

**BRIGHTON & HOVE CITY COUNCIL'S DETAILED RESPONSE TO THE CONSULTATION ON THE RELAXATION OF THE PLANNING RULES FOR THE CHANGE OF USE FROM BUSINESS TO RESIDENTIAL JULY 2011**

**1.0**

- 1.1 Brighton & Hove City Council supports the promotion of economic growth and the provision of additional homes that are appropriate to meet the needs of an increasing population. However as detailed in the consultation questionnaire it is considered the proposed amendment is ill conceived and is unlikely to assist economic growth or provide the size, type and mix of housing necessary to create sustainable communities. The following expands upon the main points provided in the consultation questionnaire.

**2.0 Unintended consequences on local economies, economic recovery and growth.**

- 2.1 The consultation paper proposes the amendment on the basis it will significantly increase housing numbers. In view of the current planning system which already promotes mixed use and re-use of vacant sites for housing, it is considered this cannot be achieved without significantly reducing existing employment floorspace. This will apply to all B1 premises not just those that are redundant (and if expanded then all B use premises). With this amendment even the schemes that require planning permission due to external works or redevelopment could not consider the general principle of the change of use/loss of employment. Premises could therefore be lost without regard to current and future employment needs which could therefore undermine the employment market and business community (please see below in particular the section relating to land values).
- 2.2 Without an ability to protect established commercial sites (essential for local jobs) the future for enhancing/increasing commercial provision becomes uncertain and is likely to have a long term negative impact on the local economy. In many areas in the South East housing land has such a significantly greater value than for commercial uses, the relaxation in planning rules would go beyond making use of just those buildings no longer needed/unsuitable for its original purpose but see the needed stock of office accommodation converted to residential use for short-term profit hindering longer term economic recovery. It is unsustainable to have too great a reliance on the housing and building industry for the provision of jobs especially when this will be at the expense of other employment enterprises.

- 2.3 The cyclical nature of the property industry means that if developers were to turn offices into residential blocks when times were tough, the ability to attract and house new firms when the market conditions improved would be seriously diminished.
- 2.4 Residential premises are more sensitive receptors than B1 premises. While it may be possible for B1 users to co-exist with B2/B8 and similar uses, this is less likely to be the case for residential users. Upon conversion of a B1 premises in the vicinity of a B2 use or similar, there is likely to be pressure on the B2 or similar use to move or close down.
- 2.5 This amendment is likely to reduce the variety of employment opportunities and removes the ability to retain/seek to increase the variety of offer. It fails to recognise the importance of planning in securing a mix of both employment and housing types. (Past experiences demonstrate the adverse impacts on areas that relied on a small range of employment eg steel industry and mining towns.)
- 2.6 The provision of a variety of choice of type of employment accommodation and affordability is important for the commercial market to operate and to support business expansion. The loss of smaller and cheaper office accommodation (and B2 and B8 units) would have a significant detrimental impact. Period buildings and older purpose built offices in Brighton & Hove have been able to offer occupiers more choice in terms of smaller sized accommodation at more competitive rental levels. Such units are also important for start up/growth industries such as creative industries whose particular needs are not met on conventional industrial estates. This is shown by a strong demand for small and inexpensive industrial and business premises, preferably within easy reach of residential neighbourhoods. It is important to note that ONS data indicates the vast majority of businesses in England are relatively small (88.6 per cent of businesses in England employ less than 10 people - please see [Appendix 8](#)). The cumulative impact from an unchecked loss of small business premises to residential would therefore have a significant impact.
- 2.7 Many large multi-national companies and banks have offices and headquarters which are iconic and/or lie in areas that could be highly attractive to residential providers/occupiers (eg The Gherkin etc – an advancement to ‘warehouse living’). This could therefore lead to a number of economically important and large employers moving out of the region/country as the financial returns to be gained from releasing office buildings in the area/England to residential make it worthwhile. (American Express is a large employer within Brighton & Hove if they were to leave this would have significant impact on local employment.)

