

## Appendix 1

The following officers' response from Brighton & Hove City Council, subject to approval and endorsement at EDC committee on 15 January 2014, was sent via the online Survey Monkey set up by DCLG for the consultation.

### Housing Standards Review Technical Consultation

The online form that was provided for responses detailed questions 1 and 2 as relating to who was responding and organisation.

The questions relate to the optional requirements described in the Approved Documents published in draft alongside the Housing Standards Review Consultation paper. The questions cover Access, Security, Water efficiency and the nationally described standard document setting out Space standards.

#### ACCESS: OPTIONAL REQUIREMENTS

3). Do you think that the technical requirements for Category 1 – Visitable dwellings are directly comparable to the technical requirements of the existing guidance in Sections 6 to 10 of Approved Document M (Access to and use of buildings)?

- a. ~~Agree~~
- b. Mostly agree (please specify)
- c. ~~Disagree (please specify)~~

If you do not entirely agree, please explain why and, if possible, suggest how it should be corrected:

#### BHCC RESPONSE

The proposal to adopt inclusive design standards for housing into the Building Regulations is a very welcome change. However, only making one of the three Categories of provision mandatory is considered contrary to the government's stated commitment to inclusion and equality.

**Category 1** is the only mandatory Category. It is virtually a repeat of the requirements already included in the existing Building Regulations and aimed at making housing visitable. However it is considered to fail to meet the minimum requirements because there is such an easy escape clause allowing steps in place of a sloping approach rather than asking the designer to be imaginative if the site gradient is steep.

The Category 2 accessibility standard should be the minimum national access standard in all new build homes. Category 2 should not be optional because it relates to the adaptability of housing to meet the changing needs of the occupants and it is not possible to predict where, when or why those needs may change. It is not considered possible to classify or assess the potentially changing needs on the basis of gender, race, age, locality or any other measurable feature which makes it hard if not impossible for a planning authority to justify asking for Category 2. On this basis,

If it can only be implemented where it can be justified in a local authority area, it is unlikely to be implemented.

Category 1 is supported as mandatory and Category 3 is supported as optional because a local authority is able to justify the need via Housing statistics.

**4). Do you think that the technical requirements of the proposed guidance for Category 2 – Accessible and Adaptable Dwellings are correct?**

- a. ~~Agree~~
- b. **Agree only in part**
- c. ~~Disagree~~

If you do not entirely agree, please explain why and, if possible, suggest how it should be corrected:

**BHCC RESPONSE**

The Category 2 accessibility standard should be the minimum national access standard in all new build homes.

**Category 2** is based on the nationally recognised Lifetime Homes standard that many councils are already requiring as part of the planning application process. It is aimed at producing housing that can be easily adapted to meet the changing needs of the occupants, whether temporary or permanent, resulting from illness, ageing or loss of mobility. It is entirely appropriate that it should be adopted into the Building Regulations because many of the requirements are at a detailed constructional level that cannot be readily seen or enforced at the planning stage.

It is not considered appropriate to make Category 2 optional. It fails to accord with the government's commitment to inclusion, equality and the opening up of society to everyone. The National Planning Policy Framework (NPPF) advises planners should be demanding good inclusive design and defines that as designing buildings so they can be accessed and used by everyone.

A great deal of support was shown for accessible homes during the first round of consultation last year. Eighty-six per cent of respondents supported up-front investment as the best and most cost-effective way to meet accessible housing need. Many also agreed that adoption of the Category 2 standard as the regulated minimum is the best way to achieve this; most notably, among builders and developers who responded 43 per cent agreed.

There will also be an environmental consequence of this proposal when people are forced to move house because their existing property cannot be adapted to meet their needs. The move to a new house frequently involves new carpets, curtains, paint, paper, appliances and so on, all of which have embedded costs in both materials and the energy required to produce them.

The proposal to make Category 2 optional and to require local authorities to demonstrate the need for such homes and apply a viability assessment is not supported. Category 2 is all about meeting the changing needs of occupants. The changing needs caused by illness, injury and ageing. These needs are not local or regional issues and are not easily predictable.

It is considered the proposed approach will not be appropriately enforceable. Local authority building control sections are in direct competition with the private sector.

