

Subject:	Housing Standards Review Consultation 2014		
Date of Meeting:	Economic Development & Culture Committee 15 January 2015		
Report of:	Executive Director Environment, Development & Housing		
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report seeks the approval and endorsement of the officer response sent on behalf of the council in response to the recent government consultation on the Housing Standards Review.
- 1.2 The response was submitted to the Department for Communities and Local Government (DCLG) in order to meet the consultation deadline of 7 November 2014. The council's response was noted as being subject to the approval and endorsement of this committee.

2. RECOMMENDATIONS:

- 2.1 That the Committee approves and endorses the officer response to the Government's Housing Standards Review Consultation 2014 (see Appendix 1).

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Government consulted on 'A Housing Standards Review Consultation' in 2013 (August – October). The outcome of the review was detailed in a formal Written Ministerial Statement in March 2014. The purpose of the review was to simplify the system for setting standards in the design and construction of new homes through consolidating essential requirements into a national framework centred on the Building Regulations reducing the number of technical and local standards.
- 3.2 The further consultation, the subject of this report, sets out in detail proposals for implementing the Housing Standards Review and in particular the technical standards that the government proposes to put in place and other practical matters. The deadline for responses was 7 November 2014 via an online survey format. The key proposals relate to the subject areas set out below:
 - Access
 - Space
 - Water Efficiency

- Security
- External Waste Storage

3.3 In Summary:

The Government is proposing, in respect of the above subject areas, to revise guidance, requirements and standards set out in the Building Regulations, and, introduce a nationally recognised optional space standard. The amendments to the Building Regulations include new ‘optional requirements’. The optional requirements and optional space standard will only apply if they form part of an adopted Local Plan policy. As part of the proposals the Government is proposing to wind down the Code for Sustainable Homes which contains requirements, applied through planning policy, relating to water use, waste storage, energy use, materials, pollution and ecology. The four main proposed approaches are as follows:

Table of Key Proposals

Proposed Approach	Subject Area	Application
Mandatory Standard	<ul style="list-style-type: none"> • Access • Security 	Introduced through Building Regulations and applied upon introduction of Housing Standard Review.
Optional Requirements	<ul style="list-style-type: none"> • Access • Water Efficiency 	Introduced through Building Regulations but applied via Planning Policy , subject to need (see paragraphs 3.4 and 3.5 below). Once in place a planning authority will not be able to impose technical standards beyond those that emerge from the Housing Standards Review. Neighbourhood Plans/Orders will not be able to apply these requirements however they could seek to dis-apply Local Plan policies that require them
Revision of Building Regulations Guidance	<ul style="list-style-type: none"> • External Waste Storage 	Building Regulations guidance in Approved Document H. (please note, amendments will also be made to other Approved Documents as necessary to take forward the proposals detailed above)
Nationally Described Standards	<ul style="list-style-type: none"> • Space 	Non- Statutory – Introduced through Statement of Policy /National Planning Policy applied via Local Planning Policy (see paragraphs 3.4 and 3.5 below). Local authorities are not required to adopt the space standard but can choose to do so subject to evidence on impact on factors such as need, viability, affordability and timing/housing delivery. Once in place a planning authority will not be able to impose a standard beyond those that emerge from the Housing Standards Review. Neighbourhood Plans/Orders will also be able to apply the nationally described space standard and/or seek to dis-apply Local Plan policies that require it.

- 3.4 Optional requirements and the non-statutory nationally described standard will be subject to the NPPF viability test.
- 3.5 Optional requirements - are only applicable where they can be locally justified, included in an adopted Local Plan and a condition imposed on a planning application. They then form a matter for building control to ensure compliance (Appendix 2 sets out a process chart for the proposed optional requirements). The 'optional' nationally described space standard is similar in application in that it only applies where there is evidence relating to its impact/need, it is included in an adopted Local Plan and a condition imposed on a planning application. However compliance will be via planning not building control.
- 3.6 Following this consultation the Government intends to issue a statement of intent in early 2015 and to bring into force the amendments to the Building Regulations in autumn 2015. It is proposed that once the statement of intent is published, planning authorities will no longer be able to adopt local plan policies referring to the Code for Sustainable Homes or any other standards other than the optional requirements or the nationally described space standard. Guidance will be prepared by the government to clarify the circumstances where a planning authority can apply an optional requirement or the national space standard.

