2 In response to questions from the Committee, Bertie Dixon made the following further points:

- With communal heating systems, the capital costs are substantially higher due to the increased level of infrastructure, and the running costs are higher due to the increased fuel used, maintenance and management. Bills are generally much lower for the tenant with a single boiler system in their dwelling.
- Housing developers do have an option not to install communal heating systems if they so wish, especially if they build more energy-efficient properties. However the policy is loaded against this as installing communal heating systems is a cheaper option to achieve the carbon reduction targets on new housing development than greater levels of insulation, given the unrealistically low loss figures provided in the Governments statutory calculation method. The pressure from planning to install communal heating make not installing it a greater planning risk. Therefore a policy which encourages district heating discourages inherently energy efficient buildings. Bertie Dixon observed that those installing communal heating systems should publish the efficiency performance figures at planning and during operation to make these issues public and plain to see.
- There is an acknowledgement that there is still a lot of learning to be done in terms of the knowledge of how communal heating systems function.

4.3 James Gallagher (Chair, Parkside Residents Association), introduced his report. The key points to note were:

- As well as being Chair of Parkside Residents Association, he also has worked as a construction economist during his career, so has some experience of the issues in respect of different heating systems.
- He queried the cost of moving to a communal heating system, and residents were told that the cost to them would be approximately £2-3 a week, which was a factor in many residents staying in Parkside. However the cost to residents has worked out to be in the region of £8-9 a week, a significant increase in what they were originally quoted.
- He estimated that the cost of putting in communal heating systems for the amount of new housing developments planned for London over the next 20 years would be in the region of £2bn, and feels that this money could be put to better use.
- Communal heating systems are utilised better in high demand environments, where they could be in use 24 hours a day/7 days a week; that is not the case in residential housing. The Carbon Trust suggests that communal heating system need to be in use for approximately 4,500 hours a year to be energy-efficient. The communal heating systems in Parkside are only in use for approximately 1400-1750 hours a year.
- The EU Directives of 2002/91/EU and 2010/31/EU should have been considered for housing developers, which would mean they would have to look at various heating systems before start of construction.

- The Mayor of London has a target to achieve 25 per cent of London's energy supply from decentralised energy sources by 2025. However, he believes that communal heating systems are not the best way to achieve this objective due to their inefficiency, and they also do not help in reducing energy poverty.

4.4 In response to questions from the Committee, James Gallagher made the following further points:

- His calculations conclude that communal heating systems add over £400 a year to bills, when you include tariff, operational, depreciation, and replacement costs.
- Landlords install communal heating systems with the objective of reducing tenants' energy bills, but this has led to some instances to an increase in overall bills.

4.5 RESOLVED: That the comments and evidence be noted for the Review.

5. New Homes Better Places: phase 3

5.1 Jeff Endean (Housing Programmes and Strategy Team Manager), introduced the report. The key points to note were:

- The latest developments in the project will go to Mayor and Cabinet in January 2015.
- Phrase 1 is soon to be completed; Phrase 2 will start in Spring 2015, and Phrase 3 will go to Mayor and Cabinet so the planning process can begin.
- There will also be two re-builds for Extra Care Schemes as part of the plans as proposed previously.

5.2 In response to questions from the Committee, the following was noted:

- There needs to be more communication with local residents and parents as many are unaware of the expansion of Fairlawn Primary School, which is situated next to the Greystead Road proposal.
- The roads and links that are part of the Elliot Bank proposal should improve the area around the site.

5.3 RESOLVED: That the report be noted.

6. Rent and service charge setting and consultation (2015-16)

6.1 Mark Humphreys, Group Finance Manager, Customer Services, introduced the report. The key points to note were:

- The Government has recently amended the Guidance for rental for social housing stock to Local Authorities.
- Following the introduction of the self-financing system for the housing revenue account (HRA) in 2012, the Council is responsible for ensuring that

the costs of managing, maintaining, improving and developing its social housing stock can be met from rents collected and other income.

