

TONBRIDGE & MALLING BOROUGH COUNCIL

STRATEGIC HOUSING ADVISORY BOARD

28 May 2012

Joint Report of the Director of Health and Housing and Cabinet Member for Housing

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 TENANCY STRATEGY

Summary

This report describes the requirement for Tonbridge & Malling to have a Tenancy Strategy, and outlines the cooperative approach adopted in seeking to achieve this. The Report also summarises the Council's progress to date in creating this important document, along with the next key steps.

1.1 Tenancy Strategy - Legislative Context

1.1.1 Members will recall from earlier papers to this Board the emergence of the requirement for a Strategic Tenancy Strategy. On 15 November 2011 the Localism Bill received Royal Assent and became the Localism Act 2011. S.150 (1) and (2) placed a statutory duty on local authorities to prepare and publish a Strategic Tenancy Strategy within 12 months of the commencement date. A separate Statutory Instrument makes 15 January 2012 the commencement date for this section. It is important to note that this duty applies to all local authorities whether or not they still retain housing stock, and is seen as a core component of authorities' strategic housing role. Therefore Tonbridge & Malling must have their own Tenancy Strategy concluded by 14 January 2013.

1.1.2 The Localism Act incorporates many of the proposals contained in the DCLG's consultation paper "Local Decisions: A fairer future for Social Housing", as described extensively within earlier related papers to this Board. The Act devolves greater powers to Councils to give communities more control over housing decisions at a local level. In order to regulate this new level of control, Section 150 of the Localism Act 2011, requires the local authority to publish a Tenancy Strategy, which sets out the expectations for Registered Providers with stock in the associated borough in formulating their approach and policies in regard to:

- the kinds of tenancies they grant;

- the circumstances in which they will grant tenancies of a particular type;
- where they grant tenancies for a fixed term, the length of those terms; and
- the circumstances in which a tenancy may or may not be reissued at the end of the fixed term, in the same, or in a different, property.

1.2 Key Tenancy Strategy Components

- 1.2.1 The Tenancy Strategy seeks to influence new basic choices available to the providers of social housing.
- 1.2.2 The most important is arguably the introduction of fixed term tenancies, in place of tenancies for life as before. A Tenancy Strategy will provide guidance over when (and when not) a fixed term tenancy is used, and for which kind of household, and for how long. For example, a five year fixed tenancy may not always be suitable for an older person or a household with a very disabled member.
- 1.2.3 The next element to be considered is how best to introduce the new affordable rent tenure, and decide when it may or may not be appropriate to apply it in any given circumstance.
- 1.2.4 Of high importance is how providers of social housing seek to assess households at the end of a fixed term tenancy, and how this process is conducted and by whom.
- 1.2.5 The Tenancy Strategy also describes how wider strategic ambitions and pressures are tackled, such as under occupation or sustainability of communities.

1.3 Tonbridge & Malling's Tenancy Strategy

- 1.3.1 In preparing the Tenancy Strategy the Council has to have regard to its existing set of housing policy documents. The broad aims of Tonbridge & Malling's Tenancy Strategy will be:
- to set out clear operational expectations for Registered Providers with stock within the borough;
 - to prevent homelessness and to enable housing to be offered to those in the greatest need;
 - to describe the circumstances in which a particular tenancy will be granted;
 - to describe the use of affordable rents;
 - to tackle overcrowding and under occupation in social housing stock in the borough;

- to protect and support vulnerable people who require housing in the borough;
- to fulfil the Council's legal duties as set out in the Localism Act and in the Housing Act 1996 Part VI and VII (as amended by Homelessness Act 2002);
- to make the best use of available social housing stock in the borough; and
- to create and maintain sustainable communities.

- 1.3.2 The Council maintains regular dialogue with our Registered Provider housing association partners. At the most recent of these important exchanges it was clear that the Government was committed to a path of significant reform of both social housing and the wider welfare system. One of the key outputs of those discussions with partners was the agreement that a pragmatic approach was required in writing the governing documents for the various freedoms and flexibilities that were being introduced to housing, and that these should be a collaborative effort that "contained no surprises".
- 1.3.3 It is clear that the Act enables Registered Providers substantial freedoms on the types of tenancy they may wish to provide, and to avoid creating bureaucratic structures which restrict the ability to respond creatively and sensibly to the particular needs of local communities and particular circumstances, these have to be balanced with consideration for local housing needs and circumstances.
- 1.3.4 Therefore our Tenancy Strategy will be the over arching document that will ensure that new tenancy options are balanced against meeting local housing need in the borough. It will highlight the importance of protecting those who are deemed as vulnerable whilst also recognising the need to incorporate the coming reforms and proposed welfare changes which may impact greatly to those in greatest housing need. The aim is that the Strategy will provide transparency for members of the public and wider local communities in clearly describing how the Council and Registered Providers are responding to local housing needs and priorities.
- 1.3.5 Members may share the view of officers that the aims of any Strategic Tenancy Strategy are to some extent hindered by the unusual chronological order of documents relating to this matter. Namely the difficulty in creating an effective Tenancy Strategy after every social housing provider has already been required by the HCA to agree their Affordable Housing Programme Contract for the period 2011 to 2015. These contracts with the HCA describe the very proportions and nature of tenancies to be provided in order to ensure a continued supply of new affordable homes, and precede the instructions and guidance contained in any subsequent Strategic Tenancy Strategy.
- 1.3.6 The Tenancy Strategy will be reviewed on an annual basis by the Council, through this Board.