The approach may be open to abuse especially by the private sector which is not subject to the same controls as the local authorities and are less aware of planning conditions. The private sector may seek “value engineer” elements out of a project on the request of their client to minimise costs. This raises a concern that optional requirements that have resulted from a Planning assessed need may not take place unless some form of monitoring takes place. Local authority Building Control is not entitled to monitor the work of its competitors. If this approach is adopted regulation and enforcement needs to be addressed eg impose a requirement upon planning authorities or other regulator to ensure such optional planning requirements that impose a higher level of Building Regulations does take place. If this is not in place it is likely to result in an unlevel playing field between Public and Private sector building control. However any additions to the Building Regulations and planning will increase responsibilities and a need for training and resources to implement, and potentially monitor, which could be difficult at a time of public sector cuts.

**5). Do you think that the technical requirements of the proposed guidance for Category 3 – Wheelchair User Dwellings are correct?**

- a. ~~Agree~~
- b. Agree only in part
- c. ~~Disagree~~

If you do not entirely agree, please explain why and, if possible, suggest how it should be corrected.

**BHCC RESPONSE**

Such an ability to seek wheelchair user dwellings is supported.

**Category 3** is virtually the standard described in Habinteg’s Wheelchair Housing Design Guide. It ensures that suitable access and sufficient space is provided in the structural envelope so that the new dwelling can be equipped to meet the specific needs of the individual wheelchair user. It is considered appropriate that councils be required to produce evidence of the need for housing in this Category based on statistics of recorded need in their own local areas.

**6). When do you think that the requirement for a dwelling to be Wheelchair accessible (fitted out) should apply?**

- a. Only where local authority allocation policies apply
- b. Across any tenure where a local authority believes this is necessary
- c. All wheelchair housing should be fully wheelchair accessible

**7). Which of the following best reflects your views?**

- a. I agree with the extent to which accessibility requirements are required in the proposed standards.
- b. I agree that where dwelling are required to be fully accessible they should include one or more of the following at point of fit out: (i) Shallow insulated sink in the kitchen, (ii) Height adjustable worktops in kitchens, (iii) Height adjustable sinks, (iv) Plumbing which is installed to work with height adjustable sinks (but not the height adjustable equipment itself), (v) Other.

If you do not entirely agree, please explain why and, if possible, suggest how it should be corrected:

### **BHCC RESPONSE**

Do not agree with either of the options suggested for the same reasons for not ticking any of the options for 4(6). It is not possible to answer without knowing the individual occupant. In respect of this it is considered the purpose of Planning and Building Regulation controls is to secure an accessible space that can be fitted out as required to meet the very specific needs of the occupant when known. It is considered legislation should not require the provision of facilities that may never be required.

**8). Where dwellings are required to be fully accessible they should include one or more of the following at point of fit out (select all that apply)**

- i) ~~Shallow insulated sink in the kitchen~~
- ii) ~~Height adjustable worktops in kitchens~~
- iii) ~~Height adjustable sinks~~
- iv) Plumbing which is installed to work with height adjustable sinks (but not the height adjustable equipment itself).
- v) Other (please specify)

Other (please specify)

### **BHCC RESPONSE**

It is not considered appropriate to guess at this stage what the needs of the individual might be. If the individual is disabled to the extent that the kitchen needs to be used by a carer and the individual cannot wash independently, there would be no need for adjustable features. In addition to this the features specified are not elements that can be controlled by planning it would therefore not be appropriate to control these via planning condition.

**9). Should Regulation 3 continue to apply in relation to material alterations of dwellings?**

- a. Yes
- b. ~~No particular view~~
- c. ~~No~~

### **NATIONALLY DESCRIBED SPACE STANDARD**

**10). Do you agree the Government's proposals for a single level of requirements in the nationally described space standard?**

- a. Yes
- b. ~~No particular view~~
- c. ~~No~~

If you do not entirely agree, please explain why and, if possible, suggest how it should be corrected:

### **BHCC RESPONSE**

The proposed gross internal areas/unit sizes are supported. Recent applications have given rise to concern from planning committee in respect of the low quality of space standards included within schemes. In order to operate an even playing field for developers it is considered space standards should be applied.

It is considered minimum national space standards relating to gross internal area of dwellings should be adopted and mandatory for both Planning and Building Regulations. It is considered that if the space standards are not mandatory that they will just be guidance which could be “value engineered” out of a scheme. There should be a clear onus on the applicant/architects to ensure their proposals meet the standards and that all plans for planning permission should be required to clearly mark the gross internal area for each unit. Thus where it is found approved plans do not conform with the standards then the onus should be with the developer. Where the standards are not met and the property is not yet occupied planning permission could be invalidated. This will avoid an undue burden on local authorities who could be subjected to ombudsman and legal challenges from disgruntled neighbours or occupants (eg can be hard for a planning officer to accurately confirm the area from plans especially where the property is an irregular shape and/or the proposal is for a significant number of units. It is also not uncommon for plans to be amended between planning and building control in order to resolve on-site construction issues).

