

**LONDON BOROUGH OF BRENT****EXECUTIVE - 15 AUGUST 2005****Report from Director of Housing and Customer Services**

For action

Wards affected:  
All**Report Title: Private Sector Housing Strategy 2005 - 2010**

Forward Plan Ref: HSG&amp;CS-05/06-05

**1.0 Summary**

- 1.1 This report provides information on new legislation and provides key pointers to the proposed strategy. The major changes introduced by the Housing Act, 2004 which require action by local authorities, are the Housing Health & Safety Rating System, licensing of HMOs, the empty dwelling management orders and overcrowding notices. The need to increase the Decent Homes Standard for vulnerable households, in response to the Audit Commission's Key Lines of Enquiry (9) is also addressed.

**2.0 Recommendations**

- 2.1 The Executive is asked to agree the strategy and action plan (attached as Appendix 1 and 1A) and have particular regard to agreeing:-
- 2.1.1 the discretionary enforcement policy for the Housing Health & Safety Rating System (please see 3.1.2.1 below)
  - 2.1.2 issuing of draft notices to replace the "minded to" notice which is being withdrawn on 23<sup>rd</sup> October, 2005 (please see 3.1.2.1 below)
  - 2.1.3 delegated powers for the Director of Housing & Customer Services to determine details of the procedure and fee to be charged when implementing the mandatory licensing of HMOs (please see 3.1.2.2 below);
  - 2.1.4 the use of Empty Dwelling Management Order (please see 3.1.2.3 below);
  - 2.1.5 the introduction of a one off loan (maximum £7,500 repayment triggered on sale) to vulnerable owner occupiers whose homes fall substantially below the Decent Homes Standard (please see 3.1.3 below);
  - 2.1.6 an amendment to the eligibility criterion for small works grants (SWG) to make all applicants subject to the same conditions, except where a SWG funded adaptation is more appropriate for a person with a

- disability (irrespective of Income Support status) than a disabled facilities grant (please see 3.2 1.6 below);
- 2.1.7 a number of amendments to the empty property grants regime to achieve greater efficiency and longer term stability for homeless households, possibly leading to discharge of duty thus contributing to decreasing the number of households in temporary accommodation (please see 3.2.1 below);
- 2.1.8 unforeseen extras on empty property grants to be funded at the % rate grant is calculated (currently extras are 100% funded);
- 2.1.9 to prevent any possibility of abuse of empty property grants, an additional qualifying condition to be attached, that is, if the dwelling was previously tenanted and the tenant was evicted through no fault of their own within the preceding 12 months prior to an application being made, no grant will be given.

### 3.0 Detail

It will be seen that the draft strategy was written to ensure that the Council are able to meet the challenges and take advantage of the opportunities the substantial legislative changes are introducing, affecting private sector housing. The key objectives of the strategy are given below, and delivery of these objectives is provided in detail as an appendix to the strategy document. A financial summary of the action plan is attached as Appendix 2 providing a analysis of capital investment and Appendix 3 giving a breakdown of revenue costs.

#### Key Objectives

- prevent homelessness through advice and intervention as appropriate;
- increase access into the private rented sector and preserve and encourage an affordable rental market;
- improve housing conditions and management of the private rented sector by a combination of training, carefully targeted grants and where necessary enforcement;
- improve housing conditions for owner occupiers through subsidised equity release (where appropriate), and grants;
- increase the number of dwellings, in line with government targets, which meet the Decent Homes Standard occupied by vulnerable households;
- provide adaptations to tenants and owner occupiers to enable people to live independently in their own homes;
- build on our successful empty property strategy, regenerate properties and increase the supply of affordable housing;
- implement HMO licensing and apply for additional licensing of all high risk HMOs and continue to ensure a co-ordinated approach with our Planners aimed at preserving existing HMOs;
- extend advice to maximise energy efficiency initiatives to reduce fuel poverty;
- ensure that the private sector is fully involved in local regeneration initiatives;
- reduce crime and fear of crime.