- 2.8 The approach to vacancy rates is too simplistic and there is failure in recognising that markets do not always provide what is sustainable. For example past trends for out of town retail superstores had detrimental impacts on the vitality and viability of town centres and traffic, the impact of which could have been more significant if it wasn't for the application and strengthening of appropriate planning controls.
- 2.9 The proposed amendment will undermine the mechanisms helping to address an issue that is a key concern for the city of Brighton & Hove and similar urban areas outside of London. The city is not able to meet housing needs and in order for the local community to be able to compete against people moving in from London the city/local planning authority needs to ensure high sector local jobs are retained and additional created. Indeed the proposal if approved will seriously affect Brighton's ability to deliver as a Supercity (please see following link:[http://www.brightonbusiness.co.uk/secure/assets/ni20110603.142230\\_4de8cc161125a.pdf](http://www.brightonbusiness.co.uk/secure/assets/ni20110603.142230_4de8cc161125a.pdf));
- 2.10 Whilst vacancy rates can be used as an indication of surplus or 'no longer fit for purpose' supply it is not uncommon for different vacancy rates to exist between different uses due to the complexities in the various markets. The consultation document fails to address the local situation facing local authorities where the supply of land is limited, below the natural level of stock that is ready and available to occupy. For example, Brighton & Hove Employment Land Study 2006 and update in 2009 indicates that supply of land and buildings, the traditional economy of the past has not left a large stock of industrial buildings available for alternative use and therefore Local Plan policies have allowed the proper consideration of the merits of change of use of commercial land to be undertaken. (The following is a link to Brighton & Hove background studies including the Employment Land Studies : <http://www.brighton-hove.gov.uk/index.cfm?request=c1187994>).
- 2.11 In respect of Brighton & Hove there are currently 81 ground floor units in B1 use within the retail centres. The introduction of residential within these ground floor units would undermine the functioning of the retail centres. This amendment is therefore potentially in conflict with the Department for Business, Innovation and Skills and its current review of town centres which is aimed at halting 'the decline of the High Street' and being lead by Mary Portas.
- 2.12 The City Council's Economic Development function jointly proposes this response to the consultation paper and has provided a detailed paper, attached as **Appendix 2** to this main response. The appendix outlines the reasons why the proposed changes are not accepted in economic development terms and highlights the local issues which are not all unique to Brighton & Hove.

### **3.0 Land values and delivery of the amount and type of housing**

- 3.1 The consultation's assumptions in respect of the equalisation of land values between business and housing are felt to be over simplistic. Equalisation is unlikely to occur in reality where a variety of factors come into play and particularly where developable land is scarce. (Please see [Appendix 7](#) which is a plan showing the extent of the authority within the South Downs National Park demonstrating the physical constraints on Brighton & Hove from the sea and National Park – however it is important to note that even though the city does not have a 'verified land supply allocation'/identified supply to meet South East Plan targets, the city has provided significant increases in housing numbers via the effective handling of windfall applications through the planning system often in excess of annual targets). In many places the demand for housing is high. In the South East, outside of London, a large proportion is from people moving out from London where land values are high whilst the demand for business space tends to be more local/small scale (in Brighton & Hove there are not the sites available for new national/international scale businesses). The respective parties financial ability to compete is not therefore equal and may only be addressed when an area is no longer an attractive and desirable place to live and quality of life reduced (which is not considered to be good planning). Indeed even where there is potentially unstrained supply in all the types of development there are few examples if any that have resulted in equal land values amongst all the different uses.
- 3.2 The amendment is likely to have a perverse impact on land values and employment uses rather than a true equalisation of land values between **all** the respective types of employment uses and residential. Commercial space has the lowest commercial value compared to other competing uses. Owners of vacant space could see this proposal as a way of enhancing the value of the vacant space resulting in a loss of commercial space to residential without the need to meet tests currently in place in the city through the Local Plan. This would have the resultant effect of less available commercial space to meet demand, an increase in rental levels being sought (general economic principles of supply v demand), businesses not being able to afford the space on offer and therefore relocating out of the city to more affordable but less attractive areas culminating in further outward migration of the resident workforce making the city a dormitory town.
- 3.3 Affordability is a key component in the effective provision of housing to the people who need it. However it is not in the housing industries interest to flood the market to the extent house prices drop this is one reason why land