Local Authority discretion should be permitted in respect of conversions.

Should the proposed space standards be reduced it is considered they should not fall below the current Housing Quality Indicators required by the HCA. For example:

- 1 bed 2 person = 45sqm
- 2 bed 3 person = 57sqm
- 2 bed 4 person = 67sqm
- 3 bed 5 person (1 storey) = 75sqm
- 3 bed 5 person (2 storey) = 82sqm
- 4 bed 6 person (1 storey) = 85sqm
- 4 bed 6 person (2 storeys) = 95sqm
- 4 bed 7 person (2 storey) = 108sqm

#### 11). Do you agree with Governments proposals for internal storage?

- ~~a. Yes~~
- ~~b. No Strong Views~~
- c. No

If you do not entirely agree, please explain why and, if possible, suggest how it should be corrected:

#### **BHCC RESPONSE**

Provided the ‘shell’ is of a size to provide an appropriate standard of living for the potential number of occupants, via the setting of mandatory national gross internal areas/unit sizes, it is considered appropriate storage could be left to market forces to dictate.

Indeed such requirements would hinder occupiers undertaking works at a later date to alter internal layout to meet their requirements. In addition to this the level of plan checking detail that this will generate at a time of budget cuts is a concern. It is not therefore considered storage requirements should be set for either planning or

Building Regulations as part of the space standard. However national guidance on storage would be welcome and could form a material consideration should this prove to become a problem.

If storage requirements are introduced then it should be via the Building Regulations because this is too onerous for planning especially as most plans for planning do not provide ceiling heights. Local Authority discretion should be permitted in respect of conversions.

**12). Do you agree with the proposed requirements for bedrooms and bedroom sizes?**

- a. ~~Yes~~
- b. ~~No Strong Views~~
- c. **No**

If you do not entirely agree, please explain why and, if possible, suggest how it should be corrected:

**BHCC RESPONSE**

Provided the 'shell' is of a size to provide an appropriate standard of living for the potential number of occupants, via the setting of mandatory national gross internal areas for the range of property sizes, it is considered appropriate sized bedrooms could be left to market forces to dictate.

Indeed such requirements would hinder occupiers undertaking works at a later date to alter internal layout to meet their requirements (eg a single parent family may choose to sub divide a twin/double room). In addition to this the level of plan checking detail that this will generate at a time of budget cuts is a concern. It is not therefore considered bedroom size requirements should be set for either planning or Building Regulations as part of the space standard which this local authority feel should be mandatory. However national guidance on suitable bedroom sizes would be welcome and could form a material consideration should this prove to become a problem.

If bedroom size requirements are introduced then it should be via the Building Regulations because this is too onerous for planning. Local Authority discretion should be permitted in respect of conversions.

**13). Do you agree with the Government's proposed approach to ceiling heights as set out in the proposed Nationally described Space Standard?**

- a. ~~Yes~~
- b. ~~No strong view~~
- c. ~~No~~
- d. **Other approach (please specify)**

If you do not entirely agree, please explain why and, if possible, suggest how it should be corrected:

**BHCC RESPONSE**

It is considered the proposed 2.5m is too high to form the minimum requirement and could be contrary to energy saving and sustainability (eg heating requirements will be greater the greater the volume of space). It is considered 2.4m should be adopted

or, as an absolute minimum and as suggested in the consultation document, 2.325m. If a national ceiling height is proposed this should apply to both Planning and Building Regulations.

There should be a clear onus on the applicant/architects to ensure their proposals meet the standards and that all plans for planning permission should be required to clearly mark the gross internal area for each unit that complies with the set ceiling height. Thus where it is found approved plans do not conform with the standards then the onus should be with the developer. Where the standards are not met and the property is not yet occupied planning permission could be invalidated. This will avoid an undue burden on local authorities who could be subjected to ombudsman and legal challenges from disgruntled neighbours or occupants (eg can be hard for a planning officer to accurately confirm ceiling heights from plans especially where the property is an irregular shape and/or the proposal is for a significant number of units. Indeed most plans for planning permission do not include ceiling heights).

Local Authority discretion should be permitted in respect of conversions.