The legislative changes include:-

- 3.1 **The Regulatory Reform Order, 2002**, allowed local authorities complete discretion in assisting/funding private sector renewal with the

exception of disabled facilities grants. In response to the RRO the Council's Funding Strategy for Private Sector Renewal (FSPSR) was implemented with effect from July 2003

3.1.2 **Housing Act, 2004** will bring a number of significant changes in the way services are delivered for private sector housing and a re-alignment of our strategy in a number of areas. These are detailed below:-

#### 3.1.2.1 **Housing Health & Safety Rating System**

The fitness regime under s604 of the Housing Act 1985 will be replaced with the Housing Health and Safety Rating System (HHSRS) as the means for assessing house conditions and determining enforcement action. Therefore, the basis of assessment will be the hazard(s) a dwelling could pose to a vulnerable person. The rating system is divided into bands A–J, representing hazard score ranges, with the highest risks being between bands A-C (scores between 5,000 – 1,000 points respectively). An authority has a duty to take appropriate enforcement action if a hazard is assessed at 1,000 points or over, (ie between bands A–C). The Act gives authorities powers to take action on bands below C. Secondary legislation is required to implement this which is expected sometime in 2005, so the change from the fitness standard to the HHSRS is likely to be effective from 24<sup>th</sup> October, 2005.

The "minded to" notice, introduced in the Housing Act 1996 will be repealed on 24<sup>th</sup> October by the new Act. This procedure required local authorities to serve notice of their intention to take enforcement action and to receive and consider representation. In effect, it provided a period of consultation and negotiation with the landlord of 21 days which was found to be very useful. It is proposed that this process is retained under our discretionary powers and continued under the title of "draft notice".

**Recommendation:** (i) that the Council supplements the mandatory enforcement action on hazards, bands A-C, with discretionary enforcement of hazards assessed within bands D-E (999-200 points). This will allow us to take action on hazards which are likely to get worse over time ie, on going water penetration. (ii) The procedure, similar to the "minded to notice" be retained under the name of "draft notice".

#### 3.1.2.2 **Licensing of Houses in Multiple Occupation**

The Act will introduce the mandatory licensing of high risk houses in multiple occupation (HMO). More specifically, all HMOs with three stories and above with 5 or more occupants living as more than one household must be licensed because the risk of injury from fire is significantly higher than in 1 or 2 storey properties. The licence can relate to the number of occupants, maintenance, management, facilities and areas occupied. It can also prescribe work to be done to increase the number of basic amenities (other works must be enforced under HHSRS). The scheme is set up to be self-financing. Local authorities have discretion to determine a reasonable charge to cover administrative costs. It will usually last 5 years (but please see recommendation below) and the licence holder must be a "fit and proper" person.

Local authorities will have powers to take over the management of an HMO to protect the health, safety or welfare of occupants either temporarily through an Interim Management Order (IMO) which can last up to 12 months or under a Final Management Order which has no pre-set lifespan, with the agreement of the Residential Property Tribunal (RPT). The Act also gives powers to local authorities to apply to the RPT for an IMO in respect of a non-compulsory HMO. We consider that there are in excess of 500 licensable HMOs in the borough, 263 of which are already in the HMO Registration Scheme. Resources to manage the compulsory HMO licensing scheme, are in place. In recognition of the preparatory work local authorities have done, the government have granted a three year transition period for authorities who have a Registration Scheme with control provisions, to passport all properties from the Registration Scheme into the licensing scheme, at no extra cost to the owner. Detailed guidance on the Act is still emerging but it is probable that within the three year transition period, it will be possible to apply for Additional Licensing of the HMOs which are currently in the Registration Scheme but do not qualify for mandatory licensing. Clearly, this will increase the workload of Private Housing Services considerably, but will benefit tenants and sustain improvements which we have already achieved. The Act also gives powers to local authorities to introduce selective licencing of private rented properties in areas of low demand or where there are persistent problems with anti-social behaviour which are related to poor management. Part 2 of the Act will be effective from October 2005.

**Recommendation:** The discretionary powers under the Act allow local authorities to fix the fee charged and conditions attached to granting a licence. Detailed guidance on the Act is still emerging so the most practical way forward is for the Executive to grant delegated authority to the Director of Housing & Customer Services to agree details of the procedure to implement mandatory licensing of HMOs.

### 3.1.2.3 **Empty Dwelling Management Orders (EDMO)**

The Act will provide an alternative to compulsory purchase orders through an EDMO. It will be granted by the residential property tribunal, if the owner of a vacant building is unable or unwilling to co-operate in bringing the property back into use. There will be two types of EDMOs; interim EDMOs can be applied for on properties which have been empty for 6 months or more and used - with the consent of the owner - to let and manage the property which will last for 12 months. A final EDMO which is for a 7 year period, and will contain a management scheme setting out the authority's proposed actions in respect of the property. Management of a property under an EDMO would be passed to a housing association, under the HAMA scheme. Management costs and any reasonable expenses incurred in refurbishing and making the dwelling habitable can be recovered from rental income. If the rent fails to cover the cost of refurbishment the owner cannot be expected to make up the shortfall. Secondary legislation is required to implement this which is expected sometime in 2005, so this measure will be effective from April, 2006.