- The self-financing system allows the Council to develop plans over a longer term, unlike the previous annual housing subsidy system. This has enabled the Council to consider longer term options of how its stock is managed and developed.
- To assist in assessing the various management and development options, a financial model has been developed. Within this, there are assumptions about future costs, for example for lifecycle repairs, capital investment, new build and so on. Most significantly of all it is based on an assumption that rents would rise in line with the Government's 'Convergence Formula' until all units have converged to its 'target' or formula rent using an annual uplift of RPI + 0.5% + £2pw, and increase by RPI + 0.5% p.a. thereafter.
- The intention of the Convergence Formula was to ensure that tenants in accommodation of a similar size in a similar location would pay similar rents. To date, the Council has set rents in accordance with this formula.
- Officers have provided four illustrations in the papers that provide potential rent rises for 2015/16. Three of the rent increase illustrations show a potential shortfall against the rent income assumption in the current HRA financial model. If the Council follows the Government Guidance for increases of CPI+1%, and the discontinuance of rent convergence, over the remaining life of the HRA financial model shows a deficit of £24.6m against the rental income assumptions. This will need to be made up by additional saving or efficiencies which would affect services to residents. It would also mean that approximately 30% of tenants would not reach convergence, i.e. there would be a high proportion of tenants paying differing rents for similar properties.
- The Formula suggested by the Government is only 'Guidance', however if the Council's rent is increased by less than the Formula amount then the Council suffers the full cost of the lost rent which would have a significant impact on the Council's investment plans; and if the rent is increased by more than the Formula amount, and the resulting average rent is higher than the amount Government has indicated it is willing to cover via Housing Benefit, the Council will receive only part of the financial benefit of the extra rent raised because of the way the housing benefit system operates in such circumstances.
- The recommendation from officers is that whilst no recommended increase is being made, tenants are asked for their opinion on the increase to be applied, for consideration by the Mayor & Cabinet.
- No proposals have been received to increase the current levy for Tenants' Fund which will remain at 13p per week.
- Garage rents are proposed to rise in line with RPI inflation @ September 2014 which is 2.30%. This represents an increase of £0.26pw and would raise the average charge from £11.32pw to £11.58pw. The proposed increase will raise an additional £30k of revenue income.

6.2 In response to questions the Committee, the following was noted:

- The reason there are differentials in the percentage rises for the various rental charge options is that the Council started converging rent rates later than other Councils. The policy of convergence would need to continue, to

ensure that more tenants in accommodation of a similar size, in a similar location, would pay similar rents.

- It is still an option for the Council to carry on with the previous Government Guidance on rent setting, rather than adopting the new Guidance.
- The Government Guidance on rent setting is general guidance, not regulation, so therefore they cannot form the basis of a judicial challenge.

6.3 RESOLVED: That the Select Committee support Option B in the officer report.

7. Select Committee work programme

7.1 Timothy Andrew, Scrutiny Manager introduced the report. The key points to note were:

- The items scheduled for the January meeting were as follows:
 - Housing Strategy 2015-20
 - Communal Heating System Review
 - Key Housing Issues

7.2 In response to questions the Committee were advised:

- The Housing Strategy's consultation may have to be tabled at the meeting as there will be little time to prepare a paper for agenda despatch once the consultation has concluded on 21 January 2015.
- The Registered Housing Providers – Invitation item has been moved to the March meeting to provide more time to discuss the relevant issues at the meeting. Officers will write to the five major Registered Housing Providers in the New Year to invite them to the March meeting.
- Officers will write to Registered Housing Providers (L&Q have already provided evidence to the Communal Heating Review) so they can provide additional evidence to the Review from their perspective.
- Officers will request to Barratt Homes that they send a representative to the January meeting to give evidence as part of the Communal Heating Review.
- The item on 'Private rented sector update/licensing scheme' be removed from the March meeting, and an update would be provided to the Committee as part of its 2015-16 work programme.

8. Referrals to Mayor and Cabinet

8.1 There were none.

The meeting ended at 10.10pm

Chair:

Date: _____