**14). Would you agree that Government should continue to explore the potential role of building control bodies in providing plan checking and type approval of the Nationally Described Space Standard?**

- ~~a. Yes~~
- b. No strong views**
- ~~c. No~~

If you do not entirely agree, please explain why:

**BHCC RESPONSE**

It is considered both planning and building control will need to adopt any space standards introduced. It is recognised it would be too late to just introduce space standards within the Building Regulations eg confusing if planning granted a scheme that cannot meet Building Regulations. However most plans submitted for planning permission do not include ceiling heights and the level of plan checking detail that this will generate for planning at a time of budget cuts is a concern. This could be avoided if the burden of compliance is placed upon the developer at planning stage and compliance checked via the Building Regulations (similar to the previous land stability approach) and/or the space standards are kept simple and just relate to gross internal area..

There should be a clear onus on the applicant/architects to ensure their proposals meet the standards and that all plans for planning permission should be required to clearly mark the gross internal area for each unit that complies with the set ceiling height (and category 1 and 2 access requirements). Thus where it is found approved plans do not conform with the standards then the onus should be with the developer. Where the standards are not met and the property is not yet occupied planning permission could be invalidated. This will avoid an undue burden on local authorities who could be subjected to ombudsman and legal challenges from disgruntled neighbours or occupants (eg can be hard for a planning officer to accurately confirm area and ceiling heights from plans especially where the property is an irregular shape and/or the proposal is for a significant number of units. This would also permit discretion and flexibility at the building control stage where an issue can arise during the build).

Indeed most plans for planning permission do not include ceiling heights. Not all planning applications get approved or (once granted) built and can be subject to a number of amended schemes. Neither are they all handled by a local authority building control section. There is therefore a concern the proposed 'plan checking' approach would generate an unnecessary burden and a need for resources that cannot be met due to current public sector cuts.

**15). How do you think on site compliance with space standards would best be checked?**

- ~~a. At individual local planning authority discretion.~~
- ~~b. Checking by the building control body providing plan checks.~~
- ~~c. Through conditions requiring the relevant Gross Internal Areas to be published as part of the property sales particulars.~~
- d. By another approach (please specify).**

Other (please specify)

### **BHCC RESPONSE**

There should be a clear onus on the applicant/architects to ensure their proposals meet the standards and that all plans for planning permission should be required to clearly mark the gross internal area for each unit that complies with the set ceiling height. Thus where it is found approved plans do not conform with the standards then the onus should be with the developer. Where the standards are not met and the property is not yet occupied planning permission could be invalidated. This will avoid an undue burden on local authorities who could be subjected to ombudsman and legal challenges from disgruntled neighbours or occupants (eg can be hard for a planning officer to accurately confirm ceiling heights from plans especially where the property is an irregular shape and/or the proposal is for a significant number of units. Indeed most plans for planning permission do not include ceiling heights).

It could also be through conditions requiring the relevant Gross Internal Areas to be published as part of the property sales particulars.

**16). Further Comments on the nationally described space standard?**

### **SECURITY: OPTIONAL REQUIREMENTS**

**17). The Government is minded to implement the security standard as a national mandatory requirement. Do you agree with this approach?**

**Yes**

**No**

If you do not agree, please explain why.

### **WATER EFFICIENCY: OPTIONAL REQUIREMENTS**

**18). Are the proposed changes to Approved Document G technically correct?**

- ~~a. Yes~~
- ~~b. No particular view~~



**c. No**

If not please explain why and, if possible, suggest how it should be corrected:

**BHCC RESPONSE**

The proposal to include five litres per person per day for external water use in the allowance per person is not supported.

There are many households which will not have needs for external water use. Many will not have a large garden or a car which may need washing, therefore the introduction of a 5 litres per person per day allowance for external use in many cases is not a real requirement for many households.

The introduction of an additional allowance effectively raises the allowance per person for a usage that many will not require. The overarching impact therefore is to increase the allowed water usage overall.

It is recommended that the standard should adopt the current CSH level 3 standard as a minimum, that is: 105 litres per person per day.

This standard has been achieved without difficulty in Brighton & Hove since 2008. Brighton & Hove is an area described by the Environment Agency as being in 'water stress', therefore the Local Planning Authority is likely to seek any enhanced water performance standards that are provided through Building Regulations.

The introduction of minimum water fittings specification is welcomed.

It is recommended that rainwater harvesting be mandatory for all dwellings with any external space, and that this be introduced under Part G. This has the dual benefit of potentially addressing rainfall attenuation, as well as reducing external water use.