4. **DETAILS OF CONSULTATION PROPOSALS AND RESPONSE**

4.1 **Access:**

The government's proposed approach in respect of access is the introduction of a three tier standard of accessibility through the Building Regulations applying both a **mandatory minimum standard** and **two optional requirements**. Three categories are set out:

- Category 1 – a **mandatory minimum standard**, requiring new homes to be “visitable” by those with additional needs.
- Category 2 – **Age friendly housing** an **optional requirement** building regulation¹ for accessible and adaptable mainstream housing to meet the needs of older and disabled people, which can be introduced via an adopted local plan policy and imposition of a planning condition where justified by need and viability.
- Category 3 - **wheelchair user housing**: an **optional requirement** building regulation which sets a standard for wheelchair housing, which can be introduced via an adopted local plan policy and imposition of a planning condition where justified by need and viability

- 4.2 Local authorities would need to clearly state in their Local Plan the proportion of new development which needs to comply with the requirements for category 2 – accessible and adaptable dwellings, or category 3 – wheelchair adaptable or accessible dwellings. The government envision that Local Plan policies may set

¹ **Optional requirements** - are requirements set at a level above the basic minimum in the Building Regulations 2010, which can be applied by a planning authority as a planning condition, where justified by need and subject to viability.

out what proportion of category 3 dwellings in affordable rent or social rent should be built to be wheelchair accessible at completion. For all other tenures, Local Plan policies should only require compliance with the wheelchair adaptable standard. (N.B. Category 2 is similar to the Lifetime homes standard currently required in all development in Brighton and Hove and Standard 3 broadly relates to Wheelchair accessible homes which apply to 5% of market housing and 10% of affordable housing)

4.3 Factors which might influence a decision to introduce category 2 or category 3 optional standards include:

- the likely future need for housing for older and disabled people (including wheelchair user dwellings)
- whether particular sizes and types of housing are needed to meet specifically evidenced needs (for example retirement homes, sheltered homes or care homes)
- the accessibility and adaptability of its existing housing stock.
- the overall impact on viability

4.4 In summary the **council officers' response** supported the adoption of inclusive design standards. However, it considered that the mandatory minimum standard should be expanded to include those set out under Category 2. The reason for this was many local authorities already apply such standards and the changing needs of occupants are universal and not dependent upon locality or measurable factors such as gender, race etc. The introduction of the Category 3 requirements as optional was supported. In respect of details on the fit out of wheelchair accessible dwellings the council response considered these matters could not be secured by planning condition and would be dependent upon the specific needs of the future occupant.

4.5 **Space:**

The government's proposed approach in respect of space is the introduction of a single set of non-statutory 'optional' **Nationally Described Standards** for new houses and flats suitable for application across all tenures. (See paragraphs 3.3 – 3.5 above). As part of the consultation specific queries were raised in respect of the proposed gross internal areas/unit sizes, internal storage, bedroom sizes and ceiling heights.

4.6 In summary the **council officers' response**, supported the proposed gross internal areas/units sizes. However, it considered that the standard should be a mandatory minimum for both planning and building control with an onus on the applicant/architect to comply. The proposed ceiling height requirement of 2.5m was not supported as it was considered to be too high and contrary to energy saving and sustainability. If introduced however, a ceiling height of 2.4m or 2.325m should be required. The inclusion of requirements relating to internal storage and bedroom sizes was not supported as it was felt this should be instead left to market forces and future occupants. However, if introduced it was considered it should only be via building regulations. In response to the consultation's query over how compliance can be ensured, it was suggested a burden of compliance could be placed with the developer at planning stage and checked via Building Regulations. The response suggested non compliance

could invalidate a planning permission prior to occupation and supported the inclusion of Gross Internal Areas within property sales particulars.

4.7 Please note the approach indicated in the Submission City Plan Part 1 is that a policy would be brought forward in the City Plan Part 2 to introduce minimum space standards.

4.8 **Water Efficiency:**

Minimum water efficiency standards were introduced into Building Regulations in 2010 and require that all homes are designed so that their estimated average water use is no more than 125 litres per person per day. The government is proposing to amend this by introducing an **optional requirement** of 110 litres per person per day (See paragraphs 3.3 – 3.5 above). Local planning authorities should, when considering adoption of a local optional requirement on water efficiency in their Local Plans, consult with the local water supplier(s), developers and the Environment Agency.

4.9 In summary the **council officers' response** did not consider the water efficiency proposals to be technically correct. It considered that the standard should adopt the current Code for Sustainable Homes level 3 standard as the minimum and should not increase it as proposed to include an additional 5 litres per person per day for external water use because this will increase the allowance for the many dwellings that do not have external areas. The response also recommended rainwater harvesting be mandatory for dwellings with external space.

4.10 **Security and External Waste Storage:**

The proposed government approach in respect of security is the introduction of a **mandatory minimum standard**. This seeks to ensure homes are better protected from crime. The proposed government approach taken in respect of external waste storage is the introduction of **amendments to Building Regulations guidance** contained in Approved Document H to help tackle 'bin blight'.

4.11 **Enforcement and Implementation:**

The consultation also addresses enforcement of the proposals and the implementation and transitional arrangement. In general it is envisaged enforcement will be overseen by building control bodies (local authorities or approved inspectors) except in respect of the space standards where compliance will be via planning processes. The implementation and the transitional arrangements include the transition to delivering zero carbon homes policy through the Building Regulations. There will be a mechanism to limit planning authorities' ability to impose technical standards beyond those which emerge from the Housing Standards Review. The optional requirements should be applied on a "need to have" rather than a "nice to have" basis, so that they are only imposed where necessary.

