

Overview and Scrutiny Committee - March 3rd 2021

Current and forthcoming challenges within the portfolio of Planning, Housing and Heritage

Summary

This paper informs Overview and Scrutiny Committee of some key housing and planning issues within the portfolio of Planning, Housing and Heritage. It focuses specifically on two of the broad challenges which lie on the immediate horizon: Firstly, the legislative landscape for new housing delivery, safety, and regulation; and secondly, (and not unrelated) the implications of the current review of Council-owned companies for Nottingham City Homes and the management of the Council's housing stock.

1. Forthcoming housing and planning legislation and its implications

This can be divided into three key areas: Planning; Building Safety and Quality; and the Social Housing White Paper.

(a) Planning

- Planning White Paper – Local Plans are changed to focus on 3 categories of land 'Zoning' system– "growth areas" that are "suitable for substantial development"; "renewal areas" that are "suitable for development"; and "protected areas". In "growth areas", outline approval would be automatically granted for forms and types of development specified in the plan. There will be new but unspecified arrangements for strategic planning, with the Duty to Co-operate between Local Authorities being abolished.

Under a proposed new "fast-track for beauty", proposals for high-quality developments that reflect local character and preferences would benefit from "automatic permission". New development would be expected to create a "net gain" to areas' appearance.

A new 'single infrastructure levy' will replace the existing developer contributions system of section 106 agreements and the community infrastructure levy. The government says the new levy will be a nationally-set, flat rate charge and would be based on the final value (or likely sales value) of a development. This means collection would be at the end of developments rather than the start. There is uncertainty about how councils would fund public realm changes associated with new developments.

New penalties for councils that fail to determine an application within the statutory time limits eg "the automatic refund of the planning fee for the application". Where applications are refused and the decision is overturned at appeal, the paper proposes that "applicants will be entitled to an automatic rebate of their planning application fee".

- A new "Standard Methodology" for calculating the level of general housing need which has to be provided through Local Plans has been introduced following a backlash against the methodology, which was subject to consultation, from rural borough councils. This has increased City housing provision targets by 35% - this figure has only met 3 times in last 20 years, and will be extremely challenging to deliver. The White Paper proposes that these targets become binding on councils.
- New permitted development rights are proposed, which would allow unrestricted change of use from shops, other town centre uses and light industrial buildings (Use Class "E") to residential (Use Class "C3"). This would limit the council's ability to influence place-making.
- The government is consulting on a "Right to Regenerate", which will enable the public to require councils and public sector to sell unused land and assets. Proposals allow for the public and organisations to have first right of refusal to purchase underused land in England, unless there are compelling reason not to do so.

(b) Building Safety and Quality

- **Building Safety Bill:** This Bill is currently going through Parliament. It seeks to bring ownership and accountability for 'high risk' (i.e. tall – over 18m) buildings over their entire lifespan, from planning and design stage, through construction and during usage. The key provisions within the Bill are the appointments for each building of an 'Accountable Person' and a 'Building Safety Manager'. The Building Safety Manager will have responsibility for the regular, day to day safety management of each tall building and the preparation of a safety case for the building, whilst the Accountable Person (usually the owner) will ultimately be responsible for ensuring that a building remains safe. This will be overseen by a new national Building Safety Regulator located within the Health and Safety Executive.

It is envisaged that as far as the Council's high rise blocks are concerned, the role of Accountable Person will sit within the City Council, whilst the Building Safety Managers will be employed by Nottingham City Homes. NCH has in fact already appointed Building Safety Managers with responsibilities for specific high rise blocks.

- **Fire Safety Bill:** Also making its passage through Parliament, this legislation updates the existing Fire Safety Order. It places new duties on building owners to manage the risk of fire, specifically that windows, balconies and front doors of flats within blocks meet certain standards, that regular fire safety checks are carried out, and that residents are supplied with fire safety information. These requirements, particularly the need to upgrade front doors in flats will necessitate additional capital expenditure within the Housing Revenue Account.
- New arrangements for meeting the cost of removing flammable cladding from tall buildings. NB none of the Council's high rise residential blocks have cladding which falls within this category.