is banked. Land auctions are unlikely to reduce house prices where demand is high, land is scarce and public sector funds are not available (councils are currently not in a position to take on staff with the ability to manage and develop housing schemes. Local builders/developers with the ability to effectively project manage development will expect similar yields to that of national house builders). Indeed, a significant drop in house prices would probably have a significant detrimental impact on current home owners, mortgage lending industry and would also give uncertainty to the housing market. Whilst potentially wide scale 'state/not for profit' house provision would be best placed to address the key issue of affordability and housing delivery there are not the funds being made available to enable this (related research : Market failure and the London housing Market [2003, GLA] [http://legacy.london.gov.uk/mayor/economic\\_unit/docs/london\\_housing\\_market.pdf](http://legacy.london.gov.uk/mayor/economic_unit/docs/london_housing_market.pdf))

- 3.4 Whilst the amendment may address one part of the housing requirements 'problem' by increasing the number of new residential units it will undermine the ability to meet the wider housing needs. For example conversions are likely to be one or two bedroom flats rather than family homes, the amendment will remove an ability to seek the inclusion or contribution towards the provision of affordable housing and other appropriate mitigation measures (please see below in particular the sections relating to quality of life and developer contributions).

#### **4.0 Impact on and provision of an effective the planning system**

- 4.1 The proposed amendment fails to recognise the need to balance housing with employment in order to ensure there are sufficient jobs for existing and new residents and to create sustainable communities. Even if caveats are applied the general principle of accepting the loss of B1/employment to residential will be nationally set regardless of employment needs. Job losses in areas with high housing demand could be significant leading to significant traffic implications (due to increased commuting) and other social implications. Overtime dormitory towns and cities are likely to form.
- 4.2 The amendment fails to recognise that the planning system seeks to address not just housing numbers but all the land use needs of a community in a balanced, holistic manner. For example it seeks to maintain and enable opportunities and/or address the commensurate needs for jobs, shops, leisure facilities, schools, open space etc. The proposed amendment will adversely impact upon the ability to balance these, often competing, land use requirements.
- 4.3 The planning system enables detailed consideration of individual site circumstances within particular localities after consulting appropriate bodies

and taking into account expert advice. The balance between economic, social and environmental factors cannot be appropriately considered within a standards/tick box system as each site often has individual material considerations. The need for future development to be considered via such a flexible and responsive planning system is becoming more important as knowledge increases in respect of key factors and European and National legislation eg contamination, air quality, biodiversity, aquifers, climate, flood risks, benefits from a quality environment on health and other social and economic factors etc. In view of the potential long term impacts of development this is not considered an onerous or unnecessary burden on the developer. Indeed the 'administrative cost for a planning application' for a developer is a misleading title because much of these costs would be incurred anyway as a developer will need to collate data to ensure a scheme is viable and to meet European and National obligations.

- 4.4 The consultation analysis and evidence looks at national or regional statistics with few source of data at the local level. The interpretation of the data and assumptions made are hard to check. Indeed the interpretation of statistics and data needs to be carefully assessed – the housing development industry is well organised in comparison with the commercial development industry and each market is very complex. The implied assumption that there are great swaths of vacant employment land being unnecessarily protected and/or allocated is disputed. Indeed if this were the case it would be called into question and carefully considered at the Development Plan examination/individual planning appeals and overruled where appropriate. As illustrated in [Appendix 4](#) the majority of appeals are dismissed, highlighting that the factors around this issue usually need careful consideration through the planning system and that a relaxation would therefore be inappropriate.
- 4.5 As highlighted in the consultation document (Legal Background, paragraphs 9 to 11 and evidence base) 'permitted development' rights allow changes of use where the impact of the proposed is considered to be less than the existing use that to require planning permission would be unnecessarily burdensome. This is not the case in this proposed amendment where housing and employment are two very different uses where a proper assessment of the impacts from housing usually differs to but are not necessarily less than employment.
- 4.6 This consultation takes the stance that planning is an unnecessary barrier. It fails to recognise the benefits of the current planning system which adopts a plan making approach that undergoes extensive public and business consultation and obtains local democratic endorsement. Local authorities employ appropriate mechanisms to test redundancy. Where it is felt employment is redundant or can be lost to residential this is included within local policies and allocations. Any outstanding concerns are addressed at