**EXTERNAL WASTE STORAGE: OPTIONAL REQUIREMENTS**

**19). Do you agree with the proposed changes to reinforce the importance of good design for external waste storage?**

- a. Yes
- b. No particular view
- c. No

**20). Do you agree with the proposed changes to reinforce that the provisions relate equally to where dwellings are created through a material change of use?**

- a. Yes
- b. No particular view
- c. No

If not please explain why and, if possible, suggest how it should be corrected:

**21). Do you agree with the proposed technical changes to provide clarification of existing requirements?**

- a. Yes
- b. No particular view
- c. No

If not please explain why and, if possible, suggest how it should be corrected:

## PRINCIPLE CONSIDERATIONS IN ADOPTING OPTIONAL REQUIREMENTS AND NATIONALLY DESCRIBED STANDARDS

22). Do you agree with the Governments proposed approach as to how the use of optional Requirements and Nationally Described Space Standard should be taken forward?

- a. Yes
- ~~b. No strong views~~
- ~~c. No~~

If you do not agree, please specify why:

### BHCC RESPONSE

With regards the adoption of optional requirements for water standards, the principle of government working with the Environment Agency is supported, as the EA has an overview of water stress. The Water Authorities/Board should also be included.

The principle of consulting with developers, water suppliers and the EA on the adoption of optional requirements is acceptable. This is normal practice for the adoption of local planning policy.

## TRANSITIONAL ARRANGEMENTS AND PROPOSED POLICY INTENT

23). Do you agree the proposed approach will be sufficient to ensure local planning authorities and neighbourhood planning qualifying bodies in future only set policies requiring compliance with the optional requirements and nationally described space standard to address a clear and evidenced need? If not, please indicate why.

~~Yes~~

No

Other (please specify)

### BHCC RESPONSE

The Planning and Energy Act 2008 confers powers to Local Planning Authorities. This Act must be revoked if government seeks to change these powers.

24). Do the proposed arrangements provide the correct balance between allowing time for developers and local authorities to adapt to the new regime whilst delivering benefits as quickly as is reasonable? If not, please indicate why.

~~Yes~~

**No**

Other (please specify)

## **BHCC RESPONSE**

The proposed arrangements do not provide the correct balance between allowing time for developers and local authorities to adapt to the new regime whilst delivering benefits as quickly as is reasonable.

The approach must ensure that there is no nosedive in standards between the current state of affairs and the proposed approach. Insufficient information has been set out in this document to explain how the approach will work.

The government should not wind down the Code for Sustainable Homes until the new approach is implemented and bedded in, because in the interim standards will drop. Brighton & Hove Local Planning Authority has already seen applications submitted which forgo local standards and propose only to meet current Building Regulations Standards. An example of this is Planning Application BH2014/02589 currently under consideration, an outline application for 100 no one, two, three, four and five bed dwellings.

Local planning authorities should not be prevented from referring to the Code for Sustainable Homes as they progress through the Plan Examination process towards adoption. Instead they should be allowed to refer in their plans to Code standards and recommend use of these standards, but to be in sync with the timetable for changes these could use a caveat such as 'until the governments zero carbon homes standard is implemented'. This approach was suggested by the Planning Inspector considering the Local Plan in Swindon Borough Council.

## **Impact Assessment**

### **25). Do you have any comments on the analysis in the impact Assessment Paper?**

**Yes**

**No**

Comments

### **BHCC Response**

Social

There has been no assessment of the potential difference in costs to individual home-owners in relation to energy and utility bills. For example, the energy and utility bills associated with a home that meets the proposed standards will be greater, when compared to the bills associated with a home that meets CSH 5 or 6. This could have associated impacts on levels of fuel-poor households.

Environmental

There has been no assessment of the environmental impacts of the proposals.

By removing the ability for planning authorities to require energy efficiency measures above those proposed, the potential for additional energy and carbon savings and the environmental benefits this could bring will be lost. In addition, it also reduces the

potential and likelihood for small-scale renewable energy generation that would normally be associated with schemes that met higher levels of the CSH.

By removing the ability for planning authorities to require water efficiency measures above those proposed, the potential for additional water savings and the environmental benefits this could bring will be lost.

The removal of the Code for Sustainable Homes standard, also means that other environmental benefits associated with meeting various levels of the code will also be lost, unless they are covered by locally adopted planning policies. For example, ecology, pollution, surface water run-off and materials.