**Recommendation:** An EDMO would remove control from an owner for a limited period but would enable the Council to bring empty properties

back into use but is arguably more of an administrative burden than a compulsory purchase order. An EDMO is only likely to be of use where the premises do not need extensive remedial works. It is another tool which can be included in our Empty Property Strategy.

#### 3.1.2.4 **Overcrowding Notices**

Local authorities will be able to serve overcrowding notices on HMOs which are not included in the licencing scheme and are not the subject of an EDMO. The notice can be served on the owner or manager of an HMO if the property is or is likely to become overcrowded. It will enable authorities to specify how many people can occupy each room and prevent people aged over 10 of opposite sex who are not partners from having to share a room. This measure will also need secondary legislation, and is likely to be effective from April, 2006.

**Recommendation:** The 2001 Census showed Brent to be one of the most overcrowded boroughs in London. The use of overcrowding notices would help to reduce this problem in rented accommodation however, this would result in people becoming homeless, with resultant increase in homeless applications. Therefore it is recommended that we only use these powers if we have a sufficient supply of PSL dwellings.

#### 3.1.3 **Key Lines of Enquiry - The Decent Homes Standard for Private Sector Housing**

In 2000 the Government set a standard for “decent homes” whereby housing should:-

- a. meet the current statutory minimum standard for housing (currently fitness standard until replaced by the HHSRS);
- b. be in a reasonable state of repair;
- c. have reasonably modern facilities and services;
- d. provide a reasonable degree of thermal comfort.

Government national targets require that the proportion of vulnerable residents living in decent homes in the private sector should rise to 65% by 2006, 70% by 2010 and 75% by 2020. The contribution of local authorities to meet these targets is monitored through the Audit Commission’s Private Sector Housing Key Lines of Enquiry which requires an organisation delivering an excellent service to be proactive in addressing the physical condition of homes occupied by vulnerable people.

Our House Condition Survey carried out in 2003 showed that most homes in Brent fail the Decent Homes standard on energy efficiency, that is the degree of thermal comfort available in the home. This mirrors the findings of the English House Condition Survey. To improve energy efficiency, currently PHS provides small works grants for vulnerable residents. In addition we have a Fuel Poverty Strategy which includes the “Heat Streets” initiative (subject of a report to the January 2005 meeting of the Executive) implemented by Energy Solutions which will also help us to work towards the above targets.

- 3.1.3.1 However, the Small Works Grant will not always be sufficient (£5,000 to an applicant in any three year period) to cover necessary works under a, b, or c above. At present there are options in our Funding Strategy to facilitate either supplementing a Small Works Grant or fully meeting the cost of renovating their homes. These are:-

- i) For people eligible under the Houseproud scheme, equity release will be an option to bring their property up to Decent Homes standard.
- ii) For residents who do not meet the conditions of the Houseproud scheme we offer to meet a reasonable fee to enable them to seek advice from a reputable independent financial advisor.

**Recommendation:** To supplement i) and ii) above, it is proposed that as a last resort the Council gives a one-off loan, out of existing resources up to a maximum of £7,500, registered as a charge on the property, therefore repayment would be triggered on sale. If further funds are necessary to meet the DHS, raising the balance will be the responsibility of the owner.

### 3.2 **Changes to the Funding Strategy for Private Sector Renewal (FSPSR) and the Empty Property Strategy (EPS)**

The FSPSR was reviewed in October 2004 to ensure that its aims and objectives fully support the Private Sector Strategy and its sub-strategies.

Following internal and external consultation, it was decided to retain the FSPSR almost entirely in its present form except:-

- for proposed changes to the empty property grant as outlined below, which in turn, if accepted will change the (EPS)
- the proposed loan above (3.1.3.1) to cover funding of Decent Homes for vulnerable residents in the private sector and
- changes to the small works grant (2.1.7 above)

#### 3.2.1 Empty Property Grants

Currently the Council gives a grant of the first £3,000 and sixty percent of the remaining eligible expense (up to £6,500 x “permitted number” of occupants) for a dwelling to renovate an empty property in return for 5 years’ nomination rights. The proposed changes are:-