an Inquiry/examination, including appropriate balances in vacancy rates, demands etc. Conversion to residential use does already provide a significant supply of housing. If unidentified employment sites are demonstrated to be redundant or no longer fit for purpose within a planning application then this is a material consideration and a change of use or the redevelopment to housing is permitted subject to all other relevant factors. In view of the potential long term impacts of development this is not considered an onerous or unnecessary burden on the developer.

- 4.7 This proposal fails to recognise that the majority of all planning applications are approved ([Appendix 4](#) provides data tables for Brighton & Hove). It should be recognised land owners/developers and architects have immense freedom to produce good schemes, planning only refuses the handful where the impact from a scheme on the public interest is considered to be significantly adversely affected. The flexibility in the planning system to accept appropriate changes of use to housing is even illustrated in the consultation document which states change of use of existing buildings accounts for 10 per cent of total housing supply.
- 4.8 It should be recognised that the planning system (and its practitioners) in Britain is already very flexible and has been very effective in helping to create sustainable communities. It is unfortunate that the praise for great schemes often only goes to the architect/designers whilst planning is blamed for any failures rather than a recognition that planning has an equal hand in both as well as the other schemes that are effective but raise no particular mention / the schemes that were refused due to the harm they would create. Planning will inevitably be viewed as a barrier by some applicants whose primary concern is not the long term wider public interest but instead meeting their individual business plan in a manner that optimises their individual profit/doing what they know with optimum profit. Modern building and demolition techniques enable rapid large scale change, in order to ensure this is undertaken sustainably it is considered essential it is effectively managed and controlled (eg to take account of the historic environment, communities ability to change, supply of aggregates etc). Amendments that effectively replace the planning system by one that gives 'control' to the housing market need to be carefully considered. Individual markets rarely take into account the impact on other markets and wider public interest factors or the impacts on future generations.
- 4.9 The main barriers to housing delivery are not due to an inflexible or unresponsive planning system. Without management via the planning system the development market is unlikely to adapt to take into account increasing knowledge and evolving factors such as climate change, biodiversity, air quality etc. Specific markets focus on what they know the planning system helps to balance this with all other needs and helps to moderate the trends in land use demand and supply. It considers past



events/experiences and thus helps to avoid the creation of future slums/ghettos. The localism approach implies a sense of local identity which the planning system assists in maintaining by ensuring provision is appropriate to the locality and not just a 'one design fits all' approach. It also seeks to ensure appropriate sustainable building designs when national targets are considered within a local context eg when carbon dioxide emissions are considered within an historic environment it is likely new builds need to be more sustainable than current building regulations. Planning assists in improving the quality of schemes and to ensure any adverse impacts are mitigated prior to construction. Indeed by ensuring appropriate measures are taken into account at the design stage can help minimise costs.