It should be noted that nearly all of the legislative proposals for building safety are about tall buildings and cladding. There remain concerns about all multi-occupied residential buildings, particularly lack of or poor fire compartmentalisation. The Council has therefore set up a Joint Audit Inspection Team to work with the Fire and Rescue Service to inspect buildings with more than 11 dwellings.

The Council housing stock has already received a high level of attention and investment in terms of fire safety: the installation of sprinklers to all NCH's managed high rise blocks will be completed this spring, along with associated fire safety works. The Council has invested a total of £8m in these works. All 279 blocks of flats managed by NCH have a current fire risk assessment.

Overall, building safety will feature prominently in the new regulatory and inspection regime introduced by the Social Housing White Paper (see below), and the work being undertaken by NCH in preparation for this will stand the Council in good stead.

There are significant resource issues arising from the new regulatory system. The national early adopters group of social housing providers estimated that the ongoing costs of implementing the new regulatory system could be as much as £90,000 per building in scope per year.

- In terms of the quality of new homes, the government has published and consulted upon the 'Future Homes Standard'. The new standard for energy efficiency in new homes to achieve government targets to reduce carbon emissions from new development, enforced via the Building Regulations. The Future Homes Standard should ensure that all new homes

built from 2025 will produce 75-80% less carbon emissions than homes delivered under current regulations. This has implications for the Council as a Planning authority, a Building Control provider, and as a developer of new homes.

(c) Social Housing White Paper

This landmark document is the Government's direct response to the tragedy at Grenfell Tower in 2017. It seeks to rebalance the relationship between social landlords and tenants by creating a charter of principles which should be guaranteed as a social tenant. These are:

1. To be safe in your home.
2. To know how your landlord is performing, including on repairs, complaints and safety, and how it spends its money.
3. To have your complaints dealt with promptly and fairly, with access to a strong Ombudsman.
4. To be treated with respect, backed by a strong consumer regulator and improved consumer standards for tenants. There will be regular inspections of landlords.
5. To have your voice heard by your landlord.
6. To have a good quality home and neighbourhood to live in, with your landlord keeping your home in good repair. This will pave the way for a new Decent Homes Standard, which may well contain standards linked to carbon-free heating systems – a significant cost.
7. To be supported to take your first step to home ownership

There have been a number of commentaries and briefings on the Social Housing White Paper. A useful analysis produced by the Housing Quality Network appears as Appendix One to this paper. For the purposes of this report, there are some key points to emphasise from the Council's perspective:

- Although the Council's social homes are managed and maintained by Nottingham City Homes, it is the landlord, i.e. the Council, which is ultimately responsible for meeting the requirements of the White Paper. It is the Council which will be inspected and assessed, albeit that inspectors will be examining services delivered by NCH.
- The Council therefore needs to work closely with NCH in order to meet the requirements and be proactive in its approach. It cannot be passive and just assume that NCH will 'take care of everything'.
- Because of the level of management, maintenance and tenant involvement currently delivered by NCH, currently reflected in high tenant satisfaction ratings and, as noted above, the work already carried out on building safety, the Council will start from a good position when the White paper is implemented. NCH has framed its new 3 –year Corporate Plan as a charter for NCC tenants and leaseholders based on the White Paper. What this means in terms of planned delivery is set out at greater length in Appendix Two.
- The governance structures to oversee NCH delivery and compliance will need to be robust in order to ensure that the Council is meeting its responsibilities.

This leads helpfully into the second key theme of this paper.

2. Current Governance arrangements for Nottingham City Homes and implications of NCC companies review

A review of all of the Council's companies is one of the main themes of the three-year Recovery and Improvement Plan which was published in January 2021. Nottingham City Homes is one of the companies which will be reviewed early on in the delivery of the plan. The aim of the review is to ask the fundamental question of whether the service is best placed back inside the Council, or should

continue to be delivered by an arms-length company. It will also consider issues of efficiency and value for money, and removing possible duplication.

Clearly, it is not appropriate to comment on the ongoing review in this paper; however, the context and terms of reference for the review are important in relation to the external challenges set out in the first part of the paper.