- 3.2.1.1 giving a grant of the first £3,000 and fifty percent of remaining eligible expense, up to £6,500 x “permitted number” of occupants for a property, on condition of obtaining nomination right for 5 years. It is not expected that based on current demand, this small reduction would reduce the number of landlords coming forward to take advantage of one of the most successful empty property schemes in London.
- 3.2.1.2 We are keen to provide the necessary skills and knowledge to landlords to give a good service to their tenants and as an incentive, we propose that if a landlord signs up to our Accreditation Scheme, in addition to 3.2.1 above we would also grant aid thermal insulation for the property. This would not only help to boost the number of dwellings in the private sector which meet the Decent Homes standard but also increase the knowledge base of landlords in the borough.
- 3.2.1.3 The third variation being proposed, in addition to 3.2.2 above, if the landlord is willing to give additional years of nomination rights, the grant would increase by an additional 5% per year, not exceeding 75% of the cost;
- 3.2.1.4 an additional qualifying condition to be attached, an empty property grant will not be offered if the dwelling was previously tenanted and the tenant was evicted through no fault of their own within the preceding 12 months;
- 3.2.1.5 unforeseen extras on empty property grants to be funded at the % rate grant is calculated (currently extras are 100% funded)

3.2.1.6At present there is a typographical error in the current Funding Strategy which we need to correct in respect of Small Works Grants. The eligibility criteria for small works grants (SWG) should apply to all applicants consistently, except where a SWG funded adaptation is more appropriate for a person with a disability (irrespective of Income Support status) than a disabled facilities grant (see 2.1.7 above)

**Recommendation:** The proposals above would provide a number of benefits to the Council, landlords and tenants. We are keen to provide good quality settled accommodation for homeless households in the private rented sector managed by someone who has received training in tenancy relations and property management.

### 3.3 **Consultation**

The draft Private Sector Strategy has been the subject of wide ranging consultation and has been amended to take account of comments and suggestions. The strategy was discussed at:-

- the Housing Strategy Conference in November,
- at a meeting of the Private Housing Forum Steering Group,
- at the Private Housing Forum itself
- the Local Strategic Partnership Housing Theme Group,
- the Health & Homelessness Forum and
- the Steering Group of the BME Forum.

Additionally, the draft was circulated to the organisations named in the table below, for comments and a meeting arranged to discuss the strategy in detail. Unfortunately due to a very poor response, the meeting was cancelled.

Age Concern	Energy Solutions
BASA	Health Action Zone
BME Forum	Notting Hill Housing Trust
Brent Community Law Centre	Legal Services Partnership
Brent Association of Disabled People	PCHA
Brent Private Tenants Rights Group	Pathmeads Housing Association
Citizen's Advice Bureau	Primary Care Trust
Cricklewood Homeless Concern	Shelter
Domestic Violence Forum	Shepherds Bush Housing Association
Elders Voice	Stadium Housing Association

#### **4.0 Financial Implications**

- 4.1 In the current financial year, the capital investment in private sector housing is £7.734m in total of which £3.256m is funded from sources other than the Council's Capital Fund (as shown in Appendix 2). The total revenue cost of delivering the action plan in the current financial year is £3.687m of which £956k is funded from sources other than the General Fund (as shown in Appendix 3).
- 4.2 In addition, HRC have committed £730,000 in this financial year to the delivery of the Homeless Strategy funded entirely by the ODPM and a contribution to the in-house advice service of £91,750 from HRC's allocation of the General Fund.
- 4.3 The council is currently reviewing its capital programme from 2006/07 with a view to achieving reductions in the overall level of unsupported borrowing, in order to reduce pressures on the council's General Fund revenue budget. The strategy may have to be revised if current levels of funding in the capital programme are not sustainable in the longer term. The strategy also assumes that current levels of revenue funding will be sustained in real terms over the period of the strategy. This will also need to be reviewed in the light of the overall General Fund resources available. The strategy is also dependent on ODPM funding being maintained at current levels.
- 4.4 Any changes to the strategy required as a result of changes to available funding will be reported to members.
- 4.5 The attached summary action plan (Appendix 2 & 3) includes allocation of resources against the key objectives above.

#### **5.0 Legal Implications**

- 5.1 The Housing Act 2004 will be introduced in phases, between October 2005 and April 2006, therefore, the Council needs to ensure that we have strategies to meet the duties imposed on us and are able to make use of the powers under the Act.
- 5.2 Audit Commission's KLOE No. 9 requires excellent authorities to be proactive in increasing the percentage of vulnerable households whose home meets the Decent Homes Standard. Clearly this is not a legal duty but if we do not comply with best practice, this would have an impact on our rating.

#### **6.0 Diversity Implications**

- 6.1 An impact needs requirement assessment will be carried out on the



strategy. If any adverse impact is shown by the assessment, an action plan will be put in place.

**Background Papers**

Housing Act, 2004

Explanatory Notes of Housing Act, 2004

Audit Commission's Key Lines of Enquiry No.9

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