- 4.10 The proposed amendment will be at odds with the current requirement to apply for planning permission for the conversion of one dwelling into two or more units. To date this is because it has been recognised that the impact on amenities etc could be significant especially in high density areas and also from cumulative increases in housing units in this way. This relaxation also appears at odds with an earlier amendment removing residential gardens from the definition of 'previously developed land' which potentially introduces additional restrictions on the provision of additional housing within residential curtilages. This highlights the need for a more holistic comprehensive approach should such significant amendments to the planning system be felt appropriate.
- 4.11 A proper holistic approach needs to be considered and consulted upon in respect of housing requirements. The delivery of housing to meet demand is very complex. Whilst the planning system is normally very effective in what it is able to do, the public and Government's expectations of what planning can deliver and manage can sometimes be unrealistic or ill informed. In general the housing demand in the south is significantly higher than in the north this is in part because of higher employment opportunities. It is therefore unsustainable to address the housing demands by removing the management of employment land use sites and thus a large proportion of employment opportunities. Indeed there are empty streets and housing estates in some northern towns and cities it is therefore too simplistic to say a key barrier to increasing housing supply is the lack of land/sites.
- 4.12 The consultation document indicates the Government is committed to reforming the planning system. It is therefore important to ensure the total extent of all the proposed reforms are included in one consultation or in a comprehensive manner taking into account amendments taking place in other Government departments. Regular amendments to the system, especially in a piecemeal manner, do not aid in simplifying and quickening the process. It takes time to understand new requirements and guidance.



The Government should take the opportunity to clearly set out its vision and full proposals for the review of the planning system so that all amendments can be considered within the full context of the wider review. It needs to be clear whether the plan making system is truly endorsed. It is not felt appropriate to bring forward the proposed amendment which is considered to be significant without being clearly set out within a consultation detailing the full set of amendments to be proposed by the coalition Government.

## **5.0 Impact on the plan led approach and monitoring**

- 5.1 It is considered the amendment proposes a move away from a locally democratically endorsed plan led system, to which local communities/neighbourhoods are able to input, to one of market led. The consequences of which are not considered to bring about an improvement upon the existing system or support a localism approach.
- 5.2 The amendment would undermine the plan making process because employment land allocations will become meaningless as the general principle of residential within such premises/sites will be accepted (having regard to the existing permitted changes from B2 and B8 uses to B1). Mechanisms already exist to release redundant employment land or premises to other uses. The plan led approach relies upon up-to-date and sound evidence base such as employment land reviews. Where it is demonstrated that employment land is redundant and no longer required, in accordance with national guidance PPS4, its change to residential use is accepted unless there are factors which make such a change inappropriate.
- 5.3 It will not be possible to properly plan for the area if there is no clear idea of how many dwellings are being produced. The amendment will undermine existing Local Plans and Local Development Frameworks because many of the policies relating to employment and economic growth will become meaningless. It will undermine the evidence base to existing and emerging Local Development Frameworks, so respective development plans may be found unsound leaving the development industry without clarity (due to the public sector cuts there are limited resources to fund reviews of current 'up do date' background studies). It will be hard to monitor and predict when and how many sites will change from employment to housing and will affect existing and future housing targets and windfall development. The planning of future services, schools, waste water etc will become difficult to assess and address.
- 5.4 The amendment fails to recognise that whilst a site may be vacant and considered redundant for one particular type of employment use that it maybe more appropriate to consider alternative employment uses before considering residential. If the current system is allowed to proceed key primary employment sites will be reviewed potentially every five to ten years

each time a development plan is reviewed/prepared and the loss of secondary employment sites will be considered on a case by case basis via the planning application process and also the plan making process. The Brighton & Hove Local Plan and the submission Core Strategy enable genuinely redundant employment sites to be lost normally setting out a preference to alternative employment uses followed by live work or affordable housing. (The following are links to the Brighton & Hove Local Plan : <http://www.brightonandhovelocalplan.org.uk/welcome.htm> and Submission Core Strategy : <http://www.brighton-hove.gov.uk/index.cfm?request=c1148443>)

- 5.5 Waste and Minerals planning will be affected by this amendment as there will be a reduction in industrial buildings/land stock for potential future waste and resource processing developments. Local waste and resource processing developments may not be realised due to an increase in land values making such uses uneconomic in many locations. For the reasons touch on above regarding the encroachment by sensitive development (housing) on existing and allocated industrial land based waste management facilities. There will be problems with not being able to resist the continuing conversion of sites near railheads, wharves etc to residential as those sites are already often under threat from regeneration schemes. Even if the site itself is not B1, B2 or B8, adjacent properties often are and this means any potentially noisy process like unloading aggregates or processing waste will quickly be subject to nuisance claims.