1.4 Tenancy Strategy Methodology

- 1.4.1 The Council has been leading the work with our local authority partners within the Kent Housing Group (KHG), exploring the best way of creating robust Tenancy Strategies. Officers from Tonbridge & Malling are concerned that if every local authority in Kent were to write its own bespoke Strategy this county alone would have over 12 individual sets of instructions for housing associations to try to understand and adhere to. Given the fact that for most providers their stock usually covers many separate boroughs and districts simultaneously, it was important to note that this approach was likely setting everyone involved up to fail, with Registered Providers doomed in trying to satisfy each and every Council and District's unique translation of the new policy environment.
- 1.4.2 Therefore in consultation with lead Members we proposed a more common sense and pragmatic approach of jointly creating a Tenancy Strategy for Kent, to enable housing associations to have a single document to refer to in order to understand the broad themes and aspirations sought by local authorities. However, in recognition of the distinct and varied strategic pressures experienced at a local level it was agreed for each local authority to be able to add a finer layer of detail annexed to shared Kent Tenancy Strategy. Given that each council is under the same statutory requirement to have their own Tenancy Strategy this approach of agreed shared broad themes making up the bulk of the consensus document with refined local detail included where necessary will be both a suitable and achievable way forward for everyone.
- 1.4.3 The advantage of a consensus "back bone" to the new Tenancy Strategies beyond just the greater ability to share knowledge and best practice is that the consultation can be performed on a much larger scale. Also the involvement of many of the providers operating within the county can be captured at one time, making the work as visible as possible to those that need to be included.
- 1.4.4 In using the Kent Housing Group as a conduit for the work the commissioning of an independent consultant has been possible, at no extra cost to the Council. To this end we have been assisted in a very positive way by Gill Leng Consultants, who has already performed this service for other local authorities elsewhere nationally and therefore whose experience on this matter has been invaluable to date.

1.5 Progress To Date and Next Steps

- 1.5.1 Following the suggestion to perform this work collaboratively in Kent the relevant housing officers have met to formulate the early stages of this work. The aim being to develop a consensus of a core of shared principles with local "flavour" added as and when required.
- 1.5.2 In February the Kent Housing Group held a tenancy strategy scenario planning workshop. This workshop was attended by representatives of each local authority, and also staff from the larger providers and key partners. The workshop

considered at length the advantages and disadvantages of fixed term tenancies and affordable rents from four different household types perspectives. Workshop participants sought to balance interests, thinking also about different housing types, for example general needs family and other housing, accessible and adapted, and long term specialist housing e.g., sheltered housing and extra care.

- 1.5.3 The outcomes of this workshop are being considered by the Council (and KHG) in preparation for the next stage of creating the Tenancy Strategy. This will take the shape of the Tenancy Strategy External Partners Discussion, held on 11 June at Tonbridge & Malling's Kings Hill offices. This event will be the primary opportunity for key partners to share in the Kent Tenancy Strategy's emerging themes, as well as to feedback on the work performed to date. An indicative early draft of the Kent Tenancy Strategy will be made available to attendees prior to the day to enable a full and informed discussion.
- 1.5.4 Following this event KHG will be able to work quickly with Gill Leng Consultancy to evolve the draft Tenancy Strategy for consideration around the County, based on the strong consensus hopefully achieved to date. This draft will then be refined into a final Tenancy Strategy for each local authority to adopt as its own before amplifying by adding any final local detail.
- 1.5.5 This approach will allow a fully consulted on and robust Tenancy Strategy to be launched well in advance of the January 2013 deadline.
- 1.5.6 Tonbridge & Malling will naturally involve our key partners at every stage of proceedings in creating our own Tenancy Strategy, and keep Members fully informed of progress through papers to this Board.

1.6 Legal Implications

- 1.6.1 Under the Localism Act it is a statutory duty for local authorities to produce a Strategic Tenancy Strategy, within 12 months of the commencement date of S.150 (1) and (2) of the Act. Not having a Strategic Tenancy Strategy will leave the Council open to legal challenge for failing to produce a mandatory document. Endorsing the approach to writing the document will ensure that the Council is up to date with its strategic aims around the delivery of social housing.

1.7 Financial and Value for Money Considerations

- 1.7.1 The Tenancy Strategy is being progressed through Kent Housing Group (KHG) and through the use of the Gill Leng Consultants. This approach brings with it economies of scale and the ability to procure the consultant via the Council's existing contributions to KHG.

1.8 Equality Impact Assessment

- 1.8.1 See 'Screening for equality impacts' table at end of report

1.9 Policy Considerations

1.9.1 There is statutory requirement for a Tenancy Strategy, and the recommendations contained within it will have to align with several of the Council's existing policy documents. This will include the Housing Allocations Scheme (being refreshed autumn 2012) and the Council's emerging new Housing Strategy and Housing Strategy Action Plan (also occurring late 2012), the West Kent Homelessness Strategy, and various developments Local Lettings Plans when present.

1.10 Recommendations

1.10.1 **CABINET** is **RECOMMENDED** to:

1.10.2 **ENDORSE** the approach taken in writing a Tenancy Strategy in partnership with the other local authorities within Kent through the Kent Housing Group.

The Director of Health and Housing confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Chris Knowles

Nil

John Batty
Director of Health and Housing

Councillor Jean Atkinson
Cabinet Member for Housing

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	N/A	
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.