4.12 In summary the **council officers' response** raised concern over the winding down of the Code for Sustainable Homes (CSH) and considered it should remain in place until implementation of the new approach and/or until the governments zero carbon homes standard is implemented (anticipated in late 2016). The winding down of the code will impact upon a number of other elements covered

by it such as ecology, pollution, surface water run-off and materials.

- 4.13 Please note that whilst there are concerns over the winding down of the CSH it is considered that the Submission City Plan Part 1 policy CP8 Sustainable Buildings (as modified) contains robust policy requirements relating to these issues.

5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 5.1 This report advises the Committee of the main proposals contained in the technical consultation document published by the DCLG, and the council officers' response covering the areas of support, potential implications and concerns. Approving and endorsing the response which was sent on 7 November in order to meet the deadline helps to ensure the response from the council is taken into consideration by the government.
- 5.2 The proposals may have a significant impact upon planning in Brighton & Hove and limit its ability to be one of the pioneers in respect of sustainability and water efficiency, which is important in an area of water stress. Not to have commented on the proposals would have failed to provide DCLG with a reasoned response on what is welcomed and the areas of concern in respect of its proposals. It would have failed to give this council a voice on these significant proposals.
- 5.3 The committee has the option to either endorse the comments sent as recommended; seek to revoke them, or; seek to amend them

6. COMMUNITY ENGAGEMENT & CONSULTATION

- 6.1 Internal consultation with relevant departments, including City Clean, Housing and Building Control, was undertaken and their comments included in the response sent. This report relates to the council's response to a Government consultation, which was also available to the wider community to directly respond to, it was not therefore necessary or appropriate for the council to undertake community engagement.

6. CONCLUSION

- 6.1 The purpose of the report is to gain formal approval and endorsement of the response sent to the Government's Housing Standard Review Technical Consultation. Whilst the response has been despatched to meet the consultation deadline of 7 November 2014, this was on the basis that the response be subject to approval and endorsement at Economic Development and Culture Committee.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications arising from the recommendation in this report. The cost of officer response to the Government's Housing Standards Review Consultation 2014 has been met from within existing revenue budgets. It is anticipated that any financial implications expected to arise from the outcome

of the consultation will be met from the Planning & Building Control revenue budget.

Finance Officer Consulted: Steven Bedford

Date: 03/12/2014

Legal Implications:

- 7.2 As noted in the Report the optional requirements and optional space standard would need to be applied through local plans. Where that is the case the applicable policies will be material planning considerations in the determination of relevant planning applications.
- 7.3 The outcome of the Review may require the Building Regulations 2010 to be amended.

Lawyer Consulted: Hilary Woodward

Date: 12/12/2014

Equalities Implications:

- 7.4 An Impact Assessment was issued alongside the DCLG technical consultation document. A number of concerns were raised in the response, in particular it is considered the failure to assess home-owner costs relating to energy and utility bills means the assessment fails to fully consider the impact upon levels of fuel-poor households. There is a concern that the current proposals in the government consultation could have a negative impact upon inclusion and equality because the proposed mandatory minimum access standard falls short of the nationally recognised Lifetime Homes standard currently sought in planning policy applied within the city. Once the Housing Standard Review requirements are in place such policies will no longer apply unless locally justified which may not be possible as the need is general and not based on local measurable factors.

Sustainability Implications:

- 7.5 There is concern that some of the proposed standards/requirements contained in the DCLG technical consultation are set too low, at least lower than those that Brighton & Hove has successfully achieved through the application of its planning policies. This could have negative implications for sustainability. In particular the winding down of the Code for Sustainable Homes prior to the implementation of the governments zero carbon homes standard. The proposed ceiling height requirements, which is considered to be too high, is likely to increase energy requirements because the 'extra' volume of space will need heating. Other aspects are addressed in the body of the report.

Any Other Significant Implications:

Corporate / Citywide Implications:

- 7.6 If the proposed changes are introduced there will be corporate and citywide implications which have been highlighted in the report.

SUPPORTING DOCUMENTATION

Appendices:

1. Brighton & Hove City Council Response to DCLG's Housing Standards Review Technical Consultation
2. Process Chart for the Proposed Optional Requirements and Nationally Described Standard.

Documents in Members' Rooms

None

Background Documents

1. DCLG's Housing Standard Review Technical Consultation, September 2014
2. DCLG Housing Standards Review Detailed Implementation Consultation Impact Assessment, September 2014.
3. Nationally Described Space Standard – technical requirements, Consultation draft, September 2014.
4. Approved Document G: Requirement G2 Water efficiency, Consultation draft, September 2014.
5. Approved Document Q: Security Q1 Optional requirement – Unauthorised access, Consultation draft, September 2014.
6. Approved Document H: Requirement H6 solid waste storage, Consultation draft, September 2014
7. Approved Document M: Part M Access to and use of buildings – Volume 1 dwellings, Consultation draft, August 2014.