## **6.0 Impact on the localism approach and neighbourhood planning**

- 6.1 The amendment would not devolve power from Central Government to local authority. Instead a key element of management within the planning system will be removed resulting in a loss of control at the local level. It will therefore remove local authority control and the opportunity for local communities to have their say. There will be nothing to stop employment sites turning to housing of a type and mix contrary to that identified by the community in a Neighbourhood Plan.
- 6.2 It would severely restrict planning's place-making role and the opportunity to create sustainable mixed-use communities. It would take away an important part of the urban design toolkit. Documents such as Masterplans, Planning Briefs and potentially Neighbourhood Plans would carry little weight if the council cannot in the long term control the use of land and buildings allocated for commercial use as part of mixed-use schemes. This in turn would erode the confidence of local communities in the planning system and local authority if they feel that, having been consulted on appropriate uses, they discover that those uses cannot always be controlled. Mixed use

development is specifically promoted as an important contributor to sustainable communities (PPS1).

- 6.3 This proposed national amendment undermines the Localism approach and whilst the consultation document suggests article 4's can be applied. Article 4's take time to prepare and could be pre-empted by developers if 'immediate' directions are not applied. They have significant resource implications for Local Authorities (both in staffing and financial) which are already under pressure due to the public sector cuts. There is no planning fee for an application by virtue of an Article 4 and the local planning authority would be liable to pay compensation should permission be refused. In addition to this the application of an article 4 direction to the whole area of an authority is normally resisted. Individual units (many of which are small scale and start up units) outside primary business areas would therefore be left 'unprotected'. This amendment is not therefore in essence giving power to communities and local council's as heralded by the localism agenda.

## **7.0 Impact on the management of 'quality of life' issues.**

- 7.1 This amendment could result in significant numbers of residential units being created in large light industrial and office complexes without any development management and outside the ability to effectively monitor. Residential units would be provided without proper regard to or mitigation for impacts on school capacity, open space, traffic implications, air quality, biodiversity, impact on historic environment, residential amenity, sustainable design, daylight & sunlight, lifetime homes and wheelchair accessible dwellings, refuse and bicycle storage, ability of utility and other consultees to meet increased demands, flood risk, designing out crime etc. It is not felt the management of 'quality of life' issues, which depend on individual site circumstances and currently the submission of full details, can be appropriately addressed via a prior approval system or self certification or an alternative system such as a minimum standard/tick box system that could be managed by building control.
- 7.2 Redevelopment schemes could also circumvent taking the above detailed issues into account either by initially obtaining a certificate of lawfulness for the requisite number of residential units within an existing building or demonstrating a change of use creating similar housing numbers could be undertaken when applying for redevelopment. Thus the 'increased' impact of a scheme that requires permission for redevelopment versus change of use would potentially only relate to issues of design which will probably offer better layouts than a change of use scheme.

- 7.3 The amendment will also remove the ability to individually assess the social and environmental impacts of significant and/or cumulative increases in housing units on a locality and seek appropriate mitigation. (During these times of public sector restraint it is unrealistic to assume the necessary mitigation measures can be addressed within public sector resources alone.)
- 7.4 Environmental Health have produce a detailed paper which should be read as part of this response and is attached as [Appendix 3](#). It highlights how this amendment will fail to enable key issues to be appropriately taken into account prior to development. A failure to incorporate appropriate measures at the design stage can lead to problems and a significant increase in irresolvable complaints as many of the appropriate measures cannot legally be sought retrospectively. As the consideration of these factors depends on individual circumstances which is currently effectively considered through the planning application process the proposed amendment will undermine this and is therefore opposed.
- 7.5 It is hard to estimate the unintended consequences from this proposal in respect of 'promoting' conversion or encouraging conversion in favour of redevelopment (eg the number of dwellings that are not realised due to conversions taking place in favour of redevelopment; the impact on quality of life through unrealised improvements in amenity, landscape, daylight and sunlight due to conversions in favour of redevelopment etc).
- 7.6 Edge of town and rural business parks and industrial estates could effectively become new settlements, without the provision of existing services and public transport; and with no requirement to provide them. This is of particular concern for disadvantaged members of the community and would force people into car ownership and increase travel distances to shops, schools, jobs and other services.
- 7.7 In respect of the transport/traffic impacts of this amendment insufficient regard has been given. In general the number of trips are higher with residential than commercial uses but with trips less concentrated in peak hours. There would usually be more overnight parking. This amendment could impact upon on-street parking and highway safety. Currently local authorities are able to operate a system that excludes future residents of such flats from buying residents parking permits. All potential purchasers are made aware of this, by virtue of the planning system, enabling them to make the requisite 'life choice' decision prior to purchase. Such a system would not be reasonable if the proposed amendment is introduced.
- 7.8 It could seriously erode, or even completely undermine, the special historic character of some conservation areas. The use of land and buildings is an important element of character. Some conservation areas derive their

