



Planning Committee

3rd July 2012

Report from Director of Regeneration & Major Projects

For Action

Response to DCLG's Illegal Landlords Initiative

1.0 Summary

- 1.1 Brent has recently received £163,745k from DCLG to support work targeted primarily at more effective enforcement of unauthorised 'beds in sheds'. The issue has had media coverage and the Housing Minister is drafting guidance for local authorities where a significant problem of what they refer to as 'illegal landlords' are thought to exist. There is an expectation on Councils to prepare action plans to target the funding. There is also a possibility of influencing Government policy and using the localism agenda to develop initiatives in Brent.

2.0 Recommendations

- 2.1 That the funding from CLG is used to target the problem of 'beds in sheds' in the borough, including measures that are likely to reduce the occurrence of the problem in the future, such as Article 4 Directions/Local Development Orders to remove permitted development rights for outbuildings and set a lower size limit for outbuildings before planning permission is required.
- 2.2 That a detailed action plan be developed, based on actions outlined in paragraph 3.8 of this report and appendix 1, to establish the extent of the problem in Brent and to examine and pursue the most effective enforcement action, engaging with external agencies where appropriate.
- 2.3 That a report be provided after 12 months detailing progress made and spend incurred.

3.0 Background

- 3.1 The focus of concern about 'illegal landlords' has been around the use of outbuildings in residential gardens, frequently termed 'beds in sheds'.

However, it can also be linked to the unauthorised use of the house itself and has recently spread to the use of vacant commercial premises.

- 3.2 The main drivers behind the trend of the use of outbuildings in house gardens is the growth in the rental sector in generally lower to middle value areas of the Borough, and a growing demand for tenanted properties – particularly at the lower end of the market. What has facilitated the use of outbuildings has been the nature of ‘permitted development rights’ which mean that buildings of significant size and with facilities can be rented are now increasingly common in gardens in parts of the borough.

Discussions with CLG

- 3.3 A series of meetings have been held with CLG and a selected number of more effected authorities, including Brent, known as the Local Authority Network. This has referred to various cross cutting interests for local services and Government Departments (eg HMRC, Border Agency, and Police). However, while guidance is being drafted it appears unlikely that major change is envisaged. What seems clearer is a desire to understand the scale of the problem, a presumption that Local Authorities will proactively use existing powers and an indication that local solutions could be pursued for those authorities who can demonstrate a problem and local support for its actions.
- 3.4 Brent has been allocated £163,745 to address the problem and is one of 9 authorities to receive such funding. The most urgent need is therefore to develop an action plan to use the allocated funding to answer the scoping question as well as point to possible options to respond to the problem.

Brent’s Perspective

- 3.5 Brent’s input to the discussions has been informed by the level of planning enforcement activity undertaken in the Borough. This differs from most others who have much less experience of actively tackling this issue. A notable recent exception is Newham where a Mayoral initiative has committed over £1m in funding for direct action and increased staffing. This has produced a team of 20 plus contracting staff aiming to deliver 250 Enforcement Notices a year in 2011/12.
- 3.6 Over the last 3 years, Brent has served between 20–28 planning Enforcement Notices per year on ‘beds in sheds’ representing about 15% of all notices served. The total number of notices served in 2011/12 was the highest ever at 220. The planning enforcement team comprises 5 enforcement staff and 1 technical support post. Previous analysis has shown that approximately 50% of notices are appealed and continued action including prosecution and demolition are required to ensure eventual compliance.
- 3.7 This excludes those cases where action cannot be taken after investigation because they have become immune due to the time (4 years for self contained accommodation and 10 years for non-self contained). This is estimated to represent approx 50 cases every year but further work is needed to refine this.

Linked Issues

3.8 A 'perfect storm' of factors may link Rates, Benefits, Fraud, Private Sector housing standards, HMRC, Border Agency, Fire and Police Services in higher profile cases. However, when coordinated action occurs there tends to be a lead interest whose actions take precedence. Most cases in Brent relate to individual properties although there is still a need for other Brent services to be aware or involved. Brent officers have recently worked with the Fire Brigade and other services to tackle hostel type accommodation in industrial buildings on the Northfields Estate Alperton.

Future Action Plan

3.9 Brent does not have the option of significantly skewing its current enforcement activity to allow a step change increase in enforcement activity. This problem is already being targeted and undertaken in a demonstrably more productive and efficient way than most authorities. The key objective of the action plan is therefore to use the funding to enable this step change for a period with the intention that it will reduce current problems more quickly and deter their potential future growth. Critically, additional funding should allow a better understanding of the problem (e.g. by area, type of structure, tenure, etc) to support more pro-active and targeted monitoring and action in the future. Another area that needs to be better understood is the proportion of occupiers of 'beds in sheds' type accommodation that are the recipients of housing benefit, and of the effects of removing this type of accommodation on the Council's housing obligations.

3.10 The key elements of an Action Plan are likely to include:

- A scoping exercise to help assess the scale and location of the problem. This could include using techniques such as thermal imaging but will almost certainly involve targeted investigation of areas. This will need additional temporary staffing.
- A pilot scheme of coordinated action, including with other Brent services and possibly focusing on benefit and rates. This will also help to understand the possible scale of linked issues such as benefit and rates fraud.
- A planned increase in enforcement activity for a period to concentrate on the issue in targeted areas. However, this will need additional resources as previous experience in discussion with Members and residents groups has demonstrated the difficulty of trying to further refine priorities for action or significantly reducing the level of activity undertaken.
- Publicity aimed primarily at neighbours to increase the detection and deterrence rate. Landlords and owners would also be targeted but it is less clear that this would be effective unless the costs of demolition/prosecution could really be demonstrated to be a deterrent. This has not really been evidenced to date.