Although the review may lead to changes, the current governance framework for NCH – both in terms of its internal organisation and its relationship with the Council is well developed. It has also been strengthened in the last year and a half by a new management agreement between the two parties together along with a restructuring of NCH's company governance. It is to be hoped therefore that what is in place gives a sound platform for the Council, in partnership with NCH, to meet the requirements of the White Paper, and to support an excellent housing service to the Council's tenants.

Governance of the Council's relationship with NCH

The Council and NCH entered into a new 30-year Partnership (management) Agreement in September last year. The agreement sets out the requirements of the service, decision-making processes, the responsibilities of each party, and principles and ethos for working together.

At the centre of the relationship is the NCC-NCH Partnership Forum, which comprises:

- Portfolio Holder for Planning, Housing and Heritage (Chair)
- Chair of NCH
- CEO of NCH
- Corporate Director for Development and Growth
- NCC Head of Finance
- Other supporting NCC officers: Head of Regeneration and Housing Delivery, Housing Strategy and Partnerships Manager.

The Forum meets approx. four times per annum and will discuss any strategic issues relating to the service, high level budgetary matters, strategic plans, and performance. Aside from these meetings, the Portfolio Holder meets regularly with the CEO and chair of NCH and other senior managers as required.

Regular dialogue occurs at officer level via two other key meetings: The Housing Revenue Account Capital Programme Group and, to oversee the house building programme, the Building a Better Nottingham steering group, which is chaired by the Portfolio Holder.

At a Council level, the Portfolio Holder attends the Companies Governance Executive Sub Committee, which brings oversight across the Council's companies to ensure alignment with the Council's strategic objectives. NCH company financial reporting is submitted monthly to the CGESC, as well as to the Council's Corporate Leadership Team.

NCH Governance Structure

NCH has developed a group of subsidiary bodies in recent years (its Registered Provider and market-rent arm) to deliver a wider range of housing and housing services, as well as providing the core housing management to the Council's stock. To support this, a new governance structure was put in place in Autumn 2019. It comprises:

- Group Board – the main strategic governance body for the group. There are two City Councillors on this board- Cllrs Langton and Power.
- ALMO committee board – to specifically oversee the delivery and performance of the core housing service. The Council has two members on this board; Cllrs Radford & Power.
- RP Board – To oversee the activities and be the decision making body of the registered provider subsidiary
- NCH Enterprise Ltd Board- as with RP Board, activity of the market rent and commercial arm
- Audit, Risk and Compliance Committee- oversight of financial and regulatory matters for the Group. Cllr Radford is a member of this board.
- Governance and Selection Committee – to deal with strategic personnel and cross-group governance issues. This committee is chaired by Cllr Langton.

The effectiveness of the revised board structure is being assessed as part of the review of company governance arrangements.

NCH adheres to the standards set out in the National Housing Federation Code of Governance. The NHF published a new Code of Governance in November 2020. NCH completed a self-assessment against the new Code of Governance and, whilst largely compliant, has developed action plans for improvement which also incorporates recommendations from an external review of risk management, findings from the NCC Public Interest Report and expectations set out in the Social Housing White Paper.

Progress against the action plans is being monitored via:

Governance Action plan	- oversight by Governance & Selection Committee (Chaired by Cllr Langton)
Risk Management Action plan	- oversight by Audit, Risk and Compliance Committee (ARCC Committee member Cllr Radford)

Overall conclusion: Assurance provided to the Council

The above governance framework, together with more informal engagement mechanisms, offers the Council a high level of assurance that NCH is fulfilling the Council’s landlord obligations, as well as delivering a high quality service to its tenants. There exist numerous opportunities for challenge, and there is validation via internal audit (shortly to be delivered independently rather than NCC), service reviews, and performance/value for money benchmarking.

The Social Housing White Paper will bring a far more rigorous level of regulation and scrutiny to local authority landlords than we have been used to. As the implementation of the White Paper unfolds, and in the light of the Council’s review of companies, it may be necessary to adapt the existing governance structures; however, through working closely together the Council and NCH have already created a strong governance base to build upon.

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