special interest from a continuing tradition of commercial uses whilst others may derive it from a mix of uses that includes commercial as an integral part. The predominant use or the mix of uses may be a deliberate, planned element reflecting the origins of the area's development or it may have evolved organically over time, reflecting changing social patterns. Either way, an unfettered change of use to residential could cause substantial harm to the significance of some heritage assets, contrary to existing policies in PPS5.

- 7.9 Many business parks and industrial estates are located within flood risk areas where residential would not be appropriate on the ground floor or on floors above without suitable means of escape in the event of a flood. Without suitable caveats and conditions the proposed amendment would conflict with such requirements and put lives at risk.
- 7.10 Under the Building Regulations any change from any use type to form a dwelling or dwellings is classified as a material change of use and would require a Building Regulations application. There is no Building Regulations requirement for light to rooms only a requirement for ventilation hence certain industrial units may not have sufficient light. Environmental health could very well have provided feedback during a planning application that may have indicated that the development is unsatisfactory in this regard. As such any consultation that would have taken place would not.
- 7.11 Although access for fire fighting is not an issue for consideration under Planning law currently there is at least the opportunity to comment about this issue. Again this benefit would be lost. It is possible that a change of use could take place to an industrial building that currently has poor access. Building Regulations change of use requires that an existing building complies with current access for fire fighting requirements. With no planning permission required early consideration of a very important and fundamental safety matter would not take place. Building Control providers could find themselves in an untenable position in trying to resolve problems of access to a building that is a greater risk with people sleeping in the new dwellings.
- 7.12 Currently there is no Building Regulations requirement to ensure that new dwellings meet life time home standards. As such lack of a planning application will mean that new dwellings will be built to a lower standard that does not include the long term health of a buildings occupants. If this proposal goes forward it considered one of the caveats.should be 'the work would only be permitted development if it was designed to life time homes standards'.
- 7.13 Energy performance levels would be only to that prescribed under the Building Regulations and code for sustainable homes matters would no longer be raised. It is possible that building owners may undertake

unauthorised changes of use without seeking Building Regulations consent as the need for various consents may be unclear.

7.14 The 'hidden' costs to society from failing to take into account these issues are only just being properly realised. Good quality housing within a green environment can help reduce health problems and aid recovery from illness which in turn reduces costs on the health system. If homes are designed to meet lifetime home standards this can help to reduce some cases of 'bed blocking' within hospitals. If crime is designed out and social integration designed in the general mental health and well being of society is normally enhanced.

### **8.0 Impact on the ability to obtain affordable housing contributions and developer contributions to mitigate the harmful impacts of development.**

8.1 The amendment will remove scope for securing affordable housing through s106 or CIL within such sites and therefore these costs and other infrastructure requirements generated by residential development will need to be financed by other means. Imposing a self regulated or prior approval mechanism to a s106 requirement or CIL tariff on developers is considered to be unmanageable – it will not be able to take into account individual site circumstances, on-site mitigation measures and impacts on viability because all the necessary details will no longer be submitted as part of a full planning application.