- Consider area specific Article 4/Local Development Orders to limit permitted development rights to a size of building which is less likely to be a marketable product.

This is set out in Annex 1

- 3.11 The proposed measures identified in the Action Plan will allow the Council to better establish the extent of the problem in Brent and allow a sufficient resource to tackle what we already know is a growing problem. It is anticipated that enforcement action directed towards beds in sheds could quadruple in the short term, leading to an additional 100 notices /year being served. A move towards greater planning controls over outbuildings through limiting permitted development rights should result in a reduction in the number of larger garden buildings capable of being adapted for residential occupation. It is also hoped that an improved multi agency approach will lead to better sharing of information and earlier detection and action, further reducing the problem. As is the case at the present time, close liaison with the Housing and other services will seek to ensure that the Council does not pick up additional expenditure through rehousing or other obligations obligations as a result of action taken.

4.0 Financial Implications

- 4.1 The Council currently holds the £163,745 grant in its Housing Account. The funding has been provided to 9 authorities where the problem is seen as being the greatest. This funding is not ring fenced although CLG have asked recipient authorities to provide action plans indicating how the money will be spent.

5.0 Legal Implications

- 5.1 The Council has statutory powers under the Planning acts to take enforcement action against beds in sheds provided that notices are served within 4 years of the breach for single dwellings, and 10 years for properties that are multi occupied. The Council also has the ability to seek to remove permitted development rights (in this case on outbuildings) through Article 4 Directions. Such directions need to be confirmed by the Secretary of State and can incur compensation liabilities although in practise claims are rarely made. Local Development Orders can be introduced to replace the permitted development limits with lower ones.

6.0 Diversity Implications

- 6.1 Although there is no clear evidence base, experience suggests that occupiers of illegal accommodation appear to be economically active in some form, and tend not to include children. Occupiers tend to be reluctant to provide details and often disappear when problems come to light. The majority of occupiers in Brent appear to be European economic migrants or, as highlighted by the BBC reporting, newer arrivals of established migrant communities.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 Additional staffing resources will be required through the government grant if Brent is going to increase the level of enforcement activity.

Background Papers

Planning and Enforcement Appeal Monitoring Report (Planning Committee 22 May 2012)

Planning Enforcement Annual Monitoring Report 2008/9 (Planning Committee 28 July 2009)

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Appendix One – Action Plan

	Action to be taken	Financial implications	Timetable	Outcomes
1	Fund 3 posts to carry out a pilot survey to identify the scope of the problem. This will involve identifying problem streets by using aerial photography and GIS mapping.	£115,000	“Pilot” by August 2012 “Blitz” by December 2012	Identify the scale of the problem
2	Increased liaison with the benefits service and council tax to help form a view on the problem areas. Improve liaison with the Valuation Office.	Within existing resources	August 2012 (Subject to confirmation)	Help identify problem properties
3	Work with Audit and Investigations Team to help identify rogue landlords with follow up visits to properties	Est. £10,000t. Planning Enforcement input funded from above	August 2012 (Subject to confirmation)	Identify Fraud. Also resolve the problem of rogue landlords
4	Assess scope for aerial surveys with possible use of infra red equipment to indicate all beds in sheds in the borough. Likely to be in conjunction with other affected authorities.	£10,000	August 2012 (subject to availability)	Be able to plot them on a map and take action on unlawful ones (i.e. those which have not been there for more than 4 years.
5	Review pilot and ongoing blitz as well as Benefits/Tax and Audit Investigation outcome	Within 1 above	Sep 2012	Confirm scope of problem and indicate future priority areas.

	Action to be taken	Financial implications	Timetable	Outcomes
6	Take forward the cases that have been identified as dwellings and issue enforcement notices (1 above)	Within 1 above	Phased between August-December 2012	The buildings become illegal
7	Deal with any appeals that have been made against the notices issued (6 above)	Within 1 above	October to March 2012	The buildings become illegal
8	Direct Action to ensure compliance with enforcement notices (7 above)	Within 1 above	March, 2013 and on wards	Resolved the problem by demolishing the building
9	Publicity for the Direct Action and consultation for an Article 4 direction covering problem areas.	£15,000	February and March 2013	Helps to act as a deterrent. Also people become more aware of the problem and are more likely to report it to the Council. This can also double up as the consultation period for a new article four direction and more restrictive local development order for out buildings in problem areas.

	Action to be taken	Financial implications	Timetable	Outcomes
10	Extend the pilot area to cover 3 or 4 wards. Tackle problem streets – be more rigorous in gaining access where access has not previously been obtained to improve evidence gathering. Issue enforcement notices where breaches have been identified.	£3,000 – use of locksmith + the 2 new members of staff as set out in action point 3	December 2012 and January 2013	Tackle all beds in sheds in the 3/4 problem areas
11	Liaise with Housing. Those beds in sheds which have been there for more than 4 years and accommodation is unacceptable should be issued with suspended prohibition orders	Cost of rehousing if living conditions are so bad that the prohibition orders can not be suspended. £10,000 for temporary accommodation	On going	Help resolve the problem of very poor accommodation