8.2 This amendment undermines the s106 process and the emerging CIL. For example it is likely to become unreasonable for other residential development schemes to make contributions for mitigation measures for the harm caused when units created via this amendment do not. As raised above a prior approval or self certifying mechanism for CIL is likely to be unmanageable and breaches likely to be unenforceable. Developers resist providing s106 contributions few if any will 'voluntarily' enter into s106 agreements if they don't 'have to' in order to make their proposal acceptable by mitigating for the harmful elements. The importance of s106 and CIL in addressing the adverse impacts of development should not be underestimated especially during these times of public sector austerity. Indeed changes in national policies and funding streams over the past two decades has moved Local Authorities away from being 'providers' into 'enablers'. This in turn has given rise to a greater need for individual developments to address their generated demands which has been facilitated by s106 agreements. This amendment is therefore considered to undermine appropriate mechanisms to mitigate for the harmful impacts of 'development' and could therefore lead to significant highway safety issues, shortfalls in school places and open space etc

## 9.0 Other considerations

9.1 In response to tackling the key issue behind this proposal (eg failure in the housing market to deliver sufficient dwellings) it is felt other matters need to be considered prior to and/or in preference to the introduction of this amendment. The following are just a few suggestions:

- At present student housing, care/nursing home bedspaces and hostels are nationally not included within housing targets. This should be reviewed because at present there is market pressure in many authorities for these types of accommodation much of which on sites identified and/or allocated for housing. An increase in provision of these types of accommodation will normally free up existing dwellings to other households (eg some of the existing housing stock is being used as student housing so if formal 'student housing blocks/halls of residence' are built this will free up the dwellings currently occupied by students. In addition to this the provision of care/nursing home accommodation often frees up existing dwellings often 'under occupied' dwellings). The current system fails to count these types of housing towards meeting housing targets which can result in an unnecessary constraint on such market provision when planning approval is sought. This in turn affects the ability to meet all these housing needs within a community.
- A review of the approach that there must be an identified 15 year housing supply without a proper regard to/inclusion of windfall allowances. As highlighted above this can pervert consideration of other types of housing requirements and is debatable in view that individual site delivery is very complex and subject to change from a number of factors.
- This proposed amendment and the approach that where there is not a 5 year identified housing supply more favourable consideration should be given to housing development proposals implies additional housing in effect constitutes sustainable development. If this is the intention the Government should clearly define sustainable development giving greater weight to housing development to avoid confusion and to alter the current approach that sustainable development is an equal balance between social, economic and environmental factors. Should the definition of sustainable development be amended/clarified it should be clear on the weight to be given to affordability and affordable housing.
- One issue that primarily lies outside of planning but which the Government should seek to address is the impact on meeting housing requirements via restrictions on second homes and holiday lets.
- Recent EU policies and immigration also needs to be taken into account and properly planned for and mechanisms put in place to



address all issues including the housing implications (this is more than just a town and country planning matter).

- Caution is also needed when considering projected population and household figures and in the interpretation of data and trends.
- The relationship between the planning system and the local and national democratic process needs to be considered because sometimes a communities long term requirements and thus planning recommendations can be politically sensitive (this can create an anomaly because planning is expected to be unbiased and based upon planning regulations/legislation, national guidance, follow good practice whilst taking into account all other material considerations. It does not explicitly say 'and local democratic decisions').
- The North South variances between demand and prices requires a National based approach.

## **10.0 Conclusion**

10.1 For the reasons set out above and in the response questionnaire the disadvantages and problems this amendment will create in unintended consequences will outweigh the benefits and will undermine the creation of sustainable communities. The amendment will not bring about an improvement upon the current system and other measures would be more appropriate.

10.2 Instead of this amendment and a range of other individual amendments to the planning system the Government is urged to undertake consultation, following research, on **all** the potential mechanisms for increasing housing delivery and meeting housing needs. Any proposals should be clearly set out within the context of all other proposed amendments to the planning system. Thus enabling a holistic and comprehensive consideration of the issues and impacts.